



Asia/Pacific Group
on Money Laundering

APG ANNUAL MEETING 2011

[Chinese Taipei DPR 2011 – [REV1](#)]

SECRETARIAT NOTE

THIRD YEAR DETAILED PROGRESS REPORT: CHINESE TAIPEI

Purpose

1. In accordance with paragraph 99 of the *APG Mutual Evaluation Procedures 2010–11* adopted at the 2010 Annual Meeting, this Secretariat Note presents for consideration the Detailed Progress Report (DPR), Analysis Report and associated documents for Chinese Taipei.

Background

2. Chinese Taipei's mutual evaluation report was adopted in 2007. Under the revised mutual evaluation procedures adopted by the APG in 2010, Chinese Taipei was required to file a DPR in January 2011 for consideration at the 2011 Annual Meeting. In February 2011, the APG Secretariat conducted a preliminary analysis of Chinese Taipei's DPR in accordance with paragraph 93 of the mutual evaluation procedures. This preliminary analysis was considered by the APG Steering Group (SG) in March 2011, and the SG agreed with the Secretariat's recommendation that Chinese Taipei's DPR should be subject to full, detailed analysis of progress by a Review Team. The Review Team's Analysis Report was completed in consultation with Chinese Taipei and the recommendation to the Plenary contained in the Analysis Report was considered out of session and endorsed in principle by the SG.

Documents

3. Attached are:
 - The detailed Analysis Report prepared by the APG Review Team (dated 2 June 2011) which analyses the information provided by Chinese Taipei in its DPR and subsequently; and
 - Chinese Taipei's DPR (dated 21 January 2011).

Recommendation to Plenary

4. The Analysis Report (paragraph 86 and 87) makes the following recommendation to the Plenary:
 86. While Chinese Taipei has requested to move from regular to biennial follow-up, as noted above this can only be considered where a member has implemented the 6 core FATF Recommendations at a level essentially equivalent to C or LC. As noted above, while progress has been made by Chinese Taipei, it remains at an NC/PC level for 5 of the 6 core Recommendations.

87. Bearing in mind the above, it is recommended that Chinese Taipei remain under **regular follow-up** in accordance with paragraph 100 of the APG's mutual evaluation procedures and should be required to provide a progress report by 31 ~~January~~ **May** 2012 on progress made against the remaining core/key Recommendations rated NC/PC, including provision of comprehensive statistical information as appropriate.

APG Secretariat
| ~~20 June~~ 5 July 2011

CHINESE TAIPEI

THIRD YEAR DETAILED PROGRESS REPORT: DETAILED ANALYSIS REPORT (AR) BY APG REVIEW TEAM

Key points/issues for discussion

Chinese Taipei's 2007 mutual evaluation report (MER) included **11 NC/PC ratings** in relation to the 16 core/key FATF Recommendations.

This AR finds that Chinese Taipei has made progress in relation to a number of FATF Recommendations and that the level of compliance with **two** core/key Recommendation previously rated NC/PC now appears to be at a level equivalent to a LC. Compliance remains at the NC/PC level for **9** of the 16 core/key Recommendations.

Action: Plenary to consider the recommendation at paragraph 84 of this report – Chinese Taipei should be subject to regular follow-up under the APG's mutual evaluation procedures

I. INTRODUCTION

1. This detailed review was conducted by the following APG Review Team:
 - Legal issues: Gordon Hook, Executive Secretary, APG Secretariat
 - Financial/regulatory issues: Razim Buksh Director, Financial Intelligence Unit, Reserve Bank of Fiji
 - Law enforcement/FIU issues: Detective Sergeant Craig Hamilton, New Zealand Police Force
 - Shaun Mark, Principal Executive Officer APG Secretariat
2. Mr Buksh and Mr Hamilton took part in the original mutual evaluation of Chinese Taipei. The on-site visit to Chinese Taipei was conducted between 28 January 2007 and 10 February 2007. The MER was adopted at the 2007 Annual Meeting. Chinese Taipei is seeking to move from regular follow-up to biennial follow-up¹.
3. Chinese Taipei is currently subject to regular follow-up and is seeking to move from regular to biennial (reduced) follow-up.
4. Chinese Taipei was rated NC or PC in relation to **25** of the 49 FATF Recommendations, including **11** of the 16 core/key Recommendations, as follows:

¹ Under the APG Mutual Evaluation Procedures (paragraph 85), biennial follow-up applies where a member is rated LC or C for the six core Recommendations on adoption of the MER, or if the Plenary decides the member has taken 'sufficient action' to be removed from regular follow-up ie to have implemented the six core Recommendations at a level essentially equivalent to a C or LC.

CORE Recommendations² rated NC or PC	
PC	1, 5, 10, 13
NC	SRII, SRIV.
KEY Recommendations³ rated NC or PC	
PC	35, 40.
NC	SRI, SRIII, SRV.
OTHER Recommendations rated NC or PC	
PC	2, 11, 18, 25, 33, 34, SRIX.
NC	6, 12, 16, 20, 21, 24.

II. INCLUSION IN THE FATF'S ICRG PRIMA FACIE OR TARGETED REVIEW PROCESS

5. Based on the MER ratings (ie NC/PC ratings for 11 of the 16 core/key Recommendations) and the size of its financial sector, Chinese Taipei was reviewed on a prima facie basis by the ICRG. The prima facie review, which was adopted by the FATF at its October 2009 Plenary, recommended that Chinese Taipei be subject to no further comprehensive review by the ICRG given the progress made to address key deficiencies and the high degree of commitment shown by Chinese Taipei to reform its AML/CFT regime to comply with the FATF standards.

III. OVERVIEW OF PROGRESS MADE BY EVALUATED MEMBER

6. In accordance with paragraph 96 of the APG's Mutual Evaluation Procedures, the Review Team has analysed the progress made by Chinese Taipei for each core/key Recommendation rated NC or PC in the MER, using the information provided by Chinese Taipei in its Detailed Progress Report (DPR) of 21 January 2011 to determine whether 'sufficient progress' has been made⁴.

Core/key recommendations

Legal Issues and International Co-operation

Recommendation 1: ML Offence

7. Deficiencies in Chinese Taipei's ML offence noted in the MER included:
- The ML offence lacks some of the elements outlined in Article 3(1)(b)(c) of the Vienna Convention and Article 6(1) of the Palermo Convention;
 - The threshold for what is a serious offence is too high;
 - Predicate offence conviction required that a ML offence is proved;

² The core Recommendations as defined in the FATF procedures are R.1, SRII, R.5, R.10, R.13 and SRIV.

³ The key Recommendations are R.3, R.4, R.26, R.23, R.35, R.36, R.40, SRI, SRIII, and SRV. Such recommendations are carefully reviewed when considering removal from the follow-up process.

⁴ Sufficient progress' is met when the member has implemented a Recommendation at a level essentially equivalent to a C or LC using the FATF *AML/CFT Assessment Methodology 2004*, but taking into consideration that there would be no formal re-rating.

- Terrorism and terrorist financing (TF) are not predicate offences.
8. An amendment to the Money Laundering Control Act (MLCA) was enacted on 19 May 2009. The legislative amendment appears to have incorporated freezing provisions. There is however no indication in the DPR whether the ‘serious offence’ threshold has been lowered. Similarly, there is no indication whether conviction for a predicate offence as a precursor to ML has been rectified.
 9. It is not clear from the wording of the MLCA whether terrorism and TF are predicate offences to ML. Authorities have not provided the statutes referred to in the MLCA that support their claim that TF is a predicate to ML. Without that material the team cannot confirm the authorities’ statements that it is.
 10. On this basis, Chinese Taipei has not made “sufficient progress” on Recommendation 1 that would bring its level of compliance to a level equivalent to a LC or C.

Special Recommendation II: Criminalisation of TF and associated ML.

11. SR II was rated NC as TF had at the time of the on-site visit not been criminalised.
12. In May 2009 the Money Laundering Control Act (MLCA), Article 11, paragraph 3 was amended to provide that:

...any person who collects or provides property or property interests for him or herself or others to commit any of the following 26 counts of crimes, thereby intimidating the public or threatening the government, a foreign government or institution, or an international organization shall be imprisoned for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed.
13. The words “property or property interest” are not defined in the MLCA. However, the term “property or property interest derived from the commission of the crime” is defined in Article 4 of the MLCA to mean “property or benefits on property” and “remuneration” and “property or property interests derived from both”. It is not clear that what can be extrapolated from this definition is wide enough to cover what is intended by the term “funds” in the TF Convention. It does not look like it can.
14. This offence does not comply with SR II for a variety of reasons:
 - It requires that the offence be linked to one of the listed terrorist acts and does not encompass funding terrorist organisations or an individual terrorist (II.1).
 - It requires that the funding be linked to intimidating the public or threatening the government, a foreign government or institution, or an international organization (additional element not required by SR II).
 - It does not include collecting or providing property “by any means directly or indirectly” (II.1(a)).
 - “property or property interest” is not wide enough to include what is required by the definition of “funds” in the TF Convention (II.1(b)).
 - Nothing in the construction of this offence looks like it complies with criterion II.3
15. While the amendment to the MLCA is welcome, Chinese Taipei has not made “sufficient progress” on SR II that would bring its level of compliance to a level equivalent to a LC or C.

Special Recommendation III: Freezing and confiscating terrorist assets

16. The 2007 MER noted that Chinese Taipei lacked effective laws and procedures to freeze terrorist funds or other assets pursuant to UNSCRs 1267 and 1373. Since 2007, Chinese Taipei has enacted measures in the MLCA, Foreign Exchange Control Act and the Offshore Banking Act in an attempt to redress this deficiency.
17. MLCA: Under Article 9, a prosecutor must be satisfied that there is sufficient evidence to prove that the offender has committed a predicate offence under the MLCA and if so he or she may request the court's approval within three days whenever the prosecutor has reasonable ground to believe the property or property interests obtained by or from the commission of crime is likely to disappear.
18. It is clear that this provision establishes an asset freezing mechanism only in the context of investigating and prosecuting offences involving laundering the proceeds of predicate offences. It does not establish a mechanism to freeze assets of terrorists whether designated by 1267 or 1373. Neither those UN resolutions nor SR III require criminal allegations to be made before asset freezes can occur.
19. Foreign Exchange Control Act (FECA): Changes to this Act at Article 19-3 provide that the Financial Supervisory Commission (FSC) may, with the government's approval, issue orders to specified banks to block accounts,

...held by individuals or entities...of certain countries or regions that are suspected of directly or indirectly using the accounts, money transfers, currencies or other instruments of payment to finance terrorism or terrorist organizations, or engage in activities threatening international security suspected of directly or indirectly using the accounts, money transfers, currencies or other instruments of payment to finance terrorism or terrorist organizations, or engage in activities threatening international security.
20. This provision is limited in scope to foreign exchange transactions and requires an order by the FSC with the government's approval. As such, it cannot be said that the mechanism, when it does apply, is designed to "freeze without the delay".
21. The mechanism also requires that account blockings occur only if they are held by individuals or entities "that are suspected of directly or indirectly using the accounts, money transfers, currencies or other instruments of payment to finance terrorist organizations, or engage in activities threatening international security." This means that an account of a 1267 listed entity in Chinese Taipei could only be blocked if there were suspicion it was being used to finance terrorist organisations or to engage in threats to international security. UNSCR 1267 does not require this. It simply requires that an asset of a listed terrorist be frozen regardless of the purpose for which it is being held or motive of the terrorist organisation or entity.
22. Also, this mechanism fails to comply with a number of other essential criteria in SR III:
 - No unfreezing mechanism is in the legislation;
 - No mechanism to delist persons exists;
 - No guidance to financial institutions to implement a freezing order has been issued.
23. Off Shore Banking Act: Art 5-2 of this Act says essentially the same thing as the FECA and therefore suffers from the same deficiencies.
24. On the basis of this analysis, while some progress has been made, Chinese Taipei has not made "sufficient progress" on SR III that would bring its level of compliance to a level equivalent to a LC or C.

Recommendation 35, 40, SR I and SR V: Conventions, Cooperation, UN Instruments.

25. Chinese Taipei is unable to ratify UN Conventions for the reasons stated in the MER although it has enacted domestic legislation since the MER of 2007 to further implement the standards in relevant UN Conventions.
26. As outlined above, the amendments to the MLCA in order to implement Recommendation 1 and SR II contain deficiencies and therefore compliance with Recommendation 35, SR I and SR V cannot be said to be higher than equivalent to a PC as the conventions are not fully implemented.
27. Chinese Taipei has taken significant steps to establish both formal and informal relationships with other APG members and outside the region. With respect to FIU cooperation, the Anti Money Laundering Division (AMLD) exchanges information with external counterparts and has detailed statistics on the establishments of MoUs to demonstrate cooperation. Beyond that, Chinese Taipei has assisted APG members with Egmont Group membership applications.
28. The AMLD continues to develop relationships through formalising information exchange agreements. Additional competent authorities being the FSC, CIB, and Customs have each developed and formalised agreements with foreign counterparts to enhance mechanisms for the exchange of information. These efforts collectively are reflective of a desire to provide effective frameworks for international co-operation. At this time statistics have not been provided which evidence that these processes are being utilised by all competent authorities to enable the prompt and efficient exchange of information from and on behalf of foreign counterparts.
29. Chinese Taipei has made “sufficient progress” on Recommendation 40 that would bring its level of compliance to a level equivalent to a LC or C.

Financial/regulatory issues

Recommendation 5: CDD

30. Chinese Taipei was rated PC for R5 for a variety of reasons. The Financial Supervisory Commission (FSC) has partially addressed the deficiencies by taking a two-tier approach. Firstly, the FSC issued “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” in 2008 that was intended to address the CDD concerns. Secondly, the associations regulated by the FSC (such as the bankers association, securities association, etc) have revised their respective “Checklists of Money Laundering Prevention Guidelines”. This approach is also supported under Article 6 of the amended MLCA dated 10 June 2009 which requires all financial institutions to have in place appropriate money laundering prevention guidelines and procedures that need to be endorsed by their respective regulatory bodies.
31. However, deficiencies continue to exist for essential criterion 5.5.2 on ownership and control structures on customers who are “non-individuals” (or legal persons).
32. Additional references to various “*checklists*”, “*guidelines*” and “*regulations*” governing the securities, futures and insurance sectors have been provided. However, the provisions do not fully address the MER recommendations as follows:
 - Selected application of requirements (for example, identification of shareholders is only required for foreign nationals investing in domestic securities);
 - Identification of “group” that are high risk;

- Requirement to produce a customer ID form but no mention of beneficial owners;
- Only general ID requirements for “non-individual” clients for futures commission merchants;
- Only limited CDD rules for the insurance sector.

33. While progress has been made to improve compliance, Chinese Taipei has not made “sufficient progress” on Recommendation 5 that would bring its level of compliance to a level equivalent to a LC or C.

Recommendation 10: Record-keeping

34. Chinese Taipei was rated PC on R10. The requirement to keep transaction records under the MLCA remains inadequate as financial institutions are not required to keep transaction records for any non-cash transactions. Chinese Taipei also continues to rely on the Business Accounting Act for R10 requirements. BAA falls short in many respects as its main objective is targeted for businesses for accounting purposes and preparation of financial statements.

35. The BAA states under Article 38 that all accounting documents, except those which should be permanently kept or which are related to unsettled accounting events, shall be kept for at least five years after the completion of annual closing procedures. Article 15 states business entity accounting documents are divided into the following two categories: 1. Source document: The documents which prove the course of an event, based on which bookkeeping slips are prepared. 2. Bookkeeping slip: The documents, which prove the responsibilities of the person handling accounting events and serve as the basis for account keeping.

36. The BAA applies to all profit making institutions.

37. Recommendation 10 requires that financial institutions should be required to maintain records on domestic and international transactions for at least five years following the completion of the transaction. Further financial institutions should maintain records of identification, account files and business correspondence for at least five years following the termination of an account.

38. The difference between the BAA and what is required under Recommendation 10 relates to both the timing of the record keeping and what is required to be retained. The BAA requires “accounting records” be kept for five years after completion of the annual closing procedures, presumably the financial year. Recommendation 10 requires records be kept for five years after the termination or closing of an account. In addition it is not clear that all types of records are required to be retained under the BAA.

39. Additional reference has been made to Article 38 of the Business Accounting Act. However the provisions under Article 38 fall short in many ways and do not meet the essential criteria 10.1, 10.2 and 10.3.

40. Chinese Taipei has not made “sufficient progress” on Recommendation 10 that would enable a re-rating to LC or C.

Recommendation 13: STR Reporting

41. Chinese Taipei was rated PC on R13. The 2007 MER noted that Chinese Taipei did not have a clear obligation in law or regulation that required a financial institution to report a transaction that is suspicious irrespective of the amount and to report attempted transactions.
42. As noted above, the MLCA was amended in 2009. All financial institutions covered under the amended MLCA are now required to report suspicious transactions including attempted transactions, irrespective of the amount.
43. Since the 2007 MER, the relevant regulatory authorities have also issued amended guidelines/checklists for their sectors (securities, insurance, foreign exchange, banks, etc) that provide further rules on reporting STRs. For example, Articles 7 & 8 of “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” that was issued by the FSC on 18 December 2008 provides further rules and requirements for financial institutions to report STRs. Statistics provided by Chinese Taipei show a reasonable and increasing level of STR reporting over the past four years, though the great majority of STRs come from the domestic banking sector.
44. Bearing in mind that it is difficult to properly assess effectiveness in a desk-based review, it appears that Chinese Taipei has made “sufficient progress” on Recommendation 13 that would bring its level of compliance to a level equivalent to a LC or C.

Special Recommendation IV: STR Reporting TF

45. Chinese Taipei was rated NC on SRIV. The MER noted that the requirement to report STRs for terrorist financing under the MLCA Regulations and AML guidelines fell short of the requirements under SRIV primarily since the TF was not criminalized in Chinese Taipei and therefore did not constitute a ‘serious offence’. The MER recommended that clear obligations incorporating all elements as defined under SRIV should be expressly adopted in the MLCA.
46. While CT authorities have attempted to criminalise financing of terrorism as an offence under the 2009 amended MLCA, as noted above the new provision does not fully comply with SRIV requirements.
47. Having said that, Article 7 of “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” that was issued by the FSC on 18 December 2008 requires financial institutions to report STRs as follows:

“Where the ultimate beneficiary or transaction party is a terrorist or terrorist group as advised by the Financial Supervisory Commission, Executive Yuan based on information provided by foreign governments, or a terrorist organization identified or investigated by an international organization against money laundering; or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organization or financing of terrorism.”
48. Financial institutions have submitted a total of 76 STRs under this requirement since 2007, including 44 STRs in 2010. While some progress has therefore been made, Chinese Taipei has not however made “sufficient progress” on SRIV that would bring its level of compliance to a level equivalent to a LC or C.

Other (non-key/core) Recommendations

Recommendation 2: Criminal Intent

49. Chinese Taipei was rated PC on this Recommendation. No changes have been made to the offence to address the deficiencies noted in the MER. Those deficiencies include that “the law does not permit the intentional element of the offence of ML to be inferred from objective factual circumstances.”

Recommendation 6: PEPs

50. A rating of NC was given for R6 in 2007 as there was no specific legislation or guideline to deal with PEPs.
51. In 2009, Chinese Taipei’s bankers’ association issued a revised “checklist” that attempts to address some of the essential criteria under R6 as follows:

Paragraph II(I)1:

“When a client opens an account:

*The teller shall, when processing a client’s application to open an account (including individual accounts and non-individual accounts, verify at least two kinds of the client’s identity documents and keep the verified identity documents. Where an individual applies to open an account, the teller shall, other than his/her ID card, obtain other document(s) which could verify his/her identity, e.g., National Health Insurance Card, passport, driver’s license, student identity card, household registry book or household registry certificate. **The teller should, at the same time, check with the Joint Credit Information Center (“JCIC”) or conduct an enquiry through the Bank’s own database on whether the individual is a political celebrity in other countries. If yes, the teller should enforce proper control measures and conduct regular reviews on the account.”***

52. Chinese Taipei has noted in its DPR that “*all related associations have revised their checklists on ML prevention guidelines respectively to introduce the PEPs measures.*”
53. Additional material has been supplied by authorities however there appears an absence of explicit rules for PEPs.

Recommendation 11: Attention to complex, unusual transactions

54. A rating of PC was given for R11 in 2007 as there were no specific obligations on non-bank financial institutions to monitor and keep record of complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.
55. Chinese Taipei reports that additional measures were implemented for the banking sector “to exercise extraordinary diligence” for unusual transactions. Further information that has been provided by Chinese Taipei in relation to securities firms and futures sectors indicates general adequacy of R.11. It has been advised that checklists for the insurance sector also contain similar provisions however these could not be verified as sufficient material and references were not provided.

Recommendation 12: CDD and recordkeeping for DNFBPs

56. A rating of NC was given for R12 in 2007 as there were no specific AML requirements imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers. Article 5 of the amended MLCA covers only the jewellery retail business sector. Under sub-article 18, Chinese

Taipei may include other sectors, however, this has not been done and other businesses remain uncovered for AML/CFT.

57. Chinese Taipei advise that “real estate broking agencies, brokers and land administration agents shall oblige the responsibilities to prevent money laundering during business operation, any violation of laws and regulations, including the “Real Estate Broking Management Act” and the “Land Administration Act”. The reviewer was however unable to verify this.
58. The FSC has undertaken some initiatives for the accountants sector with 6 examinations of accounting firms having been conducted between 2009 and 2010, however, the purpose of examination was not to examine AML/CFT implementation. The reviewer is of the view that major shortcomings in implementing R12 remain.

Recommendation 16: STR reporting and internal controls for DNFBPs

59. A rating of NC was given for R16 in 2007 as there were no specific STR obligations imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers. Chinese Taipei has made only some progress in relation to Recommendation 16 and major shortcomings still remain.

Recommendation 18: Shell banks

60. A rating of PC was given for R18 in 2007 as the laws in Chinese Taipei did not explicitly (a) prohibit the establishment of shell banks and (b) prohibition against banks in Chinese Taipei establishing correspondent banking relationships with shell banks.
61. In October 2009, the Bankers Association issued a revised checklist for “Points for Attention by Banks on Money Laundering Prevention.” Article X of the checklist provides for the measures on correspondent/shell banks.

Recommendation 20: Application to businesses and professions other than DNFBPs

62. The 2007 MER recommended that Chinese Taipei should review the vulnerability of other non-financial businesses and professions that may be vulnerable to ML and TF (for example dealers in arts and antiques). A rating of NC was given in 2007.
63. The Anti-Money Laundering Division (AMLD), Investigation Bureau of the Ministry of Justice in Chinese Taipei has undertaken ML/TF risk/threat consideration since 2007 and has an understanding and agreement to bring the other NFBPs into the scope of AML/CFT regime based on risk posed by individual institutions under NFBPs. These reports have not been provided by Chinese Taipei.

Recommendation 21: Special attention to transactions

64. The 2007 MER identified that obligations were not imposed on financial institutions in relation to all the essential criteria in R21.
65. The FSC issued Article 7 of the “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions in 2008 addressed the R21 concerns by requiring financial institutions to verify the identity of the customer and keep the transaction record, and file STRs for *“inward remittances are from a country or region that is designated by international organizations on anti-money laundering and combating the financing of terrorism (AML/CFT) as*

a country or region with serious deficiencies in its AML/CFT regime , and other countries or regions that do not or insufficiently comply with the recommendations of international organizations on AML/CFT”.

Recommendation 24: Supervision/regulation for DNFBPs

66. Chinese Taipei was rated NC in the 2007 mutual evaluation in part due to insufficient penalties relating to illegal casino operations. Since the MER, Chinese Taipei reports that it has enacted the Sports Lottery Issuance Act 2010, which includes penalties for certain offences. However it is unclear whether this Act relates to the operation of illegal casinos. The 2007 MER identified the offence provisions under Article 268 of the Criminal Code, under which the offence of operating a casino carried an imprisonment term of not more than 3 years and a fine of 3,000 yuan.
67. Since 2008 Chinese Taipei authorities have been very active in enforcing the current prohibition on casinos and have conducted more than 6,000 cases involving more than 13,000 suspects in 2010. However it is not clear whether the suspects are gamblers or organizers and owners of illegal casinos. The offence is still found under Article 268 of the Criminal Code and the offence provisions are unchanged.
68. The Ministry of Justice has also proposed that the Bar association include AML/CFT requirements in their ethics code. In September 2009 Chinese Taipei amended the Paragraph 2 Article 33 of the Ethics Code to include “in order to prevent or mitigate substantial injury to the property of another which is reasonably certain to result or has resulted from the client’s commission of a crime, the attorney may exceptionally skimp the obligation for keeping secret”. An translated copy of the Code of Ethics was not available.
69. Certified public accountants (CPAs) are currently not covered in the MLCA. Article 19 of the Certified Public Accountants Act states that “In order to safeguard the interests of the public and promote the good of society, the competent authority may dispatch personnel to inspect the operations and operations-related financial status of a CPA firm that has been approved to provide attestation services to public companies. A CPA firm may not avoid, impede, or refuse to cooperate with such an inspection.” Article 19 only covers attestation services of CPA firms to public companies which as a normal definition is a service were a CPA will express a conclusion about a written statement, and generally relate to audit services. It is not clear that the inspections cover CPAs who have not provided audit services to public companies, or relating to AML/CFT regulatory issues in general.

Recommendation 25: Establishing guidelines and providing feedback

70. Chinese Taipei was rated PC in the 2007 Mutual Evaluation. At the time the deficiency noted was that the MLPC does not provide feedback on or acknowledgement of the receipt of STRs and STR cases that have been completed.
71. Chinese Taipei has advised that they currently provide statistics to reporting financial institutions regarding the receipt of STRs and the results of the STR each six months. Chinese Taipei provided the following table identifying the statistical data provided.

The Statistics of the Outcome of STR Analysis from Jan. 1 to June 30

Bank Code	Bank Name	Number of Reports	Status of Analysis							
			Under Analysis	Disseminated to MJIB	Disseminated to the Police	Disseminated to Tax Agency	Disseminated to Administration Agency	Disseminated to the Court or Prosecutor's Office	For Intelligence	Closed and filed to FIU Database

72. It should be noted that Recommendation 25 requires that feedback be provided to both financial institutions and DNFBPs. At the time of the 2007 MER, the only DNFBP required to report were dealers in precious metals and stones.
73. Article 6 of the amended MLCA states that “Every financial institution referred to in this Act shall establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the central authorities governing target businesses for reference.”
74. Regulations, checklists and guidelines are issued to reporting institutions by the FSC and various sector associations appear to have been effective as they are issued pursuant to the MLCA and are approved by FSC prior to being issued.
75. At this time the only DNFBP required to report STRs are jewellery businesses. Accountants, Lawyers and Real Estate Agents are not required to report under the MLCA.

Recommendation 33 and 34: Use of legal persons: beneficial ownership and transparency for legal arrangements/trusts

76. No progress has been made to address the deficiencies noted in the MER on Recommendations 33 and 34.

Special Recommendation IX: Cash couriers

77. The requirement to declare currency and BNI was amended under the MLCA Amendment 2009, Article 10 which describes the border declaration system. This system applies to foreign cash and BNIs with a requirement to declare domestic currency contained within the ‘Inward Passengers Carrying Baggage and Good Clearance Regulation’.
78. Since the 2007 evaluation there has been significant progress achieved, with the employment of an additional 723 customs service personnel. Training and mentoring programmes have also been implemented to improve the operational effectiveness of Customs Officers. Active promotion of the declaration system has seen a steady increase in the submission of reports up from 5,428 reports (2003-2006) to 24,727 (2007-2010), coupled with an enhancement processes in forwarding these reports to the AMLD is reflective of improved effectiveness of the requirements.
79. Cash confiscations (US\$1,413,980) for false or non-declaration of currency movements and a fine imposed (US\$39,500) for non-declaration of a BNI reflects increasing effectiveness in detection and awareness of the requirement to report by passengers. The mandatory confiscation of non-declared currency together with a fine regime with respect to BNI is an effective sanction.

IV. Summary

80. The tables at Annex A summarise the Review Team's findings in relation to the 11 core/key Recommendations rated NC/PC in the MER.
81. The ICRG noted in 2009 that Chinese Taipei had made significant progress to address the deficiencies in its AML/CFT regime as highlighted in its 2007 MER. Chinese Taipei has indeed shown a high degree of commitment to reform its AML/CFT regime to comply with the FATF Standards and has made progress against a range of Recommendations.
82. Chinese Taipei is seeking to move from regular review to biennial review. In order to do so, the Plenary must decide that Chinese Taipei has taken 'sufficient action' to be removed from regular follow-up ie to have implemented the six core Recommendations at a level essentially equivalent to a C or LC.
83. Chinese Taipei was rated NC or PC on all six core Recommendations in its MER. Since its MER was adopted in 2007, Chinese Taipei has made a range of improvements, in particular in relation to Recommendation 13, which has been found by this review to be at a level essentially equivalent to LC. Some progress has also been made in relation to core Recommendations 1, 5, 10, SRII and SRIV, but insufficient to reach a level of compliance equivalent to a LC or C.
84. Chinese Taipei was rated NC or PC on five of the nine key Recommendations. This review has found compliance with key Recommendation 40 to be at a level essentially equivalent to LC. Some progress has also been made in relation to Recommendation 35 and Special Recommendations I, III and V, but insufficient to reach a level of compliance equivalent to a LC or C.
85. Further progress is required therefore in relation to nine of the core/key Recommendations rated NC/PC in the 2007 MER.

V. Recommendation to Plenary

86. While Chinese Taipei has requested to move from regular to biennial follow-up, as noted above this can only be considered where a member has implemented the 6 core FATF Recommendations at a level essentially equivalent to C or LC. As noted above, while progress has been made by Chinese Taipei, it remains at an NC/PC level for 5 of the 6 core Recommendations.
87. Bearing in mind the above, it is recommended that Chinese Taipei remain under **regular follow-up** in accordance with paragraph 100 of the APG's mutual evaluation procedures and should be required to provide a progress report by 31 ~~January~~ **May** 2012 on progress made against the remaining core/key Recommendations rated NC/PC, including provision of comprehensive statistical information as appropriate.

ANNEX A

Summary of progress in relation to core/key Recommendations rated NC or PC in the MER

Table 1: Sufficient progress made on core/key Recommendations?

Rec.	DAR rating	Sufficient progress?
R1	PC	No
R5	NC	No
R10	PC	No
R13	PC	Yes
R35	PC	No
R40	PC	Yes
SRI	NC	No
SRII	NC	No
SRIII	NC	No
SRIV	PC	No
SRV	PC	No

Table 2: Current compliance with 16 core/key Recommendations

No. of core/key Recs rated NC/PC in MER	11
No. of core/key Recs where 'sufficient progress' made	2
No. of core/key Recs remaining at NC/PC level	9