



Anti-money laundering and counter-terrorist financing measures

Timor-Leste

Mutual Evaluation Report

November 2024





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TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
Key Findings	5
Risks and General Situation.....	7
Overall Level of Effectiveness and Technical Compliance	8
Priority Actions.....	13
Effectiveness & Technical Compliance Ratings.....	15
MUTUAL EVALUATION REPORT OF TIMOR-LESTE.....	16
Preface.....	16
CHAPTER 1. ML/TF RISKS AND CONTEXT.....	18
ML/TF Risks and Scoping of Higher-Risk Issues	19
Materiality.....	20
Structural Elements	22
Background and other Contextual Factors.....	23
CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION	34
Key Findings and Recommended Actions	34
Immediate Outcome 1 (Risk, Policy and Coordination)	35
CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES	42
Key Findings and Recommended Actions	42
Immediate Outcome 6 (Financial Intelligence ML/TF).....	46
Immediate Outcome 7 (ML investigation and prosecution).....	58
Immediate Outcome 8 (Confiscation).....	67
CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION.....	72
Key Findings and Recommended Actions	72
Immediate Outcome 9 (TF investigation and prosecution).....	75
Immediate Outcome 10 (TF preventive measures and financial sanctions).....	78
Immediate Outcome 11 (PF financial sanctions).....	81
CHAPTER 5. PREVENTIVE MEASURES	83
Key Findings and Recommended Actions	83
Immediate Outcome 4 (Preventive Measures)	84
CHAPTER 6. SUPERVISION	93
Key Findings and Recommended Actions	93
Immediate Outcome 3 (Supervision).....	95
CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS.....	107
Key Findings and Recommended Actions	107
Immediate Outcome 5 (Legal Persons and Arrangements).....	108
CHAPTER 8. INTERNATIONAL COOPERATION	113
Key Findings and Recommended Actions	113
Immediate Outcome 2 (International Cooperation)	114

TECHNICAL COMPLIANCE ANNEX	127
Recommendation 1 - Assessing Risks and applying a Risk-Based Approach.....	127
Recommendation 2 - National Cooperation and Coordination.....	130
Recommendation 3 - Money laundering offence.....	132
Recommendation 4 - Confiscation and provisional measures	135
Recommendation 5 - Terrorist financing offence	138
Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing	140
Recommendation 7 – Targeted Financial sanctions related to proliferation.....	144
Recommendation 8 – Non-profit organisations	145
Recommendation 9 – Financial institution secrecy laws	147
Recommendation 10 – Customer due diligence	149
Recommendation 11 – Record-keeping.....	154
Recommendation 12 – Politically exposed persons.....	155
Recommendation 13 – Correspondent banking	156
Recommendation 14 – Money or value transfer services	157
Recommendation 15 – New technologies.....	158
Recommendation 16 – Wire transfers.....	159
Recommendation 17 – Reliance on third parties	162
Recommendation 18 – Internal controls and foreign branches and subsidiaries	162
Recommendation 19 – Higher-risk countries	163
Recommendation 20 – Reporting of suspicious transaction.....	164
Recommendation 21 – Tipping-off and confidentiality.....	165
Recommendation 22 – DNFBPs: Customer due diligence.....	165
Recommendation 23 – DNFBPs: Other measures.....	168
Recommendation 24 – Transparency and beneficial ownership of legal persons	169
Recommendation 25 – Transparency and beneficial ownership of legal arrangements	177
Recommendation 26 – Regulation and supervision of financial institutions.....	178
Recommendation 27 – Powers of supervisors	183
Recommendation 28 – Regulation and supervision of DNFBPs	184
Recommendation 29 - Financial intelligence units.....	186
Recommendation 30 – Responsibilities of law enforcement and investigative authorities.....	190
Recommendation 31 - Powers of law enforcement and investigative authorities	192
Recommendation 32 – Cash Couriers.....	194
Recommendation 33 – Statistics	196
Recommendation 34 – Guidance and feedback.....	197
Recommendation 35 – Sanctions.....	198
Recommendation 36 – International instruments	200
Recommendation 37 - Mutual legal assistance.....	202
Recommendation 38 – Mutual legal assistance: freezing and confiscation.....	204
Recommendation 39 – Extradition	205
Recommendation 40 – Other forms of international cooperation.....	207
Summary of Technical Compliance – Key Deficiencies	213
GLOSSARY	222

EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Timor-Leste as at the date of the on-site visit, 18-28 September 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Timor-Leste's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) Timor-Leste's National Risk Assessment (NRA) identified corruption, tax evasion, cash couriering and drug trafficking as the main proceeds generating crimes. Understanding of ML risks was not well demonstrated and Timor-Leste has not formally updated its assessments of ML/TF risk since the 2015 NRA. Key risks identified in the NRA appear to remain, including corruption, tax evasion, cash couriering and drug trafficking. The NRA was constrained by insufficient data, and risks such as environmental crimes, legal persons, trade-based money laundering, and those arising from new technologies are unassessed.
- b) Timor-Leste's National Commission for the Implementation of Measures on the Fight Against Money Laundering and Terrorism Financing (CNCBC) provides a good strategic framework for national AML/CFT coordination and cooperation, however coordination across agencies is mostly informal and the National Strategic Plan 2016-2020 was not fully implemented.
- c) The Timor-Leste FIU, Unidade de Informação Financeira (UIF), is producing financial intelligence for financial investigations to some extent, however UIF's lack of access to information such as tax information, cross-border declarations and asset declarations impacts the quality of its products. LEAs development and use of financial intelligence for ML, predicates and asset tracing investigations is varied, with the most use occurring in relation to corruption cases.
- d) LEAs are conducting ML investigations, which have resulted in seven convictions. ML investigations are most frequently initiated by UIF dissemination reports. The types of ML activity investigated somewhat aligns with risk, however some higher risk underlying predicate offences, such as drug trafficking and cash smuggling, are not being investigated for ML. Self-laundering is the most common type of ML case investigated and prosecuted, and all ML investigations have related to natural persons. Sanctions imposed for ML convictions demonstrated limited implementation of proportionate and dissuasive sanctions.

- e) Recovery of proceeds of crime is not pursued as a policy objective and the confiscation of criminal assets and instruments that has occurred has been limited and is not in keeping with the risk profile of Timor-Leste. Authorities demonstrated very few instances of asset tracing or restraint of assets that may become subject to confiscation. Authorities did not demonstrate management of seized assets or established practice to dispose of confiscated property to realise value. No property associated with terrorism or TF has been seized or confiscated, which is in line with the risk profile.
- f) Timor-Leste's cross-border currency regime is implemented for incoming passengers only, which does not align with the high risk of cash smuggling. Limited identification of false declarations or undeclared currency has occurred, and the number of sanctions applied does not align with Timor-Leste's risk profile.
- g) Timor-Leste has not identified, investigated or prosecuted any instances of TF, or cases of TF, which is broadly consistent with the level of TF risk in Timor-Leste. However, there is a lack of information relating to, and broad understanding of, TF risk.
- h) The frequency, intensity, and scope of AML/CFT supervision is not determined by risk and supervisors do not make use of all available information sources, particularly assessment findings from home supervisors of foreign bank branches and global money or value transfer service (MVTs) providers. There is insufficient use of on-site assessments, especially in the banking sector. Although very small, designated non-financial businesses and professions (DNFBPs) are not supervised.
- i) Financial inclusion is a key government priority however Timor-Leste has not considered exemptions from some or all FATF Recommendations or applied simplified measures where in areas of proven low ML/TF risk. The microfinance sector, which supports financial inclusion initiatives, has not been risk assessed and is not supervised or monitored.
- j) Banks, other deposit-taking institutions (ODTIs), and large money transfer organisations (MTOs) demonstrated a good understanding of their ML/TF risks and AML/CFT obligations, with smaller financial institutions (FIs) having a lesser understanding, and DNFBPs having little understanding of risks and obligations. Supervisors do not publish guidance to assist FIs and DNFBPs understand ML/TF risks and AML/CFT obligations.
- k) The legal framework for beneficial ownership (BO) does not include non-commercial legal persons and the concept of BO is not well understood. Risks of misuse of legal persons have not been assessed. For complex commercial legal structures, the information available may not accurately identify the ultimate BO and published corporate registry information is not up-to-date. Reporting entities are required to obtain BO information in the course of CDD, but authorities did not demonstrate regular use of that mechanism or the registry to obtain basic and BO information.

- l) Timor-Leste is not implementing targeted financial sanctions relating to terrorist financing (TFS-TF) without delay and has no legal framework to implement targeted financial sanctions relating to proliferation financing (TFS-PF). There is no competent authority responsible for TFS-PF.
- m) Timor-Leste has not identified the subset of non-profit organisations (NPOs) that fall within the FATF definition, and therefore has not identified the subset of NPOs at risk of abuse by terrorist financiers, nor identified the nature of any TF threats or vulnerabilities to 'at risk' NPOs.
- n) Timor-Leste's competent authorities have broad authority to cooperate internationally with foreign counterparts on ML/TF and associated predicate offences. Timor-Leste's legal framework allows a wide range of mutual legal assistance (MLA) and extradition in relation to ML/TF and associated predicate offences. Competent authorities have increasingly utilised informal international exchange channels and facilitated information exchange with foreign counterparts within their respective legal frameworks.

Risks and General Situation

2. The Timor-Leste economy is small and the financial services sector offers a limited range of basic products and services. Timor-Leste is not a regional financial centre, there are no securities markets or fund managers, and few DNFBPs. The economy is cash-based, borders are porous, government institutions are still developing, and the United States dollar (USD) is the official currency, which combined create potential vulnerabilities for ML and TF.

3. Timor-Leste is exposed to a range of ML threats, with corruption, specifically the role of politically exposed persons (PEPs), tax evasion, cash smuggling and drug smuggling assessed as the most significant. Fraud, human trafficking, smuggling and cash couriers, organised crime, illicit gambling, and the laundering of foreign proceeds of crime are also assessed as significant ML risks.

4. Timor-Leste has not yet formally assessed several material ML risks including risks relating to online scams, environmental crimes, trade-based money laundering and legal persons. Although Timor-Leste has no casinos, the assessment team notes the expansion of the gaming sector offering slot machines and electronic table games, which poses an increasing ML risk. Other sectors that remain unregulated with little demonstrated understanding of ML risks include real estate, accounting, company service providers and microfinance sectors.

5. Timor-Leste has not formally assessed its TF risk. The 2015 NRA provided only a cursory review of TF risks. Authorities indicated the risk of TF is low, which aligns with the assessment team's understanding. However specific vulnerabilities related to Timor-Leste's TF risk, including the cash economy, porous borders, unreliable identity documents, weaknesses in suspicious transaction report (STR) reporting, and incomplete information on the NPO sector present vulnerabilities. There is no evidence that NPOs have been exploited to conduct TF. There is limited understanding of TF risks by the public and private sectors.

6. Since its last mutual evaluation in 2012, Timor-Leste has implemented reforms to its AML/CFT framework including laws to strengthen preventive measures, initiatives to combat corruption and reduce the cash economy, improvements to the corporate registry, the roll-out of 'e-wallets' to promote financial inclusion, and creation of a specialist policing agency with the

power to investigate ML. Nevertheless, moderate gaps in the AML/CFT legal and institutional framework remain. These include gaps in targeted financial sanctions, certain preventive measures, transparency of legal persons and legal arrangements, regulation and supervision, and controls on the cross-border movement of cash.

7. In general, Timor-Leste has produced limited results from its AML/CFT system, which stems from the lack of resources and capability within competent authorities. Further, STR reporting is inconsistent, is concentrated in two banks, and does not align with the risk and context of Timor-Leste. The reliability of identity documents and information held in the corporate registry continues to impact the AML/CFT regime's effectiveness. Major improvements are needed in most areas, particularly in development and use of financial intelligence, supervision of financial institutions and DNFBPs, and ML investigations and prosecutions. Positively, Timor-Leste has expanded its use of international cooperation during the period under review, particularly with regional and Portuguese speaking countries. While information exchanges with foreign counterparts have been increasing, formal cooperation is not consistent with Timor-Leste's ML risk profile of high-risk predicate offences e.g. corruption, tax evasion and cash couriers. Timor-Leste should continue to develop both formal and informal international cooperation channels in line with its ML/TF risk profile.

Overall Level of Effectiveness and Technical Compliance

Assessment of Risk, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33 & 34)

8. Across the public and private sectors, Timor-Leste's understanding of its ML/TF risks largely reflects the NRA's findings and limitations. The 2015 NRA assessed corruption, tax evasion, cash couriers and drug trafficking as high risk, and fraud, human trafficking, smuggling, organised crime, illicit gambling, foreign predicate offences as presenting a medium risk. The assessment team considers these ML/TF risks, and their ratings, remain current however the NRA did not assess a range of risks, including those presented by legal persons, online scams, environmental crimes (particularly illegal fishing and logging), real estate, accountants and company service providers, NPOs, trade-based money laundering and microfinance. Further, new and emerging risks resulting from the introduction of 'e-wallets' and the global growth of virtual assets (VA) and virtual asset service providers (VASP) are not well understood. A lack of data constrained Timor-Leste's ability to quantify risks in the NRA, particularly its TF risk.

9. The CNCBC provides a good mechanism to oversee and coordinate Timor-Leste's policy response to ML/TF issues, in particular the implementation of its National Strategic Plan 2016-2020 (NSP). Timor-Leste has undertaken several reforms to combat ML and TF, nevertheless, the NSP remains partially implemented.

10. There is a need for greater cooperation and coordination at the operational level.

11. There are shortcomings in the statistics provided by Timor-Leste on matters relevant to the effectiveness and efficiency of its AML/CFT systems.

Financial Intelligence, ML Investigations, Prosecutions and Confiscation (Chapter 3 – IO.6, 7,-8; R.1, R.3, R.4, R.29-32)

12. UIF serves as Timor-Leste's FIU and is responsible for collection, analysis and dissemination of information relating to ML and TF. The UIF has a range of powers to access financial and other information from various public and private sector institutions however this is not being fully utilised at the operational level.

13. Overall, considering the risk and context of Timor-Leste, financial intelligence is being accessed and used to develop leads for ML investigations to some extent while to a lesser extent for ML predicate offences. Judicial authorities and LEAs in Timor-Leste have requested and used financial intelligence from UIF in ML investigations. All proactive disseminations from UIF to PGO have been used as the main trigger for ML investigations, with some leading to successful prosecutions and convictions.

14. The Prosecutor General Office (PGO) has a central role in commencing, coordinating and assigning ML and predicate offence investigations. PGO can conduct an investigation, or dispatch it to a policing agency (Scientific and Criminal Investigative Police (PCIC), National Police of Timor-Leste (PNTL) or Anti-Corruption Commission (CAC)) in line with each agency's legislated competence.

15. UIF dissemination reports to PGO are the primary trigger for ML investigations, of which there were 126 between 2018 and 2023. No ML cases have been initiated from predicate offence investigations. The predicate offences of ML investigations conducted have mostly related to tax evasion and corruption, which are higher risk areas for Timor-Leste, however the absence of cases relating to drug trafficking and cash smuggling does not align with risk. All ML cases in Timor-Leste have involved natural persons; there have been no investigations, prosecutions, or convictions of legal persons. Self-laundering is the most common type of ML case investigated and prosecuted, and there have been no stand-alone ML investigations and limited investigations into ML linked to foreign predicate offences, which is not fully commensurate with Timor-Leste's ML risk profile. Of the seven ML convictions recorded in the reporting period, the sanction applied for five were below the range provided for in the AML/CFT Act, demonstrating limited implementation of proportionate and dissuasive sanctions.

16. Timor-Leste does not pursue asset recovery as a policy objective and Timor-Leste does not have policies for the confiscation of proceeds, instrumentalities and property of equivalent value, or targets for asset recovery. While a range of assets have been confiscated, the asset recovery results for both ML and predicate offences are limited and are not in keeping with the risk profile of Timor-Leste. LEAs did not demonstrate regular asset tracing or restraint of assets that may become subject to confiscation. Management of frozen assets and disposal of confiscated assets to realise value was not demonstrated.

17. Timor-Leste's currency declaration regime is only implemented for incoming passengers. Customs has only identified one instance of undeclared or false cross-border currency declaration, which does not align with Timor-Leste's risk profile.

Terrorist and Proliferation Financing (Chapter 4 – IO.9, 10, 11; R.1, R.4, R.5-8, R.30, R.31 & R.39)

18. There have been no investigations, prosecutions or convictions for TF in Timor-Leste, which is consistent with authorities' understanding of TF risk and Timor-Leste's TF risk profile. In theory, the TF investigation and prosecution process would mirror that for ML. There are no specific TF procedures in place and relevant LEAs have received only limited training in the investigation of TF.

19. Timor-Leste is not implementing TFS-TF for UNSCR1267 and UNSCR1373 without delay. There are fundamental gaps in the application of freezing obligations without delay as well as notifications of designations, a lack of guidance on TFS obligations and a lack of supervision and enforcement. No assets and instrumentalities related to TF activities of designated entities and individuals have been identified and frozen, which is consistent with Timor-Leste's TF risk profile.

20. Timor-Leste does not have a targeted approach to preventing TF abuse of its NPO sector. Timor-Leste's NPO sector has not been assessed to identify the subset of NPOs most likely to be at risk of abuse for TF or identified the nature of threats posed by terrorist entities to those NPOs. NPOs demonstrated a very limited understanding of TF risk and mitigation measures and there has been no risk-based supervision, monitoring, or outreach by authorities.

21. Timor-Leste lacks a legal framework to implement TFS-PF without delay and there is no designated competent authority with responsibility for TFS-PF. Timor-Leste has not demonstrated any cooperation and coordination between relevant authorities to prevent PF sanctions from being evaded and there are no national policies in place to address TFS for PF. Timor-Leste maintains a diplomatic relationship with the Democratic People's Republic of Korea (DPRK) but has not considered its PF exposure. There has been no freezing of assets or funds of designated persons or entities. The banking sector has an awareness of PF and conducts transaction screening, however beyond this sector there is very limited understanding of PF and preventive measures. Further, no guidance has been issued or outreach programs conducted to enhance reporting entities' understanding of TFS-PF.

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

22. Timor-Leste has strengthened its legal framework for AML/CFT preventive measures and banks and ODTIs, which hold almost all financial sector assets, demonstrated a good understanding of their ML/TF risks and AML/CFT obligations. Other financial institutions demonstrated less sophisticated understanding of their ML/TF risks and AML/CFT obligations, however this was broadly consistent with the size and complexity of their businesses. DNFBPs, which do not have an AML/CFT supervisor, demonstrated little to no understanding of their ML/TF risks and AML/CFT obligations.

23. Competent authorities issue little guidance to FIs and none to DNFBPs to ensure effective implementation of preventive measures. Inconsistent reporting of STRs, and an absence of STR reporting by some FIs and all DNFBPs highlight the need for further guidance to improve the implementation of preventive measures. To illustrate, two financial institutions report 74 percent of all STRs, which is inconsistent with the risk profile.

24. Access to financial services for many Timorese remains a challenge, most notably in rural areas where access points and the ability to obtain sufficient identity documents is limited. BCTL has approved one instance of simplified measures and there remains scope for additional measures, particularly in the microfinance sector.

Supervision (Chapter 6 - IO3; R.14, R.26-28, R.34, R.35)

25. The banking sector consists of four publicly listed or state-owned foreign bank branches and one state-owned domestic bank and holds approximately 97 percent of financial sector assets. As such, the sector represents an inherently high ML risk. BCTL is the licencing authority and AML/CFT supervisor of almost all financial institutions. Fit and proper checks to prevent criminals from entering the market are reasonably implemented however there are gaps in relation to beneficial ownership checks and the microfinance sector is subject to a licencing regime.

26. The DNFBP sectors are very small and there is no designated AML/CFT supervisor. Of all DNFBPs, only lawyers have a licencing regime. The understanding of ML/TF risk and compliance with AML/CFT obligations across these sectors is low.

27. There is no regulatory framework or measures to prohibit VA/VASPs however no VASPs are known to operation in Timor-Leste. The ML/TF risks of VA/VASPs remain unassessed.

28. BCTL introduced risk-based supervision in 2017 though there is considerable scope to improve risk-based supervision. BCTL's resources have been focussed on MTOs rather than the banking sector which receives insufficient supervisory attention given its size and risk profile. In addition, the failure of some FIs to report STRs does not appear to have triggered supervisory inspections or actions.

29. BCTL conducts AML/CFT inspections alongside prudential inspections. Little feedback or guidance is provided to reporting entities. The UIF meets quarterly with banks and ODTIs to discuss STR trends and industry issues, however the AML/CFT supervisor is not regularly involved in these meetings.

30. BCTL actively monitors for unregistered MVTs providers and takes steps to ensure cessation of such operations. BCTL can apply a wide range of administrative sanctions and has applied warning letters, fines and delicensing in the MTO sector. However, no sanctions have been applied to FIs or DNFBPs other than MTOs.

Transparency and Beneficial Ownership (Chapter 7 - IO5; R.24-25)

31. Timor-Leste has strengthened its legal framework for the registration of legal persons, basic and BO transparency requirements, and the prohibition of bearer shares. Responsibility for the registration of cooperatives recently moved to SERVE I.P. with the aim to improve the quality, timeliness and accessibility of information.

32. Whilst the NRA identified vulnerabilities and risks related to BO information and registration of commercial companies, the ML/TF risk assessment of legal persons remain unassessed. Trusts cannot be created under Timorese Law but there is a lack of awareness of the likelihood of foreign trusts operating in Timor-Leste and the ML/TF risks they may pose.

33. Basic information on legal persons is publicly available but there are shortcomings in the timeliness of this information which impedes competent authorities' and reporting entities' access to up-to-date information. Mechanisms to ensure authorities have access to accurate and up-to-date BO information are not well developed or utilised in practice. There are limitations with respect to BO records held in the registry for complex structures as the available information may not accurately identify the ultimate BO. There are few instances where authorities obtain BO records from FIs or DNFBPs that are collected during the course of CDD. Further, there is a low level of understanding of the definition of BO and the legal concept of trusts and other legal arrangements.

34. There are a range of sanctions for non-compliance however they are ineffective as competent authorities do not apply sanctions in cases of failure to comply with registration obligations and monetary penalties are insufficient to be dissuasive. For associations and foundations, there are no available sanctions.

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

35. Timor-Leste has a sound legal framework for providing and receiving international cooperation, but it is not fully utilised by most competent authorities. Authorities use their respective channels to exchange financial intelligence with foreign counterparts to support ML cases. However, overall the volume of requests is low and are not fully consistent with Timor-Leste's ML/TF risk profile.

36. Timor-Leste manages incoming and outgoing requests using a manual system which is adequate for the low number of requests. There were no incoming or outgoing extradition requests for ML or TF. Competent authorities have increasingly utilised informal international exchange channels and facilitated information exchange with foreign counterparts within their respective legal frameworks.

37. At the time of the on-site visit, Timor-Leste was not a member of the Egmont Group, which had a notable impact on UIF's ability to exchange informal information in a timely manner.¹

38. Some competent authorities have no mechanism to exchange information with foreign counterparts, despite a legal basis to do so. Further, the deficiencies in the adequacy and accuracy of BO information held within Timor-Leste impacts the quality of information able to be exchanged.

¹ Timor-Leste was admitted into the Egmont Group on 1 February 2024.

Priority Actions

Timor-Leste should:

- A. Continue to develop its understanding of ML/TF risks, including through the conduct/updating of risk assessments (including the NRA, NPOs at risk of abuse by terrorist financiers and legal persons) using relevant data and statistics. Outreach and guidance on ML/TF risk should be delivered to competent authorities and the private sector.
- B. Incorporate the findings from risk assessment updates into the National Strategic Plan for Combatting Money Laundering and Terrorist Financing.
- C. Support financial inclusion through the application of simplified measures and exemptions where ML/TF risk is proven to be low.
- D. Establish and implement a national strategy for the conduct of ML investigations that focusses on the high-risk predicate offences of corruption, tax evasion, drug trafficking and human trafficking and includes the different types of ML activity such as third party and stand-alone ML and ML linked to transnational crime.
- E. Ensure UIF's intelligence products and LEAs' own financial intelligence are used to support financial intelligence to investigate ML and predicate offences and to trace assets in keeping with the risk profile.
- F. Increase the competency of LEAs to investigate and prosecute ML and TF.
- G. Establish and implement national-level and agency level policies for asset recovery, aligned with ML risks, including a focus on asset tracing, restraint, asset management, confiscation of the widest range of proceeds of crime and property of corresponding value.
- H. Implement an outbound cross-border cash declaration system and establish an effective mechanism to identify undeclared and false declarations at the border.
- I. Designate a supervisor of DNFBPs and undertake risk-based supervision of FIs and DNFBPs, in particular on-site supervision of banks. Ensure that supervision activity utilises all available information sources, including assessment findings from home supervisors of foreign banks and global MVTs providers. BCTL is encouraged to apply proportionate and dissuasive sanctions where required.
- J. Establish legal requirements to obtain basic and BO requirements for non-commercial legal persons and foreign trusts or other similar legal arrangements, and ensure that adequate, accurate and up-to-date information, including BO information, on all types of legal persons is publicly available, and conduct outreach and guidance to ensure that the concept of beneficial ownership is understood.
- K. Define the operational responsibilities of LEAs and UIF and develop processes for the identification and investigation of TF, and conduct capacity building to enhance LEAs' expertise in relation to TF investigations.

- L. Develop and implement legal frameworks for TFS-TF and TFS-PF without delay.
- M. Enhance the implementation and effectiveness of its AML/CFT framework through greater operational level coordination amongst competent authorities.
- N. Utilise the full range of international cooperation channels, including MLA and extradition mechanisms, to combat ML and TF in line with its risk profile.

Effectiveness & 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
Moderate	Moderate	Low	Moderate	Low	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	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	NC
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
NC	NC	LC	PC	LC	LC
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	LC	NC	LC	N/A	LC
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	LC	LC	PC	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
PC	PC	LC	NC	LC	C
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
LC	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		
LC	LC	LC	LC		

MUTUAL EVALUATION REPORT OF TIMOR-LESTE

Preface

This report summarises the AML/CFT measures in place in Timor-Leste as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Timor-Leste's AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by Timor-Leste, and information obtained by the evaluation team during its on-site visit to Timor-Leste from 18-28 September 2023.

The evaluation was conducted by an assessment team consisting of:

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The assessment process was supported by the following staff from the APG Secretariat: Suzie White, Kirsty Struthers, Gavin Raper.

The report was reviewed by:

- Mr Leigh Hunter, Australian Federal Police (LEA expert)
- Ms Anna Liza R. Guevarra, Bangko Sentral ng Pilipinas (financial expert)
- FATF Secretariat

Timor-Leste previously underwent a FATF Mutual Evaluation in 2012, conducted according to the 2004 FATF Methodology. The July 2012 evaluation is available at www.apgml.org.

Timor-Leste's 2012 Mutual Evaluation concluded that the country was compliant with one Recommendation; largely compliant with 14; partially compliant with 28; and non-compliant with

three. Three Recommendations were non-applicable, given Timor-Leste's context. Timor-Leste was rated non-compliant or partially compliant with 11 of the 16 Core and Key Recommendations.

Timor-Leste's 2014 Follow-Up Report determined progress equivalent to largely compliant with three of the Core and Key Recommendations rated NC/PC in the MER. Therefore, on the conclusion of the APG's 2nd Round follow-up process in 2014, Timor-Leste had eight of the 11 Core and Key Recommendations remaining at NC/PC; namely R.1 (ML), R.13 (STR reporting), R.26 (FIU), R.36 (mutual legal assistance), R.40 (international cooperation), SR.I (UN TF Convention), SRIII (TF freezing), SRIV (STR – TF) and SR.V (International cooperation – TF).

1. The Democratic Republic of Timor-Leste (Timor-Leste) is located in South East Asia and occupies an area of 15,007 km² comprising the eastern half of the island of Timor, and includes Atauro Island, Jaco Island and Oecusse (an enclave surrounded by West Timor, Indonesia on the north-western side of Timor Island).² The north of Timor is bounded by the Ombai Strait, Weta Strait and the greater Banda Sea. South of Timor is the Timor Sea which separates Timor from Australia, while to the west lies the Indonesian province of East Nusa Tenggara.
2. Timor-Leste is composed of 13 municipalities including a Special Autonomous Region and 71 sub-districts, has a population of over 1.3 million, a GDP of USD 3.16 billion, and GDP per capita of USD 2,358.³ The USD is the official currency. Official languages are Tetum and Portuguese, 'working languages' are English and Bahasa Indonesian, and a further 15 local dialects are spoken.⁴
3. Timor-Leste officially gained its independence in 2002, though its struggle for independence resulted in the loss of thousands of lives and destruction of its institutions and infrastructure.⁵ Timor-Leste experienced violence and civil unrest in 2006, disrupting public and private sector economic activity and requiring the resettlement of approximately 100,000 internally displaced persons, a process not completed until mid-2009.⁶
4. An ongoing challenge in Timor-Leste is food security and malnutrition. Timor-Leste suffers from the third highest rate of child malnutrition in the world; forty percent of the population is under 15 years of age, and one in two children are malnourished.⁷ Of children under five, 47 percent are stunted.⁸ In February 2023, 300,000 (22 percent of the population) were classified as facing high levels of acute food security, i.e. crisis level or above.⁹
5. Timor-Leste is a parliamentary republic, and the Head of State is the President who is elected for a five year term. Following democratic elections, the President appoints as Prime Minister the leader of the majority party or majority coalition. The Timorese parliament is a unicameral body whose members are democratically elected by popular vote to five-year terms. The number of seats can vary from a minimum of 52 to a maximum of 65. The Government is the Executive body of the State and is responsible for the development and implementation of the Government Program for the five-year term. The Head of the Government is the Prime-Minister.¹⁰
6. Timor-Leste held parliamentary elections on 21 May 2023. The change of government came into effect in July 2023 and meant that at the time of the onsite visit in September 2023, some senior officials involved in Timor-Leste's AML/CFT system had only recently been appointed to their roles and

² <http://timor-leste.gov.tl/?p=547&lang=en>

³ <https://data.worldbank.org/>

⁴ <http://timor-leste.gov.tl/?p=547&lang=en>

⁵ United Nations Development Program. *Integrated National Financing Framework for Sustainable Development of Timor-Leste: Summary for the Policy Makers*. October 2022. Page 10.

⁶ <https://www.internal-displacement.org/publications/timor-leste-idps-have-returned-home-but-the-challenge-of-reintegration-is-just>

⁷ United Nations Development Program. *Integrated National Financing Framework for Sustainable Development of Timor-Leste: Summary for the Policy Makers*. October 2022. Page 11

⁸ World Health Organisation. *Timor-Leste: Towards Better Health and Nutrition of School Aged Children*. 26 August 2022.

⁹ IPC Acute Food Insecurity Analysis Timor-Leste 2022-2023. 23 February 2023. Page 1. <http://timor-leste.gov.tl/wp-content/uploads/2023/02/IPC-ENG.pdf>

¹⁰ <http://timor-leste.gov.tl/?p=33&lang=en>

some heads of agencies (e.g. Comissão Anti-Corrupção – Anti-Corruption Commission (CAC)) were still to be announced. Nevertheless, Timor-Leste demonstrated political will towards the Mutual Evaluation process throughout the onsite visit and over the course of the Mutual Evaluation.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

7. Timor-Leste is exposed to a range of ML threats with corruption, tax evasion, cash smuggling and drug smuggling assessed as most significant. Fraud, human trafficking, smuggling, organised crime, illicit gambling and the laundering of foreign proceeds of crime were also assessed as significant ML risks. There are no estimates of the value of proceeds of crime generated or laundered in Timor-Leste.

8. Several factors contribute to Timor-Leste's vulnerabilities to ML: a cash-based economy and financial exclusion, porous borders, use of USD and endemic corruption together with deficiencies in national identity documents and the company registration system, and overall limited capacity of government institutions.

9. Although small and offering a limited range of relatively unsophisticated financial products, Timor-Leste's banking system is considered the sector most vulnerable to ML due to its materiality in Timor-Leste's economy. Money transfer operators (MTOs) also pose an ML risk, though less than banks. There are no financial markets or funds managers operating in Timor-Leste and there is no AML/CFT supervision of microfinance institutions or DNFBPs. There are no businesses in Timor-Leste that meet the FATF definitions for dealers of precious metals, dealers of precious stones, or casinos, however there are gaming venues with slot machines and other electronic table games. All notaries are government employees and therefore do not meet the FATF definition. No VASPs operate in Timor-Leste.

10. The TF risk in Timor-Leste is considered low, however no TF risk assessment has been carried out to date, with the NRA providing only a cursory review. The cash economy, porous borders, unreliable identity documents, weaknesses in STR reporting and challenges with regulation of NPOs all present vulnerabilities for TF. There is a lack of understanding from both the public and private sectors of TF risks, particularly in relation to regional TF risks.

Country's risk assessment & Scoping of Higher Risk Issues

11. Timor-Leste conducted its first ML/TF national risk assessment (NRA) in 2015 which was adopted by the Council of Ministers in June 2016. No updates to the NRA have been conducted. A corruption risk assessment was conducted in 2019 but the assessment team did not receive a copy. A self-identified lack of data is a common theme throughout Timor-Leste's NRA, nevertheless the assessment team concurs with the NRA's findings that corruption, tax evasion, cash couriers and drug trafficking pose a high ML threat and impact.

12. Despite the passage of time since the conduct of the NRA, the NRA's findings appear reasonable and set out continuing risks. Since the NRA, Timor-Leste has introduced 'e-wallets' – a low value domestic remittance service and although none are known to operate in Timor-Leste, the materiality of virtual assets and VASPs in a global context has increased. These risks remain unassessed. In addition, risks relating to online scams, environmental crimes, trade-based money laundering and legal persons, and risks presented by the real estate, accounting, company service provider, NPO, and

microfinance sectors remain unassessed and not well understood. Further, changes in risk such as expansion of the gaming sector that offers slot machines and electronic table games were not reviewed.

13. Due to a lack of data, the 2015 NRA provided a cursory reference to Timor-Leste's TF risk and identified several relevant vulnerabilities based on contextual factors. While not specified in the NRA and in the absence of a thorough TF risk assessment, authorities indicated that the TF risk is low. While the assessment team does not disagree, TF risks should be assessed and better understood particularly in relation to the regional context.

14. During the mutual evaluation on-site visit, the assessment team focused on the following higher-risk issues, based on material submitted by Timor-Leste and information from open sources:

- Corruption, including the role of politically exposed persons (PEPs);
- Threats of tax evasion (personal and business income tax evasion), drug trafficking, smuggling and cash couriers, fraud, human trafficking and environmental crimes (illegal logging and illegal fishing);
- Banking, MTO and gaming sectors; and
- Vulnerabilities identified in the cash economy, national identity documents and business registry, and cross-border vulnerabilities.

15. There are 206 cooperative credit unions operating in Timor-Leste that provide basic, low value financial services to communities with limited or no access to the banking system.¹¹ Account balances and loans offered by these institutions are typically small. Therefore, the assessment team considered these financial services likely pose a low or very low ML/TF risk.

16. There are no known locally incorporated VASPs and no reports of VASPs operating in Timor-Leste. Additionally, of bank account customers (64 percent of the population), a relatively small number have debit (20 percent) or credit cards (eight percent or less) and even fewer have access to internet banking facilities (one percent) to fund virtual asset purchases.¹² Therefore the assessment team considered VASPs to be a lower risk issue.

Materiality

17. Timor-Leste's gross domestic product in 2022 was estimated at USD 3.16 billion and GDP per capita of USD 2,358. The UN estimates that nearly half of Timor-Leste's population lives below the extreme poverty line of USD 1.90 a day.¹³ Timor-Leste's economy is slowly recovering from the COVID-19 pandemic and Cyclone Seroja (2021), the worst natural disaster in 50 years.¹⁴

18. Established in 2005, the Petroleum Fund is Timor-Leste's sovereign wealth fund.¹⁵ The Petroleum Fund accumulates revenues from Timor-Leste's oil and gas reserves and returns on foreign financial investments and funds approximately 78 percent of the state budget with tax revenues

¹¹ <https://en.tatoli.tl/2023/02/25/over-118000-timorese-people-are-directly-involved-in-the-timor-leste-cooperative/09/>

¹² Banco Central do Timor-Leste, Financial Inclusion Report 2022. p.41-43

¹³ <https://thediplomat.com/2023/05/timor-lestes-opposition-party-wins-most-seats-in-parliamentary-election/>

¹⁴ https://en.wikipedia.org/wiki/Cyclone_Seroja#

¹⁵ <http://timor-leste.gov.tl/?p=6650&lang=en>

contributing a further 10 percent.¹⁶ However, the Petroleum Fund's balance of USD 16.9 billion at September 2022 is forecast to be fully depleted by 2034.¹⁷

19. Timor-Leste is a net importer, importing USD 812 million and exporting USD 297 million worth of goods in 2021.¹⁸ Timor-Leste's top five export partners in 2021 were China (USD 99 million), Singapore (USD 92 million), Japan (USD 60 million), Malaysia (USD 23 million) and the United States (USD 6 million). Timor-Leste's top five import partners in 2021 were China (USD 260 million), Indonesia (USD 249 million), Singapore (USD 104 million), Australia (USD 75 million) and India (USD 29 million).¹⁹

20. The main industries in Timor-Leste are petroleum and natural gas extraction (USD 2,061m), public administration (USD 498m), agriculture, forestry and fishing (USD 312m), and wholesale and retail trade, transportation and storage, accommodation and food services (USD 246m), and real estate (USD 191m).²⁰

21. Remittances from overseas-based Timorese workers are the largest non-petroleum contributor to the economy.²¹ Remittance inflows account for approximately 9% of Timor-Leste's national income and more than doubled from USD 62 million in 2015 to USD 171 million in 2021.²² Family support payments account for 96% of remittances.²³

22. Timor-Leste has received in principle agreement to be admitted as the 11th member into the Association of Southeast Asian Nations (ASEAN). ASEAN granted Timor-Leste observer status in 2022, enabling it to join meetings, including the group's summit plenaries.²⁴ ASEAN membership is expected to deliver trade, investment and security benefits to Timor-Leste while supporting regional economic integration and stability.²⁵

23. Timor-Leste is a heavily cash-based economy. Approximately 30 percent of Timorese do not have access to regulated financial services and 85 percent do not have access to credit products.²⁶ Only 64 percent have a bank account, only three banks offer internet banking (an estimated one percent of account holders have access) and there are only 43 bank branches and 138 ATMs nationwide.²⁷

24. Consequently, authorities are focused on improving financial inclusion and have taken steps to increase access to financial services including; (i) the introduction of a new payment system P24 in 2019, (ii) enabling the electronic payment of income, service, wages and withholding taxes through the

¹⁶ United Nations Development Program. Integrated National Financing Framework for Sustainable Development of Timor-Leste: Summary for the Policy Makers. October 2022. Page 10.

¹⁷ World Bank. Timor-Leste Economic Report: December 2022 – Honoring the Past, Securing the Future. Page vii

¹⁸ <https://oec.world/en/profile/country/tls>

¹⁹ <https://oec.world/en/profile/country/tls>

²⁰ 2021 figures provided by Timor-Leste

²¹ <https://www.dfat.gov.au/geo/timor-leste/timor-leste-country-brief>

²² International Organisation for Migration. How Remittances Transform Lives for Timorese Families. 12 June 2023. <https://roasiapacific.iom.int/stories/how-remittances-transform-lives-timorese-families#:~:text=According%20to%20the%20Remittance%20Mobilization,USD%20171%20million%20in%202021>

²³ Ibid

²⁴ <https://www.reuters.com/world/asean-agrees-principle-admit-east-timor-11th-member-2022-11-11/>

²⁵ <https://www.internationalaffairs.org.au/australianoutlook/timor-lestes-asean-aspirations-can-benefit-from-pragmatic-indecision-2/>

²⁶ Banco Central do Timor-Leste, Financial Inclusion Report 2022. p.43-44. Eight percent of bank customers have access to credit and banks hold a 55 percent share of the credit market. ODTIs have the remaining 45 percent.

²⁷ Banco Central do Timor-Leste, Financial Inclusion Report 2022. p.41-43. BCTL advised the domestic bank maintains 22 branches and the foreign banks networks consist of 15 branches, three branches, two branches and one branch respectively.

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P24 platform in 2021²⁸, and (iii) approving the operators of ‘e-wallets’ in 2018-19. ‘E-wallets’ allow customers to open accounts, top-up balances, perform withdrawals and transfer cash domestically between users and by 2022 there were 4,199 registered agents. Twenty-two percent of adults (180,000 clients) have an e-wallet account, although only 10-15% of accounts are active in each quarter. Transfers account for 74 percent of e-wallet transactions and less than 1,000 customers have a bank account linked to their e-wallet.²⁹ At the time of the onsite there were two card payment processing network providers in Timor-Leste, one of which did not offer retail payment point of sale services.³⁰

25. Timor-Leste’s financial system is small and offers simple financial products such as deposits, lending, and transfers. Banks dominate the financial sector holding USD 2.3 billion of the USD 2.37 (97 percent) of assets.³¹ There are no financial markets, managed funds or leasing companies. Of the nine registered MTOs, all but three are restricted to only remitting outgoing funds to a registered remitter in Indonesia. There are three insurers, none of which offer life insurance products. There was one finance company that offered leasing and lending products for plant and equipment, however it exited the market in February 2023. There are no casinos, dealers in precious metals or dealers in precious stone, and only two licenced real estate businesses, however many informal brokers are understood to be in operation. All notaries are government employees and do not meet the FATF definition. The law does not provide for the creation of express trusts or defines the legal concept of other similar legal arrangements (for AML/CFT purposes) but it is possible for foreign trusts or trustees to operate in Timor-Leste. Nevertheless, as per an inquiry conducted by BCTL³², banks stated they did not open or maintain any trust accounts for individuals or groups operating in Timor-Leste and/or overseas.

Structural Elements

26. A nascent democracy, since gaining independence in 2002, Timor-Leste has made significant progress in building government institutions and public sector infrastructure and increasing political stability.

27. There is a continuing need to strengthen supervisors (there is currently no supervisor of DNFBPs), law enforcement agencies, the judicial system, and maintain the fight against ML/TF threats.

28. The World Bank’s Governance Indicators demonstrate significant improvement across all indicators, however room for further improvement remains (see Table 1.1). Transparency International’s 2022 Corruption Perceptions Index scored Timor-Leste at 42 out of 100 (with zero being a high perception of corruption and 100 being a very low perception of corruption) ranking it 77th out of 180 countries.³³ Since its low of 28/100 in 2015, Timor-Leste has shown a slow but steady improvement. The NRA conducted in 2015 noted the ‘endemic nature of corruption within Timor-Leste’. Following its United Nations Commission Against Corruption Review in 2020, Timor-Leste adopted a new anti-corruption law entitled *Measures to Protect and Combat Corruption* (Law No 7/2020) which obligates all individuals who exercise public functions and their household members to declare income, assets, and interests.

²⁸ Timor-Leste Modernises the payment platform for taxes through P24 system. 5 March 2021. <https://en.tatoli.tl/2021/03/05/timor-leste-modernizes-the-payment-platform-for-taxes-through-p24-system/23/>

²⁹ Banco Central do Timor-Leste, Financial Inclusion Report 2022. p.46

³⁰ A third card payment processing network provider entered the Timorese market sin March 2024.

³¹ Timor-Leste effectiveness submission. Page 46.

³² Refers to BCTL request letters to banks dated 19 June 2023

³³ <https://www.transparency.org/en/cpi/2022/index/tls>

Table 1.1 Timor-Leste Governance Indicators 2012 – 2022

Indicator	2012 Percentile Rank (0-100)	2022 Percentile Rank (0-100)
Voice and accountability	53.5	61.4
Political stability and absence of violence/terrorism	37.4	53.8
Governance effectiveness	10.4	22.6
Regulatory quality	16.1	34.0
Rule of law	10.3	20.3
Control of corruption	27.0	46.7

Source: World Bank's Governance Indicators³⁴

Background and other Contextual Factors

AML/CFT strategy

29. In 2014, Government Resolution No.10/2014 established the National Coordination Committee for the Implementation of Measures to Fight Money Laundering and Terrorist Financing (CNCBC). The Resolution tasks the CNCBC with coordinating the implementation of AML/CFT measures, ensuring compliance with recommendations and best practices issued by the FATF and coordination of implementation programs by the APG. The CNCBC consists of 11 representatives from various government ministries and agencies and is co-chaired by the Ministers of Justice and Foreign Affairs. In 2016, Government Resolution No.18/2016 expanded the CNCBC to include representatives from additional ministries and agencies.

30. Timor-Leste developed an *AML/CFT National Strategic Plan for 2016-2020* (NSP) based on the findings of the NRA. The NSP prioritised 10 strategic objectives:

- a. Implement a robust framework for developing national AML/CFT policies;
- b. Develop a thorough understanding of the ML and TF risks within Timor-Leste;
- c. Bring the legal framework to combat ML and TF into line with international standards;
- d. Build capacity with law enforcement, prosecution and judicial authorities in order to improve investigation, prosecution and conviction of ML and predicate offences;
- e. Build capacity of supervisory bodies to ensure compliance by the financial sector and DNFBPs with ML and TF preventive measures;
- f. Enhance the implementation of preventive measures by FIs and DNFBPs;

³⁴ https://databank.worldbank.org/reports.aspx?Report_Name=WGI-Table&Id=ceea4d8b

- g. Develop the capacity of the UIF to collect, analyse and disseminate suspicious transaction reports and currency transactions, and to add value to ML and TF investigations;
- h. Enhance the transparency of the beneficial ownership of legal persons established within Timor-Leste;
- i. Develop and enhance cooperation, at both the domestic and international levels, between authorities that have competency in the fight against ML and TF; and
- j. Enhance public awareness of the need to combat ML and TF.

31. Each of the strategic objectives contained numerous action items and dates for completion, were only partly completed. A new strategic plan is currently under development.

Legal & institutional framework

32. Timor-Leste has a civil law legal system, the primary feature of which is that laws are written into a collection or codified and applied and interpreted following the principles and rules foreseen in the law (e.g. Article 2/2 and 31 of the Constitution, Articles 1 and 2 of the Penal Code and Articles 7 to 10 of the Civil Code). Materially, civil law proceeds from abstractions, formulates general principles, and distinguishes substantive rules from procedural rules. It holds legislation as the primary source of law. The court system is usually inquisitorial, unbound by precedent, and composed of judges, prosecutors, judicial officers and other legal players, such as lawyers.

33. Legislation is approved and promulgated in accordance with the rules laid down in the Constitution and published in the Official Gazette, in Portuguese.

34. Following Timor-Leste's independence, the new Constitution allowed for the continued operation of some Indonesian laws and United Nations instruments in conjunction with Timor-Leste legislation, unless these were inconsistent with the Constitution. Consequently, there are three legal frameworks that are concurrently in operation in Timor-Leste to varying degrees. The three frameworks are:

- Indonesian legislation passed during Indonesia's occupation of Timor-Leste (1959- 25 October 1999);
- UNTAET instruments passed during the term of UN administration of Timor-Leste (October 1999 – May 2002); and
- Timor-Leste legislation passed following independence (May 2002 onwards).

35. Where no statute from Timor-Leste legislation specifically criminalises certain conduct, Indonesian law applies to the extent that its application does not contradict the Constitution of Timor-Leste (as prescribed by Article 1 of Law No.2/2002 of 7 August 2002).

36. Following is a more detailed outlined of the hierarchy and categories of legislation within the three frameworks:

Timor-Leste Legislation (May 2002 onwards)

37. Constitution of the Democratic Republic of Timor-Leste (2002): the highest law of Timor-Leste with which all other laws must comply.
38. Laws of the National Parliament: laws made by the National Parliament covering both domestic and foreign policy matters as outlined in Article 95 of the Constitution. Article 96 of the Constitution outlines matters which are within the original competence of the National Parliament but which the Parliament may delegate to the Government based on a Legislative authorisation,
39. Government Decree Laws: laws made by the Government in the areas referred to in Article 115 of the Constitution (areas within the exclusive competence of the Government).
40. Organic Laws: particular types of legislation that deal with the organisation and operation of a certain public service; for example, the organic law of a ministry or public entity. For example, under Article 5 of Law No.17/2011 - Legal Regime on the Prevention and Combating of Money Laundering and Combating of Terrorism Financing, 28 December 2011 (the AML/CFT Law), the Parliament has authorised the Government to regulate the nature, organization and functioning of the FIU by Decree-Law. This is now a matter for the Government to determine.
41. Government secondary legislation: Government decrees, ministerial orders, ministerial instructions and government resolutions.
42. Regulations/Public Instructions: issued by a competent authority under a Law of the National Parliament or a Government Decree Law. BCTL in accordance with Law No.5/2011 has the authority to issue:
- a. Circulars and/or Instructions: binding legal instruments which apply to more than one institution issued by the Bank in the performance of its functions.
 - b. Internal rules and decisions of the Governing Board: regulatory instruments which implement the Bank's decisions in relation to monetary policy, intermediate monetary objectives, primary interest rates, the money supply in Timor-Leste, and decisions on internal procedures.
 - c. Orders: binding regulatory instruments which apply to a single institution issued by the bank in the performance of its functions.
 - d. Regulations: regulatory acts necessary for carrying out the powers and performing the functions of the Bank.

UNTAET Instruments (October 1999 – May 2002)

43. UNTAET Regulation 1/1999, Establishing the Authority of the Transitional Administration in East Timor, vested all legislative power in the Transitional Administrator, UNTAET. There are two types of instruments provides for by Sections 4 and 6 of that regulation:
- a. Regulations
 - b. Administrative directives (in relation to the implementation of regulations).

44. These instruments are issued by UNTAET in English and Portuguese. In case of differences in translation, the English text shall prevail.

45. In addition to UNTAET regulations and directives, there are a further two categories of UNTAET instruments which are not defined in regulation but used in practice:

- a. Executive Orders: declarations which have the force of law, usually based on existing statutory powers, and requiring no action by the state legislature.
- b. Notifications: e.g. notifications of appointments, setting fees, declaring holidays or days of commemoration.

46. Some UNTAET instruments still apply post-independence (including some in relation to AML/CFT matters) and are considered to be 'law or regulation' according to the meaning of these terms under the FATF standards. Article 4, Law No.2/2002 On the Interpretation of Applicable Law allows for the continued application of UNTAET instruments valid on 19 May 2002 until they are replaced in accordance with Timor-Leste law.

Indonesian Legislation (1959 – 25 October 1999)

47. Some legislation promulgated by the Indonesian government continues to apply in Timor-Leste.

48. UNTAET Regulation 1/1999 provides that the laws that applied in Timor-Leste prior to 25 October 1999 shall apply in Timor-Leste in so far as they do not conflict with human rights (section 2) and have not been repealed (section 3).

49. This situation was confirmed by Article 165 of the Timor-Leste Constitution of March 2002 which states that 'Laws and regulations in force in Timor-Leste shall continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution or the principles contained therein'.

50. The legal framework for AML/CFT preventive measures is set out in the AML/CFT Law and supported by BCTL Instructions No.1/2013 and No.5/2017 issued in 2013 and 2017 respectively. Money Laundering is criminalised under Article 313 of the Penal Code and terrorism financing is criminalised under Article 133 of the Penal Code.

51. The institutional framework for AML/CFT is as follows:

- a. **National Commission for the Implementation of Measures against Money Laundering and Terrorism Financing (CNCBC):** is responsible for implementing Timor-Leste's national policy AML/CFT framework and coordinating government ministries' and agencies' responses to ML and TF.
- b. **Unidade de Informação Financeira (UIF):** is Timor-Leste's financial intelligence unit. UIF receives, analyses and disseminates STRs and CTRs. UIF is located within BCTL.
- c. **Banco Central de Timor-Leste (BCTL):** Performs central bank functions and is responsible for licencing, regulating and supervising banks, ODTIs, insurance

companies, MTOs, currency exchange bureaus (CEB), finance companies³⁵ and fintech companies. BCTL also authorises the import or export of physical currency of USD 20,000 or more.

- d. **Ministry of Justice (MOJ):** administers the justice system and courts. The MoJ prepares guidelines and laws for the functioning of the courts, prosecutors, judges, public defenders, and private lawyers. Under the MoJ are the Public Defender's Office, Scientific and Investigative Police, National Commission to Fight Human Trafficking and the Land and Property Commission as well as directorates such as Registry and Notary and Land and Property. The MoJ is responsible for the registration of associations and foundations.
- e. **National Police of Timor-Leste (PNTL):** is the primary law enforcement agency with responsibility for criminal investigations, including the offences of ML and TF, under the direction of the PGO.
- f. **Scientific and Criminal Investigative Police (PCIC):** is responsible for the investigation of serious, organized and complex crime, including money laundering and predicate crimes as delegated by the PGO. PCIC is part of the MoJ.
- g. **Anti-Corruption Commission (ACC):** is an independent specialised LEA that undertakes preventive action against corruption and is empowered to begin and conduct criminal investigations into corruption. The ACC performs its functions independently and is also responsible for public education and identifying and promoting measures to prevent corruption.
- h. **Ministry of Foreign Affairs and Cooperation:** is responsible for the design, execution, coordination, and assessment of policies in international cooperation.
- i. **Ministry of Finance (MoF):** Develops and implements policies, laws and regulations on revenues, budgetary framework, procurement, public accounting, public finance, auditing, and control of the State treasury, issuing and management of the public debt. The MoF oversees the Customs Authority and Tax Authority and administration of the Petroleum Fund.
- j. **Customs Authority (under the MoF):** is responsible for the collection of duties and taxes, the movement of goods and vehicles, ships, and aircraft into and out of Timor-Leste, and the collection of cross-border currency declaration forms, copies of which it provides to the FIU.
- k. **Tax Authority (under the MoF):** is responsible for managing and collecting income and property taxes, as well as administrative fees and other financial contributions.
- l. **Prosecutor General Office (PGO):** is the lead agency responsible for investigating and prosecuting ML, terrorism and TF investigations as well as the predicate offences of ML. The PGO consists of 21 prosecutors, who are responsible for investigating and prosecuting all criminal offences committed in Timor-Leste.

³⁵ There were no financial companies operating in Timor-Leste at the time of the on-site visit.

- m. **Ministry of Tourism, Commerce and Industry:** The General Inspector of Games is responsible for the licencing and supervision of recreational and social games including mutual betting, lotteries and slot/poker machines (including electronic table games).
- n. **Ministry of Agriculture, Livestock, Fisheries and Forestry (MALFF):** is responsible for the design, implementation, coordination, and evaluation of policy for agriculture, forests, fisheries, and livestock.
- o. **National Intelligence Service:** is responsible for the collection of intelligence to guarantee internal security by preventing sabotage, terrorism, espionage, organized crime, etc. Reports directly to the Prime Minister.
- p. **Advocacy Management and Discipline Council:** Responsible for the licencing of lawyers in Timor-Leste. There is no bar association in Timor-Leste.
- q. **SERVE, I.P.:** Is responsible for the registration of commercial legal persons and cooperatives in Timor-Leste and publication of registries of legal persons.

Significant changes since the last MER

52. Timor-Leste has issued and amended a wide range of statutory instrument since the last mutual evaluation adopted in July 2012. These include but are not limited to:

- The AML/CFT Law No.17/2011 which established the FIU was promulgated on 28 December 2011 and amended on 6 August 2013, including amendments to Penal Code;
- Ratification of the UN United Nations Convention for the Elimination of Terrorist Financing in January 2014;
- Establishment of the CNCBC in April 2014 and expansion of its membership in June 2016;
- Establishment of PCIC on 14 May 2014 by Decree Law No.15/2014 Organic Scientific and Criminal Investigation Police and amended on 6 August 2014 by Decree Law No.21/2014; and
- Publication of Decree Law No.16/2014 Financial Information Unit in on 18 June 2014.
- Publication of Decree Law No.23/2015 Approval of the Organic Structure of the Anti-Corruption Commission on 29 July 2015.

Financial sector, DNFBPs and VASPs

53. Timor-Leste's finance sector is dominated by the banking sector which, as at September 2023, held approximately USD 2.3 billion of USD 2.37 (97 percent) of financial sector assets representing 64 percent of GDP³⁶. The banking system is comprised of four branches of foreign banks and one domestic bank. The most recent banking licence was issued in 2017 and one of the five banks withdrew from the retail market in 2018. The domestic bank has the most branches (22 throughout Timor-Leste) compared to the foreign bank branches (21 branches in total) and maintains several correspondent banking relationships. The foreign bank branches rely upon their global or regional headquarters for

³⁶ Timor-Leste effectiveness submission, page 46

correspondent banking relationships. Consistent with the size of the Timorese economy, all banks provide relatively unsophisticated financial products and services.

54. Two ODTIs, which are limited to total deposit liabilities of USD 1 million, hold 45 percent of the credit market (banks hold the remaining 55 percent) and service approximately 48,000 customers.³⁷ There are nine MTOs, four CEBs, three insurance companies, 15 micro-credit and pawnshops providers, and two fintech companies that provide 'e-wallets'. All are regulated and supervised by BCTL for AML/CFT.

55. There are a further 164 cooperative credit unions and 42 multisectoral cooperatives who are not regulated or supervised for AML/CFT. On average, credit unions have 145 members and hold USD 96,383 in capital (USD 15.8m for all credit unions) and multisectoral cooperatives have an average of 108 members and hold USD 14,354 in capital (USD 602,908 for all multisectoral cooperatives).³⁸

56. There are no equity or bond markets, securities businesses, fund managers, finance or leasing companies operating in Timor-Leste. One finance company operated until February 2023, when it ceased business. Timor-Leste is not a regional or offshore financial centre. Of the licenced MTOs, three can send and receive funds globally whilst all other MTOs are limited to remitting outgoing funds to Indonesia only and they must only remit to partner who is a remitter registered with Indonesian authorities. In 2022, MTOs remitted USD 135m and received USD 181m. Of this, USD 14m was remitted within Timor-Leste and 83 percent of all remittances are USD 500 or less.³⁹ Timorese authorities advised that there are no plans to issue additional MTO licences in the foreseeable future.

57. The assessment team therefore gave the banking sector the highest weighting in its evaluation, followed by the MTO and ODTI sectors. Table 1.2 lists the financial institutions in Timor-Leste and their regulatory and supervisory authorities.

Table 1.2: Composition of Timor-Leste's financial sector as at September 2023

Financial Institution	No. of licenced reporting entities	Licencing Authority	General or prudential supervisor	AML/CFT supervisor
Banks	5	BCTL	BCTL	BCTL
ODTIs	2	BCTL	BCTL	BCTL
MTOs	9	BCTL	BCTL	BCTL
CEBs	4	BCTL	BCTL	BCTL
Insurance companies*	3	BCTL	BCTL	BCTL

³⁷ Banco Central do Timor-Leste, Financial Inclusion Report 2022. p.44. Percentages refer to the number of individuals with a credit product, not the percentage of total value of credit accessed by individuals.

³⁸ Statistics provided by the Secretary of State of Cooperatives.

³⁹ Internal figures provided by BCTL.

1

Microcredit and Pawnshops	22	-	-	-
e-Wallet service providers	2	BCTL	BCTL	BCTL
Credit unions and multisectoral cooperatives	164 credit unions, 42 multisectoral cooperatives	Secretary of State of Cooperatives, Ministry of Tourism, Commerce and Industry	Secretary of State of Cooperatives, Ministry of Tourism, Commerce and Industry	-

* None of the insurance companies in Timor-Leste offer life insurance.

DNFBPs

58. Overall DNFBPs are very small or non-existent in Timor-Leste and the assessment team therefore assigned a lower weighting to them. There are no casinos operating in Timor-Leste though there are two companies with 313 slot machines and electronic table games and gross revenue for 2023 is estimated to be USD 180 million. These entities are not considered casinos by Timorese authorities as casinos are specifically excluded from the Gaming Law (Decree No.6/2016) and therefore are not supervised for AML/CFT purposes.

59. Only two real estate agents operate in Timor-Leste and the volume of transactions is very small. One real estate agent commenced in 2019 and the second in 2023, though there are also unlicensed 'brokers' who facilitate transactions. Real estate agents pair buyers with sellers but are not involved in the financial settlement, with this occurring via banks or directly between the parties. Public notaries conduct the transfer of titles. There are no dealers in precious metals or stones (DPMS) in Timor-Leste that meet the FATF definition.

60. There are no separate company service providers, however several private sector representatives advised some accountants, lawyers and other professional service firms provide company formation services. All notaries are government employees and do not meet the FATF definition.

Table 1.3: Composition of Timor-Leste DNFBP Sectors as at September 2023

DNFBP	Licensed reporting entities	Licensing Authority	General or prudential supervisor	AML/CFT supervisor
Casinos *	0	General Inspector of Games	General Inspector of Games	N/A
Real estate agents	2	SERVE I.P.	-	-
Lawyers	287 lawyers	Advocacy Management and Discipline Council, MoJ	-	-
Notaries**	20	General Directorate of	-	-

		Registry and Notary Services, MoJ		
Accountants	10		-	-
DPMS	N/A	N/A	N/A	N/A
Company Service Providers	unknown	-	-	-

* There are two businesses that operate electronic table games and slot machines. Casinos are excluded from Decree Law No.6/2016 Legal Regime for Licensing, Exploration and Control of Activity of Social and Amusement Games, Gaming Machines and Traditional Games. ** All notaries are government employees and do not meet the FATF definition.

61. No VASPs operate in Timor-Leste.

Preventive measures

62. The AML/CFT Law, BCTL Instruction No.5/2017 and BCTL Instruction No.1/2013 set out Timor-Leste's preventive measures. BCTL Instruction No.5/2017 is applicable only to banks and ODTIs and BCTL Instruction No.1/2013 is applicable only to MTOs. The AML/CFT Law and BCTL Instructions are 'enforceable means' in FATF terms.

63. The definition of a non-financial entity in the AML/CFT Law does not cover lawyers and company service providers as required by the FATF Standards. DPMS, are also not included in this definition, but have limited AML/CFT obligations (see R.22 & R.23), however there are no DPMS operating in Timor-Leste which meet the FATF Standards.

Legal persons and arrangements

64. The New Companies Law No.10/2017 and Decree Law No.16/2017 Business Registration set out the types of legal persons in Timor-Leste and the process for creation of commercial legal persons. The Civil Code and Decree Law No.16/2004 set out the types of non-commercial legal persons, such as, cooperatives, associations, and foundations. Express trusts cannot be established under Timorese Law however there is nothing to prevent a foreign trust from operating in Timor-Leste. Nevertheless, as per inquiries conducted by BCTL, banks stated they did not open or maintain any trust accounts for individuals or groups operating in Timor-Leste and/or overseas.

Table 1.4: Legal Persons registered in Timor-Leste between 2013 – August 2023

Type	Legal persons registered between January 2013 – August 2023
Company	
Single shareholder company	1,5240
Joint shareholder company	5,397
Joint stock company	89
Foreign branch	128

1

State-owned enterprise	6
Associations*	348
Foundations*	94
Cooperatives**	206

* No. of entities registered between 2018 – 2023. ** The total number of credit unions and multisectoral credit unions that provide financial services as registered with Secretary State of Cooperatives for 2023. FONGTIL, an NPO umbrella organisation in Timor-Leste reports 223 national and 27 international NGOs were active in the country in 2021.⁴⁰

Supervisory arrangements

65. As summarised in Table 1.2, BCTL is the prudential supervisor for all financial institutions other than for credit cooperatives whose prudential supervisor is the Secretary of State of Cooperatives, Ministry of Tourism, Commerce and Industry. There is no prudential supervisor for microcredit providers and pawnshops. BCTL is the AML/CFT supervisor for all financial institutions other than credit cooperatives, microcredit providers and pawnshops who have no AML/CFT supervisor. BCTL incorporates AML/CFT supervision into its off-site and on-site prudential supervisory activities. Although BCTL's Organic Law No.5/2011 does not specifically reference AML/CFT supervision, it empowers BCTL to licence, regulate and supervise financial institutions, which BCTL affirms as encompassing all AML/CFT supervisory activities. Supporting this view, BCTL issues Instructions setting out AML/CFT obligations, conducts inspections, and applies sanctions for breaches (see R.26).

66. There is no AML/CFT supervisor for DNFBPs however the UIF is empowered to apply administrative sanctions for breaches of the AML/CFT Law against natural person or legal persons who do not have an AML/CFT supervisor or regulator. While not captured by the FATF Standards, the General Games Inspector, Ministry of Tourism, Trade, and Industry licences and supervises slot machine operators/electronic table games. Public notaries are employed by the General Directorate of Registry and Notary Services, MoJ, and are not captured by the FATF Standards. MoJ's Advocacy Management and Discipline Council licences and supervises lawyers as there is no bar association in Timor-Leste. There are no self-regulatory bodies in Timor-Leste.

67. SERVE I.P. is the public institution responsible for the creation, registration, and supervision of commercial legal persons and, since 1 June 2023, for cooperatives. The MoJ is responsible for the creation, registration, and supervision of non-commercial legal persons, including NPOs associations and foundations.

68. There is no supervisor for VASPs and no VASPs operating in Timor-Leste.

International Cooperation

69. Timor-Leste is South East Asia's youngest nation and is still a jurisdiction in transition. Timor-Leste is seeking to expand its international footprint, will shortly become ASEAN's 11th member, and as

⁴⁰ Strengthening Civil Society Globally, 2022, 2021 Civil Society Organisation Sustainability Index Timor-Leste. Date accessed 26 October 2023. <https://www.fhi360.org/sites/default/files/media/documents/csosi-asia-2021-report.pdf> Page 2

at the time of the onsite visit was in the final stages of becoming an Egmont Group member⁴¹. Timor-Leste is a member of the Community of Portuguese-speaking Countries (CPLP).⁴²

70. Competent authorities have broad authority to cooperate internationally with foreign counterparts both spontaneously and upon request. However, most competent authorities are unaware of the extent to which they can use these formal and informal international cooperation channels to exchange information relating to ML, TF and associated predicate offences.

71. International cooperation has focused on regional neighbours and Portuguese speaking countries. Timor-Leste's porous border with Indonesia poses a significant ML threat due to high-risk predicate offences occurring within the border-regions, including drug trafficking, cash couriership, smuggling and environmental crimes.

72. Timor-Leste's main proceeds-generating crimes - corruption, drug trafficking, smuggling and human trafficking - all have transnational elements which heightens the need for Timor-Leste to cooperate with other jurisdictions to effectively detect and deter ML/TF.

73. Timor-Leste's legal framework allows a wide range of MLA and extradition in relation to ML/TF and associated predicate offences. Competent authorities have access to a range of mechanisms to engage in other forms of international cooperation however overall, these channels are not being fully utilised.

⁴¹ UIF, Timor-Leste became a member of the Egmont Group on 1 February 2024.

⁴² <https://www.cplp.org/id-2597.aspx>

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2

Key Findings and Recommended Actions

Key Findings

1. Competent authorities' understanding of ML/TF risks largely reflect the findings and limitations of the NRA. In the private sector, the foreign bank branches demonstrate the greatest understanding of risk, whilst small FIs have a low understanding. DNFBPs displayed no understanding of ML/TF risks.
2. The findings of the 2015 NRA, Timor-Leste's first, were generally reasonable. While there were some strengths, an absence of data and statistics meant the assessment relied on participants' experiences and perceptions to support the conclusions. ML/TF risks associated with environmental crimes, the real estate sector, NPOs and legal persons were not assessed. Notwithstanding these shortcomings, the assessment team broadly agrees with the main findings of the risk assessment.
3. Whilst risks identified in the NRA remain, Timor-Leste has not formally updated its understanding of risk. New and emerging risks have not been formally considered, nor have the risks identified in the NRA been reviewed. For example, ML/TF risks resulting from 'e-wallets', VAs and VASPs, online scams and the new payments system have not been assessed.
4. The CNCBC coordinates Timor-Leste's national response to ML and TF. In response to the NRA the CNCBC oversaw the development and implementation of the National Strategic Plan 2016-2020 (NSP). Timor-Leste has implemented several laws, decrees, and policies to combat ML; however, the NSP has only been partially implemented. None of the items in the NSP directly relevant to CFT were completed and there is no national counter-terrorism strategy.
5. Given the risk context of Timor-Leste, risk-based exemptions or simplified measures to enhance financial inclusion are underutilised.
6. There is a degree of informal coordination occurring across competent authorities, but formal inter-agency cooperation mechanisms are lacking at the operational level.
7. There remain major deficiencies in the national response to identified ML risks. Despite the risk of cash couriership and the porous border, low reporting of cross-border movement declarations remains unaddressed, LEAs' investigations of tax crimes and corruption do not correspond to Timor-Leste's risk profile, and BCTL supervision activities are focused on MTOs despite the banking sector being assessed as presenting a higher ML risk.
8. There is no policy or operational level coordination mechanism to combat PF.

Recommended Actions

Timor-Leste should:

- A. Continue to develop its understanding of ML risks through its project to update the NRA, the collection of relevant data and statistics, engagement with public and private sector stakeholders, and education and outreach to competent authorities and the private sector. In developing its understanding of ML risks, Timor-Leste should include an assessment of the risks posed by gaming entities.
- B. Identify and assess TF risks as part of the update to the NRA and communicate the findings to the public and private sectors, and civil society.
- C. Develop and implement a new national strategic plan based on the findings of the updated NRA and a gap analysis of implementation of the NSP 2016-2020.
- D. Where appropriate, consider applying exemptions or simplified measures for lower risk scenarios to promote financial inclusion.
- E. Increase operational level coordination amongst competent authorities to enhance the implementation and effectiveness of Timor-Leste's AML/CFT framework.
- F. Collect comprehensive ML/TF related statistics across all competent authorities and maintain statistics at a national level to provide data to support the quantitative assessment of ML/TF risks and the implementation of national and agency level AML/CFT strategies.
- G. Establish national policy and operational level coordination mechanisms to combat PF.

74. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R.1, R.2, R.33, R.34 and elements of R.15.

Immediate Outcome 1 (Risk, Policy and Coordination)***Country's understanding of its ML/TF risks***

75. Understanding of ML/TF risk in Timor-Leste largely reflects the NRA findings and its limitations, as discussed below. The NRA, which was Timor-Leste's first assessment of ML/TF risks, was completed in 2015 and adopted by the Council of Ministers in June 2016. The findings of the NRA are now somewhat dated, as plans to update the NRA within two-to-three years did not materialise. However, the assessment team understands that preparations are underway for an update to the NRA with support from the UNODC.

76. The CNCBC coordinated the NRA process, receipt of input from public and some private sector stakeholders, and dissemination of findings across government, the private sector, industry associations and civil society. As acknowledged in the NRA, a lack of data, such as there being no estimate of the overall value of proceeds of crime, and 'very restricted' statistics were key limitations in assessing ML risk. Further, where data existed, it was very restricted in its coverage. Thus,

quantification of risks was limited, and the assessment relied upon the experiences and perceptions of the contributors where data was unavailable.

2

77. With respect to predicate offences, the NRA assessed corruption, tax evasion, cash couriers and drug trafficking as high risk for ML. The NRA considered corruption to be endemic and the primary source of criminal proceeds, and that tax evasion was widespread. Fraud, human trafficking, smuggling, organised crime, illicit gambling, and foreign predicate offences were assessed as presenting a medium risk. Although rated as medium risk, human trafficking and fraud were included alongside the high-risk group of offences as a key area of concern. The assessment team agrees with these risk ratings.

78. In 2019, the CAC in conjunction with the United Nations Development Programme undertook a baseline survey on corruption to assist in the development of a national anti-corruption strategy. The survey's results support the NRA's findings. For example, the Ministry of Public Works, which issues tenders and monitors infrastructure projects, the Ministry of Planning and Investment which also tenders public projects, and the MoJ, which plays a key role in the delivery of justice were all assessed as having low to medium levels of integrity.⁴³

79. Structural vulnerabilities contributing to these risks included a cash-based economy with financial exclusion, the use of the US dollar (USD) and porous borders (particularly with Indonesia). Vulnerabilities in the financial sector include challenges faced by the banks to verify customers and establish associations with PEPs, inconsistent reporting of suspicious transactions, and weaknesses in the MTO sector's preventive measures. Other contributing factors included poor reliability of identity documents and corporate registry information, non-existent reporting of the movement of cash and bearer negotiable instruments at borders, a lack of regulation of lawyers, and law enforcement's limited investigation and prosecution capacity.

80. The NRA assessed the banking sector as presenting a high ML risk due to the 'inevitability' that it could be targeted by money launderers and that proceeds of corruption in particular could be moved through the sector. Although having a lower likelihood rating than the banking sector, MTOs were assessed as highly vulnerable to ML due to their limited AML/CFT experience, insufficient AML controls, and inability to identify sources of funds. The ODTI and financial cooperative sectors were assessed as low risk because of their low deposit balances and business models focussed on lending to domestic persons and micro-enterprises.

81. There are no casinos in Timor-Leste however two licenced gaming venues with slot machines and electronic table games operate. These entities have no understanding of ML/TF risks but are highly likely exposed to them with one venue reporting revenue of USD 90.6m over a seven-month period – in a country where nearly 50 percent of residents live below the poverty line. Not being casinos, they have no AML/CFT obligations and are not supervised for AML/CFT purposes.

82. While the NRA did not assign a specific TF risk rating, it indicated the level was low. This is consistent with risk assessments by other jurisdictions and an absence of information or reports of Timor-Leste being used by terrorists or terrorist groups for financing, training, or other terrorism threats. Like the assessment of ML risk, no data was available to support these findings. Knowledge of TF risks and vulnerabilities amongst competent authorities, FIs, DNFBPs and NPOs was limited. Noting there has been no TF identified, investigated or prosecuted in Timor-Leste, the assessment team agrees

⁴³ CAC and UNDP. *Final Report on Baseline Survey for Supporting Anti-Corruption Strategy*. 31 January 2019

that the TF risk level in Timor-Leste is likely to be low, however the aforementioned vulnerabilities require competent authorities to be vigilant against TF threats.

83. Despite the notable passage of time since the conduct of the NRA, the assessment team broadly agrees with the NRA's findings and that the risks identified remain. However, several gaps were evident. For example, since the NRA, Timor-Leste has introduced 'e-wallets' and the materiality of VAs and VASPs increased globally. ML/TF risks relating to these developments are unassessed. Additionally, risks relating to online scams, environmental crimes (particularly illegal fishing and logging), real estate, accountants, company service providers, trade-based money laundering, legal persons, NPOs, and microfinance remain unassessed and not well understood.

84. No sectoral risk assessments have been completed. However the CAC, with support from the United Nations Development Programme, completed a corruption risk baseline survey of key public institutions in 2019.

85. Overall, authorities demonstrated a better understanding of ML risks than TF risks, which are not well understood. During the on-site visit there was little discussion or demonstration of understanding of risk beyond that described in the NRA. Consideration of new and emerging risks, or changes to existing risks, was also not evident. Within the private sector, the branches of foreign banks demonstrated a good understanding of ML/TF risks generally, however the number of STRs reported by the banking sector is relatively low, which may indicate a lack of awareness of ML/TF risks specific to the context of Timor-Leste. Beyond the banking sector, FIs' understanding of ML risk was mixed and declined with the size and sophistication of the FI. These other sectors also had similarly low levels of STR reporting and their understanding of TF risk was low to none. DNFBPs did not demonstrate an understanding of ML/TF risks.

National policies to address identified ML/TF risks

86. As Co-Chairs of the CNCBC, the Minister of Justice and Minister of Foreign Affairs and Cooperation, are responsible for leading and coordinating Timor-Leste's national policy response to combat ML and TF. The assessment team considers that the CNCBC provides a good structural mechanism for national policy coordination. Timor-Leste produced a National Strategic Plan 2016-2020 (NSP), which sets out 10 strategic priorities to implement key reforms in response to the NRA's findings. However, the NSP remains partially implemented, specifically, elements of the plan focused on TF, including those related to conducting further work on understanding related risks, seem to have not been implemented.

87. Following the NRA, Timor-Leste introduced several significant reforms to address ML/TF risks. These included; (i) laws to strengthen anti-corruption measures, including the creation of the CAC and preventive measures in the banking sector, (ii) company registration procedures, (iii) an asset declaration requirement for senior public servants and politicians (iv) requirements for MTOs that remit to Indonesia to partner with a registered Indonesian remitter, (v) an electronic cash reporting system known as 'e-RON' and the ability to flag cash transactions to the UIF as 'unusual or high risk'. Measures to reduce the cash economy and improve financial inclusion included the introduction of a new banking system known as 'P24' to enhance electronic payments capability and the launch of 'e-wallets' for low value domestic funds transfers and purchases. Public education campaigns on financial inclusion were also conducted.

88. Several structures exist in Timor-Leste to support cooperation and coordination. Nine memoranda of understanding (MOUs) have been signed between domestic competent authorities to improve information exchange and effectiveness however utilisation of the MOUs is very limited (see IO.6). The staffing of UIF was increased from two to eight employees and BCTL established an AML/CFT Office in its supervisory department comprising three staff. In 2018, UIF commenced the Compliance Officers' Forum for the financial sector which meets quarterly and acts as a conduit to exchange information with compliance officers from the banking and ODTI sectors on ML/TF risks, current issues, and best practices. To date, the Forum has not exchanged information on TF risks. Within law enforcement, PCIC was established with a mandate to focus on investigating ML, TF (as a form of financial crime) and transnational crimes and a new Criminal Investigations Organisations Law was introduced in 2022 to strengthen LEAs' investigative capacity. Nevertheless, there remains a need to further develop agencies' capabilities to combat ML and TF, starting at the case initiation stage.

89. Timor-Leste established PCIC to investigate serious and organised crime with the aim of improving cooperation between LEAs during criminal investigations. However, there is no overarching national law enforcement policy or cross-agency operational procedures to address ML/TF risks and conduct ML investigations or parallel investigations. Similarly, despite the risks identified in the NRA, Customs remains insufficiently resourced to tackle cross-border smuggling and ML risks at borders.

Exemptions, enhanced and simplified measures

90. Timor-Leste has not adopted national policies for exemptions or simplified measures based on lower risk scenarios. For example, the risk of the presently unregulated microfinance sector is yet to be assessed. Understanding the level of risk posed by this sector may justify its exclusion from AML/CFT measures or the application of simplified measures thereby supporting Timor-Leste's financial inclusion initiatives.

91. In 2022 BCTL approved an application from a bank for the conduct of simplified customer due diligence in certain circumstances. The measure enables verification from a single form of identification (rather than two forms of identification as required by BCTL Instruction No.5/2017) for citizens with disabilities and people above the age of 60 living in rural areas who received a government pension. However, it is unclear whether ML/TF risk or the NRA findings were considered in granting this simplified measure.

92. Timor-Leste has not identified high risk scenarios requiring enhanced measures based on its assessment of ML/TF risk.

Objectives and activities of competent authorities

93. The NSP was formulated to provide a roadmap for the development of Timor-Leste's legal and institutional framework to counter the threats identified in the NRA. The NSP included building the capacity of LEAs to address ML/TF risks. Within PCIC, a unit specialising in ML investigations was created and a similar unit was established in PNTL, and PGO established the Central Office of the Combatting Corruption and Organised Crime to prosecute ML and organised crime cases. PCIC has undertaken some ML investigations, and the CAC has conducted three ML investigations, but this number is low considering Timor-Leste's risk context. In the UIF, staffing levels have increased but the production of financial intelligence to identify and monitor ML/TF risks could be further improved. The assessment team understands that Timor-Leste intends to develop a new strategic plan following the completion of the mutual evaluation and update of the NRA.

94. Customs' response to ML/TF risks, such as cash smuggling and the porous border, remains inadequate. For example, limited steps have been taken to increase compliance with cross-border declaration form requirements, there is a lack of targeted inspections, in particular, for the import and export of cargo, and there is a failure at international gateways to impose sanctions for undeclared or false cash declarations.

95. BCTL's on-site supervision activities have focused on the MTO sector due to the ML risk it presents, however risk-based supervisory responses to ML risk in other sectors were less apparent. In the banking sector, there has been some off-site supervision, however on-site supervision was very limited despite the NRA assessing the sector's risk as high and identifying it as the most likely channel for the proceeds of corruption. Supervisory activities to date show limited application of risk-based supervision, few sanctions, no issuance of guidance, and limited outreach to financial institutions, and DNFBPs remain unsupervised. The NRA identified the omission of the legal profession from AML/CFT legislation as a material vulnerability and this remains unaddressed.

96. To mitigate risks associated with legal persons, Timor-Leste introduced a new legal framework in 2017 for the registration of legal persons. Since its introduction, the quality of information held in its database has improved, however company information and BO information remain limited and data quality issues are present.

97. Domestic and foreign associations and foundations are required to register with the National Directorate of Registries and Notarial Services within the MoJ. For NPOs, information on associations and foundations is publicly available and any party concerned may apply for the issuance of a certificate of registration on request from the MoJ. In addition, association formation details, and those of foundations where a public deed is used, are published in the *Journal da Republica* (Official Gazette).

National coordination and cooperation

98. The CNCBC provides a good framework for national policy coordination and cooperation but in recent years it has not met as frequently as required by its mandate (quarterly). Further, despite the majority of action items being implemented, the timeframe for implementation of the NSP, which CNCBC has oversight of, has expired without the NSP being fully implemented.

99. In February 2023, Timor-Leste established two operational level committees, the Legal Working Group and the Law Enforcement Working Group. As they mature, these committees should formalise the current informal coordination and cooperation arrangements between competent authorities that occur at the operational level. For example, at present there are no joint taskforces aimed at combatting ML/TF risk, despite a legal basis to do so, UIF does not share cash transaction reports (CTRs) with BCTL unless it is on request, and MOUs to facilitate information exchange between UIF and competent authorities are underutilised or not utilised at all (see IO.6).

100. The UIF has wide powers to obtain information held by other competent authorities in a timely manner but there are gaps and utilisation of these powers is mixed. For example, UIF does not receive cross-border currency declarations from Customs (despite a legal obligation for this to occur) or reports on foreign currency transactions from currency exchange bureaus from BCTL. Also, while BCTL can request CTR information from UIF, BCTL does not receive timely reports or statistics on STRs or significant cash transactions from UIF, which could inform risk-based supervision of FIs. Rather, UIF provides BCTL with STR and CTR statistics annually.

101. The PGO has good informal cooperation with investigative agencies, however between police agencies there is limited cooperation. Tax authorities do provide information related to indicators of tax evasion to PGO. BCTL provides Customs with copies of authorisation letters for the approval of large cash imports and exports.

102. SERVE I.P.'s activities in improving company registration and beneficial ownership records are partially effective, with incomplete information that limits the overall effectiveness of the AML/CFT regime. SERVE I.P. also responds to requests for information from other competent authorities to support activities such as licencing approvals and investigations.

103. In the absence of any identified TF activities, coordination between authorities to respond to TF risk has not been demonstrated in practice. Timor-Leste does not have a comprehensive national counter-terrorism or counter-TF strategy in place although Timor-Leste recently adopted a flowchart that sets out the responsibilities of each LEA in the event of a TF investigation.

104. There is no cooperation or coordination mechanism between relevant authorities and there are no national policies relating to the financing of the proliferation of weapons of mass destruction. Timor-Leste has not designated a competent authority responsible for countering PF.

105. Overall, a limitation on national coordination is at the competent authority level, whereby cooperation is largely dependent on individual relationships between cross-agency peers, usually at the senior management level, and this may limit agency-to-agency coordination and cooperation at the operational level.

Private sector's awareness of risks

106. Timor-Leste conducted outreach to educate FIs on the NRA's findings following its 2016 publication and in recent years to MTOs, e-wallet providers, ODTIs and insurers. However, new market entrants, smaller FIs and DNFBPs demonstrated little-to-no awareness of the NRA's findings.

107. Foreign bank branches have the strongest understanding of ML/TF risks and large MTOs recognise the risk to their customers of frauds and scams, however the overall level of STR reporting is inconsistent. Further, the degree to which staff training and automated monitoring systems are informed by Timor-Leste's unique risk profile, as opposed to ML/TF risks generally, may in part explain this gap. The domestic bank and ODTIs' understanding of ML/TF risks mirrors the findings of the NRA and understanding of ML/TF risks by CEBs, MTOs that remit to Indonesia only, e-wallet providers, real estate agents and NPOs is low to negligible. This understanding is also reflected in the low number of STRs reported by these entities.

108. The Compliance Officers' Forum facilitates the exchange of information between the UIF, banks and ODTIs, and while at an early stage of implementation, the forum provides a useful framework to support the understanding of ML/TF risk, particularly new and emerging risks. Neither UIF nor BCTL have issued typologies reports or guidance on ML/TF risk that could develop the private sector's understanding of ML/TF risks and additional outreach and education are necessary, particularly for FIs and DNFBPs outside of the banking sector.

Overall conclusion on Immediate Outcome 1

109. Timor-Leste's understanding of ML and TF risk is based on the NRA conducted in 2015. Despite the passage of time, the main risks identified in the NRA, namely corruption, tax evasion, drug trafficking and cash couriers remain. However, gaps in the NRA, a scarcity of data, and a failure to assess new and emerging risks are significant limiting factors in the understanding of risk. Risks relating to e-wallets, online scams, environmental crimes, trade-based money laundering, VAs and VASPs, and legal persons remain unassessed as well as risks related to the legal, accounting, company service provider and NPO sectors. TF risks are unassessed in Timor-Leste and less understood than ML risks. There was a lack of awareness across both public and private sectors concerning regional TF risks.

110. Timor-Leste developed an NSP and introduced several reforms to strengthen its AML/CFT regime in response to the NRA but partial implementation of the NSP and capability within agencies limits the effectiveness of the national response to ML and TF. The CNCBC is a good structural mechanism to coordinate the national policy framework, but it has not met as frequently as required by its mandate and its oversight has not ensured full implementation of the NSP. There is no national CT or CTF strategy or cooperation, and coordination between government agencies at the operational level is limited. Although the banks and some MTOs have a good understanding of ML risks, other FIs' and DNFBPs' understanding is low and STR reporting is low across all sectors.

111. **Timor-Leste has a moderate level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

1. UIF is producing financial intelligence which is used in ML investigations. No TF-related financial intelligence has been developed, which is line with Timor-Leste's TF risk profile. While UIF has a range of powers to access financial and other information from reporting entities and competent authorities, these are not fully utilised at the operational level.
2. UIF is conducting financial analysis however it has a lack of access to all relevant information (e.g. cross-border cash declarations, asset declarations and tax information) despite a legal basis to do so. This impacts the quality and value add of UIF's analysis products.
3. Overall, UIF's ability to develop financial intelligence products is limited by the quality of STRs filed in Timor-Leste, the scope of sectors reporting and the lack of STRs reported on some high-risk crimes (e.g. corruption or tax evasion). Most STRs submitted in Timor-Leste are for 'cash related transactions', which is partly in line with Timor-Leste risk profile.
4. Timeliness is a key issue concerning UIF's operational analysis and impacts financial intelligence being appropriately used in ML/TF investigations. While Timor-Leste has an SOP on STR case prioritisation, the time taken to review and disseminate STRs varies significantly. Timor-Leste's processing time of STRs, including some high risk STRs, requires improvement.
5. Disseminations from UIF to PGO are the primary trigger for ML investigations, some of which have led to successful prosecutions and convictions.
6. LEAs are only accessing and using financial intelligence and other information to a limited extent when developing evidence for ML and predicate offence investigations. While the use of financial intelligence varies across LEAs, it is often used in corruption cases, however rarely used in other parallel financial investigations and is not used in asset tracing.

Immediate Outcome 7

1. ML investigations are conducted either by PGO or by a policing agency (PCIC, CAC and PNTL) following the dispatch of an investigation by PGO. Between 2018 and September 2023 Timor-Leste conducted 126 ML investigations, with 25 resulting in prosecution and seven convictions recorded. This volume broadly aligns with the risk and context of Timor-Leste.

2. ML investigations are most commonly initiated based on UIF dissemination reports and to a lesser extent from complaints/reports received by PGO. Policing agencies do not sufficiently identify potential cases of ML during the conduct of predicate crime investigations and report these to PGO for review and potential investigation. PGO also does not identify potential ML cases during its investigation into predicate crimes.

3. The most common underlying predicate offences linked to ML investigations are tax evasion and corruption. These align with Timor-Leste's highest risks, however the absence of cases relating to drug trafficking and smuggling does not align with risk.

4. Self-laundering is the most common type of ML case investigated and prosecuted however some third-party money laundering has been investigated. There have been no stand-alone ML investigations, and limited investigations into ML linked to foreign predicate offences, which is not fully commensurate with Timor-Leste's ML risk profile.

5. All ML cases in Timor-Leste are related to natural persons; there have been no investigations, prosecutions or convictions of legal persons.

6. Of the seven convictions recorded, five applied sanctions below the range provided for in the AML/CFT Act, demonstrating varied implementation of proportionate and dissuasive sanctions.

Immediate Outcome 8

1. Timor-Leste has the legal and institutional frameworks to trace, freeze, seize and confiscate proceeds and instruments of crime, but low rates of asset tracing, restraint and confiscation reflect significant capacity challenges with investigation agencies and a lack of prioritisation of asset recovery in relation to priority ML risks.

2. Overall, Timor-Leste demonstrated limited asset recovery actions for both for ML and predicate offences and these were not in keeping with Timor-Leste's risk profile.

3. The lack of confiscation of TF-related property is in keeping with Timor-Leste's low TF risks.

4. LEAs do not pursue asset tracing in parallel with predicate investigations and very little asset tracing in ML investigations has occurred. Timor-Leste provided details of a variety of types, but few assets, including instrumentalities, that have been seized by authorities.

5. While the legal basis for Timor-Leste's cross-border currency regime requires passengers entering or exiting Timor-Leste to declare currency, in practice, the declaration system is only implemented for incoming passengers. This is a notable deficiency, given the risk profile of Timor-Leste. Further, there is no obligation to declare the transportation of currency through mail or cargo, however authority is required from BCTL to import or export cash above a certain threshold.

6. Customs has only identified one instance of an undeclared or false cross-border currency declaration, which resulted in BCTL issuing an administrative sanction. BCTL has sanctioned legal persons for undeclared or false declaration export of cash through cargo on a couple of occasions. The number of sanctions applied does not align with Timor-Leste's risk profile. Other than with BCTL, Customs cooperation with domestic agencies is limited. Cross-border declaration reports are not provided to UIF, despite a legal requirement for this to occur.

7. Timor-Leste did not demonstrate that its confiscation results align with ML/TF risks and national AML/CFT policies.

Recommended Actions

Immediate Outcome 6

- A. UIF should fully utilise its range of powers to access all available financial and other information to support operational and strategic analysis. UIF should increase and expand its strategic analysis products to raise awareness and better inform reporting entities of current ML/TF trends, typologies and indicators which should lead to an increase in the quality and consistency of STRs submitted.
- B. In cooperation with BCTL and other competent authorities, UIF should take steps to improve the quality and scope of STR reporting to better support the UIF's ability to develop quality financial intelligence products in line with Timor-Leste risk profile (see IO.4). These improvements will ensure improved quality and consistency of financial intelligence reports being disseminated to competent authorities.
- C. Improve the timeliness of UIF's production of operational analysis, including processing time of STRs. Further, UIF should immediately revise the STR SOP to shorten the number of days it takes to analyse and action high risk STRs.
- D. LEAs should better utilise financial intelligence to develop evidence, investigate ML and associated predicates, as well as to trace the proceeds of crime. All LEAs should build their human and institutional capacity through training opportunities and the development of adequate policies/procedures/SOPs to ensure financial intelligence is used in ML and predicate crime investigations as well as for asset tracing.
- E. Develop SOPs to improve coordination and liaison across domestic AML/CFT agencies to ensure a broader range of relevant financial intelligence is fully utilised in performing their AML/CFT roles in investigations on ML, predicates or asset tracing. For example, in line with Article 6 of Law No.17/2022, copies of cross border cash declarations should be conveyed to UIF from the Customs Authority, as this would contribute to developing UIF's operational and strategic analysis.
- F. UIF should continue to deliver outreach programs and provide feedback to all FIs. Timor-Leste should commence AML/CFT outreach to a broader range of relevant sectors and provide greater guidance on red flag indicators for reporting entities to better detect suspicious transactions within their sector.

- G. Timor-Leste should develop and implement a more robust and secure information system for UIF's use to process, analyse and disseminate financial intelligence products to LEAs in a more timely manner. The information system should also have functionality for LEAs to provide feedback on UIFs financial intelligence products.

Immediate Outcome 7

- A. Establish and implement a national strategy for the conduct of ML investigation, focused particularly on the high-risk predicate offences of corruption, tax evasion, drug trafficking and human trafficking.
- B. Conduct investigations into different types of ML activity, including third party and stand-alone ML and ML linked to transnational crime, and seek prosecutions where appropriate.
- C. Issue binding instructions and increase awareness for LEAs to prioritise and conduct parallel ML investigations with predicate offences. Develop and implement ML investigation policies and procedures for LEAs with a focus on ML associated with key risks - domestic and cross-border.
- D. PGO to encourage police agencies to identify potential cases of ML during the conduct of predicate crime investigations, and report these to PGO for review and potential investigation.
- E. Increase capacity of law enforcement agencies and judges to investigate, prosecute and convict ML.

Immediate Outcome 8

- A. Establish and implement a national policy objective to prioritise targeting and asset tracing investigations, restraining, managing and confiscating assets, aligned with T-L's ML risks.
- B. In keeping with the recommendations made at IOs 2, 6 & 7, address the significant capacity challenges with investigation and prosecution agencies to ensure priority implementation can occur for asset recovery.
- C. Consider requiring a parallel criminal assets investigations with all serious predicate investigations.
- D. Consider progressing the asset recovery bill in order to strengthen Timor-Leste's asset recovery framework.
- E. Enhance coordination between the PGO and police agencies and implement SOPs to greatly enhance timely freezing and seizing at an early stage and without delay in investigations.
- F. Establish a system between the PGO and the State Asset Management Unit to develop a shared and comprehensive understanding of asset recovery outcomes and to implement effective management of seized assets and realisation of value of confiscated assets.

- G. Implement an outbound cross-border cash declaration system and establish an effective mechanism to identify undeclared and false declarations at the border, including the imposition of proportionate and dissuasive sanctions.
- H. Exchange information between domestic agencies to enhance detection and deterrence of cash smuggling across Timor-Leste's borders.

112. The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.1, R.3, R.4 & R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

Immediate Outcome 6 (Financial Intelligence ML/TF)

113. The UIF is an independent, administrative entity established within BCTL. The UIF, comprising of eight staff, is the national competent authority to receive, analyse and disseminate information suspected to be related to ML/TF or associated predicate offences.

Use of financial intelligence and other information

114. Overall, considering the risk and context of Timor-Leste, financial intelligence is being accessed and used to develop leads for ML investigations to some extent, while to a lesser extent for predicate offence investigations. Judicial authorities and LEAs in Timor-Leste have requested and used financial intelligence from UIF in ML investigations. For example, the vast majority of STRs disseminated from UIF to PGO are a trigger for commencing ML investigations. Further, there are many instances of UIF disseminations to PGO contributing to successful ML prosecutions and convictions demonstrating a reasonable use of financial intelligence.

115. Regarding parallel financial investigations, Timor-Leste has demonstrated limited access and use of financial intelligence to develop leads for ML investigations during the conduct of predicate offence investigations. While for asset tracing, LEAs do not regularly or systematically request financial intelligence or other information from UIF.

116. No financial intelligence on TF has been collected, accessed or used, which is in line with risk.

117. UIF disseminates financial intelligence reports to LEAs upon LEAs' requests and proactively to PGO where transactions are suspected of being criminal in nature. Pursuant to AML/CFT Law, UIF has a range of powers to access financial and other information from reporting entities and competent authorities, however this is not always fully utilised at the operational level. UIF receives financial information in the form of STRs from all FIs and receives cash transaction reports (CTRs) for cash transactions of USD 10,000 or more from banks and ODTIs, USD 1,000 or more for MTOs and USD 1,000 or more for e-wallet service providers. UIF can also request company registration records from SERVE.I.P., bank account or other CDD information from reporting entities, and in some circumstances criminal records from the respective law enforcement authority. While the UIF also has the legal mandate to receive other financial information from competent authorities, this is not occurring in practice. For example, UIF does not have access to (i) cross-border declarations from Customs; (ii) asset declaration information from CAC nor (iii) any tax records from the Tax Authority.

Disseminations upon LEA's requests

118. For disseminations upon LEAs' request, LEAs demonstrated their awareness in requesting information from UIF including STRs, CTRs and other related financial information. However, UIF receives a limited number and scope of requests from LEAs. UIF is responsible for responding to requests for financial intelligence from LEAs and providing proactive disseminations. However, for parallel financial investigations, only CAC requests information from UIF.

119. UIF can support LEAs in seeking further information from FIs for example, requesting further bank records as part of a financial investigation. In response to an LEA's request, UIF will email all FI compliance officers to identify which FIs have a business relationship with a person/entity of interest. The FI will respond to UIF who collates and forwards the information to the LEA. The LEA then issues a letter to the relevant bank seeking access to the financial data. When LEAs request bank account or transactional information, it usually takes one to three days for UIF to respond. If both financial information and analysis are required, it may take three days to four weeks to respond. Sometimes when LEAs need to request bank records directly from the bank the request is made by Court Order with the assistance of PGO.

120. Competent authorities are generally aware that they can request financial information from UIF such as STRs, CTRs or other related financial information, however this is only occurring to some extent. As outlined in Table 3.1, while requests for information submitted to UIF are limited, given Timor-Leste's risk and context, they are still occurring to some extent.

Table 3.1: Requests by LEAs for UIF Information from 2018 to August 2023

Competent Authorities	2018	2019	2020	2021	2022	Aug 2023	Total
PGO	4	3	19	16	13	3	58
Policing Agencies (PNTL, PCIC, CAC)	10	6	17	23	22	5	83
Total	14	9	36	39	35	8	141

Source: UIF

121. The number of requests to UIF from competent authorities for financial information has gradually increased during the assessment period with the highest number of annual requests during the COVID-19 pandemic (2020-2022) although the request level for 2023 is trending towards being lower compared to previous years.⁴⁴ Between 2018 to August 2023 there were 141 requests in total, demonstrating to some extent that competent authorities in Timor-Leste are accessing and using financial information in ML investigations and parallel financial investigations.

122. During the period under review, judicial authorities (including PGO) requested financial information from UIF on 58 occasions (refer Table 3.1). LEAs made all requests directly to UIF in line with Decree Law No.16/2016. Given Timor-Leste's context, LEAs made limited use of financial

⁴⁴ Statistics for 2023 were only included up to the date of the onsite visit so cut off in August 2023.

intelligence in investigations of ML and predicate offences. LEAs rarely requested financial intelligence from UIF for parallel financial investigations or asset tracing.

123. While UIF has provided some financial intelligence to competent authorities, the information is not sufficiently targeted to LEA's needs, as evidenced by the need for LEAs to often seek further, follow-up information from UIF. UIF reported a lack of feedback from LEAs contributed to UIF's intelligence products not being sufficiently targeted to LEAs' needs.

124. A number of competent authorities demonstrated that they request financial intelligence and other information from the UIF to assist with investigations:

- a. CAC uses STRs and related financial information to conduct an investigation. During the assessment period, CAC made approximately 50% of all requests (70) to UIF for financial information which is in line with Timor-Leste's risk profile given corruption is one of the highest ML risks in Timor-Leste.
- b. PGO made 58 requests over the same period, approximately 10 requests per year, which demonstrates that PGO is using financial intelligence from UIF to some extent.
- c. All other competent authorities made less than 10 requests for financial intelligence to UIF between 2018 to August 2023.
- d. PCIC has rarely sought financial intelligence from UIF, but on occasion, may ask for support to conduct financial analysis of basic transactional or account information.

125. Other competent authorities, including Customs and the Tax Authority, have not requested financial intelligence from the UIF despite the legal ability and MOUs in place to do so, which is not in line with Timor-Leste's risk profile.

Proactive disseminations

126. UIF has not received any STRs relating to terrorism or TF, therefore no TF disseminations or TF related requests have been received from an LEA which aligns with Timor-Leste's risk profile.

127. Financial intelligence disseminations to PGO and LEAs relating to ML and predicate offences have ranged from 29 to 75 per annum between 2018 to 2023 August (refer Table 3.2).

Table 3.2: STRs and Unusual/High Risk CTRs Received and Disseminated by UIF from 2018 to August 2023

Year	2018	2019	2020	2021	2022	Aug 2023	Total
Total STRs received	109	127	110	83	172	164	765
Total unusual/high risk CTRs received	-	325	188	345	250	120	1228
Total STRs and unusual/high risk CTRs received (A)	109	452	298	428	422	284	1993

Spontaneous dissemination of STRs to PGO	20	20	25	36	29	9	139
Spontaneous dissemination of unusual/high risk CTRs to PGO	-	-	-	-	-	28	28
Spontaneous dissemination to PGO (B)	20	20	25	36	29	37*	167
Proactive Dissemination % (B/A)	18.35 %	4.42%	8.39%	8.41%	6.87%	13.03%	N/A
Dissemination upon LEA's/PGO request (C)	14	9	36	39	35	8	141
Total Dissemination (B + C)	34	29	61	75	64	45	308

Source: UIF

Proactive disseminations to PGO

128. PGO has the highest use of financial intelligence from UIF and uses financial intelligence to initiate investigations. For example, in 2021, PGO investigated 30 out of 36 spontaneous disseminations received from UIF which is positive.

129. Between 2018 to August 2023, UIF made 167 spontaneous disseminations to PGO, with the annual trend gradually increasing which is also positive (refer Table 3.3).

130. UIF conducts in-depth analysis on reports of high-risk transactions by using an analytical tool and gathering more information it has access to e.g. previous STRs, CTRs, company registrations and other open-source information. Most in-depth analysis reports are disseminated to PGO, containing information on suspected predicate offences. For 2018-2022, the average spontaneous dissemination rate of STRs to PGO is approximately 7.6 percent per year. As per Table 3.3, the suspected predicate offences are in line with the risk profile of Timor-Leste to some extent, including money laundering, tax evasion, and bribery, however disseminations of high risk suspected predicates such as corruption and drug trafficking are not in line with Timor-Leste's risk profile.

Table 3.3: Spontaneous Disseminations by UIF to PGO from 2018 to August 2023

Year	2018	2019	2020	2021	2022	Aug 2023	Total
Dissemination by suspected predicate offences							
Money laundering	12	9	4	16	10	8	59
Tax evasion	6	11	14	8	2	0	41
Extortion	0	0	0	0	0	21	21

Bribery	0	0	0	2	7	2	11
Corruption	0	0	2	5	0	1	8
Scam/Fraud	1	0	3	1	0	0	5
Others	1	0	2	4	10	5	22
Total	20	20	25	36	29	37	167
Outcome of disseminations							
- ML Investigation triggered by UIF disseminations	7	13	13	30	13	9	85
ML Investigation rate of UIF disseminations %	35%	65%	52%	83%	45%	24%	
- Overall Prosecutions	8	1	5	2	8	1	25
- Overall Convictions	1	1	1	1	1	1	6
Overall Prosecution and conviction rate %	45%	10%	24%	8.33%	31%	5%	Average 22.3%

Source: UIF and PGO (*average rate calculated from year 2018 to 2022)

131. UIF analysis reports disseminated to PGO are always a trigger for PGO ML investigation. For each dissemination, the PGO opens an investigation file and either conducts its own investigation or passes the case to CAC, PCIC or PNTL for further investigation.

Case Study 3.1: Suspected Illicit Transfer and International Cooperation

In April 2022, UIF received an STR from Bank Z. The reason for suspicion was an unusual large incoming international transfer from Jurisdiction S to Mr. Y. who was working at an international agency located in Timor-Leste.

Upon receiving the STR, UIF immediately reached out to PGO's contact point and shared the available information. UIF also conducted a quick verification on Mr. Y based on available information to establish whether he was subject to any ongoing investigation or registered in UIF's database. Further, the UIF also made a request to the FIU in Jurisdiction S, seeking further information and verification of the funds.

The UIF prioritised this STR because of the suspicion that the funds could be related to illicit activity, considering at that time Jurisdiction S was considered high risk. Further, this measure was taken to anticipate the possibility of freezing the account in accordance with the Law.

The case was archived because Mr. Y was not registered in PGO files while the response from the FIU in Jurisdiction S confirmed the source of funds was legal.

132. As shown in Table 3.9, STR disseminations from UIF to PGO are the leading trigger for initiating ML investigations and therefore contribute significantly to the overall prosecution and

conviction rates (refer Table 3.3). Further, the rate of UIF disseminations to ML investigations was significant, averaging 50.6 percent across the review period and peaked at 83 percent in 2021. While it is unknown what percentage of STR disseminations to PGO directly lead to prosecution and convictions, the overall prosecution and conviction rates varied significantly during the period under review, from five percent in 2023 to 45 percent in 2018. From 2018 to 2022, the average prosecution and conviction rate was 22.3 percent, which indicates that financial intelligence, including spontaneous disseminations from UIF to PGO was often used in investigations and has led to successful prosecutions and convictions.

Reports receiving and requested by competent authorities

133. Competent authorities are receiving and requesting reports to some extent in Timor-Leste. UIF is the sole authority to receive STRs and CTRs from FIs and DNFBPs, however in practice only FIs are submitting STRs and CTRs. STRs relating to ML, TF or associated predicate offences are received either via hard copy or encrypted email. UIF has not received any STRs relating to terrorism or TF which aligns with Timor-Leste's risk profile. DNFBPs have never submitted STRs/CTRs to the UIF and are not aware of the reporting method or their obligation to submit reports.

134. FIs submit STRs to UIF in paper form and in 2019 UIF launched the e-RON system to facilitate electronic reporting of CTRs especially for small REs which is a positive development. Some smaller REs can use the e-RON system to flag unusual or high-risk transactions however e-RON only enables the reporting of CTRs, not STRs.

135. STRs submitted in Timor-Leste include transactional information, CDD data and a free text field to record the 'suspicion/or reason of filing STRs. Overall, the data quality of STRs filed in Timor-Leste limits UIF's ability to develop financial intelligence products for LEAs to use in criminal proceedings relating to ML and associated predicates or TF cases. This is likely due to a combination of contributing factors including; inconsistent reporting of STRs from FIs, a lack of feedback to REs on STR quality from competent authorities, a lack of typologies reports and red flag indicators focused on specific crime types and no targeted training to REs on new or emerging ML/TF domestic or international risks, trends or typologies.

136. UIF has eight staff in total with four staff in its Analysis Unit, which is deemed adequate considering the number of STRs it currently receives and given Timor-Leste's risk and context. During the period under review, UIF staff have attended multiple training courses to improve their financial analytical skills. For example, from 2018 to 2019, UIF staff participated in ML financial investigations training organised by UNODC in collaboration with CAC, analyst trainings from FIU Portugal and Indonesia and during the COVID-19 period, several online training sessions on operational/financial analysis. Nevertheless, there is further scope for UIF staff to increase their analytical and ML investigative capability. As shown in Table 3.4, Timor-Leste received 765 STRs between 2018 to August 2023. Overall, the level of STR reporting fluctuates as the number of STRs received over the past five years ranges from 83 STRs in 2021 to 172 reports in 2022. This number of STRs was projected to increase in 2023 as 164 STRs had already been submitted by August 2023. UIF staffing levels will need to increase if STR reporting increases substantially over time.

Table 3.4: STRs submitted to UIF from 2018 to August 2023

Sector	2018	2019	2020	2021	2022	Aug 2023	Total
Banks	109	69	91	57	126	129	581

ODTIs	0	5	17	16	37	26	101
MTOs	0	53	2	7	9	9	80
Insurance	0	0	0	3	0	0	3
Total STRs	109	127	110	83	172	164	765

Source: UIF

137. Submission of STRs to the UIF is predominantly from one entity within one sector (the banking sector), which is not consistent with the risks (see Table 5.1 in IO.4). Table 3.5 shows the most common suspicion/reason for submitting an STR is due to 'cash related transactions', which is partly in line with Timor-Leste risk profile. Proportionally, STRs are not being submitted in Timor-Leste for other high-risk activities e.g. corruption or tax evasion. It should be noted that FIs are submitting significantly higher numbers of CTRs flagged as 'unusual' or 'high risk', however they are not filing an associated STR (see Table 3.6). The assessment team acknowledges that while providing useful financial information, e-RON's 'unusual' and 'high alert' notifications are not in the same category as STRs because they do not contain the same level of information nor provide the same level of protection to the FI e.g. tipping-off.

Table 3.5: Rationale for submitting an STR from 2018 to August 2023

Rationale for submitting an STR	Years					
	2018	2019	2020	2021	2022	2023 Aug
Large cash deposits unmatched customer profile	18	16	34	28	38	44
Transaction linked with high-risk customers	11	11	7	7	20	24
Cash deposit and inconsistent with loan requirement	0	3	10	12	37	17
Large cash remittances	0	50	0	0	0	9
Cash and cheque withdrawals unmatched with customer's profile	12	9	0	9	25	3
Used personal account for business purposes	0	0	10	9	11	17
Large cash deposits with immediate international outgoing transfers	35	0	4	0	1	6
Suspicious transactions related to STRs temporarily archived or related to previous UIF request to FIs	0	4	10	0	12	18
Large cash deposits with outgoing international transfer to offshore jurisdictions	6	3	8	3	11	3
Large incoming transfer from offshore jurisdictions	19	5	2	1	1	6
Others	8	26	25	14	16	17
Total	109	127	110	83	172	164

Source: UIF

e-RON

138. e-RON is an online platform launched in 2019 to assist small FIs, especially sole traders at MTOs, to report CTRs and unusual or abnormal transactions in a timely manner. The e-RON platform is embedded with an alert system for FIs to classify CTRs with 'unusual' (for abnormal transactions) or 'high risk' alerts for transactions with several red flags or when a PEP is involved. Any CTRs flagged 'unusual/high risk' require the FI to fill in a reason for suspicion.

139. In addition to submitting STRs to UIF, FIs with an obligation to report CTRs, can submit CTRs electronically via e-RON, e-e-RON has enabled more CTR reporting from small FIs in real time which is a very positive development. However, UIF receives significantly more CTRs than STRs and it appears that FIs are flagging CTRs as unusual or high risk instead of submitting an STR (see Table 3.6). STRs require more information than CTRs which could help to enhance financial intelligence products. STRs also provide FIs with legal protection e.g. against 'tipping-off'. Spontaneous disseminations to PGO include both CTR and STR information.

140. Starting from 2023 and up to August, there were 28 'unusual/high risk' CTRs disseminated spontaneously to PGO as if they were STRs (see Table 3.2), which is a positive new practice. Despite UIF treating e-RON's unusual and high alert notifications as STRs, the Assessment Team views e-RON notifications as a separate category to STRs however acknowledges that these notifications are providing useful financial information and intelligence to an FIU with limited resources.

141. Table 3.6. shows the volume of STRs, CTRs, unusual CTRs, and high risk CTRs received.

Table 3.6: Volume of STRs and CTRs (Normal, Unusual and High Risk) from 2018 to August 2023

	2018*	2019	2020	2021	2022	Aug 2023
Total CTRs	6,037	35,348	74,050	97,038	120,754	95,177
Normal CTRs	N/A	35,023	73,862	96,693	120,504	95,075
Unusual CTRs	N/A	294	173	336	239	85
High risk CTRs	N/A	31	15	9	11	35
Total Unusual and High Risk CTRs* (1)	N/A	325	188	345	250	120
Total STRs (2)	109	127	110	83	172	164
Total STRs and Unusual or high risk CTRs (1 + 2)	109	452	298	428	422	284

Source: UIF

*e-RON was launched in first quarter of 2019, therefore there were no CTR alert categories in 2018

142. During the period under review, there are more unusual and high risk CTRs submitted to UIF than STRs as demonstrated in Table 3.6. When an FI reports an unusual or high risk CTR, this is immediately available to UIF and there is no requirement to also submit a STR. Despite UIF recently disseminating some 'unusual/high risk' CTRs to PGO (see Table 3.2), it is unclear whether these CTRs

flagged as unusual or high risk always contain sufficient and relevant information to enable UIF to conduct adequate financial analysis or develop financial intelligence products for ML, TF or associated predicate offences investigations as these CTRs do not contain as much information as STRs.

143. Regarding cross-border cash declaration forms and BNIs, there is a lack of cooperation between UIF and Customs in sharing this financial information. While UIF is mandated to receive declarations of cash and BNIs from Customs and there is an existing MOU, no declarations have been shared with UIF.

144. UIF provides annual feedback to FIs through a formal letter that includes their STR reporting statistics and any identified deficiencies in their STR reporting. Another form of feedback is through the Compliance Officers' Forum which UIF hosts on a quarterly basis to share STR and CTR trends and typologies with FIs. The compliance officers are of the view that the trends and typologies shared by UIF were too general and it would be better if UIF could share sector specific data.

Operational needs supported by UIF analysis and dissemination

145. UIF conducts operational analysis on STRs to some extent, however there is limited strategic analysis on STRs or CTRs for sharing with other competent authorities. UIF conducts two phases of STR analysis: preliminary and in-depth.

Preliminary analysis

146. All STRs go through preliminary analysis. UIF's process for operational analysis involves the Executive Director receiving and reviewing each STR and dispatching it to the operational manager, who then assigns it to an analyst for further review. If the Executive Director is on leave or not available, the Operational Manager reviews the STR. If the STR is sensitive, the Operational Manager will conduct the analysis and report the findings directly to the Executive Director. During preliminary analysis, an Excel case prioritisation tool is used to determine whether the STR is high/medium/low priority. This process is usually done within one working day after the STR is received. The operational manager always reviews the preliminary analysis for high/medium risk STRs, and randomly for low risk STRs.

147. UIF's STR manual requires all STRs to undergo preliminary analysis where, using a prioritisation tool, an analyst triages the STR and makes a recommendation to the head analyst based on its classification. It is unclear how often the parameters in the prioritisation tool are reviewed to ensure the automatic triaging is accurate.

148. If the preliminary analysis identifies that the STR requires further analysis it proceeds to the in-depth analysis phase.

In-depth analysis

149. UIF carries out in-depth analysis on a case-by-case basis. During the period under review from 2018 to August 2023, the percentage of STRs that proceeded to in-depth analysis were: 24.77% (2018); 6.19% (2019); 14.43% (2020); 9.35% (2021); 10.66% (2022); 20.07% (to Aug 2023). In-depth analysis includes reviewing previous STRs, CTRs, company registration information, additional CDD or other information from reporting entities and open-source information. While UIF usually requests additional information from FIs, there are only limited requests to other competent authorities. Overall, analysts do not have access to a sufficient range of financial information e.g. declarations of cash and BNIs, CAC's Asset declarations or tax information that would generate higher quality financial

intelligence products. This is not in line with Timor-Leste's risk profile as cash smuggling and tax evasion are deemed higher ML risks however the in-depth analysis does not draw upon cross border cash declarations or tax information.

150. UIF uses an analytical tool 'i2 analyst notebook' to generate diagrams and support fund flow analysis e.g. to represent high frequency transactions, which adds some value to financial intelligence products and may facilitate LEA's investigation. Most of the in-depth analysis reports are disseminated to PGO including information on the suspected predicate offence for further investigation. As per Table 6.2, the proactive dissemination rate of STRs to PGO averaged 7.6 percent per year from 2018-2022. These disseminations to PGO are the main trigger for ML investigations. PGO will either investigate or pass the dissemination to LEAs such as CAC or PCIC for further investigation. Although the number of disseminations from UIF was limited, the prosecution and conviction rate after investigation averaged 22.3 percent from 2018-2022, which demonstrates the financial intelligence is leading to investigation, prosecution and conviction which is positive. Therefore, as discussed in IO.7, PGO initiates the majority of ML investigations from UIF disseminations, demonstrating the importance of UIF's operational analysis and the reliance of financial intelligence to commence a ML investigation in Timor-Leste.

151. Timeliness in completing STR analysis is a concern as UIF's case prioritisation procedures permit high priority STRs to be completed up to 60 days, medium priority up to 90 days, and low priority up to 120 days. For high priority STRs, two months for analysis is not timely and impacts the utility of financial intelligence in ML/TF investigations. However, Timor-Leste advised that overall, STRs can be reviewed in much shorter timeframes and that priority STRs can sometimes be actioned within 24 hours.

Case Study 3.2: High Priority STR

In October 2022 UIF received an STR from a bank in relation to a number of international transfers coming into a company account. Upon receipt UIF prioritised the STR and conducted analysis which identified linkages to an earlier STR from another bank. The results of the initial analysis were disseminated to PGO on the same day for immediate action.

In parallel to PGO's investigation, UIF conducted detailed analysis, collecting other relevant data and information from a number of FIs, which identified a range of other persons involved and funds flowing to a neighbouring jurisdiction without economic justification. UIF conducted international cooperation with counterparts in order to obtain additional information. The case remains under investigation.

152. The UIF publishes trends analysis of STRs and CTRs and typologies on the laundering of common predicate offences in its annual report but no comprehensive analysis. The report is publicly available from the BCTL website and the latest available is for 2022. UIF has also shared ML trends and typologies with FIs through the Compliance Officer's Forum. However, feedback received at the onsite from FIs was that the ML trends and typologies shared were not sector specific to enhance the financial sector's understanding of ML/TF risks. UIF does not produce other strategic analysis report nor publish any guidance for FIs on red flag indicators for suspicious transactions to enhance the detection of suspicious transactions or improve the quality of STRs.

Disseminations to LEAs

153. During the period under review, LEAs have requested and utilised information from UIF on 151 occasions across a broad range of suspected offences to assist in their ML or associated predicate crimes investigations (refer to Table 3.7). This demonstrates to some extent the usefulness of UIF's disseminations to PGO in supporting PGO ML and predicate crime investigations. The largest number of disseminations is mostly in line with Timor-Leste's risk profile including (79) disseminations for corruption out of (151) disseminations (52 percent) between 2018 – Aug 2023, given corruption is one of the highest risk predicate offences. However, there were no disseminations relating to tax evasion or cash smuggling, both assessed as high risk in the NRA while there was only one dissemination relating to drug trafficking, also considered as high risk. Further, over the same period, there were 24 disseminations related to fraud and one relating to human trafficking which does not seem in line with Timor-Leste's risk profile as both were assessed as medium risk in Timor-Leste's NRA. Overall disseminations to LEAs are not fully consistent with Timor-Leste's risk profile.

Table 3.7: UIF Disseminations to LEAs Upon Request from 2018 to August 2023

Suspected Offences	2018	2019	2020	2021	2022	Aug 2023	Total
Money Laundering	4	2	9	7	6	1	29
Corruption	3	7	20	26	21	2	79
Fraud	3	1	2	6	8	4	24
Drug Trafficking	0	0	1	0	0	0	1
Human Trafficking & Sexual Exploitation	0	0	1	0	0	0	1
Aggravated Falsification	0	0	1	1	0	1	3
Aggravated Theft	3	1	1	0	0	0	5
Other Request for Due Diligence and Background Checks	3	2	3	1	0	0	9
Total requests	16	13	38	41	35	8	151

Source: UIF

Cooperation and exchange of information/financial intelligence

154. As outlined in IO.1, Timor-Leste has the domestic mechanisms to cooperate across AML/CFT competent authorities, however they are not sufficiently utilised at the operational level. There is strong informal, day-to-day cooperation and coordination between members of key agencies, however this is primarily relationship based not function based.

155. Positively, UIF is the administrative coordinator and active member of the CNCBC and has good working relationships with all members in the CNCBC. While this Committee is not regularly meeting (refer to IO.1), UIF demonstrated strong and active bilateral working relationships with each

of the Committee members. Timor-Leste does not have any AML/CFT Working Groups focused on competent authorities cooperating and exchanging financial intelligence.

156. To formalise and facilitate domestic cooperation, UIF has signed nine MOUs with competent authorities and LEAs to exchange information exchange, including PGO, PCIC, CAC, CFP, SERVE I.P., DGRN, PNTL, Customs and Tax Authority. While formal mechanisms exist, working level cooperation is varied. For example, UIF has formally met PCIC four times and CAC four times in the last five years to discuss ML investigations based on UIF disseminations. However, UIF liaises informally with both PCIC and CAC via email, texts and phone calls to provide additional information or clarification on FIU disseminations. PGO's Central Office to Investigate Corruption and Organized Crimes (GCCCCO) has limited coordination with UIF, the last formal meeting was held in 2019. GCCCCO makes limited requests for further information or clarification on matters contained in UIF disseminations.

157. Even with MOUs in place, information requests from LEAs to UIF (refer Table 6.1), and information exchanges between UIF and other competent authorities are only occurring to some extent. This is particularly for requests from PCIC and PNTL, the key LEAs with responsibility for investigating ML/TF cases. Customs, Tax Authority, SERVE I.P., General Registration and Notary Services (DGRN) and *Comissao da Funcao Publica* (CFP) did not exchange any information with UIF, despite an MOU being in place.

158. While cooperation between competent authorities is occurring to some extent, the sharing of financial intelligence could be broadened and enhanced to improve UIF's ability to perform operational and strategic analysis for example:

- UIF is mandated to receive declarations of cash and BNIs from Customs, however despite an MOU between UIF and Customs, no declarations have been shared with UIF during the review period.
- UIF currently does not have access to CAC's Assets Declaration database despite an MOU being in place noting it may still be in development.
- UIF does not currently share CTRs with BCTL unless it is on request.
- There is also a notable gap whereby UIF is not utilising relevant financial information from the Tax Authority despite an MOU and tax evasion being considered high risk in Timor-Leste.

Overall conclusions on Immediate Outcome 6

159. All proactive disseminations from UIF to PGO have been used as the main trigger for ML investigations, with some leading to successful prosecutions and convictions. The AT has placed weight on this. For parallel financial investigations, the use of financial intelligence from LEAs for ML and predicate crime investigations varies significantly across agencies, however it is happening to some extent. Financial intelligence is not being used in asset tracing. Overall disseminations to LEAs are not fully consistent with Timor-Leste's risk profile and some weight has been placed on this deficiency.

160. The AT has also placed weight on restricting factors that impact UIF's ability to develop financial intelligence products such as quality and consistency of STRs being reported. However, judicial authorities and LEAs in Timor-Leste are requesting and using financial intelligence from UIF to some extent in ML investigations for example PGO, CAC, PCIC, PNTL although this is not always in line with Timor-Leste's risk profile. UIF is conducting financial analysis based on a range of information

from FIs and some competent authorities, however in practice, a lack of access to some sources of information, for example cross border cash declarations, asset declarations and tax information impacts on the quality and value add of UIF's analysis products and the AT has placed significant weight on this deficiency. Timeliness is another key factor impacting the financial intelligence being appropriately used in ML/TF investigations. While LEAs and other competent authorities in Timor-Leste could make better use of financial intelligence and information, overall they are using it to some extent when conducting ML and predicate offence investigations.

Timor-Leste has a moderate level of effectiveness for IO. 6.

Immediate Outcome 7 (ML investigation and prosecution)

161. There are four law enforcement agencies designated to conduct ML investigations; PGO and the three police agencies - CAC, PCIC, and PNTL.

162. PGO has a central role in commencing, coordinating and assigning ML and predicate offence investigations. PGO has the full authority to determine whether it should conduct the investigation itself or delegate the investigation to a police agency, which it does on a case-by-case basis. The decision depends on the competency and experience of the individual prosecutor handling the case.

163. In the Timor-Leste framework, there are two types of investigations; preliminary investigations and full investigations. Preliminary investigations are the initial phase of the investigative process, which takes place before the formal commencement of judicial proceedings. During this phase, police agencies and the PGO gather evidence to determine whether there are sufficient indications of a crime. The main objectives of the preliminary investigation are to identify suspects, collect evidence, and assess the feasibility of a prosecution. Police agencies submit the results of a preliminary investigation to the PGO, who decides whether to open a full investigation. A full investigation involves prosecutors, lawyers, and judges depending on the level of processing.

164. Through amendment to the AML/CFT Law in 2013, Timor-Leste lowered the threshold of predicate offences from four years to two years, resulting in almost all offences under the Penal Code becoming categorised as predicate offences. There are however some designated offences under the FATF Standards which are not criminalised, or not sufficiently criminalised, including environmental crime, counterfeiting of products, piracy, and insider trading and market manipulation.

ML identification and investigation

165. If a policing agency identifies a potential ML case during the investigation of a predicate offence, it is able to commence a preliminary investigation prior to passing the case to PGO. Timor-Leste advised that some policing agencies (e.g. CAC) conduct parallel investigations into ML during investigations into predicate offences, however this was not demonstrated in the statistics or case studies provided. There are no underlying procedures to support the prioritisation and/or conduct of parallel investigations.

166. ML investigations are assigned in line with the LEA's area of responsibility.

Table 3.8: LEA Area of Responsibility

LEA	Key predicates	Investigative capacity	Legal basis
PGO	All predicate offences and ML (Criminal Procedure Code)	Conduct, oversight and coordination of all investigations.	Article 6, CPC Article 48(1) and (2), Article 29, CPC
CAC	Corruption and associated ML (Anti-Corruption Commission Law No.8/2009)	Conduct corruption and ML investigations within the parameters set by PGO.	Article 99, Law No.7/2020 on the Measures to Prevent and Combat Corruption
PCIC	Serious and organised crimes, including ML and associated predicate offences (Decree Law No.15/2014)	Conduct serious and organised crime investigations within the parameters set by PGO.	Article 6, Decree Law No.15/2014 revoked with article 37 of the Law No.9/2022 on the Organization of Criminal Investigation. Article 10 of the Law No.9/2022 on the Organization of Criminal Investigation and Annex according to article 10(5).
PNTL	All crimes, including ML and associated predicate offences. (Decree Law No.55/2022)	Conduct of the investigation within the parameters set by PGO. <i>Note, PNTL has not been assigned ML cases since the creation of PCIC.</i>	Article 9 of the Law No.9/2022 on the Organization of Criminal Investigation and Annex according to article 10(5). Art. 52 and 57, CPC

Source: LEAs

167. CAC's designation to conduct ML investigations came into effect in in 2021. Prior to this, PGO conducted investigations into ML related to corruption cases or assigned the investigation to PCIC.

168. PGO manages ML investigations based on the PGO's Organic Law and the Criminal Procedure Code. There is no further operational guidance or procedures for the PGO to consider when opening an investigation into ML or predicate offences. Rather, this decision is based on the individual expertise of the prosecutor handling the case, and whether elements of crimes under the Criminal Code are evident. LEAs, except CAC, have established specific units to conduct organised crime investigations, including ML.

169. ML investigations are most commonly initiated based on proactive UIF disseminations to the PGO, and to a lesser extent from public complaints or reports received by PGO. All 85 UIF reports disseminated to the PGO between 2018 and September 2023 resulted in the commencement of an ML investigation. UIF's intelligence supports law enforcement to develop ML cases (see Case Study 3.3).

170. No ML investigations have been triggered from the conduct of predicate offence investigations or from information provided to PGO from domestic agencies (i.e. Customs, Tax Office, Immigration). The Tax Office files approximately 50 cases per month containing indicators of tax evasion to PGO however, these have not triggered an ML investigation.

3

Case Study 3.3: Money Mule Case

In December 2019, the UIF made a spontaneous dissemination to the PGO regarding a potential money mule case involving a Timorese national, Ms. X, who held a bank account at Bank A. Analysis of FIU data revealed that an actor abroad established a relationship with Ms. X via social media and based on this relationship, Ms. A received money from abroad which she then forwarded to a beneficiary, as instructed by the actor.

Ms. X received three transfers with a total value of USD 22,000 from Company A in Mexico, a transfer of USD 12,000 from Company B in Turkey, a transfer of USD 3,000 from Company C in Russia, and a transfer of USD 17,000.00 from Ms. A in Portugal.

After receiving the money, Ms. X conducted a cash withdrawal and made two transfers totaling USD 17,000 to Ms. B a beneficiary in Hong Kong, China, a transfer of USD 2,000 to Ms. C, a relative of Ms. X based in Portugal, and one local transfer of USD 12,000 to Mr. D.

PGO opened an investigation and requested UIF provide additional financial information. UIF requested information from its counterpart FIUs in Portugal and Hong Kong, China and received positive response from both, including their consent to share information with the PGO to assist the investigation process.

Table 3.9: Triggers for Commencing ML Investigations from 2018 to September 2023

Type of ML Investigation Trigger	2018	2019	2020	2021	2022	Sep 2023	Total
STRs disseminated by UIF to PGO	7	13	13	30	13	9	85
Public Complaint / Report	3	5	4	20	4	5	41
Development from predicate offences investigation*	0	0	0	0	0	0	0
TOTAL	10	18	17	50	17	14	126

171. As noted above, authorities in Timor-Leste advised that parallel financial investigations have occurred in the course of some predicate offence investigations, however no case studies or statistics were provided to demonstrate this. Timor-Leste reported capacity constraints as the prime issue for parallel financial investigations not occurring as a matter of practice, and the evidentiary threshold required to satisfy a Prosecutor to open an ML investigation. Further, law enforcement agencies are utilising limited financial investigation technique, other than obtaining information from FIs and domestic agencies.

Table 3.10: ML Investigations by LEA from 2018 to July 2023

	2018	2019	2020	2021	2022	July 2023	Total
PGO	7	13	13	30	13	9 *	85
From UIF disseminations	<i>All delegated to PCCIC</i>	<i>6 investigated by PGO & 7 delegated to PCIC</i>	<i>1 investigated by PGO & 12 delegated to PCIC</i>	<i>24 investigated by PGO, 1 delegated to CAC & 5 to PCIC</i>	<i>2 delegated to CAC & 11 to PCIC</i>	<i>all delegated to PCIC</i>	
From reports/complaints	3	5	4	20	4	5**	41
CAC	0	0	0	1	2	0*	3
PCIC	7	7	12	5	11	9*	51
PNTL	0	0	0	0	0	0*	0

Source: LEAs

* As at August 2023

ML identification and investigation by PGO

172. PGO's GCCCCO is responsible for cases involving organised crime and ML. The PGO has 25 public prosecutors covering all districts of Timor-Leste. The GCCCO comprises five dedicated Public Prosecutors, who each have more than ten years' experience in the investigation and prosecutions of corruption, organised crime, and ML. GCCCCO Prosecutors are supported by 12 other staff, who work as investigators or justice officials.

173. From 2018 to September 2023, PGO directly conducted or oversaw the 85 ML investigations stemming from UIF dissemination reports and conducted the 41 cases initiated from complaints and reporting from other agencies.

Case Study 3.4: Corruption (Embezzlement) and ML

In 2019, following receipt of information from an internal whistle-blower from the Ministry of Finance, the PGO commenced an investigation into ML and corruption (embezzlement). The case related to an electronic transfer of USD 31,535 via a payment system to Company A in Bank X. This was confirmed through UIF analysis.

On 25 June 2019, the suspect, Mr. A, who was a Procurement Officer, requested his relative Mr. B, the owner of Company A, provide Company A's account number to receive the funds transfer.

After transferring the money Mr. A informed Mr. B that the money had been sent and requested he make three cash withdrawals, with a total value of USD 31,535 from Bank X. The cash was given to Mr. A, with some given to Mr. B for his service. The money was used to pay Mr B's private loan.

The prosecutor finalised the investigation and indicted Mr. A and Mr. B with embezzlement and ML offences.

The case was delayed due to the Court schedule, with the decision taken in June 2023. The suspects were convicted of embezzlement and ML and were required to pay restitution of the total amount embezzled to the State. Mr. A was sentenced to seven years' imprisonment and Mr B to two years' imprisonment, fully suspended⁴⁵.

174. PGO maintains statistics on analysing/reviewing a potential case and the allocation process, but not on its follow-up process with police agencies during an investigation. Therefore, there no statistics available on decisions made to archive cases during preliminary or full investigation.

ML identification and investigation by PCIC

175. PCIC is the competent authority mandated to investigate serious and organised crime. PCIC comprises of seven brigades, with five brigades under the central criminal investigation section and two brigades under the criminal and police information section (intelligence function).

176. PCIC commences ML investigations on receipt of an investigation file from PGO, with the Prosecutor General required to allocate the case to PCIC for investigation.

177. Between 2018 and April 2023, PCIC conducted 51 ML investigations which related to various crimes, mostly fraud. This number appears low, noting PCIC investigated a total of 1,162 crimes over the same period.

ML identification and investigation by CAC

178. CAC's authority to conduct ML investigations came into effect in 2021, pursuant to the Anti-Corruption Law. Prior to this, ML related to corruption cases were investigated by PGO or assigned to PCIC.

179. At the time of the onsite visit in September 2023, PGO had been unable to allocate investigation of corruption cases to CAC since May 2023, due to the absence of a Commissioner of CAC since May 2023.⁴⁶ Corruption investigations were therefore being conducted by PGO or allocated to PCIC as an interim measure.

180. CAC has two units under the Investigations Directorate which handle operations and support; the Criminal Investigation Unit and the Information and Security Unit, which conducts the intelligence function.

⁴⁵ Criminal Code Article 68(1) states that for any sentence not above three years, the court can suspend the execution for one to five years.

⁴⁶ The CAC Commissioner was appointed in June 2024.

181. From 2018 to September 2023, CAC conducted only three ML investigations, all of which were triggered from UIF dissemination reports. During the same period, CAC conducted 186 preliminary investigations into corruption. As set out table 3.7 in IO.6, more than half the requests made to UIF related to corruption, with the majority of these coming from the CAC. While it is clear that CAC is utilising financial intelligence in its corruption investigations, this is not resulting in investigations into ML opening. CAC advised the rationale for this is the level of evidence required for a Prosecutor to commence an ML investigation.

182. During the conduct of its investigations, CAC regularly requests information from domestic agencies. From 2018 to September 2023, it requested company information from SERVE. IP on 88 occasions, information from the Tax Authority on 61 occasions, and information from UIF on 70 occasions.

ML identification and investigation by PNTL (CID)

183. PNTL is the competent authority mandated to investigate ML from general crimes, including narcotics and organised crime. PNTL also conducts ML investigations triggered from cash couriering.

184. PNTL has conducted only one ML investigation since PCIC was established in 2014, and none within the reporting period. This is due to the fact PGO usually allocate ML investigations PCIC, given it has been assigned the legal competency for money laundering. This aligns with the requirement in Art 7 of Law No.9/2022 on the Organization of the Criminal Investigation for LEAs with general competence to refrain from initiating or continuing investigations into crimes that are being investigated by criminal police bodies with specialised competence. PNTL has had prior experience with ML investigations. In 2016, it successfully conducted an ML investigation that related to sexual exploitation and human trafficking.

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

185. Authorities in Timor-Leste do not maintain statistics on the predicate offences relating to ML investigations, so it is difficult to determine whether the ML investigations undertaken align with the Timor-Leste's key risks.

186. From 2018 to September 2023, PGO received 85 dissemination reports from the UIF. As set out in Table 6.3 in IO.6, the most common underlying predicate offences of these disseminations are ML, tax evasion and extortion. While these crimes are higher risk areas for Timor-Leste, other high risk crime types such as drug trafficking and cash smuggling are missing, which is a notable gap, and there are limited disseminations relating to corruption. That CAC has conducted only three ML investigations linked to corruption demonstrates the misalignment between the corruption risk and the conduct of related ML investigations.

187. PCIC reported that the ML investigations it conducted related mostly to fraud/scams, and to some extent to tax evasion, drug trafficking and human trafficking, which somewhat aligns with Timor-Leste's risk profile.

188. No information was provided on the number predicate offences relating to the ML investigations conducted by PGO, nor on the categories of predicate offences to which the complaints/reports relate.

189. The misalignment between risks and ML investigations may be a result of the PGO, CAC, PCIC, and PNTL's understanding of Timor-Leste's ML/TF risks (see IO.1), and the lack of a strategy within law enforcement to mitigate those risks.

190. The underlying predicate offences for the seven ML convictions between 2018-2023 were aggravated fraud and document forgery, embezzlement, and fiscal fraud. While these crimes do align with Timor-Leste's high threats/risks, there is an absence of ML convictions relating to other high-risk predicates.

191. Timor-Leste advised that one of the key reasons why so few ML investigations result in prosecution is due to difficulties in finding evidence for ML, noting the high evidentiary threshold required to prosecute a case in Timor-Leste. In general, 95% of cases which proceed to court result in conviction in Timor-Leste.

192. Of the 25 ML prosecutions during the reporting period, seven have resulted in conviction, one has been absolved, 10 have gone to trial and 15 are pending or waiting for trial. Of the ML cases which have gone through the judicial process (including the appeals process) during the reporting period, none have been concluded without conviction, demonstrating a high rate of prosecutions converting to convictions, however the delays impact the effectiveness of the system. There are lengthy court times due to a backlog of cases in Timor-Leste.

193. Between 2018 to September 2023, 25 ML prosecutions took place, with seven convictions recorded. Of the seven ML convictions, the underlying predicate offence was embezzlement in four cases, fiscal fraud in two cases and illegal gambling in one case, which aligns with Timor-Leste's risk to some extent, however it is noted there are no ML convictions linked to the high-risk predicate offences of tax evasion, drug trafficking and cash smuggling.

Table 3.11: ML Investigations, Prosecutions, and Convictions from 2018 to August 2023

Year	ML Investigations	Archived after investigation	ML Prosecutions	ML Convictions
2018	10	2	8	1
2019	18	3	1	1
2020	17	7	5	1
2021	50	3	2	1
2022	17	11	8	1
2023*	14	9	1	2
Total	126	35	25	7

Source: LEAs

* As at August 2023

Types of ML cases pursued

194. According to the statistics and information provided by PGO, self-laundering is the most common type of ML case investigated and prosecuted, however some third-party money laundering has been investigated. All 25 ML prosecutions and the seven ML convictions achieved were for self-laundering. LEAs have not conducted any stand-alone ML investigations. The PGO also reported difficulties in identifying the type of money laundering during initial investigations.

195. During the onsite visit, LEAs provided information relating to a corruption case that involved the use of a relative's bank accounts. Authorities noted this did not proceed to an investigation of the relative for third-party money laundering, as the seized assets sufficiently covered the loss caused by the crimes, even though the ML penal elements were fulfilled. Authorities stated that there are difficulties in obtaining evidence to prove the intention of a third party in such a case.

196. No legal person or foreign trust/trustees have been investigated for ML. However, during the onsite visit Timor-Leste discussed a few ML cases that involve legal persons, but no further details were provided.

197. Timor-Leste has conducted some transnational ML investigations, both related to foreign predicate offences and offshore laundering of funds, however these investigations have had limited effectiveness and not resulted in prosecutions, which does not align with Timor-Leste's risk profile. As set out in IO.2, Timor-Leste made seven requests for MLA and utilised informal cooperation with a range of jurisdictions during the conduct of ML investigations.

Effectiveness, proportionality and dissuasiveness of sanctions

198. All ML cases in Timor-Leste have related to natural persons; there have been no investigations, prosecutions or convictions of legal persons.

199. As set out in R.3, the sanctions provided for in the AML/CFT Law are proportionate and dissuasive for the ML offence if applied at the higher end of the range. Further, the AML/CFT Law provides for an aggravating penal sanction in certain circumstances, and the Criminal Code states the application of the penalty for predicate offences and ML convictions applies cumulatively. Authorities noted that aggravating factors in application of the ML penalty were the level of the loss, level of intention, and the role of each defendant in the ML activities.

200. The sanctions applied to the seven ML convictions ranged from 18 months to seven years imprisonment, with an average of three years imprisonment. Five of the seven convictions applied a sanction below the range provided for in the AML/CFT Law, and therefore do not appear to be proportionate or dissuasive.

Table 3.12: ML Convictions – from 2018 to August 2023

Year	No. of ML convictions	Underlying predicate offence	ML Sanction
2018	1	Illegal gambling	2 years imprisonment and suspended with the same period. Confiscation with the amount of USD 128,151 and 55 slot machines.
2019	1	Embezzlement & ML	4 years imprisonment and reimbursement of the amount USD 260,409.50
2020	1	Fiscal Fraud	3 years imprisonment suspended with the period and reimbursement of the amount USD288,975
2021	1	Fiscal Fraud	18 months imprisonment and confiscation to the state with the amount USD1,656
2022	1	Embezzlement	2 years imprisonment and suspended 5 years with condition of reimbursement of the amount USD40,000. USD10,000 already paid.
2023	2 (one ML case)	ML & Embezzlement	1) 7 years imprisonments for ML and Embezzlement. 2) 2 years imprisonment and suspended 2 years. Reimbursement of the amount USD31, 850.

Source: LEAs

Use of alternative measures

201. Timor-Leste has a state lawsuit mechanism through the civil procedure which can be used to secure assets in cases where ML conviction is not possible. There are two such cases that have been filed by the State Prosecutor to the Civil Court. No further information was provided by Timor-Leste on this mechanism.

Overall conclusion on Immediate Outcome 7

202. Timor-Leste has conducted 126 ML investigations during the reporting period, which resulted in 25 prosecutions and seven convictions, which largely aligns with its risk profile. PGO is

responsible for conducting or allocating ML investigations to the policing agencies, based on the sphere of their legal competence. ML investigations are most commonly initiated from UIF dissemination reports and to a lesser extent from information received from the public. There are no instances of ML investigations triggered from predicate offence investigations. While limited data is available on the underlying predicate offences linked to ML investigations, authorities reported that ML, tax evasion and corruption form the highest number of related predicate offences. Self-laundering is the most common type of ML case investigated and the only type of ML case prosecuted or convicted. However, some third-party money laundering has been investigated. All ML cases in Timor-Leste involved natural persons. There have been no investigations, prosecutions or convictions of legal persons. Of the seven ML convictions, some applied sanctions below the range provided by the AML/CFT Law, demonstrating limited implementation of proportionate and dissuasive sanctions.

203. Timor-Leste has a moderate level of effectiveness for IO.7.

Immediate Outcome 8 (Confiscation)

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

204. Timor-Leste has not pursued the confiscation of proceeds, instrumentalities, and property of equivalent value as a policy objective. Timor-Leste has not set a detailed policy on asset recovery, nor have authorities set targets on asset recovery or issued any guidance or standard operating procedures. The National Strategic Plan 2016-2020 included a limited action item to implement policies and procedures to ensure confiscation proceedings are routinely pursued in relation to all convictions for ML and serious proceed-generating predicate offences, however this action item remains unaddressed.

205. As outlined at R.4 and R.30-32, Timor-Leste has a reasonably comprehensive statutory scheme for tracing and confiscating proceeds of crime, but LEAs do not regularly use the available powers to prioritise the pursuit of criminal proceeds and instruments of crime. As outlined in IO.6, LEAs do not regularly or systematically request financial intelligence or other information from UIF for asset tracing. Timor-Leste was unable to provide case studies or statistics of asset tracing, nor the general approach to developing intelligence and obtaining evidence to support the identification and restraint of proceeds of crime.

206. The low rates of asset tracing, restraint and confiscation reflect significant capacity challenges with investigation agencies. This has resulted in limited asset recovery actions for both for ML and predicate offences.

207. In 2016, the PGO submitted an asset recovery bill to the parliament. The submission has expired, and authorities are currently preparing a revised bill. There is no clear timeframe for the finalisation of the bill.

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

Confiscation

208. Timor-Leste has a penal mechanism to deprive criminals of their assets. PGO has the authority to trace, freeze, and seize assets, while the policing agencies have limited powers to conduct direct freezing and seizing. PCIC, CAC, and PNTL are required to make a request to the PGO to conduct freezing

and seizing during their predicate offence investigations. PGO then submits requests to the Court to obtain the validation or the warrant to seize the asset.

209. While inconsistent data was provided on confiscation, it appears LEAs have pursued asset tracing and recovery to a limited extent, with USD 2,193,046 confiscated in the last five years which is almost entirely recorded as recovery of equivalent value confiscated in relation to predicate crimes. In relation to the five confiscated vehicles in 2021, Timor-Leste did not demonstrate that the estimated value of the vehicles was realised upon sale following confiscation.

210. The confiscation actions reported by Timor-Leste authorities are not consistently described and the data provide in Table 3.13 cannot be wholly confirmed and appears to relate to eight predicate offence cases and two of the ML cases set out in IO.7. Authorities confirmed that the predicate offence cases where restraint and/or confiscation actions took place were embezzlement (two cases), tax fraud (three cases), illegal gambling (two cases) and aggravated theft (one case).

211. Timor-Leste has conducted limited asset confiscation involving transnational crimes. Timor-Leste provided a case study on a scam and the related ML that involved a USD22,000 confiscation, however it is unclear whether the asset confiscation was related to a foreign predicate offence. As set out in IO.2, Timor-Leste has made four MLA requests seeking the freezing of bank accounts, two of which achieved successful outcomes.

Table 3.13: Restraint and Confiscation Actions from 2018 to September 2023 (all figures in USD)

Asset Type	Asset Recovery Action	2018	2019	2020	2021	2022	Sept 2023
Cash	Seizure (Instrumentalities)			2,015			28,656
	Confiscation of equivalent value	128,151	260,409	288,975	481,140	800,273	153,427
Vehicles	POC Confiscated	3 (value unknown)					
	Confiscation of equivalent value				5 cars (Avansa) ≥ 10,000/ each (50,000)		
Other Illegal gambling	POC Confiscated	55 slot machines					

Source: LEAs

Case Study 3.5: Confiscation of Slot Machines

In 2020, PCIC received intelligence related to illegal gambling in Municipality of Baucau and initiated surveillance and investigation. PCIC subsequently filed a case report of the result of the surveillance and investigation to the Public Prosecutor Office and recommended to made an indictment to the Court related to illicit gambling.

The Court decided and ordered, search warrant, confiscation and detention of the suspects.

PCIC executed the order, seized 55 slot machines including USD5,000 and also detained two suspects.

The matter proceeded to trial and the Court found the defendants guilty and all the seized materials were confiscated by the State.

3

212. Further to the penal mechanism, Timor-Leste has a state lawsuit mechanism through the civil procedure which can be used to secure assets in cases where ML conviction is not possible. There are two such cases that have been filed by the State Prosecutor to the Civil Court. However, no further information was provided by authorities regarding the two cases or any outcomes.

Provisional Measures

213. A variety of types of assets, including instrumentalities, have been seized by authorities, including oil, vehicles, motorbikes, cigarettes, cash, and slot machines. In the last five years, no property or land has been seized.

214. To avoid the value of seized assets decreasing, the PGO is empowered to sell seized assets after appraising their market value. There is no framework specifying how the PGO is to conduct this appraisal or how to sell the assets. These assets are maintained and controlled by the Logistic Department within PGO. PGO did not demonstrate that it has implemented measures to manage assets in order maintain their value, including cases of having sold assets.

215. UIF has only once used its powers under Article 24 of the AML/CFT Law to suspend a transaction. In 2020, UIF requested PGO suspend a transaction based on its analysis and the identification of suspected cybercrime and tax evasion. This request was escalated to the Court, which decided to suspend transactions on the account for 30 days.

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

216. The legal basis for Timor-Leste's cross-border currency regime requires passengers entering or exiting Timor-Leste to declare currency of USD10,000 or more. In practice, the declaration system is only implemented for incoming passengers. This is a notable deficiency, given the risk profile of Timor-Leste. There is a legal requirement for Customs to provide UIF with cross-border declaration reports, however this does not occur in practice, and is a notable intelligence gap.

217. Timor-Leste has one international airport, three seaports and two land border crossings, however the border with Indonesia is porous. While PNTL have increased patrols on the land and sea borders, there is no law enforcement border-crossing strategy.

218. Most cross-border movement occurs through the airport, where there are only two Customs Officers on duty to conduct inspections. There are approximately 40 Customs officers at seaports and land border crossings. At the seaports, Customs officers do not conduct inspections or supervise imports/exports for undeclared cash. Customs have limited access at the new Tibar Bay deep water seaport, due to management arrangements.

219. There is no obligation to declare transportation of currency through mail and cargo, and Customs does not inspect mail or cargo for cash or bearer negotiable instruments (BNIs). Customs limits its inspection to the value of the cargo. Permission is required from BCTL to move cash more than USD 20,000 into or out of Timor-Leste. BCTL indicated that it has issued few sanctions to legal persons for undeclared or false declaration through cargo, but no details were given on the number of cases or the sanctions provided in those cases.

220. During the onsite visit, Timor-Leste informed the assessment team that cruise ships occasionally stop at the seaport, however there is no customs controls for such passengers, nor for travellers who enter Timor-Leste by private jet or boat. PNTL advised that they deliver the customs declaration forms to such passengers, but there is no examination of passengers or luggage for potentially undeclared cash or goods, or false declarations. The limited monitoring of the movement of currency across Timor-Leste's borders is not in line with its risk profile.

221. Timor-Leste only provided the assessment team statistics on customs declarations for the period from January to September 2023. During this period, Customs received 12,080 incoming declaration forms from the three land border crossings (Maliana, Tanubibi and Batugade) and Dili International Airport (limited to commercial passengers). Customs was unable to confirm whether this statistic relate to the number of people entering/exiting, or the number of currency declaration reports received.

222. In the last five years, there has been only one instance of authorities identifying a false or undeclared currency or BNI customs declaration. In 2022 Customs, in coordination with the National Intelligence Service, Serviço Nacional de Inteligência (SNI) and other LEAs, discovered the undeclared transportation of USD 130,000. The limited attention by authorities to the movement of cash across Timor-Leste's borders does not align with its risk profile.

223. Customs has MOUs with UIF, PCIC, and Oceania Customs Organization (OCO). Customs cooperates with BCTL pursuant to Article 4 of BCTL Instruction No.4/2017 but has limited cooperation with other domestic agencies.

Case Study 3.6: Undeclared Currency Case

In October 2022 Customs identified and stopped individuals at Dili International Airport who were attempting to transport USD 130,000 in cash without a declaration. The individuals were identified as affiliates with one of the largest political parties in Timor-Leste.

PCIC, together with SNI, seized the cash and following an investigation, submitted the funds to the Court, as required under the AML/CFT Law. Based on Article 7.5 of the Law, the Court determined that the case in question did not pertain to any AML/CFT offenses. Consequently, the Court imposed an administrative fine for failure to declare the transportation of the currency, in accordance with CBTL Instruction No.4/2017 article 9, with a maximum amount of USD 5,000.

BCTL enforced the Court's decision by imposing a fine on the individuals.

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

224. Timor-Leste has not demonstrated that the confiscation results for ML and predicate offences are in keeping with the ML risks Timor-Leste faces. The limited data available on confiscation does not demonstrate LEAs are conducting confiscation measures in line with ML/TF risks. There is no correlation between the seizure results obtained and the prevailing proceeds generating offences in the country. While the PGO provided some statistics on confiscation of criminal proceeds, these results are not consistent with ML risks. The limited implementation of cross-border currency controls does not align with Timor-Leste's risk.

225. The lack of confiscation of TF-related property is in keeping with Timor-Leste's low TF risks.

Overall conclusion on Immediate Outcome 8

226. Timor-Leste has not demonstrated that it has pursued the confiscation of proceeds, instrumentalities, and property of equivalent value as a policy objective or in keeping with Timor-Leste's risk profile. The very low rates of asset tracing, restraint and confiscation reflect significant capacity challenges with investigation agencies. Further, authorities do not have strategies or policies on asset recovery, resulting in only two asset recovery cases related to ML and limited asset recovery actions for predicate offences. In practice, the cross-border declaration system is only implemented for incoming passengers, which is a notable deficiency, given the risk profile of Timor-Leste. There is no obligation to declare transportation of currency through mail and cargo, and Customs does not inspect mail or cargo for cash or BNIs. Customs limits its inspection to the value of the cargo and there are gaps in its implementation of controls at certain border entries. Customs has not identified or applied sanctions for undeclared or false declarations. BCTL has issued a few sanctions on legal persons for undeclared or false declaration through cargo.

227. **Timor-Leste has a low level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

1. Timor-Leste has not identified, investigated, or prosecuted any instances of TF or cases of TF. While there is no up-to-date information on TF risk, and competent authorities' knowledge of TF risk and vulnerabilities is limited, this is likely consistent with the level of TF risk in Timor-Leste.
2. The lack of information related to TF risks (see IO.1) and vulnerabilities undermines preparedness to identify and investigate possible TF cases, and to subsequently inform LEAs' priorities and plans. TF is not a component of broader CT strategies, or the CT objectives of competent authorities.
3. Timor-Leste's underlying legal framework for its TF offence is largely sound, however the financing of individuals who travel to another country for the purpose of the perpetration, planning or preparation of, or participating in, terrorist acts or the provision or receiving of terrorist training are not in scope. Given the risk and context of Timor-Leste, this is a minor deficiency.
4. In theory, TF investigation and prosecution would closely mirror the process used for ML investigation and prosecution. There are no strategies or procedures in place to operationally facilitate the identification, investigation, and prosecution of TF and relevant LEAs have received limited training on the investigation of TF.
5. Timor-Leste's legal framework includes proportionate and dissuasive sanctions for natural persons but not legal persons (see R. 5). However, sanctions have never been applied so it is not possible to assess their effective implementation.

Immediate Outcome 10

1. Timor-Leste is not implementing TFS related to terrorism and terrorism financing (TFS-TF) for UNSCR1267 and UNSCR1373 without delay.
2. Timor-Leste has a mechanism in place that requires FIs and certain DNFBPs to freeze funds and financial assets of entities listed under UNSCR1267. However, this mechanism has significant deficiencies, has not been implemented without delay, and does not extend to all natural and legal persons.
3. There is no framework in place for the implementation of UNSCR1373, including listings, de-listings, or freezing obligations.

4. Timor-Leste has not identified the subset of NPOs that fall within the FATF definition that are at risk of abuse by terrorist financiers and has not identified the nature of any TF threats or vulnerabilities. Subsequently, no mitigating measures have been implemented, no targeted risk-based supervision or monitoring has been carried out, and no outreach has been conducted within the NPO sector.

5. The AML/CFT confiscation regime could be applied if instances of TF were identified in Timor-Leste. However, due to shortcomings in Timor-Leste's TF offence, there are limitations in the application of Timor-Leste's confiscation framework.

6. Overall reporting entities and competent authorities have a limited understanding of TF risks in Timor-Leste, compounded with a lack of guidance on TFS obligations, resulting in smaller FIs and DNFBPs not conducting adequate TFS-TF screening. The banking sector has appropriate TFS-TF screening processes in place for UNSCR1267 and successor resolutions, however, smaller FIs do not.

Immediate Outcome 11

1. Timor-Leste has no legal framework to implement TFS-PF without delay.

2. Timor-Leste has not demonstrated any cooperation or coordination between relevant authorities to prevent PF sanctions from being evaded as there are no national policies in place to address targeted financial sanctions relating to PF.

3. Timor-Leste's PF exposure has not been considered, despite a diplomatic relationship with DPRK.

4. Timor-Leste has not identified or frozen any assets or funds held by designated persons or entities in relation to PF.

5. No competent authority has designated responsibility for TFS-PF and therefore, Timor-Leste is not conducting any supervision of TFS-PF.

6. The banking sector is undertaking automated screening, however the DNFBP sector did not demonstrate any understanding of PF and have no preventive measures in place for the implementation of TFS-PF. Further, no guidance has been issued or outreach programs conducted for FIs or DNFBPs in relation to the implementation of TFS-PF.

Recommended Actions

Immediate Outcome 9

A. Timor-Leste should enhance its understanding of TF risk and vulnerabilities and develop a strategy to identify, investigate, and prosecute instances of TF.

B. Timor-Leste should develop processes in regard to the operational responsibilities of LEAs and UIF in TF identification and investigation and related coordination amongst competent authorities.

C. Timor-Leste should build capacity through TF-specific training for relevant investigators, prosecutors, and judges, to ensure that specialised TF skills are developed to detect, investigate, and prosecute TF. Continued cooperation with foreign LEA counterparts and international liaison officers could be explored in this regard.

D. Timor-Leste should ensure up-to-date TF-risk information is available to guide competent authorities' activities to identify and investigate possible TF cases in the future and in response to possible risk profile changes.

Immediate Outcome 10

A. Timor-Leste should implement a comprehensive framework for TFS-TF related to UNSCR1267 and successor resolutions without delay, including the legal identification of a competent authority responsible for the implementation of TFS-TF.

B. Timor-Leste should develop a legal framework for the implementation of UNSCR1373.

C. Competent authorities should issue instructions for all FIs and DNFBPs, clarifying obligations and freezing requirements, and procedures on how to deal with the identification of funds or assets of designated entities. Timor-Leste should then conduct outreach to ensure all FIs and DNFBPs understand their obligations and are implementing the TFS-TF requirements.

D. Freezing requirements should be extended to apply to all legal and natural persons.

E. Timor-Leste should, in line with R.8, identify the subset of NPOs that fall within the FATF definition and are at risk of TF abuse, and implement targeted risk-based supervision or monitoring of these NPOs.

F. Based on the identification of 'at risk' NPOs and related TF threats and vulnerabilities, Timor-Leste should deliver outreach to educate 'at risk' NPOs of TF risks.

Immediate Outcome 11

A. Timor-Leste should develop and implement a legal framework for TFS-PF without delay.

B. Timor-Leste should provide guidance and outreach to the private sector regarding TFS-PF obligations and PF exposure.

C. Timor-Leste should conduct supervision and enforcement of TFS-PF.

228. 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. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

*Immediate Outcome 9 (TF investigation and prosecution)**Prosecution/conviction of types of TF activity consistent with the country's risk-profile*

229. As described in IO.1, the 2015 NRA provided a cursory analysis of TF risk in Timor-Leste and identified several vulnerabilities based on contextual factors. These vulnerabilities include the regional environment as it relates to terrorism, Timor-Leste's cash-based economy, the porous border with Indonesia, and the use of the USD. Despite acknowledging these vulnerabilities, there was a lack of information and data to substantiate the existence of TF in Timor-Leste.

230. Authorities indicate that the TF risk level has not changed since the 2015 NRA, and that the TF risk is low. Competent authorities frequently cited the absence of terrorism in Timor-Leste to substantiate this assessment, however no analysis relating to TF was provided. While the assessment team agrees that the TF risk level in Timor-Leste is likely to be low, knowledge of TF risk and vulnerabilities is limited among competent authorities, FIs, DNFBPs and NPOs, and there is a lack of data or supporting analysis to substantiate this assessment.

231. Timor-Leste has not sought convictions or prosecuted any instances of TF. However, given the context and materiality of its financial sector, the lack of investigations and prosecutions is consistent with TF risk.

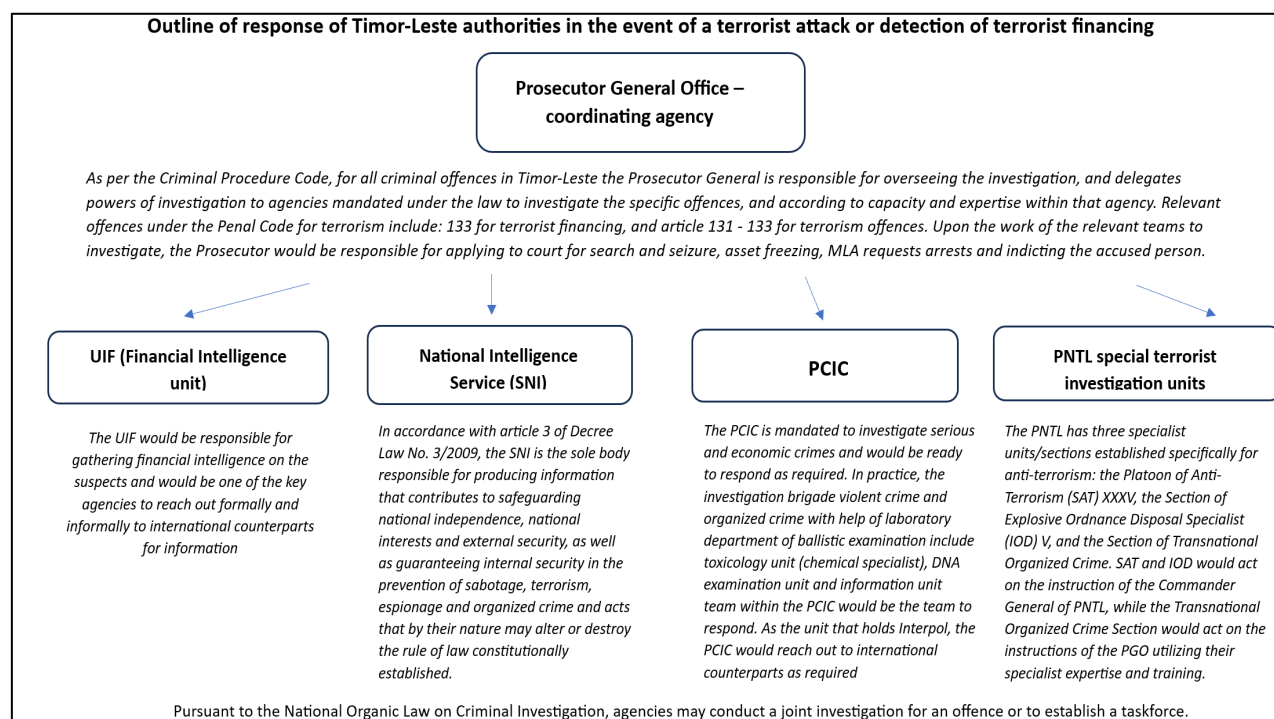
TF identification and investigation

232. Timor-Leste has not identified an instance of TF and therefore has not conducted any investigations into TF.

233. Should there be a case of TF in Timor-Leste, the institutional arrangements, processes, and techniques used for the identification, investigation, and prosecution of TF would closely mirror those identified in IO.7 for ML. The PGO would be responsible for opening an investigation into TF, which could occur either, (i) as the result of an STR disseminated by the UIF to the PGO, (ii) as the result of information provided by other LEAs and SNI as part of their own intelligence analysis and collection, or (iii) if TF were to be identified during the existing investigation of another crime.

234. The PGO does not have a TF-specific operational framework in place for the conduct of TF investigations, and there is no unit specialised in the investigation of TF, nor any prosecutors with specialised TF investigation expertise. TF investigations would in theory be coordinated by the GCCCCO. PGO indicated that investigations related to organised crime or national security (including TF) are often expedited, with the ultimate judgement of this resting with the relevant prosecutor. As with investigations into other crime types, PGO has the authority to delegate the investigation of a TF offence to the PNTL and PCIC. The SNI is also able to identify instance of TF through its work and can relay relevant information to the PGO.

Box 4.1: Outline of Authorities' response in the event of a terrorist attack or detection of terrorist financing



Source: LEAs

235. The UIF has never received an STR related to TF, and other competent authorities have not identified any instances of, or links to, TF during their investigations or intelligence gathering processes.

236. PCIC leverages the INTERPOL platform I 24/7 and receives information on regional terrorist activities to maintain regional awareness and identify potential related impacts on Timor-Leste.

237. While PGO, PNTL, and PCIC expressed that they have financial investigators capable of conducting TF investigations, they have received limited training on TF and the conduct of TF investigations specifically. Furthermore, there appears to be limited financial investigative techniques used by LEAS more generally (see IO.7).

238. There are minor deficiencies with Timor-Leste's TF offence which could in theory affect the ability to investigate and prosecute TF if detected, specifically, the financing of individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participating in, terrorist acts or the providing or receiving of terrorist training is not covered.

239. The three ways in which Timor-Leste would detect TF would be through a dissemination from the UIF, through existing intelligence collection and analysis, or if detected when investigating another crime. In relation to a dissemination from the UIF, there has been a lack of guidance, risk related information, or information on trends, typologies, or indicators, shared with the private sector (see IOs 1, 3 and 6). FIs and DNFBPs are therefore not well prepared to detect and report potential TF.

Furthermore, there are no standardised procedures in place that would facilitate the detection of TF through intelligence collection or analysis, or in linking TF with existing investigations. These factors impede Timor-Leste's ability to effectively identify TF.

TF investigation integrated with -and supportive of- national strategies

240. The CNCBC is responsible for overseeing Timor-Leste's AML/CFT regime. Several action items in Timor-Leste's NSP were relevant to CFT (for example, conducting further risk assessment work in relation to TF), however, none of the CFT related action items have been initiated and completed. Nevertheless, Timor-Leste indicated that counter-terrorism remains a priority of the government.

241. Timor-Leste does not have a national counter-terrorism strategy. PGO and PCIC also do not have specific counter-terrorism strategies. PNTL indicated that it has taken some counter-terrorism preparedness measures, including the establishment of a high-readiness anti-terrorism section. In addition, it is in the process of establishing a transnational crime centre in coordination with the Australian Federal Police, which would also be responsible for financial investigations.

242. However, it does not appear that these individual measures being implemented by agencies form part of a formalised strategy to combat terrorism, and the link to TF appears very limited.

Effectiveness, proportionality and dissuasiveness of sanctions

243. Timor-Leste's legal framework includes proportionate and dissuasive sanctions for the TF offence for natural persons, however, they have never been applied in practice. Legislation provides penalties for natural persons of between 12 to 25 years imprisonment, however there is the possibility of decreasing the sanction for attenuating circumstances. Sanctions for legal persons are not proportionate or dissuasive.

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

244. In line with Timor-Leste's risk profile, it has not identified an instance of terrorism or TF, and therefore has not taken steps to achieve the objectives of IO.9 by employing other criminal justice, regulatory or other measures to disrupt TF activities where it was not practicable to secure a TF conviction.

Overall conclusion on Immediate Outcome 9

245. Noting the analysis relating to TF risk in IO.1, systemic vulnerabilities exist, and Timor-Leste's authorities do not assess, produce, or utilise up-to-date TF risk information to inform activities. TF has not been identified, investigated, or prosecuted in Timor-Leste, which appears consistent with its risk profile. While the institutional processes for TF identification, investigation, and prosecution would in theory mirror the processes for ML investigation and prosecution, there are no counter-terrorism or TF specific strategies, policies, or procedures in place. PGO, PNTL, and PCIC have trained financial investigators, however, they have received limited TF specific training. Sanctions for natural persons are proportionate and dissuasive, but not for legal persons.

246. **Timor-Leste has a low level of effectiveness for IO.9.**

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

247. Timor-Leste is not implementing TFS-TF without delay and the legal framework has major shortcomings, as outlined in R.6.

4

248. Article 36.3 of Law No.4/2013 contains a requirement for FIs and certain DNFBPs to, on legally binding instruction from BCTL (in the format of 'Circulars'), freeze funds and any other financial assets of terrorists, or those who finance terrorism and of terrorist organisations, referenced under the terms of Chapter VII of the United Nations Charter, or UNSCR1373 and successor resolutions. However, there are several significant technical deficiencies in the process, including that Timor-Leste does not have a legal framework requiring all natural and legal persons within the country to freeze funds of entities designated under UNSCR1267. While UNSCR 1373 is referenced in law, there is no legal framework or procedures or activities to operationalise or to implement the freeze (see Rec.6.4 for further analysis)

249. Each time the UN Sanction List is updated, the BCTL Governor and the Ministry of Foreign Affairs receive a notification from the UN. Under Article 36.3 of Law No.4/2013, BCTL is legally required to issue a Circular to FIs 'without delay' every time the UN Sanction list is updated or changed under UNSCR1267 and its successor resolutions to ensure listed entities are captured under Timor-Leste's TFS-TF freezing framework. However, in practice, Circulars are not being issued 'without delay' and the assessment team viewed BCTL Circulars on its website with issue dates up to 29 days after the 1267 UN sanction list was changed.

250. The UIF has sometimes notified FIs' Compliance Officers via email when the UN's Sanction list have been updated. However, this is for information only, is not legally binding and is not being issued without delay i.e. within 24 hours.

251. In the instances where the BCTL is issuing a Circular relating to updates under UNSCR 1267 and its successor resolutions, albeit not 'without delay', these Circulars reference the need for FIs to implement procedures to ensure funds connected to listed entities are frozen and reported to the Central Bank. However, no further guidance or instructions have been provided to FIs in regard to the practical implementation of these requirements, and no further processes or procedures appear to exist within the BCTL. The BCTL includes instructions in its AML/CFT on-site examination manual to check and assess FIs for 'adequate procedures' and to ensure there is capacity to identify any designated entities or individuals, however deficiencies exist in the supervision regime (see IO.3).

252. Overall, Timor-Leste demonstrated a lack of up-to-date TF risk information that may also impede the ability of FIs and DNFBPs to effectively implement TFS-TF (see IO.1 for discussion on lack of TF data and risk rating in the NRA). The lack of up-to-date TF risk information and awareness impacts Timor-Leste's understanding in terms of regional risk and context for example, Indonesia, which shares a border with Timor-Leste, has numerous persons and entities designated under UNSCR 1267.

253. As discussed in R.6, the AML/CFT Law and BCTL Circular reference obligations under UNSCR1373, while the Law states that associated requirements apply to terrorist or terrorist organisations referenced by the UNSC. As UNSCR1373 is not a UN provided list-based regime, this makes the law inoperable for this resolution. Timor-Leste did not indicate that they have received or requested any designations from foreign jurisdictions pursuant to UNSCR 1373. Further, there is no

legal framework or publicly available information or process to list or de-list entities in this regard. As such, UNSCR 1373 has not been implemented.

254. FIs displayed varying levels of understanding regarding their TFS-TF obligations. Positively, the banking sector in Timor-Leste are almost all using software to automatically screen their customers against up-to-date UN sanction lists using third-party databases largely due to their foreign supervisor requirements. Other FIs conduct screening automatically or manually, mostly in accordance with the materiality of their business, with larger FIs more likely to use automated processes. DNFBPs are not screening for TFS-TF. Overall, international FIs are relying to a large degree on their own institutional requirements and systems relating to TFS obligations, as there is insufficient domestic guidance provided to them.

255. Timor-Leste has not had any cases involving the identification or freezing of funds or assets of UNSCR1267 and successor resolution designated persons/entities. Some FIs indicated that a very limited number of false positive matches occurred with their screening software, however, were unaware whether these were matches with UNSCR1267 and successor resolutions, or other sanctions regimes. After further clarification, the assessment team is satisfied these appear to have been matches with non-UNSCR sanctions lists. In one instance, the FI filed an STR and informed BCTL, which approved the transaction a week after it was reported.

256. No STRs have been received by the UIF in relation to relevant UNSCR sanctioned entities, as no matches with UNSC sanctioned entities have been detected to date in Timor-Leste.

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

257. Timor-Leste does not have a targeted approach to preventing TF abuse of its NPO sector. Timor-Leste has not conducted a review of the NPO sector to determine the subset of NPOs which meet the FATF definition of NPO and are at risk of TF abuse and has not implemented any ML/TF specific measures to prevent the abuse of the sector by terrorist financiers. The NPO sector was not assessed as part of the 2015 NRA, however, Timor-Leste indicated this sector will be included in its upcoming NRA.

258. Authorities indicated that the TF risk is low in the NPO sector due to a number of factors, namely, that the majority of NPOs in Timor-Leste are domestic, and that NPOs typically receive funds from international donors and expense them in Timor-Leste (i.e. Timor-Leste is a destination country). The authorities' understanding that TF risk is low across Timor-Leste's NPO sector seems reasonable.

259. The MoJ is the competent authority responsible for the registration of NPOs. It demonstrated limited awareness of potential TF vulnerabilities within the sector. For example, no sectoral risk assessment has been conducted and MoJ does not keep current or accurate records of NPO registrations in Timor-Leste. The AT received minimal information from Timor-Leste throughout the ME process in relation to R.8 and the NPO sector more broadly. Further, there was no demonstration from MoJ during the onsite, F2F or in the TC Annex or Effectiveness Submission that MoJ was aware of any potential TF vulnerabilities with the NPO sector.

260. The size of the NPO sector in Timor-Leste is unclear as there is inconsistent information available about its composition. There are two key sources of information relating to the registration of NPOs in Timor-Leste; the MoJ's NPO registry, and the NGO Forum Timor (FONGTIL), a local NPO 'umbrella' organisation which maintains a voluntary registry of NPOs. In Timor-Leste's NRA, it is

acknowledged that FONGTIL has a more comprehensive database than MoJ, noting that the organisation comprises registered and unregistered NGOs, however it has no official status.

261. According to FONGTIL's database, there are currently 270 domestic NPOs operating in Timor-Leste, and 30 international NPOs. This number of NPOs is larger than those in the MoJ's database suggesting that unregistered NPOs may be operating in Timor-Leste, and that there may be accuracy and data quality issues with MoJ's NPO registry. This demonstrates a lack of oversight and understanding of the NPO sector in Timor-Leste. The MoJ is pursuing work to ensure that the discrepancy in these registrations can be accounted for.

262. As outlined in R.8, Timor-Leste did not provide any policies or guidelines promoting good governance, accountability, integrity and public confidence in the administration and management of NPOs. There is a legal requirement for NPOs that collect, receive, grant or transfer funds to be supervised by the MoF, however this is not occurring in practice.

263. Currently there is no CFT related outreach to NPOs in Timor-Leste, or risk-based supervision or monitoring of NPOs at risk of TF abuse. NPOs did not demonstrate an understanding of TF-related vulnerabilities to protect themselves against the threat of TF abuse. LEAs have no experience in investigating TF activities related to NPOs.

Terrorists, terrorist organisations and terrorist financiers deprived of assets and instrumentalities related to TF activities

264. To date, there have been no TF cases in Timor-Leste and no funds have been identified, frozen or seized pursuant to UNSCR1267 and its successor resolutions, UNSCR1373, or instances of terrorism more generally. This appears to be consistent with Timor-Leste's low TF risk profile.

265. Outside of the requirement to freeze the funds and financial assets of listed entities, Timor-Leste's broader penal confiscation framework could apply to the assets of TF cases. However, there would be limitations in the application of this framework due to the minor shortcomings in the TF offence (see R.5), as well as the deficiencies identified in the confiscation regime in Timor-Leste (see IO.8).

Consistency of measures with overall TF risk profile

266. As noted in IO.1 and IO.9, the TF risk in Timor-Leste is considered low, however, there is a lack of TF risk information available. It appears that the main TF vulnerabilities identified in the NRA remain, particularly the porous border with Indonesia, the cash-based economy, use of USD and the regional context/environment. As discussed in IO.1, there is no information to indicate the existence of any kind of domestic terrorist threats.

267. Reporting entities and competent authorities have a limited understanding of TF risks in Timor-Leste, compounded with a lack of guidance on TFS obligations, resulting in smaller FIs and DNFBPs not conducting adequate TFS-TF screening.

Overall conclusion on Immediate Outcome 10

268. There are fundamental deficiencies in Timor-Leste's implementation and operationalisation of TFS-TF pursuant to UNSCR1267 and its successor resolutions, as well as with UNSCR1373. In

addition to the technical deficiencies outlined in R. 6, BCTL Circulars are not distributed to DNFBPs and BCTL is not issuing a Circular every time listed entities under UNSCR 1267 and its successor resolutions are updated or changed. Further, when they are being distributed to FIs, Circulars are not being issued without delay. Despite this, the banking sector has appropriate TFS-TF screening processes in place for UNSCR1267 and successor resolutions, however, smaller FIs do not. DNFBPs while not subject to supervision by the BCTL, do not have adequate TFS-TF screening processes in place.

269. Timor-Leste has not conducted a sectoral review to identify those NPOs which are at most risk of TF abuse. Furthermore, no monitoring framework, guidance, mitigating measures, or policies, are in place to prevent the abuse of NPOs for TF purposes.

270. **Timor-Leste has a low level of effectiveness for IO.10.**

Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions for proliferation financing without delay

271. Timor-Leste has no legal framework to implement targeted financial sanctions for proliferation financing (TFS-PF) without delay. Further, it has not taken steps to implement any measures against PF as required by UNSCRs 1718, 1737 and 2231.⁴⁷ In the event that funds owned or controlled by a PF-designated entity were to enter Timor-Leste, there is no legal obligation to freeze funds and assets without delay which is a fundamental deficiency for the implementation of TFS-PF.

272. Timor-Leste has not assessed its PF exposure to date. There are no national policies or strategies relating to the countering of proliferation financing in Timor-Leste. Therefore, competent authorities have not adopted measures to ensure the implementation of TFS-PF without delay and have not demonstrated any cooperation or coordination between relevant authorities to prevent PF sanctions from being evaded.

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

273. Timor-Leste has not identified or frozen any assets or funds held by designated persons or entities, including those acting on their behalf or at their direction, in relation to PF.

274. Timor-Leste has an ongoing diplomatic relationship with the DPRK since December 2022, however there is no bilateral cooperation between the two countries including no economic or trade relationship. To date, no DPRK diplomats have travelled to Timor-Leste. DPRK citizens can travel to Timor-Leste and apply for a visa on arrival. Timorese authorities have confirmed a 2017 media report that according to all available records, no DPRK citizens have travelled to Timor-Leste to date.^{48,49}

275. Customs have a risk management system for examining incoming cargo that split into four options, which include post clearance control (Blue Lane), documentary check (Yellow Lane), scan

⁴⁷ On 18 October 2023, the TFS elements of UNSCR 2231 expired. However, the onsite for Timor-Leste occurred before this date, hence it is included in the analysis.

⁴⁸ North Korea's activities in Southeast Asia and the implications for the region 2017, <https://www.brookings.edu/articles/north-koreas-activities-in-southeast-asia-and-the-implications-for-the-region/> Date accessed 11 October 2023

⁴⁹ North Korea and the Southeast Asia Connection, 2017, Peterson Institute for International Economics <https://www.piie.com/blogs/north-korea-witness-transformation/north-korea-and-southeast-asia-connection> date accessed 11 October 2023

examination (Orange Lane) and physical examination (Red Lane). Customs indicated to the assessment team that only two percent of all incoming cargo was designated to the Red Lane requiring physical examination. Customs advised they are not aware of any cargo or imports/exports associated with DPRK to date. BCTL has not encountered any direct transactions in relation to DPRK in its financial data.

276. Given that there is no economic or trade relationship with DPRK, and no assets or funds of designated person/entities have been identified, the assessment team considers that Timor-Leste's exposure to PF is low.

FIs', DNFBPs' & VASP's understanding of and compliance with TFS PF obligations

277. Despite the lack of obligations, the banking sector and MTOs that act as agents for global MVTs providers, demonstrated general knowledge of TFS-PF screening requirements, mostly due to their foreign supervisor requirements, but showed little or no knowledge of how they would implement such a freeze in Timor-Leste.

278. The banking sector and most MTOs have internal AML/CFT policies in place to conduct screening during customer onboarding, transaction monitoring, and/or on a regular basis for batch screening. As with TFS-TF (refer IO.10), the banking sector, most MTOs that acts as agents for global MVTs providers, and ODTIs are automatically screening their customers against current UN sanction lists via external or third-party screening systems. These automated systems include checks covering UNSCRs for PF to identify assets and funds of designated persons/entities. No such assets and funds have been identified. No FI had encountered any customer or transaction related to DPRK. The assessment team considers this is in line with Timor-Leste's current PF exposure.

279. DNFBPs did not demonstrate any understanding of PF and do not have any preventive measures in place for the implementation of TFS-PF.

280. No FI or DNFBP has had a positive or false positive match or frozen funds in relation to PF. FIs and DNFBPs had not been clearly guided by competent authorities on what they would be expected to do if there was a positive match with a designated person or entity under TFS-PF.

Competent authorities ensuring and monitoring compliance by FIs, DNFBPs & VASPs with TFS PF obligations

281. No competent authority has been designated as responsible for TFS-PF and therefore, Timor-Leste is not conducting any supervision of TFS-PF. There are no legal obligations for FIs and DNFBPs relating to TFS-PS and no relevant guidance has been issued or outreach programs conducted for FIs or DNFBPs in relation to the implementation of TFS-PF.

Overall conclusions on Immediate Outcome 11

282. Timor-Leste has no legal framework to implement TFS-PF without delay. The lack of a legal TFS-PF framework, combined with no counter proliferation financing policies, guidance, outreach nor supervisory or monitoring activities to give effect to TFS for PF in Timor-Leste are fundamental deficiencies.

283. **Timor-Leste has a low level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

1. Banks and ODTIs, which comprise the majority of the financial sector, and large MTOs demonstrated a relatively good understanding of their ML/TF risks and AML/CFT obligations. Small MTOs that only remit to Indonesia and other FIs have a basic understanding of their ML/TF risks and AML/CFT obligations, which reflects the risk/materiality of the various sectors.
2. The small DNFBP sector demonstrated a very low understanding of their ML/TF risks and AML/CFT obligations.
3. Competent authorities provide little guidance or information to inform FIs of ML/TF risks or how to effectively implement their AML/CFT obligations. No information has been provided to FIs on new or emerging ML/TF risks or typologies, however the UIF does publish STR and CTR trends analysis and typologies on the laundering of proceeds of common predicate offences in its annual reports.
4. FIs' application of CDD measures is impeded by the lack of an effective national ID system and deficiencies in the national company registry. Foreign bank branches take additional steps to identify beneficial owners of legal persons, however less sophisticated FIs may not be identifying ultimate beneficial owners.
5. FIs are moderately effective in applying preventive measures. While banks, ODTIs and large MTOs utilise commercial screening tools, these products are unlikely to include all domestic PEPs, family members and close associates. Limited STRs relating to PEPs have been submitted, despite the high risk of corruption in Timor-Leste. Foreign bank branches do not maintain correspondent banking relationships in Timor-Leste, however the domestic bank maintains a small number of relationships. Banks have effective wire transfer controls. Larger FIs are utilising screening solutions to comply with TFS obligations.
6. There are wide variations in the number of STRs reported by banks, ODTIs and MTOs that are inconsistent with their risk profile and Timor-Leste's risk and context more broadly. Reporting of STRs by other FIs and DNFBPs is minimal.
7. FIs and DNFBPs are not required to file STRs when submitting unusual and high risk CTRs. Given the cash-based economy, the significant number of CTRs reported, and the risk profile of Timor-Leste, the number and quality of STRs reported by FIs and DNFBPs is lower than expected. This suggests deficiencies in the systems and controls to monitor, detect and/or report suspicious transactions, however insufficient supervision by competent authorities makes the root cause difficult to identify.

Recommended Actions

- A. Timor-Leste should ensure effective CDD including by improving the reliability of identification documents and take steps to improve the completeness and accuracy of information held in its corporate registry (see IO.5). Expediting its project to implement the Unique Identity System may assist these efforts.
- B. Competent authorities should provide outreach, guidance, and feedback to FIs and DNFBPs to enhance their understanding of ML/TF risks and AML/CFT obligations, and implementation of risk-based mitigating measures; particularly for FIs and DNFBPs other than banks and large MTOs.
- C. Competent authorities should take steps to ensure that FIs, other than foreign banks and DNFBPs, strengthen procedures to accurately identify the ultimate beneficial owners of legal persons.
- D. FIs and DNFBPs should be required to file STRs while submitting unusual and high risk CTRs, and to not to pursue CDD measures when filing STRs to prevent tipping-off.
- E. Competent authorities should take steps to ensure that FIs and DNFBPs enhance implementation of PEP screening, in particular screening of domestic PEPs, family members and close associates.
- F. Competent authorities should take steps to ensure that FIs strengthen systems and controls for the detection and reporting of suspicious transactions, in particular by improving staff training and internal audit functions.

284. The relevant Immediate Outcome considered and assessed in this chapter is IO.4⁵⁰. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

Immediate Outcome 4 (Preventive Measures)

285. The financial sector in Timor-Leste is highly concentrated amongst the banking sector which holds 97 percent of assets and consequently the sector was the most heavily weighted by the assessment team. There are five banks, two ODTIs, nine MTOs, four currency exchange bureaus, three insurers (none of which provide life insurance), and two fintech companies which provide e-wallet services.⁵¹ A number of micro-finance credit cooperatives also operate and provide very basic, low value financial services. There is no securities sector, fund managers, financial leasing companies or custodial services in Timor-Leste. During the on-site, the assessment team met with four banks, one ODTI, three MTOs including the largest two, one currency exchange bureau, one insurer and one fintech company.

286. ODTIs offer only basic deposit and lending products to local residents. In 2022 83% of transactions in the MTO sector were USD 500 or less. All MTOs are local companies and the two largest, which dominate the remittance sector, are agents of international MTOs (MVTs) with global networks.

⁵⁰ When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

⁵¹ A third fintech company which will provide e-wallets received a preliminary licence in July 2023 and is undergoing a six month pilot

These two MTOs and one other MTO can conduct both outgoing and incoming cross-border transfers and are agents of large global MVTs providers. Other MTOs can only send money to Indonesia and not receive incoming funds.

287. There are very few DNFBPs in Timor-Leste. There are no casinos in Timor-Leste⁵². There are two real estate agents and an unknown number of informal brokers, 10 accountants and 287 lawyers. There are no registered company service providers, however some accountants and lawyers provide these services. All notaries are government employees and are therefore not captured pursuant to the FATF Standards and there are no DPMSs. DNFBPs received the lowest weighting when considering the core issues. There are currently no VASPs operating in Timor-Leste. During the on-site visit, the assessment team met with one real estate agent, one accountant, one lawyer and the Chamber of Commerce.

288. Timor-Leste's Anti-Money Laundering law sets general obligations for both FIs and DNFBPs, and BCTL provides more detailed requirements by issuing Instructions for FIs especially banks, ODTIs and MTOs. Nevertheless, the low number of supervision assessments, especially on-site inspections of financial institutions conducted by BCTL (see IO.3), minimal application of sanctions, and the absence of a DNFBP supervisor, limits the assessment team's ability to utilise supervision findings as a means to assess effective implementation of preventive measures. The assessment team has placed weight on the fact that foreign bank branches and large MTOs, which dominate the financial sector, are also subject to stronger internal control of their parent companies or the global networks in which they act as agents and group supervision from their home supervisors.

Understanding of ML/TF risks and AML/CFT obligations

289. FIs' understanding of ML/TF risks generally aligns with the findings of the NRA. Branches of foreign banks, which represent four of the five major FIs in Timor-Leste, demonstrated a relatively good understanding of their ML risks and AML/CFT obligations. The domestic bank, ODTIs and one large MTO demonstrated a general understanding of their risks and obligations. Other MTOs and FIs in the insurance, currency exchange and fintech sectors had a low or unsophisticated understanding of ML risks and AML/CFT obligations. All banks, ODTIs and large MTOs considered TF risks to be low, which is consistent with its treatment in the NRA.

290. In 2018, UIF initiated the Compliance Officers Forum, a quarterly meeting that facilitates information sharing between UIF representatives and Compliance Officers from banks and ODTIs. Representatives from SERVE I.P., the Public Prosecutor and the CAC have also presented to attendees. This is a positive step in building stronger relationships between key stakeholders and recent meeting minutes show discussions have focused on CTR and STR reporting, transaction monitoring, and ML trends. UIF also publishes trends analysis of STRs and CTRs and typologies of common predicate offences in its annual reports however, UIF has not circulated any specific typologies products or event driven alerts to enhance understanding of ML/TF risks for the wider financial services sector.

291. Most branches of foreign banks and the local bank conduct annual risk assessments and incorporate their findings into annual compliance reports submitted to BCTL. The findings of these risk assessments reflect the particularly high risks faced by banks and identified in the NRA (e.g. corruption

⁵² There are two gaming venues, which have only slot machines and other electronic table games and are regulated by Decree Law No.6/2016. Article 3.3 in Decree Law No.6/2016 excludes casinos, illustrating the two gaming venues are not captured as casinos, despite their business names including the word 'casino'.

and tax evasion) but include no new or emerging risks. Banks have a strong understanding of the AML/CFT obligations, especially foreign branches.

292. The ODTI the assessment team met with demonstrated a comprehensive understanding of the ML risks identified in the NRA and a good understanding of their AML/CFT obligations. ODTIs consider their exposure to TF risks to be low because of their customer base (predominantly low income, rural, female) and the limited range of products and services offered (limited to deposits and loans and no remittance products). ODTIs have also conducted annual risk assessments based on their internal procedures. These risk assessments reflect the high risks faced by ODTIs, for example, drug trafficking in cross-border areas. ODTIs find it difficult to identify the sources of funds due to the cash economy although most cash transactions are of very small amounts (below USD 100).

293. One large MTO conducts its own annual risk assessment, based on requirements of its group AML/CFT program. These risk assessments reflect the particularly high risks faced in the MTO sector (i.e. fraud/online fraud/scams). The two large MTOs also considered their TF risks to be low and demonstrated good understanding of their AML/CFT obligations. Small MTOs, which have less than one third of the MTO market share, generally demonstrated a poor understanding of risks while only a basic understanding of their AML/CFT obligations.

294. DNFBPs demonstrated little or no understanding of their ML or TF risks, the findings of the NRA nor their AML/CFT obligations. This is largely a result of receiving no outreach and only limited information on ML/TF risks along with no supervision to date.

Application of risk mitigating measures

295. To date, BCTL has not published specific guidance on the implementation of preventive measures in Timor-Leste and the low number of AML/CFT on-site inspections and few sanctions restrict insight into the effectiveness of FIs' implementation of preventive measures. Other than the NRA, competent authorities provided little information on ML/TF risks in Timor-Leste. Banks took into consideration their own risk assessments when categorising customers.

296. Based on requirements of BCTL, and further supplemented and enhanced by their home supervisors, the branches of foreign banks appear to have well established risk-based AML/CFT frameworks to mitigate ML/TF risks including on-boarding procedures, ongoing customer due diligence, reporting systems, employee due diligence, staff training, and record-keeping. However, the concentration of financial services in the banking sector, cash economy, the disproportionate and inconsistency of STRs reported, suggest weaknesses in implementation of monitoring and/or reporting controls. The domestic bank, ODTIs and large MTOs generally all have good risk mitigating measures which are commensurate to their business size and understanding of ML/TF risks and obligations. Like banks, the disproportionate reporting of STRs by these entities also suggests there remain gaps in preventive measures frameworks.

297. Large MTOs described their controls for international money transfers and refusal to complete transactions where customers' details did not exactly match payment details. This can be problematic in Timor-Leste because of the varying quality of identity documents.⁵³ MTO representatives were able to describe efforts to identify and prevent victims of online frauds sending money offshore to fraudsters. Commensurate to the lower risks faced, MTOs remitting to Indonesia had less sophisticated

⁵³ Timor-Leste is implementing a Unique Identity System to improve access to public and private services, reduce identity fraud and reduce verification costs. See <https://timor-leste.gov.tl/?p=30067&n=1&lang=en>.

understanding of mitigating measures with manual customer and transaction screening procedures in place and little to no reporting of STRs.

298. Other FIs in the currency exchange sector had very basic mitigation measures in place, which corresponds to their business size, and exposure to ML/TF risks. In the fintech sector, the operators of e-wallets, which is a domestic remittance service that has undergone rapid growth in recent years, had similarly basic mitigation measures in place and limited understanding of AML/CFT obligations. Given the product's growth, these measures may now be inappropriate for the volume of transactions they currently generate and process given the ML/TF risk profile.

299. DNFBPs in Timor-Leste are exposed to a relatively low level of risk due to their size and product offerings. For example, real estate agents are not involved in the financial settlement of real estate transactions. Commensurate with their low understanding of risk for the products and services they offer, DNFBPs' application of effective ML/TF risk mitigating measures is negligible. DNFBPs had only a very basic understanding of risk mitigating measures. Where DNFBPs conducted customer identification it was generally for purposes other than for AML/CFT, nor did they conduct risk self-assessments of their businesses, risk assess customers, monitor transactions or report STRs.

Application of CDD and record keeping requirements

300. All FIs maintain CDD and transaction records and can provide them to competent authorities in a timely manner when required. FIs indicated they would refuse to open accounts or conduct transactions when customers failed to provide complete CDD information. However, BO information and CDD records held by FIs may be incomplete in some circumstances due to deficiencies in the information held in the company registry maintained by SERVE I.P..

301. Verification of individuals' identity in Timor-Leste is difficult due to inaccurate and inconsistent personal identity documents. To mitigate this risk, BCTL introduced a requirement in Instruction No 5/2017 for banks and ODTIs to verify individuals using two forms of identification (passport, electoral card or national identity document) however, due to their geographic isolation, not all individuals are able to obtain multiple forms of identification and deficiencies with these documents remain. To address these challenges, one bank described seeking and being granted approval from BCTL to rely upon a single form of identification to verify a low-risk group of customers - those receiving government pensions and invalid payments. No other FI or DNFBP has sought or been granted approval for similar CDD measures.

302. Due to the unreliability of national identify documents and incomplete information held by the company registry, when necessary foreign bank branches take additional steps, such as visiting the physical premises of a company and/or inspecting company records in person at SERVE I.P. premises or requesting additional information from the company. One foreign bank reported it may take several months to complete the CDD measures when dealing with a commercial customer and will only open an account once satisfied that they held sufficient information to understand the business and verify its ultimate beneficial owners. Foreign bank branches seek assistance from their parent's network to complete the CDD of foreign-owned companies. ODTIs whose customers are largely natural persons typically complete CDD within one to three days.

303. The majority of MTOs' customers are individuals, with few company customers. Therefore, the gaps with company registry data are less problematic for CDD in this sector. MTOs only verify individual customers from one form of identification which must exactly match the details on the payment

instruction. In 2020, BCTL fined an MTO USD5,000 for failing to collect a customer's CDD information. This appears to be a one-off breach rather than a systemic failing of the MTO's CDD and record-keeping systems.

304. Other FIs, including CEBs and e-wallet providers, collect and retain CDD records in line with their understanding of their AML/CFT obligations and ML/TF risks. Business is refused when these FIs are unable to complete CDD.

305. DNFBPs do not conduct CDD or record keeping measures for AML/CFT purposes, however real estate agents keep copies of customers' identity documents and records of transactions for tax purposes. The assessment team considers these CDD measures and record-keeping practices to be insufficient to meet AML/CFT obligations. As discussed in R.22, notaries are not DNFBPs because they are government employees.

Application of enhanced or specific CDD measures

306. In general, FIs are moderately effective in applying EDD measures. Larger FIs employed automated screening tools to monitor both customers and transactions but report a relatively disproportionate number of STRs. Smaller FIs are more reliant on manual procedures or do not apply enhanced or specific measures. DNFBPs do not apply EDD measures.

PEPs

307. FIs are somewhat effective in applying EDD measures regarding PEPs. Customers identified as PEPs must be assessed as high-risk according to Instruction No.5/2017. All banks, ODTIs and large MTOs use commercial screening tools to identify PEPs and customers with adverse media coverage. However, these tools are unlikely to include all domestic PEPs, family members, and close associates. To supplement these lists, UIF recently began circulating a link to a government website which names Members of Parliament following changes of government and FIs incorporate this information into their screening tools. It is unclear how extensively FIs are using this government website within their screening tools considering corruption is Timor-Leste's highest risk, and the banking sector is most exposed to it, yet very few STRs are reported in relation to PEPs. Given the disproportionate level of STR reporting in Timor-Leste, measures to monitor, detect and report suspicious activity are only moderately effective. Less sophisticated MTOs and other FIs rely on manual screening processes, which are partially effective.

Correspondent Banking

308. Foreign bank branches do not maintain correspondent banking relationships from Timor-Leste and instead leverage their parents' networks. The domestic bank maintains a small number of correspondent banking relationships and collects information from reputable sources. The bank has implemented due diligence procedures that consider the risks of the respondent bank, including understanding the nature of the correspondent's business, its license to operate, the quality of its management, ownership and effective control, AML/CFT policies, external oversight, and prudential supervision including its AML/CFT regime.

New technologies

309. Timor-Leste is yet to implement many technologies that are commonplace in other jurisdictions. For example, there is only one credit card payment provider with few merchant payment facilities, only one percent of bank account holders have an internet banking facility, and there are no smart ATMs networks enabling instantaneous clearance of cash deposits.⁵⁴

310. Banks, ODTIs and large MTOs were able to describe their processes to assess the ML/TF risk of new products, practices, and technologies prior to launching with the branches of foreign banks having the most sophisticated measures. For MTOs that remit to Indonesia and for CEBs, it is not clear to what extent new technologies are risk assessed but this may in part be due to the limited deployment of new technologies in their respective sectors. Despite their introduction marking a significant innovation in Timor-Leste's payment system, it was not evident that providers of e-wallets conducted an ML/TF risk assessment of these products prior to their introduction. Introduced as a measure to promote financial inclusion, e-wallets in Timor-Leste are relatively new, have very low payment and account balance limits, and are restricted to domestic transfers. Therefore, the deficiencies received only a minor weighting.

Wire transfers

311. Banks have effective wire transfers controls hard coded into their payments systems to ensure that necessary originator and beneficiary information is included when initiating, forwarding, or receiving a wire transfer. Similarly, large MTOs have effective controls to reject instructions with incomplete ordering or beneficiary information and will not pay out funds where the necessary information is not an identical match to a customer's identity documents. Smaller MTOs only facilitate outgoing transfers to Indonesia and appear to collect required transfer information but rely on manual controls. ODTIs, other FIs and DNFBPs do not conduct wire transfers.

Targeted financial sanctions

312. To comply with TFS obligations, foreign bank branches, the domestic bank, ODTIs and large MTOs all screen their customers and transactions using commercial screening tools. These lists are usually acquired from, and updated through, their parent companies or third-party providers. Other FIs' implementation of mitigating measures for TFS is less sophisticated. These entities did not demonstrate a strong understanding of TFS obligations and either utilised manual screening procedures or did not screen customers or transactions at all. For example, the lack of understanding relating to TFS obligations was demonstrated by one small FI which stated they would manually screen a payment if the name looked unusual.

313. DNFBPs do not apply mitigating measures for TFS for TF risks.

Reporting obligations and tipping-off

314. FIs have measures in their AML/CFT programs to prevent tipping-off and banks, ODTIs and one large MTO have reported suspicious transactions to UIF. Reporting entities may also submit unusual and high risk CTRs via e-RON but do not necessarily submit an STR for the corresponding cash

⁵⁴ A third card payment processing network provider entered the Timorese market just prior to the onsite face-to-face visit in March 2024.

transaction. Given the cash-based economy of Timor-Leste, some STRs may fail to be reported (see IO.6). Of particular concern, one large MTO stated that it had never reported an STR. BCTL fined MTOs on four occasions in 2020 for failure to report CTRs, which may be an indicator of broader weaknesses in reporting controls.

315. Banks, ODTIs and MTOs submit STRs in circumstances where the source of funds cannot be verified, when personal accounts are used for business transactions, when people use others' accounts or in instances of fraud. Notably, one bank reported 107 STRs out of 129 STRs from the banking sector in 2023. However, further analysis and cross-checking with the bank by UIF identified most STRs were of low utility. Similarly, only one MTO reported STRs in 2022 and 2023 and only one of the two ODTIs has reported STRs (see IO.3). Such an uneven and disproportionate distribution of STRs submitted suggests potential deficiencies in those FI's transaction monitoring programs, reporting controls, staff training and/or internal audit functions. Furthermore, relatively few STRs relate to PEPs or corruption (see table 6.4 in IO.6) which is not consistent with Timor-Leste's risk profile. No instances of tipping-off have been reported.

Table 5.1: Volume of STRs by Entity from 2021 to August 2023

Entity	2021	2022	2023 (August)
Bank 1	39	84	107
Bank 2	13	19	9
Bank 3	0	1	6
Bank 4	3	1	7
Bank 5	2	21	0
All banks	57	126	129
MTO 1	0	8	9
MTO 2	0	0	0
MTO 3	1	0	0
MTO 4	5	0	0
MTO 5	0	0	0
MTO 6	0	0	0
MTO 7	0	0	0
MTO 8	0	0	0
MTO 9	1	1	0
All MTOs	7	9	9
ODTI 1	16	37	26
ODTI 2	0	0	0
MTO Fintech 1	0	0	0
MTO Fintech 2	0	0	0

Insurance 1 ¹	3	0	0
Insurance 2 ¹	0	0	0
Insurance 3 ¹	N/A	N/A	0
All Other FIs	19	37	26

Source: UIF

¹ None of the insurance companies provide life insurance per the FATF Standards.

316. Other FIs understand their obligations to report suspicious transactions and prevent tipping-off but did not demonstrate sufficient understanding of ML/TF risks or an ability to effectively monitor for, identify and report suspicious transactions. These FIs offer very simple financial products with low transaction values, which somewhat mitigates the risks faced.

317. DNFBPs met during the onsite visit had no awareness of STR reporting obligations and tipping-off requirements.

Internal controls and legal/regulatory requirements impending implementation

318. There are no legal or regulatory requirements impeding the application of internal controls and procedures for FIs or DNFBPs and there are no financial groups operating in Timor-Leste.

319. Banks, ODTIs and large MTOs broadly apply effective internal AML/CFT controls and procedures. The annual compliance reports required by banks and ODTIs include a self-assessment of the effectiveness of their AML/CFT controls. Other FIs have less effective internal controls and procedures, with some having never undertaken an internal or independent audit of their AML/CFT programs.

320. While under local supervision by BCTL, foreign bank branches and large MTOs operating in Timor-Leste also follow their group policies and home supervisor requirements or the policies of the global networks of which they are agents. They are required to keep their AML/CFT policies in accordance with their parent companies' policies and are subject to the internal audits from their parent, which are relatively more intensive and comprehensive. Consequently, their internal AML/CFT controls and procedures are generally more robust.

321. One ODTI described its risk-based approach regarding the internal AML/CFT controls and procedures. Although it lacked an electronic system to automatically monitor all customers and transactions, it required regular reporting from its branches and used this information to plan compliance inspections. The compliance officer described prioritising the inspection of a branch based on repeated branch reports stating there were no suspicious transactions or high-risk customers. As a result, a compliance visit was held to verify the reporting and train staff.

322. Other FIs applied very limited internal controls with some stating they had never conducted an internal or independent audit of their AML/CFT program. However, these FIs present a lower ML/TF risk due to their limited product offerings, individual and small business customer base, and domestic market focus.

323. DNFBPs have no internal AML/CFT controls or procedures.

Overall conclusion on Immediate Outcome 4

324. Foreign bank branches operating in Timor-Leste have the most comprehensive understanding of ML/TF risks and AML/CFT obligations, followed by the domestic bank, ODTIs and large MTOs. The banking sector was most heavily weighted compared to the MTO and ODTI sectors. Other FIs demonstrated limited understanding of ML/TF risks and AML/CFT obligations. The effectiveness of implementation AML/CFT controls is difficult to assess given the limited supervisory activity however, the assessment team observed the four foreign bank branches implemented preventive measures to a standard required by their global AML/CFT programs. For example, additional CDD measures to verify corporate customers. Weaknesses in identity documents and the corporate registry may undermine CDD measures and deficiencies exist regarding STR reporting across all sectors. This is particularly evident for FIs that are not filing STRs while submitting unusual and high risk CTRs. DNFBPs received the lowest weighting and do not understand ML/TF risks or obligations and are not implementing preventive measures to mitigate risks.

325. **Timor-Leste has a moderate level of effectiveness for IO.4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

Financial Institutions

1. BCTL, as the licensing authority for most FIs, conducts fit and proper checks for key persons holding senior management functions however checks on shareholders and beneficial owners (BO) are limited by challenges related to 1) the absence of a legal requirement for FIs other than banks, MTOs, and E-wallet service providers and 2) the identification of BO (See R.26 and IO.5). Credit unions and multi-sectoral cooperatives are not subject to a licensing regime and other microfinance entities are not subject to either licensing or registration.
2. BCTL has continuously identified and removed unlicensed FIs by using information from other competent authorities, social media surveillance, the public and licensed FIs. For FIs primarily providing remittance services, BCTL issues warning letters and publishes unlicensed names on BCTL's website, however the list of the unlicensed entities is not updated in a timely manner.
3. As the AML/CFT supervisor for most FIs, BCTL's understanding of ML/TF risk is primarily based on the NRA. BCTL did not demonstrate how contemporaneous sources of information such as analysis of STRs and CTRs from UIF, feedback from the Compliance Officers' Forum, or information from LEAs is used to inform its understanding of risk or its regulatory and supervisory strategy.
4. Risk-based supervision is at the nascent stage with off-site and on-site monitoring and supervision requiring further integration and coordination. AML/CFT inspections are only conducted as a part of prudential examinations and, overall, there is insufficient AML/CFT supervision of the banking sector. During the period under review, few FIs other than MTOs were inspected and there were no joint examinations with foreign supervisors. The frequency, intensity, and scope of AML/CFT supervision is not triggered on a risk-sensitive basis and the microfinance sector is not subject to any AML/CFT supervision.
5. BCTL has issued administrative sanctions in the MTO sector including warning letters, license revocation, and fining of non-compliant entities. However, continued non-compliance by some MTOs suggests that the current sanctions regime is not proportionate or dissuasive. Further, BCTL has not applied sanctions to any financial institutions other than MTOs, due to the lack of supervision including on-site inspections.
6. BCTL has promoted understanding of AML/CFT obligations through conducting some outreach activities however BCTL has not provided any guidance to assist FIs' understanding of ML/TF risk and effective implementation of AML/CFT obligations.

DNFBPs

7. There are effective fit and proper controls preventing criminals and their associates from practicing as lawyers but there are no controls for other DNFBPs (there are no casinos, dealers in precious metals, dealers in precious stones or notaries operating in Timor-Leste).
8. There is no designated AML/CFT supervisor or self-regulatory body for DNFBPs despite the AML/CFT Law imposing some limited AML/CFT obligations on some DNFBPs.

VASPs

9. There are no VASPs operating in Timor-Leste. Timor-Leste has not implemented a framework for the regulation of VASPs, nor taken any measures to prohibit VA/VASP activities, or assessed the ML/TF risks posed by VA/VASPs

Recommended Actions

Financial Institutions

- A. Assess the ML/TF risks of the microfinance sector and based on the findings; consider exemptions from some or all FATF Recommendations, whether simplified measures can be applied, and implement licencing or registration and a supervision regime if/as required.
- B. Strengthen legal and regulatory measures to ensure fit and proper checks apply to FIs, include those holding significant or controlling interests or management functions, and enable supervisors to disqualify inappropriate persons. BCTL should continue its administrative interventions against unlicensed financial entities but update its list of these entities in a timely manner.
- C. Utilise all available information sources, including from other competent authorities and foreign counterparts to better understand ML/TF risks across the financial sector. Based on this understanding, implement a process to assess the ML/TF risks of sectors and individual FIs, taking into consideration inherent risks, control measures that each FI employs, and residual risks, to inform BCTL's AML/CFT regulation and supervision strategy.
- D. Prepare a risk-based supervision strategy to focus supervisory resources and activities on high-risk sectors. BCTL should inspect all FIs that have not been inspected as soon as possible and prioritise the high-risk banking sector.
- E. Issue guidance and conduct outreach to promote a clear understanding of AML/CFT obligations focusing on areas of weakness identified by BCTL's supervision, and to raise awareness of new, emerging or changing ML/TF risks.
- F. Apply effective, proportionate, and dissuasive sanctions against non-compliant FIs in line with the seriousness of the breach and the FI's risk profile, to ensure that breaches are remediated in a timely manner through follow-up off-site or on-site supervision if/as required.

DNFBPs

- G. Designate an AML/CFT supervisor(s), prepare and implement fit and proper market entry procedures to ensure AML/CFT compliance of all DNFBPs sectors.
- H. Conduct sectoral and individual DNFBP risk assessments, and develop and implement a risk-based AML/CFT supervisory strategy.
- I. Ensure that DNFBPs supervisor(s) apply effective, proportionate, and dissuasive sanctions against non-compliant DNFBPs in line with Timor-Leste's ML/TF risk profile.
- J. Issue guidance and conduct outreach to DNFBPs to promote a clear understanding of AML/CFT obligations and ML/TF risks.

VASPs

- K. Assess and understand the ML/TF risks associated with VAs and VASPs, and introduce a licencing and risk-based supervision framework for VA/VASPs.

326. The relevant Immediate Outcome considered and assessed in this chapter is IO.3⁵⁵. The recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28 & R.34 & 35 and elements of R.1 and 40.

327. The weighting given to the different financial and DNFBP sectors, as well as to VASPs regarding supervision, is the same as the one applied for preventive measures (see IO.4 and further details in Chapter 1).

Immediate Outcome 3 (Supervision)*Licensing, registration and controls preventing criminals and associates from entering the market**Financial Institutions*

328. BCTL is the licensing authority for banks, ODTIs, insurance companies, MTOs, e-Wallet Service Providers, CEBs, and finance companies.⁵⁶ BCTL conducts fit and proper checks for administrators and equivalents by checking criminal records and gathering information from LEAs and open sources, in addition to confirming their experience, reputation, and competency. While the definition of administrator varies from each sector's law or BCTL Instructions, overall BCTL's application of fit and proper controls is considered to be effective.

329. As for fit and proper tests for beneficial owners, while only shareholders of banks, MTOs and fintech companies are legally required to check their fitness and properness (see deficiencies in c.26.3), BCTL, according to its officials, also conducts checks of beneficial owners in other financial sectors.

⁵⁵ When assessing effectiveness under Immediate Outcome 3, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

⁵⁶ There were no finance companies operating in Timor-Leste at the time of the on-site.

However, BCTL relies upon information from SERVE.I.P. to identify and verify BOs of domestic FIs. The data quality issues with BO information held by SERVE I.P. means that the information obtained may not be adequate, accurate and/or current (see IO.5). Also, there is no legal requirement for FIs other than banks, MTOs and fintech companies to prevent criminals or their associates from holding or being a BO of a significant or controlling interest (See R26). For identification and verification of BOs of foreign owned FIs, BCTL relies upon documentation verified by Timorese embassies abroad which may not identify the ultimate BO. BCTL's four MOUs with foreign counterparts are limited to prudential supervision and technical assistance (see IO.2 and c.40.12) and do not extend to BO checks of foreign entities.

6

330. In the banking sector which holds 97% of the total assets, the deficiencies in identifying BO are largely mitigated by the banks' ownership structures. The parent companies of the four foreign bank branches are publicly listed or state-owned entities, and the Timorese government owns the domestic bank.

331. For the MTO sector, BCTL announced in January 2020 that no more licenses would be issued as the number of MTOs was sufficient for the jurisdiction's remittance needs, which also mitigates the shortcomings. For other FIs, there are no similar mitigating measures, however these sectors are very small, offer basic financial products, primarily to domestic customers, and were therefore given lesser weighting.

332. Microfinance institutions, credit unions multi-sectoral cooperatives, pawnshops and other stores that offer small loans (microcredit companies) support Timor-Leste's financial inclusion initiatives by providing access to financial services to underserved communities. Credit unions, which consist of more than one cooperative, and multi-sectoral cooperatives are supervised by the Secretary of State for Cooperatives but are not licensed or supervised for AML/CFT obligations. Credit unions and multi-sectoral cooperatives incorporated before June 2023 were registered with the National Directorate of Registries and Notarial Services, Ministry of Justice, but entities incorporated after that date are required to register as legal entities with SERVE.I.P. As noted in c.26.3, the Secretary of State for Cooperatives' licensing criteria have fit and proper tests, however Timor-Leste did not provide information on the licensing process for these entities. Consequently, the assessment team was not able to evaluate the effectiveness of the market entry requirements for this sector.

333. Pawn shops and microcredit companies have no licensing or registration regime, or prudential or AML/CFT supervisor. However, as part of SERVE I.P.'s business registration process, BCTL conducts a fit and proper check and issues a 'non-objection letter' to the applicants that they then present to SERVE I.P. as part of their licensing requirements. The letter is issued following BCTL's assessment of the entity that includes checking the applicant's criminal history. BCTL advised these checks include director's beneficial owners however, without a documented procedure, it is unclear how thorough the criminal history checks are.

334. In the past, BCTL has rejected several applications during the licensing process, however there were no instances where applicants, potential directors or beneficial owners were rejected based on criminality or association with criminals. The most common reasons for rejection included failure to submit required documents or not meeting capital requirements. Timorese authorities described one case where the application by a foreign bank was rejected following enquiries to the foreign bank's home regulator (see case study 3.1).

Table 6.1 Licence Applications by Financial Institutions sector from 2018 to August 2023

Financial Institution	Licences Granted	Licences Rejected	Total No. of Applications
Banks	5	15	20
Insurance companies	4	4	8
ODTIs	2	0	2
MTOs	10	6	16
CEBs	4	0	4
Finance companies	N/A	N/A	N/A
Microcredit companies (stores offering credit)	6	4	10 ⁵⁷
Pawnshops	16	2	18
e-wallet service providers	2	1	3
Total	51	32	81

Note: There are only three insurance companies in operation following the revocation of a licence in 2018 and none offer life insurance per the FATF Standards. One e-wallet provider also holds an MTO licence hence 10 licences were granted but are only nine MTOs are in operation. BCTL has not received any application to operate a finance company under the Instruction adopted 15 September 2023.

Case Study 6.1: Denial of Banking Application

In 2019, a consortium of three businesses, two from Jurisdiction A and one from Jurisdiction B, proposed opening a commercial bank branch in Timor-Leste. The consortium jointly operated a commercial bank in Jurisdiction C. BCTL's Licensing Division conducted a cross-check with Jurisdiction C's Central Bank, where the applicant maintained an existing banking operation.

Information provided by Jurisdiction C's Central Bank described the applicant as 'a problematic bank' and based on this information, BCTL denied the consortium's application to operate a bank in Timor-Leste.

335. BCTL detects unlicensed FIs, primarily unlicensed MTOs, using information from other competent authorities (e.g. UIF and SERVE I.P.), social media surveillance, the public, and licensed FIs. BCTL has taken reasonable measures to remove unlicensed FIs from the market through the issuance

⁵⁷ One additional microcredit licence was granted in October 2023

of warning letters and if necessary, publishing the names and addresses of these entities on its website, and by conducting follow up visits to confirm unlicensed operations have ceased. BCTL advised that its monitoring showed all known unlicensed entities (22) ceased operation after administrative actions including issuing warning letters and therefore it has not had to apply further sanctions (see table 6.2). However, the website listing of unlicensed FIs has not been updated since January 2021 when 22 entities were subject to these administrative actions⁵⁸. BCTL has also made efforts to protect consumers by identifying and publishing the names of 31 entities committing online scams in July 2022. Some private sector entities stated that unlicensed financial activities such as exchanging currencies still occur in Timor-Leste to a limited extent. However, the assessment team had difficulty in establishing the veracity of these reports, the degree to which this represented an ongoing issue for authorities to manage, and the ML/TF risk it may represent.

Table 6.2 Warning letters issued by BCTL to unlicensed FIs from 2018 to August 2023

Year	Total number of warning letters issued
2018	1
2019	2
2020	2
2021	8
2022	2
2023 (August)	1
Total	16

Source: BCTL

VASPs

336. There are no VASPs operating in Timor-Leste. Timor-Leste does not have a framework to regulate VASPs, nor has it issued any prohibitions relating to VA/VASP activity.

DNFBPs

337. Despite some DNFBPs having some AML/CFT obligations under the AML/CFT Law (See R.22 & R.23), there are no AML/CFT supervisors for DNFBPs. DNFBPs in Timor-Leste comprise real estate agents, lawyers, and accountants. While Timor-Leste is not an offshore financial centre, lawyers and accountants can offer services that meet the FATF definition of company service providers such as managing funds, buying and selling real estate, and creation of legal entities. However, in Timor-Leste, lawyers and accountants do not conduct the financial settlement of real estate transactions.

338. There is no bar association in Timor-Leste and until a self-regulatory body is established, the Legal Profession Management and Discipline Council within the Ministry of Justice is responsible for

⁵⁸ Timor-Leste has since updated the website list however this occurred in January 2024 after the onsite visit.

reviewing applications and renewals to practice as a lawyer in Timor-Leste (see c.28.4). Any person convicted of a crime is ineligible to practice as a lawyer and the Council's vetting process includes reviewing criminal records. The Council described rejecting applications where applicants or those seeking renewals failed to provide records of criminal background checks.

339. The other DNFBPs, namely accountants, real estate agents and company service providers are not regulated or supervised in Timor-Leste for AML/CFT purposes. While they must register with SERVE.I.P., no market entry checks are conducted. There are no private notaries (only public notaries) or DPMS operating in Timor-Leste (see R.22).

340. There are two entities that provide gaming services including slot machines and electronic table games, but these are not legally categorised as casinos in Timor-Leste and not subject to AML/CFT obligations or supervision. Nevertheless, the Ministry of Tourism conducts fit and proper checks of administrators and equivalents, and shareholders of gaming operators. The Ministry of Tourism also reviews criminal records during the licensing process though weaknesses in BO information held in SERVE.I.P. may reduce the effectiveness of any checks performed. Decree Law No.6/2016 requires gaming entities to be incorporated in Timor-Leste and 'reside in Timor-Leste' (sic). In the last five years, the Ministry of Tourism rejected three out of 14 applications, however no information was provided to the assessment team on the reasons for the rejections.

Supervisors' understanding and identification of ML/TF risks

Financial Institutions

341. BCTL is the supervisor for most FIs in Timor-Leste and is a member of the CNCBC. BCTL participated in the NRA process and its understanding of ML/TF risks largely reflects the NRA's findings and its limitations. BCTL's AML/CFT supervisors do not always participate in every quarterly Compliance Officers' Forum organised by the UIF. In such cases, UIF shares the results of discussions relating to AML/CFT regulation and supervision with the AML/CFT Office in BCTL. Based on these discussions BCTL takes ad-hoc actions, if necessary. However, BCTL did not demonstrate to what extent it utilises information from these meetings to better understand the financial sector's risk and context, or how this information informs its AML/CFT regulation and supervision strategy.

342. BCTL's understanding and identification of ML/TF risks is supplemented, to some extent, by the information reported by banks and ODTIs in their annual compliance reports, and information gathered during its supervision activities. However, BCTL's limited supervision activities have primarily focused on compliance with AML/CFT obligations and there is no evidence that BCTL proactively engages with FIs for the purpose of gathering information on changing and/or emerging ML/TF risks. In addition, BCTL's supervision division does not conduct independent analysis on inherent risks of sectors or individual FIs and instead relies on banks' and ODTIs' self-assessments of their internal control measures. For sectors other than banks and ODTIs, BCTL does not have established mechanisms to detect and address ML/TF risks and undertakes very limited AML/CFT supervision of these sectors to develop this understanding.

343. BCTL does not utilise information from the UIF or other competent authorities such as LEAs to identify and understand risks in Timor-Leste or to inform its AML/CFT supervision strategy. The UIF is required by law (see c.29.4) to produce an annual report which includes case studies and analysis of STRs and CTRs, including by transaction value, customer type or geography. This information would be a good resource to support BCTL's monitoring of ML/TF risks, for identifying new and emerging ML/TF

risks and for identifying potential non-compliance with AML/CFT obligations, thereby enabling the optimal allocation of scarce supervisory resources. However, the most recent report is for 2020⁵⁹ and BCTL has not utilised its supervisory powers to identify, for instance, the root cause of the uneven distribution of STR reporting by reporting entities. Similarly, BCTL receives regular reports from CEBs on foreign exchange transactions, but these reports are not being used to inform understanding of ML/TF risk of the sector or individual CEBs or AML/CFT supervision.

344. BCTL's understanding of TF risk reflects the NRA's finding from 2015 and supervisors are not monitoring for changes in TF risk or new or emerging TF risks.

345. Overall, BCTL does not utilise, to the fullest extent, the existing channels or information sources to identify and maintain an understanding of ML/TF risks in FIs, within sectors or in individual FIs.

VASPs and DNFBPs

346. Timor-Leste has not assessed the risk posed by VA/VASPs, nor is there a legal or regulatory framework for VA/VASPs.

347. There is no designated AML/CFT supervisor for DNFBPs in Timor-Leste.

Risk-based supervision of compliance with AML/CFT requirements

Financial Institutions

348. AML/CFT supervision of FIs is conducted by two teams within BCTL; the Inspection Team in the Division of Banking Supervision with eight staff and a manager, who conduct onsite AML/CFT supervision as part of prudential inspections, and the AML/CFT Office, who conducts off-site AML/CFT supervision. The number of supervisors is considered sufficient given the size of the financial sector. Established in 2017, the AML/CFT Office comprises three staff who review banks' and ODTIs' annual compliance reports and provide them with feedback. According to BCTL, the on-site and off-site supervision processes are connected, and information gained from on-site inspection and off-site monitoring is also shared between the teams. However, as indicated in Table 6.3, due to the lack of on-site supervision, most particularly for the highest risk banking sector, it is not evident how information shared between the teams informs the combination of on-site and off-site supervision. To inform its supervision strategy, BCTL can exchange information on the AML/CFT assessment findings of home supervisors of foreign bank branches and agents of foreign owned MTOs operating in Timor-Leste however, it has not done so in recent years.

349. In addition, neither the Inspection Team nor AML/CFT Office utilise analysis of STR and CTR reporting, or law enforcement feedback to inform supervisory activity. Further, AML/CFT on-site supervision is largely performed as part of prudential supervision. The two elements of supervision do not combine to give an overall risk rating of entities or sectors.

350. Nevertheless, with the support of the World Bank, Timor-Leste developed a supervision manual for risk-based onsite assessments in 2017. The manual describes nineteen elements that can inform a risk-based approach to supervision (e.g. internal control reports, self-assessment reports, auditor reports, business size, information from law enforcement authorities, new reports etc.).

⁵⁹ The 2021 and 2022 UIF Annual Reports were published in February 2024 after the onsite visit.

However, this is not applied in practice. Instead, BCTL's selection of entities for onsite visits relies on two elements: previous assessment findings and the banks' and ODTIs' self-assessed annual AML/CFT compliance reports.

351. The NRA rated the banking sector, which holds more than 97 percent of assets (see Chapter 1), as the highest sector for ML/TF risk and identified it as being the most likely channel through which proceeds of corruption, also rated a high risk, would be moved. Nevertheless, over the past five years BCTL has prioritised the MTO sector for its supervision activities. BCTL did inspect all five banks in 2017 following the issuance of BCTL Instruction No.5/2017 however, as Table 6.3 below illustrates, the banking sector has been subject to little AML/CFT on-site supervision in the past five years (BCTL inspected Bank E, a newly opened foreign bank branch). Even accounting for disruption to supervision activities due to the Covid-19 pandemic, supervision activities are not aligned with Timor-Leste's ML/TF risks and risk-based supervision is not being conducted by BCTL.

Table 6.3: BCTL On-site Supervision Inspections of Financial Institutions from 2018 to August 2023

Financial Institution	Year of On-site Supervision Inspection					
	2018	2019	2020	2021	2022	Aug 2023
Bank A	-	-	-	-	-	-
Bank B	-	-	-	-	-	-
Bank C	-	-	-	-	-	-
Bank D	-	-	-	-	-	-
Bank E	-	-	-	✓	-	-
MTO A	✓	-	✓	-	-	-
MTO B	✓	-	✓	-	-	-
MTO C	✓	-	✓	-	-	-
MTO D	✓	-	✓	-	-	-
MTO E	✓	-	✓	-	-	-
MTO F	✓	-	✓	-	-	-
MTO G	✓	-	✓	-	-	-
MTO H	✓	-	✓	-	-	-
MTO I	-	-	-	-	-	-
ODTI A	-	✓	-	-	-	-
ODTI B	-	-	-	-	✓	-
CEB A	-	-	-	-	-	-
CEB B	-	-	-	-	-	-

CEB C	-	-	-	-	-	-
CEB D	-	-	-	-	-	-
Finance Company ¹	-	-	-	-	-	-
Fintech A	N/A	-	-	-	-	-
Fintech B	N/A	-	-	-	-	-
Insurance A ²	N/A	N/A	N/A	N/A	N/A	-
Insurance B ²	-	-	✓	-	-	✓
Insurance C ²	-	-	-	✓	-	-
Total Number of Inspections	8	1	9	2	1	1

Source: BCTL

¹ The finance company exited the market in February 2023.

² None of the insurance companies provide life insurance per the FATF Standards.

352. As indicated in table 6.3 above, BCTL has focused its AML/CFT supervisory resources on the MTO sector in response to the NRA's assessment of its high vulnerability and weaknesses in the implementation of AML/CFT measures. Almost all MTOs were inspected in 2018 and 2020. The on-site examinations in 2020 were to follow-up on the 2018 on-site findings and inspected remediation activities relating to CTR reporting, PEP identification and monitoring, and transaction monitoring. As a result of these inspections, BCTL issued one warning letter and eight fines. At the time of the onsite visit, BCTL was continuing its follow-up processes and conducting outreach to the sector (see core issue 3.6). However, it is unclear how effective these follow-up processes are as some FIs still failed to comply with their AML/CFT obligations (See core issue 3.4 and 3.5).

353. BCTL did not demonstrate that international information exchange with foreign supervisors is used to inform its regulatory and supervisory activities. No joint on-site AML/CFT examinations with home supervisors of foreign banks present in Timor-Leste were conducted during the period under review. However, BCTL does have the capability to conduct joint AML/CFT inspections having conducted a joint prudential inspection with a foreign prudential supervisor prior to the period under review.

354. BCTL's AML/CFT supervision of other sectors is quite limited. Although these sectors' risk and materiality were assessed as low to moderate in the NRA, it is not apparent that risk-based supervision is occurring. For example, there have been no inspections of CEBs, and the fintech companies that provide e-wallet services have not been inspected since inspections undertaken as part of their licensing process. This is despite the rapid uptake and growth of this product and the sector's relatively low level of understanding of AML/CFT obligations (see IO.4).

355. Micro finance institutions such as credit unions, multi-sectoral cooperatives, pawnshops, and microcredit companies are not subject to a licensing or registration regime nor AML/CFT supervision. Lesser weight was given to these sectors due to the basic services they offer, low transaction values, and focus on domestic individual and microbusiness customers.

VASPs and DNFBPs

356. Timor-Leste has not established an AML/CFT supervision regime for VASPs and DNFBPs.

*Remedial actions and effective, proportionate, and dissuasive sanctions**Financial Institutions*

357. BCTL can impose a wide range of administrative sanctions on non-compliant FIs that it supervises under the AML/CFT Law and various Instructions that it has issued. This includes financial sanctions with ancillary sanctions such as written warnings, orders to comply with specific instructions, orders to submit recurrent reports on the measures being applied, substituting, or limiting the power of managers and/or equivalents for a certain period, and suspending, limiting or withdrawing a license.

358. BCTL has applied several administrative sanctions, all imposed on MTOs, which align with the NRA's assessment of the sector's risk. BCTL revoked a MTO license in 2018, and in 2020 issued five USD 5,000 fines and one warning letter, in response to breaches of CDD including creation of domestic PEPs list and CTR requirements. Deficiencies were identified in some MTOs' PEPs lists at both 2018 and 2020 on-site examinations. Following its 2020 inspections, in 2021 BCTL again sanctioned three MTOs for CDD, CTR, and record-keeping breaches. For two relatively small MTOs that offered only outgoing remittance to Indonesia, BCTL imposed fines of USD 10,000 and USD 25,000 for breaches of CDD and CTR obligations respectively. After appeals from both MTOs that the quantum of fines would significantly affect the continuity of their businesses, BCTL decided to reduce the fines to USD 5,000 and USD 10,000 respectively.⁶⁰ The other MTO, a large business, was fined USD 10,000 for failing to remediate CTR reporting and record-keeping breaches identified during inspections in 2018 (where it was fined USD 5,000). Therefore, it is unclear whether the sanctions for the small MTOs were proportionate and dissuasive following the reduction of the fine. For the large MTO, a USD 10,000 fine is not proportionate or dissuasive.

359. As described, all sanctions applied by BCTL are limited to license revocation, warning letters and fines. BCTL has not applied its full range of sanctions, for instance, issuing orders to comply with specific instructions, issuing orders to submit recurrent reports, disallowing the exercise of professional duties, or limiting the powers of managers, directors or controlling owners. Other than for the MTO sector where it conducted follow up inspections, BCTL's follow up processes for non-compliant FIs relies on off-site supervision rather than onsite inspections to ensure remediation programs are completed, AML/CFT controls are effective, and management is exercising appropriate oversight of the AML/CFT program.

360. Outside the MTO sector, BCTL has not applied remedial actions or sanctions to other FIs or individuals primarily due to the lack of supervision including on-site inspections.

VASPs and DNFBPs

361. Although some DNFBPs are subject to some AML/CFT obligations pursuant to the AML/CFT Law (see R.22 & 23), there is no designated AML/CFT supervisor or regulator, and no remedial actions or sanctions have been applied to date.

⁶⁰ At the time of the decision to reduce the fines, the Covid-19 pandemic was in full flight, significantly affecting national economies and business alike.

362. There are no VASPs operating in Timor-Leste and no AML/CFT supervisor or regulator.

Impact of supervisory actions on compliance

Financial Institutions

363. The AML/CFT Office provides feedback and recommendations to banks and ODTIs based on the annual compliance reports received from them. BCTL has observed some improvements in AML/CFT controls, albeit self-reported (e.g., updating sanction screening system from the manual process, adopting internal and independent audit process), in a majority of banks and ODTIs. However, these reports or the feedback provided do not trigger further supervisory plans and activities. As a result of the failure to inspect four out of five banks in the last six years, the absence of information sharing with home supervisors, and sole reliance on self-assessed annual reports, the degree to which banks have effectively implemented their obligations in Timor-Leste is unknown. The limited amount of supervision activity conducted by BCTL limits the impact of supervisory actions on FIs' compliance with AML/CFT obligations. The continuation of disproportionate and inconsistent STR reporting by FIs, first identified in the NRA, suggests BCTL has little influence on banks' and other FIs' compliance.

364. Supervisory interventions against MTOs, including administrative sanctions, have improved some MTOs' compliance. For example, some MTOs have further developed their internal policies and record-keeping procedures. However, BCTL's inspections in 2020 identified some MTOs still failing to comply with AML/CFT obligations such as CDD, reporting CTR and record-keeping obligation, even though these deficiencies were identified during the 2018 on-site examinations. This is also demonstrated through STR reporting figures which show one large MTO is yet to report an STR.

VASPs and DNFBPs

365. Timor-Leste has not established an AML/CFT supervision regime for VASPs and DNFBPs, therefore, there are no impacts from supervisory actions on these sectors.

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

Financial Institutions

366. In the last five years, BCTL has taken some measures to promote understanding of ML/TF risks in Timor-Leste. However, BCTL has not published any guidance to assist FIs' understanding of ML/TF risks or AML/CFT obligations. As a result, several of the FIs the assessment team met with during the onsite visit demonstrated a low level of understanding of their ML/TF risks and AML/CFT obligations.

367. BCTL's AML/CFT office has undertaken limited outreach initiatives to promote FIs' understanding of AML/CFT obligations. The Office delivered a workshop to raise awareness of non-compliance and applicable sanctions, training sessions to an individual MTO and e-Wallet Service providers, in parallel with outreach activities initiated by UIF (See table 6.4).

Table 6.4: Outreach Activities Conducted by BCTL AML/CFT Office from 2018 to August 2023

Year	Outreach Activities
2019	The supervision department collaborated with payment system oversight department and reviewed the compliance officer of Fintech companies. BCTL hosted a workshop for all FIs on the introduction of the new 'e-RON' online reporting platform.
2020	The supervision department collaborated to provide refresher training on AML/CFT to compliance officers and staff in Pacific Holdings.
2021	The supervision department provided virtual training to compliance officers of Fintech companies on basic AML/CFT, CDD and record keeping during the COVID-19 pandemic.

368. An example of the lack of a clear understanding of AML/CFT obligations can be seen in STR reporting. The number and inconsistent distribution of STRs reported by banks (averaging two per week), does not appear to be in line with their risk profile. Similarly, the number and inconsistent distribution of STRs submitted by MTOs does not appear to be in line with the number of transactions or their risk profile.⁶¹ Furthermore, there are some FIs that have submitted no or few STRs. This indicates that some FIs have an inconsistent understanding of their ML/TF risk or AML/CFT obligations, or have ineffective systems and controls.

369. While not an initiative delivered by the supervisor, the Compliance Officers' Forum, convened by the UIF, provides a useful forum for sharing information with banks and ODTIs compliance officers on AML/CFT obligations, STRs and CTRs, and ML/TF risks. Representatives from the Public Prosecutor, SERVE I.P. and Anti-Corruption Commission have also attended these meetings.

VASPs and DNFBPs

370. There is no promotion of understanding of AML/CFT obligations and ML/TF risks.

Overall conclusion on Immediate Outcome 3

371. BCTL is the AML/CFT supervisor for most FIs in Timor-Leste. Measures are in place to prevent criminals and associates from holding or being the beneficial owner of a significant or controlling interest in an FI, however measures may not identify the ultimate beneficial owner in all instances. BCTL's understanding of risk is primarily informed by the NRA and there is a limited understanding of new and emerging risks in the financial sector. BCTL has a manual for risk-based on-site supervision, but it is not utilised in practice and risk-based supervision is at a very early stage. Supervision of the banking sector is not commensurate with its ML/TF risk. BCTL has applied some sanctions to MTOs, which partly aligns with risks, but they were not proportionate or dissuasive. There were no sanctions applied to other sectors. As a result of the lack of supervisory activities and remedial actions,

⁶¹ Figures provided by BCTL for 2022 show MTOs conducted 116,466 transactions where the transaction value was above USD 501. The total value sent and received for these transactions was USD 226.2m.

supervisors' actions have a limited effect on FIs' compliance. BCTL has not issued any guidance but has taken limited steps to promote understanding of AML/CFT obligations with a small number of FIs.

372. There is no licencing or registration regime or AML/CFT supervision of microfinance institutions or DNFBPs in Timor-Leste. However, ML/TF risks are assessed as low to medium for these sectors, these entities are very small relative to the banking sector, and therefore they received lesser weighting. Authorities should consider whether exemptions or simplified measures are applicable in these sectors. There are no VASPs operating in Timor-Leste.

373. Given the most significant weight and materiality of the Timorese banking sector followed by the MTO sector, the effectiveness of supervision in Timor-Leste requires fundamental improvements.

374. **Timor-Leste has a low level of effectiveness for IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

1. Information on the creation and types of legal persons in Timor-Leste is publicly available in the law and via SERVE I.P.'s website.
2. Concerning 'legal arrangements' for AML/CFT purposes, there is no legal framework specifically applicable to foreign trusts and other similar legal arrangements and therefore no information publicly available.
3. The NRA includes limited references to some vulnerabilities and risks related to commercial companies, however no ML/TF risk assessment of legal persons has been conducted to date.
4. Basic information of legal persons is publicly available but the existence of shortcomings in the timeliness of this basic information is an impediment to competent authorities' and reporting entities' access to up-to-date information.
5. Timor-Leste has strengthened its legal regime to prevent the misuse of legal persons including rules to obtain basic and BO information of commercial companies and prohibiting bearer shares.
6. The legal framework for access to BO information is limited to commercial legal persons and does extend to non-commercial legal persons (such as associations and foundations) or foreign trusts that could be operating in Timor-Leste. The information available may not accurately identify the ultimate BO, in particular for complex legal structures.
7. There is also a low level of understanding of the concept of legal arrangements (for AML/CFT purposes) and of beneficial ownership definition and procedural requirements.
8. There are a range of sanctions for non-compliance, however they are ineffective as competent authorities do not apply sanctions in cases of failure to comply with registration obligations and monetary penalties are insufficient to be dissuasive.
9. For associations and foundations, the MoJ stated it lacked legal competence to apply sanctions to entities who do not comply with the legal requirements for registration.

Recommended Actions

Timor-Leste should:

- A. Ensure that adequate, accurate and up-to-date information on all types of legal persons is available, in particular, to the public.

- B. Conduct and identify, assess and understand the vulnerabilities, and the extent to which legal persons created in Timor-Leste can be, or are being misused for ML/TF based on statistics, examples and typologies.
- C. Review existing measures applicable to legal persons in light of the findings and conclusions of the risk assessment conducted.
- D. Conduct outreach and issue guidance to ensure that the concept of legal arrangements (for AML/CFT purposes) and for beneficial ownership is fully understood by all parties involved in ML/TF prevention, especially for reporting entities and the competent authorities.
- E. Establish legal requirements to obtain the basic and beneficial owner information of non-commercial legal persons and foreign trusts or other similar legal arrangements (for AML/CFT purposes), that could be operating in Timor-Leste.
- F. Implement measures to strengthen the accuracy of information in public registries, including verification and timeliness of updates, and apply dissuasive and proportionate sanctions where applicable.

375. The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25, and elements of R.1, 10, 37 and 40.⁶²

Immediate Outcome 5 (Legal Persons and Arrangements)

Public availability of information on the creation and types of legal persons and arrangements

376. Information on the basic features, creation and types of legal persons is publicly available in the legislation published in the official gazette, the '*Jornal da República de Timor-Leste*'⁶³, which is also available on the MoJ's website (see also R. 24).

377. In the case of commercial legal persons⁶⁴, such as limited liability companies and joint stock companies, information and legislation on their basic features, creation and registration is publicly available on the official website of SERVE I.P. without cost. The SERVE I.P. website does not specify the information required, procedures concerning beneficial ownership requirements, or for making changes to basic legal information after incorporation (e.g. documentation and specific information required).

378. Information on creating and types of non-business-oriented non-commercial legal persons, such as, cooperatives, associations, and foundations, is set out primarily in the Civil Code and Decree Law No.16/2004 on Cooperatives, which are publicly available but unlike commercial legal persons,

⁶² The availability of accurate and up-to-date basic and BO information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

⁶³ All the legislation becomes binding only when it is published in the official gazette, the '*Jornal da República de Timor-Leste*' (vide Article 4 of the Civil Code).

⁶⁴ With the entry into force of Decree Law No.37/2023, Article 14(3) of Decree-Law No. 16/2004 (as amended by Decree Law No.76/2022) was repealed and cooperatives are now subject to register at the Business Registration Authority – SERVE I.P..

there is no website similar to SERVE I.P.'s where basic information, such as applicable legislation and prescribed forms (Art. 20.1, Decree Law No.16/2017), is available for any person to access.

379. Timor-Leste's legal framework does not provide a basis to form express trusts and did not establish specific legal requirements (in line with Article 9/3 of the AML/CFT Law) for foreign trusts or other similar legal arrangements (for AML/CFT purposes) that could be operating in the jurisdiction to obtain their basic and beneficial owner information. As there is no separate legal framework applicable to foreign trusts and other similar legal arrangements (for AML/CFT purposes), there is no information publicly available.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

380. The 2015 NRA identifies vulnerabilities and risks arising from incomplete BO information and registration information of commercial companies held in the company registry and assesses the ML risk as having a probable likelihood and medium vulnerability. However, the NRA did not assess the vulnerabilities or ML/TF risk of all legal persons created in Timor-Leste.

381. During the on-site visit, the majority of competent authorities did not demonstrate a strong understanding of the ML/TF risks of legal persons. Nevertheless, some competent authorities, like SERVE I.P. identified some ML risks posed by joint stock companies and cited an example of an ML case involving an unusual transaction of a newly established company. Following analysis and investigation by the UIF, PGO and CAC, the case is now before the court.

Mitigating measures to prevent the misuse of legal persons and arrangements

382. To prevent the misuse of legal persons, Timor-Leste strengthened its legal regime through the introduction of new laws such as the New Companies Law-10/2017, the Business Registration- Decree-Law-16/2017 and the Business Registration and Verification Services, P.I. - Decree-Law-7/2017. These laws include requirements and procedures to prevent, in particular, the misuse of commercial legal persons for ML/TF.

383. The current legal framework provides for legal rules to obtain basic and BO information, but BO is restricted to commercial legal persons (Arts. 293 to 299 of the New Companies Law). Moreover, these legal requirements (e.g. Art. 293 of the New Companies Law) are, in practice, insufficient to ensure the identification of the individual who exercises the ultimate control over the legal person, particularly in relation to more complex corporate structures involving foreign ownership and/or layers of ownership. The AML/CFT Law also enables UIF to collect and share BO information collected by financial institutions with other competent authorities.

384. Timor-Leste has also taken steps to mitigate risks by prohibiting bearer shares. The mechanism set out in Article 4 of Law No.10/2017 has resulted in bearer shares being prohibited since 2018. A small gap remains as there is no prohibition on share warrants held in bearer form.

385. There are no controls to ensure the transparency of foreign trusts and other similar legal arrangements (for AML/CFT purposes) that could operate in Timor-Leste. Nevertheless, as per the inquiry carried out by the BCTL, banks stated that they did not open or maintain any trust accounts for an individual or a group operating in Timor-Leste and/or overseas.

386. Business registration procedures add to the transparency of legal persons. To operate, all entities subject to registration must be registered by the respective competent registrars in Timor-Leste. The involvement of registrars and notaries in the incorporation process and in the verification of updating information, particularly in what concerns (i) the company's name (ii) the name and identity of the equity holders, directors and legal representatives of the company (iii) the address of the registered office (iv) the equity capital and (v) the type of company, is a mitigating measure which may prevent or limit the misuse of legal persons. All registrars (e.g. SERVE I.P.) and notaries (MoJ) are government employees. With respect to non-commercial legal persons such as associations and foundations, there is no legal requirement for these persons to disclose beneficial owner information, which is a notable deficiency. Timor-Leste also stated that if registrars or notaries find something unusual or suspicious, they will inform the competent authorities such as PCIC or UIF. In this regard, for cooperation and collaboration purposes, SERVE I.P. maintain MOUs with the UIF and MoJ, though the MOUs focus on the UIF's access to information held by SERVE I.P. and MoJ.

387. There are indicators that raise questions over the accuracy of information held by SERVE I.P. and weaken measures to prevent the misuse of legal persons. Legal persons are required to update their basic and BO information to SERVE I.P. within 30 days however SERVE I.P. has never applied sanctions to any person or legal person for failure to update these details. Further, information available in the registers published on SERVE I.P.'s website is not regularly updated. For example, at the time of the F2F (March 2024), the registers had not been updated since September 2023. FIs described instances where due diligence checks identified data quality issues in SERVE I.P.'s records.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Basic information

388. Basic information on legal persons (both commercial and non-commercial⁶⁵) filed with MoJ and SERVE I.P. is available publicly⁶⁶, including to competent authorities. This basic information provided by applicants is validated to some extent by notaries (e.g. for associations, foundations and cooperatives and companies)⁶⁷ and registrars like SERVE I.P. (for commercial companies). Applications are rejected where documents required by law are incomplete or missing, or when supporting documents do not substantiate information in the application.⁶⁸

389. Updates to certain basic information (e.g. the appointment and termination of duties of directors, for any reason other than having reached the end of their term, the change of address of the registered office and the transfer of quotas) are required to be registered with SERVE I.P. within 30 days of changes taking place. The public can also access SERVE's I.P. basic company information on its website but the information is incomplete and infrequently updated. SERVE I.P. also mentioned that non-compliance with registration requirements, does not result in fines or other sanctions. In the end, this could mean that competent authorities and reporting entities might not always have access to the most up-to-date, basic information from the Business Registration Authority. Moreover, changes to

⁶⁵ In the case of cooperatives, it was not clear which basic information was publicly available from the Ministry of Justice, but now that they are registered with SERVE I.P., they will be subject to the same public registry regime applicable to the commercial companies (vide Decree-Law No.16/2004, as amended by Decree Law No.76/2022 and Decree Law No.37/2023).

⁶⁶ Vide <https://serve.gov.tl/pt/listcompaniesregistered/>

⁶⁷ Vide Articles 160 and 176 of the Civil Code.

⁶⁸ Vide Articles 4, 7, 23 (1) and 29 of Decree Law No.16/2017.

registration on foundations and associations have no effect on third parties until they are published in accordance with the applicable law.⁶⁹

Beneficial information

390. BO information held in SERVE I.P.'s registries is only required for commercial companies, and is not adequate, accurate and current to ensure the identification of the individual who exercises the ultimate control over the legal person. This is particularly the case in relation to more complex corporate structures involving foreign ownership and/or layers of ownership. During the on-site interviews, several reporting entities, expressed reservations concerning the quality and timeliness of the BO information held in SERVE I.P.'s registries.

391. Competent authorities could use their powers to access basic or BO information that is held by reporting entities pursuant to their CDD obligations and can also request BO held by FIs via PGO and a court order. However, some competent authorities and FIs did not demonstrate a solid understanding of BO requirements, which raises concerns with respect to the BO information held by FIs and the extent to which competent authorities understand and scrutinise this information.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

392. Authorities and reporting entities met during the on-site visit mentioned that Timorese law does not provide for the creation of express trusts and other similar legal arrangements (for AML/CFT purposes). The assessment team considers that it is possible for some foreign trusts or trustees to operate in Timor-Leste, nevertheless, there has been no identification by the banks of the existence or maintenance of any trust account for an individual or a group operating in Timor-Leste. In addition, and overall, it appears to be a low level of understanding of the concept of legal arrangements (for AML/CFT purposes) and of beneficial ownership and control of legal arrangements.

393. Competent authorities could use their powers to gain access to basic or BO information on legal arrangements that is held by reporting entities pursuant to their CDD obligations. However, deficiencies in CDD obligations and coverage of DNFBPs may hinder the ability of competent authorities to access adequate, accurate and current BO information on legal arrangements (see R.10 & R.22).

394. Competent authorities could also gain access to basic and beneficial information on foreign trusts operating in Timor-Leste through international cooperation mechanisms as described in IO.2.

Effectiveness, proportionality and dissuasiveness of sanctions

395. Under Decree Law No.34/2017 concerning the Licencing of Economic Activities (after the amendment introduced by Decree Law No.83/2022), fees and sanctions from USD25 to USD2,500 for individuals and from USD500 to USD30,000 for legal persons, can be applied for failure to comply with the legal obligations foreseen therein. Repeat offenders may have licences suspended or cancelled or premises temporarily or permanently closed. Under the Business Registration Decree-Law No.16/2017, fees and sanctions from USD50 to USD500 for individuals and from USD500 to USD5,000 for legal persons, including in the case of cooperatives (after the amendment introduced by Decree Law No.37/2023 to Decree Law No.16/2017), can be applied for failure to submit required registration

⁶⁹ Vide Articles 160 (3) and 176 (5) of the Civil Code.

information. Repeat offenders may be suspended for up to three years of the right to participate in public acquisitions or have licences suspended or cancelled or premises temporarily or permanently closed. Cooperatives can also be wound up where a court determines the cooperative is not in compliance with the cooperative principles or where the cooperative uses illicit means. There is a wide range of sanctions available. However, monetary fines, particularly for legal persons, are low and unlikely to be dissuasive. The effectiveness of these sanctions is unknown as Timor-Leste hasn't evidenced that it has sanctioned legal persons for failures to meet obligations in relation to the licencing of economic activities and to reporting basic or beneficial owner information with SERVE I.P.

396. Additionally, the MoJ stated it lacked legal competence to apply sanctions to entities who do not comply with the registry legal requirements and none of the relevant competent authorities described cases of dissolution and liquidation proceedings of legal persons, such as companies, associations, or foundations.

7

Overall conclusion on Immediate Outcome 5

397. Timor-Leste has not assessed the ML/TF risks associated with all legal persons. Consequently, competent authorities have an incomplete understanding of how legal persons can be misused for ML/TF purposes. In line with Article 9 of the AML/CFT Law, Timor-Leste should establish legal requirements for non-commercial legal persons and for foreign trusts or other similar legal arrangements (for AML/CFT purposes) that could be operating in the country to obtain their beneficial owner information. Basic information of legal persons is publicly available but there are shortcomings in the timeliness of this information which impedes competent authorities' and reporting entities' access to the most up-to-date information on an ongoing basis. There are also deficiencies regarding the accuracy of BO information and competent authorities' understanding of beneficial ownership requirements and the concept of legal arrangements for AML/CFT purposes, although there is no evidence of their operation in Timor-Leste. Monetary fines are not proportionate or dissuasive and competent authorities have not evidenced that they have sanctioned legal persons for failures to comply with registration obligations. In the case of associations and foundations, none of the relevant competent authorities described cases of dissolution and liquidation proceedings of legal persons. Therefore, sanctions are not considered effective, proportionate, or dissuasive.

398. **Timor-Leste has a low level of effectiveness for IO.5.**

Key Findings and Recommended Actions

Key Findings

1. Timor-Leste's legal framework allows a wide range of mutual legal assistance (MLA) and extradition in relation to ML/TF and associated predicate offences.
2. Timor-Leste has positively utilised MLA and other forms of cooperation to a reasonable extent. Outgoing MLA requests are higher in number than incoming and are generally consistent with Timor-Leste's identified high risk offences including money laundering, corruption, business and tax evasion.
3. There were no incoming or outgoing extradition requests during the review period, which does not align with Timor-Leste's risk profile e.g. high-risk ML activities including corruption, tax evasion, drug trafficking, cash couriers and environmental crime offences particularly along the porous border with Indonesia. There have been no MLA or extradition requests in relation to TF which is consistent with Timor-Leste's low TF risk profile.
4. Timor-Leste's manual monitoring of incoming and outgoing requests is sufficient given the low number of MLA and extradition requests.
5. Competent authorities have increasingly utilised informal international exchange channels and facilitated information exchange with foreign counterparts within their respective legal frameworks.
6. While low in volume, Timor-Leste's outgoing informal requests generally align with its ML risk profile (i.e. corruption, fraud, drug/human trafficking, tax evasion) and are predominantly with regional counterparts and Portuguese-speaking countries. Some authorities e.g. UIF and CAC have faced operational challenges in seeking timely informal cooperation with international counterparts for various reasons including lack of established exchange mechanisms.
7. For incoming requests from international counterparts, Timor-Leste has not comprehensively demonstrated its timeliness and quality of information provided however this is likely due to most authorities not keeping comprehensive statistics on informal co-operation.
8. There is significant scope for BCTL to expand its informal information exchange network. BCTL has utilised the existing channels for requesting and providing informal international cooperation with foreign financial supervisors to assess licence applications and prior to the review period, BCTL conducted a joint AML/CFT inspection with a foreign counterpart.
9. While Timor-Leste is not a regional financial centre or an off-shore centre, the low volume of information exchanged on basic and beneficial owner information does not fully align with Timor-Leste's risk profile. Some competent authorities have no mechanism to exchange such information with their foreign counterparts despite a legal basis to do so. Further, the deficiencies identified in IO.5 regarding the adequacy and accuracy of the BO information stored by SERVE.I.P impacts the quality of BO information exchanged.

Recommended Actions

Timor-Leste should:

- A. In line with Timor-Leste's risk profile, make use of the full range of international cooperation channels, including for MLA and extradition, to combat ML and TF.
- B. Implement a mechanism to ensure outgoing requests are explicit and of high quality, and that requests are regularly followed up in a timely manner.
- C. Maintain records of all outgoing and incoming informal international requests and if appropriate, develop and maintain mechanisms, including a case management system, to assess, prioritise, execute, and monitor progress on incoming and outgoing MLA and extradition requests in a timely and effective manner.
- D. Keep comprehensive statistics on all international cooperation activities to enable each competent authority to monitor the timeliness and quality of each request.
- E. In line with the risk and context of Timor-Leste, each competent authority, especially CAC, the Tax Authority and BCTL, should seek to broaden and make full use of mechanisms for formal and informal exchange of financial and supervisory information with key international counterparts, including through multi/bi-lateral MOUs and other forms of cooperation for AML/CFT purposes.

399. The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

Immediate Outcome 2 (International Cooperation)***Providing constructive and timely MLA and extradition***

400. Timor-Leste's legal framework allows a wide range of MLA and extradition in relation to ML/TF and associated predicate offences. Law No.15/2011 regulates international judicial cooperation in criminal matters including ML and its predicate offences as well as TF. Principles regarding the primacy of international conventions, reciprocity, specialty and *non bis in idem* are cornerstone principles of this law.

401. In accordance with Law No.15/2011, the PGO is the central authority responsible for international judicial cooperation in criminal matters and must assist MLA and extradition requests, following a legal procedure issued pursuant to Law No.15/2011.

402. Timor-Leste has received a very limited number of MLA requests over the period 2018 to 2023 acknowledging that Timor-Leste has no control over the number of incoming MLA requests it receives. PGO received and finalised three incoming MLA requests (see Table 8.1 below) during the period under review.

Table 8.1 Incoming MLA Requests from 2018 to 2023

Year	No. of requests	Timor-Leste Response time
2018	1	Request received: 9/10/ 2018 Request responded to: 17/10/2019
2019	NIL	-
2020	NIL	-
2021	NIL	-
2022	2	Request received: 22/04/2022 Request responded to: 6/5/2022
		Request received: 23/11/2022 Request responded to: 15/12/2022
2023	NIL	-
TOTAL	3	

Source: PGO

403. The PGO has provided timely responses to all three incoming MLA requests (refer Table 8.1), with two of the requests being answered within 30 days. The PGO provided an example of one incoming MLA request from 2018 in which the diligences requested were (i) to constitute an individual as a defendant, (ii) to impose on the same individual the measure of coercion of identity and residence term, and (iii) the respective enquiry. The complexity of this case seems to justify the time taken (approximately one year) for Timor-Leste to respond.

404. It is difficult to gauge the quality of information that Timor-Leste provides in response to MLA requests due to the low number of requests and the lack of feedback received from requesting jurisdictions regarding processing times and quality of information provided. In any case, all three cases mentioned above were successfully responded to and no evidence was presented that these requesting jurisdictions sought additional information.

405. There were no incoming or outgoing extradition requests during the review period and the assessment team acknowledges that Timor-Leste cannot control the number of incoming extradition requests. While Timor-Leste's extradition experience has not been tested, it has the legal framework for simplified extradition mechanisms if the need arises (Art. 30, Law No.15/2011 on international judicial co-operation in criminal matters).

406. Timor-Leste does not have a prioritisation process for incoming MLA requests and the PGO's International Cooperation Unit handles each request as it is received. This lack of prioritisation has not been an issue in practice given the low number of incoming requests.

407. Timor-Leste does not have a case management system to record, track and report MLA and extradition requests. However, the current manual process is sufficient considering the low number of MLA requests. Nevertheless, if incoming MLA or extradition requests start increasing in future, the current manual process may not be sufficient.

408. Timor-Leste has the legal framework to manage and repatriate confiscated assets (Articles 92, 104, 138 and 153 of Law No.15/2011), however no such requests have been received. Timor-Leste therefore lacks experience and capability in responding to these types of incoming MLA requests and PGO acknowledges that this would be their biggest operational challenge.

Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

409. Through the PGO, Timor-Leste can seek international legal assistance to pursue domestic ML, associated predicates, and TF cases with transnational elements. According to Articles 114, 225, 232 and 234 of the Procedural Criminal Code, in conjunction with Article 138 of the Law No.15/2011, PGO pursues MLA at the request of prosecutors and in line with the Procedural Criminal Code.

410. From 2018 to 2023, Timor-Leste made 17 outgoing MLA requests, 10 of which relate to ML and/or asset recovery (see table 8.2 below) demonstrating that it has positively utilised MLA.

Table 8.2 Outgoing MLA Requests from 2018 to August 2023

Requests by offence type	No. of requests	Offence type	Nature of request	Status of request
2018	1	Money Laundering	Requested to freeze the bank account	Completed
2019	NIL	-	-	-
2020	1	Tax Fraud	Request to make a notification, constitute and Interrogation	No response received
	1	Corruption/Harmful administration	Request obtaining related evidence	Pending - further information requested
	1	Corruption of the harmful administration	Request obtaining related evidence, freezing of company account and identify business registration document	Pending - further information requested
	1	Money Laundering, Corruption of the harmful administration	Request to freeze the account of the defendant	Completed (negative response)
2021	1	Aggravated counterfeiting and ML	Request for identifying bank account	Pending - further information requested

Requests by offence type	No. of requests	Offence type	Nature of request	Status of request
	1	Smuggling	Request to make a notification, constitute and interrogation	No response received
	1	Aggravated forgery and ML	Request for the criminal history of the defendant and information related to the company	Completed
	1	Smuggling	Request to make a notification for archived	Pending - further information requested
2022	1	Money Laundering	Request for criminal record of the suspect	Completed
	1	Money Laundering	Request for withdrawal and freezing	Completed
	1	Money Laundering	Requested for identifying bank account and amount of the money	Pending - further information requested
	1	Economic participation in business and ML	Request for taking witness statement	Pending - further information requested
	1	Economic participation in business, harmful administration and abuse of power	Request to make a notification, constitute and Interrogation	The request was no longer useful because the case was closed.
	1	Economic participation in business and harmful administration	Request to make a notification, constitute and Interrogation	The request was no longer useful because the case was closed.
2023 (to August 2023)	1	Exploitation illicit gambling, tax fraud and ML	Request to make a notification, constitute and Interrogation	Pending - further information requested
	1	Drug trafficking	Request for identification, notification, and Interrogation	No response received
Total	17			

Source: PGO

411. At the time of the on-site visit, and referring to Table 8.2, five of the 17 cases were complete i.e. less than a quarter of cases over a five-year period. Ten responses to MLA requests from Timor-Leste were outstanding, which the assessment team does not consider to be timely or efficient. Nevertheless, Timor-Leste assured that it has taken several steps through formal and informal channels, to obtain responses to its pending MLA requests and will continue to do so.

412. While the PGO showed the assessment team two cases where relevant, clear, and accurate information was included in the outgoing request, it is unclear whether all MLA requests made by Timor-Leste include accurate and complete information, noting that seven requests are still pending due to further information being requested.

413. Over 50% of Timor-Leste's outgoing MLA requests were to neighbouring jurisdictions which aligns with its ML risk profile. These requests primarily relate to money laundering, corruption, and business and tax fraud which is also consistent with Timor-Leste's identified high risk offences.

414. Timor-Leste lacks statistics on the number and value of assets frozen and confiscated arising from international cooperation exchanges. Based on Table 8.2, Timor-Leste has made four MLA requests to freeze bank accounts and two were successfully completed. Based on Table 8.1, Timor-Leste has not received a request to freeze or confiscate assets.

Seeking and providing other forms of international cooperation for AML/CFT purposes

415. Timor-Leste is a member of several regional and international bodies that enable it to seek international cooperation for AML/CFT purposes. Timor-Leste is conducting informal international cooperation through the following mechanisms; legal instruments, bilateral and multilateral MOUs/agreements, membership of international organisations, and the application of the principle of reciprocity (see R.40). While the scope and complexity of information exchanges varies significantly across agencies, some Timorese competent authorities have demonstrated they are using various international cooperation mechanisms in seeking and providing to exchange financial intelligence, supervisory (licensing purposes), law enforcement and other information with foreign counterparts to support ML cases or supervisory activities.

416. Overall, Timor-Leste did not fully demonstrate how swiftly they have received responses to outgoing international requests, and how constructively and timely they have provided information in response to the incoming international requests. This is largely due to the lack of comprehensive statistics kept. Regarding outgoing requests, Timorese authorities have experienced delays in gaining responses from foreign authorities despite following up on their requests. A cause for delay may be Timor-Leste initially providing insufficient information, however, there are also instances where requests were immediately declined due to a lack of legal grounds to exchange information. For incoming requests, although limited, feedback received from foreign counterparts has been generally positive but it has not specifically focused on the timeliness and appropriateness of information provided.

417. While consolidated statistics are lacking across most competent authorities, at the agency level, Timor-Leste's outgoing informal requests are predominantly with regional counterparts and Portuguese-speaking countries and generally align with Timor-Leste's ML risk profile (i.e. corruption, fraud, drug/human trafficking, tax evasion).

UIF

418. UIF has sought and provided international cooperation for AML/CFT purposes through an inter-agency mechanism based on MOUs. At the time of the on-site visit, the UIF had signed 23 bilateral MOUs to exchange financial intelligence information with foreign FIUs - 18 in the Asia

Pacific region and five with Portuguese speaking countries which is consistent with its risk profile.

419. Case studies demonstrating UIF to FIU international cooperation are available at Case Study 3.3 and 8.1. The former outlines how UIF uses its powers to obtain the necessary financial intelligence information, and facilitates financial investigation in cooperation with the PGO, and the latter demonstrates how UIF constructively cooperates with foreign counterparts and contributes to their investigation.

420. At the timing of the onsite-visit, UIF is in the process of becoming a member of the Egmont Group⁷⁰ and is negotiating the signing of MOUs with a further five international counterparts. Membership in the Egmont Group may help address UIF's requests being initially rejected by foreign counterparts on the grounds that it is not an Egmont member. It is likely that in the past, Timor-Leste's non-membership with Egmont has undermined the timely exchange of information in several circumstances.

421. While the coverage of MOUs reflects Timor-Leste's risk profile to a large degree (noting UIF has a Letter of Undertaking, rather than MOU, with Australia's FIU), the overall volume of outgoing and incoming financial intelligence requests for information to foreign counterparts is relatively low with 12 outgoing and two incoming requests between 2019 to August 2023 (refer Table 8.3) while acknowledging that Timor-Leste cannot control the number of incoming financial intelligence requests.

Table 8.3: Number of information Requests to/from Foreign FIUs

	2019	2020	2021	2022	2023 (to Aug)	Total
Outgoing requests	1	2	3	1	5	12
Type of crime	Corruption & money laundering	Corruption, money laundering	Corruption, money laundering, fraud related crime	Fraud, money laundering	3 Fraud related crime, 2 money laundering	
Outgoing Spontaneous dissemination	1	0	1	1	2	5
Type of crime	Money laundering		Fraud related crime	Money laundering	Money laundering, fraud related crime	
Incoming requests	1	0	0	0	0	1
Incoming spontaneous dissemination	0	0	1	0	0	1

Source: UIF

⁷⁰ UIF, Timor-Leste became a member of the Egmont Group on 1 February 2024.

422. Some outgoing requests were triggered by one of the high-risk ML activities (i.e. corruption) and UIF's outgoing and incoming informal cooperation is predominantly with regional counterparts and Portuguese-speaking countries, which is considered to align with its risk profile (refer Table 8.4).

Table 8.4: International Exchanges with Foreign FIUs from 2018 to August 2023

International Exchanges			
FIUs	Outgoing	Incoming	Spontaneous
Australia	1	0	1
Indonesia	3	1	1
Hong Kong, China	1	0	1
Singapore	1	0	0
Malaysia	1	0	0
Papua New Guinea	1	0	0
Portugal	2	0	1
Belgium	1	0	0
Brazil	1	0	0
Sri Lanka	0	0	1
Philippines	0	1	0
Total	12	2	5

Source: UIF

423. Foreign authorities have responded to all requests in an appropriate and timely manner other than those made in 2023 which are still being processed whereas UIF took approximately four months to respond to the incoming request in 2019, even though the investigation by the foreign authority was successfully concluded (see Case Study 8.3).

Case study 8.1: Joint Analysis with FIU from Jurisdiction A

Jurisdiction A's FIU filed a request with UIF in January 2019 regarding a suspected illegal ball press (used clothes sale) smuggled from Timor-Leste to Jurisdiction A. The FIU from Jurisdiction A requested financial intelligence from UIF in relation to a case of one of its nationals who was sentenced to imprisonment for his role as captain of the boat that transported the illegal ball press. The FIU from Jurisdiction A verified that there were several transactions linked to Timor-Leste involving significant funds. The FIU from Jurisdiction A also provided detailed information of the suspected individual who had several companies in Timor-Leste.

In January 2019, an analysis team from Jurisdiction A's FIU visited UIF in Timor-Leste and conducted joint analysis on the case. UIF immediately prioritised the request. UIF analysed available financial information and requested additional information from relevant FIs, then provided the initial information to Jurisdiction A's FIU during the visit. UIF provided the complete analysis in early May 2019. In response to a UIF feedback request, Jurisdiction A's FIU stated that a new investigation was launched in mid- 2019 and successfully concluded with the collection of taxes of approx. USD282,416.

PCIC

424. As set out in IO.7, PCIC oversees transnational crime investigations, and exchanges investigative information with foreign counterparts via the National Central Bureau of Interpol (NCB). The NCB enables 195 member jurisdictions to exchange information via the secure police communication network. PCIC has proactively made 58 outgoing requests to NCB since 2019 (refer Table 8.5), almost 50 percent of these requests were focused within the Asian region in line with Timor-Leste's geographic ML risk profile. The crime type triggering most outgoing requests was ML (15 cases) (refer table 8.6). While it is unknown what predicate offences were associated with these ML cases, overall, high risk ML activities (i.e. fraud, tax evasion, drug trafficking) triggered PCIC's outgoing requests and generally reflect Timor-Leste's risk context. Nevertheless, compared to the 370 incoming international requests to PCIC from INTERPOL for the same period (refer Table 8.5), the low volume of outgoing international requests (58) does not align with the risk and context of Timor-Leste.

Table 8.5: Information Requests to/from Foreign LEAs via INTERPOL (NCB) from 2019 to August 2023

	2019	2020	2021	2022	2023(Aug)	Total
Outgoing requests	14	19	9	8	8	58
Incoming requests	83	120	86	77	4	370

Source: PCIC

425. PCIC manages outgoing requests to NCB manually using a spreadsheet. The basic information collated includes: (i) jurisdiction the request was sent to, (ii) subject, (iii) type of crime and (iv) the date of request. In 2021, PCIC expanded the information being recorded to include: (v) the response date and (vi) summary of status, including if no response has been received. However, there are instances where the PCIC has not taken any follow-up action, despite there being no response for more than one year. PCIC collects information for incoming requests

in the same way. In line with Timor-Leste's risk profile, most requests come from neighbouring/regional jurisdictions and Portuguese-speaking countries, or from a jurisdiction where Timorese migrant workers reside. While the precise timeliness of PCIC's responses to foreign authorities' requests is unclear, indications are that there is a wide variety of response times. In particular, 2021 and 2022 were considerably slower despite no significant increase in the total number of incoming requests. However, disruption due to the COVID-19 pandemic was likely a significant contributing factor during this period.

Table 8.6 Crime types associated with requests made by PCIC to foreign counterparts via INTERPOL (NCB) from 2020 to August 2023

Type of crime	Number of cases*
Money Laundering	15
Fraud related crimes	14
Drug/Human trafficking	3
Counterfeit currencies	2
Embezzlement	1
Tax evasion	1
Others	6
Unknown	9
Total	51

Source: PCIC

*Some cases are counted in multiple categories.

426. In addition to the NCB channel, PCIC has other bilateral cooperation channels e.g. MOUs. At the time of the onsite visit, PCIC had signed an MOU with the Indonesian National Police (POLRI) and established informal contacts with police attachés at foreign embassies in Dili, such as Australia, Thailand, China, Indonesia, the United States, Portugal and others. However, it is unknown to what extent these channels have been utilised for exchanging information due to the lack of statistics.

Case Study 8.2: International Cooperation via Interpol

In 2017, Timor-Leste authorities (PCIC) received a request for assistance through its INTERPOL channel from a regional neighbour (Jurisdiction X). The request related to a person who had entered Timor-Leste following the alleged commission of ML in Jurisdiction X. PCIC collaborated with other relevant authorities including PNTL, SNI and Immigration. Authorities in Timor-Leste successfully detained the alleged perpetrator, and in coordination with Jurisdiction X's Embassy in Dili, repatriated them to Jurisdiction X.

PNTL

427. PNTL seeks and provides investigative information regarding ML predicate offences from/to foreign counterparts via various police-to-police (P2P) channels, including MOUs,

Interpol (via PCIC), liaison officers, and police attachés. PNTL has signed five MOUs with foreign LEA counterparts in Indonesia (POLRI and the National Anti-Narcotics Board, or BNN), Australia (Australian Federal Police (AFP)), Portugal (Guarda Nacional Republicana) and South Korea (Korea National Police Agency) to pursue not only investigations but also capacity building throughout education and training. PNTL also has a connection with the '*Serviço de Estrangeiros e Fronteiras* (SEF)' or 'Immigration and Borders Service in Portugal'.

428. The assessment team acknowledges PNTL has working relationships with these foreign counterparts and regularly engages on a person-to-person basis when seeking informal cooperation. Cooperation with the Indonesian Police is enhanced by the presence of a PNTL Liaison Officer in Jakarta, and of a POLRI Liaison Officer in Dili. PNTL also has a Liaison Officer posted to Canberra, Australia. AFP staff are also based in Dili delivering the 'Timor-Leste Police Development Programme' which provides informal international information exchange and capacity building. PNTL also has bi-lateral and tri-lateral meetings with Indonesian and Australian immigration authorities every three to six months, which assists PNTL with ML predicate offence investigations involving human trafficking, people smuggling and illegal fishing.

429. While PNTL has demonstrated it is seeking and responding to other forms of international cooperation, the volume of outgoing and incoming requests to/from foreign counterparts is relatively low with five outgoing and six (pending) incoming requests between 2018 to August 2023 (refer Table 8.7). However, despite the low numbers, overall, both outgoing and incoming requests aligned with Timor-Leste's risk profile involving neighbouring/regional counterparts, and triggered from ML predicate cases, for example, drug trafficking, repatriation, sexual assault, murder and smuggling. Timor-Leste has demonstrated that foreign authorities have responded to all P2P requests in an appropriate and timely manner.

Table 8.7: Number of information requests via Police-to-Police channels from 2018 to August 2023

Outgoing requests	2018	2019	2020	2021	2022	2023(August)	Total
Total	2	0	0	3	0	0	5
Incoming requests	2018	2019	2020	2021	2022	2023(August)	Total
Total	0	3	0	0	2	1	6

Source: PNTL

430. The assessment team notes that in April 2023, PNTL adopted its 'Strategic Plan 2023-2030' for the sustainable development of policing. Strengthening international cooperation is one of the pillars of the strategy which highlights PNTL's ongoing commitment to its international cooperation mechanism in accordance with the envisaged outcomes, including the preparation of an international cooperation plan, the signing of MOUs/the formal contracts and agreements, and the development of a technical assistance strategy.

CAC

431. CAC has signed two MOUs with foreign anti-corruption agencies in Indonesia (KPK) and Malaysian Anti-Corruption Commission (MACC), however, these MOUs are limited to technical assistance/capacity building and do not extend to operational cooperation, such as information exchanges.

432. Since its establishment, CAC has made two outgoing requests, to Singapore and Australia. This very low number of outgoing requests is inconsistent with Timor-Leste's risk profile given corruption has been identified as high risk. Both requests were declined due to the lack of legal grounds on exchanging investigative information. While CAC could access Interpol via PCIC and/or alternatively seek financial intelligence information from UIF, it has not used these channels during corruption investigations to date. CAC has not received any incoming requests for information from foreign counterparts.

PGO

433. The PGO does not have any MOUs with foreign prosecution authorities. PGO's international cooperation is usually via formal channels based on MLA and extradition procedures, however it also uses international conventions.

434. The PGO can leverage PCIC's and PNTL's informal channels to obtain information, for example through Interpol, and PGO is also a member of the Asset Recovery International Network - Asia Pacific (ARIN-AP). While PGO has no experience in seeking and responding to other forms of international cooperation, PGO has established a special unit for international cooperation and is now preparing a procedure and modality of both formal and informal international exchanges.

Customs

435. Customs has signed an MOU with its Indonesian counterpart (the Directorate General of Customs and Excise). The Commissioners from each agency regularly meet, and under the MOU, Indonesia has provided capacity building training for 100 Timorese staff.

436. Timor-Leste is a member of the World Customs Organisation (WCO) and its Regional Intelligence Liaison Office-Asia Pacific (RILO AP) as well as the Oceania Customs Organisation (OCO) and the Organisation Prohibition of Chemical Weapons (OPCW) and Ozone Depleting Substances (ODS). Customs does not keep statistics on outgoing or incoming informal cooperation.

Tax Authority

437. Timor-Leste's Tax Authority does not have any MOUs with international counterparts to exchange financial information, despite tax evasion being identified as high risk in the NRA. As discussed in R.40 and pursuant to Article 6 of the Decree Law No.31/2019, Timor-Leste's Tax Authority has the legal basis to engage in informal international cooperation. Positively, in 2021, the Tax Authority established an International Unit to strengthen its relationships with foreign authorities. Currently, they have close working relationship with the tax authorities in Australia (contact based at Australian Embassy in Dili) and Papua New Guinea (monthly meetings are held with PNG authorities). However, the Tax authority has no experience on seeking and responding other forms of international cooperation with its counterparts.

BCTL

438. While BCTL's Organic Law No.5/2011 provides a general authority for international cooperation, BCTL does not have any international information exchange mechanisms established for AML/CFT regulation and supervisory purposes. All four MOUs with foreign counterparts (Portugal, Indonesia, Malaysia, and Australia) are limited to technical assistance and prudential supervision.

439. BCTL uses email and WhatsApp groups to informally contact key counterparts (e.g. Portugal and Indonesia), especially for fit and proper checks however, the assessment team was

unable to confirm how timely and constructively BCTL exchanges information as it does not maintain statistics on international informal requests. BCTL has a practice with the Financial Services Authority of Indonesia (*Otoritas Jasa Keuangan* (OJK)) and the Banco de Portugal, to conduct 'joint on-site inspection' of their respective foreign bank branches in Timor-Leste. These were conducted in 2011, 2013 and 2015. The assessment team understands that AML/CFT issues were assessed in 2015. Although BCTL has actively participated in capacity building events organised by foreign supervisors, this has not been for AML/CFT purposes. The assessment team considers there is significant scope for BCTL to expand or reinforce the current network, including by establishing information exchange channels such as MOUs in line with Timor-Leste's risk and context.

International exchange of basic and beneficial ownership information of legal persons and arrangements

440. Timor-Leste is not a regional financial centre or an offshore centre for companies/legal arrangements formation and registration. There are no legal obstacles for providing information in relation to legal persons and its beneficial ownership, and Timor-Leste has demonstrated some examples of competent authorities providing and responding to foreign requests for cooperation to identify and exchange BO information from SERVE.I.P. However, the deficiencies relating to BO information held by SERVE.I.P (see IO.5) are relevant to this international information exchange requests.

UIF

441. In 2021, UIF responded to one incoming request for BO information based on its MOU with a foreign counterpart. This request sought relevant information from SERVE.I.P. In 2017, UIF made one informal outgoing request to a foreign counterpart seeking BO information which was successfully completed.

442. Some competent authorities have no practical mechanisms to exchange such information with foreign counterparts as discussed below.

BCTL

443. BCTL has no mechanism to exchange basic and BO information between foreign supervisors due to the limited scope of MOUs, however it has contacted foreign counterparts for information exchange in relation to basic and BO information when required to conduct fit and proper tests. However, it is unclear how well BCTL has exchanged such information as it does not maintain statistics on international informal requests.

CAC

444. CAC has requested BO information from a foreign counterpart, however it was declined due to a lack of mechanism e.g. MOU to exchange BO information.

Tax Authority

445. While Timor-Leste's Tax Authority has the legal basis to engage in informal international cooperation under Article 6 of the Decree Law No.31/2019, it has no mechanism to exchange basic and BO information with foreign counterparts, therefore there has been no instances of international cooperation in relation to these competent authorities. This is concerning as the NRA identified tax evasion as a high risk. In the absence of a mechanism to exchange information with international counterparts, the Tax Authority has not sought alternative arrangements to

utilise other competent authorities' networks to obtain required information for example, via UIF or PCIC's INTERPOL NCB channel.

446. Other LEAs (e.g. PGO, PCIC, PNTL, and Customs) have not provided any examples where they provided, or responded to, requests relating to basic and BO information.

Overall conclusion on Immediate Outcome 2

447. Overall, major improvements to Timor-Leste's international cooperation are required. Timor-Leste has a legal framework for both formal and informal cooperation however most competent authorities were unaware of the extent to which this framework could be used for exchanging information. The assessment team considers that this lack of awareness demonstrated by competent authorities is due in part to a lack of experience, knowledge and exposure to conducting international cooperation. This lack of experience and knowledge may also be a result of the low volume of incoming requests; an absence of extradition requests (both incoming and outgoing), and requests to manage and repatriate confiscated assets actioned during the period. However, positively, some Timorese authorities including UIF, BCTL PCIC and PNTL are using their respective channels to seek and provide other forms of international cooperation with foreign counterparts to support ML investigations or for fit and proper checks when assessing licencing applications.

448. While Timor is not a regional or international financial centre, some competent authorities have no practical mechanism for exchanging BO information with foreign counterparts even though there is no legal obstacle to exchange basic and BO information.

Timor-Leste has a moderate level of effectiveness for IO.2.

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis concerning the level of technical compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the member's situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in July 2012. This report is available from www.apgml.org.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

3. R.1 is a new requirement and was not assessed as part of the last ME.

4. Timor-Leste's National AML/CFT Coordinating Committee, the National Commission for the Implementation of Measures on the Fight against ML and TF (CNCBC), conducted Timor-Leste's first NRA in 2015. The risk assessment process engaged a broad range of stakeholders, including the public and private sectors, academia, and non-governmental organisations. The NRA gathered their perceptions of the ML and TF threats and vulnerabilities faced and drew upon data concerning, among other things, proceeds-generating crimes committed within the jurisdiction. However, as the NRA noted, there was limited data in several areas. Timor-Leste prepared a National AML/CFT Strategy for the period from 2016 to 2020 to prioritize actions and allocate resources in combating the identified ML/TF risks in their NRA.

5. There have been no further updates to the NRA, however the CAC conducted a survey similar to a sectoral risk assessment in 2019, the *Baseline Survey for the Commission of Anti-Corruption, and Survey on Public Perception of Corruption in Timor-Leste*. This report outlined the risk of corruption in the public sector in order to properly develop a national anti-corruption strategy.

6. *Criterion 1.1* - Timor-Leste conducted its first national ML/TF risk assessment in 2015 entitled *Timor-Leste National Risk Assessment of Money Laundering and Terrorist Financing* (NRA). Timor-Leste also completed a baseline survey of key public sector institutions' corruption risks in 2019.

7. The NRA did not identify and assess ML risks from legal persons and legal arrangements or environmental crimes such as illegal logging or fishing and the analysis of DNFBPs was also limited.

8. Assessment of TF risk was limited as there is 'no data or other information available in Timor-Leste on the possible threat relating to terrorist financing (NRA, page 37). The NRA did not assess the NPO sector but considers TF risk to be low.

9. On corruption risk, the Final Report on Baseline Survey for Supporting National Anti-Corruption Strategy was not an exhaustive risk assessment, and like the NRA, relied on qualitative inputs. The survey assessed the risk of corruption faced by various Government Ministries but did not quantify the proceeds of corruption, assess the products and services used to launder the proceeds of corruption, or identify asset classes or jurisdictions where proceeds were invested.

10. *Criterion 1.2* - Through the Government Resolution No.10/2014, of 9 April 2014, and as amended by Resolution No.18/2016, of 29 June 2016, Timor-Leste formed the CNCBC to act as the National AML/CFT Coordinating Committee. The CNCBC is co-chaired by MoJ and

Ministry of Foreign Affairs and Cooperation. The CNCBC was the designated authorities to coordinate actions to assess ML/TF risks (Art. 2, Government Resolution No.10/2014).

11. *Criterion 1.3* - The NRA has not been updated since its initial publication in 2016 and there are no measures in place that require Timor-Leste to keep the risk assessment up-to-date.⁷¹

12. *Criterion 1.4* - The CNCBC is a mechanism for information sharing between institutions involved in or with responsibilities in combating money laundering and terrorism financing (Art. 2, No.10/2014 Constitution of the National Commission for the Implementation of Measures to Combat Money Laundering and Financing of Terrorism). Timor-Leste disseminated the results/outcomes of the NRA among to the 19 stakeholders who provided input to the NRA which included, competent authorities, representatives of banks, MTOs the legal profession, the commerce and industry association, academia and NGOs. The FIU also conducted awareness raising sessions to communicate the results of the NRA to financial institutions and the general public, and the NRA's key findings are published on BCTL's website. However, information of the results of the NRA were not shared with most DNFBPs and some FIs.

13. *Criterion 1.5* - In response to the NRA's findings, Timor-Leste prepared a National Strategic Plan for Combating Money Laundering and Terrorist Financing 2016-2020 (NSP) that prioritises 10 Strategic Objectives (SO) including; implementing a framework to oversee AML/CFT policy development and implementation (SO1), developing a thorough understanding of national ML/TF risks (SO2), strengthening and enhancing legal frameworks (SO3); applying a risk-based approach to allocation of LEA (SO4) and supervisory resources (SO5); enhancing implementation of preventive measures (SO6); developing capacity within the UIF (SO7) enhancing transparency of beneficial ownership (SO8); and enhancing domestic and international cooperation (SO9); and enhance public awareness of the need to combat ML and TF (SO10).

14. The NSP is only partially implemented however actions taken include increasing the resources of the FIU from two to eight personnel, creating the Anti-Corruption Commission, establishing an AML/CFT Office within the BCTL to strengthen risk-based supervision and policy development, increasing domestic and international cooperation, and establishing an economic and financial crimes team within the PCIC. Further, Timor-Leste promulgated the New Commercial Companies Law No.10/2017, and Decree Law No.7/2017 for Business Registration and Verification Services (SERVE I.P. Decree), enhanced banks' CDD obligations with Instruction No 5/2017, and required MTOs that remit only to Indonesia to establish a partnership agreement with a licensed Indonesian counterpart. Also, Timor-Leste introduced a new payment system and e-wallets to reduce cash payments and an electronic system for reporting significant cash transactions to the FIU. The limitations of the NRA and understanding ML/TF risks described in c.1.1 cascade to this criterion as they affect the risk-based allocation of resources to mitigate ML/TF risks.

15. *Criterion 1.6* - There are no exemptions for FIs or DNFBPs from the FATF Recommendations. Micro-credit providers such as credit unions and pawnshops are not required to apply AML/CFT measures (see R.9-21) however, this is not based on proven low ML/TF risk or whether they carry out financial activities on an occasional or very limited basis.

16. *Criterion 1.7* - The AML/CFT regime requires FIs and DNFBPs to take enhanced measures to manage and mitigate higher risks in some circumstances however these

⁷¹ Timor-Leste is currently completing an updated NRA which will include assessment of the NPO sector.

obligations are not tied to the identification of higher risks by Timor-Leste. Further, FIs and DNFBPs are not required to incorporate this information into their risk assessments.

17. The circumstances where FIs and DNFBPs must apply enhanced measures include those requiring a 'special control of certain transactions' (Art. 14, AML/CFT Law). This includes circumstances where 'the transactions (sic) involving amounts which are abnormally high, unusual and without an apparent economic and licit source' 'business relationships and transactions with natural and legal persons or legal entities or arrangements, with origin or destination in countries or territories from or to countries not subject to effective and consolidated supervision' and on 'operations carried out with PEPs' (Art 14.3). Banks and ODTIs must also apply enhanced measures to a non-exhaustive range of customers who pose a higher risk (Art. 12, BCTL Instruction No5/2017).

18. *Criterion 1.8* - Article 10.10 of the AML/CFT Law permits FIs and DNFBPs to apply reduced or simplified CDD measures under circumstances determined by the competent supervisory authority. However, there is no requirement that this be consistent with the country's assessment of ML/TF risks.

19. Banks and ODTIs may apply simplified CDD measures to wire transfers below USD 1,000 unless there is a suspicion of ML/TF (Art. 17.2, BCTL Instruction No.5/2017). BCTL granted one application by a bank to apply a simplified verification procedure to the disabled and people over the age of 60 living in a rural area. There are no simplified due diligence measures for other FIs or DNFBPs.

20. *Criterion 1.9* - Supervisors take some measures to ensure compliance by FIs with obligations under Recommendation 1 though there are gaps in supervision of FIs by supervisors. There are no designated DNFBP supervisors or SRBs in Timor-Leste.

21. *Criterion 1.10* - Banks and ODTIs must take reasonable measures to identify and assess the risk of customers including the customer's origin (Arts. 4.3 & 4.4, Instruction No.5/2017). There are no requirements for FIs and DNFBPs to identify, assess and understand other ML/TF risks including countries or geographic areas, and products, services, transactions, or delivery channels.

22. *Criterion 1.10(a)* - There are no requirements for FIs and DNFBPs to document their risk assessments.

23. *Criterion 1.10(b)* - Banks and ODTIs must determine a range of factors relevant to the risk of a customer (Arts. 4.3 & 4.4, BCTL Instruction No.5/2017). There is no requirement to assess and understand their other risks, such as the countries or geographic areas, products, services, transactions, or delivery channels.

24. *Criterion 1.10(c)* - There is no requirement for FIs and DNFBPs to keep these risk assessments up-to-date.

25. *Criterion 1.10(d)* - FIs and DNFBPs are not required to have appropriate mechanisms to provide risk assessment information to competent authorities and SRBs.

26. *Criterion 1.11(a)* - FIs and DNFBPs are required to have policies, controls, and procedures to mitigate risks (Chapters II and III, AML/CFT Law) but there is no requirement for senior management approval. A scope gap remains for the coverage of DNFBPs which cascades through this criterion (see R.28).

27. *Criterion 1.11(b)* - Bank and ODTI Compliance Officers are responsible for continual assessment of 'the AML/CFT mechanism' and ensuring that it is effective and sufficient to

address any change in money laundering and financing of terrorism trends' (Art. 5.4(f), BCTL Instruction No.5/2017). Further, monitoring the implementation of controls is necessary in order to complete annual compliance reporting requirements which include reporting on the suitability and effectiveness of systems and controls (Art. 6). Other FIs and DNFBPs are required to have an internal audit function to verify 'the conformity and adequacy of internal programmes' (Art. 16(c), AML/CFT Law). However, there are no requirements for FIs or DNFBPs to enhance controls if necessary.

28. *Criterion 1.11(c)* - FIs and DNFBPs must apply enhanced measures 'in respect of operations carried out with PEPs (Art. 14.3, AML/CFT Law) but there is no requirement to do so where higher risks are identified. However, banks and ODTIs must apply enhanced due diligence measures on customers who pose a higher risk, including conducting enhanced on-going monitoring of these customers (Art. 12, BCTL Instruction No.5/2017).

29. *Criterion 1.12* - Competent authorities can determine whether simplified measures for identification and verification of the customer or 'beneficiary owner' (sic) can be applied. This determination is based on the risk assessment of the type of customer, business relationship or transactions. There is no obligation that the risk be identified as low, that c.1.9 to 1.11 are met, or that simplified measures be prohibited whenever there is suspicion on ML/TF.

Weighting and Conclusion

30. Conducted in 2015 and adopted in 2016, Timor-Leste's first NRA identified several key ML/TF risks such as corruption and tax evasion. However, the risk assessment is largely based on qualitative analysis due to a scarcity of data and in the assessment of TF risk, no data at all. The NRA did not identify or assess risks such as those posed by legal persons or arrangements and environmental crimes such as illegal logging or fishing. The NRA has also not been updated. FIs and DNFBPs are required to implement enhanced measures in some circumstances but this is not based on the identification of higher risks by Timor-Leste and they are not required to incorporate this information into their risk assessments. Simplified measures are permitted but there is no requirement that this be based on the assessment of ML/TF risks. FIs and DNFBPs are not required to document and keep their risk assessments up-to-date or have mechanisms to provide risk assessment information to competent authorities. There is also no requirement for senior management approval of policies, controls, and procedures or to apply enhanced measures except where PEPs are identified. Appropriate measures are not in place for the application of simplified due diligence.

31. **Recommendation 1 is rated partially compliant.**

Recommendation 2 - National Cooperation and Coordination

32. In its 2012 MER Timor-Leste was rated partially compliant on national coordination and coordination (formerly R.31). The MER identified the absence of a centralized committee or an arrangement which is responsible to improve effective cooperation on operational matters on AML/CFT.

33. Timor-Leste established a National Working Group in 2007 for the purpose of 'developing national AML/CFT strategy', 'reviewing the draft AML/CFT legislations' and 'providing policy advice on outstanding issues' and 'coordinating the establishment of national FIU'. The National Working Group was comprised of representatives from key ministries such as MoF, MoJ, MFA, and institutions such as BCTL, PPO, Appeals Court, Police and Customs.

34. Timor-Leste's National AML/CFT Strategic Policy (NSP) covered the period from 2016 to 2020 and was informed by its first NRA conducted in 2015. However, the NSP was only partially implemented and has not been updated. The assessment team understands a new NSP will be developed following the updated NRA and publication of the MER.

35. *Criterion 2.1* - The NSP was based on the outcomes of the NRA conducted in 2015 and includes 10 Strategic Objectives with supporting action items to address ML/TF risks and deficiencies. However, it is unclear how frequently national AML/CFT policies are reviewed.

36. *Criterion 2.2* - In 2014, Government Resolution No.10/2014 (Resolution No.10/2014) established the National Commission, the AML/CFT National Coordinating Committee of Timor-Leste (CNCBC). Resolution No.10/2014 states the CNCBC's agenda is to implement measures on ML and TF (Art. 1) with a mandate to undertake the NRA (Art. 2(e)), to develop a National AML/CFT Action Plan, (Art. 2(f)), and ensure efficient and effective coordination between competent authorities (Art. 2(h)). The CNCBC is co-chaired by the Minister of Justice and Minister of Foreign Affairs (Art. 6).

37. In 2016, Government Resolution No.18/2016 (Resolution No.18/2016) expanded the composition of the CNCBC from 11 to 15 members including all key institutions and ministries involved in combatting ML and FT.

38. *Criterion 2.3* - Government Resolution No.10/2014 empowers the CNCBC to coordinate the articulation and implementation of national AML/CFT policies, ensure efficient and effective cooperation, coordination and exchange of information between the institutions, and to monitor the effectiveness of implemented measures (Art. 2). To fulfil this role, the CNCBC is required to meet quarterly or as necessary (Art. 8) and report annually to the Council of Ministers (Art. 7). CNCBC members represent all key institutions and include the Governor of BCTL, Anti-Corruption Commissioner, Commander General of the National Police, Executive Director of UIF, Director-General of the Directorate-General for Taxes and the General Director of the General Directorate of Customs.

39. On 21 February 2023, the CNCBC approved creation of two operational sub-committees, the Legal Working Group and the Law Enforcement Working Group to enhance coordination and cooperation at the operational level.

40. Article 27.2(d) of the AML/CFT Law enables domestic coordination and exchange of information between competent authorities and the provision of assistance in investigations and legal proceedings relating to ML/TF. The FIU and its domestic partners (LEAs and relevant entities) have formalized their cooperation through nine MOUs. The FIU meets regularly with LEAs to discuss operational issues and FIU disseminations and with SNI.

41. The Organic Law of the Central Bank of Timor-Leste No.5/2011 (Organic Law) requires BCTL to cooperate with government and other public entities (Art. 40.1), enables BCTL to disclose of information obtained through its supervisory functions (Art. 31(d)), and empowers BCTL to collaborate with government departments and agencies in collection, compilation, analysis and publication of statistics and other relevant information (Art. 32(d)).

42. *Criterion 2.4* - Timor-Leste does not have a cooperation mechanism to combat PF.

43. *Criterion 2.5* - The FIU is empowered to collect and access information, collaborate with judicial authorities and other entities responsible for prevention and suppression of ML and TF, and cooperate with regulatory and oversight authorities (Art 2, Decree Law No.16/2014 18 June Financial Information Unit). The CNCBC brings together relevant authorities to ensure the compatibility of AML/CFT requirements with other legal and

governance regimes in Timor-Leste, including rules related to data protections and privacy. Overall data protection and privacy obligations on competent authorities, FIs or DNFBPs do not impede the application of AML/CFT requirements.

Weighting and Conclusion

44. The CNCBC is the designated authority responsible for cooperation and coordination of Timor-Leste's national AML/CFT policies however these are not regularly reviewed. There are various mechanisms in place that enable co-operation, coordination and exchange of information between domestic authorities for ML and TF but there are no mechanisms to combat PF.

45. **Recommendation 2 is rated largely compliant.**

Recommendation 3 - Money laundering offence

46. In its 2012 MER Timor-Leste was rated partially compliant for R.1 and largely compliant with R.2. The MER found not all predicate offences for ML were criminalised, criminal sanctions applicable to legal persons were not dissuasive and the ML offence did not extend to offences committed outside Timor-Leste. Timor-Leste amended the AML/CFT Law in 2013 to expand the coverage of predicate offences and other elements of the ML offence.

47. *Criterion 3.1* - Timor-Leste criminalises ML under Article 313(1)(a) of Decree Law No.19/2009 (Penal Code), amended by Law No.17/2011 on the Legal Regime for Prevention and Combating Money Laundering and Terrorism Financing (AML/CFT Law). Art. 313(1)(a) of the Penal Code provides similar wording to Articles 3(1)(b) & (c) of the Vienna Convention and Article 6(1) of the Palermo Convention, covering (a) the element of knowledge by the defendant; (b) the relevant range of acts including converts, transfers, and to assist or facilitate any transaction or conversion or transfer; and (c) Article 313 (6) of the Penal Code sets out that attempted ML is punishable.

48. Article 313 of the Penal Code has been drafted in accordance with the material and subjective elements of both the Vienna and Palermo Conventions, and the ML offence satisfies the physical and material elements of the offence as required by both Conventions. Sub-paragraphs a), b) and c) of Article 313(1) of the Penal Code correspond to Article 6(1)(a)(i) and (ii) of the Palermo Convention and Article 3(1)(b) and (c) of the Vienna Convention. The ML offence attracts a penalty of 4 to 12 years of imprisonment under Article 313(1)(c) of the Penal Code.

49. Article 313(1) determines the application of the ML offence to anyone who knowingly deals with assets or proceeds that are the result of the commission of any of the predicate offences identified, under any form of participation in such offences. The conversion or transfer of such assets, the concealment or disguise of their illicit origin as well as the assistance of any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions are covered in Article 313(1)(a). Article 313(1)(b) covers the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, while the acquisition, receipt, possession, retention or use of such property is covered under Article 313(1)(c). Simple possession is captured under the basic concepts of Timor-Leste's legal system within the concepts of acquisition and use. The Penal Code provides general provisions related to participation, including cases of joint of commission (Art. 27, Penal Code), participation in the commission (Art. 29, Penal Code),

authorship (Art. 30, Penal Code), instigation or counselling (Art. 31, Penal Code), and complicity or aiding (Art. 32, Penal Code).

50. *Criterion 3.2* - Since the last ME Timor-Leste has added a number of predicate offences to the scope of ML crimes under Article 313(1). Penal Code: terrorism, guns or nuclear product trafficking, trafficking or sale of persons, pornography, corruption, fraud or extortion, tax crimes (direct and indirect taxes), illicit exploitation of gambling, trafficking of protected species, and trafficking of human organs or tissues, and other serious crimes subject to at least two years' imprisonment, which include counterfeiting of currency, smuggling and migrant smuggling.

51. The following categories of offences are not criminalised in Timor-Leste, so are not predicates for ML: piracy; piracy of goods; and insider trading and market manipulation.

52. Timor-Leste has not criminalised a sufficiently wide range of environmental crimes, and those that are in the Penal Code are not predicates for ML. For example, criminal harvesting, extraction of wild fauna and flora criminal extraction of precious metals and stones, other natural resources are not covered. There is limited coverage of dumping of waste.

53. *Criterion 3.3* - Article 313(1) Penal Code amended by the AML/CFT Law applies a combination approach, including a category of listed offences, and a further category based on predicate offences (serious crimes) subject to imprisonment of at least two years. Timor-Leste's threshold of predicate offences including crimes subject to at least two years' imprisonment exceeds the minimum penalty outlined in the FATF Standards which is a requirement of six months' imprisonment.

54. *Criterion 3.4* - With respect to the ML offence extending to any type of property, Article 313 Penal Code amended by the AML/CFT Law covers assets and proceeds. The AML/CFT Law defines 'assets', for the purposes of the Penal Code, as assets of any nature, tangible or intangible, movable or immovable, and all legal documents or instruments, including in electronic or digital form, attesting the ownership or other rights over such assets. While the combination of Article 313 in the Penal Code and the new definition of 'assets' inserted by the AML/CFT Law is broad, it does not explicitly cover property that 'indirectly' represent the proceeds of crime. The Criminal Procedure Code (CPC) uses the term property (i.e. Article 336 CPC on property execution), however it is also not defined.

55. *Criterion 3.5* - There is no requirement in Article 313(4) Penal Code for the prior conviction of a predicate offence in order to prove the illicit origin of the proceeds in ML crimes.

56. *Criterion 3.6* - Article 313(5) of the Penal Code states that the predicate crime shall include 'any crime committed outside Timor-Leste whenever said act is considered a crime in the State where committed and within Timor-Leste'.

57. *Criterion 3.7* - There is no prohibition to the ML offence applying to persons who commit the predicate offence. This was an issue identified in the last MER, however the amendments to the Penal Code (by the AML/CFT Law) revoked the relevant provision at Art. 313(6).

58. *Criterion 3.8* - Article 313(3) of the Penal Code states that knowledge, intention or purpose is required to prove ML. Article 14 Penal Code provides a general provision on *mens rea*, noting that only acts committed with intent are punishable. Furthermore, Art.15(1) Penal Code defines intent, and 15(2) Penal Code broadens the definition of intent to include the committing of an act as the necessary consequence of their conduct. However, Art.313(3) of the AML/CFT Law states that the knowledge, intent or purpose, required as constitutive elements

of the crime, may be entered as factual, effective and specific concrete circumstances. Article 113 of the CPC sets out a general principle in the evaluation of evidence in criminal procedures and states that 'except as otherwise stated in the law, evidence is assessed according to the free conviction of the competent entity, which shall be formed on the basis of rules of experience and logical criteria. This broadly provides for the construction of the mental element of the ML offence from objective factual circumstances. Further, Article 109 of the CPC states 'elements of evidence comprise any facts that are legally relevant to the existence or nonexistence of a criminal offence, the possibility for punishment or not of the defendant, and the determination of the sentence, or security measure, or of any civil liability that may arise from the case'.

59. *Criterion 3.9* - Money laundering is punishable by four to 12 years imprisonment pursuant to Art. 313(1) Penal Code amended by the AML/CFT Law. This criminal sanction appears proportionate and dissuasive, and slightly higher than the criminal sanctions provided for comparable offences in Timor-Leste.

60. Article 313A of the Penal Code, amended by the AML/CFT Law, provides increasing penal sanction for aggravating circumstances of ML crimes with certain criteria⁷², including increasing imprisonment of up to 25 years. Article 313B of the AML/CFT Law however allows judges to decrease the penal sanction for attenuating circumstances of ML in certain circumstances⁷³.

61. *Criterion 3.10* - Article 42(1) to (3) of the AML/CFT Law provides criminal liability for legal persons. The provision limits the ML element to only 'a legal person on behalf of whom or to whose benefit ML (occurred)', and other ML-related conduct would be criminalised by ancillary offences. The same article imposes a fine for the offence from the amount laundered to up to three times the value of the same. Ancillary sanctions are also provided as follows: impediment, for a period ranging from six months to three years, to continuing to exercise directly or indirectly certain economic activities, placement under judicial supervision, termination of the activities which were used to carry out the crime for a period ranging from six months to three years; winding up, publication of the sentence at his/her own expense. Parallel criminal, civil or administrative proceedings are not precluded with respect to legal persons convicted of the ML offence.

62. The sanctions available, in particular the monetary fine of a maximum of three times the value of funds laundered, are not proportionate or sufficiently dissuasive.

63. *Criterion 3.11* - Articles 313(1)(a) and 313(6) of the Penal Code amended by the AML/CFT Law criminalise the conduct of persons assisting ML and attempting ML. However, Arts. 24(1) and (2) of the Penal Code provide an exception to the ability to punish attempt, being that an attempt is only punishable in connection with crimes of intent carrying maximum prison sentence of more than three years, which covers the ML offence.

64. In keeping with the findings of the 2011 MER, the Penal Code provides general provisions as follows (a) cases of joint of commission (Art. 27, Penal Code), (b) participation in

⁷² The maximum and maximum limits of the punishments laid down in Article 313 can be increased by one third: a) if a prison sentence exceeding the maximum provided in the preceding articles is applicable to the underlying crime; b) if the crime is committed within a commercial or economic activity; c) if the crime is committed within the activities of an organized crime group; d) if the amount being laundered exceeds 500,000.00 US dollars; e) if the intent is to promote the continuation of criminal activity.

⁷³ The punishments provided for in Article 313 can be specially attenuated pursuant to Article 57 if the person committing the crime gives information to the judicial authorities enabling to: a) Prevent or limit the effects of the crime; b) Identify, pursue or accuse other criminals; c) Obtain evidence; d) Prevent other crimes of money laundering or terrorist financing from being committed; 12 e) Deprive the groups of organized crime from its resources or proceeds of the crime.

the commission (Art. 29, Penal Code), (c) authorship (Art. 30, Penal Code), (d) instigation or counselling (Art. 31, Penal Code), and (e) complicity or aid (Art. 32, Penal Code).

Weighting and Conclusion

65. Timor-Leste has criminalised ML on the basis of the Vienna and Palermo Conventions, including a range of ancillary offences. Some predicate offences are not captured, or not fully captured, as predicates, including environmental crimes, counterfeiting of products, piracy, and insider trading and market manipulation. Taking into account Timor-Leste's risk and context, these gaps are classified as a minor deficiency. The ML offence does not explicitly cover property that indirectly represents the proceeds of crime and Timor-Leste's threshold approach for coverage of predicate offences is higher than the FATF standard. Available criminal penalties for legal persons are not proportionate or wholly dissuasive.

66. **Recommendation 3 is rated largely compliant.**

Recommendation 4 - Confiscation and provisional measures

67. Timor-Leste was rated largely compliant for the former R.3 in its 2012 MER. The framework for confiscation and provisional measures is largely unchanged since the 2012 MER.

68. The AML/CFT Law provides for the freezing, seizing and confiscation of laundered property (including property that is income or profit derived from the proceeds of crime), proceeds from, and instrumentalities used in or intended for use in the commission of any ML, FT or predicate offences, and property of corresponding value. Although there is no separate definition of such terms as 'proceeds of crime', 'funds', 'instrumentalities' etc in the AML/CFT Law, these are concepts well consolidated in the legal doctrine of Timor-Leste and developed in general terms in Articles 102 and 103 of the Penal Code. The Criminal Procedure Code (CPC) does not specify the types of property possible to seize or confiscate. The definition of assets set out in art. 1A(4) of the AML/CFT Law aligns with the FATF's definition, but does not include corporeal and incorporeal. Timor-Leste however provided evidence that it has confiscated corporeal and incorporeal assets.

69. *Criterion 4.1* - There are provisions covering the requirements of c.4.1(a)(b) and (d) in the AML/CFT Law, however there are scope gaps with the ML offence related to a number of categories of predicates not being criminalised in Timor-Leste.

70. *Criterion 4.1(a)* Article 43(1)(b) of the AML/CFT Law provides for the confiscation of property laundered.

71. *Criterion 4.1(b)* Article 43(1)(c) of the AML/CFT Law provides for the confiscation of proceeds from the crime and instruments used to commit the crime. Article 102 provides for the confiscation of instruments of crime. Article 103 of the Penal Code determines the confiscation in favour of the State of all assets, rights or benefits directly or indirectly acquired as a result of the commission of a crime. The forfeiture provisions set out in Article 103 of the Penal Code apply to all conduct described or considered as a crime under the Penal Code, including some offences that are not predicates for the ML offence. Article 43(1)(d) of the AML/CFT Law provides for the confiscation of 'funds or assets with which the proceeds of the crime may have been mixed'.

72. *Criterion 4.1(c)* Article 102 and 103 of the Penal Code and Article 43(1)(a) AML/CFT Law provides for confiscation of property that is the proceeds of, or used in, or intended or allocated for TF. The deficiencies in the criminalisations of TF, as set out in R.5, apply here.

73. *Criterion 4.1(d)* Article 43(1)(a) of the AML/CFT Law provides for the confiscation of other assets of equivalent value.

74. Law No.7/2020 on the Measures on Prevention and Combat of Corruption, Article 98, criminalised the offence of possession of unjustified assets. Any declarants or family members who have assets which exceed 25% of their known licit income and fail to justify the origin or source of the exceeding assets, may have the exceeding assets confiscated following a court declaration. However, those properties are limited to confiscations relating to ML/TF offences.

75. *Criterion 4.2(a)* - Competent authorities have some powers and mechanisms to identify, trace and evaluate property as follows:

- Interceptions and records, including access to computer systems, computer networks, servers and electronic mail (Art. 33(1), AML/CFT Law) and undercover agents in relation ML, TF and the most serious, though not all, predicate offences (Art. 33B AML/CFT Law);
- Judicial authority can request information and documents from reporting entities⁷⁴, including on the financial situation of the suspects, based on a duly grounded order (Art. 35B. AML/CFT Law). The police agencies cannot make direct requests to reporting entities, but can propose the request to judicial authority.
- Surveillance of accounts. Based on a duly grounded order purpose (Art. 35C, AML/CFT Law);
- Undercover agents (Art. 33B(1a,b), AML/CFT Law). This application should be notified to the judge (Art. 33B(2), AML/CFT Law); and
- Search of persons and places (Art. 168(1) & (2), CPC) and search and seizures (Art. 33A AML/CFT Law), although this is limited to ML, not related predicates.

76. Further, the FIU has the authority to identify, trace and evaluate property as follows:

- The FIU has the power to obtain information from any reporting entity in relation to an investigation (Article 21 of the AML/CFT Law).
- The FIU can request additional information deemed necessary to the exercise its duties from any entity or person bound by the duty to inform. The FIU exercise this power without prior judicial authorisation (Article 21.1 of the AML/CFT Law).
- Based on prior judicial authorisation the FIU can access information held by reporting entities (Article 21.2 of the AML/CFT Law).

77. *Criterion 4.2(b)* - Article 172(1) to (5) of the CPC and Articles 33A and 36 of the AML/CFT Law regulate seizures and freezing.

78. Article 56 of the CPC contains the general seizure powers, permitting police to conduct seizures without a court order in certain circumstances⁷⁵. Powers to freeze or seize funds or assets specific provision relating to ML/TF are set out in and Article 35A of the AML/CFT Law. A court may impose interim measures, including the freezing and seizing of funds or assets,

⁷⁴ Article 3 of the AML/CFT Law defines various types of FIs and DNFBPs as 'financial and non-financial entities'. The term reporting entity(ies) is used synonymously for entities defined in Article 3.

⁷⁵ The police may conduct searches, checks or seizures without a court order: (a) In the case of flagrante delicto in connection with a criminal offence that carries imprisonment; or (b) where there is strong suspicion that items relating to a criminal offence are hidden and a delay in securing permission to retrieve them might lead to the modification, removal or destruction of such items or pose a danger to the safety of persons and goods

which may be liable for confiscation (Article 35 of the AML/CFT Law). Prior notification is not required for freezing or seizure.

79. The AML/CFT Law sets out a specific regime for assigned seized assets to operational use by the police up judicial order declaring its operational usefulness (Article 35-A(1)). The law confirms that this is a temporary arrangement until the criminal proceedings end in restitution to the accused or confiscation by the State (article 35-A(2)). In the circumstance of this operational use of seized assets by the police, all interested parties must be notified (Article 35-A(3)). This is understood by authorities to extend to a third-party with a legitimate interest

80. The judiciary and the PGO having the authority to suspend transactions based on an FIU request (Arts. 23(1) to (3), Law No.17/2011) as a provisional measure to prevent any dealing, transfer, or disposal of property. Transactions can be suspended for a maximum of 30 working days.

81. *Criterion 4.2(c)* - Articles 44(1) to (2) of the AML/CFT Law provides a basis to prevent or void actions that prejudice the country's ability to freeze or seize or recover property that is subject to confiscation. It provides a basis for the court to declare invalid any legal transaction entered into for the purposed of preventing the confiscation of assets. Moreover, Article 105 of the Law No.7/2020 in the Measures on Prevention and Combat of Corruption prohibits all parties who intend to trade the assets originating from the corruption crimes by annulling all trading acts that have been carried out by the involved parties. In this case, the court may declare the invalidity of any legal transaction. It is not clear that the provision in Art 44 of the AML/CFT Law is a sufficient power to ensure the courts can overcome anything ordered in civil proceedings (that may otherwise prevent property subject to confiscation).

82. *Criterion 4.2(d)* - Timor-Leste has a wide range of investigative powers outlined under legislation (i.e. the CPC and AML/CFT Law), including the ability to request information and documents from reporting entities, conducting surveillance, use of undercover agents, the search of persons and places, and the seizing and confiscation assets (see c.31.1 and c.31.2). Minor deficiencies exist in relation to investigative measures (see R.31).

83. *Criterion 4.3* - Article 173(1) to (3) of the CPC provides protection for the rightful owners of assets or items based on the state's declaration of forfeiture or a final decision by the court. Article 35(2) of the AML/CFT Law sets out that provisional or interim measures, including freezing or seizing funds or assets, are subject to the rights of third parties regarding good faith. Moreover, Article 43(2) of AML/CFT Law provides an exception for the confiscation of assets by the state if the owner can prove that they were acquired for a fair monetary value in return for the rendering of services of equal value or through any other legitimate means and that there was no knowledge of their illegal origin. A similar provision exists in relation to interim measures (Art. 35(3), AML/CFT Law).

84. Article 106 of the Anti-Corruption Law provides the opportunity for parties who are legally entitled to confiscated assets to submit evidence to the court to challenge the confiscation decision. If the proceeds of the crime have been declared lost in favour of the State, the defendant or whoever claims to be the rightful owner of the property may oppose the court decision by demonstrating its lawful origin of the assets.

85. *Criterion 4.4* - Timor-Leste has provisions relating to the disposal of seized and confiscated assets, but limited mechanisms relating to the management of assets. Article 172(3) CPC states that seized assets are attached to the records or, where necessary, placed in the care of a trustee who may be the clerk of the section. Article 172(4) CPC sets out the mechanism to preserve, maintain, destroy, sell or use asset for a social purpose in the case of any hazardous

or perishable item. Article 173(1) to (4) of the CPC provide for the disposal/return of seized item to their rightful owners through a restitution mechanism. There are no guidelines or regulations on asset management, nor a designated authority tasked with asset management, however in practice the PGO or relevant LEA, assisted as necessary by the Office of State Management, or Office of Land Property, manage the asset.

Weighting and Conclusion

86. There are broadly comprehensive powers for confiscation and provisional measures, however there are deficiencies with the application due to the scope gap with the range of predicate offences in Timor-Leste. There are no guidelines or regulations on asset management, however given Timor-Leste's context this gap is not weighed heavily.

87. **Recommendation 4 is rated largely compliant.**

Recommendation 5 - Terrorist financing offence

88. Timor-Leste was rated largely compliant with SR.II in its 2012 MER. The TF offence did not cover individual terrorists and sanctions applicable to legal persons were not dissuasive.

89. *Criterion 5.1* - Terrorist financing (TF) is criminalised under Art. 133 of the Penal Code amended by the AML/CFT Law. The article covers both natural persons and legal persons (see Art. 42(1) to (3) Law No.17/2011 provides criminal liability for legal persons) and applies to a wide range of conduct committed through 'any means, either directly or indirectly', including the provision, supply, gathering, collection, or holding of funds. TF is a wilful offence that applies when the perpetrator (any person) knows, or should have known, that the funds are to be used in TF and when he has the intention to commit it (Arts. 15 and 16, Penal Code).

90. TF is considered a wilful offence in Timor-Leste law, in accordance with the general principle of the Penal Code which provides for different forms of wilfulness or malice: direct, necessary or eventual, as provided for in Article 15 of the Penal Code wherein, a person acts with wilfulness or malice when, conceiving a fact that corresponds to an offence, he/she acts with the intention of committing it (direct wilfulness or direct malice); shall also be deemed to have acted with malice the person who mentally anticipated that, as a necessary consequence of his/her conduct, an act will occur that amounts to a legally typified criminal behaviour (necessary wilfulness or necessary malice); where an act occurs that amounts to a legally typified criminal behaviour and that act was mentally anticipated as a possible consequence of the conduct, if the perpetrator acted tolerating the occurrence of such an act, malice shall be deemed to characterize the conduct (eventual wilfulness or eventual malice).

91. The TF offence does not require that the funds were actually used to carry out or attempt a terrorist act or acts; nor for them to be linked to a specific terrorist act or acts. However there are gaps in Article 133 Penal Code as the definition of a terrorist organisation's purpose under Art. 131(1) of the Penal Code, and terrorism activities under Art. 132(1) Penal Code, does not cover all offences within the scope of and as defined in the treaties listed in the annex of TF Convention (e.g. crimes against internationally protected persons, including diplomatic agents, against the taking of hostages, physical protection of nuclear material, and against the safety of fixed platforms located on the continental shelf).

92. *Criterion 5.2* - Timor-Leste criminalises wilfully providing or collecting funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part to commit a terrorist act. The TF

offence does not require that the funds were actually used to carry out or attempt a terrorist act or acts; nor for them to be linked to a specific terrorist act or acts. Financing an individual terrorist is not criminalised.

93. *Criterion 5.2^{bis}* - Art. 131(1) and Art. 132(1) Penal Code do not apply to individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

94. *Criterion 5.3* - The legislation covers 'funds or assets of any kind' obtained through 'any means', which satisfies the requirement to cover funds or other assets from both legitimate and illegitimate sources. As set out in R.3, the definition of asset under Article 1A(4) AML/CFT Law aligns with the range of property required under the FATF Recommendation.

95. *Criterion 5.4* - Art. 133 of the Penal Code (amended by the AML/CFT Law) states 'the intent of using the whole or part of the same to plan, prepare or commit the actions specified in article 131(1) Penal Code, and in article 132(1) Penal Code'.

96. *Criterion 5.4(a)* - Art 133 of the Penal Code does not require that funds or other assets were actually used to carry out or attempt a terrorist act(s).

97. *Criterion 5.4(b)* - Funds or assets do not need to be linked to a specific terrorist act(s). While the Penal Code is not explicit, the first provision in Art 133 criminalises financing in circumstances where funds or other assets *may* be used and in the planning and preparation for a range of terrorism conduct, rather than any particular offence. This is done by reference to the conduct set out in art 131(1). The provision within Art. 133 more clearly requires a link to a specific terrorist act. These provisions are disjunctive, and as such TF is criminalised in circumstances where a specific terrorist act is not required.

98. *Criterion 5.5* - Article 113 of the CPC sets out a general principle in the evaluation of evidence in criminal procedures and states that 'except as otherwise stated in the law, evidence is assessed according to the free conviction of the competent entity, which shall be formed on the basis of rules of experience and logical criteria'. This broadly provides for the construction of the mental element of the TF offence from objective factual circumstances. Further, Article 109 of the CPC states 'elements of evidence comprise any facts that are legally relevant to the existence or nonexistence of a criminal offence, the possibility for punishment or not of the defendant, and the determination of the sentence, or security measure, or of any civil liability that may arise from the case'.

99. *Criterion 5.6* - Art 133 of the Penal Code, amended by the AML/CFT Law, provides penalties for natural persons of between 12 to 25 years' imprisonment, depending on the existence of aggravating circumstances.⁷⁶ This is commensurate with the penalties for terrorism and is proportionate and dissuasive.

100. *Criterion 5.7* - Art. 42(1) to (3) AML/CFT Law provides criminal liability for legal persons committing TF and imposes a fine of the minimum amount of the 'laundered amount' and up to three times the value of the same. It is unclear how the 'laundered amount' would apply to a TF offence.

101. Additional sanctions for legal persons are outlined in Art.42(3) of the AML/CFT Act, as follows: (a) impediment, for a period ranging from six months to three years, to continuing to

⁷⁶ The maximum and maximum limits of the punishments laid down in Article 133 can be increased by one third, pursuant to the criminal law: a) if the crime is committed within a commercial or economic activity; b) if the crime is committed within the activities of an organized crime group.

exercise directly or indirectly certain economic activities, (b) placement under judicial supervision, (c) termination of the activities which were used to carry out the crime for a period ranging from six months to three years; (d) winding up, (e) publication of the sentence at his/her own expense.

102. *Criterion 5.8(a)* - Article 23 CPC sets out a general provision which covers attempted offences and also applies for TF.

103. *Criterion 5.8(b)* - The Penal Code interpretive provisions are applicable to TF and criminalise cases of joint commission (Art. 27) and participating in the commission (Art. 29) (Art.27,29,31,32) and therefore would be prosecutable in Timor-Leste.

104. *Criterion 5.8(c)* - The Penal Code interpretive provisions are applicable to TF and criminalise, (c) authorship (Art 30. Penal Code), (d) instigation or counselling (Art. 31. Penal Code), (Art.27,29,31,32) and therefore would be prosecutable in Timor-Leste.

105. *Criterion 5.8(d)* - While the TF legislation does not contain explicit provisions covering inchoate offences, these are covered to some in general terms under the Penal Code interpretive provisions (Art.27,29,31,32) and therefore would be prosecutable in Timor-Leste.

106. *Criterion 5.9* - The penalty range for TF offences (12 to 25 years' imprisonment) qualifies it as a predicate offence under Art. 313(1) Penal Code as amended by Law No.17/2011, which categorises any offense subject to at least 2 years' imprisonment as a predicate offence for money laundering.

107. *Criterion 5.10* - Article 133 of the Penal Code does not make any distinction regarding whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organization(s) is located or the terrorist act(s) occurred/will occur, thus applying to all situations in which the collection and making available the funds may occur irrespective of the location of the terrorists or the occurrence of terrorist acts and the financiers.

Weighting and Conclusion

108. There are deficiencies in the criminalisation of TF in accordance with the TF Convention. Financing an individual terrorist is not clearly covered, nor is financing individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. Taking into account Timor-Leste's risk and context, these gaps are given minor weight.

109. **Recommendation 5 is rated largely compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

Timor-Leste was rated partially compliant with SR.III in its 2012 MER due to an absence of implementing instructions for UNSCR 1267 and 1373.

110. *Criterion 6.1* - Timor-Leste did not demonstrate a framework to identify and propose targets for designation under UNSCR 1267 and successor resolutions.

111. *Criterion 6.1(a)* - Timor-Leste has not identified a competent authority in line with this criterion.

112. *Criterion 6.1(b)* - Timor-Leste does not have a mechanism for identifying targets for designation pursuant to UNSCR1267/1989 and successor resolutions.

113. *Criterion 6.1(c)* - In reference to UNSCR1267 and successor resolutions, Timor-Leste has not applied an evidentiary standard of proof of 'reasonable grounds' or 'reasonable basis' when deciding whether or not to make a proposal for designation.

114. *Criterion 6.1(d)* - In reference to UNSCR1267 and successor resolutions, Timor-Leste has no legal basis to follow the procedures and standard forms for listing in line with UNSCR1267.

115. *Criterion 6.1(e)* - Timor-Leste does not meet this criterion. Timor-Leste did not demonstrate any framework to identify or make designations and has not made any related designations.

116. *Criterion 6.2* - Timor-Leste did not demonstrate a framework to identify and propose targets pursuant to UNSCR 1373.

117. *Criterion 6.2(a)* - Timor-Leste has not identified a competent authority in line with this criterion.

118. *Criterion 6.2(b)* - There is no legal basis or mechanism to identify targets for designation pursuant to UNSCR1373 in Timor-Leste.

119. *Criterion 6.2(c)* - Timor-Leste does not meet this criterion as there is no legal basis to implement UNSCR1373.

120. *Criterion 6.2(d)* - Timor-Leste does not meet this criterion as there is no legal basis to implement UNSCR1373.

121. *Criterion 6.2(e)* - Timor-Leste does not meet this criterion as there is no legal basis to implement UNSCR1373.

122. *Criterion 6.3(a)* - Timor-Leste did not demonstrate a legal framework, procedures or mechanisms to collect or solicit information in order to identify persons or entities, that meet the criteria for designation.

123. *Criterion 6.3(b)* - Timor-Leste did not demonstrate it can operate *ex parte* as required under this recommendation.

124. *Criterion 6.4* - Timor-Leste is not implementing TFS-TF without delay.

125. Article 36.3 of Law No.4/2013 contains a requirement for FIs and certain DNFBPs identified under the AML/CFT law to, on instruction from BCTL, freeze funds and any other financial assets of terrorists, or those who finance terrorism and of terrorist organisations, designated by the United Nation Security Council, under the terms of Chapter VII of the United Nations Charter, or in UNSCR1373.

UNSCR1267

126. UNSCR 1267 and its successor resolutions act under Chapter VII of the UN Charter, which creates an obligation to implement measures related to UNSCR1267, on instruction from the BCTL. BCTL Circulars are legally binding and required to bring the UNSCR1267 freezing obligations into force, however, there are significant deficiencies in the process including:

- no legal framework that requires all natural and legal persons within Timor-Leste to freeze funds of entities designated under UNSCR1267. The freezing requirement in Article 36 of the AML/CFT Law only covers FIs and certain DNFBPs. However, the legally binding

Circulars instructing the freezing of funds are only issued to the FIs which BCTL regulates. Therefore, no DNFBPs (including those not covered by the AML/CFT law) are issued Circulars when a UNSCR designation is changed/updated, therefore no related obligation to freeze exists.

- a gap in the coverage of the freezing requirement, with Article 36.3 of the AML/CFT Law limiting the requirement to ‘funds and other financial assets’. While the definition of assets in Article 1-A of the AML/CFT law is quite broad, there is no definition of what constitutes ‘funds or financial assets’.
- the BCTL’s Circular letters, acting as the instructions described in Article 36 of the AML/CFT law, are not issued to FIs without delay following UN designations under UNSCR 1267 and successor resolutions. Furthermore, circulars have not been issued following every update to UNSCR 1267 lists as would be required under Article 36.3 of Law No.4/2013 to bring freezing obligations into force. While the BCTL’s circulars remind FIs of their obligations to regularly access the United Nations Sanction committee webpage for updates, and implement appropriate internal procedures to ensure that funds being sent to, or by, listed individuals or organisations (or are otherwise connected) are frozen and immediately reported to the BCTL however, the circulars do not extend to DNFBPs or FIs not supervised by BCTL.

UNSCR1373

127. UNSCR 1373 is inoperable under Article 36 of Law No.4/2013 because Article 36.1, refers only to entities designated in UNSCR 1373. However, there are no designated terrorist or terrorist organisations within UNSCR1373 itself, therefore there are no prescribed entities to apply the freezing requirement against. Timor-Leste does not have any national procedures outlining how domestic designations would occur under UNSCR1373, or any other implementing laws or regulations. As such, there is no implementation of requirements related to UNSCR 1373 in Timorese Law.

128. *Criterion 6.5* - There is no legal authority explicitly identified as the domestic competent authority responsible for implementing and enforcing TFS-TF in Timor-Leste. While Article 36.1 of Law No.4/2013 states ‘funds and any other financial assets of terrorists...must be frozen following instructions from the Central Bank or by any other means provided for by law’, this does not stipulate that BCTL is responsible for implementing and enforcing TFS-TF.

129. *Criterion 6.5(a)* - While the freezing requirement in the AML/CFT Law (Article 36) covers FIs and certain DNFBPs, the implementing Circulars from the BCTL are only issued to FIs which are regulated by the BCTL, and Circulars are not issued ‘without delay’. There is no freezing requirement without prior notice. There is no legal basis to extend the freezing obligations to all natural and legal persons within Timor-Leste.

130. *Criterion 6.5(b)* - (i) Article 36(1) of the AML/CFT law limits the ability to freeze funds or other assets that are owned or controlled by the designated person or to funds and financial assets (which are not defined). Timor-Leste did not confirm any basis to freeze funds or non-financial assets that are: (ii) jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; (iv) acting on behalf of, or at the direction of, designated persons or entities.

131. *Criterion 6.5(c)* - Timor-Leste did not demonstrate a statutory basis to prohibit their nationals, or any persons and entities within their jurisdiction, from making any funds or other assets, economic resources, or financial or other related services, available, directly or

indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.

132. *Criterion 6.5(d)* - In order for obligations to be legally in-force, the BCTL is required to publish a circular on <https://www.bancocentral.tl/en/go/circular> each time the UN Sanction List is updated in relation to UNSCR1267 (Articles 36(1-2)). This Circular communicates to all FIs operating in Timor-Leste of their obligation to act on the circulated list associated with the UNSCR 1267. The BCTL also distributes the circular to FIs by e-mail.

133. The BCTL requires that all FIs should regularly access the UN Sanctions Committee webpage for updates. While the circular references FIs' obligations to implement 'appropriate internal procedures' and report seized or frozen funds to the bank, there is no further guidance or information provided to FIs which substantiates their obligations to take action under freezing mechanisms. No communications or guidance has been made available to DNFBPs, nor other FIs not regulated by BCTL relating to TFS-TF.

134. *Criterion 6.5(e)* - Article 36(4) of the AML/CFT Law requires that FIs and certain DNFBPs covered under Article 3 should immediately notify UIF and BCTL (in the case of FIs regulated by it), of the existence of funds linked to terrorists, terrorist organisations or individuals or associated entities, as well as those owned by the individuals or organisations referenced in the lists drawn up by the United Nations Security Council or in Resolution No.1373 (2001) of the United Nations Security Council or other subsequent Resolutions. This requirement does not require the issuance of a Circular by the BCTL. However, Article 36 does not include a legal provision regarding attempted transactions.

135. *Criterion 6.5(f)* - Timor-Leste did not demonstrate statutory measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under Recommendation 6.

136. *Criterion 6.6(a)* - Article 36(6) of the AML/CFT Law provides that any person or organisation whose funds or other financial assets are frozen under the terms of Article 36 may request the BCTL or competent authority that ordered the freezing to remove their name from the list and restore the funds or other financial assets within 30 days following the publication of the list.

137. An appeal may also be filed against any decision dismissing the removal request, or request for the restitutions of funds or other assets.

138. However, there are no further procedures implemented for de-listing requests. Therefore, there is no indication that such procedures align with those adopted by the 1267/1989 Committee, or the 1988 Committee.

139. No related materials or information have been made publicly available.

140. *Criterion 6.6(b)* - As outlined under c.6.4 above, there is no legal basis to implement UNSCR1373. Therefore, there are no legal authorities, procedures or mechanisms to de-list and unfreeze funds or assets of persons or entities designated pursuant to UNSCR1373 no longer meeting the designation criteria.

141. *Criterion 6.6(c)* - As outlined under c.6.4 above, there is no legal basis to implement UNSCR1373. Therefore, there are no procedures to allow, on request, the review of a designation pursuant to UNSCR1373 before a court or other independent competent authority.

142. *Criterion 6.6(d)* - Timor-Leste has not demonstrated a legal framework, procedures, or mechanisms to facilitate the review of designations pursuant to UNSCR 1988.

143. *Criterion 6.6(e)* - Timor-Leste has not demonstrated a legal framework, procedures, or mechanisms to inform designated persons and entities of the UN Office of the Ombudsman, pursuant to UNSCRs 1904, 1989, and 2083.

144. *Criterion 6.6(f)* - Timor-Leste has not provided publicly known procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities.

145. *Criterion 6.6(g)* - Timor-Leste has not demonstrated a mechanism for communicating de-listings and unfreezings to the financial sector or DNFBPs.

146. *Criterion 6.7* - Timor-Leste did not demonstrate that it authorises access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, in accordance with the procedures set out in UNSCR 1452 and any successor resolutions.

Weighting and Conclusion

147. Timor-Leste has very limited legal provisions covering TFS-TF requirements. There is no legal basis to implement UNSCR1373 while the coverage of UNSCR1267 and successor resolutions is incomplete, with deficiencies including that it does not apply to all legal and all natural persons and that the freezing obligation is limited to funds and financial assets. Significant weight has been placed on these gaps. While BCTL issues legally binding circulars to FIs establishing freezing obligations on funds and financial assets of listed individuals, these circulars are not issued 'without delay'. Further, no Circular is issued to DNFBPs when an UNSCR designation is changed/updated. Therefore, no freezing obligation on funds and financial assets of listed individuals exists for any DNFBP. The assessment team considers these deficiencies to be fundamental gaps. Timor-Leste does not have a mechanism to propose individuals or entities for designation by the 1267/1989 Committee, or the 1988 Committee. Timor-Leste does not have a sufficient framework that provides for de-listing, or un-freezing, and information is not publicly available.

148. **Recommendation 6 is rated non-compliant.**

Recommendation 7 – Targeted Financial sanctions related to proliferation

This is a new Recommendation which was not assessed in the previous MER.

149. *Criterion 7.1* - Timor-Leste is not implementing targeted financial sanctions (TFS-PF) without delay to comply with the UNSCRs that relate to the prevention, suppression, and disruption of proliferation of weapons of mass destruction and its financing due to lack of laws to implement TFS on PF.

150. *Criterion 7.2* - Timor-Leste has not established the necessary legal authority or identified a competent authority to assume responsibility for the implementation and enforcement of TFS-PF in accordance with this criterion. Further, Timor-Leste does not require natural and legal persons to freeze the funds and other assets of PF-designated persons or entities.

151. *Criterion 7.3* - Timor-Leste has not imposed relevant obligations on FIs and DNFBPs under this criterion. Therefore, Timor-Leste does not have measures in place to monitor or

ensure compliance by reporting entities. Further, Timor-Leste has no civil, administrative, or criminal sanctions in relation to PF for REs who fail to comply with obligations under R.7.

152. *Criterion 7.4* - Timor-Leste has not developed or implemented publicly known procedures to submit delisting requests of those who do not, or no longer meet the criteria of designation, including no procedure to unfreeze funds or assets in the case of false positives. Timor-Leste does not have a procedure to authorise access to funds or assets in accordance with the relevant procedures in the UNSCRs.

153. *Criterion 7.5* - As Timor-Leste is not implementing TFS-PF without delay and given the absence of freezing obligations, Timor-Leste has no relevant measures in place pursuant to this criterion to permit the addition of interest or other earnings due, or to make a payment due under a contract entered into prior to designation.

Weighting and Conclusion

154. Timor-Leste does not have measures in place to implement TFS-PF in order to comply with the relevant UNSCRs. There is no competent authority designated with responsibility for TFS-PF and Timor-Leste does not require natural and legal persons to freeze the funds and other assets of PF-designated persons or entities.

155. **Recommendation 7 is rated non-compliant.**

Recommendation 8 – Non-profit organisations

156. Timor-Leste was rated partially compliant for Special Recommendation VIII (non-profit organisations) in its 2012 MER. Timor-Leste had not undertaken review of the adequacy of laws to prevent NPOs from being abused for TF purposes, or of the ML/TF risks of the sector more generally. No outreach had been made with the NPO sector, and effective steps had not been taken to promote supervision of the NPOs which accounted for a significant portion of financial resources in the sector. Furthermore, NPOs were not required to maintain and make available to competent authorities records of domestic and international transactions that were sufficiently detailed to verify alignment with an organization's purpose and objectives. Lastly, there were no effective mechanisms in place to ensure domestic cooperation, coordination or information sharing and no contact points were identified for dealing with international requests for information regarding NPOs.

157. *Criterion 8.1(a)* - To date, Timor-Leste has not identified which subset of NPOs fall under the FATF's definition. Further, Timor-Leste has not confirmed that all relevant sources of information have been used in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse.

158. *Criterion 8.1(b)* - Timor-Leste did not demonstrate the identification of the nature of threats posed by terrorist entities to 'at risk' NPOs nor how terrorist actors may abuse those NPOs.

159. *Criterion 8.1(c)* - As addressed in 8.1(a), Timor-Leste has not identified the subset of the NPO sector that may be abused for TF and therefore has not demonstrated that it had reviewed the adequacy of measures, including laws and regulations in regards to the requirements of this criterion.

160. *Criterion 8.1(d)* - Timor-Leste has not reviewed the NPO sector.

161. *Criterion 8.2(a)* - Timor-Leste has not demonstrated that it has clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs. Decree-Law No.5/2005 was primarily revoked once Article 5 paragraph 3 and Article 17 of Law No.10/2011, which approved the Civil Code, came into force. However, Articles 52-54 of Decree-Law No.5/2005 remain in force as they were not superseded by any elements of the Civil Code. Article 54.1 of Decree-Law No.5/2005 calls for the corporate bodies' registry to be publicly open to instil public confidence.

162. Articles 52-54 of Decree-Law No 5/2005 outlines the establishment of a corporate bodies' registry by the National Directorate of Registries and Notarial Services (within the MoJ). Domestic and foreign associations, foundations, and NGOs, and documents relating to the appointment of representatives, managers, or directors and members of the corporate body are all required to be recorded in the registry however it is not clear how accurate and up-to-date this registry is (see IO.5). The number of NPOs operating in Timor-Leste is not clear (see Table 1.4).

163. *Criterion 8.2(b)* - Timor-Leste has not demonstrated that it has encouraged and undertaken outreach and educational programs to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs towards terrorist financing abuse and terrorist financing risks, or the measures that NPOs can take to protect themselves against such abuse.

164. *Criterion 8.2(c)* - Timor-Leste has not demonstrated that it has worked with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities and thus protect them from terrorist financing abuse.

165. *Criterion 8.2(d)* - Timor-Leste has not demonstrated that it has encouraged NPOs to conduct transactions via regulated financial channels, wherever feasible, considering the varying capacities of financial sectors in Timor-Leste.

166. *Criterion 8.3* - Timor-Leste has not taken steps to promote effective supervision or monitoring of NPOs. For example, NPOs are not captured under the list of relevant entities in Article 3 of the AML/CFT Law. However, Article 19 of the AML/CFT Law indicates that any non-profit organisation collecting, receiving, granting or transferring funds as part of its activities shall be supervised by the Ministry of Finance, which may approve regulations to ensure that these organisations are not in any way being used for money laundering or terrorist financing purposes. Timor-Leste has not demonstrated any such regulations have been approved, or that policies or procedures exist implementing this supervisory function. In practice, the Ministry of Finance does not supervise NPOs.

167. Timor-Leste has not demonstrated that this framework has been implemented or applied in alignment with TF risks for NPOs.

168. *Criterion 8.4(a)* - Timor-Leste is not undertaking any compliance activities of the NPO sector and therefore has not demonstrated that it has monitored the compliance of NPOs with the requirements of this Recommendation, including no risk-based measures being applied to them as identified in criterion 8.3.

169. *Criterion 8.4(b)* - Timor-Leste has not demonstrated that it is be able to apply effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs.

170. Articles 173 and 183 of the Civil Code contain provisions that may allow associations and foundations to be wound up, but only in prescribed circumstances; for example, by judicial

ruling when an association or foundations existence is found to be contrary to the public order, when its purpose is systematically sought through illicit or amoral means, or when its real purpose doesn't match the purpose in its constitutive act or statutes.

171. Article 42 of the AML/CFT law (see R.3), and Articles 12 and 133 of the Penal Code can also apply (see R.5).

172. *Criterion 8.5* - Timor-Leste has not demonstrated that it has information gathering and investigation powers and mechanisms related to the potential abuse of NPOs.

173. *Criterion 8.5(a)* - Timor-Leste has indicated that the National Director of Registries and Notaries Services in the MoJ is responsible for overseeing all administrative and legal aspects of the corporate bodies registry, and that the MoJ is able to share information regarding an NPO if a formal request is made by another Government entity, although the legal basis for this has not been provided.

174. *Criterion 8.5(b)* - Timor-Leste reports that responsibility for investigating any NPO suspected of involvement in terrorist or TF activity lies with the PGO, supported by the PCIC, and that it has the investigative expertise and capability to investigate such crimes. Nevertheless, no evidence of NPO specific investigative policies, procedures or expertise was provided by Timor-Leste. To date, Timor-Leste has not investigated an NPO suspected of either being exploited by, or actively supporting terrorist activity.

175. *Criterion 8.5(c)* - As described in criterion 8.3, the law enabling the corporate bodies' registry requires some information related to the management of NPOs to be recorded and to be publicly accessible. Timor-Leste has not demonstrated that it has any other framework to enable investigative authorities to access information on the management and administration of specific NPOs if needed.

176. *Criterion 8.5(d)* - Timor-Leste has not demonstrated that it has established appropriate mechanisms to help authorities identify TF suspicions in response to this criterion.

177. *Criterion 8.6* - Timor-Leste has not demonstrated that it has identified appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

Weighting and Conclusion

178. Timor-Leste has not identified the relevant sub-set of NPOs, or their features, at risk of TF. No outreach has been made to the NPO sector in regards to TF risks or vulnerabilities. While the Decree-Law No.5/2005 and the AML/CFT Law identifies a supervisory authority, no evidence was provided that supervision or monitoring has been applied on a risk-based basis. There is no framework requiring the at-risk subset of NPOs to maintain information that could assist investigators, or that the relevant law enforcement authorities have specific NPO investigative policies, procedures or expertise.

179. **Recommendation 8 is rated non-compliant.**

Recommendation 9 – Financial institution secrecy laws

180. In its 2012 MER, Timor-Leste was rated largely compliant with former R.4 on FI secrecy or confidentiality. The underlying factors of this rating were that no clear legal framework existed for information sharing amongst competent authorities, and that there was

no legal framework for disclosure and information sharing amongst FIs regarding AML/CFT responsibilities.

181. *Criterion 9.1* - Section 20 of the UNTAET/REG/2000/8 obliges banks to observe the duty of secrecy regarding any information obtained in the course of their activity. Present and past administrators, employees, and agents of a bank are required to keep secret and not use for personal or other gain non-public information acquired during the course of their services to the bank. That information includes (but is not limited to) customers' accounts balances, amounts, conditions, and use of proceeds of banks' loans, customers' business relationships, and recipients and amounts of payments made by the bank. Section 20.2 states that this information may be disclosed only to the Central Payments Office (now the BCTL), including its inspectors and the auditors appointed by it, to external auditors of the bank, to judicial authorities as the law shall provide, to foreign bank supervisory authorities, and when the protection of the bank's own interest in legal proceedings requires disclosure.

182. There are no secrecy obligations for other types of FIs.

183. In some instances, secrecy obligations may be waived. This includes investigations into suspected ML and TF, and other crimes specified in Art. 32-A of the AML/CFT Law, which sets forth a special system for the collection of evidence, breach of professional secrecy and confiscation of property. Art. 35-b ('breach of professional secrecy') of the AML/CFT law, indicates that during the investigation and trial phases of the legal proceedings for the crimes specified in Article 32-A, the entities listed in Art. 3.1 shall provide all information and documents, requested by the judicial authority in a duly grounded order, regarding the financial situation of the suspects, which are relevant to uncovering of the truth. There is a minor deficiency in that the list of predicate crimes specified in Art. 32-A is incomplete.

184. Article 27 of the AML/CFT Law states that supervisory authorities may cooperate and share information with other competent authorities and provide assistance in investigations and procedures or legal proceedings concerning money laundering or related crimes, as well as terrorist financing. However, Timor-Leste does not appear to have an explicit legal framework to facilitate the sharing of information that otherwise may have been subject to secrecy among relevant domestic authorities.

185. Under Article 21 of the AML/CFT Law, UIF-TL can access information in the custody of entities identified in Article 3 when it is deemed necessary for the exercise of its duties and when prior judicial authorization has been obtained in accordance with the terms provided for under criminal procedural legislation. Timor-Leste indicated that in practice this authority overrides banking secrecy requirements.

186. There are currently no legal or regulatory requirements related to the sharing of information between FIs.

187. Article 126(1) of the Criminal Procedure Code states that depositions can be refused on the grounds of professional secrecy, however, Article 126(2) also states that if the refusal is unlawful, the judicial authority shall order or request the court to order the testimony to be given. Timor-Leste has indicated that in line with its legal framework, provisions set out in a special law, such as those set out in Art. 35-b of the AML/CFT Law, overrides those contained in a general law (e.g. the Criminal Procedure Code), despite the provisions in the AML/CFT Law being narrower in scope.

Weighting and Conclusion

188. Section 20 of the UNTAET/REG/2000/8 outlines secrecy requirements and allows banks to share information with the BCTL. Under the AML/CFT law, secrecy obligations can be waived during investigations of ML/TF and other crimes as specified in Article 32-A of the AML/CFT Law, although 32-A does not include all ML/TF predicate offences. There are no legal or regulatory requirements related to the sharing of information between FIs.

189. **Recommendation 9 is rated largely compliant.**

Recommendation 10 – Customer due diligence

190. In its 2012 MER, Timor-Leste was rated partially compliant with the former R.5 on CDD. The main deficiencies were the lack of CDD requirement on establishing business relations and ongoing CDD, lack of beneficial owner definition, lack of explicit requirement of enhanced CDD, lack of requirement to verify legal arrangements and that any person purporting to act on behalf of the customer (legal person or arrangement) is so authorised, lack of CDD requirement for non-bank financial institution. The CDD recommendation has been strengthened with the revision of FATF standards in 2012. Timor-Leste achieved progress equivalent to largely compliant with former R.5 in its 3rd Transitional Follow-Up Report (2018).

191. Since the 2012 MER, Timor-Leste amended its AML/CFT Law in 2013, and introduced Instruction of BCTL N. 05/2017 of 25 August on Customer Identification, Record-Keeping and Transaction Report (BCTL Instruction No.5/2017) applying to banks and ODTIs, and BCTL Instruction No.1/2013 on the Licencing and Supervision of Money Transfer Operators (BCTL Instruction No.1/2013) applying to MTOs. Both BCTL Instruction No.5/2017 (Art. 25) and Instruction No.1/2013 (Art. 14) are enforceable under Timor-Leste law.

Detailed CDD requirements

192. ‘Financial entities’ are defined in Article 3.1 of the AML/CFT Law to include all the FIs defined in the FATF Standards that currently provide financial services in Timor-Leste.

193. *Criterion 10.1* - The opening or maintenance of anonymous accounts, accounts under fictitious names or anonymous passbooks by FIs is not permitted (Art. 8.3, AML/CFT Law).

194. *Criterion 10.2(a)* - FIs must identify their customers and beneficial owners and undertake verification of their identity when establishing business relationships (Art. 10.1(a), AML/CFT Law).

195. *Criterion 10.2(b)* - FIs must identify and verify customers and beneficial owners when conducting occasional transactions of USD 10,000 or above, whether conducted as single transactions or several transactions that appear to be linked (Art. 10.1(b), AML/CFT Law).

196. *Criterion 10.2(c)* - Banks and ODTIs must undertake CDD when carrying out wire transfers of USD 1,000 or more (Art. 17.3, BCTL Instruction No.5/2017).

197. MTOs must conduct ‘a formal customer identification and verification process to establish the identity of its customer before providing any remittance service’ and thresholds for customer identification apply at USD 500 or more (Arts. 11.2 & 11.3, BCTL Instruction No.1/2013).

198. *Criterion 10.2(d)* - FIs must identify their customers and beneficial owners and undertake verification of their identity when there are ‘grounded suspicious of money laundering or terrorist financing’ (sic) (Art. 10.1(d), AML/CFT Law).

199. *Criterion 10.2(e)* - FIs must undertake CDD when there are doubts about the veracity or adequacy of customer identification (Art. 10.1(c), AML/CFT Law).

Required CDD measures for all customers

200. *Criterion 10.3* - FIs must identify their clients including natural persons, legal persons and relevant legal instruments (Arts. 10.3(a)-(c), AML/CFT Law), and 'undertake verification of their identity on the basis of documents from independent sources, data or information' (Art. 10.1, AML/CFT Law). For banks and ODTIs, verification must be based on documents listed in Article 10.2 of of BCTL Instruction No.1/2013 (which are considered reliable). For other FIs, there is no requirement other than the verification be based upon *reliable* documents, data, or information. MTOs and their agent(s) must obtain a copy of the customer's identification for transactions equivalent or above USD \$500 (Art. 11.3(b)-(c), Instruction 01/2013). However, reliable and independent source documents, data or information for use in verification are not defined and the CDD measures apply only to individuals.

201. Insurance companies must identify and verify their customers according to Article 10 of the AML/CFT Law only when the annual premium exceeds USD 1,000 if the single premium does not exceed USD 2,500 or for policies taken out in respect of a contract of employment of a professional activity of the insured, if there is a surrender clause and they can be used as collateral (Art 11).

202. *Criterion 10.4* - FIs must 'verify the identity of the person or persons in whose name or on whose behalf the customer is acting' only if there are doubts as to whether the customer is acting on his/her own behalf (Art 10.4, AML/CFT Law). There is no requirement to verify that the person is authorized to act on behalf of a customer. Only banks and ODTIs are required to verify that that the person is authorized to act on behalf of the customer and only if there is doubt as to whether the customer acts for their own account (Art. 9. 5, BCTL Instruction No.1/2017). MTOs and their agents must 'take all reasonable measures to verify the identity of the person or persons on whose behalf the customer is acting' but there is no requirement to verify that the person is authorized to act on the person's behalf (Art 11.4, BCTL Instruction No.1/2013).

203. *Criterion 10.5* - FIs must identify beneficial owners and verify their identities based on documents from independent sources, data or information (Art. 10.1, AML/CFT Law). The AML/CFT Law defines the beneficial owner as,

'the natural person who has ultimate ownership of or final control over a client, the person in whose interest an operation is made or the person who actually controls a legal person or arrangement.' (Art. 1-A(c)).

204. FIs must also take necessary measures to identify and verify natural persons who have controlling powers and identify the 'legal person responsible for the management of the legal person' (Art. 10.3(d), AML/CFT Law). However, other than for banks and ODTIs (see below), there is no requirement to verify the identity of the beneficial owner from information or data obtained from a reliable source.

205. BCTL Instruction No.5/2017 which applies only to banks and ODTIs, defines 'beneficial owner' as, 'the natural person[s] who ultimately owns or control (sic) a customer and/or the natural person on whose behalf a transaction is being conducting including those persons who exercise ultimate effective control over a legal person or arrangement (Art. 1(e)).

206. Banks and ODTIs must identify the beneficial owner (Art. 9, BCTL Instruction No.5/2017) and verify them using information or data obtained from a reliable source (Art. 10.2, BCTL Instruction No.5/2017).

207. *Criterion 10.6* - FIs are required to 'gather information regarding the purposes and intent of the business relationship' (Art. 10.2, AML/CFT Law). However, there is no requirement to 'understand' the purpose and intended nature of the relationship.

208. *Criterion 10.7(a)* - FIs are required to 'conduct on-going monitoring of their relationship with the customer, including scrutiny of the transactions carried out to ensure that the transactions are consistent with their knowledge of the person, the business and risk profile and, where necessary, the source of the funds' (Art. 10.7, AML/CFT Law). Banks and ODTIs must also 'conduct regular reviews on existing records of customers' and 'may require additional information' from existing customers of higher risk (Art. 13.3-4, BCTL Instruction No.5/2017).

209. *Criterion 10.7(b)* - Banks and ODTIs are required take copies of documents and data of collected during CDD and must take reasonable measures to ensure that records of customers, including customer profiles remain up-to-date and relevant throughout the business relationship (Arts. 8.1 and 8.2, BCTL Instruction No.5/2017). There are no obligations on other types of FIs.

Specific CDD measures required for legal persons and legal arrangements

210. *Criterion 10.8* - FIs are required to gather information regarding the purposes and intent of the business relationship but not to understand the nature of the customer's business, ownership and control structure (Art. 10.2, AML/CFT Law).

211. *Criterion 10.9(a)* - FIs are required to identify the customer and verify legal person's name or corporate name, corporate type and shareholding structure, and proof of its legal status. (Art. 10.3(b), AML/CFT Law). There are no corresponding requirements for legal arrangements.

212. *Criterion 10.9(b)* - FIs are required to identify the customer and verify the legal person's 'identification of the members of the corporate bodies' (Art. 10.3(b), AML/CFT Law) but not the powers that regulate and bind. Banks and ODTIs must also identify and verify directors, and 'the form and powers of those who manage the legal person' (Art 9.3(b), BCTL Instruction No.5/2017). There are no corresponding requirements for legal arrangements.

213. *Criterion 10.9(c)* - FIs are required to identify the legal person's registered office but not the principal place of business if different (Art. 10.3(b), AML/CFT Law). There are no corresponding requirements for legal arrangements.

214. *Criterion 10.10* - The AML/CFT Law and its subordinate instrument BCTL Instruction No.5/2017 (which applies only to banks and ODTIs) imposes obligations on FIs to collect BO information. The Law and Instrument cover similar elements however, the BCTL Instruction ties the beneficial owner to the transaction on whose behalf it is being conducted.

- *Beneficiary owner* means the natural person who has ultimate ownership of or final control over a client, the person in whose interest an operation is made or the person who actually controls a legal person or a legal entity or arrangement (Art. 1-A(3), AML/CFT Law)
- *Beneficial owner* means the natural person[s] who ultimately owns or control a customer and/or the natural person on whose behalf a transaction is being conducted

including those persons who exercise ultimate effective control over a legal person or arrangement (Art. 1(e), BCTL Instruction No.5/2017).

215. *Criterion 10.10(a)* - FIs are required to 'identify the beneficiary owner and take the necessary measures to verify its identity, including the identification of natural persons who have controlling powers, as well as identification of the legal person responsible for the management of the legal person' (Art. 10.3(d), AML/CFT Law).

216. When opening deposit accounts for legal entities there are additional CDD requirements for banks and ODTIs, to identify and verify partners or shareholders who own or have voting rights in the legal person corresponding to at least five percent of the share capital, beneficial owners, legal person's management bodies, and any persons exercising effective control of the legal person (Art. 10(b)(vi)-(ix), BCTL Instruction No.5/2017). However, there is no explicit requirement for FIs other than banks and ODTIs to identify the BO.

217. *Criterion 10.10(b)* - There are no requirements for FIs to identify a natural person(s) (if any) exercising control of the legal person or arrangement if there is doubt as to whether the person with the controlling interest is the beneficial owner or where no natural person exerts control through ownership interests.

218. *Criterion 10.10(c)* - There are no requirements for FIs to verify a senior managing official where no natural person is identified under (a) or (b).

219. *Criterion 10.11(a) & (b)* - While Timorese law does not recognise the formation of trusts, there is no prohibition on foreign trusts or trustees from operating in Timor-Leste. There are no obligations on FIs to identify and take reasonable measures to verify the identity of beneficial owners of customers that are foreign trusts or other types of legal arrangements.

CDD for Beneficiaries of Life Insurance Policies

220. *Criterion 10.12* - There is no life insurance policy or other investment related insurance policy falling within FATF standards in Timor-Leste.

221. *Criterion 10.13* - There is no life insurance policy or other investment related insurance policy falling within FATF standards in Timor-Leste.

Timing of verification

222. *Criterion 10.14(a)* - FIs must verify the identity of their customer and beneficial owner when establishing business relationships (Art. 10.1(a), AML/CFT Law). Other than for banks and ODTIs, verification after the establishment of the business relationship is not permitted. Banks and ODTIs may verify the customer after establishing the business relationship as soon as reasonably practical but not exceed three business days (Art. 9.7, BCTL Instruction No.5/2017).

223. *Criterion 10.14(b)* - Banks and ODTIs may only verify the customer and beneficial owner after establishing a business relationship if it is necessary not to interrupt the normal conduct of business with regard to the customer (Art. 9.6(a), BCTL Instruction No.5/2017).

224. *Criterion 10.14(c)* - Banks and ODTIs must effectively manage any risk of money laundering or terrorist financing that may be caused by carrying out the verification after establishing the business relationship (Art. 9.6(b), BCTL Instruction No.5/2017).

225. *Criterion 10.15* - Banks and ODTIs must effectively manage any ML/TF risk caused by carrying out the verification after establishing the business relationship (Art. 9.6(b), BCTL Instruction No.5/2017). No other financial institutions are permitted to establish a business relationship with customers prior to verification.

Existing customers

226. *Criterion 10.16* - FIs other than banks and ODTIs are not required to apply CDD requirements to existing customers.

227. Banks and ODTIs must 'take reasonable and appropriate measures to ensure that the records of existing customers, including customer profiles, remain up-to-date and relevant throughout the relationship' (Art. 8.2, BCTL Instruction No.5/2017) and must also apply a risk-based approach in managing risks (Art. 8.3). Banks and ODTIs must 'conduct regular reviews on existing records of customers especially when, (a) a significant transaction is about to take place, (b) there is a material change in the way the account is operated, (c) the customer's documentation standards change substantially, and (d) it discovers that the information held on the customer is insufficient' (Art. 13.3, BCTL Instruction No.5/2017). Further, 'a bank [and ODTIs], based on its risk assessment, may require additional information consistent with the bank's current customer due diligence standards from those existing customers that are considered to be of higher risk' (Art. 13.4). There is no requirement to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained. Measures in Article 10 apply to existing customers (Art. 10.11, AML/CFT Law) states and include a requirement for FIs to identify and verify customers when 'there are doubts about the veracity or adequacy of customer identification data' (Art 10.1(c), AML/CFT Law).

Risk-based approach

228. *Criterion 10.17* - FIs are only required to apply enhanced due diligence 'in respect of operations carried out with politically exposed persons' (Art 14.4, AML/CFT Law). Banks and ODTIs have additional measures and must 'conduct enhanced customer due diligence on customers who pose higher risk' (Art. 12.1, BCTL Instruction No.5/2017). Article 12 includes a non-exhaustive list of high-risk customer types and circumstances when ECDD must be applied (Art. 12.1-3, BCTL Instruction No.5/2017).

229. *Criterion 10.18* - FIs are only able to apply simplified due diligence when determined by the competent authority based on 'risk assessment of the type of customer, business relationship or transactions' (Art 10.10, AML/CFT Law). A similar measure applicable only to banks and ODTIs enables BCTL from time to time, to determine the circumstances under customer identification and verification obligations may be reduced or simplified (Art 8.4, BCTL Instruction No.5/2017). BCTL has permitted one bank to apply simplified CDD measures to pension and persons over the age of 60 who reside in rural locations.

Failure to satisfactorily complete CDD

230. *Criterion 10.19(a)* - If unable to comply with relevant CDD measures, banks and ODTIs must not 'open the account, commence a business relationship or carry out any occasional transaction with that customer' and must 'terminate the business relationship' (Art. 9.8(a), BCTL Instruction No.5/2017). MTOs are prohibited from dealing with unknown customers and must cease dealing with customers who refuse to provide identification and verification details (Art. 11, Instruction No1/2013). There are no requirements for other FIs.

231. *Criterion 10.19(b)* - Banks and ODTIs must 'consider making a suspicious transaction report' where they are unable to comply with relevant CDD measures (Arts. 9.8(b) and 19.2 of BCTL Instruction No.5/2017). There are no requirements for other FIs.

232. *Criterion 10.20* - There are no provisions permitting FIs to not pursue their CDD process, and instead to file an STR, in cases where there is a suspicion of money laundering or

terrorist financing, and they reasonably believe that performing the CDD process will tip-off the customer.

Weighting and Conclusion

233. Banks and ODTIs are subject to relatively comprehensive regulations and they received significant weightings as they dominate the financial sector. Therefore, moderate deficiencies remain, including the lack of explicit CDD requirements for non-bank FIs and limited CDD requirements for beneficial owners of trusts.

234. **Recommendation 10 is rated partially compliant.**

Recommendation 11 – Record-keeping

235. In its 2012 MER, Timor-Leste was rated largely compliant with the former R.10 on record keeping. The MER noted the main deficiency to be that effective implementation could not be established.

236. *Criterion 11.1* - FIs are required to keep all necessary records on transactions for at least five years following completion of the transaction (Art. 15.1, of AML/CFT Law). Banks and ODTIs are required to maintain transaction records for at least 10 years after the transaction has been completed (Art. 18, BCTL Instruction No.5/2017).

237. *Criterion 11.2* - FIs are required to maintain copies of the identity documents of customers or representatives of beneficial owners obtained through CDD measures, accounts forms and correspondence, written reports, all reports delivered to FIU and copy of the feedback given by FIU for at least five years following the termination of the business relationship or after the date of the occasional transaction. (Art. 15.1, Law of AML/CFT). Article 18 of BCTL Instruction No.5/2017 sets out a similar obligation for banks, with a retention period of 10 years.

238. *Criterion 11.3* - FIs should maintain information which enables the reconstruction of transactions made by customers for a period of five years after the transaction (Art. 15.1(b), AML/CFT Law). Banks and ODTIs are required to retain documents and records which are able to create an audit trail of individual transactions that are traceable by BCTL, the FIU and LEAs (Art. 18.2-3, BCTL Instruction No.5/2017).

239. *Criterion 11.4* - The AML/CFT law requires CDD information and transaction records be made available to competent authorities but there is no requirement to provide records 'swiftly'. However, Banks and ODTIs shall maintain records, including records relating to CDD information and transaction records, that are 'readily available' to BCTL and other competent authorities (Art. 18.1 BCTL Instruction No.5/2017). MTOs are required to maintain records relating to CDD, but not transactions records, and ensure these records are 'readily available' to BCTL and other competent authorities (Art. 12, BCTL Instructions No.1/2013).

Weighting and Conclusion

240. A minor gap remains as financial institutions other than banks and ODTIs are not required to provide records of CDD information and transaction records to competent authorities swiftly.

241. **Recommendation 11 is rated largely compliant.**

Recommendation 12 – Politically exposed persons

242. In its 2012 MER, Timor-Leste was rated partially compliant with the former R.6 on politically exposed persons (PEPs). The main deficiencies identified were the lack of explicit requirement to obtain senior management approval to continue the business relationship, lack of enforcement of PEPs requirements for MTOs and the lack of explicit requirement for non-bank financial institution. The 2012 Recommendations have been extended to domestic PEPs and international organisations.

243. The definitions of foreign PEPs, domestic PEPs and persons entrusted with a prominent function by an international organisation are set out in Article 1-A(f) of the AML/CFT Law and meet the FATF standards. These definitions are mirrored in Article 1n of BCTL Instruction No.5/2017 which applies to banks and ODTIs. For MTOs, the definition of a PEP in Article 1h of BCTL Instruction No.1/2013 refers to the AML/CFT Law definition.

244. *Criterion 12.1(a)* - There is no explicit requirement for FIs to put in place risk management systems to determine whether a customer or a beneficial owner is a PEP. However, FIs must apply enhanced CDD measures on 'operations' (undefined but understood to mean general banking activities such as opening accounts and transacting) carried out with PEPs, including foreign PEPs (Art. 14.3, AML/CFT Law) and BCTL Instruction No.5/2017 requires banks and ODTIs to conduct enhanced due diligence on foreign PEPs (Art. 12.1b).

245. *Criterion 12.1(b)* - Banks and ODTIs must obtain senior management approval before establishing (or continuing, for existing customers) business relationships with foreign PEPs (Art. 12.3b, BCTL Instruction No.5/2017). MTOs and their agents must obtain prior authorization from the highest level of the MTO's management before executing any remittance service if they identify a customer as a PEP (Art. 11.5, BCTL Instruction No.1/2013). However, there is no requirement for senior management approval by MTOs where the beneficial owner is a PEP. Further, there are no requirements for senior management approval for other FIs.

246. *Criterion 12.1(c)* - Banks and ODTIs must take reasonable measures to establish the source of wealth and the source of funds of foreign PEP customers and beneficial owners (Art. 13.3(a), BCTL Instruction No.5/2017). However, there is no corresponding requirement for other types of FIs.

247. *Criterion 12.1(d)* - Banks and ODTIs must conduct enhanced ongoing monitoring on relationships with foreign PEPs (Art. 13, BCTL Instruction No.5/2017). However, there is no corresponding requirement for other types of FIs.

248. *Criterion 12.2(a)* - As described in c.12.1(a), there is no explicit requirement for FIs to put in place risk management systems to determine whether a customer or a beneficial owner is a PEP however FIs must apply EDD measures to domestic PEPs and persons entrusted with a prominent function by an international organisation.

249. *Criterion 12.2(b)* - The deficiencies described in c.12.1(b)-(d) apply equally to domestic PEPs and persons entrusted with a prominent function by an international organisation.

250. *Criterion 12.3* - The PEP definition includes close family members (spouse or partner, parents or offspring and their spouse or partner, and siblings) and people known to have close corporate or commercial relationships with PEPs (Art. 1.6, AML/CFT Law and Art. 1n, BCTL Instruction No.5/2017). The gaps in c.12.1 and c.12.2 cascade to this criterion.

251. *Criterion 12.4* - There are no requirements for financial institutions to take reasonable measures to determine whether the beneficiaries and/or beneficial owner of a beneficiary is a PEP or to determine this before time of payout of the policy proceeds. Also, where higher risks are identified, there are no requirements to inform senior management before payout of the policy proceeds, conduct enhanced scrutiny on the whole business relationship, or to consider making an STR.

Weighting and Conclusion

252. Timor-Leste's PEP definition meets the FATF standards however deficiencies exist in the requirement to have in place risk management systems to determine whether a customer or beneficial owner is a PEP. Requirements on banks and ODTIs, which are weighted heavily, are sound however deficiencies exist for other FIs which receive a small weighting noting the weight and context of the sector.

253. **Recommendation 12 is rated largely compliant.**

Recommendation 13 – Correspondent banking

254. In its 2012 MER, Timor-Leste was rated largely compliant with the former R.7 on correspondent banking. The main deficiencies identified were the lack of requirement for banks to obtain approval from senior management before establishing new correspondent relationships or to document the respective AML/CFT responsibilities of each institution.

255. *Criterion 13.1(a)* - With respect to correspondent banking relationships, FIs are required to verify the identity of the respondent institution, gather information about the nature of the activities carried out by the respondent institution, determine the reputation of the respondent institution and the quality of supervision, and assess the anti-money laundering and terrorist financing controls applied by the respondent institution (Art. 10.8(a)-(d), AML/CFT Law).

256. Articles 14.3, 15ai-iii and 15b of BCTL Instruction No.5/2017 set out further requirements for banks, including to gather adequate information about the respondent bank to understand fully the nature of the bank's business, to obtain approval from senior management before establishing a new correspondent banking relationship and to clearly understand and document the respective AML/CFT responsibilities of each bank. However, when determining the reputation of the respondent institution, there is no requirement to gather information on whether it has been subject to an ML/TF investigation or regulatory action.

257. *Criterion 13.1(b)* - FIs must assess the respondent institution's AML/CFT controls (Art. 10.8(d), AML/CFT Law and Art. 15(a)(iii), BCTL Instruction No.5/2017).

258. *Criterion 13.1(c)* - Banks must obtain senior management approval before establishing a new correspondent banking relationship (Art. 14.3, BCTL Instruction No.5/2017).

259. *Criterion 13.1(d)* - Banks must clearly understand and document the respective AML/CFT responsibilities of each bank before establishing a cross-border correspondent banking relationship (Art. 15(b), BCTL Instruction No.5/2017).

260. *Criterion 13.2(a)* - In the case of payable-through accounts, FIs must ensure that the respondent institution has verified the identity of the customer (Art. 10.8(e), AML/CFT Law & Art. 15(a)(iv)(1), BCTL Instruction No.5/2017).

261. *Criterion 13.2(b)* - FIs must ensure that the respondent institution is able to provide relevant CDD information upon request to the correspondent bank (Art. 10.8(e), AML/CFT Law & Art. 15(a)(iv)(3), BCTL Instruction No.5/2017).

262. *Criterion 13.3* - FIs are prohibited from entering into or continuing correspondent banking relationships with shell banks (Art. 8.4, AML/CFT Law & Art. 3(d), BCTL Instruction No.5/2017). However, there is no obligation for FIs to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks.

Weighting and Conclusion

263. There are minor gaps relating to correspondent banking requirements, including the requirement to gather information on whether a respondent has been subject to an ML/TF investigation or regulatory action and for FIs to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks.

264. **Recommendation 13 is rated largely compliant.**

Recommendation 14 – Money or value transfer services

265. In its 2012 MER, Timor-Leste was rated partially compliant with the former SR.VII on money or value transfer services. The main deficiencies were the lack of requirement for MTOs.

266. *Criterion 14.1* - A license is required to establish or continue the business of MTO (Art. 4, BCTL instruction No.1/2013).

267. *Criterion 14.2* - BCTL monitors illegal MTO activity through social media and from information provided by individuals. BCTL has issued warning letters and requests to close illegal operations based on the results of site visits and inspections. Pursuant to Article 14(2)(c)(ii)(1) of BCTL Instructions 01/2013, unlicensed MTOs can be fined USD 500-1,500 per day and administrators, principal shareholders or agents may be suspended or prohibited from providing financial services in Timor-Leste. These sanctions are considered proportionate and dissuasive.

268. *Criterion 14.3* - MTOs and their agents are monitored for compliance with AML/CFT obligations by BCTL (Arts. 8.3 & 8.4, BCTL instruction No.1/2013).

269. *Criterion 14.4* - Agents of MTOs must apply in writing to the BCTL for a license (Arts. 4.2-4, BCTL instruction No.1/2013).

270. *Criterion 14.5* - MTOs are not required to include their agents in their AML/CFT programs or monitor them for compliance with these programs.

Weighting and Conclusion

271. MTOs must be licensed to operate in Timor-Leste and sanctions apply to MTOs that operate without a licence. A minor gap remains as MTOs are not required to include their agents in their AML/CFT programs or monitor them for compliance with these programs. This gap is mitigated to a large extent as the two MTOs with agents maintain only a small number of agents that are monitored by the global AML/CFT programs under which they operate. In the context of Timor-Leste, the deficiency is minor.

272. **Recommendation 14 is rated largely compliant.**

Recommendation 15 – New technologies

273. In its 2012 MER, Timor-Leste was rated partially compliant with former R.8, with the MER noting there were no enforceable instructions requiring FIs to take measures to prevent the misuse of technological development of ML/TF schemes, and no specific requirements on CDD procedures applying to non-face-to-face customers.

274. *Criterion 15.1* - While B=banks and ODTIs are required to have policies in place and take appropriate measures to manage and mitigate risks associated with technological developments (Art. 11, BCTL Instruction No.5/2017), there is no explicit requirement for Timor-Leste and FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products and practices. Timorese authorities have not identified and assessed those risks.

275. *Criterion 15.2* - There are no explicit provisions which require FIs to undertake risk assessments prior to the launch or use of new products, practices and technologies. Banks and ODTIs are required to have policies in place and take appropriate measures to manage and mitigate risks associated with the misuse of technological developments in ML/TF (Art. 11, BCTL Instruction No.5/2017); however, this does not extend to other FIs.

276. *Criterion 15.3(a)* - Timor-Leste has not identified and assessed ML/TF risks emerging from virtual asset activities and the activities or operations of VASPs.

277. *Criterion 15.3(b)* - Timor-Leste has not applied a risk-based approach to ensure measures to prevent or mitigate ML/TF are commensurate with identified risks.

278. *Criterion 15.3(c)* - VASPs are not required to identify, assess, manage, and mitigate ML/TF risks.

279. *Criterion 15.4* - Timor-Leste has not established a licensing or registration regime, nor introduced fit and proper controls for the sector.

280. *Criterion 15.5* - Timor-Leste has not taken action to identify natural/legal persons that carry out unlicensed VASP activities.

281. *Criterion 15.6* - VASPs are not subject to AML/CFT supervision.

282. *Criterion 15.7* - VASPs are not covered by the AML/CFT regime in Timor-Leste. As such, there is neither guidelines nor requirement to provide feedback to the sector.

283. *Criterion 15.8* - There are no sanctions available and no AML/CFT requirements applicable to VASPs.

284. *Criterion 15.9* - VASPs are not subject to AML/CFT requirements.

285. *Criterion 15.10* - VASPs are not included in TFS requirements.

286. *Criterion 15.11* - There is no VASP supervisor. With regard to the formal and informal cooperation with foreign counterparts, the FIU and LEAs have a broad legal basis for cooperation with foreign authorities in relation to virtual assets, however the deficiencies identified in R.36 to 40 apply.

Weighting and Conclusion

287. There are major shortcomings with assessing and taking appropriate measures to manage and mitigate risks associated with the misuse of technological developments in ML/TF.

Timor-Leste has not identified and assessed its ML/TF risks relating to VA activities, and does not have any mitigating measures or VA/VASP framework in place.

288. **Recommendation 15 is rated non-compliant.**

Recommendation 16 – Wire transfers

289. In its 2012 MER, Timor-Leste was rated partially compliant with former SR.VII. The main deficiency identified was that intermediary and beneficiary FIs were not required to ensure that all originator information accompanying a wire transfer was transmitted with the transfer. Since Timor-Leste's last evaluation, significant changes have been made to this recommendation during the revision of the FATF Standards in 2012. In 2017 BCTL issued a series of enforceable Instructions for banks and Other Deposit Taking Institutions (ODTIs). In 2013 instructions were issued for Money Transfer Operators and their agents (MTOs), pursuant to the AML/CFT Law 2011. Aligned with the national prioritized issue of financial inclusion, E-wallet service providers were established in 2019 under the Decree-Law, national payment system (Art. 7, No.17/2015) throughout regulatory sand box procedure, but only domestic transfer is currently allowed to operate. Therefore, as of the time of the on-site visit, five banks and nine MTOs are authorised to provide cross-border wire transfer.

290. *Criterion 16.1* - The AML/CFT Law provides general provisions for all FIs when conducting electronic transfers. These include obtaining and verifying necessary information pertaining to originators and beneficiaries, including full name, account number/transaction reference number, and domicile/national identity number and place of birth (Art. 13.1, AML/CFT Law).

291. Pursuant to Article 17 of BCTL Instruction No.5/2017, all qualifying wire transfers are required to include the accurate originator's name, account number where such an account is used to process the transaction, their address, or national identity number, or date and place of birth. Wire transfers are required to contain the beneficiary's name and account number where such account is used to process the transaction. In the absence of an account of originator and/or beneficiary, a unique transaction reference number is also required to be accompanied (Art. 16.2, 17.1(a) to (e), & Article 17.4, BCTL Instruction No.5/2017).

292. ODTIs can only conduct domestic wire transfers (Art 4.1(g), BCTL Governing Board Resolution No.11/2010), so the conduct of cross-border transfers is limited to banks.

293. *Criterion 16.2* - Article 13.3 of the AML/CFT Law states that the Central Bank may issue instructions regarding cross-border transfers integrated into a single file of transfers. Following this provision, Article 17.5 of BCTL Instruction No.5/2017 requires banks to ensure a batch file contains the originator's account number or unique transaction reference number, along with the required and accurate originator information and full beneficiary information that is fully traceable in the beneficiary jurisdiction.

294. *Criterion 16.3* - As described in c.16.1, all qualifying wire transfers must contain the required and accurate originator information and required beneficiary information. As such, this criterion is not applicable.

295. *Criterion 16.4* - While Article 17.2 of BCTL Instruction No.5/2017 allows banks to introduce simplified CDD measures on cross border wire transfer below \$1,000 unless there is a suspicion of ML/TF, Timor-Leste has not implemented related measures/guidelines concerning this article yet. As set out in c.16.1, banks and ODTIs are required to obtain and verify necessary originator and beneficiary information, however there is no explicit provision requiring verification where there is a suspicion of ML/TF.

296. *Criterion 16.5* - Ordering banks and ODTIs are required to include required ordering and beneficiary information on all wire transfers and related messages (Art. 16.2, Instruction BCTL No.5/2017).

297. *Criterion 16.6* - There is no requirement consistent with c.16.6.

298. *Criterion 16.7* - While there is no explicit requirement for ordering FIs to maintain all originator and beneficiary information collected in accordance with the R.11 record keeping requirements, the AML/CFT Law provides a general obligation requiring FIs to maintain information pertaining to wire transfer for at least five years after completing transactions, (Art. 15.1(b), AML/CFT Law). Further, Banks and ODTIs are required to retain transaction records for at least 10 years after the transaction has been completed or the business relationship with the customer has ended (Art. 18.1(a), BCTL Instruction No.5/2017).

299. *Criterion 16.8* - There is an explicit provision prohibiting banks and ODTIs from executing a wire transfer unless the appropriate information is collected and maintained (Art. 16.1, BCTL Instruction No.5/2017). The minor deficiencies identified in c.16.4 and 16.7 apply here.

300. *Criterion 16.9* - The AML/CFT Law requires FIs involved in electronic transfers to collect all relevant information and convey the same, including when they act as intermediaries in a payment chain (Art. 13. 1 & 13.2, AML/CFT Law). Intermediary banks and ODTIs are specifically required to ensure that all originator and beneficiary information remains with the wire transfer or related message throughout its processing (Art. 16.3(a), BCTL Instruction No.5/2017).

301. *Criterion 16.10* - The AML/CFT Law and BCTL's Instructions do not set out explicit record keeping requirements for intermediary institutions, however the general obligations set out in c.16.7 apply.

302. *Criterion 16.11* - The AML/CFT Law obliges FIs involved in wire transfer to take necessary measures to obtain and verify required originators information if they receive transfers which do not containing such information (Art. 13.5, AML/CFT Law). However, there is no explicit provision in the case of lacking beneficiary information.

303. *Criterion 16.12* - Intermediary banks and ODTIs are obliged to ensure that effective risk-based policies and procedures are in place for determining (a) when to execute, reject, or suspend a wire transfer lacking required originator information or required beneficiary information; and (b) the appropriate follow-up action (Art. 16.3(b), BCTL Instruction No.5/2017).

304. *Criterion 16.13* - The AML/CFT Law has a general provision obliging that all FIs involved in wire transfer to take necessary measures to obtain and verify required originators information if they receive transfers not containing such information (Art. 13.5, AML/CFT Law). Banks and ODTIs are required to ensure reasonable measures are taken to identify cross-border wire transfers that lack the required originator and beneficiary information.

305. *Criterion 16.14* - Beneficiary banks and ODTIs are explicitly required to verify the identity of the beneficiary, if the identity has not been previously identified, and to maintain relevant records (Arts. 16.4(b) & (c), BCTL Instruction No.5/2017).

306. *Criterion 16.15* - Beneficiary banks and ODTIs are obliged to ensure that effective risk-based policies and procedures are in place for determining when to execute, reject, or suspend a wire transfer lacking required originator information or required beneficiary information; and the appropriate follow-up action (Art. 16.4(d), BCTL Instruction No.5/2017).

307. *Criterion 16.16* - Wire transfer obligations for MVTs are set out in the AML/CFT Law and in the BCTL Instruction No.1/2013 On the Licensing and Supervision of Money Transfer Operators (BCTL Instruction No.1/2013). Neither contain comprehensive requirements concerning the obligations set out in c.16.1 and c.16.5. There is no obligation for MTOs to collect the originators date of birth and there are no obligations for ordering MTOs relating to batch files.

308. Similar to banks and ODTIs, MTOs do not have an option to take a *de minimis* threshold approach.

309. As identified in c.16.7, the AML/CFT Law provides a general obligation requiring FIs to maintain information pertaining to wire transfers for at least five years after completing transactions (Art. 15.1(b), AML/CFT Law). In addition to this, pursuant to Article 12.1 and 12.2 BCTL Instruction No.1/2013, MTOs are required to retain KYC records for at least five years. As for c.16.8, similar prohibition exists for MTOs (Art. 11.1, BCTL Instruction No.1/2013), however the deficiency noted in this criterion applies.

310. The obligations for intermediary MTOs (c.16.9 to c.16.12) are not applicable as MTOs are prohibited from acting as intermediary in a payment chain (Art. 11.6, BCTL Instruction No.1/2013).

311. Regarding the obligations of beneficiary MTOs, while MTOs are required to take necessary measures to obtain and verify missing information (Article 11.7, BCTL Instruction No.1/2013), there are no explicit provisions requiring policies and procedures for determining (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) appropriate follow-up action. In addition, the minor deficiency relating to the lack of obligation to collect the originator's date of birth also applies.

312. E-Wallet Service Providers are permitted to conduct only domestic wire transfer. BCTL has designated thresholds for account balances and daily cash-in amounts for their users.

313. The sector is subject to the general provision of obtaining and verifying necessary information pertaining to originators and beneficiaries, including full name, account number/transaction reference number, and domicile/national identity number and place of birth (Article 13. 1, Law No.5/2013/III First Amendment to Law No.17/2011), as their financial service are captured under the article 3.1 (f) of the AML/CFT Law. Similar to MTOs, e-Wallet Service Providers are not required to collect the originator's date of birth. For instances where e-Wallet service providers permit wire transfers to non-e-Wallet users, they must obtain an MTO license from BCTL prior to commencing operation, as such, the BCTL Instruction No.1/2013 Licensing and Supervision of Money Transfer Operators apply to the service provider. Accordingly, the deficiencies identified with respect to MTOs apply.

314. *Criterion 16.17* - There are no specific requirements for MTOs and agents controlling both the ordering and beneficiary side of a wire transfer to take into account all the information from both sides in order to assess whether to file an STR. However, MTOs and their agents are required to inform the UIF immediately, by a way of report, when they suspect that fund or assets may be from criminal activities, connected to or will be used for terrorist financing, or there is an indication of ML or TF (Art. 23, AML/CFT Law). There are no obligations for MVTs providers to file an STR in any other country affected by the suspicious wire transfer. The same deficiencies are also applied to e-Wallet Service providers.

315. *Criterion 16.18* - The AML/CFT Law mandates FIs to immediately freeze funds or other assets pursuant to UNSCR 1267, however there are fundamental deficiencies in the requirement for this to occur without delay and there is insufficient coverage of UNSCR 1373 or its subsequent Resolutions (Art. 36, AML/CFT Law) (see R.6). Banks and ODTIs are required to take freezing action and are prohibited from conducting transactions with designated

persons and entities under UNSCR1267 (Art. 5, BCTL Instruction 5.2017). There is no similar obligations for MTOs and e-Wallet Service providers.

Weighting and Conclusion

316. There are minor shortcomings in the wire transfer obligations for banks and ODTIs and for domestic wire transfers by e-Wallet service providers. While there are no explicit wire transfer requirements for the MTO sector, the general provisions set out in the AML/CFT Law cover the core obligations of this recommendation. As such, these shortcomings are considered moderate. Despite the TFS obligations requiring fundamental improvements (see R.6), overall Timor-Leste largely complies with this recommendation, and moderate improvement is required.

317. **Recommendation 16 is rated largely compliant.**

Recommendation 17 – Reliance on third parties

318. Former R.9 was identified as ‘not applicable’ in Timor-Leste’s 2012 MER. The MER identifies that Timor-Leste had no legal basis in place for FIs to rely on third parties for the conduct of CDD, and FIs were required to directly conduct CDD. This has not been changed. The AML/CFT Law 2011 requires FIs to conduct CDD (Art. 10, AML/CFT Law) and does not contain any provisions allowing for the reliance on third party services for CDD purposes. Therefore, R.17 is not applicable.

Weighting and Conclusion

319. **Recommendation 17 is not applicable.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

320. In its 2012 MER, Timor-Leste was rated partially compliant with the former R.15 on internal controls, and N/A with the former R.22 on foreign branches and subsidiaries. The deficiencies with respect to the former R.15 were the lack of explicit regulation that the compliance officer should be at the senior management level and have a direct reporting duty to the management board. Former R.22 was not applicable as there are no FIs authorised in Timor-Leste with foreign branches or subsidiaries abroad.

321. *Criterion 18.1* - FIs are required to implement programs against ML/TF and appoint an officer responsible for ensuring internal compliance with AML/CFT obligations (Art. 12.1-2, AML/CFT Law). Programs must include on-going vocational training and an internal audit policy (Art. 12.1, AML/CFT Law).

322. Banks and ODTIs are required to establish policies and procedures covering customers identification and verification, customer acceptance, ongoing monitoring, management of high-risk accounts, reporting of suspicious transactions and record keeping (Art. 4.2, BCTL Instruction No.5/2017). Banks are also required to appoint a compliance officer at senior management level, who has direct access to senior management (Art. 5, BCTL Instruction No.5/2017). Adequate screening procedures must be present in a banks recruitment policy (Art. 4.4, BCTL Instruction No.5/2017) and they must establish an ongoing employee training program (Art. 7, BCTL Instruction No.5/2017). Annual AML/CFT compliance reports, signed by the Chairman of the Board of Directors or the chief executive officer, along with an auditor’s report be submitted to BCTL (Art. 6, BCTL Instruction No.5/2017).

323. There is no explicit requirement for FIs to align their AML/CFT programs with ML/TF risk and the size of the business, however banks and ODTI's are required to ensure that the role and responsibilities of the Compliance Officer is clearly defined and documented to ensure the AML/CFT mechanism 'is continuously assessed to ensure that it is effective and sufficient to address any change in money laundering and financing of terrorism trends' (Art. 5.4f, BCTL Instruction No.5/2017).

324. *Criterion 18.2* - There is no enabling legislation for financial groups or subsidiaries. There are currently no financial groups or subsidiaries of banks in Timor-Leste.

325. *Criterion 18.3* - There are no requirements meeting this criterion. Timor-Leste currently has no FIs with foreign branches or majority-owned subsidiaries.

Weighting and Conclusion

326. There are currently no financial groups in Timor-Leste and no FIs with foreign branches or majority-owned subsidiaries. Therefore, a lower weight is given to the lack of requirements for foreign branches and subsidiaries. FIs are required to implement AML/CFT programs, however there is a deficiency in that there is no requirement for non-banking FIs to appoint the compliance officer at the management level.

327. **Recommendation 18 is rated largely compliant.**

Recommendation 19 – Higher-risk countries

328. Timor-Leste was rated partially compliant with the former R.21 on higher-risk countries in its 2012 MER. The main deficiencies were the lack of legal provisions requiring application of countermeasures to countries not sufficiently applying FATF Recommendations. R.19 strengthens the requirements relating to higher-risk countries.

329. *Criterion 19.1* - Banks and ODTIs are required to apply enhanced due diligence processes on an on-going basis to customers who pose higher risk, including countries or jurisdictions with inadequate AML/CFT laws and regulations as highlighted by the FATF (Arts. 12.1h & 12.4 of BCTL Instruction No.5/2017). There is no similar requirement for non-bank FIs.

330. *Criterion 19.2* - Article 14.2 of the AML/CFT Law states FIs are 'bound to a special duty of control of the business relationships and transactions with natural and legal persons or legal entities or arrangements, with origin or destination in countries or territories from or to countries not subject to effective and consolidated supervision'.

331. BCTL issued Circular 102/2023 in September 2023 to FIs, requiring adoption of procedures to monitor FATF's webpage for higher-risk jurisdictions, however this circular was limited to encouraging FIs to 'adopt adequate internal procedures for sending the funds to the listed countries and actively monitoring them'. However, there is no explicit requirement to apply countermeasures when called upon to do so by the FATF or independently of any calls by the FATF.

332. *Criterion 19.3* - Timor-Leste does not have measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

333. Banks and ODTIs are required to apply enhanced customer due diligence as required by the FATF Standards, however this obligation does not extend to non-bank FIs. There is no

explicit requirement for FIs to apply countermeasures when called upon by the FATF or independently of any call by the FATF. Timor-Leste does not have measures in place to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

334. **Recommendation 19 is rated partially compliant.**

Recommendation 20 – Reporting of suspicious transaction

335. In its 2012 MER, Timor-Leste was rated partially compliant for former R.13. The MER noted that there were deficiencies in the list of predicate offences and in the TF offence, which affected the scope of the requirement to report STRs.

336. *Criterion 20.1* - The AML/CFT Law No.17/2011 provides provisions on the obligation for FIs to report suspicious transactions, including attempted transactions to UIF. Pursuant to Article 23 of Law No.17/2011, entities covered under Article 3 of Law No.17/2011 must file STRs to UIF immediately (Article 23(1) of Law No.17/2011). ‘Immediately’ meets the threshold in the FATF requirements that STRs should be promptly reported to UIF. This provision under Article 23.1 of Law No.17/2011 sets out that FIs are required to file STRs when there are reasonable grounds to suspect that certain funds or assets result from criminal activity or are related to ML/TF, as defined in Article 313 of the Penal Code⁷⁷. In addition, under Article 19 of Instruction BCTL No.5/2017, banks and ODTIs shall immediately submit a STR to UIF when there is reason to suspect that a transaction may involve proceeds from an unlawful activity or the customer is involved in ML or TF. However, there are deficiencies in the criminalisation of TF offences in Timor-Leste (see R.5) which may impact FIs’ STR reporting obligations. Further, there is no definition of ‘criminal activity’ or ‘unlawful activity’ set out in Timorese law, which makes it unclear whether this term is intended to be broad, or cover offenses that would constitute a predicate offence. If, however, the term broadly covers all criminal activity in Timor-Leste, a number of categories of predicate offences are not captured, or not fully captured as predicates in Timor-Leste (see R.3), so are not predicate offences for ML including environmental crimes, counterfeiting of products, piracy, and insider trading and market manipulation. Timor-Leste has not criminalised a sufficiently wide range of environmental crimes, and those that are in the Penal code are not predicates for ML (see R.3.2 for further information). This results in minor deficiencies in the coverage of criminal activity.

337. Under Article 13 of BCTL Instruction No.1/2013, MTOs are subject to the same STR reporting obligations as those set out for banks and ODTIs in BCTL Instruction No.5/2017.

338. *Criterion 20.2* - Under Article 23 of AML/CFT Law, FIs duty to report is when they have reasonable grounds to suspect that certain funds or assets result from criminal activity or are related to ML/TF, including attempted transactions. Article 19 of BCTL Instruction No.5/2017 and Article 13 of BCTL Instruction No.1/2013 require banks, ODTIs and MTOs to report STRs to UIF, including attempted transactions. However, there is no explicit requirement that STRs must be reported regardless of the amount.

Weighting and Conclusion

339. FIs are required to immediately report STRs to UIF when they have reasonable grounds to suspect funds or assets result from criminal activity or are related to ML/TF. The

⁷⁷ Any person who, knowing that assets or products are proceeds from any form of participation in the commission of crimes of terrorism, trafficking in arms or nuclear products, human trafficking, child pornography, corruption, fraud or extortion, tax fraud, trafficking in protected species or human organs or tissues or any other serious crime carrying a maximum sentence of over 2 years imprisonment.

obligation to report suspicious transactions includes attempted transactions, but there is no explicit provision for reporting an STR regardless of the amount of the transaction. There are minor deficiencies in the criminalisation of the TF offences and coverage of ML predicate offences, which impacts STR reporting obligations of all FIs.

340. **Recommendation 20 is rated as largely compliant.**

Recommendation 21 – Tipping-off and confidentiality

341. In its 2012 MER, Timor-Leste was rated partially compliant for former R.14, with the report noting there was a lack of clear ‘safe harbour’ provisions for directors, officers and employees of FIs if they reported STRs in good faith.

Criterion 21.1 - Under Article 23-A of the AML/CFT Law, FIs and their employees are protected from both civil and criminal liability for breaching the disclosure of information in ‘good faith’ regarding a transaction considered suspicious by FIs in the fulfilment of their duties to report a suspicious transaction; such a disclosure shall not involve the disclosing party in liability of any kind, even if the suspicion is not confirmed. Timor-Leste explained that the term ‘*quem as preste*’ in Article 23-A means ‘disclosing party’ or ‘anyone who provides it’ cover anyone who works in the financial institutions. However, the provision does not explicitly define ‘disclosing party’ so it is unclear whether this term extends to cover directors, officers and employees who file the STR.

342. *Criterion 21.2* - Under Article 25 of the AML/CFT Law, the employees ‘*Funcionario*’ and agents of FIs are not permitted to disclose, or in any way facilitate information which has been provided or is to be provided to UIF, as well as any information regarding investigations on crimes of ML or TF. Timor-Leste reports that ‘*Funcionario*’ is a general term and refers to anyone who works in an institution, which could include directors, officers and employees of an FI, however this is not explicit in Timorese Law.

Weighting and Conclusion

343. FIs and their employees are protected from both criminal and civil liability for breach on the disclosure of information if they report their suspicious transactions in good faith to UIF. Timor-Leste explained that the protections under Article 23-A and Article 25 of the AML/CFT Law cover anyone who works in an institution, however, it is not clear whether protections from liability with respect to STR reporting extends to the directors, officers and employees of an FI as it is not explicitly set out in Timorese Law.

344. **Recommendation 21 is rated largely compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

345. Timor-Leste was rated partially compliant for former R.12 in its 2012 MER as dealers in precious metals, dealers in precious stones, trust and company service providers and lawyers, notaries, attorneys and other independent legal professionals were not defined as DNFBPs. AML/CFT obligations for DNFBPs were also not implemented.

346. Article 3 of the AML/CFT Law defines ‘non-financial entities’ as:

- a. Casinos, including casinos operated through the internet;

- b. Any persons providing financial services or intervening or assisting in financial or real estate operations, on behalf of their clients, without prejudice to professional secrecy;
- c. Accountants, independent auditors and tax consultants; and
- d. Any other activities and professions designated by law.

347. Dealers in Precious Metals and Stones (DPMS) and trust and company service providers (TCSPs) are not covered by Article 3 however, DPMS have a limited number of obligations as described in Articles 11 (CDD measures) and 23 (STR reporting).

348. At the time of the onsite visit, there were no licenced casinos operating in Timor-Leste, no DPMS, and all notaries were government employees and therefore do not meet the definition in the FATF Standards. It is unclear the extent to which lawyers and other independent legal professionals are captured by activities that define 'non-financial entities' under Article 3.2(b).

349. *Criterion 22.1* - CDD requirements to identify and verify customers are applicable to all non-financial entities (Art. 10, AML/CFT Law). Specific CDD requirements also apply to DPMS (Art. 11). However, the AML/CFT Law does not require source documents, data or information used for verification purposes to be reliable. The deficiencies in R.10 are applicable to R.22.1.

350. *Criterion 22.1(a)* - There are no casinos currently in operating in Timor-Leste. Nevertheless, casinos must identify and verify the identity of the customer making transactions amounting to USD 1,000 or more (Art. 11.2, AML/CFT Law).

351. *Criterion 22.1(b)* - Real estate agents and brokers must identify and verify the customer when involved in the purchase or sale of real estate in accordance with Article 10 (Art. 11.4, AML/CFT Law).

352. *Criterion 22.1(c)* - DPMS must identify their customer in accordance with Article 10 for cash payments to them of USD 5,000 or more (Art 11.3, AML/CFT Law). The requirement only applies to transactions where the customer is paying the DPMS, not when the DPMS may be paying the customer.

353. *Criterion 22.1(d)* - CDD obligations apply to lawyers and other independent legal professionals in circumstances limited to when they are 'providing financial services or intervening or assisting in financial or real estate operations' (Art. 3.2(b). AML/CFT Law). CDD obligations apply to accountants under all circumstances.

354. *Criterion 22.1(e)* - The definition of 'non-financial entities' does not include trust and company service providers and therefore they are not required to apply CDD measures. Although legal arrangements cannot be established in Timor-Leste, company service providers do operate and provide the range of activities covered by this criterion.

355. *Criterion 22.2* - Under Article 15 of AML/CFT Law, 'non-financial entities' must maintain records on:

- a. 'Copies of the identity documents of customers or representatives of beneficial owners obtained in the manner prescribed in this Chapter, accounts forms and correspondence, for a period of at least five years after the business relationship has ended;
- b. Information obtained pursuant to the provisions of this Chapter, enabling the reconstruction of transactions made by customers and written reports prepared

in accordance with the preceding Article, for a period of five years after the transaction;

- c. Records of all reports delivered to FIU, for a period of at least five years after the date of delivery of report;
- d. Copy of the feedback given by FIU to the reports on suspicious transactions, for a period of five years after receipt if such information.'

356. Further, Article 14 requires non-financial entities to apply record keeping obligations in Article 15 to circumstances including where enhanced due diligence is applied. Gaps in the scope of DNFBP coverage described in 22.1 cascade to this criterion.

357. *Criterion 22.3* - Non-financial entities must take 'adequate measures to determine whether the customer or the 'beneficiary owner' (sic) is a politically exposed person' (Art. 10.6, AML/CFT Law). For foreign PEPs, there is no requirement for senior management approval before establishing or continuing a business relationship, to take reasonable measures to establish source of wealth or source of funds of customers and beneficial owners. Non-financial entities must apply EDD measures (Art 14.3) but these measures are undefined, and no guidance has been issued. Similarly, when there is a higher-risk business relationship with a domestic PEP or person who has been entrusted with a prominent function by an international organisation, there are no requirements for senior management approval of the relationship, establishing source of wealth and source of funds or enhanced monitoring of the relationship. These gaps also apply to family members or close associates. Gaps in the scope of DNFBP coverage described in 22.1 also cascade to this criterion.

358. *Criterion 22.4* - There are no requirements for non-financial entities to comply with requirements set out in Recommendation 15. Gaps in the scope of DNFBP coverage described in 22.1 also cascade to this criterion.

359. *Criterion 22.5* - The AML/CFT Law 2011 requires FIs to conduct CDD (Art. 10, AML/CFT Law) and does not contain any provisions allowing for the reliance on third party services for CDD purposes. Therefore, c.22.5 is not applicable.

Weighting and Conclusion

360. Not all DNFBPs defined in the FATF Standards are covered by the definition of non-financial entities in the AML/CFT Law. There are gaps in the coverage of DPMS, lawyers and other independent legal professionals, and TCSPs. CDD measures, record keeping and EDD for PEPs apply to non-financial entities whilst CDD measures only apply to DPMS where they pay the customer USD 5,000 or more rather than all transactions equal to or above USD/EUR 15,000. For foreign PEPs there are no requirements for senior manager approval before establishing or continuing a business relationship, or to take reasonable measures to establish source of wealth and source of funds. These gaps also apply to domestic PEPs or persons entrusted with a prominent function by an international organisation where there is a higher risk business relationship and to family members or close associates. Further, there are no requirements to comply with requirements set out in Recommendation 15.

361. **Recommendation 22 is rated partially compliant.**

Recommendation 23 – DNFBPs: Other measures

362. Timor-Leste was rated partially compliance for former R.16 in its 2012 MER due to lawyers, notaries, attorneys and other independent legal professionals not being included in its definition of DNFBPs and because AML obligations were not implemented.

363. Gaps in the scope of DNFBP coverage identified under R.22 have a cascading effect on each criterion in R.23.

364. *Criterion 23.1* - Casinos are defined in Article 3 of the AML/CFT Law and consequently have STR reporting obligations however the gaps in R.20 cascade to this criterion for casinos and all other DNFBPs. There are currently no casinos licenced to operate in Timor-Leste.

365. *Criterion 23.1(a)* - Accountants are required to report STRs for suspicious and attempted transactions (Art. 23.1, AML/CFT Law). Lawyers and other independent legal professionals are only required to submit STRs when ‘providing financial services or intervening or assisting in financial or real estate operations, on behalf of their clients, without prejudice to professional secrecy and there is no obligation to report attempted transactions (Art. 23.2). A gap remains for when providing ‘organisation of contributions for the creation, operation or management of companies’, or ‘creating, operating or management of legal persons or arrangements, and buying and selling of business entities’. All notaries are government employees and therefore do not meet the definition in the FATF Standards.

366. *Criterion 23.1(b)* - DPMS must report STRs for suspicious transactions amounting to USD 10,000 or more but there is no obligation to report attempted transactions (Art. 23.3).

367. *Criterion 23.1(c)* - TCSPs have no STR reporting obligation.

368. *Criterion 23.2* - ‘Non-financial entities’ are required to implement AML/CFT programs however there is no requirement for these to have regard to ML/TF risks and the size of the business (Arts. 12 & 16 AML/CFT Law). A compliance officer must be appointed at the management level (Art. 12.2, AML/CFT Law) AML/CFT programs must also include internal procedures and controls for the hiring of staff, ongoing training of staff, and an internal audit function (Art. 16.1(a)).

369. There are no requirements that apply to the implementation of group-wide programs, or to foreign branches, subsidiaries or majority-owned subsidiaries however there are no financial groups or subsidiaries of DNFBPs in Timor-Leste and no DNFBPs with foreign branches or majority-owned subsidiaries. Gaps in the scope of DNFBPs cascade to this criterion.

370. *Criterion 23.3* - There are no requirements for DNFBPs to; apply enhanced due diligence measures when called for by the FATF, apply countermeasures when called upon by the FATF or independently of any call for by the FATF, or to have measures in place to ensure DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

371. *Criterion 23.4* - Protections for disclosing information in good faith to the FIU only apply to the legal entity or natural person in Article 3 (Art 23.3-A). There are no protections for the directors, officers or employees of non-financial entities. DPMS and their directors, officers and employees, which have a legal obligation to report STRs (Art. 23.3), but are not defined in Article 3, have no protections.

372. Where an STR reporting obligation arises, non-financial entities, their employees and agents must not disclose reporting of the STR (Art. 25). However, the obligation does not apply to their officers and directors. Further, there is no prohibition on disclosures by DPMS, their directors, officers and employees, as Article 25 applies only to entities listed in Article 3.

Weighting and Conclusion

373. DNFBPs in Timor-Leste are subject to AML/CFT measures however gaps in the scope of DNFBPs in R.22 cascade to R.23. There is no obligation for DPMS to report STRs for attempted transactions (though none operate in Timor-Leste) and no STR reporting obligation for TCSPs. DNFBPs must implement AML/CFT programs but there are no requirements to have regard to ML/TF risk or business size. DNFBPs must appoint a compliance officer but this does not have to be at the management level. There are no requirements to implement group-wide AML/CFT programs or ensure foreign branches and subsidiaries apply AML/CFT measures consistent with their home country however these are given lesser weight as there are no DNFBP groups or DNFBPs with foreign branches or subsidiaries operating in Timor-Leste. There are no requirements to apply enhanced measures, countermeasures or have measures in place to advise concerns about weaknesses in AML/CFT systems of other countries. There are no protections for disclosing information in good faith by directors, officers and employees of non-financial entities and no protections for DPMSs. Prohibitions from disclosing the filing of an STR or related information do not apply to officers and directors and not at all to DPMS.

374. **Recommendation 23 is rated partially compliant.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

375. In its 2012 MER, Timor-Leste was rated partially compliant under the former R.33. The main deficiency stemmed from doubts as to whether BO information would be readily available beyond immediate shareholders, particularly in relation to more complex corporate structures involving foreign ownership and/or layers of ownership.

376. *Criterion 24.1* - In Timor-Leste there are the following types of legal persons: (i) commercial legal persons; and (ii) non-commercial legal persons.

(i) Commercial legal persons:

377. The Companies Law 2017 describes the various forms and basic features of commercial legal persons as follows (Art. 1):

- a. Limited liability companies, including multi-member limited liability companies (Art. 167); and single-member limited liability companies (Art. 199).
- b. Joint-stock companies (Art. 202).

378. Article 4 of Companies Law 2017 requires companies to be registered if they are to be recognised as legal persons under the law. Pursuant to Article 3 of Decree Law No.16/2017⁷⁸ sole traders, commercial companies, civil companies operating as commercial companies, cooperatives, public companies and permanent representations shall be subject to register at the Business Registration Authority. Articles 11, 12, 17, 18, 19 and 20 of Decree Law No.16/2017 detail the procedures for registration. Information and legislation⁷⁹ on the basic features, creation and registration of commercial legal persons are publicly available online,

⁷⁸ Since 1 June 2023, Article 3 of Decree-Law No.16/2004 (amended by Decree Law No.76/2022 and Decree Law No.37/2023), now, also subjects the cooperatives to register at the Business Registration Authority – SERVE I.P.

⁷⁹ All legislation becomes binding only when it is published in the Official Gazette, the 'Jornal da República de Timor-Leste' (vide Arts. 3 & 4 of the Civil Code) and it is also available in the internet (www.mj.gov.tl/jornal).

through the website of the Business Registration Authority – SERVE I.P.⁸⁰ ([SERVE I.P. – Business Registration](#)).

379. Concerning BO information, Article 294 of Companies Law 2017 provides that companies shall collect and record details about the beneficial owner, as well as the nature and extent of their interest held. According to Article 298 of Companies Law 2017 companies are required to provide information on beneficial ownership to the Business Registration Authority, pursuant to the respective law. However, the procedure for communicating this information to SERVE I.P. is unclear, as is the type of information to be made available within the deadlines established for this purpose, considering the different timeframes foreseen in the law (e.g. Art. 294.2, Companies Law 2017 and Arts. 19.1 and 19.22, Decree Law No.16/2017).

(ii) *Non-commercial legal persons:*

380. The types of non-commercial legal persons that can be established in Timor-Leste are:

a. Cooperatives (Decree Law No.16/2004⁸¹).

381. Cooperatives are legal persons with a possible variable capital or composition that through the rendering of assistance between their members, in obedience to the cooperative principles and without the pursuing of profitable objectives, provide for the economic or cultural needs of their respective members.

a. Associations and foundations (Decree Law No.5/2005 and the Civil Code⁸²).

382. Associations and foundations are both legal persons without a lucrative purpose.

383. Information regarding creation and types of non-commercial legal persons is publicly available as set out in the law above.

384. *Criterion 24.2* - Timor-Leste has not assessed the risk of ML/TF for each type of legal person created in Timor-Leste. The NRA mentions some vulnerabilities and risks, in particular the lack of BO information or the lack of an effective process to ensure that all companies have been duly incorporated, have obtained all necessary business licenses, and are duly registered for tax purposes (pages 34-36). However, this does not consider the ML/TF risk arising from the features of all legal persons created in Timor-Leste.

Basic Information

385. *Criterion 24.3* - Articles 159 to 185 of the Civil Code and, where applicable, Decree Law No.5/2005 requires associations and foundations to be registered at the Ministry of Justice (Arts. 15.3 & 29.5 Decree Law No.5/2004). Article 14.3 of Decree Law No.16/2004 required

⁸⁰ SERVE I.P. is also responsible for the issuance of authorization for the exercise of economic activity under the terms of Decree-Law No.34/2017 (amended by Decree-Law No.83/2022) and other complementary legislation.

⁸¹ It should be stressed that any legal gap in this decree law, which cannot be filled by resorting to complementary legislation applicable to the various branches of the cooperative sector, may be filled by the Law on Commercial Companies, notably the provisions applicable to joint stock companies, insofar as such provisions do not disregard the cooperative principles (Article 9). Also, with the entry into force of Decree Law No.37/2023, Article 14(3) of Decree Law No.16/2004 (as amended by Decree Law No.76/2022) was repealed and cooperatives must now register at the Business Registration Authority – SERVE I.P..

⁸² Law No.10/2011 of 14 September (Civil Code) provides for the legal regime of legal persons (Art. 149 to 185) such as associations (Articles 159-175) and foundations (Art. 176 to 185). However, considering Article 5 of the Law No.10/2011 (Civil Code) which states that '1. The regime provided for in articles 149 to 185 of the new Civil Code on [legal persons] shall also apply to [legal persons] established prior to the entry into force of the present statute insofar as their functioning is concerned. 2. The conditions of validity of the constitutive act and respective registration of [legal persons] referred to in the preceding article shall remain as established in the law in force at the time of the establishment of the corporation.' and Article 17.3 of the Law No.10/2011 (Civil Code), the Decree-Law No.5/2005 should also be taken into account insofar as it is applicable.

cooperatives to be registered at the Ministry of Justice and since 1 June 2023 they must register with SERVE I.P. (see footnote 9). The basic information related to associations and foundations is publicly available. In the case of cooperatives, it was not clear what basic information was publicly available from the Ministry of Justice, and now that they are registered with SERVE I.P. they are subject to the same public registry regime applicable to the commercial companies however no information on cooperatives is currently available from the SERVE I.P. website.

386. Article 4 of Companies Law 2017 requires companies to be registered if they are to be recognised as legal persons under the law. Pursuant to Article 3 of Decree Law No.16/2017, sole traders, commercial companies, civil companies operating as commercial companies, public companies and permanent representations must register with the Business Registration Authority. Registration information on commercial legal persons must include, among other elements, the following: (i) memorandum of association, adopting a pre-approved model or a set drawn up by the parties pursuant to law; (ii) name and legal form of the company; (iii) address of headquarters and (iv) details of shareholders, directors, and legal representative (Art. 12, Decree Law No.16/2017 & Art. 7, Companies Law 2017).

387. SERVE I.P. maintains the details of companies as well as the documents referred to in this criterion (Art. 40, Decree Law No.16/2017). Article 5 of Decree Law No.16/2017 prescribes the public nature of the register. Any person, upon request, may obtain oral or written information about the legal status of entities registered with SERVE I.P. (Art. 36), as well as updated certificates of incorporation and certificates of documents on file without having to justify such a request – event though subject to the payment of fees imposed under the law (Art. 37). Furthermore, the public generally can access basic company information held by SERVE I.P, available on its website, including name, headquarters, identification number, share capital, full name of shareholders and members of the board of directors ([LIST COMPANIES REGISTERED – SERVE I.P.](#)) but this information is incomplete and not up-to-date (please see c.24.5 below).

388. *Criterion 24.4* - There is no general obligation for all companies, foundations and associations to maintain a register of all their shareholders and members. The Companies Law 2017 requires commercial legal persons to maintain registers of shareholder information (Art. 87). The Companies Law further requires the articles of association to contain (i) the capital ratio of each equity holder, in relation to private limited companies (Art. 167) and (ii) the par value and number of shares as well as the types of shares and the various classes of ordinary shares, if applicable, where a joint stock company is concerned (Art. 204). According to Article 225, the share register maintained by joint stock companies shall contain more detailed information in separate sections by type and class of shares, including: the number and overall par value of each type or class of shares, the name and address of the first holder or each share, any conversions made and the dates thereof, the breakdowns or concentrations and the dates thereof and the transfer of shares and the date thereof. However, it is unclear whether there are legal provisions requiring companies to maintain all the information set out in criterion 24.3. In particular, the proof of incorporation and the basic regulating powers, as Article 87 of Companies Law, besides the shareholder information, only expressly refers to the following information: (i) minutes of the general meetings, of management and of auditing body, if any, (ii) book of liens, charges and guarantees and (iii) bond issue register. Information mentioned in Article 87 of Company Law is required to be kept at the company's registered office or at another location in the same municipality of the registered office, provided that such place is reported to the registry.

389. *Criterion 24.5* - Commercial legal persons are required to report changes to the Business Registration Authority, including those related to companies' name, headquarters, directors, the legal representative, and the secretary of the company. Article 19.2 of Decree Law No.16/2017 sets out that the registration of changes on facts subject to registration shall be requested within 30 days from the date on which they occurred. After this, SERVE I.P. shall proceed with the registration within five working days of the date of the submission of the application (Art. 25). In respect to basic regulating powers, companies are obliged to keep the information foreseen in the applicable Law up-to-date and to notify the Business Registration Authority whenever there is a change but this information is incomplete and not up-to-date.⁸³ Concerning the accuracy of information, Article 23 of Decree Law No.16/2017 places an obligation on the Business Registration Authority to examine the validity of enterprise applications and documents and accept or reject the registration and, therefore, the issuance of the correspondent certificate. Article 29 provides general grounds for refusal of registration. Article 19 of Companies Law 2017 prescribes that directors and the company secretary shall be jointly and severally liable with the company for untruth, inaccuracy, or deficiency on the process of incorporation, whenever they have concluded that there are no irregularities. Furthermore, Article 163 of Companies Law 2017 stipulates that the company shall be liable for the losses caused to shareholders or third parties for any discrepancies between the contents of the (i) acts performed, (ii) registration and (iii) publications; directors and the company secretary, if any, shall be jointly and severally liable with the company, except where they prove that acted without guilt.

390. For other entities, like associations and foundations, changes to registration are due, or else they will have no effects on third parties and as long as they are not published in accordance with the applicable law (vide Arts. 160.3 and 176.5, Civil Code).

Beneficial Ownership Information

391. *Criterion 24.6* - Timor-Leste utilises a combination of mechanisms to obtain BO information, including from the company registry, company, and from reporting entities under the AML/CFT Law but only for commercial legal persons.

392. Article 294 of Companies Law 2017 provides that companies shall collect a set of identifying details about the beneficial owner, as well as the nature and extent of the interest held. All steps taken to obtain this information shall be recorded. Pursuant to Article 3.2 of Decree-law 7/2017, SERVE I.P. is responsible for promoting registration of companies' beneficial owners. According to Article 298 of the Companies Law, companies are required to provide information on beneficial ownership to the Business Registration Authority. However, the procedure to communicate this to SERVE I.P. and the information to be made available within a 15 or 30 day deadlines are unclear (Arts. 19.1 & 19.2, Decree Law No.16/2017).

393. Article 293 of Companies Law 2017 sets out the criteria that should be followed for determining beneficial ownership and is consistent with the FATF Standards. Article 293.4 further clarifies that, if it is not possible to identify any natural person who meets the requirements defined, the director or directors who actively perform management functions are deemed to be considered the beneficial owner of the company. Furthermore, Article 294.2

⁸³ SERVE I.P. publishes on its website pdfs of the six registries it maintains. However, the registries are incomplete as they do not include information on registrations prior to May 2013 and there were no updates to these registries from early October to May 2024. Also, in the case of private limited companies (Article 167) there are examples of no reference to the names of the equity holders (Articles 169 and 171) or to the directors (Article 192) and when there is a reference, it only refers to one equity holder (with no reference to the corresponding 'quota'), which in the case of this type of company is unusual, given that they are not single-member limited liability companies (Article 199).

of the Companies Law states that the company secretary or, in his or her absence, the company's management shall take all necessary steps to obtain the information on beneficial ownership. Under Article 295.1, all shareholders are obliged to collaborate with the company in obtaining information on beneficial ownership.

394. Article 9 of the AML/CFT Law 2011 sets out that legal persons registered in the national territory must provide, when requested by the competent authority, the information adequate and necessary for the purposes of identifying the beneficial owners and their control structure. In the cases provided for in Article 10.1. of the AML/CFT Law, financial institutions and DNFBPs referred to in Article 3 shall identify their customers and beneficial owners and take all necessary measures to verify their identity, including the identification of the natural persons who have control, as well as the identification of the natural person responsible for the management of the legal person. For this purpose, documents, data, and information from independent sources shall be collected. In cases where there is doubt as to whether the customer is acting on its own account, reporting entities shall verify the identity of the person or persons on whose behalf or for whose account the customer is acting (Art. 10.4). Moreover, Article 21.2 of Law No.7/2020 on Corruption Prevention prescribes that companies are required to provide information on their beneficial owners, within 10 days, to the: (i) Public Prosecutor's Office, under the scope of an enquiry; (ii) entities in charge of verifying declarations of income, assets, and interests, and (iii) entities awarding public contracts, within the scope of a diligence to verify a potential conflict of interests. Timor-Leste does not have a stock exchange.

395. There are no requirements in the registry law for non-commercial legal persons, such as associations and foundations, to verify the identity of the 'natural person(s)' who ultimately has a controlling ownership interest in the legal person.

396. *Criterion 24.7* - Pursuant to Article 298 of the Companies Law 2017, only commercial legal persons are required to provide information on beneficial ownership to the business registry, pursuant to the respective law, i.e. the Articles 19.1 and 19.2 of Decree Law No.16/2017. Article 294.2 of the Companies Law 2017 sets forth that the company secretary or, in his or her absence, the company's management shall update the information obtained on beneficial ownership on an annual basis. According to Article 295.2 shareholders are especially required to inform the company of any modification to the beneficial ownership within ten working days from the date of the change. Non-compliance with these obligations qualifies as an administrative offence under the AML/CFT Law 2011 (Art. 299, Companies Law 2017).

397. Under the AML/CFT Law, there is no provision that explicitly establishes the duty of reporting entities to update the information obtained, at the time of the establishment of the business relationship, regarding the beneficial owners, with a certain periodicity and whenever there is a significant change of ownership or control. However, pursuant to Article 32 of AML/CFT Law (in the section on the sanctions framework) the failure, by reporting entities, to maintain adequate, accurate, and up-to-date information regarding the beneficial owner and the controlling structure of the legal person and other legal entity or arrangement, as well as to provide access to information or to records in a timely manner even when requested by competent authorities, under the terms of the law, qualifies as an administrative offence and is subject to fines. On the other hand, there is no evidence that Business Registration Authority is required to, or has the necessary means to, verify the accuracy of the information made available for companies regarding beneficial ownership.

398. *Criterion 24.8* - Under Article 297 of Companies Law 2017, companies are required to provide information on beneficial ownership, within ten business days, whenever requested to

do so, by: (a) the Financial Intelligence Unit of the Central Bank of Timor-Leste, pursuant to law; (b) the entities required to identify customers, under the terms and for the purposes of the Legal Regime to Prevent and Combat Money Laundering and the Financing of Terrorism; (c) other competent authorities pursuant to law. Nevertheless, there are no requirements or obligations for natural persons or DNFBPs to cooperate with competent authorities on behalf of legal persons. However, the Law on Companies 2017 provides a general duty for legal representatives and directors of commercial legal persons to always act in the interest of the company (Art. 47 and 67).

399. *Criterion 24.9* - Under Article 15 of AML/CFT Law 2011 reporting entities should keep records of a customer, including the information obtained on beneficial ownership for, at least, five years after the business relationship ends. With respect to occasional transactions, it should be clearer that the BO information is required to be kept for five years following the completion of the transaction.

400. Article 40 of Decree Law No.16/2017 states that the documents submitted to SERVE I.P. are scanned and archived electronically in the computer database. The Business Registration Authority is required to keep documents in a physical archive for a period of 10 years (Art. 40 (3), Decree Law No.16/2017). The retention period for electronic records is not clear. According to Article 296 of Companies Law 2017 companies should keep records of the information on beneficial ownership for a period of at least five years. Moreover, Article 158 of the Companies Law provides that companies' liquidators are required to keep company documents for five years after the dissolution. However, the above-mentioned provisions do not cover 'all persons, authorities and entities' mentioned in Recommendation 24.

Other Requirements

401. *Criterion 24.10* - Competent authorities can access basic company information held by the Ministry of Justice, at least in what concerns associations and foundations, and SERVE I.P., including, in this last case, the name of the equity holders and shareholders ([LIST COMPANIES REGISTERED – SERVE I.P.](#)).

402. Pursuant to Article 3.2 of Decree-law 7/2017, in addition to promoting the registration of beneficial owners, SERVE I.P. is empowered to cooperate with similar or other entities, domestic or foreign, namely by entering into protocols, agreements or other legal instruments of collaboration in its area of activity. Article 14 of Decree-law 7/2017 stipulates that SERVE I.P. is entitled to provide information on the beneficial owners to the competent authorities, under the terms of the law. Article 9 of the AML/CFT Law 2011 sets out that legal persons registered in the national territory must provide, when requested by the competent authority, 'the information adequate and necessary for the purposes of identifying the beneficial owners and their control structure' (sic). According to Article 297 of the Companies Law 2017, companies are required to provide information on beneficial ownership, within ten business days, whenever requested to do so by: (i) the Financial Intelligence Unit of the Central Bank of Timor-Leste; (ii) the entities required to identify customers, under the terms and for the purposes of the AML/CFT Law 2011; (iii) other competent authorities pursuant to law.

403. Furthermore, Article 21.2 of Law No.7/2020 on Corruption Prevention prescribes that companies are required to provide information on their beneficial owners, within 10 days, to the: (i) Public Prosecutor's Office, within the scope of an enquiry; (ii) entities in charge of verifying declarations of income, assets, and interests, and (iii) entities awarding public contracts, within the scope of a diligence to verify a potential conflict of interests. In accordance with Article 46 of Law No.7/2020, the Anti-Corruption Commission, as the competent authority, may request, under the regime of declaration of income, property and interests, the information

it deems necessary from any national public entity, natural or legal private person with whom the declarant or a member of his or her household has carried out transactions or who are in possession of information about transactions subject to declaration and members of the declarant's household. The information in question shall be provided within the period set by the competent authority. Although not all the competent authorities and legal persons are explicitly foreseen, the setting of broad provisions enable competent authorities to have access to BO information held by the relevant parties. Based on the procedures foreseen (particularly, in those cases where no deadline is set), there is no evidence that such information will always be obtained in a timely manner.

404. BO information held by financial institutions could also be obtained via the PGO and court order (Arts. 114.2 and 115, Code of Criminal Procedure and Chapter V of AML/CFT Law).

405. *Criterion 24.11* - According to Article 4 of Law No.10/2017, as from the date of entry into force of this law, is prohibited to issue, convert and transfer bearer shares. Pursuant to Article 5, holders of bearer shares, or their successors, shall request the conversion of their share certificates into registered shares to the issuing company within one year from the date of entry into force of the Law No.10/2017. Moreover, after that period has elapsed, holders of bearer shares who have not requested the conversion of their share certificates shall have all their shareholding rights suspended (Art. 6). Companies shall record suspended share certificates in the share register book and retain profits corresponding to suspended share certificates. Article 7 further sets out that, after one year has elapsed as from the expiry of the period referred to in Article 5, unconverted bearer shares certificates shall be deemed destroyed and retained amounts shall be converted into free reserve. However, a small deficiency remains as there are no mechanisms to ensure bearer share warrants are not misused for ML or TF.

406. *Criterion 24.12* - Timorese legislation does not recognize nominee shares or nominee directors. In addition, there are some mechanisms in place which, although not specifically applicable to nominee shares or nominee directors, may contribute, if properly combined and applied, to prevent and mitigate the risk of the misuse of nominees (e.g., existence of licensing requirements on business and economic activities – Decree-law 34/2017, including trusts, funds, and similar financial entities and transparency requirements, focused on beneficial ownership registry – Articles 293-299 of Companies Law 2017).

407. *Criterion 24.13* - According to Article 13 of the Companies Law 2017, the Public Prosecutor shall initiate liquidation proceedings of any unregistered company operating for more than three months. Companies' acts or changes to the initial acts which have not been communicated to the Commercial Registry will not produce their effects vis-à-vis third parties (Art. 28, Decree-Law No.16/2017). Pursuant to Articles 9, 11 and 14 of Decree-Law No.16/2017, non-compliance with registration requirements is subject to fines for natural persons (USD 50 to USD 500) and legal persons (USD 500 to USD 5,000). Under Article 42 of Decree-Law No.16/2017, in the event of repeated and recurrent offences, the competent authority may apply the following ancillary sanctions: (i) suspension for up to three years of the right to participate in public procurement and (ii) suspension or cancellation of the business license and temporary or definitive closure of the establishment. Furthermore, Article 163 of the Companies Law 2017 stipulates that the company shall be liable for the losses caused to shareholders or third parties for any discrepancies between the contents of the (i) acts performed, (ii) registration and (iii) publications; directors and the company secretary, if any, shall be jointly and severally liable with the company, except where they prove that they acted without guilt. Concerning BO information obligations, companies are required to provide

information on beneficial ownership to the commercial registry (Art. 298, Companies Law 2017) while non-compliance with this obligation qualifies as an administrative offence under the AML/CFT Law 2011 (Art. 299, Companies Law 2017). Pursuant to Article 32 of AML/CFT Law 2011, the failure, by both financial and non-financial entities, to maintain adequate, precise, or current information regarding the beneficial owner and the controlling structure of the legal entity and other legal entity or arrangement as well as to provide access to information or to records in a timely manner, even when requested by competent authorities, under the terms of the law, qualify as an administrative offence and is subject to fines for natural persons (USD 250 to USD 150,000) and legal persons (USD 1,250 to USD 750,000). In relation to natural persons, ancillary sanctions prohibiting the exercise of professional activities for a period between six months and three years may also be applied. These sanctions appear to be proportionate to the offences and the fines, if applied at the higher end of scale, dissuasive however, sanctions applied at the lower end of the scale are not proportionate or dissuasive.

408. *Criterion 24.14* - Timor-Leste is able to provide broad international cooperation through mutual legal assistance requests, as described under R.37 to R.40. The AML/CFT Law provides some general mechanisms for the sharing of information and states that competent authorities shall promote the broadest cooperation with the competent authorities of other States for the purpose of international judicial cooperation in criminal matters under the terms of the applicable domestic and international legislation (Art. 46). Pursuant to Article 3.2 of Decree Law No.7/2017, in addition to ensuring the commercial registration of facts subject to registration, promoting the registration of beneficial owners and managing and keeping up-to-date the archive and database relating to commercial registration and the licensing of economic activities, SERVE I.P. has the function of cooperating with similar or other entities, national or foreign, namely by entering into protocols, agreements or other legal instruments of collaboration in its area of activity. Furthermore, both Timorese and foreign competent authorities, and the public generally, can access basic company information held by SERVE I.P., including the name of shareholders ([LIST COMPANIES REGISTERED – SERVE I.P.](#)). While there are broad powers for information sharing with foreign counterparts, there is no evidence that cooperation on BO information is rapidly provided.

409. *Criterion 24.15* - No evidence was provided of the existence of mechanisms to monitor the quality of assistance received from other countries regarding BO information.

Weighting and Conclusion

410. Timor-Leste has a reasonably solid legal framework for the collection and recording of basic information, as well as BO information when related to commercial legal persons. However, there are still doubts as to whether BO information would be readily available beyond immediate shareholders, particularly in relation to more complex corporate structures involving foreign ownership and/or layers of ownership. Further, there are important shortcomings related to the absence of legal requirements for non-commercial legal persons in what concerns BO information, and to the requirement for BO information to be accurate and up-to-date. Moreover, there is no risk assessment that considers the ML/TF risks arising from the features of all types of legal persons. A minor deficiency to prevent the misuse of bearer share warrants remains.

411. **Recommendation 24 is rated partially compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

412. In its 2012 MER, the former R.34 was rated not applicable, as domestic trusts cannot be established in Timor-Leste and foreign trusts were not recognised. In addition, it was noted that no trust service providers have been established in Timor-Leste. The 2014 FATF Guidance on Transparency and Beneficial Ownership has clarified that R.25 includes requirements for all jurisdictions regardless of whether they recognize trust law or not⁸⁴.

413. *Criterion 25.1(a) & (b)* - Express trusts and similar legal arrangements cannot be created under Timorese law. Therefore c.25.1(a) & (b) are not applicable.

414. *Criterion 25.1(c)* - Despite the inability to create express trusts and other legal arrangements under Timorese law, there is no prohibition on express trusts created under the laws of another jurisdiction and trustees of those trusts from operating in Timor-Leste (including forming relationships with FIs and DNFBPs).

415. *Criterion 25.2* - There are no requirements for trustees to keep records accurate and up-to-date. Under the AML/CFT Law 2011, FIs and DNFBPs referred to in Article 3 are required to collect and update information of the trustee if it is a customer. In addition, FIs and DNFBPs referred to in Article 3 of the AML/CFT Law are bound to a special duty of control of the business relationships and transactions with legal entities or arrangements, to or from countries or territories not subject to effective and consolidated supervision (Art. 14.2) and should keep a record of this specific information and the identity of all parties involved, as required by in Article 15 of the AML/CFT Law (Art. 14.4).

416. *Criterion 25.3* - There are no specific obligations on trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out the occasional transactions. Notwithstanding, FIs and DNFBPs shall verify the identity of the person or persons on whose behalf or for whose account the customer is acting whenever there is doubt as to whether the customer is acting on its own account (Art. 10.4, AML/CFT Law 2011).

417. *Criterion 25.4* - There are no explicit laws or enforceable means which would prevent trustees from disclosing information regarding legal arrangements to competent authorities or from providing FIs and DNFBPs, upon request, with the information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

418. *Criterion 25.5* - Under the AML/CFT Law 2011, in the cases provided for in Article 10, reporting entities shall identify their customers and beneficial owners and take all necessary measures to verify their identity, including the identification of the natural persons who have control, as well as the identification of the natural person responsible for the management of the legal person. Competent authorities have a range of powers under the AML/CFT Law to obtain access to information, including the one collected in respect of the identification of beneficial owner. However, there are no provisions allowing timely access to information held specifically by trustees.

419. *Criterion 25.6* - Timor-Leste is broadly able to provide international cooperation through MLA requests or under other arrangements with foreign competent authorities, as described under R.37 to R.40. However, Timor-Leste only has mechanisms to ensure the access to information held by reporting entities and companies as they are required to provide

⁸⁴ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>

information on beneficial ownership to the Business Registration Authority. Furthermore, there is no evidence that cooperation on BO information is rapidly provided.

420. *Criterion 25.7* - Timor-Leste has no measures, including sanctions, to ensure trustees meet their obligations.

421. *Criterion 25.8* - Pursuant to Article 32 of the AML/CFT Law 2011 the failure by FIs and DNFBPs to provide access to information or to records in a timely manner, particularly when requested by competent authorities qualifies as an administrative offence and is subject to fines for natural persons (USD 250 to USD 150,000) and legal persons (USD 1,250 to USD 750,000). However, as trusts are not recognized or regulated in Timor-Leste, no sanctions are provided specifically against trustees for failing to disclose such information about the trust to competent authorities.

Weighting and Conclusion

422. Express trusts are not recognised under Timorese however, there is no prohibition on foreign trusts or trustees from operating in Timor-Leste though this received minimal weighting as there is also no evidence of foreign trusts or trustees operating in Timor-Leste. There is no requirement to ensure trustees disclose their status to FIs or DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. There are no sanctions for trustees who fail to disclose their status.

423. **Recommendation 25 is rated partially compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

424. In its 2012 MER, Timor-Leste was rated largely compliant with former R.23. The main deficiencies were that money transfer operators and their agents (MTOs) and credit co-operatives were not regulated and supervised for AML/CFT purposes, therefore, fit and proper check was not introduced to these sectors.

425. *Criterion 26.1* - The Central Bank of the Timor-Leste (BCTL) was established in 2011 by the Organic Law. The law gives the BCTL an exclusive authority to ‘regulate, licence, register and supervise financial institutions, pursuant to the law’ and defines financial institutions as ‘banks, insurance companies and others that carry out financial activities and which, according to the law, are under the BCTL’s supervisory authority’ (Art. 1(i), 5(j), and 31, Organic Law). However, BCTL’s purposes and functions which are set out in Articles 4 and 5 do not include any activities related to AML/CFT. Nevertheless, BCTL stated that the provision to ‘regulate, licence, register and supervise’ encompasses all supervisory activities, including AML/CFT supervision and this is demonstrated by BCTL’s AML/CFT supervision of FIs, the issuance of Instructions detailing AML/CFT requirements that FIs must comply with, and the application of sanctions to FIs for breaches of AML/CFT requirements.

426. Further, The AML/CFT Law states ‘supervisory authorities’ may issue instructions, guidelines, or recommendations that guarantee compliance with the obligations in the AML/CFT Law by FIs (Art. 27.2(c), AML/CFT Law). Supervisory authorities are not defined however BCTL (and its predecessors) has issued Instructions, conducted regulation, supervision, inspections and applied sanctions to financial institutions including banks, ODTIs, MTOs, CEBs, finance companies, insurers, and e-wallet providers. BCTL’s AML/CFT supervisory authority has also never been challenged during litigation. Therefore, BCTL is in practice the AML/CFT supervisor for these financial institutions.

427. Regarding the micro-finance institutions, there are credit unions, multisectoral cooperatives, pawnshops and stores that offer credit (or 'microcredit companies' undefined), which promote financial inclusion. Credit unions, which are composed of two or more cooperatives, and multisectoral cooperatives offer deposit and lending services. There is no designated AML/CFT regulator or supervisor for these micro-finance institutions. The Secretary of State for Cooperatives in the Ministry of Commerce and Industry is responsible for regulating and supervising credit unions and multisectoral cooperatives but not for AML/CFT purposes.

428. *Criterion 26.2* - For Core Principles Institutions, since 15 June 2011, BCTL has licenced FIs which are defined as, 'entities such as banks, insurance companies, and others that carry out financial activities' (Arts. 1(i) and 5(j), Organic Law). Banks and insurance companies and insurance intermediaries require a licence to operate (Art. 2.1 UNTAET Regulation 2000/8 on Bank Licensing and Supervision & Art. 5.1 Instruction No.8/2020 on the Licensing of Life Insurance Companies). Banks are also authorized to engage in financial activities related to securities however there are no securities markets in Timor-Leste and the assessment team understands that no banks offer securities related services. Establishing a shell bank or initiating or maintaining a relationship with a shell bank is explicitly prohibited (Art. 8, AML/CFT Law).

429. ODTIs, MTOs, CEBs, finance companies and e-wallet providers are regulated, licensed, registered and supervised by BCTL. For ODTIs - Public Instruction No.6/2010, for CEBs - UNTAET Regulation No.2000/5 & Instruction CPO/CEB-2001/1, for MTOs - BCTL Instruction No.1/2013 on the Licensing and Supervision of Money Transfer Operators, and for Finance Companies - BCTL Instruction No.25/2023 on the Licensing and Supervision of Finance Companies). E-wallet Service Providers, as described in c.26.1, are required to gain authorization from the BCTL as Payment Service Providers, prior to their operation (Arts. 2 & 3, Decree Law No.17/2015 National Payment System).

430. Credit unions and multisectoral cooperatives are not licenced but must register as legal entities with SERVE I.P. (Art 3, Decree Law No.37/2023). Prior to 1 June 2023, these entities were required to register as associations or foundations with the National Directorate of Registries and Notarial Services, Ministry of Justice (Art 14.3, Decree Law No.16/2004), but were not required to be licenced. Other micro-finance institutions, such as pawnshops and microfinance companies are not subject to a licensing or registration regime as financial institutions as mentioned in c.26.1, although they are merely required to register as a legal entity with the business registry: SERVE I.P..

431. *Criterion 26.3* - The AML/CFT Law has a general provision to endorse the supervisory authorities to establish appropriate criteria of good standing and reputation regarding direct or indirect ownership, control or participation in the administration, management, or other activities of an FI (Art. 27.2(a), AML/CFT Law). While there are no explicit provisions to prohibit criminal associates from holding such positions, applicants must be of 'good standing and reputation'.

Banks

432. All persons elected or appointed as 'administrators' of a bank must be of 'good repute' and must meet the criteria prescribed by the CPO [now BCTL] regarding 'qualifications, experience and integrity' (Section 17, UNTAET Regulation No.2000/8). Further, a person is ineligible to become a member of the bank's Governing Board if the person has been convicted of a crime and if convicted of a crime, the person must be removed within 30 days (Section 18, UNTAET Regulation no.2000/8). The definition of administrator includes members of the

governing board, persons with authority to enter into commitments for the account of the juridical person, and senior management (Section 49(a), UNTAET Regulation no.2000/8 and Instruction CPO/B-2000/4 Qualification of Administrators).

433. Administrators must meet a range of criteria set out in Section III including being free from criminal proceedings and never having been convicted of a crime (Sections III(a)(5) & (12), Instruction CPO/B-2000/4 Qualification of Administrators).

434. For beneficial ownership, BCTL's Application for Bank License Check List of Compliance Documents requires applicants to submit, but not limited to: (a) breakdown shareholding of each shareholder (natural and legal person), (b) business and professional activities for past 10 years (if shareholder is a natural person), (c) source of funding to purchase share of bank, (d) details address and nationality identifications, and (e) certified copy of the police clearance of shareholders as evidence of free from criminal proceeding. BCTL's prior written authorization is required for share transfers if the transfer, in one or more transactions, of an equity interest in a bank would result in a person or number of persons acting in concert becoming, directly or indirectly, a significant shareholder in such bank or owning at least 20 percent or more of any class of shares with voting rights of the bank (Art. 13.1 and 13.2, UNTAET Regulation no.2000/8). The decision to approve the transfer shares must be based on the shareholders 'qualification, experience and integrity' (Art 13.3 & 6.7).

ODTIs

435. Fit and proper person requirements apply to 'administrators' who are defined as, 'any person who is a member of the board of directors or an officer who is authorized to legally obligate an ODTI' (Art. 1(c), Public Instruction No.6/2010). Administrators must not be 'associated with any illegal activity' or 'convicted of any criminal offence', in addition to having good reputation and management experience (Art 10, Public Instruction No.6/2010). An administrator must be removed from the Board of Directors if convicted of a crime or has been subject to insolvency proceedings as a debtor (Art 11, Public Instruction No.6/2010).

436. BCTL's licencing manual for ODTIs requires applicants to submit information on administrators including a signed declaration by the administrator that they have never been convicted of a crime or been involved in a fraud case (3.3, Other Deposit Taking Institution Licensing Manual). For shareholders, there is no criminal record check and deficiencies exists as criminals or their associates are not prevented from holding or being beneficial owners of a significant or controlling interest.

Insurance Companies and Insurance Intermediation companies

437. For insurance companies and insurance intermediation companies, members of the board of directors and of the auditing board must be of 'good reputation', which requires that they not; (i) be convicted of a criminal offence against property, (ii) been declared bankrupt or insolvent in Timor-Leste or overseas, (iii) be convicted in either Timor-Leste or overseas of breaches of special rules governing banking and insurance operations, or (iv) convicted in either Timor-Leste or overseas of fraud or tax evasion (Arts. 40.3 and 40.4, the Law No.6/2005).

438. In addition, members of the board of directors, managing directors, and key persons in control functions in the life insurance companies must satisfy the BCTL that they are fit and proper (Art. 8.2, BCTL Instruction No.8/2020). There are a set of integrity criteria in Article 15, (BCTL Instruction No.8/2020) to prevent criminals from holding positions as administrator positions or similar positions but these positions are undefined and this integrity test only applies to the founder members of insurance companies. There are no controls relating to beneficial owners.

439. For intermediaries, their directors, senior officers and shareholders must meet the fit and proper requirements. Applicants found to have engaged in any activities resulting in criminal charges will be disqualified (Art. 7.9 & 7.10, BCTL Instruction No.2/2007). A gap remains as these controls do not appear to apply to beneficial owners of shares.

MTOs and their agents

440. Principal shareholders and/or administrators, a person who is an officer of an MTO with authority to enter into commitments for the account of the MTO, must among the criteria; (i) have no evidence of financial fraud, tax avoidance or default on indebtedness; (ii) be free from criminal proceeding; and (iii) never been convicted of a crime in addition to having no evidence of any financial or administrative problems at the previous work (Art. 4.9, BCTL Instruction, No1/2013). However, there are no provisions regarding the disqualification procedure when such an inappropriate person, directly or indirectly, has taken a position to control over a MTO or its agency after business operation although the Instruction gives BCTL power to revoke a license if an MTO breaches the Instructions/regulations issued by the BCTL or any applicable laws (Art. 6.1(b), BCTL Instruction, No1/2013).

Currency exchange bureaux

441. An 'applicant' (undefined) must declare that they have never been convicted of a criminal offence involving fraud, money laundering, tax evasion, or any other act of dishonesty (Section 3(h), Regulation No.2000/5). However, not all criminal offenders are covered under this provision. Furthermore, there are no provisions regarding disqualification procedure when such an inappropriate person, directly or indirectly, has taken a position to control over a currency exchange bureaux after business operation. Further, a gap remains as these controls do not appear to apply to beneficial owners of shares.

E-Wallet service providers

442. BCTL prepared internal fit and proper criteria which apply to 'key principal administrators' and the 'beneficial owner'. While key principal administrators are not defined, according to BCTL, the criteria refers to the term used for the banking sector. Applicants must submit identity documents, the criminal record certification of principal administrators, and relevant in addition to qualifications demonstrating knowledge and competency to manage a fin-tech company. Shareholder structure and beneficial owner identification and criminal records are also required to be submitted. Also, the internal criteria require fin-tech companies to appoint a compliance officer who is subject to these requirements. However, there are no disqualification procedures for when an inappropriate person, directly or indirectly, takes a position to control over an E-Wallet service provider.

Finance Companies

443. The newly promulgated Instruction sets out all persons nominated or appointed as administrators which includes, at least, member of the board of directors, chief executive officer, chief financial officer and compliance officer must be approved by the BCTL prior to assuming office. They must have 'good reputation' and have not been associated with any illegal activity especially relating to banking and finance related businesses, be convicted of any criminal offence or involved in or found guilty of any financial or administrative irregularities at the previous places of employment (Art. 10.1 and 10.2, BCTL Instruction No.25/2023). However, there are no provisions regarding disqualification procedure when an inappropriate person, directly or indirectly, has taken a position to control over a finance company after business operation. Further, a gap remains as these controls do not appear to apply to beneficial owners.

The other Micro-finance sectors

444. SERVE I.P. registers pawnshops, microcredit companies and since 1 June 2023, credit unions and multisectoral cooperatives.⁸⁵ As part of the registration process, pawnshops and microcredit companies are required to gain a 'non-objection letter' from BCTL on their financial capacity to run a business which they provide to SERVE I.P.. The letter is issued following BCTL's assessment based on an internal criteria containing conditions which include the criminal record certificate issued by competent authorities as a general requirement. However, the internal criteria have no explicit language about whether directors and/or equivalents are subject to this scrutiny process. Further, there are no explicit controls to prevent criminals or their associates from holding a significant or controlling interest or holding a management function in pawnshops and microcredit companies.

445. Credit unions and multisectoral cooperatives are regulated and supervised (not for AML/CFT purposes) by the Secretary of State for Cooperatives in the Ministry of Commerce and Industry. The Ministry's internal criteria require identification of the president and founding members (minimum number is 15 persons) of a cooperative, however there is no fit and proper test.

446. *Criterion 26.4(a)* - As described in 26.1, banks and insurance companies are subject to the regulation and supervision in line with the core principles (Arts. 1(i) and 5(j), Organic Law). However, there is no explicit regulations on application of the consolidated group-wide supervision for AML/CFT purposes.

447. *Criterion 26.4(b)* - ODTIs, MTOs, E-wallet service providers, CEBs, and finance companies, are also subject to the AML/CFT supervision, however microcredit institutions such as credit unions, multisectoral cooperatives, pawnshops and microcredit companies are not. There are also gaps for consolidated group-wide supervision.

448. *Criterion 26.5(a)* - The BCTL adopted an on-site examination manual in 2017 for risk-based supervision. The manual describes a 'Supervisory Risk Assessment Systems (SRAS)' process to assess FIs' risk profiles and includes a 'Supervisory Internal Rating (SIR)' which considers elements including, not but limited to; internal control report in AML/CFT; self-assessment reports on AML/CFT; prior examination reports; mapping of institutions based on its business size; mapping of institutions due to AML/CFT risks; home country supervisor analysis and reports. However, it is not evident that BCTL has applied these measures to financial institutions to determine the frequency and intensity of on-site and off-site supervision.

449. Rather, the limited supervision BCTL conducts is based on the findings of the NRA and supervision is focussed on MTOs despite the banking sector being rated as a higher risk. BCTL also assesses banks' and ODTIs' annual compliance reports, self-assessments of AML/CFT control measures, however how these are used in determining risk-based supervision is unclear.

450. *Criterion 26.5(b)* - There is no evidence that ML/TF risks present in Timor-Leste are used to determine the frequency and intensity of on-site and off-site supervision.

451. *Criterion 26.5(c)* - Although information sources described in the onsite examination manual can capture the characteristics of financial institutions there is no evidence that BCTL

⁸⁵ Decree Law No.37/2023 of 31 May 2023 came into effect on 1 June 2023 and transfers registration of cooperatives from the National Directorate of Registries and Notarial Services, Ministry of Justice (Art 14.3, Decree Law No.16/2004) to SERVE I.P. (Decree Law No.16/2017 of 17 May Business Registration).

has implemented the manual or considers these elements, the diversity and number of FIs, and degree of discretion allowed to them under the risk-based approach.

452. *Criterion 26.6* - Banks and ODTIs are required to submit annual AML/CFT compliance reports to BCTL which includes information on FI's internal AML/CFT management program (Art. 6, BCTL Instruction No.5/2017). BCTL reviews these reports but it is unclear how supervisors reassess the risk profile of the financial institutions based on these reports or on the basis of major events or developments. According to its inspection manual, BCTL can conduct *ad-hoc* event driven inspections but has not done so. BCTL does not reassess the ML/TF risk profiles of other financial institutions periodically or when major events or developments in their management and operations occur.

Weighting and Conclusion

453. FIs, other than micro-finance institutions which received little weighting, are regulated and supervised for AML/CFT by BCTL. Other than for banks, there are gaps for preventing criminals or their associates from being a beneficial owner or holding a significant or controlling interest in an FI and some sectors, including MTOs, do not have disqualification procedures. There is no evidence that the frequency and intensity of on- and off-site monitoring is determined based on each FI's or group's ML/TF risk profile, the ML/TF risks present in Timor-Leste, or the characteristic of the FIs or groups. Although information is reported to BCTL annually on banks and ODTIs it is not evident how this information informs the reassessment of ML/TF risk profiles and other FIs' ML/TF risk profiles are not periodically reviewed. Also, major events or developments in the management and operations of FIs or groups do not trigger reviews of ML/TF risk profiles.

454. **Recommendation 26 is rated partially compliant.**

Recommendation 27 – Powers of supervisors

455. In its 2012 MER, Timor-Leste was rated largely compliant with former R.29 due to a minor deficiency that both of the money transfer operator and credit co-operative sectors were not regulated and supervised.

456. *Criterion 27.1* - Competent authorities' powers to supervise and ensure compliance by financial institutions with AML/CFT requirements are set out in the AML/CFT Law (Art. 27.2, 31 & 32 AML/CFT Law). As described in c.26.1, BCTL is the AML/CFT supervisor and empowered to supervise all FIs other than microfinance institutions such as credit unions, multisectoral cooperatives, pawnshops, and microcredit companies which are not subject to AML/CFT supervision. In the absence of a designated supervisor for these sectors, the supervisory powers are not available.

457. *Criterion 27.2* - As described in c.27.1, BCTL has authority to conduct inspections on FIs under BCTL's AML/CFT supervision. (Art 27.2(b), AML/CFT Law). The minor shortcomings regarding microfinance institutions in c.27.1 also apply to this criterion.

458. *Criterion 27.3* - BCTL has broad powers to inspect accounts, books, documents and other records and FIs must provide BCTL, whenever requested to do so, with data and information regarding their transactions and financial status (Arts. 31.2 & 31.3, Organic Law). However, there are no specific provisions in the AML/CFT Law empowering BCTL to compel production of reports or materials relevant to monitoring compliance with the AML/CFT requirements. For microfinance institutions, the deficiency described in c.27.1 cascades to this criterion.

459. *Criterion 27.4* - Competent authorities are authorised to impose administrative sanctions for failure to comply with obligations set out in AML/CFT Law (Arts. 30, 31 & 32, AML/CFT Law). As described in c.26.1, BCTL is the AML/CFT supervisor and empowered to supervise all FIs other than microfinance institutions such as credit unions, multisectoral cooperatives, pawnshops, and microcredit companies which are not subject to the AML/CFT supervision.

460. Financial sanctions range between USD 5,000 and 500,000, and ancillary sanctions include; (a) written warning; (b) order to comply with specific instructions; (c) order to submit recurrent reports on the measures being applied; (d) disallow the exercise of professional duties for a period of six months to three years; (e) substitute or limit the powers of managers, directors or controlling owners, including the appointment of an *ad-hoc* board member for a period ranging from six months to three years; (f) suspend, limit or withdraw the license and disallow continued activity or exercise of profession for a period ranging from six months to three years (Art 31, AML/CFT Law). Financial sanctions can also be imposed on FIs (USD 1,250 to 750,000) and/or individuals (USD 250 to 150,000) for intentional or gross negligence (Art. 32, AML/CFT Law).

461. BCTL is also authorised to impose administrative sanctions on managers and board members, which is to notify the *Direcção-Geral de Registos e Notariado*, to be entered into the commercial registry, of any sanctions prohibiting managers and board members of a legal entity from conducting business, in whole or in part, and the lifting of such prohibition (Art. 30, 31 & 32 AML/CFT Law).

462. BCTL can impose a range of sanctions on banks and ODTIs and their administrators and staff for breaches of AML/CFT requirements in BCTL Instruction No.5/2017, including revocation of a banking licence (Art 25, BCTL Instruction No.5/2017). Similarly, MTOs, their agents, administrators and shareholders can be sanctioned for breaches of BCTL Instruction No.1/2013 (Art. 14, BCTL Instruction No.1/2013). BCTL can sanction E-Wallet Service Providers, their managers, employees or agents for breaches of Decree Law No.17/2015, including revocation of licences (Arts. 14, 15 & 18, Decree Law No.17/2015 on National Payment System).

463. However, the minor deficiencies regarding microfinance institutions identified in c.27.1 also have a cascading effect on this criterion.

Weighting and Conclusion

464. Supervisors have the necessary powers to supervise and monitor FIs' compliance with AML/CFT requirements, have authority to conduct inspections and can impose a range of disciplinary and financial sanctions. However, the deficiencies regarding microfinance institutions pose minor shortcomings and were given a lesser weighting.

465. **Recommendation 27 is rated largely compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

466. In its 2012 MER, Timor-Leste was rated not compliant with former R.24 since DNFBPs were not yet subject to any AML/CFT supervision, and there was no assigned body responsible for supervision for AML/CFT purposes.

467. DNFBPs are defined as: (i) casinos, including casinos operated through the Internet; (ii) any persons providing financial services or intervening or assisting in financial or real estate

operations, on behalf of their clients, without prejudice to professional secrecy, (iii) accountants, independent auditors and tax consultants; (iv) any other activities and professions designated by law (Art 3.2, AML/CFT Law).

468. There are currently no licenced casinos in Timor-Leste, and no DPMS or notaries that meet the definition of DNFBPs in the FATF standards.

469. *Criterion 28.1(a)* - Casinos can only operate in Timor-Leste if licenced by competent authorities under terms established by law (Art 18, AML/CFT Law). No law has been established and there are no casinos operating in Timor-Leste, however, should a casino be licenced, the definition of 'non-financial entities', to which the AML/CFT Law applies, includes casinos and online casinos (Art. 3.2(a), AML/CFT Law).

470. *Criterion 28.1(b)* - Per criterion 28.1(a) no casinos are licenced to operate in Timor-Leste.

471. *Criterion 28.1(c)* - Per criterion 28.1(a) no casinos are licenced to operate in Timor-Leste and therefore there is no supervisory authority.

472. *Criterion 28.2* - There are no supervisors or SRBs responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements in Timor-Leste.

473. *Criterion 28.3* - There are no designated competent authorities or SRB responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. Further, as described in R.22 and R.23, the AML/CFT Law does not apply to all DNFBPs operating in Timor-Leste and the AML/CFT preventive measures set out in the AML/CFT Law are not necessarily in line with the FATF Standards.

474. *Criterion 28.4(a)* - There is no designated competent authority or SRBs for DNFBPs in Timor-Leste.

475. *Criterion 28.4(b)* - In Timor-Leste, sole traders, commercial companies, and civil companies operating as commercial companies, state-owned enterprises and permanent representations are required to be registered with SERVE.I.P. (Art.3, the Decree-Law, No.16/2017, Business Registration Law). For registration, applicants must submit a range of documents (Arts. 9-15) however none of these documents includes a record of a criminal background check or similar. Further, there is no criminal background check in the assessment of a registration request (Art. 23) and known criminality is not a reason to refuse registration (Art. 29). This process applies to businesses registered as 'buying and selling real estate', 'property leasing', 'legal activities', 'accounting and auditing activities; tax consultancy', 'business and management consultancy activities'. There are no DPMS operating in Timor-Leste however this process would also apply to these businesses.

476. There is no bar association in Timor-Leste. Until a self-regulatory body is established, lawyers who wish practice law in Timor-Leste must register with the Legal Profession Management and Discipline Council within the Ministry of Justice prior to commencing operation (Art.14.1 Law No.11/2008 on the juridical regime governing private legal profession and lawyers training). The council is responsible for reviewing applications and renewal to practice as a lawyer, and applicants must submit a certification of criminal records during its registration process (Art.2.2 (e)). Registration is not open to any individual who has been convicted by a final sentence of imprisonment for committing an intentional crime (not defined) (Art.3.1 (e)). According to the council, applications in case applicants or those who seek renewals failed to provide records of criminal background checks would be rejected.

477. *Criterion 28.4(c)* - UIF is authorized to issue decisions concerning violations and impose administrative penalties to any natural or legal persons for which there is no specific monitoring or regulatory authority responsible for ensuring compliance with the requirements established under Law No.17/2011 of 28 December (Art 2(j), Decree Law No.16/2014, Financial Information Unit), however, it is practically impossible for UIF to invoke such powers as there are no appointed supervisors to monitor and detect non-compliance. Further, UIF has never invoked these powers.

478. *Criterion 28.5* - There are no AML/CFT supervisors for the DNFBP sectors, therefore, risk-based AML/CFT supervision is not in place.

Weighting and Conclusion

479. There are no casinos, DPMS or private notaries operating in Timor-Leste. Nevertheless, Timor-Leste has not designated a competent authority or SRB to regulate, monitor and supervise the DNFBPs that do operate in Timor-Leste to ensure their compliance with AML/CFT requirements. Other than for lawyers, there are no measures to prevent criminals or their associates from holding a significant or controlling interest or holding a management function in a DNFBP. Deficiencies in R.22 and R.23 also cascade to this recommendation.

480. **Recommendation 28 is rated non-compliant.**

Recommendation 29 - Financial intelligence units

481. In its 2012 MER, Timor-Leste was rated non-compliant for former R.26. The MER found that at the time of the evaluation (i) the FIU was not fully in place, (ii) the BCTL could only receive and forward STRs to the PGO, (iii) there was very limited analytical function, (iv) no access to information held by other government agencies, (v) no ability to request information for REs and (vi) no guidelines issued to REs.

482. *Criterion 29.1* - According to Article 4, 5 and 6 of Law No.17/2011, the FIU-TL (UIF) is an administrative entity within the BCTL. UIF is the national competent authority to receive, analyse and disseminate financial information suspected to be related to ML/TF.

483. Further, Article 1 in Decree-Law No.16/2014 states the FIU is an administrative entity created at the Central Bank of Timor-Leste responsible for requesting and analysing information related to suspicious transactions and other information related to crimes of money laundering and terrorist financing, and for disseminating this information to competent authorities in accordance with Law No.17/2011 of 28 December.

484. The nature, organisation and function of UIF is set out in Decree-Law No.16/2014. Under Article 2 Decree-Law No.16/2014, UIF shall:

- 2(a) Receive reports prepared pursuant to Law No.17/2011 of 28 December;
- 2(b) Collect and access the information it deems relevant to the prevention and combating of crimes of money laundering and terrorist financing pursuant to Law No.17/2011 of 28 December;
- 2(c) Analyse information cited in the foregoing paragraph and report transactions to the Public Prosecutor's Office suspected of being criminal in nature;

- 2(g) The UIF is required to provide and receive information from other entities on the crimes of money laundering and terrorist financing under Article 2(g);
- 2(m) Ensure the maintenance of a database to facilitate secure and appropriate data and record collection and dissemination, by law, of such information to authorities responsible for preventing and combating money laundering and terrorist financing.

485. *Criterion 29.2* - Article 6 of the Law No.17/2011 states that UIF is the competent authority empowered to receive information suspected to relate to ML/TF.

486. *Criterion 29.2(a)* - Under Article 23 of Law No.17/2011, REs must inform the UIF immediately when suspicious transactions are detected, however there are several shortcomings that impact STR reporting obligations (see R.20 and R.23 for more detailed discussion).

487. *Criterion 29.2(b)* - In addition to STRs, UIF has the legal mandate to receive:

- Cross border cash courier or BNI reports, with amount equal to or above USD10,000, from customs authorities (Article 7-2, Law No.17/2011);
- Cash transaction reports from FIs with amount equal to or above USD10,000 from banks and ODTIs (Article 20, BCTL Instruction No.5/2017), while the amount applicable to MTOs is USD 1,000 or more (BCTL letter Ref. DG/219158/AR dated 17 July 2019) and e-Wallet Service Providers is USD1,000 or more (Art. 10.2, BCTL Governor Decision No.154/2019). In 2019, FIs were requested to use the e-RON platform to submit cash transaction reports to UIF (BCTL's Circular Letter No.77/2019 regarding the e-RON User Guidelines).
- There is no legal requirement to have threshold reporting on wire transfers submitted to UIF. However, UIF may request information on wire transfers from BCTL when necessary as per Article 21.1, of Law No.17/2011.

488. *Criterion 29.3(a)* - Pursuant to Article 21.1 of Law No.17/2011, UIF may request any additional information deemed necessary from REs to exercise its duties.

489. *Criterion 29.3(b)* - UIF may access information that is collected by, or under the custody of REs, when deemed necessary to exercise its duties and with prior judicial authorisation (Article 21.2 of Law No.17/2011). UIF may also request additional information under Article 21.4 of Law No.17/2011 from domestic LEAs, supervisory authorities, other state services or legal authorities (the latter under terms of applicable law). Article 2(g) of Decree Law No.16/2014 states UIF can provide and receive information from other entities on ML/TF crimes.

490. *Criterion 29.4* - Under Article 2 of Decree Law No.16/2014, one of the obligations of UIF is to analyse information cited in STR and transaction reports and disseminate information suspected of being criminal in nature to the PGO.

491. *Criterion 29.4(a)* - Timor-Leste conducts some operational analysis, pursuant to Article 6 of the Law No.17/2011. UIF has access to a range of information, including STRs, CTRs, company registration records and open-source information, which may be used in conducting operational analysis. As per UIF/MOPI/004/2016, upon receiving all information, UIF conducts analysis and consolidates all information into a report for dissemination to PGO. However, UIF does not use all available and obtainable information when conducting operational analysis such as cross-border declarations, tax information or wire transfer reports.

492. *Criterion 29.4(b)* - Currently, UIF uses available financial information from its database and requested from LEAs to identify typologies to prepare its annual report in accordance with Article 9 of the Decree Law No.16/2014, which is publicly available. The most recent annual report was published in 2022, and uploaded to UIF's website in February 2024. No other strategic analysis is produced by UIF.

493. *Criterion 29.5* - Under Article 26 of Law No.17/2011, UIF is required to report relevant information to PGO where there is evidence of criminal activity. Article 2(c) of Decree Law No.16/2014 requires the UIF to report transactions and all other relevant information suspected of being criminal in nature to the PGO. Article 2(d) of Decree Law No.16/2014 requires UIF to collaborate with judicial authorities or other entities, upon justifiable request, through the transfer of data.

494. Aside from disseminating information by hand, UIF uses encrypted email for sharing information under the revised UIF SOPs known as *Manual de Operação e Procedimentos Interno* ('MOPI').

495. *Criterion 29.6* - UIF protects information as set out in the AML/CFT Law and UIF's standard operating procedures (MOPI).

496. *Criterion 29.6(a)* - Under Article 20 of the AML/CFT Law, UIF staff are required to keep confidential any information obtained as a result of or within the scope of their duties, even after cessation of those duties, and such information may only be used for the purposes provided in accordance with this law. For any breach of this obligation, staff should be subject to disciplinary and criminal proceedings. Under Article 74 of the Organic Law of the BCTL, no staff shall, except when necessary for the fulfilment of a function or duty imposed by law, allow access to, disclose or publicise non-public information which has been obtained in the performance of their duties or use such information, or permit such information to be used, for benefit either for the person or a third party.

497. UIF also has rules in place governing the security and confidentiality of information as set out in the MOPI procedures for handling, storing, disseminating, protecting and accessing information UIF/MOPI/015/2016 (data storage, maintenance and protection). However, there is no specific SOP for dealing with sensitive or highly confidential information.

498. *Criterion 29.6(b)* - Timor-Leste ensures that UIF staff members understand their responsibilities in handling and disseminating sensitive information, for example relating to STRs in UIF/MOPI/004/2016 (suspicious transaction report analysis and dissemination).

499. It is not clear how UIF ensures its staff have the necessary security clearance level. UIF staff undertake a security clearance as part of their employment onboarding. The security clearances are conducted through BCTL using the same procedures as for BCTL staff there is no specific or additional security clearance required for UIF staff.

500. *Criterion 29.6(c)* - Timor-Leste limits access to its facilities and information including information technology systems in accordance with UIF/MOPI/012/2016 (opening and closing UIF offices). According to the SOP, each authorised staff member has a unique code for a biometric system at the main entrance, authorised office doors and access to data storage area. Staff access to UIF premises out of working hours is subject to authorisation by the Executive Director or Operational Manager. Data releases, including dissemination reports and correspondence and other publications are an exclusive right of the Executive Director.

501. Pursuant to Article 20 of Law No.17/2011 and Article 7 of Decree Law No.16/2014, UIF Executive Director and staff are barred from disclosing any information they receive from

exercising their duties. UIF/MOPI/011/2016 outlines the requirements for encrypting emails to/from REs to ensure the security of sensitive data and information.

502. *Criterion 29.7(a)* - Pursuant to Article 6 of Law No.17/2011, UIF has competences to receive, analyse and disseminate suspicious transactions relating to ML/TF. UIF is physically located within the BCTL and the organisation and functions of UIF are set out in Decree Law No.16/2014.

503. Pursuant to article 6 of Decree Law No.16/2014, the UIF Executive Director has vested powers for daily management and operations of UIF.

504. *Criterion 29.7(b)* - Article 10 and 11 of Decree Law No.16/2014, states that UIF may exchange information with public entities (i.e. domestic competent authorities) and the Executive Director may enter into an MOU with foreign counterparts in relation to the prevention of ML/TF cooperation.

505. *Criterion 29.7(c)* - As UIF sits within the BCTL, its core functions are distinct as set out in Article 4, 5 and 6 of Law No.17/2011 and Article 1 of Decree Law No.16/2014.

506. *Criterion 29.7(d)* - UIF currently has eight full-time staff including the Executive Director. The powers of the Executive Director under Article 6(a) of Decree Law No.16/2014 include daily management and operations of the FIU to carry out its functions. Under Article 3.1 of Decree Law No.16/2014, UIF and BCTL will collaborate and cooperate in order to fulfill their respective purposes. Article 3.4 of the same law BCTL 'The FIU shall be comprised of the staff that the Central banks deems necessary for the fulfillment of its objectives'. This provision indicates the UIF cannot obtain and deploy resources without permission from BCTL. Under Article 8 of Decree Law No.16/2014, UIF's annual operational budget must be included in, and approved within the budget of BCTL. UIF's budget and recruitment require approval from BCTL. The administrative process of recruitment for FIU staff is conducted by BCTL and the UIF Executive Director participates in the interview and selection of staff.

507. *Criterion 29.8* - UIF is in the process of applying for Egmont Group membership. The application was submitted in early 2019 and an onsite visit from the two sponsoring jurisdictions (Indonesia and Portugal) was completed in March 2023, following a delay due to COVID 19 pandemic. The Onsite Assessment Report prepared by Egmont Group assessors was submitted to the Egmont Group Secretariat in April 2023 and first considered by the Membership, Support and Compliance Working Group (MSCWG) during the Egmont Group Plenary in July 2023. The second discussion of UIF's membership was scheduled for early 2024.⁸⁶

Weighting and Conclusion

508. UIF is located within BCTL with the mandate to receive, analyse and disseminate suspicious transactions suspected to be related to ML/TF. UIF is empowered under Article 21 of Law No.17/2011 to request information from REs and other competent authorities in order to perform its duties. Aside from the publicly available annual reports, there is no other strategic analysis being conducted by UIF. The security clearances of UIF staff are conducted through BCTL using the same procedures as for BCTL staff, there is no specific or additional security clearance required for UIF staff. UIF's operational functions are determined by the FIU

⁸⁶ UIF has been accepted as a member of the Egmont Group during the Egmont Working and Regional Groups Meeting held in Malta in February 2024.

Executive Director, however budget, resourcing and security requirements are determined by BCTL. UIF is in the process of applying for Egmont Group membership.

509. **Recommendation 29 is rated largely compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

510. In its 2012 MER Timor-Leste was rated partially compliant with former R.27 due to a lack of specialised investigative capacity and no clear legal authority to postpone/waive arrest.

511. *Criterion 30.1* - Pursuant to paragraph 6 of the preamble to the CPC, investigation is undertaken through an enquiry conducted by the PGO or police agencies (PCIC, PNTL, and CAC) under the functional purview of the PGO. Article 48(1) and (2), and Article 49 of the CPC designate the PGO as the primary LEA to conduct investigation or to initiate criminal proceedings, as well as enquiry of all crimes Further, Art. 4, Law No.9/2022 on the Organisation of the Criminal Investigation states that the direction of a criminal investigation rests with the competent judicial authority, which is assisted by the police agencies, which shall act under its direction and functional dependence.

512. Article 10, Law No.9/2022 on the Organisation of the Criminal Investigation states that PCIC has exclusive competence to investigate money laundering. Further, Article 6 of Decree Law No.15/2014 sets out PCIC's authority to investigate serious and organised crimes, including ML and associated predicated crimes and any other crimes that are delegated by the PGO.

513. Article 52(1) of the CPC provides the main power of PCIC police officers is to prevent criminal offences from being committed, gather reports thereof (Art. 55, CPC), identify suspects (Art. 59, CPC) and track down perpetrators, take the necessary and urgent precautionary acts in order to secure evidence (Art. 56, CPC), and assist judicial authorities, particularly PGO, in achieving the objectives of the proceeding articles (Art. 57, CPC).

514. Article 9, Law No.9/2022 on the Organisation of the Criminal Investigation assigns PNTL competence to investigate crimes which are not under the exclusive competence of PCIC. Pursuant to this article, PNTL is able to investigate ML when ordered by the PGO to do so, in instances or locations where PCIC does not have a relevant department.

515. Pursuant to Law No.8/2009 on the Anti-Corruption Commission and Article 99 of the Law No.7/2020 on the Measures to Prevent and Combat Corruption, the CAC has the power to investigate the laundering of the proceeds of crimes of corruption

516. *Criterion 30.2* - Pursuant to Article 3 of Law No.14/2005 on the Statute of the Public Prosecution Service, and Article 57 of Decree Law No.13/2005 approving the Criminal Procedure Cord, PGO is the primary LEA to dispatch criminal investigation to police agencies, conduct investigation and to initiate criminal proceedings, as well as enquiry of any crimes when PGO instructs them to do so. Investigation of any related ML/TF offence identified through a parallel financial investigation is referred by a policing agency to PGO, for PGO to determine whether to refer the case to another agency for investigation.

517. *Criterion 30.3* - The CPC and the AML/CFT Law contain powers for law enforcement agencies to conduct identification, tracing, seizing, and confiscated the proceeds of crime (see findings on c.4.2(b)). The following provision set out the powers of PGO, PCIC, CAC, and PNTL related to proceeds of crimes:

- a. Article 56 CPC that allow police to conduct seizures without a court order in certain circumstances;
- b. Article 102 of the Law No.7/2020 on Measures to Prevent and Combat Corruption provides for freezing and seizure measures.
- c. Article 100 Law No.7/2020 enable the judiciary authorities to lift the confidentiality in the collection of information on the assets and values and make a request to any public authority or private entities. When the request is addressed to a banking or FI, the request must be submitted to the Central Bank of Timor-Leste.
- d. Articles 33A and 35A AML/CFT Law allow police agencies upon judicial authority to search and seize criminal proceedings for the committal of the crimes.
- e. Article 35B AML/CFT Law allow judicial authority to request information and documents from reporting entities, including financial situation of the suspects, based on a duly grounded order from police agencies.
- f. Article 33A AML/CFT Law allows judicial authorities to conduct visits and searches at any time, where there is a suspicion that assets are to be laundered or used in the financing of terrorism.
- g. Art. 33B(1) AML/CFT Law allows police officers to operate undercover. Applications must be notified to the judge (Art. 33B(2), AML/CFT Law).

518. *Criterion 30.4* - Financial investigations are only conducted by LEAs. C.30.4 is not applicable.

519. *Criterion 30.5* - Pursuant to Law No.8/2009 on the Anti-Corruption Commission and Article 99 of the Law No.7/2020 on the Measures to Prevent and Combat Corruption, the CAC has the power to investigate the laundering of the proceeds of crimes of corruption. PGO is responsible to determining which corruption and ML cases are investigated by CAC, or by PGO or PCIC.

520. The provisions which set out the powers of CAC to identify, trace, and initiate freezing and seizing of assets are as follows:

- a. Article 5(2)(i) and Article 5(3) Law No 8/2009 provides CAC the power of seizing and freezing the bank account;
- b. Article 28 Law No 8/2009 also provide CAC with the power to oversight the asset declaration regime in Timor-Leste. This power support CAC to identify and trace the corruption and money laundering asset; and
- c. Article 46 Law No 8/2009 provide CAC the power to request the information when it deems necessary from any national public entity, private individual or legal entity, including access to databases of the civil registrations, the registrations of vehicles, boats and aircraft, the registrations of commercial companies and civil societies, the registrations of properties, and where appropriate through the provision of online access.

Weighting and Conclusion

521. PGO, as primary LEA, is responsible for dispatching ML, TF and predicate offence investigations to PCIC, CAC, and PNTL. Decisions on the conduct of predicate offence investigations are made by PGO.

522. **Recommendation 30 is rated compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

523. In its 2012 MER Timor-Leste was rated largely compliant with former R.28 as competent authorities had not utilised or considered compelling production to search persons or premises, or obtained or seized transaction reports or other information held by FIs, businesses or persons.

524. *Criterion 31.1(a)* - Article 35B of the AML/CFT Law states that the judicial authority is able to request all information and documents held by entities.

525. Pursuant to Article 46 Law No.8/2009 CAC has the power to access databases of public and private entities, as well as information from banks and other FIs. When CAC investigates corruption cases, Article 100 of Law No.7/2020 enable judiciary authorities to lift the confidentiality in the collection of information on the assets and values.

526. *Criterion 31.1(b)* - Article 56(1) CPC provide authority to the police to conduct searches without a court order in certain circumstances. The provision for search of a person is set out under Article 168(1) of the CPC, and the search of places under article 168(2) CPC. In other situations, LEAs must obtain a court order to conduct a search of person or items. Article 170 of the CPC sets out the provisions for the search of a house. According to Article 233 of the CPC the outcome of a search for proof must be committed in writing. The CAC is also allowed to conduct searches of body and premises (Arts. 5(2) & (3) (h) Law No.8/2009).

527. *Criterion 31.1(c)* - Article 116(2)(c) of the CPC states one of the types of evidence in criminal case is witness testimonies. Article 119 of the CPC states a witness may be questioned about the facts of which he or she may be directly aware and constitute elements of proof. The judge may call a person to give testimony (Art. 120(1), CPC). Certain professionals, such as lawyer and doctors, may refuse to give a deposition on facts covered by secrecy in order to maintain their professional secrecy (Art. 126.1, CPC). Article 123.2 CPC provides an exception for witness to not answer the questions where he or she alleges that such answers might cause him or her to incur criminal liability, and Article 124 CPC provides for the disqualification of a witness in a case in which this person is a party. The CAC is also allowed to take witness statement through interrogation measure (Arts. 5.2 & 3(g), Law No.8/2009).

528. *Criterion 31.1(d)* - The CPC regulates seizures under Article 172(1) to (5). Seizures measures are required to be authorised by a judge. In the case of urgency or danger posed by a delay in securing authorisation, police may carry out a seizure without prior authorisation, but are required to immediately report the fact to the competent judge. Moreover, Article 56(1) of the CPC provide authority for police to conduct seizures without a court order in certain circumstances⁸⁷. Articles 33A and 35A of the AML/CFT Law empowers police agencies upon judicial authority to search and seize criminal proceedings for the committal of the crimes.

⁸⁷ The police may conduct searches, checks or seizures without a court order: (a) In the case of flagrante delicto in connection with a criminal offence that carries imprisonment; or (b) where there is strong suspicion that items relating to a criminal offence are hidden and a delay in securing permission to retrieve them might lead to the modification, removal or destruction of such items or pose a danger to the safety of persons and goods

Article 5(2)(i) and Article 5(3) Law No 8/2009 also provides CAC the power of seizing and freezing bank accounts.

529. *Criterion 31.2(a)* - There are no broad powers for LEAs to conduct undercover operations when investigating predicate offences, however the AML/CFT Law provides powers in relation to a limited set of offences, including ML, TF, corruption, drug trafficking, criminal association and smuggling (see Art. 32-A). Article 33B(1)(a) and (b) of the AML/CFT Law provides for the use of undercover agents, on the express and detailed authorisation of the judicial authorities, in order to gather evidence, locate assets or dismantle criminal structures used to commit crimes states that undercover agents. Applications must be notified to the judge (Art. 33B(2), AML/CFT Law). The AML/CFT Law also regulates surveillance to control accounts (Art. 35C, AML/CFT Law) and action against the carriers of assets intended to commit crimes (Art. 32A, AML/CFT Law). It is noted however Article 33B(6) requires that specific regulations should be enacted to govern the procedures for undercover agents, which have not been an issue to date.

530. The CAC also has the power to conduct surveillances (Art. 5(2) & (3) (j) Law No 8/2009).

531. *Criterion 31.2(b)* - Section IV (Art. 177 to 179) of the CPC provides the legal basis for telephone tapping. Article 33(1)(b) of the AML/CFT Law provide power to conduct interceptions and records, including placement of communication under surveillance, interception and recording and transcription of voice and image, by any means, without the knowledge and consent of the subject. The CAC is also empowered to intercept and record conversations or telephone calls, with a court order (Art. 5(2) & (3) (k), Law No 8/2009).

532. *Criterion 31.2(c)* - There are no broad powers for LEAs to access computer systems during the investigation of all predicate offences, however the AML/CFT Law provides powers in relation to a limit set of offences, including ML, TF, corruption, drug trafficking, criminal association and smuggling (see Art. 32-A). Article 33(1)(a) of the AML/CFT Law provides powers to access to computer systems, computer networks, servers and electronic mail by means of judicial order. Similarly, Article 46 Law No 8/2009 provides CAC the power to request information it deems necessary from any national public entity, private individual or legal entity, including access to databases of the civil registrations, the registrations of vehicles, boats and aircraft, the registrations of commercial companies and civil societies, the registrations of properties, and where appropriate through the provision of online access.

533. *Criterion 31.2(d)* - There are no broad powers for LEAs to perform controlled delivery during the investigation of all predicate offences, however the AML/CFT Law provides powers in relation to a limit set of offences, including ML, TF, corruption, drug trafficking, criminal association and smuggling (see Art. 32-A) Article 33B(1)(a) and (b) of the AML/CFT Law provides powers similar to controlled delivery. Applications are to be made to the judge (Art 33B(2), AML/CFT Law).

534. *Criterion 31.3(a)* - Article 35B of the AML/CFT Law states that judicial authorities have the power to request all information and documents from reporting entities, including the financial situation of a natural or legal person based on 'duly grounded order'. Article 46 Law No 8/2009 provides CAC a similar power, including access to the databases of public and private entities, information from banks and other FIs. There is no requirement for the identification of the holder or controller of an account to be identified in a timely manner.

535. *Criterion 31.3(b)* - There is no mechanism to ensure policing agencies or the PGO have a process to identify assets without prior notification to the owner, however Art. 35-C of the

AML/CFT Law provides for bank and payment accounts held by the defendant and suspects, and accounts suspected to have been used for committing crimes to be put under surveillance, with institutions and employees bound by a duty of confidentiality. Further, Art. 21 of the AML/CFT Law empowers the FIU to request information from reporting entities which is deemed necessary to the exercise of its duties. The FIU's duties are limited to receiving, analysing and disseminating information suspected to ML/TF (Art 6, AML/CFT Law).

536. *Criterion 31.4* - Art. 2(d) of the FIU Act (Decree Law No.16/2014) states that on request, the FIU can collaborate with judicial authorities and other entities responsible for prevention of suppression of ML/TF, particularly through the transfer of data and rendering of technical support and expertise.

Weighting and Conclusion

537. LEAs have powers to conduct undercover operations, intercept communications, access computer systems and conduct controlled delivery when investigating ML, TF and some select predicate offences, however there are no broad powers to use these techniques during the conduct of all predicate offence investigations. There is no requirement for the identification of the holder or controller of an account to be identified in a timely manner and there is no mechanism to ensure policing agencies or the PGO have a process to identify assets without prior notification to the owner.

538. **Recommendation 31 is rated largely compliant.**

Recommendation 32 – Cash Couriers

539. Timor-Leste was rated as PC with Special Recommendation IX in its 2012 MER. At the time, Timor-Leste did not have a computerised database that enabled the retrieval of information contained in declarations. There were no connections between competent authorities and those in neighbouring countries for the purposes of information sharing, and domestic information sharing was not adequate.

540. *Criterion 32.1* - Timor-Leste has implemented a declaration system under Art. 7 of the AML/CFT Law, however, the declaration system does not extend to declaration of cash or BNIs sent through mail or cargo. In addition, BCTL Instruction No.4/2017 On the Import and Export of Cash requires authorisation from the BCTL for the importation or exportation of cash in excess of specific thresholds. These requirements apply only to natural and not legal persons. In practice only a written inbound declaration is captured, with no outbound declaration required.

541. *Criterion 32.2* - See criterion 32.1

542. Article 7 of the AML/CFT law requires that any person entering or leaving Timor-Leste transporting currency or BNIs amounting to USD 10,000 or more, must declare so to customs authorities. This law does not extend to declarations of cash or BNIs sent through mail or cargo. In practice the regime is a written declaration system, however only implemented for inbound travellers.

543. *Criterion 32.3* - Timor-Leste has implemented a declaration system as noted above. C.32.3 is not applicable.

544. *Criterion 32.4* - There is no designated competent authority mandated to request and obtain further information from the carrier with regard to the origin of the currency or BNI, or their intended use.

545. *Criterion 32.5* - Article 32.1(a) allows for sanctions to be applied in instances where a false declaration is made. Sanctions in these instances are punishable by a fine of between USD250 and USD150,000, in the case of natural persons, and between USD1,250 and USD750,000, in the case of legal persons. These sanctions appear to be proportionate and dissuasive.

546. *Criterion 32.6* - Article 7(2) of the AML/CFT law states that copies of customs declarations must be immediately conveyed to the FIU by the customs authority. However, this does not happen in practice.

547. *Criterion 32.7* - UIF signed an MOU with the customs authority which allows for the exchange of information to support investigation and analysis, including the provision of capacity building. Timor-Leste reports that the PNTL (responsible for matters of immigration) also signed an MOU to establish coordination on this matter, however no supporting material was provided to confirm this.

548. *Criterion 32.8* - Article 7(3) of the AML/CFT law allows customs authorities to seize non-declared currency and bearer negotiable instruments, in whole or in part, when there is a grounded suspicion of ML, TF, or in cases of false declarations.

549. *Criterion 32.9* - Decree law 14/2017 article 19 requires that certain documents (which include declarations) be retained and archived. However, disclosures related to mail and cargo are not received. Timor-Leste did not demonstrate that separate records are retained in instances where there is a false disclosure or suspicion of ML/TF.

550. *Criterion 32.10* - Customs officials are obliged to keep as professionally confidential the facts, information and documents of a confidential nature of which they have knowledge due to performance of their duties. When duly mandated by law (for example, when ordered by a competent judicial authority) this confidentiality can be waived.

551. There is no indication that the legal framework or other safeguards implemented by the customs authority have restricted trade payments or the freedom of capital movement.

552. *Criterion 32.11* - As stated under c.32.5, Article 30 of the AML/CFT law states that failure to comply with obligations and duties, or failure to follow the procedures established in Chapters II and III of this law qualify as administrative offenses. Chapter II of the law includes Article 7 on the obligation to declare the transportation of cash or bearer negotiable instruments.

553. Administrative sanctions under Article 31 of the AML/CFT law include fines from USD 5,000 to 500,000 supported by one or several ancillary sanctions including;

- a. written warnings;
- b. orders to comply with specific instructions;
- c. orders to submit recurrent reports on the measures being applied;
- d. disallow the exercise of professional duties for a period of 6 months to 3 years;
- e. substitute or limit the powers of managers, directors or controlling owners, including appointment of an ad-hoc board member for a period ranging from 6 months to 3 years; and
- f. suspend, limit or withdraw the license and disallow continued activity or exercise of profession for a period ranging from 6 months to 3 years.

554. Additional sanctions for ML/TF referenced in Recommendations 3 and 5 could also apply in instances of ML or TF.

Weighting and Conclusion

555. Timor-Leste utilises a declaration system, where any person entering or leaving Timor-Leste must declare cash or bearer negotiable instruments amounting to USD10,000 or more to customs authorities. In practice this is implemented only for incoming passengers. There is a scope gap in that declaration for the movement of cash and BNIs via mail or cargo are not required. Customs authorities may seize currency and bearer negotiable instruments in cases where there is a suspicion of ML or TF or false declaration. Failure to comply with obligations to declare cash and BNIs can result in administrative sanctions. Copies of customs declarations must be immediately reported to the FIU, however this is not occurring in practice.

556. **Recommendation 32 is rated partially compliant.**

Recommendation 33 – Statistics

557. In its last MER, Timor-Leste was rated partially compliant with former R.32, as Timor-Leste: (i) did not have any statistical data that might allow for a comprehensive assessment of effectiveness of its ML and TF criminalisation; (ii) lacked statistics regarding informal international co-operation; and (iii) competent authorities did not maintain comprehensive statistics on matters relevant to cross border transportation of cash, seizures, penalties/fines and other enforcement action.

558. *Criterion 33.1(a)* - UIF is required to maintain a 'database to facilitate secure and appropriate data and record collection and dissemination to authorities responsible for preventing and combating ML/TF' under Article 2(m) of the Decree Law No.16/ 2014. UIF maintains all data manually using spreadsheets.

559. UIF retains basic STR statistics in English broken down by sector but not crime type. STR statistics break down UIF disseminations by 'spontaneous disseminations' and 'dissemination upon LEA request' including the number of requests from each LEA however there is a lack of comprehensive information for example the suspected offence is not provided.

560. UIF's Annual Reports are publicly available on its website⁸⁸ in two languages (English and Tetum) and the most recent report is dated 2022. These annual reports contain basic statistics on STRs received and disseminated supported with some qualitative analysis. UIF also publishes trend analysis of STRs and CTRs and typologies of common predicate offences in its annual reports.

561. *Criterion 33.1(b)* - Strategic Objective 2.1 of the National Strategic Plan 2016-2020 requires Timor-Leste to 'develop the domestic crime statistics and broader intelligence to provide a clearer picture of the scope of proceeds generating offences.'

562. PGO, PCIC and CAC have all conducted ML investigations however each LEA manually maintains its own statistics. Timor-Leste has no consolidated national statistics on ML investigation cases. Timor-Leste has not conducted any TF-related investigations or prosecutions or convictions and therefore does not have any TF-related statistics.

563. PGO maintains annual statistics for ML investigations via an excel spreadsheet including by type, reason for ML case initiation and district break down. However, the number

⁸⁸ Available at <https://www.uif.bancocentral.tl/publication/9f8e6ceb-b065-4c40-ab89-8143484ba5e0>

of ML investigations conducted solely by PGO is unclear. PGO does not maintain statistics on the status or follow-up process with police agencies during an investigation, nor does it maintain information or statistics on archived decisions during preliminary investigation or investigations.

564. PGO maintains basic statistical data on ML prosecution and conviction cases in Portuguese as required by the Implementation Plan of the National Strategic Plan 2016-2020. The assessment team is unable to confirm whether crime statistics including ML investigations, prosecutions and convictions are available in the PGO Annual Reports as we have not been provided translated copies to date.

565. *Criterion 33.1(c)* - The PGO manually maintains ML statistics on frozen, seized and confiscated property via an excel spreadsheet. These statistics should be presented to the Presidency of the Republic, National Parliament and publicly disclosed via the PGO Annual Report. It is not clear how comprehensive these statistics are as they have not been provided in English to the assessment team.

566. Customs is maintaining very limited statistics on undeclared or false cross-border currency declarations.

567. *Criterion 33.1(d)* - The PGO manually maintains MLA statistics via a spreadsheet relating to international judicial cooperation including crimes of money laundering. These basic statistics include active (outgoing requests from Timor-Leste) and passive (incoming request to Timor-Leste) requests. Other agencies such as PCIC, PNTL, UIF also manually maintain basic statistics on informal international cooperation requests. International cooperation statistics in Timor-Leste are not comprehensively maintained, including at the national level.

Weighting and Conclusion

568. Overall, Timor-Leste does not maintain comprehensive AML/CFT statistics. While competent authorities including UIF, PGO and PCIC manually collect and maintain some basic AML/CFT statistics, they are not consistently available in the national and working languages while those that are publicly available, are not up-to-date. Timor-Leste has no TF-related statistics as no TF investigations, prosecutions, or convictions have been conducted to date.

569. **Recommendation 33 is rated partially compliant.**

Recommendation 34 – Guidance and feedback

570. In its 2012 MER, Timor-Leste was rated partially compliant for former R.25. The main deficiencies were that there were no guidelines for FIs and DNFBPs, and no feedback provided on STRs.

571. *Criterion 34.1* - Under Article 27 of the AML/CFT Law, supervisory authorities may issue instructions, guidelines or recommendations to guarantee compliance with the obligations contained in Chapter II (Prevention) and III (Tracing money laundering and terrorist financing) by REs.

572. BCTL has issued one instruction applicable to banks and ODTIs, Instruction No.5/2017 on Customer Identification, Record-Keeping and Transaction Report. However, the instruction is on what must be complied with, not guidance to assist financial institutions apply AML/CFT measures. No guidelines have been issued to FIs or DNFBPs by supervisory authorities on techniques to detect suspicious transactions or ML/TF trends, except for UIF's annual report on STR statistics and typologies last published in 2022.

573. According to Articles 2(e) & 2(i) of Decree Law No.16/2014, the FIU is obliged to provide timely feedback to supervisory authorities concerning routing and results of communications related to suspected money laundering or terrorist financing. The FIU is required to periodically submit comments to REs concerning reports or information provided under this law. Feedback from the FIU to REs is provided on an annual basis through letters to REs.

574. The FIU also established the Compliance Officers Forum in 2018, a forum for information exchange between the FIU and compliance officers from banks and ODTIs that meets quarterly. Feedback is primarily focused on STR and CTR reporting issues and some discussion of ML/TF trends or industry issues but all feedback is verbal and there is no broader written guidance issued to financial institutions on these or other topics.

575. There are no supervisors or SRBs for DNFBPs and deficiencies in Recommendation 28 have a cascading effect in this criterion. A draft guideline for the DNFBP sector, which covered reporting requirements and administrative penalties for non-compliance, was still under discussion and is yet to be published.

Weighting and Conclusion

576. Supervisory authorities are empowered to issue instructions, guidelines or make recommendations to REs, however limited guidance and feedback has been provided to date.

577. **Recommendation 34 is rated partially compliant.**

Recommendation 35 – Sanctions

578. In its 2012 MER, Timor-Leste was rated ‘largely compliant’ on former R.15 with minor deficiency that the Banking Law does not provide a clear specification imposing criminal or administrative sanctions to directors and senior managements in FIs.

579. There are no civil or criminal sanctions that apply to breaches of R.6 and R.8 to R.23 and the gaps in these criterion cascade to applicable administrative penalties in R.35.

580. *Criterion 35.1* - In relation to R.6, failure to comply with TFS obligations by FIs and DNFBPs listed in Article 3 of the AML/CFT Law can result in daily fines ranging from USD 500 to 5,000 (Art. 36, AML/CFT Law). However, these sanctions are not proportionate and dissuasive as there are no criminal or civil sanctions, the range of administrative sanctions is limited to fines, the quantum of which is on the lower end for individuals and for legal persons are not considered dissuasive. Further, sanctions apply only to FIs and some DNFBPs (see R.22), not all legal persons.

581. All applicable sanctions in Timor-Leste are administrative. There are no civil or criminal sanctions. In relation to R.8, there are no measures in place for NPOs and no applicable sanctions, such as freezing of accounts, removal of trustees, fines, de-certification, de-licensing and de-registration.

582. In relation to R.9 to R.23, as described in c.27.4, a wide range of administrative sanctions apply to FIs and DNFBPs (as defined in Article 3) who do not comply with the AML/CFT Law. Administrative sanctions include fines from USD 5,000 to 500,000 for breaches of Articles 7 - 26 and these are supported by ancillary sanctions including; a) written warnings; b) orders to comply with specific instructions; c) orders to submit recurrent reports on the measures being applied; d) disallow the exercise of professional duties for a period of 6 months to 3 years; e) substitute or limit the powers of managers, directors or controlling owners,

including appointment of an ad-hoc board member for a period ranging from 6 months to 3 years; f) suspend, limit or withdraw the license and disallow continued activity or exercise of profession for a period ranging from 6 months to 3 years (Art. 31, AML/CFT Law).

583. Breaches by FIs and DNFBPs (as defined in Article 3) that are intentional or result from gross negligence are punishable by fines and ancillary sanctions in limited circumstances. Fines range from USD 250 to 150,000 for individuals and USD 1,250 to 750,000 for legal entities. The ancillary sanctions prohibit individuals from ‘the exercise of professional activities for a period between six months and three years’ (Art. 32). These sanctions are only applicable to breaches relating to; (i) establishing a shell bank, (ii) failing to maintain ‘adequate, precise or current information regarding the beneficial owner and the controlling structure of the legal entity and other legal entity or arrangement’ (sic), (iii) failure to request the identity of the customer and to take appropriate measures for risk management, (iv) failure to maintain control measures and records, (v) failure to provide access to information or records in a timely manner, (vi) failure to submit reports to the FIU, (vii) failure to refuse a transaction suspected of being connected to ML or TF, (viii) disclosing information about an STR to a customer or third party. However, the gaps identified in c.27.4 also have a cascading effect on administrative sanction regime based on Art.31 and 32. In addition, while there is a legal ground that administrative sanctions under the article 31 and 32 can be imposed to non-compliant DNFBPs (defined in the Article 3), Timor-Leste cannot practically invoke such powers since there is no monitoring mechanism on DNFBPs’ AML/CFT compliance as identified in c.28.4(c).

584. Other than the AML/CFT Law, the BCTL has also established administrative sanction regime for non-compliant FIs based on other legislations including the BCTL Instructions and the decree-law. Sanctions in Articles 31 and 32 apply to Banks, and ODTIs, their administrators and staff, who breach BCTL Instruction No.5/2017. Obligations in the Instruction extend to R.10 – 21 other than R.14 and R.17.

585. For MTOs, additional administrative sanctions include written warnings, written orders to cease and desist and undertake remedial actions, and fines. Fines can be applied against the MTO, its administrators (any person who is an officer of an MTO and has the authority to enter into commitments for the account of the MTO) and principal shareholders (any person who directly or indirectly owns ten percent or more of any class of shares or participation with voting rights). Unlicensed MTOs or agents can be fined USD 500 to 1,500 per day and USD 5,000 to 500,000 per day for CDD, PEP, record-keeping (CDD but not transaction records) and STR reporting breaches. Ancillary penalties for these breaches include revocation or suspension of the MTO’s licence, and suspension or banishment of any administrator, principal shareholder or agent (Art. 14, BCTL Instruction No.1/2013).

586. Under the Decree-Law No.17/2015, National Payment System, the BCTL has a wide range of administrative sanctions that can be imposed to the E-wallet Service providers, their managers, employees or agents in case they breach the AML/CFT obligations. The administrative sanctions include (a) issue written warnings, (b) issue written orders to cease and desist from such infractions and to undertake remedial action. And, based on the seriousness of the infringement, the BCTL is also authorized to adopt one or more of the following administrative sanctions: (a) impose a fine in an amount between USD 1,000 and 500,000, (b) suspend temporarily or dismiss officers, managers or employees of perpetrators, (c) suspend or revoke the authorisation of Payment Service Provider. (Art. 18.2 and 18.3, the Decree-Law No.17/2015 on National Payment System).

587. For finance companies, sanctions in Articles 31 and 32 apply for breaches of BCTL Instruction No.5/2017, excluding Articles 6 and 14-17 for annual compliance reports,

correspondent banking and wire transfers, as finance companies do not have these obligations (Art. 26.4, Instruction No.25/2023 15 September 2023). This Instruction, which came into effect immediately prior to the on-site visit, also includes administrative sanctions to both finance companies and their administrators and employees. These include financial sanctions ranging of between USD 5,000 and 500,000 per day, and ancillary sanctions such as (a) written warning; (b) order to comply with specific instructions; and (c) cease and desist orders and (d) revocation of licence (Art. 29).

588. There are no sanctions applicable to VASPs as Timor-Leste does not have a legal framework for VASPs.

589. *Criterion 35.2* - As described in c.35.1, the AML/CFT Law provides a wide range of financial and non-financial sanctions for both non-compliant entities and individuals including directors and senior management, however, the deficiencies described in c.35.1 also have a cascading effect on this criterion.

Weighting and Conclusion

590. The BCTL has powers to impose a broad range of administrative sanctions for both natural and legal persons of FIs, however, Timor-Leste does not have practical powers to invoke administrative sanctions to microfinance institutions such as credit unions, multi-sectoral cooperatives, pawnshops and microcredit companies, and DNFBPs, as well as their natural persons regardless of having a legal grounds for both non-compliant microfinance institutions and a part of non-compliant DNFBPs under the AML/CFT Law. There are no available civil or criminal penalties to non-compliant FIs, DNFBPs and their natural persons. There are no sanctions applicable to VASPs. Sanctions for legal persons are not dissuasive. The penalties related to TFS violations and NPOs are not sufficient to be proportionate and dissuasive.

591. **Recommendation 35 is rated partially compliant.**

Recommendation 36 – International instruments

In its 2012 MER, Timor-Leste was rated partially compliant and non-compliant under the former R.35 and SR.I, respectively. The main technical deficiencies were that Timor-Leste was not a party to the Vienna Convention nor to the Terrorist Financing Convention and the Palermo Convention as well as the S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) were not fully implemented.

592. *Criterion 36.1* - Timor-Leste is a party to all four conventions. It ratified the relevant Conventions as follows:

- Vienna Convention – acceded on 3 June 2014 with no reservations. Resolution of the National Parliament 2/2014 (published in the Official Gazette on the 29/01/2014);
- Palermo Convention - acceded on 9 November 2009 with no reservations. Resolution of the National Parliament 26/2009 (published in the Official Gazette on the 09/09/2009)⁸⁹;

⁸⁹ Timor-Leste ratified the (i) 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime adopted by resolution A/RES/55/25 of 15 November 2000' - Resolution of the National Parliament 29/2009 (published in the Official Gazette on the 09/09/2009) and the (ii) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime adopted by resolution A/RES/55/25 of 15 November 2000 - Resolution of the National Parliament 27/2009 (published in the Official

- Merida Convention – ratified on 27 March 2009 with no reservations. Resolution of the National Parliament 25/2008 (published in the Official Gazette on the 10/12/2008);
- Terrorist Financing Convention – acceded on 27 May 2014 with no reservations. Resolution of the National Parliament 3/2014 (published in the Official Gazette on the 29/01/2014)

593. *Criterion 36.2* - Timor-Leste has implemented all four Conventions in line with Article 9(2) of the Constitution of the Republic Democratic of Timor-Leste which states that Rules provided for in international conventions, treaties and agreements duly ratified and published in the Official Gazette prevail over national laws.

594. *Implementation of the Vienna Convention:* Timor-Leste has implemented the relevant articles of the Vienna Convention primarily through the Penal Code and the Criminal Procedure Code.

595. *Implementation of the Palermo Convention:* Timor-Leste has largely implemented the relevant articles of the Palermo Convention through the AML/CFT Law, the Penal Code and the Criminal Procedure Code. However, Timor-Leste's minor shortcomings in its implementation of the Palermo Convention is based on gaps in the ML offence relating to categories of predicate offences not being captured as discussed in R.3.

596. *Implementation of the Merida Convention:* Timor-Leste has implemented the relevant articles of the Palermo Convention through the AML/CFT Law, the Penal Code, the Criminal Procedure Code as well as through Law No.7 No.8/2009, Law No.17/2011, Law No.15/2011, Decree Law No.15/2014, Decree Law No.16/2014, Decree Law No.31/2019, Decree Law No.55/2022 concerning international cooperation.

597. The UNCAC report for Timor-Leste review cycle 1 dated 28 June 2012 and the review cycle 2 are noted. Since the most recent UNCAC Implementation Review Mechanism (IRM) assessment for Timor-Leste was published, the following Timorese laws have come into effect:

- The AML/CFT Law No.17/2011 which established the FIU was promulgated on 28 December 2011 and amended on 14 August 2013, including amendments to Penal Code Decree Law No.19/2009 of 8 April.
- Publication of Decree Law No.23/2015 Approval of the Organic Structure of the Anti-Corruption Commission in July 2015. In February 22, 2022, CAC launched an online platform for the registration and declaration of income, assets and interests for all persons exercising public functions to prevent conflicts of interest.
- Publication of Decree Law No.7/2020 Prevention and Combat of Corruption including introduction of an asset declaration obligation for public officials.

598. Therefore, the assessment team has concluded that deficiencies identified by UNCAC's IRM concerning Timor-Leste's implementation of the Merida Convention may not be current gaps and has been given minor weight in relation to C.36.2.

599. *Implementation of the TF Convention:* Timor-Leste has partly implemented the relevant articles of the TF Convention as TF is criminalised under Article 133 of the Penal Code

Gazette on the 09/09/2009). There is no reference to the ratification of the 'Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime adopted by resolution 55/255 of 31 May 2001' - https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-c&chapter=18&clang=en

amended by Law No.17/2011 (TF is criminalised under Article 133) however, as analysed in R.5, TF is not fully criminalised on the basis of the TF Convention.

600. Timor-Leste has made significant efforts to implement the relevant articles of the Vienna, Palermo, Merida and TF Conventions. These efforts include the establishment of institutions required to combat ML/TF and legal tools, such as penal code amendments, anti-money laundering, international judicial cooperation on criminal matters, and the anti-corruption law⁹⁰ but there are still some shortcomings in implementation (see R.3–R.5)

Weighting and Conclusion

601. Timor-Leste is a party to the relevant UN Conventions and has taken significant steps to implement the relevant articles of these conventions. However, there are still some minor deficiencies relating to the implementation of relevant articles in all four Conventions as outlined in R.3 and R.5.

602. **Recommendation 36 is rated largely complaint.**

Recommendation 37 - Mutual legal assistance

603. In its 2012 MER, Timor-Leste was rated partially compliant, largely compliant and partially compliant under the former R.36, R.37 and SR.V, respectively. The MER found that the gaps in the definition of ML (scope of predicates) may undermine effective implementation, the scope of mutual legal assistance that Timor-Leste could provide was limited because of the threshold contained in Article 313 of the Penal Code and the requirement of dual criminality for all type of mutual legal assistance requests reduced the scope in which this could be rendered.

604. *Criterion 37.1* - Law No.15/2011 regulates international judicial cooperation in criminal matters, including ML and its predicate offences and TF. This legislation enables Timor-Leste to provide broad cooperation concerning investigations in criminal proceedings and related procedures however there is no legal provision requiring the cooperation to be conducted in a rapid manner. According to Article 138 of Law No.15/2011 such legal assistance covers the following acts: (i) effecting service of judicial documents, provision of judicial documents and other documents; (ii) gathering of evidence; (iii) searches and seizures, examination of objects and sites and experts evaluations; (iv) the notification and taking testimony or statements of suspects, accused persons, witnesses or experts; (v) transit of persons and (vi) provision of information related to Timor-Leste law and law of another country or territory as well as information concerning the criminal record of the suspect, accused or sentenced persons.

605. *Criterion 37.2* - The central authority for the purpose of MLA in criminal matters is the Prosecutor General's Office (Art. 19, Law No.15/2011). The requirements for the timely prioritisation and execution of requests are clearly defined (Arts. 14, 20, 21 & 27, Law No.15/2011). Article 14 of Law No.15/2011 establishes mechanisms that prioritise the execution of requests for international judicial cooperation in criminal matters considering the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country. In urgent cases, foreign judicial authorities can

⁹⁰ Timor-Leste is facing the challenges identified in the UNCAC Report of the Implementation Review Group, adopted in June 2012_CAC/COSP/IRG/2012/CRP.8

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1254425e.pdf>

communicate directly with Timorese judicial authorities, or through INTERPOL or other relevant agencies for international police cooperation designated for that purpose, to request the adoption of a precautionary measure or the undertaking of an act which does not admit delay (Art. 27, Law No.15/2011). However, Timor-Leste manually monitors the progress of MLA requests, which has been sufficient to date due to the low level of incoming and outgoing requests.

606. *Criterion 37.3* - The grounds for refusal of requests are set out in Articles 5, 6, 7, 9, 17 and 31 of Law No.15/2011. Article 5 sets out general grounds for refusal, including, (i) the proceedings do not comply with the human rights treaties ratified by Timor-Leste, (ii) there are well-founded reasons to believe that cooperation is sought for the purpose of persecuting or punishing a person on account of their race, religion, sex, nationality, language, political or ideological beliefs or belonging to a given social group. Article 6 provides grounds for refusal based on the nature of the offence, namely regarding any offence of a political nature or an offence connected with a political offence. Articles 7 and 9 provide grounds for refusal if requests related to offences which are considered to be minor offences under Timor-Leste's law. Article 17 sets out refusal grounds if the facts that substantiate the request are the object of ongoing criminal proceedings. None of the grounds are unduly restrictive or unreasonable.

607. *Criterion 37.4(a)* - Fiscal matters are not an obstacle to reply positively to a request for mutual legal assistance.

608. *Criterion 37.4(b)* - Timor-Leste does not refuse requests for mutual legal assistance on the grounds of secrecy or confidentiality requirements, except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies (Art. 5, 6, 10, 17 & 31 of Law No.15/2011). When the information may be relevant to the 'discovery of the truth' legal professional secrecy may be breached by credit institutions and financial companies (Art. 35-B of Law No.17/2011).

609. *Criterion 37.5* - As set out in Articles 10 and 142 of Law No.15/2011 the request, its contents and the documents as well as the granting of such assistance shall be kept confidential, at the request of the foreign State or an international entity. Article 10 (2) prescribes that Timor-Leste's legal provisions where secrecy is protected shall be respected. Furthermore, Article 141 of Law No.15/2011 states that all the information obtained for use in the proceedings indicated in the foreign State's request may not be used elsewhere.

610. *Criterion 37.6* - Dual criminality is required for extradition (Art. 30(2) of Law No.15/2011), transfer of criminal proceedings (Art. 74(1)(c)), enforcement of criminal sentences (Art. 90(1)(e)), surveillance of sentenced persons or persons released on parole (Art. 123), and for other forms of legal assistance in criminal matters involving coercive measures (Art. 140). Otherwise, the provision of legal assistance is not subject to verification of the dual criminality condition.

611. *Criterion 37.7* - It is sufficient for both countries to criminalise the underlying illicit conduct as an offence, regardless of whether both countries place the offence within the same category of offence or denominate the offence by the same terminology. The deficiencies identified in the definition of ML, TF and the coverage of predicate offences (see R.3 and 5) may apply here however as Timor-Leste can provide international co-operation in cases where the provision of legal assistance is not subject to verification of the dual criminality condition, (refer criterion 37.6 above), in those cases, the deficiencies in the definition of ML/TF and the coverage of predicate offences will be irrelevant.

612. *Criterion 37.8(a)* - Powers and investigative techniques (e.g. controlled deliveries – Art. 154 of Law No.15/2011, undercover operations – Art. 155 and wiretaps – Art. 156), that are required under R.31 are available for use in response to requests for mutual legal assistance and in response to a direct request from foreign judicial or law enforcement authorities to domestic counterparts. Further, Article 138 of Law No.15/2011 sets out that assistance shall include *inter alia* procuring of evidence, searches, seizure of property, experts' examination and analysis and the taking of witness statements. Article 138(3) of Law No.15/2011 states that subject to an agreement between Timor-Leste and a foreign state or an international judicial entity, any hearings may take place by using telecommunications means in real time.

613. *Criterion 37.8(b)* - A broad range of other powers such as special investigative techniques or otherwise available to domestic competent authorities are also available.

Weighting and Conclusion

614. Timor-Leste's legal framework allows the provision of a wide range of mutual legal assistance, however there is no evidence that the cooperation is rapidly provided. Minor deficiencies remain for example no case management system exists to monitor progress on requests.

615. **Recommendation 37 is rated largely compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

616. In its 2012 MER, Timor-Leste was rated partially compliant, largely compliant and partially compliant under the former R.38, R.37 and SR.V, respectively. In addition to the gaps in the definition of ML (scope of predicates outlined in R.3 and R.5), it was concluded that no assistance could be rendered for the purpose of freezing terrorist assets and there was no provision regarding the identification, freezing, seizure and confiscation of property of corresponding value.

617. *Criterion 38.1(a), (b), (c), (d), (e)* - According to Article 138 of Law No.15/2011, international judicial cooperation in criminal matters comprises all the acts necessary for the expeditious seizure or the recovery of objects, instrumentalities or proceeds of a crime (including ML and its predicate offences and TF). Article 26 and 152 as well as Article 153 of Law No.15/2011 further specifies that Timorese authorities at the request of a competent foreign authority (i) may undertake investigations with the purpose of verifying whether any objects, instrumentalities or proceeds of the crime allegedly committed are in Timor-Leste, (ii) shall ensure the execution of the conviction issued by the foreign court to confiscate objects, instrumentalities or proceeds of crime and (iii) may take the necessary measures to prevent any transaction, transmission or disposal of assets that are or may be affected by the sentence referred to in the previous bullet point. Article 4/3 and Article 138/1 of Law No.15/2011 has a broad scope and Article 43 of AML/CFT Law No.17/2011 allows that 'proceeds from the crime, capitals and assets or other assets of equivalent value' may be confiscated by the Timorese State. However, it does not explicitly state that this could relate to an MLA request from a foreign jurisdiction. Also, where there is the enforcement of a foreign judgment (Art. 90/1 of Law No.15/2011), it could be possible to identify, freeze, seize or confiscate property of corresponding value to ensure Art. 92/1(a) *in fine*, Art. 92/3 and Art. 92/1(c) of Law No.15/2011.

618. Timor-Leste is also a party to MLA treaties for example the International Convention of the CPLP (vide Article 16 of the '*Convenção sobre Auxílio Judiciário em matéria Penal entre os*

Estados Membros da CPLP) which contributes to identifying, freezing, seizing and confiscating property gained through crime pursuant to MLA requests.

619. In addition, the gap in the coverage of predicate and the ML offences (see R.3) and the gaps with the TF offence (see R.5) could undermine the scope of MLA that can be provided for asset recovery.

620. *Criterion 38.2* - Timor-Leste is able to provide international judicial cooperation in cases where the request is related to non-conviction based confiscation proceedings and related provisional measures (Art. 27 and 106 of Law No.15/2011). This cooperation requires approval at the judicial level, in particular for the adoption of provisional and protective measures as requested, except in cases where the request may be judicially considered incompatible.

621. *Criterion 38.3(a)* - Timor-Leste does not have formal arrangements in place to specifically coordinate seizure and confiscation actions with other jurisdictions. Articles 154 to 156 of Law No.15/2011 address the use of some special investigative techniques involving the coordination between Timor-Leste and other jurisdictions including controlled deliveries (Article 154), undercover operations (Article 155) and wiretapping (Article 156). Limited informal arrangements between Timor-Leste LEAs and foreign counterparts may enable some limited cooperation regarding freezing for example in 2022 there was an outgoing MLA request to Portugal involving a request for withdrawal and freezing which has been completed.

622. *Criterion 38.3(b)* - As identified in C.38.3(a), Timor-Leste does not have formal arrangements in place to specifically coordinate seizure and confiscation actions with other jurisdictions. Timor-Leste does have provisions relating to the disposal of frozen property, seized and confiscated assets, but limited mechanisms relating to the management of assets (see R.4 for further information).

623. *Criterion 38.4* - Timor-Leste is able to share confiscated property with other jurisdictions. According to Article 104 of Law No.15/2011, confiscated property shall revert to the State of enforcement, but may be handed over to the sentencing State, at its request, if it is of particular interest to this State and reciprocity is guaranteed.

Weighting and Conclusion

624. Timor-Leste has the legal authority under Law No.15/2011 and MLA treaties to identify, freeze, seize and confiscate property gained through crime pursuant to MLA requests. However, some consideration has been given to the gap in the coverage of predicates relating to the ML offences as well as the gaps in the TF offence which could undermine the scope of MLA that can be provided for asset recovery. Timor-Leste does have provisions relating to the disposal of frozen property, seized and confiscated assets, but limited mechanisms relating to the management of assets.

625. **Recommendation 38 is rated largely compliant.**

Recommendation 39 – Extradition

626. In its 2012 MER, Timor-Leste was rated partially compliant, largely compliant and partially compliant under the former R.39, R.37 and SR.V, respectively. It was considered that the existing gaps in the definition of ML (scope of predicates) may undermine effective implementation.

627. *Criterion 39.1(a)* - Extradition can take place for the purpose of prosecution or execution of a sentence or a security measure for a crime whose judgment is the responsibility of the requesting state courts (Art. 30, Law No.15/2011 on international judicial co-operation in criminal matters). Extradition shall only be possible in relation to crimes, even if attempted, punishable under both Timor-Leste's law and the law of the requesting State with a penalty or measure involving deprivation of liberty for a maximum period of at least one year. As they both meet these requirements, money laundering and terrorist financing are extraditable offences under the Law No.15/2011.

628. *Criterion 39.1(b)* - The extradition procedure in Timor-Leste is regulated by law which expressly states the urgent nature of this procedure (Art. 45 (1) & 70 (2), Law No.15/2011). The procedure comprises an administrative (with the intervention of the Central Authority and the Minister of Justice) and a judicial phase (which is the exclusive competence of the Supreme Court of Justice). Based on the procedure foreseen, the request appears to be dealt with in a timely manner. However, Timor-Leste manually monitors these procedures and does not have a case management system of prioritisation.

629. *Criterion 39.1(c)* - Except for a reason of being a Timor-Leste citizen (referred to in the criterion below), other grounds for refusal of extradition stated in Articles 5, 6, 7 and 31 of Law No.15/2011 are not unreasonable or unduly restrictive and conditions in which extradition can be denied are clearly defined.

630. *Criterion 39.2* - Extradition shall be refused when the person claimed is a Timor-Leste national and is in its territory (Art. 31 (1), Law No.15/2011). Notwithstanding c.39.2(a), whenever extradition is refused according to Article 31 (1), criminal proceedings shall be filed in Timor-Leste for the facts on the grounds of which the request was made and the requesting State will be asked to provide the necessary elements (Art. 31 (2), Law No.15/2011). However, there is no requirement for this to occur without undue delay and no timeframes are set out in law.

631. *Criterion 39.3* - Concerning extradition, dual criminality is required. The person whose delivery is sought for the purpose of prosecution or sanction compliance is admissible only in the case of crimes, even if attempted, punishable under both Timor-Leste's law and the law of the requesting State with a penalty or measure involving deprivation of liberty for a maximum period of at least one year (Art. 30, Law No.15/2011). However, the requirement of dual criminality is considered satisfied regardless of whether both countries subsume the crime in the same category of offences or foresee the offense with the same terminology.

632. The deficiencies in the coverage of predicate crimes and the ML and TF offences apply here, noting the dual criminality requirement.

633. *Criterion 39.4* - Timor-Leste has a simplified extradition mechanism in place (Art. 35, Law No.15/2011), which allows for the temporary transfer of a person to carry out procedural acts by the requesting State. Once these acts have been completed the person will be returned without conditions.

Weighting and Conclusion

634. Timor-Leste has a sound legal framework for extradition. Deficiencies include a lack of case management system, no requirement for criminal proceedings to be filed without undue delay in Timor-Leste when extradition of a Timorese national is refused, and the deficiencies identified in the coverage of the ML and TF offences may impact the dual criminality requirement for extradition.

635. **Recommendation 39 is rated largely compliant.**

Recommendation 40 – Other forms of international cooperation

636. In its 2012 MER, Timor-Leste was rated PC with both R.40 and SR.V. At that time, there was no legal basis for the FIU and other competent authorities to undertake non-judicial cooperation with foreign counterparts in relation to AML/CFT.

General Principles

637. *Criterion 40.1* - Timorese competent authorities have broad authority to cooperate internationally with foreign counterparts to provide information both spontaneously and upon request in line with their respective functions. Article 46 of AML/CFT Law addresses Timor-Leste's duty to cooperate with competent authorities of other states for the purpose of international judicial cooperation in criminal matters however it does not explicitly cover non-judicial international cooperation.

638. Regarding non-judicial international cooperation, most competent authorities e.g. UIF, PCIC, PNTL, the tax authority, BCTL and CAC, have a legal framework at the agency level to enable informal international cooperation through one or more of the following mechanisms; legal instruments, bilateral and multilateral MOUs/agreements, membership of international organisations, and the application of the principle of reciprocity. The assessment team notes that the PGO only undertakes judicial international cooperation.

639. Timor-Leste is a member of regional and international bodies that enable it to seek international cooperation for AML/CFT purposes. Timor-Leste can provide international cooperation pursuant to international treaties on the basis of the principle of reciprocity. Further, various Timorese competent authorities have signed bilateral multilateral MOUs/agreements with foreign counterparts. Timor-Leste is also a member of international organisations including INTERPOL, WCO and ARIN-AP.⁹¹

640. *Criterion 40.2(a)* - In addition to Article 46 of the AML/CFT Law, the legal basis for UIF to exchange information with international counterparts on ML, TF and associated predicate offences is found in Article 11 and Article 12 of the Decree Law No.16/2014.

641. Article 5(n) of Law No.5/2011 allows BCTL to enter into contracts, agreements and protocol with domestic and foreign entities, both public and private. Timor-Leste indicated that this includes the ability to cooperate internationally. Article 27.2(g) of the AML/CFT law also allows BCTL to promote cooperation with homologous foreign authorities. However, the scope of this cooperation has not been defined by Timor-Leste (see 40.12).

642. PCIC is able to provide international cooperation under Articles 3, 7, 9, 11 and 32 of Decree Law No.15/2014. Article 9 of Decree Law No.15/2014 enables PCIC to engage in international cooperation including 'for the receipt of communications relating to money laundering, TF, drug trafficking and any form of transnational crime.'

643. Article 7(2) in conjunction with Article 6.3 (t) of Decree Law No.55/2022 enables PNTL to 'participate in international missions necessary to fulfil the international commitments of the State of Timor-Leste, including humanitarian missions and peace support, civil crisis management, and police cooperation actions, undertaken within the framework of bilateral and multilateral cooperation and security organisations, under international agreements entered by Timor-Leste'. While this Article does not have a specific provision relating to the

⁹¹ Post the onsite, Timor-Leste became a member of the Egmont Group on 1 February 2024.

international exchange of information, the broad nature of the Article appears to cover the exchange of information at the international level. Some interpretive questions are raised regarding Articles 6.3 I, 6.3 (r) and 8.1 of Decree Law No.55/2022 as while Timor-Leste's duty to collaborate and exchange information is addressed, it is not stipulated if the scope of these provisions is domestic and/or international. However, the assessment team acknowledges that PNTL shares information with foreign counterparts and has a dedicated international team as set out in Article 44 of Decree Law No.55/2022. This Decree Law gives the Cooperation and International Relations Office responsibility for ensuring the implementation of all PNTL activities in the scope of cooperation and international relations. The office of International Relations is a newly created office and integrated into the General Commander's Office and as part of its mandate, one of its three priority tasks is to exchange information on crime prevention with neighbouring nations and relevant organisations regarding organised crime.

644. Article 26 of Law No.8/2009 allows CAC to exchange information and cooperate internationally on ML, TF and associated predicate offences.

645. The Tax authority is also allowed to conduct informal information exchange with foreign authorities pursuant to Article 6 of the Decree Law No.31/2019 which broadly outlines collaboration with other entities for example paragraph (1) Tax Authority collaborates with national and international entities that perform relevant tasks in its area of activity.

646. *Criterion 40.2(b)* - Article 6 (e) of Decree Law No.16/2014 states that the Executive Director of the UIF is responsible for coordinating and proposing mechanisms for cooperation and exchange of information that enable fast, efficient action in the prevention of money laundering and terrorist financing. The UIF is also authorised under Article 12.2 of the Decree Law No.16/2014 to exchange information outside of an MOU when it is deemed to be absolutely essential to a cited investigation or case.

647. Timor-Leste did not provide information demonstrating that other authorities are authorised to use the most efficient means of cooperation.

648. *Criterion 40.2(c)* - UIF exchanges information based on a mutually agreed mechanism with foreign counterparts which is deemed secure by all for example via secure email with the file requiring a specific password for the recipient to access. As Timor-Leste was not yet a member of the Egmont Group by the end of the on-site, it was unable to use the Egmont Secure Web.⁹²

649. PCIC, as the National Central Bureau of Interpol (NCB), exchanges investigative information with foreign counterparts via the secure P2P communication network in accordance with Articles 11 and 32 of Decree Law No.15/2014. Article 7 of Decree Law No.15/2014 also enables PCIC to share information with other LEAs.

650. Timor-Leste did not provide information related to other competent authorities.

651. *Criterion 40.2(d)* - Timor-Leste does not have any legal provisions for the prioritisation or timely execution of international requests. Timor-Leste did not demonstrate that clear processes were in place for the prioritisation and timely execution of requests largely because request numbers are low and dealt with in the order in which they are received.

652. *Criterion 40.2(e)* - Timor-Leste did not demonstrate any legal provisions addressing whether clear processes are in place for safeguarding information received through international cooperation.

⁹² Post the onsite, Timor-Leste became a member of the Egmont Group on 1 February 2024

653. *Criterion 40.3* - Timor-Leste did not provide information relating to procedures stipulating that multilateral or bilateral agreements/arrangements must be negotiated and signed in a timely way.

654. Nonetheless, Timorese authorities have access to a variety of bilateral and multilateral mechanisms to share information. The UIF has negotiated a number of MOUs with foreign authorities which exercise similar functions, and other authorities have made use of MOUs and other information sharing mechanisms to varying degrees.

655. *Criterion 40.4* - There is no legal provision that limits competent authorities from providing feedback on requests. It is not common practice or set out in processes and procedures for competent authorities to provide feedback to foreign counterparts on the use and usefulness of information received in relation to an international cooperation request. UIF MOUs include a Feedback provision and UIF has provided feedback in some instances however this is not considered standard practice and the timeliness of providing the feedback is unknown.

656. *Criterion 40.5(a)-(d)* - Timor-Leste provided very limited information in relation to this criterion. Regarding the UIF, Timor-Leste's laws do not expressly prohibit the grounds listed in sub-criteria 40.5 (a-d). It is unknown regarding other agencies.

657. *Criterion 40.6* - Article 11.2(c) of Decree Law No.16/2014 requires UIF to include safeguards in its MOUs through the following provisions: (i) 'use of disclosed information' which states *inter alia* that information shall not be disseminated to any third parties, institutions or agencies nor used for police investigations, judicial or procedural purposes without the prior consent of the disclosing authority and (ii) Confidentiality requirements as Article 12.3 requires information disclosed to foreign agencies be treated as confidential and not disclosed without prior consent of the FIU. These requirements in all MOUs ensure that information is used for the purposes it is provided. It is not clear whether other competent authorities have related safeguards in place.

658. *Criterion 40.7* - Timor-Leste has provided very limited information in relation to this criterion. The UIF includes standard confidentiality requirements in its MOUs. It is not clear whether other competent authorities maintain appropriate confidentiality requirements.

659. *Criterion 40.8* - Timor-Leste did not demonstrate that LEAs can conduct inquiries on behalf of, and exchange all information that would be available domestically, with foreign counterparts.

Exchange of Information Between FIUs

660. *Criterion 40.9* - Article 11 of Decree Law No.16/2014 creates a legal basis for UIF to share information through the entering of an MOU with a foreign counterpart. Article 12 of the same Decree Law allows UIF to exchange information with foreign authorities for which it has not entered an MOU, in such disclosure is deemed to be absolutely essential to the cited investigation or case and the conditions set forth in Article 11, paragraph 2, sub-paragraphs b), c) and d) are observed. However, it is not clear whether this cooperation extends to ML/TF associated predicated offences, and if so, deficiencies raised in R. 3 would apply. Furthermore, it seems that international MOU and non-MOU exchanges must be relevant to the investigation or prosecution of a crime of ML or TF.

661. Timor-Leste reports that MOUs which UIF has entered into not only allow cooperation in relation to ML and TF, but also extend to predicate offences.

662. *Criterion 40.10* - UIF has included a feedback provision in its MOUs with foreign financial intelligence units, based upon the Egmont Group's information exchange standards.

663. *Criterion 40.11(a)* - UIF can exchange information with international partners based on Chapter III of Decree Law No.16/2014. Article 10 of Decree Law No.16/2014 sets out Cooperation with other public entities, Article 11 of the Decree Law No.16/2014 sets out exchanges of information based on MOUs and Article 12 covers disclosure of information to foreign agencies.

664. *Criterion 40.11(b)* - Specifically, Article 11 requires UIF to enter into an MOU which must be on the basis of reciprocity, restrict the use of exchanged information for the purposes of investigation or prosecution of ML or TF, stipulates that information will be treated as confidential and not disclosed without the consent of UIF, and be entered into only when information will be protected to a degree equivalent to that in Timor-Leste.

Exchange of Information Between Financial Supervisors

665. *Criterion 40.12* - Article 27 (2)(g) of Law No.17/2011 allows the supervisory authority (BCTL) to promote cooperation with homologous foreign authorities, under the terms of the AML/CFT law.

666. Article 5(n) of Law No.5/2011 allows the BCTL to enter into contracts, agreements and protocol with domestic and foreign entities, either public or private. Timor-Leste indicated that this includes the ability to cooperate internationally however this is not explicit in the law. All four bilateral MOUs signed with foreign authorities to date (Portugal, Indonesia, Malaysia and Australia) have no coverage for AML/CFT purposes, as they only relate to prudential and technical assistance.

667. *Criterion 40.13* - Article 27 (2)(g) of the AML/CFT law allows the supervisory authority (BCTL) to promote cooperation with homologous foreign authorities, under the terms of the AML/CFT law. However, an interpretation of the scope of cooperation has not been provided by Timor-Leste. While BCTL has an experience in conducting 'joint examinations' with its foreign counterpart during the out-of-review period, Timor-Leste has not demonstrated that it is able to exchange information held by financial institutions, including for AML/CFT purposes.

668. *Criterion 40.14* - 40.14(a),(b) and (c) - Article 27 of the AML/CFT law, and Article 5 (n) of Law No.5/2011 do not explicitly refer to the instances identified in these criterion, however, BCTL has confirmed that it has signed 4 MOUs relating to technical assistance and prudential supervision, and has used informal channels for information exchange related to fit and proper checks..

669. *Criterion 40.15* - Timor-Leste did not demonstrate that the BCTL is able to conduct inquiries on behalf of foreign counterparts, or to facilitate inquiries by those counterparts.

670. *Criterion 40.16* - As outlined in 40.12 and c.40.13, general provisions are available however there are no specific provisions covering prior authorisation being required before dissemination or exchange of information from the requesting financial supervisor.

Exchange of Information Between Law Enforcement Authorities

671. *Criterion 40.17* - LEAs in Timor-Leste are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF in line with Article 138(4) and Articles 143-145 of Law No.15/2011 International Judicial Cooperation in Criminal Matters.

672. The legal basis for PCIC to exchange non-judicial information with international counterparts is set out under Articles 3, 7, 9, 11 and 32 of Decree Law No.15/2014. Specifically, Article 9 of Decree Law No.15/2014 enables PCIC to engage in international cooperation including 'for the receipt of communications relating to money laundering, TF, drug trafficking and any form of transnational crime.' PCIC has also signed an MOU with the Indonesian National Police (POLRI) in line with Article 9 of Decree Law No.15/2014. Articles 3, 7 and 32 of Decree Law No.15/2014 enable PCIC to exchange investigative information with foreign counterparts via the National Central Bureau of Interpol (NCB).

673. The PGO does not have any MOUs with foreign prosecution authorities as it conducts international cooperation via formal channels based on MLA and extradition procedures as well as using international conventions. It is unknown whether there are any other informal information exchange channels used as Timor-Leste did not provide any further information.

674. PNTL seeks investigative information from foreign counterparts via various police to police (P2P) channels, including MOUs, Interpol (via PCIC), liaison officers and police attachés.

675. According to Article 7 of Decree Law No.55/2022, PNTL can 'participate' within the 'framework of bilateral and multilateral cooperation and security organizations, under international agreements entered by Timor-Leste' which seems to include MOUs. PNTL has signed five MOUs with five foreign LEA counterparts including Indonesia (POLRI and the National Anti-Narcotics Board), Australia (Australian Federal Police), Portugal (Guarda Nacional Republicana) and South Korea (Korea National Police Agency) to pursue investigations. However, it is not known whether these MOUs cover exchanging non-judicial information with foreign counterparts for intelligence or investigate purposes relating to ML, associated predicate offences or TF including the identification and tracing of the proceeds and instrumentalities of crime.?

676. CAC - Article 26 of Law No.8/2009 allows the CAC to enter into MOUs with domestic or foreign counterparts in order to meet its responsibilities. These MOUs can allow for the joint use of facilities and personnel, and the exchange of information.

677. *Criterion 40.18* - PGO controls ML investigations in Timor-Leste and may confer the power to carry out the enquiry or acts of the investigation to the police (Articles 48, 49, 52 to 57 of the Code of Criminal Procedure). LEAs in Timor-Leste are able to use their powers to conduct inquiries and obtain information on behalf of foreign counterparts under Articles 152, 153, 154, 155 and 156 of the Law No.15/2011, of October 26. Articles 23 and 138, n^o 1, 2, 4 and 7 of Law No.15/2011 also apply. Article 31 of the Organisational Criminal Investigation Law No.9/2022 also enables LEAs to use their powers to conduct inquiries and obtain information on behalf of foreign counterparts.

678. Article 11 of Decree Law No.15/2014 addresses the right of PCIC to access international information in the context of cooperation.

679. *Criterion 40.19* - The Prosecutor General can authorise the formation of international joint investigation teams initiated by Timorese authorities, and can submit foreign requests to the Minister of Justice to determine the admissibility of that request, in accordance with Article 19.2 of Law No.15/2011.

680. Article 31 of the Organisational Criminal Investigation Law No.9/2022 31, also allows for LEAs to establish through PGO international join investigation teams.

Exchange of Information Between Non-Counterparts

681. *Criterion 40.20* - The CAC under Article 26 paragraph (1) of Law No.8/2009 and Article 19 of the Law No.15/2011 for international non-counterparts.

682. It is not clear how other competent authorities are able to exchange information indirectly with non-counterparts.

Weighting and Conclusion

683. Timor-Leste has a legal framework to provide international cooperation with foreign counterparts on a wide basis both spontaneously and upon request. Timor-Leste provides international cooperation pursuant to international treaties on the basis of the principle of reciprocity. PGO only conducts international cooperation via formal channels. However, PGO on occasion has used ARIN-AP as an informal international network to pursue the recovery of proceeds of unlawful activity.

684. The legal framework for non-judicial international cooperation is at the respective agency level and competent authorities have signed bilateral MOUs/agreements with foreign counterparts however there is still some scope to expand this form of international cooperation. Other forms of informal cooperation are also available, for example the UIF can share information with non-MOU partners in specific circumstances, and PCIC has a broad legal basis to exchange information with international counterparts.

685. Timor-Leste is a member of international organisations including INTERPOL, WCO and ARIN-AP. At the time of the on-site, Timor-Leste was in the process of becoming a member to the Egmont Group which will provide greater opportunities to cooperate internationally with foreign counterparts.

686. **Recommendation 40 is rated largely compliant.**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Rec	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> Significant constraints in assessing ML/TF risks e.g. lack of data especially regarding TF risks, ML risks from legal persons and arrangements omitted and gaps in predicate crimes e.g. environmental crimes (c.1.1) The NRA has not been updated since its initial publication in 2015 (c.1.3) Information of the results of the NRA were not shared with most DNFBPs and some FIs (c.1.4) Timor-Leste is only partially applying a risk-based approach to allocating resources and implementing measures to prevent or mitigate ML/TF (c.1.5) Gaps in understanding of ML/TF risks and limitations of the NRA are not in line with a risk-based approach (c.1.5) There are no exemptions for FIs or DNFBPs from the FATF Recommendations however micro-credit providers such as credit unions and pawnshops are not required to apply AML/CFT measures (c.1.6) AML/CFT regime requires FIs and DNFBPs to take enhanced measures to manage and mitigate risks however these obligations are not tied to the identification of higher risks by Timor-Leste. Further, FIs and DNFBPs are not required to incorporate this information into their risk assessments (c.1.7). There is no requirement that simplified measures for FIs and DNFBPs are consistent with the jurisdiction's assessment of ML/TF risks (c.1.8) There are no designated DNFBP supervisors (c.1.9) There are no requirements for FIs and DNFBPs to identify, assess and understand their ML/TF risks including countries or geographic areas, and products, services, transactions or delivery channels (c.1.10) Policies, controls and procedures do not require senior management approval, there is no requirement for DNFBPs and some FIs to enhance controls if necessary, and there is no requirement to apply enhanced measures where higher risks are identified (c.1.11) There is no obligation that if low risks are identified, that c.1.9 to 1.11 are met, or that simplified measures be prohibited whenever there is suspicion on ML/TF (c.1.12)
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> It is unclear how frequently AML/CFT policies are reviewed (c.2.1) There is no mechanism for cooperation and coordination to combat PF in Timor-Leste (c.2.4)
3. Money laundering offence	LC	<ul style="list-style-type: none"> The following categories of offences are not criminalised in Timor-Leste, so are not predicate for ML: piracy; piracy of goods; insider trading and market manipulation. Timor-Leste has not criminalised a sufficiently wide range of environmental crimes (c.3.2) Timor-Leste's threshold of predicate offences including crimes subject to at least two years' imprisonment exceeds the minimum penalty outlined in the FATF Standards which is a requirement of six month's imprisonment (c.3.2). The Criminal Procedure Code (CPC) does not define the term property (c.3.4) It is unclear whether legal persons are subject to criminal liability and sanctions as the term 'any person' is not explicit. Further, the sanctions available particularly monetary fines are not proportionate or sufficiently dissuasive (c.3.10)
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> There are scope gaps with the ML offence relating to predicate offences which are not covered by the AML/CFT Law (c.4.1) The deficiencies in the criminalisations of TF, as set out in R.5, impact the confiscation of property that is proceeds of, or used in TF (c.4.1) Confiscation does not extend to cover all property of corresponding value (c.4.1) It is not clear whether Art 44 of the AML/CFT Law is a sufficient power to ensure the courts can overcome anything ordered in civil proceedings (that may otherwise prevent property subject to confiscation) (c.4.2(c)). Minor deficiencies exist in relation to investigative measures (c.4.2(d)).

		<ul style="list-style-type: none"> • No provisions relating to the management of assets (c.4.4)
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> • There are deficiencies in the criminalisation of TF in accordance with the TF Convention (c.5.1) • Financing an individual terrorist is not criminalised (c.5.2) • TF offences do not apply to individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training (c.5.2bis) • Criminal liability for legal persons committing TF imposes a fine of the minimum amount of the 'laundered amount' and up to three times the value of the same. It is unclear how the 'laundered amount' would apply to a TF offence (c.5.7)
6. Targeted financial sanctions related to terrorism & TF	NC	<ul style="list-style-type: none"> • No framework to identify and propose targets for designation under UNSCR 1267 and successor resolutions (c.6.1) • No framework to identify and propose targets pursuant to UNSCR 1373 (c.6.2) • No legal framework, procedures or mechanisms to collect or solicit information in order to identify persons or entities (c.6.3) • No ability to operate <i>ex parte</i> (c.6.3) • Timor-Leste is not implementing TFS-TF without delay (c.6.4) • There is no legal authority in Timor-Leste explicitly identifying a domestic competent authority responsible for implementing and enforcing TFS-TF (c.6.5) • There is no legal basis to implement UNSCR1373 (c.6.6) • No guidance issued on freezing or unfreezing processes (c.6.5 and c.6.6) • No publicly known procedures for dealing with false positives (c.6.6) • No authorisation to access to frozen funds or other assets which have been determined to be necessary for basic expenses in accordance with UNSCR 1452 procedures (c.6.7)
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> • Timor-Leste is not implementing TFS-PF without delay (c.7.1) • Timor-Leste has not identified a competent authority to assume responsibility for the implementation and enforcement of TFS-PF. (c.7.2) • No requirement for natural and legal persons to freeze the funds and other assets of PF-designated persons or entities (c.7.2) • Timor-Leste has not imposed relevant obligations on FIs and DNFBPs. (c.7.3) • No measures in place to monitor or ensure compliance from reporting entities (c.7.3) • No civil, administrative or criminal sanctions for failure to comply with TFS-PF obligations (c.7.3) • Mechanism for communicating designations and de-listings not established (c.7.4) • No guidance on freezing and unfreezing has been issued (c.7.2 and c.7.4) • No publicly known procedures for de-listing requests or false positives (c.7.4)
8. Non-profit organisations	NC	<ul style="list-style-type: none"> • Timor-Leste has not conducted a risk assessment of the NPO sector and therefore has not identified which subset of NPOs are at risk of TF abuse (c.8.1) • Timor-Leste has not periodically reviewed the NPO sector for TF vulnerabilities (.8.1) • No clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs (c.8.2) • No outreach or education has been conducted to raise awareness about potential vulnerabilities of NPOs to TF abuse (c.8.2) • No work with NPOs to develop best practices to address TF risks and vulnerabilities (c.8.2) • No risk based monitoring of NPOs (c.8.3) • Sanctions for violations are not proportionate and dissuasive (c.8.4) • Lack of coordination, cooperation and information sharing between relevant government authorities (c.8.5) • No investigative expertise and capability to examine NPOs suspected of supporting or being exploited by terrorist activity (c.8.5)

		<ul style="list-style-type: none"> • No mechanism to help authorities identify TF suspicions involving NPOs (c.8.5) • No appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing (c.8.5)
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> • FI secrecy laws are only applicable to banks. There are no secrecy obligations for other types of FIs (c.9.1) • There are no legal or regulatory requirements related to the sharing of information between FIs (c.9.1)
10. Customer due diligence	PC	<ul style="list-style-type: none"> • For FIs other than banks and ODTIs, verification documents are not required to be reliable documents, data or information. For MTOs CDD measures apply only to individuals and reliable and independent source documents, data or information for verification purposes are not defined (c.10.3) • For FIs other than banks and ODTIs there is no requirement to verify that the person is authorised to act on behalf of the customer (c.10.4) • There is no definition of beneficial owner in the AML/CFT Law and for FIs other than banks and ODTIs, there is no requirement to verify the beneficial owner from a reliable source (c.10.5) • There is no requirement for FIs to understand the purpose and intended nature of the relationship (c.10.6) • FIs other than banks and ODTIs are not required to ensure that documents, data or information collected under CDD processes is kept up-to-date and relevant by undertaking reviews of existing records (c.10.7(b)) • There is no requirement for FIs to understand the nature of the customer's business and its ownership and control structure (c.10.8) • There are no requirements to identify and verify legal arrangements (c.10.9(a)) • There are no requirements to identify and verify legal persons or legal arrangements from the powers that regulate and bind the legal person or arrangement and the persons having a senior management position (c.10.9(b)) • There is no requirement to verify the principal place of business if different from the registered office (c.10.9(c)) • FIs other than banks and ODTIs are not required to identify beneficial owners (c.10.10(a)) • There are no requirements for FIs to identify a natural person exercising ultimate control of the legal person (c.10.10(b)) • There are no requirements for FIs to verify a senior managing official where no natural person is identified (c.10.10(c)) • There are no requirements for FIs to identify and take reasonable measures to verify the identity of beneficial owners of foreign trusts or other types of legal arrangements (c.10.11(a)) • FIs other than banks and ODTIs are not required to apply CDD requirements to existing customers. Banks and ODTIs are not required to take into account whether and when CDD measures were previously undertaken and the adequacy of data obtained (c.10.16) • FIs other than banks and ODTIs are only required to apply enhanced due diligence in respect of operations carried out with PEPs (c.10.17) • FIs other than banks and ODTIs are not required to not open the account or commence business relations or perform the transaction or terminate the business relationship if CDD measures are not complied with (c.10.19(a)) • FIs other than banks and ODTIs are not required to consider making an STR in relation to the customer (c.10.19(b)) • FIs are not allowed to not pursue CDD where they reasonably believe performing the CDD process will tip-off the customer (c.10.20)
11. Record keeping	LC	<ul style="list-style-type: none"> • FIs other than banks and ODTIs are not required to provide records of CDD information and transaction records to competent authorities swiftly (c.11.4)
12. Politically exposed persons	LC	<ul style="list-style-type: none"> • There is explicit requirement for FIs to put in place risk management systems to determine whether a customer or a beneficial owner is a foreign PEP (c.12.1(a)). • MTOs are not required to obtain senior management approval where the foreign PEP is a beneficial owner. For FIs other than banks, ODTIs and MTOs there is no requirement to obtain senior management approval before

		<p>establishing or continuing a business relationship with a foreign PEP (c.12.1(b)).</p> <ul style="list-style-type: none"> • Other than banks and ODTIs, FIs are not required to take reasonable measures to establish the source of wealth and source of funds for customers or beneficial owners of foreign PEPs (c.12.1(c)). • Other than banks and ODTIs, FIs are not required to conduct enhanced ongoing monitoring of the relationship with a foreign PEP (c.12.1(d)). • There is explicit requirement for FIs to put in place risk management systems to determine whether a customer or a beneficial owner is a domestic PEP or person who has been entrusted with a prominent function by an international organisation (c.12.2(a)). • The deficiencies in c.12.1(b)-(d) apply equally to domestic PEPs and persons entrusted with a prominent function by an international organisation ((c.12.2(b)). • The deficiencies in c.12.1 and c.12.2 apply to close family members and people known to have close corporate relationships with PEPs (c.12.3) • There are no requirements for FIs to take reasonable measures to determine whether the beneficiaries and/or beneficial owner of a beneficiary is a PEP or to determine this before time of payout of policy proceeds (c.12.4)
13. Correspondent banking	LC	<ul style="list-style-type: none"> • There is no requirement gather information on whether the respondent bank has been subject to an ML/TF investigation or regulatory action (c.13.1(a)) • There is no obligation for FIs to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks (c.12.3)
14. Money or value transfer services	LC	<ul style="list-style-type: none"> • MVTs providers are not required to include their agents in their AML/CFT programs or monitor them for compliance with these programs (c.14.5)
15. New technologies	NC	<ul style="list-style-type: none"> • No assessment of ML/TF risks relating to new technologies has been conducted by either Timor-Leste authorities or FIs (c.15.1) • There are major shortcomings with assessing and taking appropriate measures to manage and mitigate risks associated with the misuse of technological developments in ML/TF (c.15.2) • Timor-Leste has not identified and assessed its ML/TF risks relating to VA activities, and does not have any mitigating measures or VA/VASP framework in place (c.15.3) • There is no licensing or registration regime for VASPs nor fit and proper person controls (c.15.4) • Timor-Leste has not taken action to identify natural or legal persons that carry out VASP activities or apply appropriate sanctions (c.15.5) • VASPs are not subject to AML/CFT supervision (c.15.6) • VASPs are not covered by Timor-Leste's AML/CFT regime and there are no guidelines of feedback provided to assist in complying or in detecting and reporting suspicious transactions (c.15.7) • There are no sanctions applicable to VASPs or their directors and senior management for non-compliance with AML/CFT requirements (c.15.8) • VASPs are not subject to preventive measures requirements (c.15.9) • VASPs are not subject to TFS requirements (c.15.10) • There is no VASP supervisor and deficiencies in R.36-40 apply (15.11)
16. Wire transfers	LC	<ul style="list-style-type: none"> • For wire transfers below USD 1,000 there is no requirement for FIs to verify originator or beneficiary information when there is a suspicion of ML/TF (c.16.4). • the AML/CFT Law only provides a general obligation requiring FIs to maintain information pertaining to wire transfer for at least five years after completing transactions. There is no explicit requirement for ordering FIs to maintain all originator and beneficiary information (c.16.7),The minor deficiencies identified in c.16.4 and 16.7 apply to c.16.8 • The AML/CFT Law and BCTL's Instructions do not set out explicit record keeping requirements for intermediary institutions (16.10) • There is no explicit provision to identify cross-border wire transfers lacking required beneficiary information (c.16.11)There are minor shortcomings in the wire transfer obligations for Banks and ODTIs and for domestic wire transfers by e-Wallet service providers. There is no obligation for MTOs to collect the originators date of birth and there are no obligations for ordering MTOs relating to batch files. MTOs do not have an option to take a de minimis threshold approach. (16.16)

17. Reliance on third parties	NA	
18. Internal controls and foreign branches & subsidiaries	LC	<ul style="list-style-type: none"> • No requirement for non-banking FIs to appoint the compliance officer at the management level (c.18.1) • There is no enabling legislation for financial groups or subsidiaries (c.18.2) • There is no enabling legislation for financial groups or subsidiaries (c.18.3)
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • No obligation for non-bank FIs to apply enhanced customer due diligence as required by the FATF Standards (c.19.1) • There is no explicit requirement for FIs to apply countermeasures when called upon by the FATF or independently of any call by the FATF (c.19.2) • No measures in place to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries (c.19.3)
20. Reporting of suspicious transaction	LC	<ul style="list-style-type: none"> • There are deficiencies in the range of crimes that are criminalised in Timor-Leste and the coverage of ML predicate offences (c.20.1) • There is no explicit requirement that STRs must be reported regardless of the amount (c.20.2)
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> • There is no explicit legal provision to define 'disclosing party' so it is unclear if protections for disclosing parties extends to cover directors, officers and employees of financial institutions who file STRs (c.21.1) It is not explicit whether directors, officers and employees are covered under the term 'Funcionario' (c.21.2)
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> • Source documents, data and information used for verification purposes are not required to be reliable and deficiencies in R.10 apply to R.22 (c.22.1) • CDD requirements for DPMS do not apply to transactions where the DPMS is paying the customer (c.22.1(c)) • CDD requirements for lawyers and other independent legal professionals apply only when providing financial services or financial or real estate operations (c.22.1(d)) • There are no CDD obligations applicable to trust and company service providers (c.22.1(e)) • Gaps in the scope of DNFBP coverage cascades to this criterion (c.22.2) • For foreign PEPs, there is no requirement that measures be risk-based, that senior management approval be required before establishing or continuing a business relationship or that EDD measures should be taken. For domestic PEPs, there is no requirement to apply measures when there is a higher-risk business relationship. These gaps also apply to family members and close associates and gaps in the scope of DNFBP coverage cascades to this criterion (c.22.3) • There are no requirements for DNFBPs to comply with R.15 and gaps in the scope of DNFBP coverage cascades to this criterion (c.22.4)
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • Lawyers and other independent legal professionals are only required to submit STRs in limited circumstances (c.23.1(a)) • There is no obligation on DPMS to report attempted transactions (c.23.1(b)) • TCSPs have no STR reporting obligation (c.23.1(c)) • DNFBPs are not required to, have regard to ML/TF risks and size of the business, appoint a compliance officer at the management level or be applicable to group-wide programs or to foreign branches, subsidiaries, or majority-owned subsidiaries. Gaps in the scope of DNFBPs also cascade to this criterion (c.23.2) • There are no requirements for DNFBPs to apply enhance due diligence measures where called for by the FATF or apply countermeasures when called upon by the FATF or independently, or to have measures in place to ensure DNFBPs are advised of concerns about weaknesses in AML/CFT systems of other countries (c.23.3) • There are no protections for disclosures made in good faith for directors, officers or employees of DNFBPs. There are no protections for DPMS and their directors, officers or employees. Tipping-off obligations do not apply to officers and directors of DNFBPs and there is no prohibition on disclosures by DPMS their directors, officers and employees (c.23.4)
24. Transparency and beneficial	PC	<ul style="list-style-type: none"> • The procedure for communicating beneficial owner information to SERVE I.P. is unclear, as is the type of information to be made available and deadlines by which it must be provided (c.24.1)

ownership of legal persons		<ul style="list-style-type: none"> • Timor-Leste has not assessed the ML/TF risk of all types of legal persons (c.24.2) • Information on companies is incomplete (c.24.3). • Companies are not required to maintain proof of incorporation and basic regulating powers. There is no general obligation for all companies, foundations and associations to maintain a register of all their shareholders and members (c.24.4) • The Business Registration Authority holds incomplete and not up-to-date company information (c.24.5) • The procedure for communicating to SERVE I.P. information on beneficial ownership, and the deadlines for this are unclear and do not result in accurate and up-to-date BO information being available to competent authorities.. There are no requirements for non-commercial legal persons to verify the identity of BOs. Implementation of obligations for FI/DNFBPs to obtain BO in the course of CDD obligations do not result in accurate and up-to-date BO information being available to competent authorities. (c.24.6) • There is no requirement for non-commercial legal persons to maintain accurate and up-to-date BO information (c.24.7) • There is no requirement for natural persons or DNFBPs to cooperate with competent authorities on behalf of legal persons (c.24.8) • It is unclear whether BO information for occasional transactions is required to be kept for five years and the requirement to keep maintain information and records does not extend to all persons, authorities and entities (c.24.9) • There are deficiencies with respect to BO information held by financial institutions (see R.10) (c.24.10) • There are no mechanisms to ensure bearer share warrants are not misused for ML or TF (c.24.11) • Sanctions applied at the lower end of the scale are not proportionate or dissuasive (c.24.13) • There is no evidence demonstrating that cooperation on BO information is rapidly provided (c.24.14) • There are no mechanisms to monitor the quality of assistance received from other countries regarding BO information (c.24.15)
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • Trust and company service providers are not captured as reporting entities in Timor-Leste. There are no obligations on professional trustees to maintain information for five years after their involvement with the trust ceases (c.25.1(c)) • There are no requirements for trustees to keep records accurate and up-to-date (c.25.2) • Trustees are not required to disclose their status to financial institutions and DNFBPs (c.25.3) • There are no provisions allowing timely access to information held by trustees (c.25.5) • There are only mechanisms to ensure access to information held by reporting entities and companies and there is no requirement that cooperation on beneficial ownership be provided rapidly (c.25.6) • There are no measures or sanctions to ensure trustees comply with their legal obligations (c.25.7) • There are no sanctions applicable to trustees for failing to disclose information about the trust (c.25.8)
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> • There is no supervisor with responsibility for regulating and supervising (or monitoring) credit cooperatives and pawnshops (c.26.1) • Credit cooperatives and pawnshops are not required to be licenced but must register as legal entities with SERVE I.P. (c.26.2) • There are no criminal record checks for shareholders of ODTIs or measures to prevent associates of criminals from being beneficial owners, for life insurers fit and proper measures apply only to founding members of the insurance company and there are no controls relating to beneficial owners, for insurance intermediaries there are no measures applying to beneficial owners, for MTOs there are no measures to disqualify a person convicted of a crime, for CIBs measures do not apply to all criminal offences, there are no disqualification provisions and measures do not apply to beneficial owners, for e-wallet providers there are no disqualification measures in place, for finance companies there are no disqualification provisions and measures do

		<p>not apply to beneficial owners, and for the micro-finance sectors (credit cooperatives, pawnshops, microcredit) there are no controls to prevent criminals or their associates from holding a significant or controlling interest or holding a management function (c.26.3)</p> <ul style="list-style-type: none"> • There are no regulations on the application of consolidated group-wide supervision for AML/CFT purposes for core principles financial institutions (c.26.4(a)) • Credit cooperatives, pawnshops and microcredit financial institutions are not subject to regulation and supervision or monitoring and there is no group-wide supervision for all other financial institutions (c.26.4(b)) • It is not evident how BCTL identifies ML/TF risks and policies, internal controls and procedures associated with a financial institution to determine the frequency and intensity of on-site and off-site AML/CFT supervision (c.26.5(a)) • ML/TF risks present in the country are not used to determine the frequency and intensity of on-site and off-site supervision (c.26.5(b)) • BCTL does not consider the characteristics of financial institutions, their diversity and number and the degree of discretion allowed (c.26.5(c)) • Supervisors do not appear to reassess the risk profile of financial institutions periodically or when there are major events or developments in the management and operations of financial institutions (c.26.6).
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • There is no supervisor to monitor and ensure compliance by credit cooperatives and pawnshops (c.27.1) • There is no supervisory with authority to conduct inspections of credit cooperatives and pawnshops (c.27.2) • There are no specific provisions in the AML/CFT Law empowering BCTL to compel production of reports or materials relevant to monitoring compliance with AML/CFT requirements. The deficiency relating to credit cooperatives and pawnshops also cascades to this criterion (c.27.3) • There is no supervisory authorised to impose sanctions on credit cooperatives and pawnshops and the minor deficiencies regarding microfinance institutions identified in c.27.1 also have a cascading effect on this criterion (c.27.4)
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> • There is no designated competent authority or SRB responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements (c.28.2) • There are no systems for monitoring compliance of other categories of DNFBPs with AML/CFT requirements (c.28.3) • There is no designated competent authority or SRB for DNFBPs (c.28.4(a), prevent criminals or their associates from being professionally accredited or hold a significant or controlling interest, or holding a management function of a DNFBP (c.28.4(b), and as there are no appointed supervisors to monitor and detect non-compliance, there are no sanctions for non-compliance (c.28.4) • There is no risk-based supervision of DNFBPs (c.28.5)
29. Financial intelligence units	LC	<ul style="list-style-type: none"> • Shortcomings impacting STR reporting obligations as set out in R.20 and R.23 including not all DNFBPs have an obligation to report STRs (see R.22) and there is no legal requirement to have threshold reporting on wire transfers submitted to UIF (c.29.2) • Operational analysis does not use all available and obtainable information such as cross-border declarations, tax information or wire transfer reports (c.29.4(a)) • The UIF conducts very limited strategic analysis and does not use all available and obtainable information (see c.29.4(a)) (c.29.4(b)) • There is no specific or additional security clearance required by UIF staff and other than for STR information, there is no SOP or guidelines to ensure staff understand their responsibilities for handling and disseminating sensitive and confidential information (c.29.6(b)) • It is unclear how the UIF obtains and deploys its resources (c.29.7(d))
30. Responsibilities of LEAs	C	

31. Powers of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • There are no broad powers for LEAs to conduct undercover operations when investigating predicate offences other than for a limited set offences (c.31.2(a)) • There are no broad powers for LEAs to access computer systems during the investigation of all predicate offences other than for a limited set offences (c.31.2(c)) • LEAs cannot conduct controlled deliveries other than for a limited set offences (c.31.2(d)) • There is no requirement for the identification of the holder or controller of an account to be identified in a timely manner (c.31.3(a)) • There is no mechanism to ensure competent authorities have a process to identify assets without prior notification of the owner (c.31.3(b))
32. Cash couriers	PC	<ul style="list-style-type: none"> • The declaration system does not include declaration of cash or BNIs sent through mail or cargo. Passenger declarations do not cover legal persons and no outbound declaration is required. In practice the declaration system is implemented for incoming passengers only (c.32.1). Legislation does not extend to declarations of cash or BNIs sent through mail or cargo, it is only implemented for inbound travellers.(c.32.2)There is no designated competent authority mandated to request and obtain further information from the carrier with regard to the origin of the currency or BNI, or their intended use (c.32.4) • No declarations are received from the shipment of cash or BNIs through mail and cargo (c.32.6) • It is unclear whether adequate coordination amongst Customs, immigration and other related authorities exists on issues related to the implementation of Rec.32 (c.32.7) • There is no legal framework or mechanism for international cooperation and assistance (c.32.9)
33. Statistics	PC	<ul style="list-style-type: none"> • Statistics on STRs are not comprehensive or current (c.33.1(a)) • There are no consolidated national statistics on ML investigation and not all agencies maintain accurate statistics (c.33.1(b)) • Statistics on property frozen, seized and confiscated held by PGO were not provided and Customs maintains very limited statistics (c.33.1(c)) • Authorities maintain only basic statistics on MLA and other informational international cooperation and no statistics are maintained at the national level (c.33.1(d)) • It is unclear whether Timor-Leste has a legal requirement to keep TF-related statistics (c.33.1(a)-(d)).
34. Guidance and feedback	PC	<ul style="list-style-type: none"> • No guidelines have been issued to FIs or DNFBPs by supervisory authorities on techniques to detect suspicious transactions or ML/TF trends. The only publicly available information is UIF's annual report on STR statistics and typologies last published in 2020 (c.34.1) • There are no supervisors or SRBs for DNFBPs (c.34.1)
35. Sanctions	PC	<ul style="list-style-type: none"> • Sanctions are not proportionate and dissuasive as there are no criminal or civil sanctions. The quantum of fines is on the lower end for individuals and are not considered dissuasive for legal persons. There are no applicable sanctions for NPOs or VASPs (c.35.1) • Deficiencies described in c.35.1 cascade to this criterion
36. International instruments	LC	<ul style="list-style-type: none"> • Timor-Leste's minor shortcomings in its implementation of the Palermo Convention is based on gaps in the ML offence relating to categories of predicate offences not being captured as discussed in R.3 (c.36.2). • Timor-Leste has partly implemented the relevant articles of the TF Convention however, TF is not fully criminalised on the basis of the TF Convention ((c.36.2)
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> • While there is a broad range of MLA, there is no evidence that the cooperation is rapidly provided (c.37.1) • Minor deficiencies remain for example no case management system exists to monitor progress on requests. (c.37.2)
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> • the gap in the coverage of predicate and the ML offences and the gaps with the TF offence could undermine the scope of MLA that can be provided for asset recovery (c.38.1)

		<ul style="list-style-type: none"> • It remains unclear whether Timor-Leste has the authority to take actions in response to requests by foreign countries to identify, freeze, seize or confiscate property of corresponding value (c.38.1) • No formal arrangements in place for coordinating seizure and confiscation actions with other jurisdictions (c.38.3(a)) • No mechanisms for managing and disposing of property frozen, seized or confiscated (c.38.3(b))
39. Extradition	LC	<ul style="list-style-type: none"> • Timor-Leste manually monitors extradition procedures and does not have a case management system of prioritisation (c.39.1) • Extradition shall be refused when the person claimed is a Timor-Leste national and is in its territory (c.39.2) • The deficiencies identified in the coverage of the ML and TF offences impacts the dual criminality requirement for extradition (c.39.3)
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> • The legal framework for non-judicial international cooperation is at the respective agency level however the relevant mechanisms do not explicitly cover that competent authorities can rapidly provide the widest range of international cooperation (c.40.1) • Timor-Leste did not demonstrate that authorities other than UIF are authorised to use the most efficient means of cooperation (c.40.2(b)) • No legal provisions for the prioritisation or timely execution of international requests (c.40.2(d)) • No legal provisions addressing whether clear processes are in place for safeguarding information received through international cooperation (c.40.2(e)) • No legal requirement or procedures stipulating that multilateral or bilateral agreements/arrangements must be negotiated and signed in a timely way (c.40.3) • There is no legal requirement that requires competent authorities to provide timely feedback on request (c.40.4) • Timor-Leste does not have legislation that explicitly enables prohibits or places unreasonable or unduly restrictive conditions on the exchange of information/assistance (c.40.5) • Not all competent authorities have established controls and safeguards for information being exchanged (c.40.6) • No legal provision for LEAs to conduct inquiries on behalf of, and exchange information with, foreign counterparts (c.40.8) • There is no legal provision for Timor-Leste to exchange AML/CFT information for supervisory purposes (c.40.12) • Timor-Leste has not demonstrated that it is able to exchange information held by financial institutions with foreign counterparts, including for AML/CFT purposes (c.40.13) • Timor-Leste did not demonstrate that the BCTL is able to conduct inquiries on behalf of foreign counterparts, or to facilitate inquiries by those counterparts (c.40.15) • No specific legal provisions covering prior authorisation being required before dissemination or exchange of information from the requesting financial supervisor (c.40.16) • It is unknown whether MOUs cover exchanging non-judicial information with foreign counterparts for intelligence or investigate purposes relating to ML, associated predicate offences or TF (c.40.17) • It is not clear how other competent authorities aside from CAC are able to exchange information indirectly with non-counterparts (c.40.20)

GLOSSARY

Acronym	Explanation
AML/CFT	Anti-Money Laundering and Counter-Financing Terrorist
BCTL	<i>Banco Central de Timor-Leste</i> Central Bank of Timor-Leste
CAC	<i>Comissão Anti-Corrupção</i> Anti-Corruption Commission
CEBs	Currency Exchange Bureaux
CNCBC	<i>Comissão Nacional para a Implementação das Medidas de Prevenção e Combate ao Branqueamento de Capitais e ao Financiamento do Terrorismo</i> (The National Coordination Committee)
DNFBP	Designated non-financial businesses and professionals
e-RON	<i>Sistema Eletróniku ba Relatóriu Operasaun Numeráriu</i> Electronic System of Cash Transaction Report
FI	Financial Institution
UIF	<i>Unidade de Informação Financiera</i>
FIU	Financial Information Unit of Timor-Leste
MTO	Money Transfer Operator
MOPI	<i>Manual de Operação e Procedimentos Interno</i> Operating Manual and Internal Procedures
NGO	Non-Governmental Organization (<i>Non-Profit Organization</i>)
NRA	National Risk Assessment
NSP	National Strategic Plan
ODTI	Other Deposit Taking Institution
PCIC	<i>Policia Cientifica Investigação Criminal</i> Scientific Police of Criminal Investigation
PF	Proliferation Financing
PGO	<i>Procurador Geral da Republica</i> Prosecutor General Office
SERVE I.P.	<i>Serviço de Registo e Verificação Empresarial, Instituto Público</i> Businesses and Companies Registry
STR	Suspicious Transaction Report
TFS	Targeted Financial Sanctions
UNSCR	United Nations Security Council Resolution
UNTAET	United Nations Transitional Administration in East Timor



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Anti-money laundering and counter-terrorist financing measures –Timor-Leste

3rd Round APG Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML)/countering the financing of terrorism (CFT) measures in place in Timor-Leste as at September 2023. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Timor-Leste's AML/CFT system, and provides recommendations on how the system could be strengthened.