

**Islamic Republic of Afghanistan: Report on Observance of Standards and Codes—
FATF Recommendations for Anti-Money Laundering and
Combating the Financing of Terrorism**

This Report on the Observance of Standards and Codes on the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism for the Islamic Republic of Afghanistan was prepared by a team of the International Monetary Fund using the assessment methodology adopted by the FATF in February 2004 and endorsed by the Executive Board of the IMF in March 2004. The views expressed in this document, as well as in the full assessment report, are those of the IMF team and do not necessarily reflect the views of the Government of the Islamic Republic of Afghanistan or the Executive Board of the IMF.

Copies of this report are available to the public from

International Monetary Fund • Publication Services
700 19th Street, N.W. • Washington, D.C. 20431
Telephone: (202) 623 7430 • Telefax: (202) 623 7201
E-mail: publications@imf.org • Internet: <http://www.imf.org>

**International Monetary Fund
Washington, D.C.**

INTERNATIONAL MONETARY FUND

ISLAMIC REPUBLIC OF AFGHANISTAN

**Report on Observance of Standards and Codes (ROSC)—FATF Recommendations for
Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)**

Prepared by the Legal Department

Approved by Sean Hagan

July 2011

ACRONYMS

Af	Afghani - the currency of Afghanistan
AML/CFT	Anti-money laundering and combating the financing of terrorism
AML/CFT RR	Regulation on the Responsibilities of Financial Institutions in the Fight against Money Laundering and Terrorist Financing
AML LD	Anti-Money Laundering and Proceeds of Crime Law (legislative decree)
CFT LD	Law on Combating the Financing of Terrorism (legislative decree)
CDD	Customer Due Diligence
CNBIR	Cash and bearer negotiable instruments report
DAB	Da Afghanistan Bank
DNFBP	Designated non-financial businesses and professions
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial intelligence unit
FinTRACA	Financial Reports and Analysis Centre of Afghanistan
FT	Financing of terrorism
KIA	Kabul international airport
LEAs	Law enforcement agencies
LEG	Legal Department of the IMF
ML	Money laundering
MLA	Mutual legal assistance
MSP	Money service providers
NPO	Nonprofit organization
PEP	Politically-exposed person
ROSC	Report on the Observance of Standards and Codes
STR	Suspicious Transaction Report
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution

A. Introduction

This Report on the Observance of Standards and Codes for the Financial Action Task Force (FATF) 40 Recommendations for Anti-Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by the IMF Legal Department¹. The report provides a summary of the AML/CFT measures in place in the Islamic Republic of Afghanistan and of the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the mission from January 23 to February 8, 2011 and other verifiable information subsequently provided by the authorities. It was conducted using the 2004 Assessment Methodology, as updated. The Detailed Assessment Report (DAR) on which this document is based was adopted by the Asia/Pacific Group on Money Laundering (APG) plenary on July 21, 2011. The views expressed here, as well as in the full assessment report, are those of the assessment team and do not necessarily reflect the views of the Government of Afghanistan or the Executive Board of the IMF.

B. Key Findings

1. **Afghanistan is one of the poorest countries in the world and, after decades of ongoing conflicts and strife, it is still at an early stage of developing its legal and institutional framework.** The main challenges that the authorities face are the precarious security situation (including regular occurrence of insurgency attacks), vested interests and corruption, capacity constraints, a large illicit narcotics sector, and a weak business environment.
2. **Measures have nevertheless been taken to fight crime, including financial crime, and to lay the foundations for an AML/CFT regime.** In particular, two legislative decrees were issued by the President in 2004 to fight against money laundering and terrorist financing (ML/TF). Although they still require Parliamentary approval, both decrees are enforceable and have been implemented, to a certain extent, by the authorities and the private sector.
3. **However, current efforts are not commensurate with the high risk of ML/TF in the country.** Illicit narcotics trade and corruption alone generate considerable amounts of illegal funds. Afghanistan is the world's largest opium producer and exporter, with an export value of opiates estimated to amount to some US\$4 billion. It also ranks amongst the most corrupt countries in the world with domestic proceeds of corruption estimated to be up to

¹ The assessment team consisted of Nadim Kyriakos-Saad, Senior Counsel (team leader); Nadine Schwarz, Senior Counsel, Emmanuel Mathias, Senior Financial Sector Expert, Chady El-Khoury, Counsel, and Melissa Tullis, Senior Projects Officer (all LEG); Emiko Todoroki, Senior Financial Sector Specialist (World Bank) and Raisa Sheynberg, Policy Advisor (U.S. Department of the Treasury).

US\$2.4 billion in 2009. Smuggling and fraud are other major sources of illegal funds. In addition, terrorism and its financing remain a major concern both in terms of the security of Afghanistan and of the funding of terrorist individuals or organizations, and terrorist acts in the country and abroad. Despite the authorities' efforts, investigations into ML and TF have been few and none of them resulted in charges being brought before the courts.

4. **Structural elements make the effective implementation of AML/CFT preventive measures challenging in some sectors.** Both rudimentary financial relations (cash-based economy, low rate of financial intermediation in an environment characterized by illiteracy and a general lack of appropriate identification documents), and a small banking sector consisting of banks relatively well connected to the outside world (at least through correspondent accounts and SWIFT) coexist in Afghanistan. While preventive measures are certainly difficult to implement, even in the medium term, in relation to transactions in cash, they could be better implemented in the banking sector. Indeed, it would appear that the lack of implementation and supervision of preventive measures applicable to financial institutions, such as identification of customers and fit and proper testing played a role in the making of a major financial fraud in Afghanistan's main commercial bank.

C. Legal Systems and Related Institutional Measures

5. **The current government structure of Afghanistan is relatively new.** After the December 2001 fall of the Taliban regime, a new Constitution was adopted, putting a new institutional framework in place. Over the last few decades, Afghanistan has witnessed continuous instability and conflict, which notably prevented the development of sound structural elements that could foster transparency and good governance.

6. **From 2001 onwards, the authorities adopted legislative and institutional measures to increase their capacity to fight against crime.** Laws, such as the Counter-Narcotics Law, were issued, and an anti-corruption strategy was adopted. New law enforcement agencies were established (notably the Major Crime Task Force, the Sensitive Investigation Unit, the Intelligence and Investigation Unit and the National Directorate of Security), and an Anti-Corruption Unit was created within the Attorney General's Office. In 2004, the President issued two legislative decrees, namely the "Anti-Money Laundering and Proceeds of Crime Law" (the AML LD) and the "Law on Combating the Financing of Terrorism" (the CFT LD). Both decrees are still awaiting final endorsement by Parliament.

7. **ML is criminalized in a way that meets most of the requirements under the FATF standard, but it does not apply to the full range of FATF-designated categories of offenses.** Several of the activities listed in the standard (such as participation in an organized criminal group, kidnapping or illicit arms trafficking) have not been criminalized in Afghanistan, and therefore remain outside the scope of the ML offense. Provisional measures and confiscation may be ordered under the Counter-Narcotics Law, but are limited with

respect to ML and other types of predicate crimes. While several investigations into ML have been pursued, none of them resulted in a case being brought before the courts.

8. **TF has been criminalized, but nevertheless remains a major cause of concern in Afghanistan.** Several terrorist groups are believed to be active in Afghanistan, notably Al Qaeda. The CFT LD criminalizes the provision and collection of funds for the commission of a terrorist act. It does not, however, criminalize the collection of funds and their provision to terrorist individual or terrorist organizations, and the scope of the TF offenses is further limited by other deficiencies.

9. **The current framework for freezing terrorist funds suffers from considerable shortcomings and has not been used effectively in practice.** The mechanism in place for the implementation of the United Nations Security Council Resolution (UNSCR) 1267 is incomplete, and there is no framework for the implementation of UNSCR 1373. Considering the number of designated persons and entities that have links with Afghanistan, and, more generally, the high risk of TF in the country, this constitutes a major shortcoming of the current AML/CFT regime. Moreover, in one instance, the authorities ordered the freeze of an account held by a person designated under UNSCR 1267, but the President subsequently lifted the freezing order, thus reportedly enabling the holder of the account to withdraw the funds and leave the country.

10. **A financial intelligence unit (FIU), the Financial Reports and Analysis Centre of Afghanistan (FinTRACA), was established in 2004, became operational in 2006 and has since led Afghanistan's AML/CFT efforts, but additional measures need to be taken to ensure that it can effectively perform the core functions of an FIU.** FinTRACA is the national center for the receipt, analysis and dissemination of suspicious transactions reports (STRs) from all reporting entities. In 2010, FinTRACA became a member of the Egmont Group of Financial Intelligence Units. Major shortcomings nevertheless remain in its current functioning. FinTRACA does not have the legal authority to disseminate financial information received from designated non-financial businesses and professions (DNFBPs). It is currently not operationally independent, notably because it lacks human and technical resources and a significant portion of its budget is dependent on foreign aid. It has not provided sufficient guidance regarding the manner of reporting. Finally, the collection of relevant information needs to be strengthened in order to allow for enhanced tactical, operational and strategic analysis of STRs and other relevant information.

11. **The recent revamping of law enforcement in Afghanistan is a significant step forward but the relevant agencies do not appear to be effective in curbing crime, including ML/TF.** Specialized agencies were created but their powers were not clearly defined in law. Moreover, although they have been granted the necessary investigative powers, they do not use them to their full extent. Poor coordination between law enforcement agencies has notably entailed a duplication of efforts and the squandering of scarce resources. Despite continuous efforts by the Afghan government and foreign donors to build the

capacity of law enforcement, Afghanistan continues to be unable to expose and disrupt financial crimes in an effective way. This is notably due to limited resources, little expertise and corruption, as well as the lack of focus on the money trail, and a lack of clarity as to the level of evidence required to (i) initiate an investigation into, and (ii) secure a conviction for ML/TF.

12. Afghanistan has established a declaration system for the cross-border transportation of currency and bearer negotiable instruments both into and out of Afghanistan which, in practice, is only implemented (albeit in a limited way) at the Kabul international Airport (KIA). Implementation at crossings elsewhere along Afghanistan's notoriously porous border is particularly challenging. The limited implementation of the declaration regime at KIA is further hampered by the proliferation of government agencies present at the airport, which do not have clearly articulated authorities.

D. Preventive Measures – Financial Institutions (FIs)

13. With the exception of intermediation in the securities sector, all financial activities covered under the standard are permitted in Afghanistan. The Afghan financial landscape has changed considerably over the last few years. The banking sector, in particular, although relatively small, has expanded significantly, and correspondent banking relationships have been established with FIs in several countries. Microfinance has also expanded. Most financial transactions are nevertheless conducted through money service providers (MSPs or hawaladars).

14. AML/CFT preventive measures are imposed on all FIs but need to be strengthened considerably. They are set out in the AML LD, the CFT LD, and, as far as banks and MSPs are concerned, in the central bank's Regulation on the Responsibilities of Financial Institutions in the Fight against Money Laundering and Terrorist Financing (the AML/CFT RR). They impose basic customer due diligence (CDD) and record keeping measures but fall short of the standard in a number of instances. There are, for example, no requirements to determine whether a customer is acting on behalf of another person, to understand the ownership and control of legal persons, or to perform enhanced due diligence for higher risk categories of customers, business relationships or transactions; and there are no requirements in primary or secondary legislation to verify that a person purporting to act on behalf of a natural person is so authorized, or to conduct ongoing due diligence on business relationships. Despite the prevalence of corruption in Afghanistan, current measures to address the potential risk posed by politically-exposed persons are not sufficiently comprehensive. Overall, the implementation of CDD requirements is weak and is hampered by insufficient means to verify natural persons and establish the beneficial ownership and control of legal persons.

15. Correspondent relationships are not sufficiently regulated. There are no requirements, other than those pertaining to regular CDD, to gather information on the

respondent institution to understand the nature of its business and determine its reputation and the quality of the supervision to which it is subject.

16. **Pursuant to the wire transfer rules, most of the originator information required under the standard is included in the message.** However, these rules lack clarity, in particular with respect to domestic transfers. Furthermore, the monetary threshold for triggering verification of the originator information is substantially higher than what is contemplated in the standard.

17. **All FIs are required to submit STRs to FinTRACA, but few have done so in practice.** Pursuant to the AML LD, STRs must be submitted when there are suspicions that a transaction (or attempted transaction) is related to or derived from the commission of an offense or that funds are linked to terrorism, terrorist acts or terrorist organizations. The scope of the ML reporting requirement is, however, too narrow considering that not all the predicate crimes listed under the standard have been criminalized in Afghanistan. In practice, some STRs have been submitted, but only by banks, and only with respect to suspicions of ML, and not TF.

18. **FIs are required to develop internal policies, procedures and control to prevent ML, but no guidance has been provided on what exactly should be covered.** The depth and coverage of the (limited) number of samples of policies and procedure that were provided to the assessment team varied from one institution to the other and, in some instances, were not in line with the requirements of the AML LD.

19. **Market entry conditions and AML/CFT supervision fall short of the standard and the existing framework has not been effectively implemented, notably because of a general lack of resources and expertise, as well as vested interest and corruption.** The central bank, the Da Afghanistan Bank (DAB), is responsible for the supervision of banks, including depository microfinance institutions, MSPs, and foreign exchange dealers. The Ministry of Finance has the authority to regulate and supervise the insurance sector. Market entry conditions are insufficient: there are, in particular, no measures in place to ensure the fit and properness of the beneficial owners and controllers of FIs, and no criminal background checks are conducted to prevent criminals and their associates from owning or controlling microfinance institutions.

20. **Although considerable efforts have been deployed to bring MSPs under government monitoring in 26 out of 34 provinces, a large number of MSPs continue to operate outside the legal framework particularly in the provinces of Kandahar, Helmand and Herat.** MSPs are required to obtain a license from DAB to operate and are subject to specific CDD obligations, but security constraints and limited resources have impeded the enforcement of these requirements in some parts of the country.

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

21. **DNFBPs are subject to AML/CFT obligations under the AML LD, none of which have, however, been implemented.** All the DNFBPs listed in the standard can operate in Afghanistan except casinos (which are forbidden), and notaries (which do not constitute a profession separate from that of lawyers). Trust and company services providers do not appear to be present in a meaningful way in the country. DNFBPs are subject to CDD, record keeping and reporting requirements to a similar extent as FIs, but have not started implementing these obligations. There is no supervisory framework for DNFBPs.

F. Legal Persons and Arrangements & Non-Profit Organizations

22. **Transparency of the ownership and control of legal persons is insufficient.** All legal persons must register with the Afghan Central Business Registry, but information on beneficial ownership is not collected and the general information entered in the registry is not updated. Legal arrangements such as trusts cannot be established under Afghan law, and according to the authorities, assets of foreign trusts are not held or managed in the country.

23. **The authorities do not appear to account adequately for the risk of non-profit organizations (NPOs) being misused for TF purposes.** NPOs play a vital role in Afghanistan. Over 1700 NPOs are registered and active throughout the country. According to law enforcement agencies, although no cases have been brought before the courts, there have been instances of NPOs being used to fund terror. The Ministry of Economy, which is the primary oversight body of the NPO sector, lacks sufficient resources to conduct its functions effectively and does not perceive the risk of misuse of NPOs for the purpose of TF.

G. National and International Co-operation

24. **National coordination amongst the relevant authorities is weak.** An informal AML/CFT committee was formed in 2009, bringing together the law enforcement agencies, FinTRACA and DAB, but it has not yet focused on operational matters.

25. **A framework has been established to allow for international mutual legal assistance but it falls short of the standard and is rarely used.** The AML and CFT LDs set out a broad range of measures that Afghanistan may take on behalf of a foreign state. The scope of the assistance that may be offered is, however, too limited considering notably that not all FATF-designated categories of offenses have been criminalized, and that very few steps have been taken to implement UNSCRs 1267 and 1373. Moreover, the authorities have very limited experience in assisting other countries.

Summary Table of Observance and Key Recommendations

<p>Compliant (C): the Recommendation is fully observed with respect to all essential criteria. Largely compliant (LC): there are only minor shortcomings, with a large majority of the essential criteria being fully met. Partially compliant (PC): the country has taken some substantive action and complies with some of the essential criteria. Non-compliant (NC): there are major shortcomings, with a large majority of the essential criteria not being met. Not applicable (NA): a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country.</p>	
FATF 40+9 Recommendations and Ratings	Key Assessor Recommendations
Legal System and Related Institutional Measures	
<p>Criminalization of Money Laundering (ML)</p> <p>R.1 PC R.2 PC</p>	<ul style="list-style-type: none"> • Amend the AML LD where necessary and obtain Parliamentary approval on an expedited basis.² • Ensure that, as security improves, the AML legal framework is progressively implemented in the whole country.³ • Criminalize participation in an organized criminal group and racketeering; trafficking in human beings and migrant smuggling; environmental crimes, kidnapping, illegal restraint and hostage-taking, as well as association with and conspiracy to commit or attempt to commit the ML offense. • Ensure that prior conviction for the predicate is not considered as a condition to proving that property is the proceeds of crime. • Establish dissuasive monetary sanctions and extend criminal liability for ML to corporate entities that are partially owned by the Afghan government.
<p>Criminalization of Terrorist Financing (TF)</p> <p>SR.II PC</p>	<ul style="list-style-type: none"> • Amend the CFT LD where necessary and obtain Parliamentary approval on an expedited basis. • Ensure that, as security improves, the CFT framework is progressively implemented in the whole country. • Criminalize the collection of funds for and their provision to terrorist organizations and terrorist individuals; the organization, direction, motivation of individual terrorist and the contribution to the commission of a TF offense by an individual; as well as the funding of any of the terrorist offenses defined in the treaties listed in annex to the ICSFT. • Ensure that the TF offense extends to any funds, whether from a legitimate or illegitimate source; it is not required that the funds and property be linked to a specific terrorist act for successful prosecution for TF; intention can effectively be inferred from objective factual circumstances; and criminal sanctions do not preclude the possibility of parallel civil or administrative proceedings if such proceedings are available. • Extend criminal liability for TF to corporate entities that are partially owned by the Afghan government. • Vigorously pursue TF investigations and prosecutions.
<p>Confiscation, freezing, and seizing of proceeds</p>	<ul style="list-style-type: none"> • Enable the confiscation of the proceeds of all predicate offenses, as well as of

² In the DAR, this recommended action was also made with respect to Recommendations 2, 3, 10, 11, 13, 17, 26, and Special Recommendations VI and VII.

³ In the DAR, this recommended action was also made with respect to Recommendations 3, 4, 10, 11 and Special Recommendation III.

<p>of crime</p> <p>R.3 NC</p>	<p>instrumentalities used or to be used in the commission of all predicate offenses and TF.</p> <ul style="list-style-type: none"> • Ensure that (i) confiscation would apply to income and other benefits that derive directly as well as indirectly from the proceeds of crime and (ii) provisional measures may be taken in respect to all predicate offenses. • Ensure that bona fide third parties can fully defend their rights. • Ensure that steps may be taken to prevent or void actions that would prejudice confiscation.
<p>Freezing of funds used for TF</p> <p>SR.III NC</p>	<ul style="list-style-type: none"> • Clarify the freezing mechanism under UNSCR 1267 and ensure it can be used effectively to freeze without delay. • Establish a clear legal basis to implement the freezing obligations under UNSCR 1373 and clear procedures to meet the obligations. • Establish clear procedures to give suit to other countries' designations and requests for freezing of terrorist assets. • Ensure that funds and property subject to freezing orders extend to all funds and other assets listed under Criterion III.4. • Establish clear procedures to allow for domestic freezing of terrorist assets, as well as for delisting, unfreezing of funds or other assets of persons or entities inadvertently affected by a freezing order, and access to frozen funds or other property to cover expenses as set out in UNSCR 1452. • Ensure that freezing, seizing and confiscation measures in other circumstances are not unduly restrictive. • Establish clear obligations for the private sector to implement freezing orders, provide guidance on these obligations and ensure effective monitoring of compliance with all freezing obligations under SR III.
<p>The Financial Intelligence Unit and its functions</p> <p>R.26 PC</p>	<ul style="list-style-type: none"> • Provide FinTRACA with the authority to disseminate financial information to AGO for investigation when there are grounds to suspect TF reported by DNFbps. • Ensure that FinTRACA raises awareness on the reporting requirement among all reporting entities. • Ensure that FinTRACA enhances the depth and quality of its STRs tactical, operational, and strategic analysis, in particular by granting it access to the necessary financial, administrative and law enforcement information, and enabling it to request on regular basis additional information from reporting entities. • Enhance FinTRACA's independence by securing its independent budget that takes into account its increasing financial needs. Also, provide FinTRACA with adequate staffing to enable it to perform its functions effectively. • Ensure that FinTRACA publishes annual reports, typologies and trends of ML/TF. • Ensure that FinTRACA provides additional specialized and practical in-depth training to its employees.
<p>Law enforcement, prosecution and other competent authorities</p> <p>R.27 PC R.28 PC</p>	<ul style="list-style-type: none"> • Investigate ML and/or TF as a standalone crime irrespective of whether the source of information emanates from the FinTRACA or any other source. • Enhance dialogue amongst the competent LEAs and increase the effectiveness of investigations into ML or TF cases. • Provide AML/CFT training to all investigative agencies at senior level and in particular for all dedicated financial crime investigators.
<p>Cross Border Declaration or disclosure</p>	<ul style="list-style-type: none"> • Implement cross-border currency declarations for inbound and outbound transportation of currency and bearer negotiable instruments and extend these

<p>SR IX NC</p>	<p>requirements to all travelers.</p> <ul style="list-style-type: none"> • Clearly define the term “bearer negotiable instruments” in line with the standard. • Take legislative steps to ensure that Customs has the authority to collect and request further information from the carrier of currency or bearer negotiable instruments on the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF. • Provide Customs with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found, where there is a suspicion of ML or TF; or where there is a false declaration. • Establish in law effective, proportionate and dissuasive sanctions for false cross-border currency declarations and for transportation of currency or bearer negotiable instruments that are related to ML or TF. • Clarify the responsibility of each agency operating at the border and specifically designate the authority responsible for the implementation of SR IX. • Ensure that the prescribed threshold for declaration does not exceed US\$/EUR 15,000.
<p>Preventive Measures: Financial Institutions</p>	
<p>Customer due diligence, including enhanced or reduced measures</p> <p>R.5 NC R.6 NC R.7 NC R.8 NC</p>	<ul style="list-style-type: none"> • Require in primary or secondary legislation FIs to i), undertake CDD measures when carrying out transactions above US\$15,000; ii) verify the identity of legal persons; iii) verify that a person purporting to act on behalf of a natural person is so authorized, and identify and verify the identity of that person; iv) determine whether a customer is acting on behalf of another person; v) determine who are the persons who exercise ultimate effective control over a legal person or arrangement, and vi) conduct ongoing due diligence of the business relationship. • Remove from the AML/CFT RR the inadequate exceptions in the identification and verification of occasional customers that are legal persons. • Review the AML/CFT RR to require verification of the identity of natural persons in all cases. • Require FIs not supervised by DAB to i) verify the legal status of the legal person or legal arrangement and ii) obtain information on the purpose and intended nature of the business relationship with legal persons. • Require FIs to understand the ownership and control structure of corporate customers. • Require FIs to obtain information on the purpose and intended nature of the business relationship for natural persons. • Put in place detailed and enforceable regulations on ongoing due diligence. • Clarify current requirements to update of CDD records and ensure that they apply to all FIs. • Require FIs to perform enhanced due diligence for higher risk categories of customers, business relationships or transactions. • Require FIs to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. • Prohibit FIs to open an account, commence business relations or perform a transaction in case of failure to satisfactorily complete the verification of identity, and require them to consider making a suspicious transaction report. • Require FIs to perform CDD measures on holders of existing anonymous

	<p>accounts.</p> <ul style="list-style-type: none"> • In addition, in order to improve the implementation of the CDD measures, the authorities should consider i) establishing a proper system of identification of natural and legal persons, and ii) developing and implementing a supervision strategy aiming at sanctioning FIs failing to implement existing CDD measures in cases where information is available and verifiable. • Require FIs to put in place appropriate risk management systems to determine whether a potential customer or a beneficial owner is a PEP. • Require FIs to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP. • Require FIs to take reasonable measures to establish the source or wealth and the source of funds of beneficial owners identified as PEPs. • In addition, the authorities should consider i) make assets disclosures available online both in Dari and in English, ii) create a list of domestic PEPs to be sent to FIs. • Set out a legal framework governing cross-border correspondent banking and other similar relationships in line with R.7. • Require FIs to pay special attention to any ML threats that may arise from new or developing technologies in line with R.8.
<p>Third parties and introduced business</p> <p>R.9 NC</p>	<ul style="list-style-type: none"> • Set out rules governing the reliance on intermediaries or other third parties in line with R. 9.
<p>Financial institution secrecy or confidentiality</p> <p>R.4 PC</p>	<ul style="list-style-type: none"> • Lower the current threshold of “strong grounds” that judicial authorities face to access information covered by financial secrecy. • Enable the sharing of information between FIs in cases where it is required in the FATF standard.
<p>Record keeping and wire transfer rules</p> <p>R.10 PC SR.VII PC</p>	<ul style="list-style-type: none"> • Require in primary or secondary legislation that FIs keep records of business correspondence. • Lower the current threshold of “strong grounds” that judicial authorities face to access identification data and transaction records. • Harmonize the wire transfer rules in the AML LD, CFT LD, and AML/CFT RR. • Require verification of originator information for transactions above US\$/EUR 1,000 or their equivalent in Af. • Require FIs to adopt procedures that establish, on the basis of the risk of ML/TF, how to identify and deal with wires that are not accompanied by full originator information. • Add the maximum time frame of three days within which full originator information should be made available to the beneficiary FIs and to appropriate authorities upon request. • Ensure that wire transfer rules are implemented.
<p>Monitoring of transactions and relationships</p> <p>R.11 PC R.21 NC</p>	<ul style="list-style-type: none"> • Remove the obligation to report STRs on all transactions and business relationships subject to special attention. • Expand the requirement under Article 12.3 of the AML LD, to jurisdictions which do not or insufficiently apply the FATF recommendations. • Provide for the possibility to apply counter-measures in cases where a country continues not to apply or to apply insufficiently the FATF Recommendations.
<p>Suspicious transaction</p>	<ul style="list-style-type: none"> • Issue implementing regulations for non banks FIs and MSPs to clarify the

<p>reports and other reporting</p> <p>R.13 PC R.14 PC R.19 C R.25 NC SR.IV NC</p>	<p>requirements of the AML and CFT LDs and implementing regulation taking into consideration the specificities of the sector.</p> <ul style="list-style-type: none"> • Ensure that supervisors and FinTRACA draw up an action plan to encourage reporting across all sectors – a prioritized and phased plan based on potential risk posed by the different sectors may be necessary, given overall resources, to effectively bring this about. • Establish a mechanism for providing feedback to reporting institutions including general and specific or case-by-case feedback. • Provide specialized training to reporting entities to improve the quality and quantity of STRs.
<p>Internal controls, compliance, audit and foreign branches</p> <p>R.15 PC R.22 NC</p>	<ul style="list-style-type: none"> • Specify what should be covered under the internal control requirements. • Require FIs to designate an AML/CFT compliance officer at the senior management level and to ensure that the AML/CFT compliance officer and other appropriate staff have timely access to relevant information. • Guide and assist MSPs and foreign exchange dealers in developing internal control policies and procedures. • Issue implementing regulations for FIs that are regulated by other competent authorities than DAB. • Ensure that all banks have effective internal audit systems in place, and ensure that they adequately cover all ML and TF risks. • Require all the reporting entities to enhance their AML/CFT training programs to ensure that all relevant staff are aware of ML and TF risks and AML/CFT measures. • For effective internal control, ensure that the compliance officer is independent. • Require foreign subsidiaries of Afghan MSPs to follow the laws and regulations of Afghanistan to the extent the host country’s laws and regulations permit, and consider requiring the same for foreign branches and subsidiaries of Afghan banks. Ensure that this principle is observed in particular in countries which do not or insufficiently apply the FATF Recommendations. • Require foreign branches and subsidiaries to apply the higher standard, to the extent that host country’s laws and regulations permit, when AML/CFT laws and regulations in the host country and Afghanistan differ. • Require foreign branches and subsidiaries to inform DAB supervision department when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because of the prohibition by host country’s laws, regulations or other measures. • Require foreign branches and subsidiaries to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide.
<p>Shell banks</p> <p>R.18 PC</p>	<ul style="list-style-type: none"> • Prohibit explicitly the establishment and operation of shell banks on the territory of Afghanistan, and establish clear sanctions for contravention to this prohibition. • Prohibit explicitly FIs from entering into or continuing correspondent banking relationships with shell banks; • Require FIs to satisfy that respondent FIs do not permit their accounts used by shell banks.
<p>Supervisory and oversight system– competent authorities and SROs</p> <p>Role, functions, duties</p>	<ul style="list-style-type: none"> • Ensure that monetary penalties are proportionate, dissuasive and effective. • Consider extending the criminal liability imposed on an individual who obstructs, hinders or fails to cooperate with the FIU to those who obstruct, hinder or fail to cooperate with DAB since DAB is also a supervisory authority. • Ensure that all the provisions in the AML/CFT RR can be enforced.

<p>and powers (including sanctions)</p> <p>R.17 NC R.23 NC R.25 NC R.29 NC</p>	<ul style="list-style-type: none"> • Ensure that criminal background check is required for administrators, sponsors, and investors of the depository micro finance institutions (DMFIs) during the licensing process; ensure that those with a criminal record not qualify as fit-and-proper and that the license is not granted. • Require identification of beneficial owners and controllers of FIs during licensing process and whenever changes of management and shareholders occur; and ensure that they are subject to fit-and-proper tests. • Develop an inspection strategy and schedule for all supervised entities, and consider introducing a risk-based approach to supervision. • Increase the number of AML/CFT inspections of MSPs and initiate AML/CFT supervision of foreign exchange dealers, microfinance institutions, DFMI, financial leasing companies and mortgage finance companies, applying a risk based approach. • Ensure that other regulated entities outside the scope of DAB’s supervisory authority (for example, in the case of insurance companies, brokers and agents) are supervised. • Develop sector specific guidelines to assist FIs with the implementation of regulatory requirements. • Although not directly required by the standard, it is recommended that measures be introduced by DAB to mitigate the current concentration of decision making-powers in the hands of the Director General of the Financial Supervision Department at the DAB, when bank inspection reports are approved. A committee can be established to share decision-making responsibility. An independent auditor can conduct an ex-post review of decisions made by the committee.
<p>Money value transfer services</p> <p>SR.VI NC</p>	<ul style="list-style-type: none"> • Expand the implementation of the licensing regime for MSPs in the remaining provinces and ensure oversight of MSPs throughout the territory. • Strengthen the sanction regime to provide for dissuasive, effective and proportionate sanctions for larger MSPs. • Clarify what provisions of the MPS regulation apply to the electronic Money Institutions as opposed to MSPs, including applicable sanctions. • Increase the number of staff responsible for licensing and supervision of MSPs. • Provide guidance and training for MSPs to comply with AML/CFT requirements. <p>Although not required under the standard, in order to enhance effectiveness:</p> <ul style="list-style-type: none"> • Consider adopting a risk-based approach to on-site examination of MSPs. • Consider introducing a risk-based approach to CDD. Different CDD requirements can be placed on small value transactions v.s. large values, and some of the customer information (such as monthly salary, source of income) does not need to be repeatedly obtained each time the repeat customer visit the MSP.
Preventive Measures: Non-Financial Businesses and Professions	
<p>Customer due diligence and record-keeping</p> <p>R.12 NC</p>	<ul style="list-style-type: none"> • Impose CDD and record keeping requirements on all DNFBPs active in Afghanistan, taking care, in particular, to: lower the threshold for CDD by dealers in precious metals and stones to meet the international standard; and ensure that the activities of DNFBPs that are subject to the AML LD are comprehensively listed within the LD, to include the opening or management of a bank, savings or securities account on behalf of a client by lawyers, any other independent legal professionals and accountants.
<p>Suspicious transaction</p>	<ul style="list-style-type: none"> • Issue a regulation clarifying the STR requirements for DNFBPs and putting in

reporting R.16 NC	<ul style="list-style-type: none"> • place mechanisms to facilitate reporting of suspicious transactions to the FIU. Ensure that lawyers' duty to maintain client confidentiality is not an obstacle to reporting suspicious transactions in the circumstances described in the methodology. • Amend the threshold for STR reporting by dealers in precious metals and stones to meet the international standard. • Make sure that the DNFBPs and circumstances under which the law applies to the institutions are accurately described within the law. • Require in primary or secondary legislation company service providers to report suspicious transactions to the FIU.
Regulation, supervision, monitoring, and sanctions R.24 NC R.25 NC	<ul style="list-style-type: none"> • Identify competent bodies or develop mechanisms for the implementation of effective systems for monitoring the compliance of DNFBPs with AML/CFT requirements. • Issue guidelines to DNFBPs to assist with implementation and compliance of institutions with AML/CFT requirements. • Establish mechanisms to enable general and case-by-case feedback from DNFBPs on their responsibilities under existing AML/CFT laws.
Other designated non-financial businesses and professions R.20 PC	<ul style="list-style-type: none"> • Conduct an assessment to determine whether or not businesses other than designated non-financial businesses and professions, such as car dealers and the hospitality industry, pose a ML or TF risk. • Conduct a risk assessment in order to ascertain whether or not other businesses and professions should be subjected to the provisions of the AML and CFT laws. • Encourage the development and use of modern and secure technologies, such as the electronic salary payment delivery system, for conducting financial transactions, which by their nature minimize cash in circulation and are therefore less vulnerable to ML and TF.
Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information R.33 NC	<ul style="list-style-type: none"> • Review the Commercial Law to ensure adequate transparency concerning the beneficial ownership and control of legal persons. • Ensure that adequate, accurate and current information on the beneficial ownership and control of legal persons is available (for example through ACBAR or AISA) to competent authorities in a timely fashion.
Legal Arrangements–Access to beneficial ownership. R.34 N/A	
Nonprofit organizations SR.VIII NC	<ul style="list-style-type: none"> • Undertake a comprehensive risk assessment of the sector. • Expand outreach efforts to the sector. • Require NPOs to maintain records of transactions for a period of at least 5 years and to make them available to appropriate authorities. • Strengthen the legal requirement for NPOs to provide relevant information. • Strengthen sanctions available and clarify the government body responsible for their implementation. • Ensure that law enforcement agencies coordinate with the MOE when they need information on NPOs of potential TF concern. • Ensure that the MOE has the investigative capacity to examine those NPOs that are suspected of either being exploited by or actively supporting terrorist activity or terrorist organizations. Measures should also be in place to ensure

	prompt investigative or preventative action.
National and International Cooperation	
National cooperation and coordination R.31 NC	<ul style="list-style-type: none"> • A national AML/CFT coordination committee should be established. • Enhance the cooperation and coordination of concerned agencies' efforts to overcome fragmentation and ensure effective implementation of AML/CFT measures across the whole of Afghanistan. Individual agencies should commit to support coordinated approaches to implement targeted AML/CFT policies across Afghanistan.
The Conventions and UN Special Resolutions R.35 PC SR.I PC	<ul style="list-style-type: none"> • Implement fully the Vienna and Palermo Conventions, the ICSFT and the relevant UNSCR, in particular in light of the recommendations made under R. 1, 2, 3, and SR II and III.
Mutual Legal Assistance (MLA) R.36 NC R.37 LC R.38 NC SR.V NC	<ul style="list-style-type: none"> • Address the deficiencies noted under R. 1, 2, 3, 26 and 28, and under SR II. • Ensure that MLA requests are executed in a timely way without undue delay, and that confidentiality requirements cannot be raised as obstacles without reasonable justification. • Consider devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country. • Allow for the execution of foreign requests for seizure, freezing and confiscation of the proceeds of, as well as the instrumentalities used or to be used in the commission of all predicate offenses to ML.
Extradition R.39 NC R.37 LC SR.V NC	<ul style="list-style-type: none"> • Address the deficiencies noted under R. 1, 2 and SR II. • Seek to conclude bilateral or multilateral extradition agreements. • Ensure that requests for extradition are handled without undue delay.
Other Forms of Cooperation R.40 NC SR.V NC	<ul style="list-style-type: none"> • Law enforcement agencies should be more proactive in requesting information on ML/TF from their counterparts. • Law enforcement agencies should develop clear and effective gateways or channels that will allow for prompt and constructive exchanges of information directly between counterparts. • DAB and AIA should develop effective mechanisms to exchange information with foreign counterparts.
Other Issues	
Resources & Statistics R.30 NC R.32 NC	<ul style="list-style-type: none"> • Allocate more resources and provide specialized training to the competent authorities. • Develop comprehensive statistics in all relevant areas. • Review the effectiveness of the AML/CFT system.
Other relevant AML/CFT measures or issues	<ul style="list-style-type: none"> • N/A
General framework – structural issues	<ul style="list-style-type: none"> • N/A