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TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations of Lao PDR in their numerical order. It does not include descriptive text on the country 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 2011. This report is available from www.apgml.org.

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

1. *Criterion 1.1* - Lao DPR completed and published its first NRA entitled *Report on National Money Laundering and Terrorist Financing Risk Assessment of the Lao PDR* in [month] 2018[[1]](#footnote-1).   
   [For Lao PDR: Please provide the date of the NRA]
2. The NRA was developed by the *National Committee for Anti-Money Laundering and Terror Financing Risk* who operate as a National Coordination Committee (NCC).[[2]](#footnote-2) The NCC was established by Article 53 *Management Body of AML/CFT* Law on Anti Money Laundering and Counter Financing of Terrorism No50/NA in July 2014. The NRA was developed using the World Bank methodology to undertake an analysis of threat, vulnerabilities and sectoral risk. Having been informed by the NRA reporting entities were then required to undertake their own assessments of the risks[[3]](#footnote-3) presented by their customers and the services provided to them. [For Lao PDR - to what extent were the private sector consulted in the development of the NRA, which RE sectors have/have not undertaken their respective risk assessments?].
3. Lao PDR also reviewed TF risk based mainly based on qualitative analysis. The analysis collated information from departments involved in countering terrorism, [For Lao PDR -who specifically was consulted on the TF risk assessment?] identifying sources and channels of terrorist financing, and identifying the TF threats faced by Lao PDR. The analysis also assessed regulatory and legal vulnerabilities to prevent and respond to TF.
4. *Criterion 1.2* - The *National Committee for Anti-Money Laundering and Terror Financing Risk* formed eight working groups which comprise a membership from 13 relevant Ministries[[4]](#footnote-4) together with the Bank of Lao PDR and the State Audit Organization.[[5]](#footnote-5) Each working group, supported by technical staff were assigned a specific responsibility such as an assessment of predicate crime, sector risk assessments, a review of legal frameworks to identify vulnerabilities and terrorist financing. The NRA is a product of collaboration by the workgroups. [For Lao PDR - when did these working groups last meet?].
5. *Criterion 1.3 -* Alongside the NRA Lao PDR developed an action plan for activities to be undertaken during 2019-2021 to mitigate the identified risk. The action plan identified six ‘sources of risk’ comprising the absence of an AML/CFT policy and strategy, legislation deficiencies, investigation and prosecution capability, supervisory deficiencies and the need for domestic and international co-operation mechanisms. The action plan demonstrates an acknowledgement of weakness with a plan to mitigate risk. The action plan is subject to periodic review.

[For Lao PDR: To Lao PDR: can you clarify whether the risk assessment itself subject to review as part of the action plan? It is clear that Lao PDR will continue to review the implementation of the existing action plan against the risk assessment, but it is not clear that the risk assessment itself will be reviewed regularly and, if so, when. Has the work undertaken identified any new or emerging risk?]

1. *Criterion 1.4* - The NRA was made available to government departments[[6]](#footnote-6) and the financial and non-financial institutions[[7]](#footnote-7) via the AMLIO website [For Lao PDR: is there a restricted version of the NRA?]. In addition the AMLIO undertook a series of workshops to inform competent authorities and reporting entities of the findings of the NRA. [For Lao PDR: More data is required on these workshops - how many workshops were undertaken? which sectors attended, how many attendees?][For Lao PDR - confirmation is required that the NRA was distributed specifically to industry association bodies and to DNFBPs]. The results of the NRA were also shared with the public via social media, newspaper, radio and television to increase awareness of ML and TF risk throughout the community.
2. *Criterion 1.5* - In response to the *action plan* resources have been deployed into three target areas. These areas comprise strengthening and enhancing the legal frameworks in Lao PDR; improving capability and capacity to investigate and prosecute ML and TF; and the development of a risk based supervisory model to target the supervision of sectors presenting risk as informed by the NRA. The identification and focus on these areas reflects a risk based approach is being adopted. [For Lao PDR - Note: more information will be required on resource and budgetary response to the identified risks]
3. *Criterion 1.6* - Lao PDRdoes not exempt FIs nor DNFBPs from any of the activities outlined in the 40 Recommendations.
4. *Criterion 1.7* - Lao PDRhas not issued notices requiring financial institutions to take certain actions or avoid certain activity in relation to identified high risks. [For Lao PDR: The notices referred to relate to internal risk assessments and describing suspicious financial activity - Have any notices been issued to take enhanced measures associated with identified high risks?]. The Bank of the Lao PDR requires some reporting entities[[8]](#footnote-8) to undertake their own risk assessment of their customs and their products to ensure that.

[For Secretariat: Analysis to be cross-checked/cross-referenced with R19]

1. *Criterion 1.8* - Article 20 of theLaw on Anti Money Laundering and Countering Financing of Terrorism No50NA July 2014 requires that risk based management principles be applied to customers. In January 2016 the Chairman of the NCCissued a directive which requires reporting entities to identify, understand and respond to their AML/CFT risks. In response to this process reporting entities are expected to adopt risk control mechanisms, measures, and procedures, and to allocate AML resources based on the risk assessment results. Financial institutions are permitted to adopt simplified CDD and other risk control measures for low-risk customers.[[9]](#footnote-9) Simplified measures can be taken, except for customers matching a number of high-risk scenarios.[[10]](#footnote-10)
2. *Criterion 1.9* is **met/mostly met/partly met/not met**.In February 2020 the *Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT No127/Gov* outlined the measures for the supervision and administration of the Law on AML/CFT. AMLIO is the Supervisor of financial institutions[[11]](#footnote-11) and DNFBPs[[12]](#footnote-12) with the exception of casinos.[[13]](#footnote-13) [For Lao PDR - do Casinos operate outside of a regulated system currently?[[14]](#footnote-14)] The Lao PDR Securities Commission Office is the Supervisor of the securities sector.[[15]](#footnote-15) It is a function of the Supervisor to ensure compliance with the Law on AML/CFT across their respective sectors. [Review analysis of R26 and R28 upon draft of TC annex - the supervisory responsibilities are not clear and further information will be required on-site]

[For Secretariat: to cross-check/cross-reference with R 26 and R28]

1. *Criterion 1.10* - FIs and DNFBPs are required to assess the risk status of customers, and their customers financial relationships and other aspects to determine risk level.[[16]](#footnote-16) FIs and DNFBPs are also required to assess and manage risk associated with financial products, existing or new methods of payment and new technology associated with servicing or conducting business.[[17]](#footnote-17) Reporting entities are required to perform on-going monitoring and management of risk[[18]](#footnote-18) and mitigation must occur with risk is identified[[19]](#footnote-19)

[For Lao PDR - confirmation is required that all REs are required to document their respective risk assessments, this is assumed however reference to statute is required] [For Lao PDR As per 1.7 confirmation will be required that product risk assessments are undertaken along with assessments of delivery channels]

[For Lao PDR - Re 1.10 (d) Can the BCEL AML/CFT 2019 dated 20 January 2020 be translated for review]

1. *Criterion 1.11* is **met/mostly met/partly met/not met**. According to the Article 17 of the *Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016* reporting entities are required to establish a standardized policy, including controls and procedures, on risk management of ML/TF, which is required to be approved by senior management [To Lao PDR: can you clarify the definition of senior manager as per Art 17 (2)]. In that same agreement at Article 25 and 26 REs are required to establish a risk assessment mechanism, in accordance with the risk-based approach to conduct regular analysis on their internal and external risk of ML/TF and to assess the effectiveness of their risk prevention and control mechanisms. These requirements are for the purpose of identifying areas with vulnerabilities and weaknesses and take targeted risk mitigation measures. As mentioned under c.1.8 above, REs are required to allocate their AML resources based on the risk assessment results and to exercise enhanced measures on areas with high ML/TF risk.
2. *Criterion 1.12* - As referred at c.1.9-11, ifan RE identifies low risk, consistent with the NRA, simplified measures can be taken. Simplified measures are not permitted whenever there is a suspicion of ML/TF. If suspicion exists the RE is required to undertake enhanced measures, including re-identification of customers and suspicious transaction reporting.

Weighting and Conclusion

1. Lao PDR only completed its first NRA in [month] 2018. This assessment has identified vulnerabilities and risks from which Lao PDR has implemented an action plan. A risk identified was supervisory deficiencies. Financial institutions are permitted, to adopt simplified customer due diligence and other risk control measures for low-risk customers. [Further comment will be made when that additional information is provided].
2. **Recommendation 1 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 2 - National Cooperation and Coordination

1. In the Third Round, Lao PDR was rated non-compliant on National Coordination (formerly R.31). The rating reflected the absences of high level policy co-ordination and direction, and a lack of effective operational co-ordination to progress AML/CFT requirements including the AML Decree 55 mandate.
2. *Criterion 2.1* - In October 2016 the Prime Minister of Lao directed the establishment of the NCC to lead and implement AML/CFT strategies and policies. The NCC commissioned the NRA, which has informed the development of the afore mentioned AML/CFT ‘action plan’ (see Rec 1.3) to drive the development of strategy, guiding principles, policies, and law reforms. From this action plan has emerged a Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT No 127/Gov dated February 2020 which formalises the roles and responsibilities of the various Ministries and the reporting entities in response to risk.
3. *Criterion 2.2* - The NCC is the authority responsible for the development of AML/CFT policy and the implementation of that policy across Ministries and agencies with AML/CFT roles and responsibilities. The NCC also has the role of evaluating the performance of the AML/CTF regime, advising the Government on legislative reform and administering relevant AML/CFT *legislation[[20]](#footnote-20).*
4. *Criterion 2.3* - The NCC which is chaired by the Vice-Prime Minister comprises representation from 10 Ministries[[21]](#footnote-21) which include financial regulatory authorities, LEAs, judiciary foreign affairs departments, and other industry competent authorities. The AMLIO performs the role of secretariat for the NCC. The NCC meets quarterly and is responsible for assessing the national ML/TF risk, developing national AML strategies, guiding principles and policies. The work of the NCC is regulated by the Decree on role and responsibilities of National Coordination Committee on Anti-Money Laundering and Countering-Financing Terrorism No.350/PM dated 14 October 2016. [Note this is referred to under different title in the MEQ see footnote 20]

[For Lao PDR: Are there any directives or mechanisms providing authority or a directing that each member Ministry exchange information with other Ministries to develop policy or undertake operational activities?]

[For Lao PDR: The diagram on page 30 of the MEQ identifies 15 departments. Required is the identity for the parent Ministries for each of those departments?]

1. In 2016 the NCC established the AML/CFT Working Group, which has a membership of senior officials from 35 relevant departments across Ministries with AML investigation and prosecution responsibility. This working group provides the forum for cooperation and coordination of policy development and operational activities across Lao DPR. At an operational level ‘Focal Groups’ have been established to co-ordinate law-enforcement activities across Lao PDR.[[22]](#footnote-22)

[For Lao PDR: How often do the working group meet? Can the minutes of the last three meetings be made available for review during the on-site?]

[For Lao PDR: How often do the Focal Group meetings occur are minutes available for meetings that have occurred in both Vientiane Capital and in provincial locations?]

1. *Criterion 2.4* - Lao PDR has established a working group to develop a legal framework to ensure co-ordination mechanisms are implemented to combat PF[[23]](#footnote-23). This legislation is being drafted to assign roles and responsibilities to various Ministries to ensure compliance and implementation of the relevant UN sanctions.
2. Criterion 2.5 - Lao PDR has developed a plan on the development of data sharing system.[[24]](#footnote-24) AMLIO has entered into MOUs with 15 competent authorities to facilitate the exchange of information and it is also stipulated in the Law on Criminal Procedure that competent authorities must collaborate with each other to detect and prevent crime.[[25]](#footnote-25)

[For Lao PDR: Is there are general privacy principle that protects private information?].

Weighting and Conclusion

1. National co-operation and co-ordination continues to mature in Lao PDR and formal mechanisms are being established.
2. **Recommendation 2 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 3 - Money laundering offence

1. In its previous MER, Lao was rated partially compliant for Rs.1 and 2 (ML offence). The main shortcomings were the absence of a comprehensive ML offence, a lack of criminal liability for legal person, and other technical shortcomings with the Vienna and Palermo Conventions.
2. *Criterion 3.1* - The required elements from the Palermo and Vienna Conventions are mostly/partially covered in the Penal Code and the AML/CFT Law. The Palermo convention adopts a broad concept of “money laundering”, which contains two kinds of money laundering, “concealment” as in Palermo Article 6(1)a and “possession” as in Palermo 6(1)b(i). It seems that Article 130 of Penal Code only covers only “concealment” (Article 6(1)a of Palermo) but misses “possession” ( Article 6(1)b(i) of Palermo). The AML/CFT Law seems to supplement the Penal Code’s shortcoming by adding “Acquisition, possession, use...” (AML Law, Article 6) as an act of money laundering.

[For Lao PDR: To arrive at our final assessment, we need Lao to clarify the relation of the two articles in Penal Code and AML Law and how they deal with “possession” in criminal cases. It is also better for Lao to clarify “genuine” in Article 130 of Penal Code.]

1. *Criterion 3.2* - follows the all-crime approach. Article 8(1) of AML/CFT Law defines predicate offences in broad terms as “all criminal offences which are the causes of money laundering including offences committed outside the territory of Lao PDR that incurs proceeds”. To make it clear, the article lists (almost) all the designated categories of offences.

[For Lao PDR: A small question is whether “trading of illegal properties” in AML Law covers “counterfeiting and piracy of products” in the designated categories of offences.]

1. *Criterion 3.3 -* This criterion is not applicable, because Lao follows an all-crime approach in Article 8 of AML Law.
2. *Criterion 3.4 -* The Penal Code covers “the offender’s property” (Article 52 PC) and “items obtained from an intentional offence”, items connected to major offences and crimes and items used in the commission or preparation of an offence subject to good faith principle (Article 53 PC). From the legislation alone, it seems that the scope of property subject to confiscation only covers limited things, and it is also not clear whether it covers the indirect proceeds of crime.

[For Lao PDR: To make it clear, Lao should better to explain the scope of confiscation, especially whether indirect proceeds of crime are covered by the legislation, and if there is a definition of “property” in the legislation for the purposes of confiscation. For example, Lao could provide some cases or legal documents to explain further.]

1. The properties subject to seizure and freezing (Article 3, No.08/NCC) appear to be in line with the scope required by Criterion 3.4, but these are not properties subject to confiscation. The scope of seizure and freezing seems bigger than that of confiscation.

[For Lao PDR: In the legal system of Lao, the properties that can be seized and frozen means the properties that can be confiscated? I will be happy to know more about this apparent discrepancy.]

1. *Criterion 3.5 –*

[For Lao PDR: There appears to be some confusion about this criterion. This criterion means that the conviction of predicate offence is not the premise of ML conviction. In other words, the ML conviction can be decided directly without waiting for the predicate offence conviction. The current legal articles provided by Lao seems that the police have the power to take preventive measure over the properties during investigation. I doubt whether the police directly have the power to confiscate properties without any trial by court. *From the assessor’s personal view, “An event or evidence that proves the fund or properties from the predicate offences without the necessity for a court ruling” in Article 6 of AML/CFT Law may be the proper answer to this question.* Please explain further. Is evidence of the existence of a predicate offence and that the property is obtained by way of commission of that predicate offence needed for confiscation? ]

1. *Criterion 3.6 -* The Penal Code, in Articles 8 and 9, covers conducts committed by Lao’s persons (citizens, residents) inside and outside Lao’s territory, conduct inside Lao’s territory, and offences against Lao by foreigners abroad. However, the definition of ML (article 4 Law on AML/CFT) and the ML offence (PC article 130), do not appear to encompass conduct constituting predicate offences committed outside of Lao PDR territory.

[For Lao PDR: But the concern of this criterion, in my opinion, is whether the ML offence will be convicted in Lao if the conduct constituting the predicate offence happened outside Lao. I would like to see further explanations.] [For Lao: A small question need to be clarified is the word “aperids”.]

1. *Criterion 3.7 -* The concern of this criterion is whether the self-money laundering is criminalized in Lao. Traditionally, the jurisprudence in many civil law systems takes self-money laundering as the continuous and inevitable conduct of the predicate offence and then self-money laundering should not be criminalized independently.

[For Lao PDR: If Lao doesn’t criminalize self-money laundering, Lao should have to prove that self-money laundering is “contrary to fundamental principles” of Lao’s law. I would like to see further explanations. Can a person who commits the predicate offence also be prosecuted for a money laundering offence in Lao?]

1. *Criterion 3.8 -*

[For Lao PDR: It seems that the stipulation “as expressed externally through the behaviour that constitutes the offence” (Article 12, Penal Code) is very close to the objective factual circumstance. The Law on Criminal Procedure in Article 44 also emphasizes a general principle “examine and evaluate the evidence comprehensively based on thorough and objective consideration with confidence”. But the assessor is not sure whether these stipulations mean the general use of factual circumstance in criminal litigation. I would like to see further explanation from Lao. In Lao PDR , can the subjective component (as defined in article 12 of the Penal Code) of a ML offence be inferred from objective factual circumstances?(same with Criterion 5.5)]

1. *Criterion 3.9* - The fines range from 300,000 to 500,000 Kip for money laundered below 1 billion Kip in addition to imprisonment for three to seven years and asset confiscation, and 500,000 to 700,000 Kip for an offence of laundering over 1 billion Kip in addition to imprisonment for seven to ten years and asset confiscation. There are also higher penalties for the more serious offences (organized crimes, habitual offences). While the imprisonment penalties are considered dissuasive and proportionate, it remains unclear as to whether the fines can also be classified as such.

[For Lao PDR: The assessor would like to know the rationale for this differences in fines for different levels of offences. The deprivation of freedom seems dissuasive and proportionate, but the assessor would like to see the comparison of the sentence for ML with some other similar offences.]

1. *Criterion 3.10 -* Article 89 of Penal Code provides that fines can be imposed on legal persons without prejudice of criminal liability of the natural person. Article 90 of Penal Code provide that the fines for legal person is double as prescribed in natural person. There are also other penalties special for legal person, such as revoking license, restrictions on business activities (Articles 91-94). The shortcomings in Criterion 3.9 may affect this Criterion, because the fines for natural person is the basis to impose fines on legal person. The sanctions for legal persons seem (largely) proportionate and dissuasive.
2. *Criterion 3.11 -* Firstly, as with many civil law countries, Lao PDR has a system-wide stipulation to criminalise offences in different stages. It is a general principle that not only the commission of an offence but also the attempt (Article 23) or preparation (Article 22) to commit an offence is criminalised under Lao PDR’s Penal Code. Secondly, Lao PDR’s Penal Code also has a comprehensive stipulation to criminalise the co-offenders, as in many civil law systems. The “participation in” (Article 26, PC) comprehensively covers all the co-offenders, the mastermind (planner, organizer, instructor, Article 27, PC), implementer (who commits the offence directly, Article 28, PC), inciter (persuading, encouraging, Article 29, PC) and other assistants in the offence (accomplice, Article 30, PC). The AML/CTF Law further clarifies the co-offenders in nearly the same language with FATF standard, including conspiracy (“planning”), aiding and abetting (“aiding, encouraging”), facilitating (“facilitating”)and counselling the commission (“giving advices”) (Article 6). In the assessor’s view, even without the clarification in AML/CTF Law, those ancillary offences will also properly be criminalised in Lao PDR. In conclusion, the assessor believe that all the ancillary offences listed are properly criminalized in Lao.

Weighting and Conclusion

1. After the previous MER, Lao PDR has made great efforts to pass the Penal Code and AML Law to improve its criminal system regarding ML. Many of these improvements are considered substantial. The laws have established the core basis for a comprehensive ML offence and the criminal liability of legal persons. But the assessor expects more information to complete the assessments for many criterions in this recommendation.
2. **Recommendation 3 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 4 - Confiscation and provisional measures

1. Lao PDR was rated partially compliant for the former R.3 in the 2011 MER. The identified limitations included the scope of qualifying forfeiture offences associated with ML, the absence of a TF offence, inconsistent legal definitions of ‘property’ and limitations with freezing property; and an absence of statistics on confiscation performance.
2. *Criterion 4.1* - Article 53 of the Penal code (PC) provides the legal framework for the confiscation of property that is derived directly or indirectly from crime; or property that has been converted[[26]](#footnote-26) [To Lao PDR – does the definition in the Law on AML/CFT carry over into the Penal Code (the chapeau to Article 8 suggests the definitions are limited to the Law on AML/CFT), and is there a specific reference to it in Art 53 or elsewhere in the Law on AML/CFT.] having previously been acquired in the commission of major offences,[[27]](#footnote-27) [To Lao PDR: can you clarify what “connected to the offence” means in article 53 with regards to major offences and whether conversion would specifically be covered?] which includes money laundering[[28]](#footnote-28) and terror financing.[[29]](#footnote-29) Article 53 also extends to ‘instruments’ used, or are intended to be used[[30]](#footnote-30) in the commission of a crime. [To Lao PDR: Can you clarfy whether the application of article 3 of this Instruction extends beyond the provisional measures of seizing/freezing to confiscation.] It is not a requirement that a conviction be entered prior to confiscation however the Court must be satisfied by evidence to a threshold of *beyond reasonable doubt* that the property represents the proceeds of crime[[31]](#footnote-31) before it can order confiscation. [For Lao PDR - this is referred to at 3.5 page 35 of the MEQ – is the ability to confiscate in the absence of a conviction prescribed explicitly in law?] [For Lao PDR: can you clarify whether there is a provision that relates to non-conviction based confiscation? Article 126 of the Law on Criminal Procedure appears to relate to search powers and collection of evidence.]. Confiscation measures can extend to property owned by third parties who although not directly involved in offending had knowledge that their property was intended to be used in the commission of qualifying criminal activity or if the confiscation is deemed necessary for safeguarding society. [For Lao PDR -would these persons be an accomplice (party) to an offence as per Art 30 of the PC?].

[For Lao PDR - further information is required to explain how confiscation of property of corresponding value is achieved, what are the relevant provisions in the law, is article 41 of the Law on AML/CFT the only provision? Note: Two court judgements will be required to be translated to enable review during the on-site to demonstrate the confiscation of property of correspond or equivalent value is occurring].

[For Lao PDR: can you clarify the difference between use of “property” in Art 52 and “objects/items” in Art 53? Does “objects/items” cover all property and instrumentalities in the sense of the categories in c4.1(a)-(d)? It is difficult to determine whether these are covered from the unofficial translation. Can you also clarify what is the interaction between Articles 8(2), 41 of the Law on AML/CFT and the [cite] Penal Code provisions?]

1. Criterion 4.2 - Competent authorities (the investigating organisation or public prosecutor) have the legal authority to identify, trace, [For Lao PDR: The start of article 108 of the Law on Crminal Procedure suggests that a power exists to identify, trace and evaluate by implication that the process has been undertaken (In the case of having verified the categories of assets, quantity, and the location of the assets which are relevant to the offenses), please clarify the specific powers to do so or indicate whether it is covered by the broad investigative powers in article 53.] freeze property that could be, or is subject to confiscation, and to seize such property as required.[[32]](#footnote-32) [For Lao PDR: can you clarify whether this can occur ex parte or if to do so is inconsistent with fundamental principles of domestic law. See Footnote 14 to c.4.2(b).] The Head of an Investigation Organisation [For Lao PDR - define head of investigation organisation?] can issue an Order to seize property to ensure compensation to a rightful owner or victim, to ensure payment of fines or other fees [For Lao PDR would this extend to an equivalent value confiscation order? Article 107 – Law on Criminal Procedure?] or, forfeit to the State.[[33]](#footnote-33)

[For Lao PDR - clarify - Article 108 and 128 – Law on Criminal Procedure identifies that the Head of an Investigation Organisation can confiscate in the absence of a court process – confirm confiscate means permanently deprive the owner of the property or is the word confiscate used in context of seizure of the property pending a court determination to permanently deprive the owner of a right to the property?]

1. Provisional measures can be applied to seize or freeze property and transactions believed to be associated with ML or TF through an instruction [For Lao PDR - issued by who within the competent authority?] to an AML/CFT reporting entity [To Lao PDR: can you clarify the legal basis for competent authorities to apply preventatitve measures (is this based on article 38 of the Law on AML/CFT)? Can you also clarify the effect of the Instruction on the Application of Preventative Measures Relating to ML/TF on competent authorities and reporting entities/postal enterprises/concerned parties. Is there is an obligation to act without instruction where evidence of property/transactions/customers being linked to ML or TF under article 2 Instruction on the Application of Preventative Measures Relating to ML/TF?]. Provisional measures apply for 30 days during which time the investigative authorities are required to prepare and serve a formal Order which remains effective until the resolution of the prosecution.[[34]](#footnote-34)

[For Lao PDR Where in legislation is there an ability for the Court/competent authority to examine, and, when required, prevent or void actions/arrangements that prejudice their ability to freeze or seize or to recover property that is subject to confiscation under certain circumstances. These circumstances would extend to arrangements where property has been transferred or dealt with in any way, for the intended purpose of defeating a confiscation process?]

1. For investigation measures, see R.31.
2. *Criterion 4.3* - The rights of bona fide third parties are protected in Lao PDR law where it is identified that a third party has an interest in any property that could be subject to confiscation.

[To Lao PDR: Please clarify whether the consideration of the Office of People’s Prosecutors of an appeal “in accordance with the relevant regulations and laws” includes article 42 of the Tort Law and how do they interact? Is there a specific provision about bone fide third parties in the law beyond the Tort Law, has a new law been passed since the last MER? (see para 283 of the Lao PDR MER) Please clarify if the last line of Article 108 of the Law on Criminal Procedure (In the case that the confiscated items have been verified that they belong to the injured persons, those objects must be returned back) have any application here?]

1. This occurs through an ability to sever interest in property [For Lao PDR: where is the ability to sever interest in property defined in law?] and through the rights of an owner or interested party to appeal the seizure or placement of a provisional measure over property. This appeal must be filed to the Office of the Peoples Prosecutor along with supporting evidence of the grounds for appeal within 30 working days of the seizure.[[35]](#footnote-35)

[For Lao PDR - where exists the requirement that the Prosecutor must advise/notify any known third party of their litigation rights so they can participate in the proceedings at which confiscation may be determined? Where is the appeal process outlined in procedural law?]

[For Lao PDR: Please identify if there is a specific provision allowing people with an interest in confiscated property (bona fide third parties) to make a claim over that property and potentially have it returned to them if they weren’t involved/didn’t have knowledge of the criminal activity that led to its confiscation?]

1. In the event that all of an offender’s property becomes subject to seizure or confiscation the Court must exclude property that is necessary for the livelihood of the offender and their family such as a house of residence, livestock for one who is a farmer along with property and objects that are used daily by the offender and his dependants.

[For Lao PDR: Please clarify how this provision applies, are the courts forced to exclude certain property, if wealth is kept in a domicile or in farm animals, or is this a discretionary power that allows for the provision of legitimate living expenses?]

1. *Criterion 4.4* - The Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No.08/NCC March 2016 requires authorities to store and manage property seized to ensure the value of property is maintained[[36]](#footnote-36).

[For Lao PDR - the MEQ refers to relevant regulations to ensure value of property is maintained, what are these regulations and can you please provide copies of them? What measures are routinely implemented to ensure this occurs for example do the regulations require that property is insured, valued at the time of seizure, do authorities have internal policy and procedures associated with Trust Accounts to hold funds or manage vehicles].

1. In the event that property is not managed in accordance to the regulations or is dealt with in a way that reduces value and causes loss, the state is required to compensate any affected party, and, in turn, those expenses can be recovered from the individuals who mismanaged and violated the regulations.

[To Lao PDR: can you confirm that this is covered by Article 108 of the Law on Criminal Procedure?]

[For Lao PDR - how is confiscated property disposed of? When property is liquidated where does the money go, is there a priority of payments for example funds dispersed to victims and innocent parties, and the balance is deposited with the Central Treasury? - and is this subject to a regulation?]

Weighting and Conclusion

1. **Recommendation 4 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 5 - Terrorist financing offence

1. In its previous MER, Lao PDR had ratified the all the relevant CT international conventions but didn’t transpose the conventions into domestic law. It was fundamental shortcoming that TF was not criminalized in Lao PDR at that time.
2. *Criterion 5.1* - The Penal Code (Article 131) and AML/CFT Law (Article 7) generally criminalize TF in nearly the same language. From the articles in the two laws, we could get that Lao stipulates that any intentional act, either direct or indirect, to provide or collect funds or properties to terrorism is criminalized as TF offense. Compare with the TF Convention, the mental element of knowledge is not required under Lao laws, but it covers the TF offenses under the TF conventions. The assessor doesn’t think that this is a shortcoming when meeting the requirements of the TF Convention to criminalize TF offenses. However, Article 2(1) of the TF Convention requires each state party criminalize all conducts in international conventions listed in Annex A. It seems unclear whether the conducts listed in Annex A are all criminalized in Lao.

[For Lao PDR: It is true that Article 120(6) stipulates “other terrorist-held offences as defined in international agreements or treaties which the Lao PDR is party to ” , but the assessor is not sure whether this means that the international conventions listed in Annex A of TF Convention can be automatically applied in Lao, if they have not been transposed into Lao’s domestic legislation.]

1. *Criterion 5.2* - The Penal Code, in Article 131, provides a comprehensive definition of TF. The TF offence covers any person who intentionally supplies funds to terrorism, or terrorist, or terrorism act.
2. *Criterion 5.2bis* - Article 7 of the AML/CFT law does not expressly cover the financing the travel of individuals to another State for the purpose of perpetrating, planning, preparing, or participating in, terrorist acts or providing or receiving terrorist training.

[For Lao PDR: Article 7(6) of AML.CTF Law covers teaching and training, but it is not obvious whether “travel” or “receiving training” is covered. Lao should explain further whether it is clearly stipulated in some other legislation or can be inferred from AML/CTF Law, Penal Code or court rules, etc.]

1. *Criterion 5.3* - Article 131 of Penal Code extend funds and properties to both legal and illegal sources.
2. *Criterion 5.4* - Article 131 of the Penal Code covers “the funds or properties are used in action or not”. Reading the translation from a good faith, this article also doesn’t require the funds and properties linked to a specific terrorist act.

[For Lao PDR: There is a high probability of some translated errors in Article 131 of Penal Code in “terrorist or linked to a specific terrorism act…in the actions or not”. From a good faith reading, the assessor assumes that the English translation might be: “terrorist, no matter linked to a specific act, or no matter used in the action or not”. Lao should confirm the translation.]

1. *Criterion 5.5 -* There are no provisions in Lao PDR law that explicitly provide that the intent and knowledge required to prove that the TF offence be inferred from objective factual circumstances. However, Article 7 (7) of the AML/CFT law states ‘Acknowledgment of an act with an objective evidence to prove that it is an act of terrorism’. Article 12 of the Penal Code provides that an offence consists of an objective component (external characteristics of the behaviour that has caused, or is evidence of an intention to cause damage to a social relationship that is regulated by the Penal Law). Article 44 of the Law on the Criminal Procedure also provides that the evidence be examined and evaluated ‘comprehensively based on thorough and objective consideration with confidence’.

[For Lao PDR: It seems that the stipulation “as expressed externally through the behaviour that constitutes the offence” (Article 12, Penal Code) is very closed to the objective factual circumstance. The Law on Criminal Procedure in Article 44 also emphasizes a general principle “examine and evaluate the evidence comprehensively based on thorough and objective consideration with confidence”. But the assessor is not sure if these stipulations mean the general use of factual circumstance in criminal litigation. Lao to provide further explanation. It is also noticed that the translation of Article 7 (7) of the AML/CFT law seems to mistake “knowledge” for “acknowledgment” - please clarify].

1. *Criterion 5.6 -* The assessor notices that the prescribed sanctions are higher for TF than for ML, which is in line with our common sense that TF often introduces heavier danger in nature than ML does to the society and then is necessary to be imposed heavier sanctions. However, the fines range from 50% to 80% for money laundered below 1 billion Kip, but the fines have upper limits for bigger amount of money laundered and more serious offences (organized crimes, habitual offense).

[For Lao PDR: The assessor would like to know the rationale for this discrepancy of fines for different levels of offences. Lao should also provide materials to describe or demonstrate why the sanctions for a natural person convicted of TF is proportionate and dissuasive within the context of Lao criminal system. For example, Lao could give a big picture of the sanction levels in the criminal system and compare the sanctions to different offenses.]

1. *Criterion 5.7 -* Articles 88 to 96 of the Penal Code provide comprehensive penalties over legal persons and allow for parallel criminal, civil and administrative proceedings. Article 89 of the Penal Code provides that the criminal liability of natural persons is not affected by the liability of the legal person.

[For Lao PDR: Please further clarify the rationale of the economic penalty of legal persons, which is double that of a natural person. Please also provide some comparison with other offences to prove the dissuasive and proportionate requirements.]

1. *Criterion 5.8 -* Article 23 and 131 of the Penal Code make it an offence for any person to attempt to commit a TF offence, and Article 7 (5) of the AML/CFT Law make it an offence to ‘aid an act’ of TF. However, “organize or direct” and “contribute to the commission” are not clearly provided for in current materials, although Article 7 of AML/CTF Law provides some related stipulations.

[For Lao PDR: As far as the assessor knows, many civil law countries have general stipulation in Penal Code to cover “joint offence”, and “organize” or “counsel” to commit offence is generally criminalized. Lao might look for rationale in other general clause in Penal Code.]

1. *Criterion 5.9 -* The TF offence is designated as a ML predicate offence in Article 8 of the AML/CTF Law.
2. *Criterion 5.10* - Articles 8 and 9 of the Penal Code and Article 7 of the AML/CFT Law provide that TF offences apply both within, and outside of the territory of the Lao PDR.

Weighting and Conclusion

1. Lao PDR has made great efforts to fill the gap of criminalization of TF after the previous MER. In the sense from zero to one, the improvements are fundamental. But the assessor expects more information to assure the assessments for many criterions in this recommendation.
2. **Recommendation 5 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

1. *Criterion 6.1* -
2. *Criterion 6.1(a) -* Pursuant to the Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) No.03/PM (11 February 2016) (Order No.3/PM), the Ministry of Foreign Affairs (MOFA) is the designated authority to propose persons or entities pursuant to the UN1267.
3. *Criterion 6.1(b) -* Order No.03/PM requires the Ministry of Public Security to coordinate with the MOFA, the AMLIO and relevant ministries to consider proposing designations to the UN to the National Coordinating Committee for Anti-Money Laundering and Counter-Financing of Terrorism (NCC). Clause 3.5 of the Order No. 03/PM provides a mechanism for identifying targets for designation based on the designation criteria set out in the relevant United Nations Security Council resolutions (UNSCRs).
4. *Criterion 6.1(c) -* Any proposed addition to, or removal from, the domestic/foreign lists must be presented to the NCC for consideration. Clause 3.2 of Order No.03/PM specifies the evidentiary standard of “sufficient evidence” for the NCC to consider a proposed a designation.

[For Lao PDR: Please clarify the following points:

* what does “sufficient evidence” mean for the purposes of designating individuals/entities.
* Clause 3.1.1 of the Order 03/PM lists ‘the result of litigation and judicial rulings that have authority’. Can you please clarify that this point is for consideration and that proposals for designations are not conditional upon the existence of a criminal proceeding]

1. *Criterion 6.1(d) -* Clause 3.5 of the Order No.03/PM provides procedures for domestic designations and requests for listing and requires that the MOFA, in proposing names to the UNSCR Committee, use the standard forms for listing as adopted by the relevant Committee.
2. *Criterion 6.1 (e) -* Order No.03/PM requires the MOPS, in consultation with MOFA, AMLIO and relevant ministries to seek evidence (on behaviour and/or activities) on the proposed designation. Clause 3.5.3 requires that the MOFA, in proposing names to the UNSCR Committee, to use the standard forms for listing as adopted by the relevant committee, including a detailed statement of case to support the designation. However, it is not clear as to the type of information that is required to be provided.

[Lao PDR: Has Lao PDR proposed a person/entity to the UNSCR? And if so, could you please provide a copy of this proposal?]

1. *Criterion 6.2* –
2. *Criterion 6.2(a) -* The MOPS is the authorized competent authority responsible for the proposed listing or delisting potential persons or entities that meet the specific criteria for designation. The Ministry of Public Security act as a key player in coordinating and considering with MOFA, AMLIO and associated agencies of the government in proposing to NCC the inclusion or removal from the domestic and foreign list of natural persons, legal entities or organization relating to terrorist or financing of terrorism for NCC’s consideration.
3. *Criterion 6.2(b) -* Lao PDR has a mechanism under Order No. 03/PM for identifying targets for designation based on the designation criteria set out in UNSCR 1373. The MOPS is in charge of coordinating with MOFA, AMLIO, relevant ministries and organizations of the government in proposing to NCC, the additions to/removals from the domestic and foreign list of natural persons, legal entities or organizations relating to terrorists or financing of terrorism for the latter`s consideration and approval. Listing and delisting are based on the following:

* The result of litigation and judicial rulings which have authority;
* The results of consideration by MOPS, AMLIO and the MOFA which provide evidence of behaviours and actions as specified in Article 3 and 7 of the Law on AML/CFT;
* The request of foreign governments which are supported by evidence of the behaviours and actions as defined in Articles 3 and 7 of the Law on AML/CFT.

1. *Criterion 6.2(c) -* The MOPS is in charge of coordinating with the MOFA, the AMLIO, other relevant ministries and organizations in considering requests for designations of persons or entities by a foreign jurisdiction. Consideration of the proposed designation is based on evidence of behaviours and actions as specified in Article 3 (financing of terrorism) and Article 7 (acts of terrorism) of the AML/CFT Law. Any proposed designation must be presented to the NCC for consideration. Clause 3.2 of the Order No.03/PM specifies the evidentiary standard of “sufficient evidence” for the NCC to approve a designation. Once a determination is made, MOFA is responsible for providing a response to the requesting foreign jurisdiction. It is not clear as to whether the determination is made promptly.

[For Lao PDR: What is the process for the coordination of agencies in considering requests for designations? Is there a meeting? Is this done virtually or by email? How long does it take to consider and be presented to NCC? What is the turnaround time from receiving a request and NCC determination of whether the requests meets the criteria for designation? As requested above, please clarify what “sufficient evidence” means for the purposes of designating individuals/entities.]

1. *Criterion 6.2(d) -* Clause 3.2 of Order No. 03/PM specifies the evidentiary standard of “sufficient evidence” for the NCC to consider a proposed a designation. Clause 3.1 of Order No. 03/PM requires consideration of evidence of behaviours and actions as specified in Article 3 (financing of terrorism) and Article 7 (acts of terrorism) of the AML/CFT Law.

[For Lao PDR:

* what does “sufficient evidence” mean for the purposes of designating individuals/entities.
* Clause 3.1.1 of the Order 03/PM lists ‘the result of litigation and judicial rulings which have authority’.
* Can you please clarify that this point is for consideration, and that proposals for designations are not conditional upon the existence of a criminal proceeding].

1. *Criterion 6.2(e) -* The MOPS is responsible for coordinating with the MOFA and AMLIO and other relevant ministries and organisations on proposals to foreign governments to add/remove designations supported by evidence of behaviours and actions as defined in Articles 3 and 7 of the Law on AML/CFT. It is not clear on what other information (i.e. identifying information) is required to be provided to the foreign jurisdiction.
2. *Criterion 6.3* –
3. *Criterion 6.3(a)* – [Further information required for analysis]

[For Lao PDR: The TC Submission stated that *“By Law, the LEAs authorities has power to compel to access, collect and solicit information to identify person or legal person based on reasonable grounds, a basis to suspect or believe to meet the criteria for designation as situated in the Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) clause 3.1.”* What law is this referring to? Is it the Law on Criminal Procedure? If so, does the law on criminal procedure only cover criminal investigations? or can it be used for intelligence purposes? Does it allow access to financial information?]

1. *Criterion 6.3(b)* – Clause 3.6.2 of Order No.3/PM provides that coordination and consideration of designations, and any decision by the NCC on designations be made *ex parte* and without prior notice to the individual, legal entity or organisation.
2. *Criterion 6.4* – The TFS on designated person or entities that are believed to be involved in terrorist financing and financing of terrorism is stipulated in clause 5.1 of the Order No.3/PM, whereby there is requirement for REs to monitor the clients and undertake preliminary measures to stop and withhold such funds or properties. Notwithstanding, there is limited information on the mode of notification to RE on the new list of those associated with terrorism or financing of terrorism from AMLIO and the implementation of TFS by REs specifically on the freezing measures in relation to the assets and properties of these clients.

[Lao PDR: How does the UN designation take effect in Lao? Is the designation from the UN automatically enforceable in Lao PDR? We note that 5.1 suggests UN designations are communicated to REs by AMLIO on a list? How does this occur in practise? Can you please explain how RE’s are notified of updated designation lists? Does it occur using the website or is there another mechanism? Are RE’s required to monitor the consolidated list? Or is there another list?]

1. *Criterion 6.5* -
2. *Criterion 6.5(a)* - The REs are required to withhold, freeze or seize funds which are associated with terrorism or TF, including funds owned or controlled by designated persons/entities as specified in Clause 5 of the Order No.3/PM. The Order requires REs to withhold funds ‘immediately’ upon notification that a client is a designated person/entity. Clause 5.2 and 5.3 of the Order No.3/PM also extends to postal enterprises, and all natural persons and legal entities and organisations. Notwithstanding the above, there is limited information on example of the provisional measures used by the reporting entities to or freeze funds/assets of the customers who are on the designation list.

[For Lao PDR: This analysis depends on further information requested at C.6.4 above to better understand how it covers ‘without delay and without prior notice’.]

1. *Criterion 6.5(b)* - An asset to be hold, freeze and seizure are indicated the Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) (clause 2) and in the Law on AML/CFT Article 8 (clause 5). Funds and properties that are to be frozen, seized are funds and properties defined in Article 8, Section 5 of the Law on AML/CFT.
2. *Criterion 6.5(c)* - Article 50 of the AML/CFT Law includes a prohibition on all persons and entities from conducting transactions or business operations with designations, and prohibits persons and entities from having dealings related to, or being involved in ML or TF, and giving any type of assistance in ML and TF. Article 52 of the AML/CFT law prohibits reporting entities from having business dealings or performing transactions with designated persons or entities.
3. *Criterion 6.5(d)* - Clause 3.5 of Order No.3/PM requires that the MOFA provide updates to the list of designations immediately to the AMLIO and the MOPS. The AMLIO is required to notify reporting entities immediately of updated designation lists. The MOPS is required to notify the updated designations to the postal enterprises and other relevant sectors immediately, as well as disseminate the updated list via government websites regularly. It is not clear how AMLIO and MOPs notify relevant entities, and whether they are required to provide clear guidance to financial institutions and other persons or entities, including DNFBPs on their obligations in taking action under freezing mechanisms.

[For Lao PDR: How are reporting entities notified of updated designations? Is there a requirement to provide clear guidance to reporting entities on their obligations to freeze assets of designated persons?]

1. *Criterion 6.5(e)* - Clause 5 of Order No.3/PM requires reporting entities to report immediately to MOPS and AMLIO once funds or property of designated persons or entities has been stopped or withheld, including when making transactions.
2. *Criterion 6.5(f)* - [For Lao PDR: Are there legal measures to protect third parties from administrative, criminal or civil proceedings when freezing funds in good faith (implementing the obligations under R.6)?]
3. *Criterion 6.6* –
4. *Criterion 6.6(a) -* The procedures to submit de-listing requests to the UN Sanctions Committee are outlined clause 3.5.4 of Order No.3/PM. AMLIO’s website includes a link to the Focal Point for De-Listing on the United Nations Security Council website but does not include detailed de-listing procedures.

[For Lao PDR: Are there written procedures for the Ministry of Public Security and other relevant ministries to consider proposals? Are there clear criteria for proposals that must be considered?]

[For Lao PDR: Are these procedures publicly available?]

1. *Criterion 6.6(b) -* Clause 4 and 6 of the Order No.3/PM provide a mechanism to de-list and unfreeze funds or other assets of designated persons/entities that no longer meet the criteria for designation. The designated person/entity may apply to the Office of the People’s Prosecutor to appeal the listing, and in the event it is determined that the person/entity no longer meets the criteria for designation, the MOFA shall propose the removal from the list of the UN Security Council. Once the person/entity is removed from the list, the seizure of funds and other assets in the name of the person/entity are cancelled and returned.
2. *Criterion 6.6(c) -* Clause 4 of Order No.3/PM provides designated persons or entities the opportunity to appeal their designation to the ~~Supreme~~ People’s Prosecutors Office.

[For Lao PDR: Where is the procedure for a person or entity to appeal a designation? The TC response states that a person can write a petition letter. Please advise where the procedure is outlined]

1. *Criterion 6.6(d) -* The designation in accordance with UNSCR (1988) and other resolutions are stipulated in clause 3.3 and 3.5 of the Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) whereby automatic listing or adoption without the need for NCC’s consideration and approval.
2. *Criterion 6.6(e)* - The MOPS is required to notify designated persons and entities of the option to make a de-listing request directly to the United Nations Office of the Ombudsperson (Clause 4.3 of Order No.3/PM). [For Lao PDR: are these procedures publicly available?]
3. *Criterion 6.6(f)* – There are no publicly known procedures to support unfreezing of funds for persons who are inadvertently affected by the freezing mechanism (i.e. a false positive).

[For Lao: are there procedures for unfreezing funds or other assets related to false positives? Arethese publicly available?]

1. *Criterion 6.6(g)* - Clause 5.1 of the Order No.3/PM provides a mechanism for communicating de-listings to reporting entities. In the event that such funds and properties are not related or associated with those on lists of those associated with terrorists or the financing of terrorism, the Ministry of Public Security is required to inform a reporting entity in writing for their acknowledgement and cancellation of the applied preliminary measures. However, it is unclear whether guidance are issued to reporting entities on their obligations to respect a delisting or unfreezing action.

[For Lao PDR: Where is the requirement for MOPS to send an “official notification letter”. Are there procedures on this? This is not included in Order No.3/PM. Is a notification letter how REs are notified of all listing/delistings?]

[For Lao PDR: What is the timeframe for providing written notification to reporting entities?]

[For Lao PDR: Has AMLIO produced any guidance for financial institutions, DNFBPs and other reporting entities regarding their obligations in relation to de-listing or unfreezing action?]

1. *Criterion 6.7* - Clause 6.2 of the Order No.3/PM allows withheld, frozen or seized funds to be used “as necessary expenses to sustain a person`s livelihood” and “expenses for other legal obligations of the person, or a legal entity or an organization”. However, this provision does not explicitly provide legal cover to permit access to funds for the other basic expenses detailed by UNSCR 1452, such as fees, expenses and service charges, nor does this provision appear to permit those proscribed to apply for access to funds for any extraordinary expenses*.*

[Lao PDR: Can you please confirm the process of this? The person/entity applies to Office of People’s Prosecutor, and then MOFA decide how the funds will be used? Clause 6.4 of the Order says the OPP shall provide the UNSC all necessary documents to seek permission to use the funds and properties. Can this occur prior to removal from the UNSCR list? Please provide clarification.]

[For Lao PDR: does clause 6.2 extend to “extraordinary expenses” as required by c.6.7?]

Weighting and Conclusion

1. While there is law in place in relation to TFS on TF, there is lack of information on TFS implementation by REs specifically on monitoring process for prompt identification of designation person or organization in their client database as well as freezing of assets/ properties process to ensure implementation of TFS without delay.
2. **Recommendation 6 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 7 – Targeted Financial sanctions related to proliferation

1. Targeted financial sanctions related to proliferation is a new requirement added to the FATF Recommendations in 2012 and so it was not assessed in the Lao PDR MER in 2011.
2. *Criterion 7.1* - A draft decree (Draft Decree on Trade Management of Dual-Use Goods) and a draft order (Draft Order on Withholding, Freezing or Seizure of Funds Relating to Proliferation Financing) intend to address targeted financial sanctions related to proliferation but have not yet been enacted. Lao PDR has not implemented targeted financial sanctions related to proliferation to date.
3. *Criterion 7.2* - Similar to C.7.1, Lao PDR is yet to implement targeted financial sanctions related to proliferation.
4. *Criterion 7.3* - In the absence of prevailing legislative provisions relating to targeted financial sanctions on proliferation, Article 9 of the Agreement on Organization and Operations of the AMLIO does not appear to cover monitoring and sanctioning requirements of C.7.3.
5. *Criterion 7.4* – Lao PDR has not developed and implemented any publicly known procedures to submit de-listing requests to the United Nations Security Council in the case of designated persons and entities that, in the view of Lao PDR, do not, or no longer, meet the criteria for designation.
6. *Criterion 7.5* - In the absence of freezing obligations for proliferation, there are no relevant measures in place to permit the addition of interest or other earnings due, or to make a payment due under a contract entered into prior to designation.

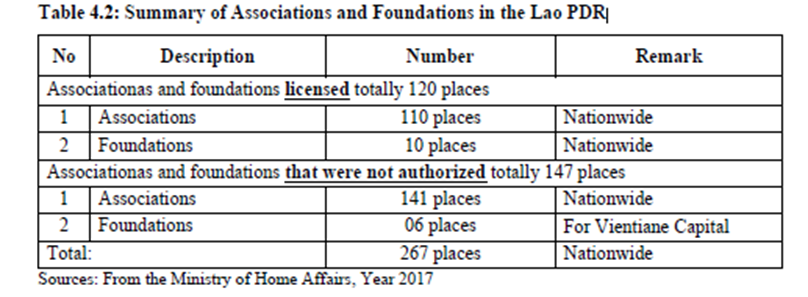
Weighting and Conclusion

1. Lao PDR has initiated formal action to draft a decree and an order to address requirements relating to targeted financial sanctions on proliferation. These provisions are still in the draft form and yet to be enacted.
2. **Recommendation 7 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommandation 8 – Non-profit organisations

1. NPOs in Lao PDR can be categorised into two types as follows:

* Foundation which is a non-profit seeking social organization registered as a legal entity with its own capital and assets working for public interest in cultural, educational, environmental, health, sports, scientific, charity, humanitarian and other purposes.
* Associations that are established and operate under this Decree refer to civil society organizations established on a voluntary basis, have regular operation, non-profit intention, provide mutual assistance, protect the legitimate rights and interests of the associations, members of associations or communities, and contribute to country’s socio-economic development.
* Details of the NPO are as follows:



1. Both type of NPOs are governed by respective laws which are Decree of Foundation and Decree of Associations which cover registration process, pre-inspection prior to issuance of license and annual report of movement of revenue and expenses. However, there could be specific NPOs which fall outside the scope and hence not supervised as Decree of Foundations does not apply to state and private funds, foundations of foreign residents, stateless persons and branches or representative offices in Lao PDR of foreign foundations. Meanwhile, Article 5 of the Decree on Associations only applies ‘specifically to the associations as entity status of Lao citizens that have been officially established under this Decree. Looking at the NRA and other documents provided, there is very limited risk assessment and there was no identification of high-risk NPOs or the nature of risks, threats and vulnerabilities associated to specific NPOs. We also noted that there was no due diligence conducted on the funding sources for the establishment of the NPOs prior to registration.

[For Lao PDR: Are Foreign NPOs covered under the Decree of Associations? Could you please provide copies of the Decree on International Non-Government Organization and the Decree on governing local staffs to work with foreign organisation in Lao – both Decrees are listed on the Ministry of Foreign Affairs of Lao PDR. Please explain: what are ‘state and private funds?’ as referred to in Article 4 of the Decree of Foundations. Which agency holds information on the registrations of NPOs? Please provide a breakdown of supervisors and the types of NPOs they are responsible for supervising, as well as a breakdown of foreign and local NPOs.]

[For Lao PDR and assessment team: the above information is included as an overview of the NPO sector in Lao. This info may be moved R.24 later in the MER drafting process]

1. *Criterion 8.1* -
2. *Criterion 8.1(a)* - The NRA includes a very limited assessment of the NPO sector operating in Lao PDR. Lao PDR has not identified which subset of NPOs fall within the FATF definition or used all relevant sources of information, in order to identify the features and types of NPOs likely to be at risk of TF abuse.

[For Lao PDR:

* Is there any other assessment of risks in the NPO sector other than in the NRA?
* Do supervisors have any internal guidelines/procedures for identifying NPOs vulnerable for TF abuse?
* Are NPOs further categorised after associations and foundations, such as foreign and domestic, or high risk and low risk?]

1. *Criterion 8.1(b)* - Notwithstanding that the TF risk in Lao PDR is assessed as low and there are no actual cases on TF based on NRA, it was identified that the CSOs might be at risk of being abused by natural person, legal persons or organizations within the country or abroad in a form of donations through legitimate or illegitimate sources. However, this is not supported by actual data in terms of type of NPOs and the nature of funds transfer to certain entities or countries related to TF.
2. *Criterion 8.1(c)* - Whilst the NRA does provide a very limited risk assessment of the NPO sector, the risk assessment is not comprehensive and does not identify high-risk NPOs. Lao PDR has not reviewed the adequacy of measures, laws and regulations relating to NPOs in order to be able to take proportionate and effective actions to address the risks identified. The Decree on Associations was implemented in late 2017. Articles 60- 72 outline the rights and duties of managing agencies including examining regulations in relation to financial management, providing advice on implementation and participation in the formulation of policies and regulations in relation to association matters. Articles 39, 41 and 42 of the Foundations Decree also set out rights and duties of managing agencies such as to disseminate and advise on the implementation of policies, laws and regulations pertaining to foundations.

[For Lao PDR: Was a review of the measures, laws and/or regulations conducted when drafting/implementing the Decree on Associations? Given that there are multiple supervisors in place, the coordination of supervision in terms of number of reviews conducted and the specific supervisors for the foundations and associations need to be articulated clearly. ]

1. *Criterion 8.1(d)* - Lao PDR has not conducted a review of the adequacy of measures in the NPO sector and its legal and regulatory framework. While NPOs are required to maintain information on beneficiaries and transaction records as specified in the Law on AML/CFT Article 37, there is no explanation on how such periodic information maintained or any outcome of the inspection by supervisors are being used to periodically reassess the NPO sector to continuously assess potential vulnerabilities to terrorist activities and ensure effective implementation of measures.
2. *Criterion 8.2 -*
3. *Criterion 8.2(a)* - Lao PDR has clear policies to promote accountability, integrity and public confidence in the administration and management of NPO including strict requirements for the management of NPOs, as well as annual reporting. Article 37 of the AML/CFT Law requires that NPOs operate with transparency and openness, and maintain data on internal management and record-keeping for access by reporting entities. Article 18 of the Decree of Foundations and Article 30 of the Decree on Associations requires NPOs to file annual reports on their organisation and expenditures, as well as to strictly abide by laws pertaining to auditing. Both Decrees require that NPOs operate on the principles of transparency and openness.
4. *Criterion 8.2(b)* - Lao PDR has categorized the right and duties of the Public Administration and Civil Service Authority, Prime Minister’s Office in the Decree on Foundations Article 39-42; and the Decree on Associations, Article 60, especially on the provision to conduct an outreach to CSOs for raising awareness in area of AML/CFT, as well as for capacity building purpose. However, there is no statistics provided on the type and frequency of outreach or engagement conducted with the NPOs other than the workshop conducted as part of the NRA process.

[For Lao PDR: Please provide the following information:

* some other examples of workshops or training programmes provided to the NPO sector;
* any feedback received from NPOs in relation to possible threats, risks, or measures;
* Any guidelines or best practise guidance issued to the NPO sector on preventing TF abuse;
* any other published information in newspapers, websites or media to raise awareness of TF abuse in the NPO sector].

1. *Criterion 8.2(c) -* AMLIO, in cooperation with State Administration and Development Department, ~~Ministry of Public Security~~ MOHA as the CSO supervisory bodies conducted the NRA on ML/TF to identify a potential vulnerability and threat that might associate with terrorist financing activities in Lao PDR, as well as took place an action plan including CSOs risk mitigate mechanism in form of workshop in order to raise awareness and to impede from being abused by terrorist organizations.

[For Lao PDR: Please provide a copy of the aforementioned action plan. And as discussed above, please provide copies of any guidelines, best practise guidance and examples of any workshops or meetings to discuss combatting TF abuse in the NPO sector].

1. *Criterion 8.2(d) -*  The foundations and associations registered as legal persons within Lao PDR are required to open account with regulated financial institutions but there is no specific requirement/ guidance/ policy to encourage to NPOs to conduct transactions through regulated channels.

[For Lao PDR: As mentioned above, to provide any specific requirement/ guidance/ policy to encourage to NPOs to conduct transactions through regulated channels. Is there any statistics on transaction conducted by NPOs through regulated financial institutions?]

1. *Criterion 8.3 -* The NPOs are supervised and monitored as the responsibilities of supervisory bodies was set out in the Decree on Foundations, Article 39-42 includes provisions relating to the inspection of CSOs under Article 45 and the Decree on Association, Article 59-60 and 74-75. In addition, the monitoring and inspections provision on CSOs operations are also set out in the Law on AML/CFT Article 36. However, there is no information on how risk based approach is being applied for the supervision of the NPOs by the respective supervisors as well as statistics on annual report submissions of these NPOs.

[For Lao PDR: As requested above, please provide a breakdown of supervisors and the types of NPOs they are responsible for supervising.

How are onsite/offsite inspections prioritised?

How does a supervisor determine how often, or which NPO to inspect?]

1. *Criterion 8.4 -*
2. *Criterion 8.4(a) -* The monitoring and inspection provision to ensure NPO operations comply with the requirements is stated in the Law on AML/CFT Article 36 and 37, as well as stated in the Decree on Foundations Article 38-42 and the Decree on Association, Article 59, 74 and 75. There is no evidence that risk based measures apply to NPOs at risk of TF abuse.

[For Lao PDR:

* Article 36 of the AML/CFT law requires monitoring on a ‘regular basis’. What is regular?
* How often are onsite supervisions conducted?
* Does Lao PDR have statistics of onsite and offsite inspections being conducted?
* Are there different types of supervision/monitoring for different types of NPOs?
* Are there any internal procedures or guidelines on conducting supervision/monitoring and if so, are you able to provide these?
* Is there different types of supervision/monitoring for different types of NPOs?]

1. *Criterion 8.4(b)* - The sanction provision for violations by NPOs or persons were stipulated in the Article 47, Decree on Foundations, and Article 47, Decree on Association, whereas available sanctions are in the form of warning, education measures, disciplinary measures, fines or legal proceedings according to the nature of the breach. In addition, Article 77 of the Decree on Associations also stipulated measures against associations and members of the associations in the form of warning, suspension, dissolution or prosecution according to the laws. However, some of the sanctions available may not be effective, proportionate and dissuasive in relation to the some of the serious offence for violation of AML/CFT Law. For example, sanctions in the form of warning for initial violations as provided in Article 3 of the Decision on Administrative Measures Violated Regulations and Law on Anti-Money Laundering and Counter-Financing of Terrorism which may not be proportionate or dissuasive. This covers key obligations such as compliance program, KYC procedures, CDD collection of detailed customers’ data and data collection on wire transfers. Furthermore, we observed that sanction in the form of education measures may not be proportionate in relation to the serious offence such as delayed STR submission and failure to maintain confidentiality of STR.

[For Lao PDR: Can you provide any case studies where sanctions have been applied?]

|  |  |  |  |
| --- | --- | --- | --- |
| **Article** | **Sanction type** | **Applicability** | **Offence** |
| Article 62 | Education Measures | Natural person, legal person or organization | * Delayed STR submission * Failure to maintain confidentiality of STR |
| Article 63 | Disciplinary measures | Officers | * Non-criminal |
| Article 64 | Fining measures | Natural person, legal person or organization | * Non-criminal * Violations of Article 50, 51 and 52 |
| Article 65 | 1. Warned in writing and recommended to exercise their rights and obligations;  2. Fined as per a separate regulation. | Reporting entities | * Violation of Article 18: Rights and Obligations of Reporting Entities |
|  | 1. Suspended from business operation or subject to management removal; 2. Have their business permits or licenses withdrawn; 3. Be criminally prosecuted in accordance with relevant laws fined 100,000,000kip (USD11,090) up to 2,000,000,000kip (USD22,180,000).” | Reporting entities | * Violation of Article 50 and 52 |
| **Article** | **Offence Type** | **Applicability** | **Sanctions** |
| 66 | Money Laundering | Natural persons | * <1,000,000,000Kip (<USD112,315): shall be deprived of freedom from 3-7 years, fined 300,000,000- 500,000,000 Kip (USD33,300 -USD855,500) with his/her properties to be confiscated. * >1,000,000,000 (>USD112,315) shall be deprived of freedom from 7-10 years, fined 500,000,000 Kip up to 700,000,000 Kip (USD33,300 –USD77,700), and with his/her properties to be confiscated. |
| 66 | Money Laundering | Organized group, habitual offense | * An offender shall be deprived of freedom from 10-12 years, * fined 800,000,000 Kip up to 1,000,000,000 Kip (USD 89,852 –USD112,315) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. |
| 67 | Terrorist Financing | Natural persons | * <1,000,000,000Kip (<USD112,315): shall be deprived of freedom from 5-8 years, fined 500,000,000- 800,000,000 Kip (USD56,158 – USD89,852) with his/her properties to be confiscated. * >1,000,000,000 (>USD112,315) shall be deprived of freedom from 8-12 years, fined 800,000,000 Kip up to 1,000,000,000 Kip (USD 89,852 –USD112,315), and with his/her properties to be confiscated. |
| 67 | Terrorist Financing | Organized group, habitual offense | * An offender shall be deprived of freedom from 12-20 years, * fined 800,000,000 Kip up to 1,000,000,000 Kip (USD 89,852 –USD112,315) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. |
| 69 | Organized criminal group and racketeering | Natural person | * Imprisonment of 3 to 6 years, * Fined 30,000,000 Kip up to 60,000,000 Kip (USD3,330– USD6,660) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. |

[For Secretariat: This table will not be in the final document but is useful for determining scope for this draft.]

1. *Criterion 8.5 -*
2. *Criterion 8.5(a) -* Article 73 of the Decree of Association allows for coordination among federal and local level agencies to facilitate the monitoring, inspecting and assessing of activities of associations, and address issues in accordance with regulations. Article 43 of the Decree of Foundations allows for federal and local level agencies to coordinate prior to the approval of the establishment, merger, separation or dissolution of foundations, and these agencies to notify the status of foundation activities. The Decree on Foundations does not include a specific provision for cooperation and coordination among relevant agencies for the purposes of monitoring NPOs and sharing information. Article 37 of the AML/CFT law allows investigative authorities, reporting entities, AMLIO and other competent authorities’ access to NPO records and information.
3. *Criterion 8.5(b)* - The Ministry of Public Security has power and responsibility to investigate TF offences as per Article 11 of the Decree of Entrust and Responsibilities in Implementing the Activities of AML/CFT. There is no specific mention of any agency tasked with the investigation of NPOs. [For Lao PDR: Has there been any TF investigations relating to NPOs?]
4. *Criterion 8.5(c) -* As stated above, Article 37 of the AML/CFT law allows investigative authorities, reporting entities, AMLIO and other competent authorities access to NPO records and information on customers, business relations and transactions.
5. *Criterion 8.5(d) -* There is a legislative mechanism to enable coordination and information sharing among competent authorities and the reporting of suspicious transactions, however there are no specific mechanisms in place to ensure that in the event of a misuse of an NPO, relevant information is promptly shared with competent authorities in order to take preventative or investigative action.

[For Lao PDR: The Decree on Associations refers to inspecting associations and addressing violations, is there a procedure or mechanism in the instance where there is suspicion of misuse of an NPO, that the inspecting authority or supervisor is required to refer the matter to the Ministry of Public Security (or other TF investigative agency/law enforcement authority) for investigation?]

1. *Criterion 8.6* - The AMLIO is the authority designated under Article 3 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office, to respond to international requests for information relating to AML/CFT, including relating to NPOs suspected of TF or other forms of terrorist support. However, there are no clear procedures on responding to information requests and exchange of information with foreign counterparts.

[For Lao PDR:

* Are there any such procedures in AMLIO for managing information requests (including on NPOs) from foreign counterparts?
* What is the role of the Ministry of Foreign Affairs? What is the role of Ministry of Home Affairs?]

Weighting and Conclusion

1. Notwithstanding that the TF risk in Lao PDR is assessed as low risk based on NRA, there is no statistics to support in terms of type of NPOs that are prone to TF abuse and the nature of donations to certain entities or countries related to TF. While we acknowledged that there are dedicated supervisors for NPO, there is minimal information on how risk based approach is applied for monitoring of NPOs in terms of supervisory approach and process. In addition, while there is information maintained and reviewed by supervisors on the NPOs, there is lack of information or ongoing assessment to identify potential vulnerability and threat on terrorist financing activities in Lao PDR.
2. **Recommendation 8 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 9 – Financial institution secrecy laws

1. *Criterion 9.1* - In terms of Article 32 on Confidentiality of the Law on AML/CFT, the management and staffs of the reporting entities will not be disciplined or prosecuted for disclosing customers’ secrets, if such action is done with good faith and in compliance with that law. Further, Clause 5 of Article 50 of the Law on AML/CFT prohibits natural and legal persons and organisations to conceal disuse, threaten, impede and obstruct functions of competent authorities. Articles 78, 80 and 81 of the Law on Insurance deal with disclosure of financial, confidential and business information in the insurance sector. Article 50 of the Law on Commercial Bank imposes confidentiality restrictions on present and past staff and authorized representatives of commercial banks. Confidential information can only be disclosed to the central bank, auditor and as provided for by the law and regulation.
2. However, in the absence of evidence of specific enabling legal provisions, it is not apparent whether reporting institutions could share CDD and other information among themselves as required by Recommendations 13 (correspondent banking), 16 (wire transfers) and 17 (reliance on third parties) [For Lao PDR: To Lao PDR, grateful if you could provide further such information if these powers are available.]. Although it has been stated in Article 81 of the Law on Insurance that the Ministry of Finance would arrange to disclose information to foreign financial supervisors, it is not clear whether all the other competent authorities are legally empowered to share information with their foreign counterparts.

Weighting and Conclusion

1. There is lack of clarity on the ability of competent authorities to share information domestically and internationally as well as the sharing of information between financial institutions.
2. **Recommendation 9 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 10 – Customer due diligence

*Detailed CDD requirements*

1. Lao PDR was rated non-compliant for former Recommendation 5 in its 2011 MER. With the enactment of the Law on AML/CFT and introduction of the Agreement on KYC and CDD, Lao PDR has achieved significant progress with respect to CDD requirements for FIs. As specified in Article 1 of the Agreement, this Agreement issued by the Chairman of the National Committee for AML/CFT intends to expand on Articles 20, 21 and 22 of the Law on AML/CFT in order to strictly implement the work of AML/CFT at the reporting unit level to be efficient and effective. The Agreement can be considered as a “Legislation of Specific Application” laid out with the purpose for administrative supervision that explicitly aims on particular natural person or organization [For Lao PDR: Please confirm if this is an accurate description of how the Agreement operates as an “enforceable means” as defined by the recommendations]. Article 33 of the Agreement on Violations for Offenders states that reporting units who do not carry out their duties in reporting as specified in the Agreement will face warning and fines as specified in Article 64 and 65 of the Law on AML/CFT.
2. A plethora of entities are covered under FIs. As per the non-exhaustive definition contained in Clause 7 of Article 8 of the Law on AML/CFT, financial institutions mean commercial banks, micro-finance institutes, all forms of credit lending companies, pawnshops, leasing companies, money transfer service companies, currency exchange shops, insurance companies, securities companies, asset management companies, among others.
3. While acknowledging the progress made by Lao PDR on CDD requirements, the 2017 FUR identified major deficiencies on CDD with respect to verification timing and lack of requirement to cease transactions or business relationship in the event of failure to collect detailed data on beneficial ownership. However, the 2018 transitional FUR noted that verification timing was actually addressed in the definition of “verification” and found that former R.5 was at a level of largely compliant.
4. *Criterion 10.1* - Clause 3 of Article 52 of the Law on AML/CFT prohibits reporting entities from opening anonymous accounts whilst Article 27 of the Agreement on KYC and CDD forbids reporting units to open coded and anonymous accounts and accounts in false names.

*When CDD is required*

1. *Criterion 10.2* - Article 22 of the Law on AML/CFT, Article 16 of the Agreement on KYC and CDD and Article 51 of the Law on Commercial Bank stipulate the instances when the customer due diligence should be conducted as required by the FATF (all sub-criteria of 10.2).
2. Case 1 of Article 22 of the Law on AML/CFT requires that the reporting entities must apply CDD measures to customers when providing services or undertaking transactions for new customers. In addition, as per Paragraph 1 of Article 16 of the Agreement on KYC and CDD, reporting units must carry out CDD measures when creating business relationships with their clients.
3. Case 2 of Article 22 of the Law on AML/CFT requires that the reporting entities must apply CDD measures to customers when carrying out occasional, one-off or several suspicious transactions [For Lao PDR: please verify whether this term is correct here as requirement is for several transactions not only for several suspicious transactions]. Further, as per Paragraph 2 of Article 16 of the Agreement on KYC and CDD, reporting units must carry out CDD measures when clients occasionally make transactions which have value of 100,000,000 kip (one hundred million kip) or more or equivalent. This is well below the required threshold of USD/EUR 15,000.
4. Similar to sub-criterion (b). In the absence of any specific exclusion, occasional transactions appear to include wire transactions as well. According to Paragraph 3 of Article 16 of the Agreement on KYC and CDD, reporting units must carry out CDD measures when clients occasionally transfer funds which have a value of 8,000,000 kip (8 million kip) or more or equivalent.
5. Cases 3 and 4 of Article 22 of the Law on AML/CFT respectively require that the reporting entities must apply CDD measures to customers when the transactions are complex, of high value, and show irregular characteristics and when the transactions are suspicious of money laundering or financing of terrorism. Further, in terms of Paragraph 4 of Article 16 of the Agreement on KYC and CDD, reporting units must carry out CDD measures when there is information or suspicion that making a transaction or creating business relationships of the client is money laundering and financing terrorism.
6. Case 5 of Article 22 of the Law on AML/CFT requires that the reporting entities must apply CDD measures to customers when the information identifying customers is not complete or suspected to be incorrect. In addition, the reporting entities must pay continual attention on customers to ensure that the previously provided information is up to date.

*Required CDD measures for all customers*

1. *Criterion 10.3* - Articles 15, 21, 23 and 24 of the Agreement on KYC and CDD entail comprehensive customer identification and verification requirements for reporting units including FIs. These provisions cover all the expected types of customers, i.e., permanent and occasional customers and natural and legal persons and legal arrangements. Clause 2.2 of Article 21 of the Agreement on KYC and CDD covers requirements for legal arrangements. As these provisions are not confined to domestic entities, they appear to cover foreign legal arrangements as well. [For Lao PDR: please confirm this] Further, similar to Criterion 10.11, Lao PDR’s claims that by far, there are no Trust companies operating in Lao PDR. As per the explanation given in Article 5 for the terms “verification of identity”, it is apparent that the FIs are legally obliged to complete verification process prior to providing services or the commencement of business relationship. Further, Article 15 of the Agreement on KYC and CDD requires the reporting units to use measures for identification of customers and checks to verify information and evidence or documents that the customer uses to verify themselves from reliable sources. However, there is no specific requirement for the reliable source to be independent although it is implied.
2. *Criterion 10.4* - Article 19 read together with Article 15 of the Agreement on KYC and CDD require FIs to identify, verify identification and authorization of persons claimed to be acting behalf of a customer.
3. *Criterion 10.5* - Articles 15 ~~and 24~~ of the Agreement on KYC and CDD and article 24 of AML/CFT Law make it obligatory for FIs to identify and verify “actual/real” beneficiaries of customers. Nevertheless, as highlighted in paragraph 22 (b) of the Lao PDR 3rd Transitional FUR of 2018 (page 5), the requirement of ceasing services or business relationship in the event of failure to collect detailed customer data as required by Article 23 of the Law on AML/CFT has not been extended to cover ultimate beneficial owners.

[For Lao PDR: please see comment under 10.12: can you confirm that the Lao definition of beneficiaries of customers covers all situations envisaged by the FATF definition of beneficial owner, as the terms beneficiary and beneficial owner are sometimes used interchangeably but do not necessarily mean the same thing.]

1. *Criterion 10.6* - Article 24 of the Law on AML/CFT requires the reporting entities to collect data on customers’ goals and objectives in using the services provided by or establishing business relations with their institutes. However, Clause 3 of Article 15 of the Agreement on KYC and CDD require the use of necessary measures in appropriate situations in order to request information on the objectives and type of business relationship. This appears to limit the requirement for appropriate situations and fail to cover all circumstances as required by the Criterion.

[For Lao PDR: can you elaborate on the “appropriate situations” in which this would apply? 10.6, as written, requires the institution to understand the nature and purpose of the relationship in all circumstances and, where appropriate, obtain information on it. Can you confirm this is the case under the Lao law?]

1. *Criterion 10.7* - Paragraph 2 of Article 22 of the Law on AML/CFT addresses the requirement of ongoing due diligence. It covers transaction scrutiny, maintenance of up-to-date information, etc. The reporting entities are required to pay special attention on business dealings or transactions with natural persons, legal persons or organisations in a country where law on AML/CFT does not exist or exists, but the enforcement of the law is not strict. Further, Articles 25 and 26 of the Agreement on KYC and CDD respectively detail ongoing monitoring of CDD and ongoing monitoring of transactions. Article 2 of the Securities Sector Instructions further elaborate on ongoing due diligence for the securities sector with respect to indicators of suspicious transactions.

*Specific CDD measures required for legal persons and legal arrangements*

1. *Criterion 10.8* - Article 21 of the Agreement on KYC and CDD requires REs to understand the nature of business, ownership and controlling structure of customers who are legal entities and arrangements.
2. *Criterion 10.9* - Article 21 of the Agreement on KYC and CDD requires REs to identity and verify legal persons and arrangements by obtaining the information elaborated therein. [For Lao PDR: can you confirm that Article 21 covers all three sub-criteria under 10.9 as it is described here? There are some challenges in the unofficial translation that make it difficult to determine.] Accordingly, reporting entities must identity, check verification and make understand the nature of business customers as legal entities or individuals have agreed legal including the structure of ownership and authority to control the business at least following:

(a)

1. determine the customers that has identity for check information and evidence of legal entities or legal arrangement by document or evidence that have to consider as follow:

1.1 the documentation or evidence that can confirm the true identity, name, other form that created by law as follows:

- certificate established enterprises;

- certificate as financial enterprises;

- documents confirmed on partnership;

- documents or evidence from another source that can be trusted can prove name, model and real person customers as entities or individuals have agreed legal.

(b)

1.2 the power for control and binding the legal entity or legal arrangement including - name of the person whose position as executive senior in the legal entity such as the memorandum of understanding, rules, regulations of the legal entity;

(c)

1.3 address or location of the office as a registered document the establishment from the government. if it had different they can using the information of current address or location of office.

1. *Criterion 10.10* - Clause 2.1 of the Article 21 of the Agreement on KYC and CDD stipulates the cascading measures to be used in identifying beneficial owners of customers who are legal persons [For Lao PDR: Can you confirm that these are the specific provisions that cover the sub-criteria under 10.10, and that the description is accurate. There are some challenges with the unofficial translation that mean this is not clear]. As provided for in Article 21, reporting entities must identity, check verification and make understand the nature of business customers as legal entities. Clause 2 requires reporting entities to identify the customer’s beneficial owner and establish appropriate measure to check the information and evidence that those customers provide. [For Lao PDR: can you please check that this is an accurate description of the provision, as the unofficial translation is posing some difficulties] . With respect to legal entities,
2. Clause 2.1.1 of the Article 21 of the Agreement on KYC and CDD – “requesting the evidence of identity's beneficial owner and power in controlling that legal entity such as the person holds more than 25% (twenty five percent) in that legal entity”
3. Clause 2.1.2 – “if had suspected as specified in no.2.1.1 of this article that individual has a power for controlling was a beneficial owner or if they did not identify the individual in no. 2.1.1 of this article must identity of individual whose have a power to control of that legal entity by other method”
4. Clause 2.1.3 – “if they cannot identity the individual as specified in no. 2.1.1 and 2.1.2 of this article must identity and using appropriate measure in checking information and identity document of customer who has the high position in that legal entity”

[For Lao PDR: Please confirm that the reference to legal arrangements in Clause 2.1 of the Article 21 of the Agreement on KYC and CDD should be corrected to read as legal entities/persons in the unofficial translation as the requirements for legal arrangements are indeed contained in Clause 2.2 of Article 21 of the Agreement on KYC and CDD.]

1. Criterion 10.11 - Lao PDR’s claim that by far, there are no Trust companies operating in Lao PDR was well noted.

[For Lao PDR: Can you clarify whether (a) there is a prohibition on Trust companies, and (b) there are trusts, including foreign trusts, present in Lao? While the TC submission asserts no Trust companies operating, 10.11 is about the trusts themselves. Is it accurate to say that trusts are not present in Lao PDR, even foreign trusts? Also, could you confirm the meaning of “by far”? Do you mean “so far” in that Lao PDR has not yet encountered a trust company operating in Lao PDR? Does this includes foreign trusts.]

1. Clause 2.2 of the Article 21 of the Agreement on KYC and CDD nonetheless stipulates the cascading measures to be used in identifying beneficial owners of customers who are legal arrangements.

[For Lao PDR: Does this mean that the law nonetheless provides for KYC and CDD to be applied to trusts in the event that they are found in Lao? It would be useful for us to have further information about the lack of trusts in Lao PDR and how the legislation applicable to trusts is implemented.]

*CDD for Beneficiaries of Life Insurance Policies*

1. *Criterion 10.12* - Article 22 of the Agreement on KYC and CDD provides for the procedure to be followed in identifying final beneficiaries of insurance contracts in addition to the CDD requirements contained in Article 15.
2. Criterion 10.12 specifically requires the verification of the identity of the beneficiary to occur at the time of the payout. It is not clear whether Article 15 read with Article 5 would apply for verification purposes, if so, the verification should take place prior to the commencement of business relationship. This may be practically impossible with respect to beneficiary(ies) that are designated by characteristics or by class. In the absence of any special reference in this regard, it is not clear the applicable timing of verification.

[For Lao PDR: It is assumed the terms “beneficial owner” used throughout the body of the Article 22 actually means the “beneficiary” in the unofficial translation. Please rectify.]

1. *Criterion 10.13* - As set out in Article 22 of the Agreement on KYC and CDD, high risk beneficiaries of insurance contracts entail enhanced measures.

[For Lao PDR: can you elaborate on the definition of beneficiary and beneficial owner, as these terms are used interchangeably but mean different things under the FATF recommendations. The unofficial translation has some issues that make it difficult to determine whether the requirements of the criterion have been met.]

*Timing of verification*

1. *Criterion 10.14* - As defined in Article ~~5~~ 15 of the Agreement on KYC and CDD, Verification of identity means: procedures that reporting units specify for their customers to show their identity every time by giving evidence or documents in order to verify their identity as legally correct before giving service or creating business relationships, which may be individuals, legal entities or organizations both domestic and foreign as specified in Article 7 of this agreement.
2. Accordingly, it appears to be mandatory for REs to verify the identity of the customers and their beneficial owners prior to providing services and commencing business relationships. Further, Lao PDR does not appear to accommodate delayed verification, thus the requirements contained in the latter part of the Criterion 10.14 do not arise.

[For Lao PDR: Please confirm that REs are not allowed to carry out delayed verification. If that is the case, then most material submitted under this criterion are irrelevant.]

1. *Criterion 10.15* - Similar to C 10.14, verification should take place before giving service or creating business relationship. As such, the requirement to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification does not arise. [For Lao PDR: Please see comment at C. 10.14.]

*Existing customers*

1. *Criterion 10.16 -* Article 24 of the Agreement on KYC and CDD specifies measures of customer due diligence for Existing Clients. In terms of the said Article, reporting entities must consider to taketaking CDD measures in accordance with Article 15 to existing customers in appropriate time on the basis of the significance and the level of customer's risk. REs are also to consider when they should take CDD measures for exiting customer and whether the receiving information is enough. Paragraph 4 of Article 15 also refers to using of CDD measures on existing customers.

*Risk-based approach*

1. *Criterion 10.17* is **met/mostly met/partly met/not met**. Article 12 of the Agreement on KYC and CDD requires reporting units to consider the intensity of CDD measures for customers in accordance with their ML/TF risks. When the risk is higher, “deep” CDD measures should be implemented. Such measures including obtaining of further information and senior manager’s approval are specified in Article 17.[For Lao PDR: To Lao PDR: can you elaborate on the meaning of the terms “deep”, “cursory” and “thorough” measures in the unofficial translation. It is not clear from the translation provided that these catergories sufficiently cover the requisite level of CDD or EDD]. Article 17 states as follows:
2. ‘’Article 17 Cursory Measures for Customer Due Diligence

After the reporting entities had conducting the managing risk as specified in article 13 of this agreement, if they had know their customer has high risk in money laundering or financing terrorism the reporting entities must take measure of customer due diligence as least following:

1. determine more the procedure or get more request information from customers such as the information or evidence in operation or activities of business, information sources of capital or income and information about the purpose of conducting transactions or relationship business. to determine the process to consider referring to the relationship of business with the reporting entities that reliable in anti money laundering and financing of terrorism as a reason to request more information.

2. determine the senior manager to approval in conducting transactions or relationships with business with high risk customers and approve the audit information procedures of customer due diligence in case of customers have high risk, which may cause that make reporting entities to fall in the necessary tools or source of money laundering and financing of terrorism. reporting entities to deny or terminate relationships in transactions or relationships with business customers such report transactions suspected of money laundering or the financing of terrorism to the AMLIO.

3. determine the procedures to detect movement of financial high risk customers as strictly by considering increasing frequency, step or track the relationship business and active in making transactions also more frequently check the identity and those beneficial owner of customer and reporting entities must conducting these steps as regularly.

1. *Criterion 10.18* - Simplified CDD measures can be adopted for low risk customers as per the risk assessment which is done accordance with Article 14 (and considers risks associated with customer, product, service, delivery channel and geography). Management process are laid down in Article 18 of the Agreement on KYC and CDD. In the event such customer’s active transactions or activities (are conducted) in a manner that involved or related to ML/TF, the RE should categorise him as of high risk and conduct CDD immediately. It is not clear in the unofficial translation whether a mere suspicion of ML/TF is sufficient to escalate the customer’s risk level to high.

[For Lao PDR: Can you provide further information on the instances in which simplified CDD would no longer apply? Can you confirm that re-categorisation would occur (a) where there is *suspicion* of ML/TF and (b) in any other specific higher risk scenarios? It would be useful to understand how this re-categorisation would occur in practice and who makes the decision.]

*Failure to satisfactorily complete CDD*

1. *Criterion 10.19* - Article 23 of the Law on AML/CFT stipulates that in case of failure to collect detailed data on customers, reporting entity must cease its services provided to or any business relations with that customer and must regard as suspicious transaction and then report it to AMLIO [For Lao PDR: Can you confirm whether this covers the inability to obtain information regarding existing customers?]. However, this requirement has not been extended for beneficial owner details. Also, there are no specific provisions to show that the requirement covers the inability to obtain information regarding existing customers.
2. *Criterion 10.20* - Relevant provisions for tipping-off are contained in Article 28 of the Agreement on KYC and CDD. From the terminology used, it appears that RE staffs are forbidden from tipping-off customers of any ML/TF suspicion or the fact that any reporting would be occurring on the customer. However, there is no specific provision to permit FIs not to pursue the CDD process and instead to require them to file an STR, in cases where they form 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

1. From its initial rating of non-compliant for former R. 5 at the 2011 MER, Lao PDR has made a substantial progress by introducing most of the key CDD requirements for FIs. Being reporting entities under Article 17 of the Law on AML/CFT, FIs are required to take aforementioned CDD measures including identification and verification of identity of customers, their beneficial owners and person purporting to act for the customer, keeping CDD information up to date and relevant, application of CDD on existing customers on the basis of materiality and risk, enhanced CDD in case where ML/TF risks are higher, etc. Lao PDR meets most of the essential CDD criteria for FIs, however, a fewsome deficiencies still remain regarding lack of requirement:
2. to cease services or business relations in the event of failure to collect beneficial ownership details;
3. on insurance beneficiary identity verification timing; and
4. to permit FIs not to pursue CDD process and instead file an STR where FIs form an ML/TF suspicion and cannot complete CDD without tipping off the customer.
5. **Recommendation 10 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 11 – Record-keeping

1. Lao PDR was rated partly compliant for former Recommendation 10 in its 2011 MER. As highlighted in the report, the legal obligations relating to record keeping were limited to transaction records for financial institutions regulated by the BOL. Subsequent to the introduction of the Law on AML/CFT of 2014, the 2015 follow-up report concluded that Lao PDR has addressed the major legal gaps for former R.10, although there was room for further improvement. The 2015 FUR considered Lao PDR’s compliance with former R.10 was at a level essentially equivalent to largely compliant.
2. *Criterion 11.1* - Clause 2 of Article 28 of the Law on AML/CFT requires REs to keep records on transaction at least for five years from the date of transaction undertaking. As per Article 50 of the Law on Accounting, implementing accounting entities should maintain records of all accounting documents for minimum of 10 years. This obligatory period is extended for another 10 years for accounting documents concerning any contract after the completion of the contract. Article 68 of the Law on Commercial Banks provides that document, transaction information including database shall be stored/kept for at least 10 years.
3. *Criterion 11.2* - Similar to C. 11.1, Clause 1 of Article 28 of the Law on AML/CFT requires REs to keep copies of identification documents of customers and beneficiaries at least for ten years after the end of the business relations with the customer. Article 68 of the Law on Commercial Banks also contains relevant provisions, however, there is no specific reference to occasional customers.
4. *Criterion 11.3* -Transaction records which should be kept under the existing legal provisions with respect to implementing accounting entities and commercial banks as mentioned in C. 11.1, appear to be sufficiently comprehensive for the purpose of reconstruction of individual transactions to be used as evidence for criminal activity prosecution. However, there is no such specific requirement for other REs to keep sufficient documents for the said purpose. Although it is implied. [For Lao PDR: Is this a similar requirement for other REs?]
5. *Criterion 11.4* - There is no specific requirement that the records should be readily accessible by domestic competent authorities. Only exception is Article 37 of the Law on AML/CFT which requires legal persons, organisations and NPOs to make their own internal data available to competent authorities at any time as pointed out in the 2015 FUR (page 12).

[For Lao PDR: Can you confirm that this requirement does not exist? How would competent authorities access records if necessary.]

Weighting and Conclusion

1. Lao PDR has put most of the record keeping requirements in place. Transaction, CDD and other information and records are generally required to be kept well above the minimum period specified by the criteria. However, absence of enabling provisions for domestic competent authorities to access such records swiftly, remains a major/moderate deficiency. [For Lao PDR: This determination is pending the receipt of further information].
2. **Recommendation 11 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 12 – Politically exposed persons

1. Lao PDR was rated non-compliant for former Recommendation 6 in its 2011 MER as there was no legislative, regulatory or other enforceable requirement in respect of politically exposed persons. Provisions relating to PEPs have been brought in by the Law on AML/CFT in 2014 and the Agreement on KYC and CDD in 2016. Article 8 of the Law on AML/CFT defines PEPs as foreign politicians, state officials, and officials of international organisations and also to include their family members and close associates.

[For Lao PDR: To Lao PDR: The definition of politically exposed persons under the FATF recommendations is intended to cover many categories of individuals, as follows:

Foreign PEPs are individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.

Domestic PEPs are individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.

Persons who are or have been entrusted with a prominent function by an international organisation refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions.

Article 8 defines foreign politicians and state officials as “persons who are or were in positions, trusted, and playing important roles” Can you confirm that the definition under the Law on AML/CFT would cover all categories of PEPs required under the recommendations, including for instance military and judicial officials? Is there any guidance available that would elaborate on who, specifically, is considered a PEP under the definition in the Law on AML/CFT? The Agreement on KYC references 8, 12, 13, 14, and 15 of the AML Law, but these provisions do not appear to provide any further specificity.]

1. *Criterion 12.1* - Article 25 of the Law on AML/CFT require REs to have an appropriate risk management system to ascertain whether customers or beneficiaries are PEPs. As provided for in this Article, REs need to obtain permission of the board of directors or senior executives to initiate or continue transactions with PEPs, take appropriate measures to identify sources of funds or properties and continuously monitor business relations and transaction of PEPs. Article 20 of the Agreement on KYC and CDD further strengthens the above provision.
2. Hence, Lao PDR comprehensively addresses requirements of Criterion 12.1 on PEPs.
3. *Criterion 12.2* - As noted in C.12.1, REs are required to determine whether customers and beneficiaries are PEPs and if so to apply enhanced CDD measures on top of the ordinary CDD measures.
4. *Criterion 12.3* - Article 8 of the Law on AML/CFT defines PEPs as foreign politicians, state officials, and officials of international organisations. Article 8 further defines foreign politicians, state officials and Officials of international organisations comprehensively and also to include their family members and close associates.
5. *Criterion 12.4* - As per Criterion 12.4, countries should require *inter alia* FIs to take reasonable measures to determine whether the beneficiaries and/or, where required, beneficial owner of the beneficiary are PEPs in relation to life insurance.
6. The unofficial English translations provided by Lao PDR appear to use these terms without any meaningful differentiation, especially, with respect to insurance policies. For instance, Article 22 of the Agreement on KYC and CDD continuously refers to the term “**beneficial owner**”. Although, the Agreement on KYC and CDD does not define the term “beneficial owner”, in terms of Clause 5 of Article 8, “**beneficiary owner**” means an individual as specified in Clause 11 of Article 8 of the Law on AML/CFT. As defined in Clause 11 of Article 8 of the Law on AML/CFT, “**Beneficiary**” shall mean natural person(s) who ultimately benefits from a business operation, activity or transaction including person(s) who exercise ultimate effective control over a legal person. The classic example is the item 3 of the final paragraph of Article 22 of the Agreement on KYC and CDD which states “the life insurance of customer or beneficial owner of beneficial owner …”.
7. This confusion runs through from CDD requirements for insurance contracts to measures for PEPs who are insurance policy beneficiaries or beneficial owners of insurance policy beneficiaries. It appears that Article 22 of the Agreement on KYC and CDD attempts to address all shortcomings to be in line with requirements of Criterion 12.4. However, the terminology used in the unofficial English translations raises doubts whether the original text is in order.

Weighting and Conclusion

1. Lao PDR meets almost all the criteria in full. The only remaining concern is the confusion arises out of the used terminology with respect to beneficiaries and beneficial owners.

[From APG Secretariat: This assessment is pending further detail from Lao PDR regarding the definition of PEP]

1. **Recommendation 12 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 13 – Correspondent banking

1. In 2011 MER, Lao PDR was rated non-compliant with the former Recommendation 7. The report concluded that there was no specific legal requirement or enforceable mean that address the requirement on cross border correspondent banking relationships.
2. *Criterion 13.1* - Provisions relation to dealings with correspondent banks are laid down in Article 26 of the Law on AML/CFT. It requires REs, *inter alia*, to gather data on the nature of business and operations of correspondent banks, assess the credibility, management and audit of it based on the disclosed information and assess the AML/CFT implementation of it. However, there is no requirement to determine from publicly available data the reputation of respondent bank, quality of supervision including whether it has been subject to a ML/TF investigation or regulatory action as expected by Criterion 13.1. Further, even though REs are required to obtain senior manager’s approval to conduct transactions or relationships with high-risk customers as provided for in Clause 2 of Article 17 of the Agreement on KYC and CDD, there is no specific requirement to obtain such approval prior to establishing new correspondent relationships as required by the Criterion.
3. *Criterion 13.2* - There is no explicit requirement for FIs with respect to “payable through accounts”, to satisfy themselves that the respondent bank has performed CDD obligations of the customer and the ability of FI to obtain such CDD details from the respondent bank.
4. *Criterion 13.3* - Clauses 1 and 2 of Article 52 of the Law on AML/CFT prohibits REs from having dealings with anonymous banks, financial institutions, legal persons or organisations and having dealings with banks abroad that do not have regulations on AML/CFT. Article 26 of the Law on AML/CFT specifically states that if corresponding banks have business relations or transactions with shell banks or their subsidiary, the reporting entities shall not establish or continue business relations with such corresponding banks or their subsidiary.

Weighting and Conclusion

1. While general requirements have been established, there is neither specific requirement for FIs to fully understand AML/CFT compliance of respondent banks nor any requirement for FIs to obtain approval from senior management before establishing new correspondent relationship. There is also an absence of requirements concerning “payable through accounts”. Nevertheless, requirements pertaining to shell banks are present.
2. **Recommendation 13 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 14 – Money or value transfer services

1. Lao PDR was rated non-compliant with former SR. VI. The 2011 MER noted that there was no comprehensive licensing requirement or legal requirement for list of agents.
2. *Criterion 14.1* - As set out in Article 5 of the Decision on supervision of MVTS, natural persons, legal persons or organizations both local and foreign that seek to establish MVTS have to submit the application letter to industry and commerce sector as specified in the Law of enterprise and receive authorization from the Bank of the Lao PDR. As per the definition contained in Article 3, Money Value Transfer Service “MVTS” means financial service such as: receiving cash, bearer negotiable instruments or deduct money in the account for electronic transfer through the banking service or other type method such as: communication, text message, transfers or through account payment network as a part of money value transfers service.
3. Article 19 of the Decision on supervision of MVTS prohibits natural persons, legal persons or organizations to operate business or money transfer service without the authorization of Bank of the Lao PDR.
4. However, the above provisions cannot be considered as a complete obligatory requirement for natural and legal persons that provide MVTS to be licensed or registered in the absence of the procedure to be followed to obtain the authorization from the Bank of the Lao PDR.
5. It is noted that Lao PDR has drafted an Agreement on Settlement Service Provider which intends to cover detailed licencing procedure for MVTS providers. [To Lao PDR: is this agreement still in draft, or has it been finalised?]
6. *Criterion 14.2* - As mentioned in C.14.1, Article 19 of the Decision on supervision of MVTS prohibits natural persons, legal persons or organizations to operate business or money transfer service without the authorization of Bank of the Lao PDR. However, the general measures contained in Article 56 against violators of the Decision who cause damage to public and the society do not seem comprehensive enough to meet requirements of the Criterion. Relevant provisions for Lao PDR authorities to identify and curb such illegal entities and to apply proportionate and dissuasive sanctions are lacking.
7. *Criterion 14.3* - MVTS companies are subject to the provisions of the Law on AML/CFT as they are included in the definition of financial institutions as contained in Article 8. Further, Article 17 of the Decision on supervision of MVTS states that MVTS providers and Agents shall comply with the obligations as defined in the AML/CFT law, such as KYC, CDD, STR of money laundering and terrorist financing and complied with relevant regulations.
8. *Criterion 14.4* - As provided for in Article 11 of the Decision on supervision of MVTS, the MVTS providers are able to extend the Agents in case of having fit and proper supervision system and regulations and shall be authorized by Bank of the Lao PDR. It is not clear whether such authorization tantamount to a licensing or registration.

[For Lao PDR: Please provide further information about the status of the draft Agreement and the procedures that are or will be in place for licensing or registration].

1. *Criterion 14.5* - As noted in C.14.3, Article 17 of the Decision on supervision of MVTS requires agents to comply with AML/CFT obligations. However, there is no specific requirement for MVTS providers that use agents to include them in their AML/CFT programme and monitor them for compliance with that programme.

Weighting and Conclusion

1. There remain significant gaps in obligations with regard to MVTS providers. Absence of proper licensing or registration mechanism for MVTS providers; requirement to identify illegal MVTS providers and to apply appropriate sanctions; and specific requirements in relation to agents of MVTS providers are considered as key deficiencies.
2. **Recommendation 14 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 15 – New technologies

1. In 2011 MER, Lao PDR was rated non-compliant with former R.8. The report concluded that Lao PDR did not have specific legislation or requirement in relation to the misuse of technological developments in ML or FT, or to address any specific risks associated with non face-to-face transactions.
2. As per the Notice on prohibition on giving Service on Crypto Currencies, the Cabinet of the Bank of the Lao PDR prohibits the financial institutions to own, operate a business, or be involved in supporting a Crypto currency business operation. It is noted that Lao PDR is yet to perform risk assessment on virtual asset and VASPs owing to this reason. It is not clear whether the prohibition covers all virtual assets as defined in FATF Recommendations. However, it is assumed that Lao PDR prohibits virtual assets and accordingly, only Criteria 15.1, 15.5, 15.3(a), 15.3(b), 15.5 and 15.11 were assessed, hereunder.

[For Lao PDR: Please confirm whether Crypto currency cover all virtual assets as defined in the FATF Recommendations]

1. *Criterion 15.1* - In the absence of evidence, it is not clear whether Lao PDR has taken steps to assess the ML/TF risks associated with new products, technologies, delivery channels and practices across the financial sector and institutions (It is not apparent from the 2018 NRA report). However, there are specific provisions with respect to REs. Article 12 of the Agreement on KYC and CDD sets out *inter alia* that reporting units must assess and manage risk on the basis of at least identifying, valuing, monitoring and reducing risk of ML and TF which may arise in themselves, for instance existing or new products, existing or new methods for conducting business, methods or procedures in servicing or conducting business, the use of new technology in servicing or conducting business. If risks are found, there must be appropriate measures in order to reduce the risk of money laundering and financing of terrorism before servicing, conducting business and creating business relationships with new and old clients.

[For Lao PDR: Do you have any further information regarding the assessment of new technologies at a government-level?]

1. *Criterion 15.2* - Similar to C.15.1, relevant provisions are contained Article 12 of the Agreement on KYC and CDD. Explicit provisions are lacking to the effect that the risk assessment should be undertaken prior to the launch or use of such products, practices and technologies, although it is implied as risk mitigation measures should be taken prior to servicing, conducting business and creating business relationships with new and old customers.

[To Lao PDR: can you clarify that an assessment (whether or not formalised in a document) would be implied by the requirement to have risk mitigations in place?]

1. *Criterion 15.3* - Lao PDR is yet to perform risk assessment on virtual asset and VASPs. As such, Lao PDR does not meet the sub-criteria (a) and (b) of this Criterion.
2. *Criterion 15.4* - [Analysis pending further information from Lao PDR confirming the prohibition of VASPs and VAs]
3. *Criterion 15.5* - As Lao PDR is yet to perform risk assessment on virtual asset and VASPs, it appears that Lao PDR is yet to take action to identify natural or legal persons that carry out VASP activities without the requisite license or registration, and apply appropriate sanctions to them.
4. *Criterion 15.6 –15.10* - [Analysis pending further information from Lao PDR confirming the prohibition of VASPs and VAs]
5. *Criterion 15.11* - As Lao PDR is yet to perform risk assessment on virtual asset and VASPs, it is not clear whether Lao PDR is in a position to provide international cooperation in relation to virtual assets as required by Criterion 15.11.

Weighting and Conclusion

1. Lao PDR has not met the essential criteria as it has not adequately assessed the risks associated with new technologies and virtual assets. It has a regime that somewhat addresses the requirements on FIs with respect to new technologies as per Criteria 15.1 and 15.2. There is a confusion whether the prohibition imposed on crypto currencies is extendingextends to cover each and every virtual asset. In any event, in the absence of a proper risk assessment on virtual asset and VASPs, Lao PDR is unable to meet requirements set out by other relevant criteria.
2. **Recommendation 15 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 16 – Wire transfers

1. Lao PDR was rated non-compliant for former SR. VII at its 2011 MER. The report concluded that no specific laws, regulations or other enforceable means existed concerning wire transfers with respect to obligations of the ordering, intermediary and beneficiary financial institutions and also addressing incoming cross border wire transfers. As Lao PDR had not implemented any legal requirements, there were no corresponding measures to monitor compliance and impose sanctions.
2. *Criteria 16.1* - Article 27 of the Law on AML/CFT addresses basic requirements with respect to obligations of Originator, intermediary and beneficiary financial institutions. It states, *inter alia* that in each service of wire transfer, financial institution must gather and check the information on name and surname, address, account number, and purpose of the transferor’s transfer. Detailed requirements on the information to be collected on originator and beneficiary for international wire transfers are contained in Article 5 of the Decision on the Reporting of Wire Transfers. Article 7 provides that the ordering financial institutions must ensure that the wire transfer has complete information as defined in Article 5 for both the originator and beneficiary. Although, Article 27 of the Law on AML/CFT states that FI must gather and check the information..., the Decision on the Reporting of Wire Transfers does not specifically require that the required originator information to be accurate (verified by the ordering FI). Article 2 of the Decision stipulates that wire transfers in exceeding the specified limit are wire transfers equalling 8,000,000 kip or more per instance. However, aforesaid obligations of the ordering FI are not limited to the wire transfers exceeding that threshold.

[For Lao PDR: Can you elaborate on what the impact is of the de minimus threshold if the obligations apply to wire transfers of all amounts? Where does the de minimus threshold come into play?]

1. *Criterion 16.2* - There are no specific provisions to address instances where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries.
2. *Criterion 16.3* is **met/mostly met/partly met/not met**. In terms of Article 7 of the Decision on the Reporting of Wire Transfers, the ordering financial institutions must ensure that the foreign wire transfer below the specified value has the name of the originator, the name of the beneficiary, account number or transaction reference number of both parties. However, as noted in C.16.1, the *de minimis* threshold does not apply to wire transfers, above provision can be considered as an additional requirement. [For Lao PDR: Same question as for C.16.1]
3. *Criterion 16.4* - There is no specific provision to require FI to verify information pertaining to its customer where there is a suspicion of ML/TF when conducting transactions below the *de minimis* threshold. It cannot be considered that this specific requirement is fully covered under the general CDD measures contained in Article 22 of the Law on AML/CFT.
4. *Criterion 16.5* - As stipulated by Article 6 of the Decision on the Reporting of Wire Transfers, ordering financial institutions transferring domestically must collect originator information as specified in Article 5. Article 7 specifies that the ordering financial institutions must ensure that the wire transfer has complete information as defined in Article 5 of this decision for both the originator and beneficiary. The latter provision does not differentiate domestic or foreign wire transfers.
5. *Criterion 16.6* is not applicable. See C.16.5. Lao PDR does not appear to permit ordering FI to include only the account number or unique reference number.
6. *Criterion 16.7* - Article 7 of the Decision on the Reporting of Wire Transfers requires the ordering financial institutions to keep information on the originator and beneficiary as specified in Article 28 of the Law on AML/CFT.
7. *Criterion 16.8 -* Article 7 of the Decision on the Reporting of Wire Transfers requires the ordering financial institutions to ensure that the foreign wire transfer below the specified value has the name of the originator, the name of the beneficiary, account number or transaction reference number of both parties. Article 13 of the Decision stipulates that reporting entities or other relevant persons who conduct actions which violate the Decision will be warned and fined as specified in Article 65 of the Law on AML/CFT.
8. Article 23 of the Law on AML/CFT broadly specifies that in case of failure to collect detailed data in conducting CDD, the RE must cease services or business relations and to file an STR. However, there is no any specific requirement not to allow the ordering FI to execute the wire transfer if it does not comply with the specified requirements.
9. *Criterion 16.9* - In terms of Article 27 of the Law on AML/CFT, in case of acting as an intermediary of the transfer, a financial institution must ensure that the information on the transferor and details about the transfer are correctly and completely recorded before further delivery to a beneficiary. Rule 9 of the Decision on the Reporting of Wire Transfers provides that for international wire transfers, intermediary financial institutions must collect information on the originator and the beneficiary in order to send with the transfer.
10. *Criterion 16.10* - As provided for in Article 9 of the Decision on the Reporting of Wire Transfers, in the event that information is limited due to a technical issue, then all information sent from the originating financial institutions must be kept per Article 28 of the Law on AML/CFT. Record keeping requirements as set out in Article 28 are discussed under R.11.
11. *Criterion 16.11* - As required by Paragraph 2 of Article 9 of the Decision on the Reporting of Wire Transfers, for international wire transfers without complete information on the originator or the beneficiary as specified, intermediary financial institutions must follow Article 27 of the Law on AML/CFT. Article 27 specifies that in case of acting as an intermediary of the transfer, a financial institution must ensure that the information on the transferor and details about the transfer are correctly and completely recorded before further delivery to a beneficiary. However, specific provisions on taking reasonable measures which are consistent with straight-through processing, to identify wire transfers that lack required originator/beneficiary information are lacking.
12. *Criterion 16.12* - Article 9 of the Decision on the Reporting of Wire Transfers stipulates that intermediary financial institutions should have effective policies and procedures in the implementation of assessment measures and administration of risk in order to consider circumstances when denial and termination of wire transfers should occur or in order to specify measures in appropriate monitoring.
13. *Criterion 16.13* - Article 8 of the Decision on the Reporting of Wire Transfers provides that the beneficiary financial institutions, on receiving international wire transfers without complete information on the originator or the beneficiary, must follow Article 27 of the Law on AML/CFT. Article 27 specifies that in case a financial institution receives a transfer with no information or missing information on a transferor, it has to check and find the missing information from a transferring institute or a beneficiary. If the information is not provided, a financial institution receiving the transfer shall refuse the payment to a beneficiary and transfer the money back to a transferring financial institution and immediately report the case to AMLIO.
14. However, there is no specific requirement for beneficiary FIs to take reasonable measures such as conducting real-time or post-event monitoring to ascertain whether required originator or beneficiary information is lacking.
15. *Criterion 16.14* - Article 8 of the Decision on the Reporting of Wire Transfers provides that in the event that a wire transfer has complete information yet the beneficiary has never been examined or verified before, then the beneficiary financial institutions should examine and verify the beneficiary and keep information per Article 28 of the Law on AML/CFT.
16. *Criterion 16.15 -* Article 8 of the Decision on the Reporting of Wire Transfers provides that the beneficiary financial institutions should have effective policies and procedures in the implementation of assessment measures and administration of risk in order to consider circumstances when denial and termination of wire transfers should occur or in order to specify measures in appropriate monitoring.
17. *Criterion 16.16* - Article 17 of the Decision on supervision of MVTS requires MVTS providers and Agents to comply with the obligations as defined in the AML/CFT law, such as KYC, CDD, STR of money laundering and terrorist financing and complied with relevant regulations. Accordingly, it is implied that MVTS providers are binding to the requirements on wire transfers. However, there is no specific requirement for them to comply with all of the relevant requirements of Recommendation 16 in the countries in which they operate, directly or through their agents.
18. *Criterion 16.17* - As noted in C.16.16, MVTS providers are subject to AML/CFT requirements and the obligation to file STRs when there is a suspicion of ML/TF. However, there is no specific requirement on filing STRs as required by the criterion.
19. *Criterion 16.18* - As per Clause 4 of Article 52 of the Law on AML/CFT, reporting entities are prohibited from having business dealings or performing transactions with natural persons, legal persons or organisations on the United Nations security council list. Article 40 of the Law on AML/CFT stipulates that funds of natural persons and legal entities including groups of terrorism financiers and international terrorist organisations stipulated in resolutions S/RES/1267 (1999), S/RES/1373 (2001) and their successors of the UN Security Council shall be immediately seized and frozen.
20. As highlighted in Article 40 of the Law on AML/CFT the implementing procedures for seizing, freezing funds of terrorists are laid down in a separate piece of legislation. Article 5.1 of the Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism specifies the procedure followed by REs with respect to freezing of related funds and properties. REs are empowered and required to take preliminary measures immediately to stop and withhold such funds and properties of designated clients and immediately report to the Ministry of Public Security and the FIU. Upon receipt of such report, the Ministry will issue an order to freeze or seize the funds and properties immediately.

Weighting and Conclusion

1. Lao PDR has made significant progress for requirements on wire transfers. However, lack of enforceable requirements with respect to batch transfers, not to allow the ordering FI to execute the wire transfer in the absence of compliance, straight-through processing, beneficiary FIs to take reasonable measures to ascertain missing information, specific provisions for MVTS providers remain as deficiencies.
2. **Recommendation 16 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 17 – Reliance on third parties

1. In its 2011 MER Lao PDR was rated not applicable with former Recommendation 9. Lao PDR laws do not currently have specific provisions that would allow financial institutions to rely upon a third party in the process of implementing CDD.
2. *Criterion 17.1* is **met/mostly met/partly met/not met**. Under Article 15 of the Agreement on Know Your Customers and Customer Due Diligence No.01/NCC, reporting institutions shall be responsible for the identification of customers. However, no laws and regulations have specific provisions allowing financial institutions to rely upon a third party in the process of implementing CDD.
3. *Criterion 17.2* – [ subject to further information]
4. *Criterion 17.3* – [subject to further information]

[For Lao PDR: Are there any other laws authorizing or prohibiting FIs to rely on anyone else to conduct CDD for them?]

[For Lao PDR: Can you confirm whether reliance on third parties to conduct CDD to permitted or prohibited? The citation to Article 15, para 3 of the Agreement on KYC and CDD does not appear to apply to this situation, nor does Article 19. Note that reliance on third parties is different from the situation where a person acts on behalf of a customer. Reliance on third parties covers situations where the FI is entitled to rely on another party to conduct CDD for them, rather than the FI conducting CDD itself.

In Lao PDR’s last MER, this requirement was rated “not applicable” because FIs are not permitted to rely on anyone else to conduct CDD for them. Is this still the case?]

Weighting and Conclusion

1. **Recommendation 17 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

1. *Criterion 18.1* - Article 19 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA, reporting entities are required to develop and implement AML/CFT programmes which cover (i) developing AML/CFT policies and procedures, and internally auditing the qualified staff selection procedure; (ii) developing AML/CFT training programs, and undertaking on-going training for staffs; (iii) internally auditing the implementation of this Law and other related laws and regulations; (iiii) evaluating their AML/CFT efforts. REs are also required to appoint a qualified information gathering and reporting staff with AML/CFT experiences at the management or senior level to response the task mentioned above.
2. There is no explicit requirement to develop and implement AML/CFT programmes regarding the ML/TF risks and the size of the business. However, risk assessment and risk-based approach is within the scope of AML/CFT on-site inspection on financial institutions conducted by AMLIO as mentioned in AML/CFT on-site inspection manual.

[For Lao PDR: can you clarify whether the requirement under Article 19 requires each FI to develop a programme that is appropriate for the size and nature of their business? Is there any guidance to FIs on how to develop their programmes?]

1. *Criterion 18.2* - Lao PDR laws do not currently require financial groups to implement group-wide programmes against ML/TF. Article 18 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA, overseas branches and subsidiaries in the group of REs are obliged to observe the development and implementation in AML/CFT programmes which include the measures set out in criterion 8.1. Foreign branches and subsidiaries in the group of REs are broadly controlled as notified in AML/CFT on-site inspection manual through assessing the implementation of AML/CFT activities of REs which include group management in connection with AML/CFT activities.

[For Lao PDR: can you clarify whether the law requires a group wide policy? The provisions identify in the TC submission appear to apply requirements to each part of an FI, but are not clear that an FI with multiple branches, subsidiaries or foreign officers must have a group-wide policy in place to ensure consistency across the group.]

1. Criterion 18.3 - In case of the country where foreign branches and subsidiaries of the REs’ group are located do not comply with AML/CFT measures of Lao PDR, REs are required to notify the supervisory authorities (Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA, Article 18). However, REs including their foreign branches and subsidiaries are not required to apply appropriate AML/CFT measures to manage the ML/TF risks.

[To Lao PDR, can you clarify whether there are foreign branches or subsidiaries of Lao PDR FIs operating?]

Weighting and Conclusion

1. **Recommendation 18 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 19 – Higher-risk countries

1. In its 2011 Lao PDR was rated non-compliant with former recommendation 21 due to a lack of enforceable obligations.

[For Lao PDR: can you clarify whether there is a specific requirement to implement measures against countries that have been identified by the FATF, either on its “black list” or “grey list”? While the provisions cited in the TC submission address “high risk countries/regions” it is not clear that this definition includes those countries identified by the FATF.]

1. *Criterion 19.1* - Agreement on Know Your Customers and Customer Due Diligence No 01/NCC prescribes the relevant guidance. Article 12 requires REs to assess and manage ML/FT risk and implement risk-based approach for all customers. If risks are found, appropriate measures have to be implemented in order to reduce the ML/FT risks before servicing, conducting business and creating business relationships with new and old clients. Implementing “deep” measures is required for high risk customer [For Lao PDR: Are there any laws or guidance clarifying the definition or the implementation of “deep measures”? Can you elaborate on the specific measures required by “deep measures” in order to ensure that they cover the requirements of EDD in the FATF requirements?]. Article 14 of the Agreement provides risk factors from high risk areas or countries which include source of income or active transactions in high risk areas or countries on ML/FT as defined by AMLIO and stakeholders in each period. REs are required to take CDD measures on these high risk factors provided in the Agreement. Article 14 of the Agreement then allows REs to consider other factors such as channel providers, type of transaction, type of financial products and information from other sources for additional risk factors. [For Lao PDR: Is enhanced customer due diligence or customer due diligence measure required to be implemented by Article 14?]
2. Article 52 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA prohibits REs to deal or perform transactions with natural persons, legal persons and organisation on the United Nations Security Council list.
3. However, relevant requirements do not specify directly that countries called for by the FATF is one of risk factors for high risk areas or countries. In addition, it is not clear whether enhanced due diligence is applied for countries identified by the FATF.
4. *Criterion 19.2* - REs are required to identify and assess the ML/TF risks including undertaking ML/TF risk management with all customers. At least, REs have to consider risk factors proposed in Article 14 of the Agreement on Know Your Customers and Customer Due Diligence No 01/NCC and take CDD measures to manage the risks. Risk factors from high risk areas or countries include source of income or active transactions in high risk areas or countries as defined by AMLIO and stakeholders in each period. Other factors such as information of the customer's lists from other sources are encouraged to consider for additional risk factors (details stipulated in Rec. 9.1)
5. Article 17 of the Agreement prescribes REs’ CDD measures as proportionate countermeasures for high risk customers as follows:
6. Determine more procedure or request more information from customers regarding operation or business’s activities, sources of capital or income and the purpose of conducting transactions or business relationship etc. in order to conduct business relationships between REs and the customers properly.
7. Determine senior manager to approve conducting transactions or business relationships with high risk customers and to approve the audit information procedures for customer due diligence of these customers. When REs deny transactions or terminate business relationships with the clients, such suspected transactions are needed to report to AMLIO.
8. Conduct procedures for detecting financial movement of high risk customers by seriously considering increasing frequency, tracking business relationships and active transactions including frequently checking customer indentity and beneficial owner of customer. REs are required to implement these measures on a regular basis.
9. Moreover, REs are prohibited to deal or perform transactions with natural persons, legal persons and organisation on the United Nations Security Council list as specified in Article 52 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA in order to comply with countermrasures called upon to do by the FATF. On the other hand, proportionate countermeasures regarding low risk custimers are also prescribed in Article 18 of this Agreement.
10. However, it is not obvious whether high risk areas or countries including high risk customers in Article 14 and Article 17 of the Agreement are related to countries called upon to do countermeasures by the FATF.
11. *Criterion 19.3* - There are no measures in place to ensure that the FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries. The AMLIO disseminated only a Notification Letter to all REs in order to access AMLIO’s website for updating information of AMLIO and link to international organizations websites (UN, APG and FATF) for updating ML/FT risk situations of other jurisdictions.

[For Lao PDR: can you clarify whether this is a single Notification Letter that advises where REs can obtain information, or is there a regular update to REs regarding concerns about weaknesses in the AML/CFT systems of other countries? Is there a notification sent when the FATF lists are updated?]

Weighting and Conclusion

1. **Recommendation 19 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 20 – Reporting of suspicious transaction

1. In its 2011 Lao PDR was rated non-compliant with former recommendation 13 and Special Recommendation IV due to gaps in coverage of predicate to ML and REs, not all FIs required to report STRs, no mandatory requirement for “attempted transactions”, no requirement for STR reporting on TF, gaps with possible monetary threshold for STR reporting and low STR numbers.
2. *Criterion 20.1* - According to Article 8 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA, suspicious transactions mean transactions that do not conform with the profile, occupation, and reality status of customers. Article 31 of the Law stipulates that in the case of a suspicion or a cause for a suspicion that a customer’s transaction may be a consequence of a predicate offence, relating or connecting to money laundering and financing of terrorism, REs are obliged to report such transaction to AMLIO within three working days. This reporting requirement extends to a customer’s attempt of transaction regardless of completion status and the amount of money involved.
3. Article 2 of the Instruction on Suspected Transactions Reporting on Money Laundering or Financing Terrorism No.42/AMLIU requires all branches of the REs to conduct suspicious transaction report on ML/FT and send to their head offices in order to consider adequate information before submitting to AMLIO.
4. *Criterion 20.2* - As stipulated in Rec.20.1, REs are required to report of suspicious transactions including attempted transactions and regardless of the amount of the transaction.

Weighting and Conclusion

1. **Recommendation 20 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 21 – Tipping-off and confidentiality

1. In its 2011 Lao PDR was rated non-compliant with former recommendation 14 due to a lack of legal “safe harbour” protection for all parties reporting STRs in good faith and legal prohibition against “tipping off.
2. *Criterion 21.1* - Article 32 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No.50/NA requires the management and staff of REs to maintain the confidentiality of transaction report in suspicious of money laundering or financing of terrorism or other information reported to AMLIO. They will not be disciplined or prosecuted on the ground of disclosing customers’ secrets, if the reporting or the provision of such information is done with good faith and in compliance with this law, and will not be held liable for any wrongdoing.
3. Article 11 of this law also states that staff and officers working on AML/CFT including those participating in this work such as informants, information processors, witnesses, experts and their families, shall be protected in accordance with laws against revenge and threats against life, health, freedom and damage to their dignities, reputations or private properties.
4. However, the law do not specify that the protections are available even if the management and staff of the REs did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

[For Lao PDR: can you clarify whether the “good faith” provision in Article 32 would apply even if the staff did not know what the underlying criminal activity was or whether it actually occurred?]

1. *Criterion 21.*2 - The management and staff of the REs working on AML/CFT are prohibited from disclosing the fact that an STR or related information is being filed with AMLIO (details stipulated in Rec. 21.1). Article 28 of the Agreement on Know Your Customers and Customer Due Diligence No.01/NCC prohibits relevant staff from revealing information or behaving in a way that will alert the customer that he/she is facing measures of customer due diligence or being a subject in ML/FT suspicious transactions report or any information report to AMLIO. However, there is no explicit requirement to ensure that the provisions mentioned above are not intended to inhibit information sharing under Recommendation 18.

Weighting and Conclusion

1. **Recommendation 21 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

1. Lao PDR was rated non-compliant for former Recommendation 12 in its 2011 MER due to non-coverage of DNFBPs.
2. Since the 2011 MER, the Law on AML/CFT was enacted. While the Act covers most categories of DNFBPs, there is an ambiguity that has a cascading effect on each criterion in R.22. Article 8 of the Law on AML/CFT, defines DNFBPs as companies or agents that provide and manage financial payment tools, real estate trading agencies, valuable material and antique trading business, a bar association or a legal firm, notary public, external auditing firms, casinos or others. Under Article 17 of the Law on AML/CFT, reporting entities are legal persons and organisations which have the obligation to report information or suspicious activities of being money laundering and financing of terrorism to the Anti-Money Laundering Intelligence Office (herein after called “AMLIO”). Reporting entities consist of financial institutions and DNFBPs as defined in subparagraph 7 and 8 of Article 8. Taken together, these definitions create an ambiguity as to whether natural persons (individuals) are covered in these definitions (REs are limited to legal persons and organisations. It seems that individual lawyers are not covered and coverage is limited to legal firms. The question arises whether a bar association can be considered as a DNFBP.) [For Lao PDR: can you clarify whether the definition of DNFBPs would apply to natural persons and, in particular, individual lawyers and accountants?]
3. *Criterion 22.1* - The CDD obligations mandated by the Law on AML/CFT and the Agreement on KYC and CDD are applicable to DNFBPs as per the definitions aforementioned. However, obligations of the DNFBPs are not supplemented by sector-specific rules or regulations. The Law on AML/CFT and the Agreement on KYC and CDD do not cover all the CDD requirements set out in Recommendation 10. The existing legal provisions neither set thresholds for casinos or dealers in precious metals and stones as required by sub-criteria (a) and (c) nor specify instances where legal practitioners, accountants, trust and company service providers should comply with CDD requirements as per sub-criteria (d) and (e). As pointed out earlier, it is not clear whether the requirements cover natural persons carrying on designated non-finance businesses and professions including lawyers and accountants who are not part of a legal firm. Lao PDR’s assertion that trust companies are yet to operate in their country is well noted.

[For Secretariat: to confirm that casinos should be dealt with under R28]

1. *Criterion 22.2* - Record keeping obligations set out in the Article 28 of the Law on AML/CFT apply to DNFBPs. Nevertheless, deficiencies identified under Recommendation 11 also apply to DNFBPs. Especially, the absence of provisions to require reporting entities to ensure that records are swiftly available to authorities remains a concern.

[To Lao PDR: see remaining queries under R.11]

1. *Criterion 22.3* is **met/mostly met/partly met/not met**. Requirements with respect to PEPs as provided for in the Law on AML/CFT and the Agreement on KYC and CDD apply to DNFBPs. However, deficiencies identified under Recommendation 12 remain deficiencies under this Criterion.

[To Lao PDR: see queries regarding PEPs under R12]

1. *Criterion 22.4* - Article 12 of the Agreement on KYC and CDD which stipulates obligations of reporting entities on new technologies apply to DNFBPs. However, explicit provisions to ensure that the risk assessment should be undertaken prior to the launch of such product, practices and technologies are lacking.
2. *Criterion 22.5* - There are no specific provisions imposed on DNFBPs concerning reliance on third parties. It appears that REs including DNFBPs are specifically prohibited from relying on third parties and are required to carry out CDD measures on their own at all instances.

[To Lao PDR: please see query under R10 regarding reliance]

Weighting and Conclusion

1. It is not clear whether DNFBPs cover natural persons. The Law on AML/CFT and the Agreement on KYC and CDD do not sufficiently cover the scope of the CDD requirements of Recommendation 10. They do not specify thresholds or instances as required by Criterion 22.1. There are also gaps with respect to record keeping and PEPs.
2. **Recommendation 22 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 23 – DNFBPs: Other measures

1. Lao PDR was rated non-compliant for former Recommendation 16 in its 2011 MER.
2. The ambiguity regarding the scope of DNFBP coverage identified under R.22 has a cascading effect on each criterion in R.23.
3. *Criterion 23.1* - The Article 31 of the Law on AML/CFT makes reporting entities legally obliged to submit suspicious transaction reports in case of a suspicion with respect to transactions and attempted transactions of customers. Similar to Recommendation 22, as per the definitions for reporting entities and DNFBPs, this obligation applies to DNFBPs subject to limitations mentioned in R.22.
4. However, no specific qualifications are imposed with respect to lawyers, notaries, other legal practitioners and accountants as described in sub-criterion (a), for dealers in precious metals and stones in accordance with sub-criterion (b) or concerning trust and company service providers in-line with sub-criterion (c). Lao PDR’s assertion that trust companies are yet to operate in their country is well noted.
5. *Criterion 23.2* - Responsibilities of reporting entities on compliance management arrangements including the appointment of a compliance officer contained in Article 3 of the Instruction on STR on ML/TF apply to DNFBPs. Requirements on reporting entities for screening and ensuring high standards at staff recruitment and ongoing employee training are provided for in Clauses 1 and 2 of Article 19 of the Law on AML/CFT and apply to DNFBPs. Although Clause 3 of Article 19 requires having an internal audit it does not specifically require it to be independent as expected in Sub-Criterion (d) of Criterion 18.1.
6. As set out in Article 18 of the Law on AML/CFT, obligations of reporting entities which are laid down in Articles 19 to 32 of the said Law have been extended to overseas branches and subsidiaries. However, there appear to be no requirements with respect to group-wide programmes on sharing of information for CDD and ML/TF risk management purposes, group-level compliance and adequate safeguards on confidentiality and use of exchanged information as required by Criterion 18.2.
7. Criterion 18.3 expects countries to require reporting entities to apply AML/CFT measures at least equivalent to measures of the home country where the host country requirements are inferior to the home country and *vice versa*. Necessary detailed requirements are lacking in this regard. The only provisions available on this matter appear to be the extension of obligations of the responsibilities of the reporting entities to their overseas branches and subsidiaries as mentioned in the paragraph above and the final paragraph of Article 18 of the Law on AML/CFT which states, “in case the laws of the country where the branches subsidiaries in the group of the reporting entities are located do not allow the application of these obligations, the reporting entities shall notify their supervisory authorities”. However, the latter does not require the RE to apply appropriate additional measures to manage ML/TF risks as required by Criterion 18.3.

[To Lao PDR: please see clarifying questions under R.18]

1. *Criterion 23.3* - Article 17 of the Agreement on KYC and CDD requires reporting entities to apply enhanced due diligence measures for customers from high-risk countries. However, it is not clear whether there is any requirement for reporting entities to apply EDD to business relationships and transactions with natural and legal persons from countries for which EDD is called for by FATF or to apply countermeasures when called upon to do so by FATF or independently of any such call by FATF. It appears that reporting entities can access websites of international organisations via AMLIO website in order to obtain updates on high risk countries.

[To Lao PDR: please see clarifiying questions under R.19]

1. *Criterion 23.4* - Article 11 of the Law on AML/CFT provides legal protection for staff, officers working in AML/CFT and their families. Confidentiality requirements and tipping-off restrictions are contained in Article 32 of the Law on AML/CFT. Tipping-off restrictions are further supplemented by Article 28 of the Agreement on KYC and CDD. Being reporting entities, DNFBPs are bound by these provisions.

Weighting and Conclusion

1. General requirements of the Law on AML/CFT and the Agreement on KYC and CDD on STRs, internal control, high-risk countries, legal protection, confidentiality and tipping-off are applicable to DNFBPs. However, deficiencies identified under R.20, R.18, 19 also apply to DNFBPs. There is also ambiguity regarding the scope of DNFBP coverage, as identified under R.22.
2. **Recommendation 23 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

1. *Criterion 24.1* - The concept of legal person may be different from that of other countries, but the concept and its categories are clear. Lao uses the term “legal person” in a narrow way to only cover business organizations. Legal person is interchangeable with “enterprise”. From the natures of the owner, the enterprises are categorized as private, state-owned, mixed and cooperative. In the sense of legal formation, there are three types of enterprises, individual enterprise (created and owned by one person), partnership (created and shared with several person on the basis of contract) and company (created and shared with several persons on the basis of capital contribution). The Enterprise Law describes the requirements and processes to create an enterprise. Competent authorities which grant licenses maintain the records.

[For Lao PDR:

1）The current materials cannot illustrate the process for creation of legal persons, for obtaining and recording basic information;

2）The assessor noticed that there are no regulations on BO, but if you have any, please illustrate in detail;

3）Please add more materials to clarify whether and the information is publicly available;

4）Please explain “juristic person” and “legal person ”, which are used interchangeable in the materials provided by Lao, but I think that they are the same word in Lao but have two English version translations.]

1. *Criterion 24.2* - Lao has completed NRA, but no detailed information was found to assess the ML/TF risks associated with all types of legal persons. This could be due to the fact that the types of legal persons in Lao PDR are relatively clear and straightforward, the ML/TF risks arising from the different types do not greatly vary as set out in the NRA.

[For Lao PDR: Please explain the methodology used to assess or understand the risks associated with legal persons.]

1. *Criterion 24.3* - The assessor cannot reach any conclusion just based on the current legal clauses provided by Lao, Articles 14 & 24 of Enterprise Law.

[For Lao PDR: Lao needs to provide more materials to clarify directly: 1) whether the company name, proof of incorporation, legal form and status, the address of the registered office are required when registered; 2) who is/ are in charge of registry; 3) how the required information is publicly available.]

1. *Criterion 24.4* –

[For Lao PDR: Lao needs to provide materials to clarify whether/how the competent authorities requires the enterprises to maintain the required information.]

1. *Criterion 24.5* - In the assessor’s view, this criterion means two requirements: to ensure the information accurate from the beginning and continuous; and to update information timely.

[For Lao PDR: Lao needs to provide further and direct materials to explain the two issues. For example, Lao can describe how they check and verify the information and punish providing false statements.]

1. *Criterion 24.6* - Decree No. 127 requires Reporting Entities to collect and provide beneficial ownership information to the competent authorities in Article 4. Lao also requires legal persons to supply details of “ownership and real beneficiaries” to the competent authorities which grant licences, under Article 37 of AML/CFT Law. It is unclear whether “ownership and real beneficiaries” has the same meaning as “beneficial owner(ship)”. If they have the same meaning, it seems that both the competent authorities and Reporting Entities collect BO information. Otherwise, only the Reporting Entities collect the BO information, and it then might be inferred that Lao uses the 24.6(c) approach to identify BO.

[For Lao PDR: Please confirm which approach or which combination of approaches is taken by authorities to identify BO under c.24.6, is it (a), (b) or (c) and how is this legislated and what are the processes followed? Please explain the meaning of “ownership and real beneficiaries” in the Decree No. 127, and “beneficiary ownership” in AML/CTF Law.]

1. *Criterion 24.7* -

[For Lao PDR:

1) Clarification of the questions in Criterion 24.6 is the prerequisite of this criterion.

2) There are many ways to ensure the accuracy of BO information. For example, the competent authorities could impose penalties to those provide inaccurate BO information. There may also be some ways for the competent authorities to check and verify the information. Please outline Lao PDR’s approach. ]

1. *Criterion 24.8* - Article 19 of the AML/CTF Law, seems to stipulate a requirement to enhance REs’ internal control of AML/CTF and while it calls for the appointment of a member of staff within REs to be responsible for AML/CFT compliance internally, and to serve as a liaison with AMLIO, there appears to be no specific reference to obligations regarding the provision of all basic information and available beneficial ownership information.

[For Lao PDR: This Criterion requires the competent authorities have a direct contact to get all basic information and available BO information from a company. For example, the competent authorities should have contact with an accountable person and/or a DNFBP authorised by the company to obtain the necessary information and ensure cooperation to the fullest extent possible, please clarify where the obligation for the qualified information gathering and reporting staff member who serves as a coordinator with AMLIO, to provide all basic information and available BO information is found in the law.]

1. *Criterion 24.9* - Obligations exist for companies to keep records, as stipulated in Articles 6 and 50 of the Law on Accounting. Further, the Law on Accounting only seems to stipulate the keeping of accounting records, which often contains some of the basic information, but does not appear to cover all information required by R.24. Article 68 of the Commercial Bank Law, obliges banks’ head offices to store, for at least 10 years, document and transaction information including such information held on a database regarding:
   * regulations, agreements and manuals [For Lao PDR: please identify what how these are “defined in this Law”];
   * the list of registered shareholders;
   * records and resolutions of shareholders’ meetings;
   * records and resolutions of Board of Directors’ meetings and the committee of the Board of Directors;
   * records of the accounting on the business performance, transactions and financial condition;
   * records on transactions, credit information and the list of all clients;
   * reports on Internal and External audits;
   * other document as deemed necessary as defined by the Bank of the Lao PDR [For Lao PDR: Please specify what this power means practically, have these other documents been defined already or is this a general power for the Bank of Lao PDR to use?].
   * foreign bank branches shall store/keep the documents and transaction information at a bank branch located in Lao PDR.

[For Lao PDR: We think that these requirements might cover the keeping of customer information, but please clarify further and stipulate whether all information addressed in c.24.3 and c24.4 is required to be kept by all the persons, authorities and entities mentioned in R.24.] [Lao PDR: Lao should clarify how to require not only the company itself but also the competent authorities and entities mentioned in R.24 to keep not only the basic information but also the BO information. ] The assessors think that this Criterion requires to maintenance of the basic and BO information and related records. The company itself, the competent authorities who have to collect and identify such information, and the REs who have to collect and identify such information should all have the obligation to maintain the information and records.

[For Lao PDR:

1) Please explain, if a company is dissolved or ceases to exist, how the information and records are stored and for what period of time they are kept.

2) Please explain, if a company ceases to be a customer of REs, how the REs store the information and records of their previous customers and for what period of time. )

1. *Criterion 24.10* - Article 37 of AML/CTF Law entitles comprehensive and general authorization to competent authorities to obtain the information. However, the issue remains regarding the types and quality of information that is required to be kept and therefore capable of being obtained by competent authorities, as raised in the earlier criteria.

[For Lao PDR: does this power authorise competent authorities to obtain basic and beneficial ownership information?]

1. *Criterion 24.11* - It appears that Lao PDR may require all bearer shares to list publicly on the stock exchange; however, the law is unclear.

[For Lao PDR: Please clarify the wording and further explain how Lao PDR lists and transacts bearer shares and share warrants. The wording in the TC table is a little difficult to understand.]

1. *Criterion 24.12* - The assessors think that this criterion covers both publicly listed and non-publicly listed companies. Lao PDR only provides materials related to publicly listed companies. Lao PDR’s Law on Securities requires information disclosure , similar to the practices in many other countries, but it is still difficult to infer, from Article 155, any requirements related to nominee shareholders and directors for which there appears to be no provision under Lao PDR laws.

[For Lao PDR: Please directly explain whether nominee shareholders and directors are permitted in Lao PDR. If permitted, please explain how Lao PDR deals with the issue for both publicly listed and non-publicly listed companies.]

1. *Criterion 24.13* - The materials provided are just general clauses of offences, not directly related with the compliance of the listed requirements. It seems that Lao PDR lacks specific stipulations over the failure to comply with the requirements in R.24.

[For Lao PDR: What are the specific penalties for noncompliance with the requirements of R.24?]

1. *Criterion 24.14* -

[For Lao PDR: Please provide the copies of MOUs that allow for the exchange of BO information. Lao may also provide concrete cases, examples or statistics to clarify the process of conducting international cooperation and access to the National Enterprise Database and BO information. Lao may update its status and efforts to join Egmont and clarify whether they would be authorised under their current laws to share BO information through Egmont.]

1. *Criterion 24.15* - The AMLIO Standard Operating Procedure (January 2020) sets out the general process and elements for the exchange information with foreign FIUs, but contains no stipulation on how to monitor the quality of information received from other countries beyond a requirement to provide feedback on the use made of the information provided from time to time or upon request.

[For Lao PDR: Please provide further information including cases or examples to clarify how they monitor the quality.]

Weighting and Conclusion

1. From the current TC Table, the assessor cannot reach firm conclusions for most of the criteria. Based on current materials, the shortcomings are obvious fundamental, which include: the required retention of basic information is not clear; the definition of BO and the approach to identify BO under Lao PDR law is not clear; the regulations over bearer shares, nominee shareholders and directors is also not clear. Lao PDR also did not provide enough information to describe the international exchange of basic and BO information.
2. **Recommendation 24 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

1. In the previous MER, Lao PDR did not recognise the legal concept of a trust, any other structure similar in nature to a trust, or that meets the definition of legal arrangement as defined in the FATF recommendations. Even trusts created in other countries were not recognised in Lao PDR. The previous MER also clarified that no trust service providers had been established in Lao PDR.

[For Lao PDR: Please update the information provided to clarify whether the laws and situation in Lao PDR have changed from the above. Are trusts, other legal structures similar in nature to a trust, or legal arrangements as defined by the FATF recommendations recognised under Lao PDR law? Are foreign trusts recognised under Lao PDR law? Are there trust service providers established in Lao PDR?]

1. The materials provided state that there are trust companies and assets management companies in Lao PDR, but the assessor agrees that, if the law and situation is almost the same as the previous MER, then these companies just provide financial products, which are not the trust or legal arrangements as defined in the FATF recommendations.
2. *Criterion 25.1* – [Subject to further information]
3. *Criterion 25.2* - [Subject to further information]
4. *Criterion 25.3* - [Subject to further information]
5. *Criterion 25.4* - [Subject to further information]
6. *Criterion 25.5* - [Subject to further information]
7. *Criterion 25.6* - [Subject to further information]
8. *Criterion 25.7* - [Subject to further information]
9. *Criterion 25.8* - [Subject to further information]

Weighting and Conclusion

1. **Recommendation 25 is rated compliant/largely compliant/partly compliant/non-compliant.**

***Recommendation 26 – Regulation and supervision of financial institutions***

*Market Entry*

1. *Criterion 26.1* - AMLIO is the designated supervisor of all REs, including FIs, under Article 2, para 2 of the Decision on Organization and Operations of the AMLIO, 8 January 2020. For implementation purposes, line responsibility for supervision on particular sectors of FI is distributed among several agencies under the Decree on Entrust and Responsibility in Implementing the Activities of AML/CFT, No 127/Gov, 20 February 2020. Those responsibilities are distributed as follows.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Banking Sector** | **Insurance sector** | **Securities Company** | **Operator of currency exchange business** | **MVTS provider** |
| **Regulatory/**  **Supervisory Authority** | |  | | --- | |  |  * AMLIO * AMLIU as per the Decision on Designated for AML/CFT Supervisor for Commercial Bank and FI   [For Lao PDR: Please clarify whether AMLIO and AMLIU is separate supervisors] | | **Lao Securities Commission Office**  AML/CFT inspection not conducted due to lack of specific personnel to assess compliance level of securities companies | **Regulator -** Bank of Lao and act as central agency to cooperate with MOF, MOIC, MPI, MPS and other sectors and local authorities concerned  Supervisor - AMLIO | Supervisor - AMLIO has rights and duties to take supervision, monitoring and inspection over financial institutions including MVTS or Currency Exchange Bureau as stipulated in the Agreement on KYC/CDD No.01/NCC, dated 15 January 2016 |
| **Role** | * Issue regulation, conduct inspection and risk assessment | | Issue regulation, conduct inspection and risk assessment | * Collecting and compiling information for reporting to government. * ~~Conduct inspection~~ Issue regulation, conduct inspection and risk assessment (AMLIO) * Other duties as specified in Article 38 of LA on Foreign Exchange Management. | [To Lao PDR: please specify role of AMLIO in supervision as it is not clear from the Decision on the Supervision of Money Value Transfer Service, dated 5 Dec 2016] |

[For Secretariat: This table will not be in the final document but is useful for determining scope for this draft.]

[For Lao PDR:]

1. To provide definition of different type of financial institutions (microfinance institutions, credit and savings union etc vs commercial banks in term of activities allowed) and to confirm whether there are different supervisors for these categories.
2. To provide explanation for the different roles by internal inspection authority and external inspection authority of the foreign exchange activity
3. For banks which also offer currency exchange services, who are the AML supervisor? AMLIO or BOL?
4. Please provide the number of supervisors responsible for AML inspection for the above reporting entities.
5. Is there any type of RE or FI which are currently not supervised?
6. Securities companies appear to have multiple supervisors. Is this the case? How does this work in practice? Are there any RE or FI which have multiple supervisors for AML/CFT?
7. *Criterion 26.2* - Before each FI submits an application to the respective authorities, they are required to establish a company in accordance with Article 15 of the Enterprise Law. Once approval has been obtained for registration of the company, FIs submit an application to the respective authorities, as outlined below. However, for insurance company Article 36 does not specify in detail what information/documents must be submitted to Ministry of Finance for licensing approval. Establishment of shell banks and operation of shell companies are not allowed by Bank of Lao.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MVTS Provider** | **Banking Sector** | **Insurance sector** | **Securities Company** | **Operator of currency exchange business** |
| * Agreement On the Provision of Additional Information by Financial Institutions. * To be processed and approved by Bank of Lao. | * Subjected to Article 2 of the Law of Commercial Bank * Decision on the Establishment of Commercial Bank and Commercial Bank Branches * To be processed and approved by Bank of Lao. | * Subjected to Article 36 of Law on Insurance * Submit application for investment Promotion Law and Enterprise Law. * Submission to MOF for issuance of license | * Companies must meet requirements and to file documents prescribed in Article 52 * Application for business license must be approved by Securities Management Committee | * Article 20 of Law on Foreign Exchange Management * For FIs, subjected to Article 7 for Decree of Microfinance Institutions * To be processed and approved by Bank of Lao |

[For Secretariat: This table will not be in the final document but is useful for determining scope for this draft.]

[For Lao PDR:]

1. Is there any FI or financial services related activities which are not subjected to any licensing/ registration process?
2. Please provide the list of documents/ information to be submitted by insurance company to Ministry of Finance for licensing.
3. For MVTS providers, are these institutions mostly banks or it also include stand alone or independent MVTS provider. For stand alone MVTS providers, would the application for registration is under Bank of Lao’s authority?
4. Please confirm that Ministry of Finance is the licensing authority for insurance company.
5. *Criterion 26.3* - Generally, as part of the financial institutions’ licensing/ registration process, there is requirement to submit relevant information on shareholding, senior management, beneficiaries as per respective laws for banking institutions, securities company and micro finance sector. Additionally, for securities company, there is another requirement to prescribe this which is Regulation on Provision of Additional Information relating to Sources of Registered Capital, Shareholder Structure and Beneficiaries of Securities Companies. As part of the approval process, the respective authorities will determine if a person is fit and proper to own or manage a bank and prevent criminals and their associates from holding such positions. For insurance company, of which the licensing / registration is approved by Ministry of Finance, we noted that there are no details on the submission required in terms of document/information to be submitted to MOF.

[For Lao PDR:]

1. Please provide details on the insurance company’s submission required in terms of document/information to be submitted to MOF for licensing, including shareholding and BO information.
2. Is there any fit and proper criteria rules maintained internally by respective authorities as part of the licensing/ registration process?
3. Please explain the workflow for processing the application including the character vetting request/checks from law enforcement agencies (if applicable) for each authority/ sector/ FI.
4. Were there any cases where application was rejected due to criminal cases involving the senior management, board or shareholders?
5. Is there process to approve individual Board members or senior management of financial institutions for any of the financial institutions/ sector. If yes, please provide a copy of the document/ policy.

*Risk-based approach to supervision and monitoring*

1. *Criterion 26.4* –
2. *Criterion 26.4(a)* – FI supervisors adopt supervision based on Basel I and Basel II standards while Lao Securities Commission Office (Securities company supervisors) is applying for IOSCO membership and expects to become a member by year 2020. However, there is no detail information on RBA implementation based on the Basel Principles. Based on RBA Approach to AML/TFC Combating Workplan, there is a 3-phase RBA approach of which, the highest risk sector is prioritised in terms of the implementation which has taken place since March 2019 but the details of the supervision and monitoring for Group 1 sector in terms of supervision process, results and resources are not provided. Generally, there are differing state of RBA implementation for supervision and monitoring across sectors and supervisory authority. We also noted that that there are 5 sectors in Group 2 which might not be ready for RBA approach for supervision and monitoring. Meanwhile, casino which is under Group 2 is currently undergoing assessment and review for developing a supervision mechanism. Furthermore, the remaining 9 sectors in Group 3 with low risk and under government organizations are not ready to adopt the RBA.
3. *Criterion 26.4(b)* – While AMLIO is the dedicated supervisor for financial institutions including MVTS or Currency Exchange Bureau as stipulated in the Agreement on KYC/CDD, MVTS providers which are under Group 3 have yet to adopt RBA.

[For Lao PDR]:

1. Please provide the result of the Group 1 (Phase1- Phase 3) RBA approach and implementation which have been completed.
2. Please provide the on-site and off-site surveillance monitoring strategy approach/ tools/ reports for the respective group and individual FIs.
3. Allocation of supervisors for the respective sector groups and number of on-site inspection conducted.
4. For group 2 and group 3 which have yet to implement RBA, what is the current supervision and monitoring approach (interim solution) by the supervisors?
5. *Criterion 26.5* - The types of inspection on AML/CFT implementation on reporting entities (RE) is prescribed in the Law on AML/CFT, Article 59. Meanwhile, the requirement for AMLIO to conduct supervision, monitoring and inspection in regular basis on financial institutions is stipulated in the Decision On Organization and Operations of AMLIO. However, there is no detail information on how the ML/TF risk profile of RE/ sector determine or influence the supervision intensity in terms of frequency of on-site inspection or off-site monitoring by respective supervisors. AMLIO’s procedures or scope of on-site review AML/CFT are prescribed in the On-site Inspection Manual dated 08 August 2018 covering areas to reviewed such as CDD, CIP and STR.
6. The risk assessment methodology for ML/TF risk for RE is detailed out in Article 4 **-** Contents on risk assessment, based on risk management principles for the work of AML/CFT of the Manual on RBA of AML/CFT. The risk assessment comprised of 9 inherent risk indicator and 9 control indicators which will determine the final risk score of 5 categories. There is no further detail on the scoring results for each RE.

[For Lao PDR: Please confirm whether the risk assessment is applicable to all RE or selected RE only. For those RE which are not subjected to the above risk assessment, please explain the risk assessment used by the supervisor]

[For Lao PDR]

1. Please provide annual plan for AML/CFT inspection for the RE based on type and scope of inspection for RE based on the respective group/ supervisory authority.
2. Please provide supervisors assessment/ report of all RE’s ML/TF risk profile (including the AML/CFT controls) and how this translate into the frequency and intensity of supervision of each RE.
3. Please provide the risk assessment results for RE based on sector/ groups based on the risk assessment methodology for ML/TF risk as prescribed in Article 4 of the Manual on RBA.
4. *Criterion 26.6* - While there is a requirement to conduct on-site inspection on regular basis based on FI’s risk as stated in the AML/CFT On-site Inspection Manual and risk assessment methodology in place, there is lack of information in terms of the frequency with which it is reviewed and how this impacts the number of on-site inspections. Based on the RBA work plan provided, because the on-site inspection has only started recently and only on selective RE, it is unclear that the supervisor(s) review the ML/TF risk profiles of FIs or fact in major events or developments into the risk assessment.

*Weighting and Conclusion*

1. Generally, there are dedicated supervisors for each sector complemented by requirement to conduct on-site inspection and off-site monitoring. However, questions remain about the scope of supervision, how various departments and ministries’ supervision responsibilities overlap, and whether RBA determines the scope and intensity of supervisory activities.
2. **Recommendation 26 is rated compliant/largely compliant/partly compliant/non-compliant.**

***Recommendation 27 – Powers of supervisors***

1. *Criterion 27.1* -
2. *Criterion 27.2* - AMLIO has power in terms of supervision, monitoring and inspection of commercial banks’ and FI’s implementation to ensure compliance with AML/CFT requirements as indicated in the Article 4 (issue policy or regulations) and Article 9 (inspection) of the Agreement on Organization and Operations of the AMLIO. For commercial banks and FIs, AMLIU is responsible to issue regulation, on-site inspection and risk assessment of AML/CFT. Meanwhile, Lao Securities Commission Office has the power to issue regulation, conduct inspection and risk assessment of AML/CFT as provided in Chapter 2 of Law on Securities.

[For Lao PDR: Please confirm whether there are any sectors which are not supervised and subjected to inspection or monitoring]

[For Lao PDR: As with R26, please confirm the division of responsibility in terms of supervision between AMLIO, AMLIU and the other departments and ministries. Do the departments and ministries have powers that they can exercise independently or do these powers belong to AMLIO?]

1. *Criterion 27.3* - AMLIO has the right to compel for obtaining necessary information relevant to ML/TF as indicated in the Agreement On Organization and Operations of The AMLIO Article 4 and Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT.

[For Lao PDR, please confirm whether AMLIO’s authority for the above is applicable for all FIs, as this term is defined in the FATF recommendations.

[For Lao PDR: Does AMLIO or the Securities Commission have the power to compel documents from securities companies?

1. *Criterion 27.4* - Lao PDR has the ability to sanction FIs that fail to comply with the requirements under the Law on AML/CFT, (Article 65) and the Decision on Administrative Measures Violated Regulations and Law on Anti-Money Laundering and Counter-Financing of Terrorism, (Article 2 and 4).

[For Lao PDR: As under R.35, please provide more detail on what is envisaged by professional, administrative and education penalties.

Please confirm whether sanctions are imposed by AMLIO, or some other process.

Please indicate whether AMLIO or BOL has the power to withdraw, restrict or suspend FI licenses for breaches of the AML/CFT requirements.]

*Weighting and Conclusion*

1. AMLIO and other key supervisors for commercial banks, insurance company and foreign exchange company have powers to issue regulation, on-site inspection, conduct risk assessment of AML/CFT and the right to compel for obtaining necessary ML/TF information. However, there is limited information on whether other supervisors in the smaller sub-sectors have similar powers as above, or how their powers intersect with or overlap AMLIO’s supervisory powers. Lao PDR also has the power to impose various range of sanctions in line with R.35 although there are questions remaining about the types of sanctions that can be or are imposed and which entity is responsible for bringing those sanctions.
2. **Recommendation 27 is rated compliant/largely compliant/partly compliant/non-compliant.**

***Recommendation 28 – Regulation and supervision of DNFBPs***

1. In its 2011 MER, Lao PDR was rated non-compliant with former Recommendation 24. The main deficiencies were that there was no comprehensive AML/CFT regulatory and supervisory regime for casinos, no clear procedures to prevent criminals and their associates from being beneficial owners of casinos, no designated DNFBP supervisor and no implementation of AML/CFT obligations in the DNFBP sector.
2. *Criterion 28.1* –
3. *Criterion 28.1(a)* –

[For Lao PDR: Draft decrees cannot be counted towards ratings (The draft law needs to be enacted prior to the end of the on-site visit). The NRA refers to the requirement of licensing under the Law of Investment Promotion. Please provide a copy of this law. Is this the relevant law for requiring the licensing of casinos? Please provide an overview of the current licensing process. What agency is responsible for licensing casinos? Is the Regulation of Minister of Information and Culture on the Management, Inspection, and Permission for Games in the Lao PDR No. 664MIC, dated 22 October 2003 still current and applicable to casinos? Is gambling legal or illegal in Lao PDR?

[For Lao PDR: Are internet casinos licensed? Please provide a breakdown of casinos and internet casinos operating in Lao PDR] *Criterion 28.1(b)* – There are no measures in place to prevent criminals and their associates from owning, controlling, managing or operating casinos.

1. *Criterion 28.1(b)* – The AML/CFT law defines casinos as reporting entities. Article 4 (3) of the Decree of Entrust and Responsibilities in Implementing the Activities of AML/CFT provides that an agency responsible for implementing AML/CFT activities can audit and request relevant information from REs relating to shareholders, directors and beneficial owners prior to, and/or after issuing a business registration in order to provide this information to competent authorities. There is no requirement that this information be sourced at market-entry, prior to the issuing of a registration of a casino in order to prevent criminals or their associates from owning or controlling casinos.

[For Lao PDR: Please provide an overview of licensing requirements and processes for casinos. The NRA refers to a ‘registration certificate’.

Are there ‘fit and proper’ requirements for obtaining a license or registration to preclude criminals or their associates from holding controlling interests and management functions of casinos? Are there any requirements to update changes to directors or changes to ownership?]

1. *Criterion 28.1(c)* – Casinos are defined as reporting entities under the AML/CFT and are subject to AML/CFT regulations including STR requirements. However there is no evidence that casinos are being supervised. No STRs have been reported by casinos and no sanctions or penalties have been issued to casinos.

[For Lao PDR: What designated agency is responsible for supervising casinos and enforcing AML/CFT obligations? Is compliance being monitored? Are on-site inspections conducted?]

[The previous MER indicated a special Ad Hoc Committee responsible for supervising casinos in the Special Economic Zone. Is this still the case?]

1. *Criterion 28.2* - AMLIO is the AML/CFT supervisor for all covered DNFBPs except for casinos in Lao PDR, namely companies or agents that provide/manage financial payments, real estate agencies, valuable material and antique trading businesses, bar associations or a legal firm, notaries and external auditing firms.

[For Lao PDR: Are there any other supervisory agencies that monitor DNFBPs?   
Article 3(4) of *The* *Agreement on Organization and Operations of AMLIO* states AMLIOs duty is ‘to coordinate ministries, reporting entities supervision organisation’. Please provide an overview of what agencies/ministries are responsible for supervising which DNFBP sectors.]

1. *Criterion 28.3* - DNFBPs are defined as reporting entities under the AML/CFT law and are subject to systems for monitoring and ensuring compliance with AML/CFT requirements. However, there is no coverage of trusts and legal arrangements and virtual asset service providers.

[For Lao PDR: Are trusts and legal arrangements as defined by the FATF recommendations recognised under Lao PDR law? (See R.25). Are individual lawyers, real estate agents and accountants covered as legal persons under AML/CFT?]

[For Lao PDR: Are dealers in precious metals and stones covered under “valuable material and antique trading businesses”? Are virtual asset service providers and trust company service providers included as DNFBPs or otherwise covered under AML/CFT law?]

[For Lao PDR: Has supervision of DNFBPs occurred? Has there been any sanctions issued for non-compliance?]

1. *Criterion 28.4* **–**
2. *Criterion 28.4(a)* **–** Article 9 of the Agreement on Organization and Operations of the AMLIO provides for adequate powers to supervise DNFBPs for compliance.
3. *Criterion 28.4(b)* **–** As mentioned in C.28.1, Article 4 (3) of the Decree of Entrust and Responsibilities in Implementing the Activities of AML/CFT provides that an agency responsible for implementing AML/CFT activities can audit and request relevant information from REs relating to shareholders, directors and beneficial owners prior to, and/or after issuing a business registration in order to provide this information to competent authorities. There is no requirement that this information be sourced at market-entry, prior to the issuing of a registration of a DNFBP in order to prevent criminals or their associates from owning or controlling DNFBPs.

[Lao PDR: What are the requirements for business registration of DNFBPs? Are there market entry requirements? Are there ‘fit and proper’ requirements to obtain business registrations? Please provide further information relating to business licensing and registration]

1. *Criterion 28.4(c)* **–** Articles 62-65 of the AML/CFT law provide a range of administrative, civil and criminal sanctions for non-compliance of reporting entities.

[For Lao PDR: Refer to questions in R.35]

1. *Criterion 28.5* - There is no specific requirements or policies relating to supervision of DNFBPs to be performed on a risk-sensitive basis, nor is there any evidence of risk based supervision of DNFBPs for compliance with AML/CFT requirements.

[For Lao PDR: The AML/CFT On-site Inspection Manual refers to financial institutions and not to reporting entities. Is there a separate manual for reporting entities or DNFBPs?

[For Lao PDR: Has onsite inspections of DNFBPs occurred? Has a risk assessment of DNFBPs occurred? Are there any guidelines, plans, policies or guidance relating to the risk-based supervision of DNFBPs or reporting entities?]

[For Lao PDR: Does the Agreement on Organisation and Operations allow for off-site supervision as well as on-site? Also, it is noted that there is ‘ordinary’ onsite inspection to implement AML/CFT regulations, and ‘extra-ordinary’ onsite inspections for STRs. Is there any other reasons for ordinary and extra-ordinary inspections?]

*Weighting and Conclusion*

1. **Recommendation 28 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 29 - Financial intelligence units

1. In its 2011 Lao PDR was rated non-compliant with former recommendation 26 due to a lack of enforceable obligations, STR analysis, STR guidance for non-bank reporting institutions, dissemination of STR and neccessary information, awareness raising among all REs, operational independence of FIU and effective implementation.
2. *Criterion 29.1* - AMLIO is the competent FIU authority under Article 55 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA. AMLIO has been established in the organisational structure of the Bank of Lao PDR and has the operational independence concerning its activities. AMLIO has main roles and tasks in data collection, analysis, dissemination, coordination with related parties both domestically and internationally. Article 3 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No. 02/NCC demonstrates that the AMLIO has responsibility for activities consistent with the requirements of Criterion 29.1 as follows:
3. To submit documents and conduct financial report relevant to suspected information on ML/FT in order to disseminate them to the related investigation organizations
4. To collect extra information that’s seem to be necessary from REs and related organizations in order to monitor, inspect and analyze the information about money laundering and countering of financing terrorism
5. To coordinate related organizations in order to inform list of terror, group of terrorism, terrorism organization, money launder and terrorism supporter and suspicious person to REs and report, follow and punish suitable case
6. To provide financial intelligence report to other organizations
7. *Criterion 29.2* –
8. *Criterion 29.2(a)* – AMLIO is the competent FIU authority under Article 31 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA to receive suspicious transaction report by REs. In the case of a suspicion or a cause for a suspicion that a customer`s transaction may be a consequence of a predicate offence, relating or connecting to money laundering and financing of terrorism, REs which include FIs and DNFBPs as specified in Article 17 of the law are required to report such transaction to AMLIO within three working days. This reporting requirement extends to a customer`s attempt of transaction regardless of completion status and amount of money involved.
9. *Criterion 29.2(b)* – Article 30 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA outlines a range of other information and transaction reports reportable to AMLIO, which are consistent with the requirements of 29 (2) (b) and include other transactions as defined by AMLIO.
10. The Bank of the Lao PDR is responsible for setting reporting thresholds for cash transactions and wire transfers, and issuing legislations on reporting. Further details on reporting are identified in the Regulation on the Reporting of Cash Transactions Report No. 417/BOL, the Decision on the Reporting of Wire Transfers in exceeding the specified limit No. 963/BOL and the Regulation on the Declaration of Cash, Precious metals and Bearer Nego-tiable Instruments While Entering/Exiting the Lao PDR No.06/NCC.
11. *Criterion 29.3* - Article 3 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No. 02/NCC and the Standard Operating Procedure authorize AMLIO to collect extra information that seems to be necessary from REs and related organizations in order to monitor, inspect and analyze the information relaed to AML/CFT. In addition, the Standard Operating Procedure also requires sharing information between AMLIO and REs. The information includes reporting any transaction as defined by AMLIO such as STR, CTR, WTR and others, personal surveillance activities record of natural person including legal person as requested by the AMLIO and other information.
12. AMLIO has direct and indirect (through MoUs with other government agencies) access to a wide range of information to enable AMLIO to properly undertake it functions. For example, AMLIO accesses external sources (World Check One and other available open sources) and compares the information with its internal database in order to proof of reasonable grounds of STRs received. In this regard, the requirements of Criterion 29.3 (a) and (b) have been satisfied.

[To Lao PDR: Does AMLIO have authority to submit information requests to REs (beyond STR reporting)? With respect to sharing information between agencies, is there any restriction on AMLIO’s ability to obtain information from other agencies (for instance, tax authorities or immigration authorities)?]

1. *Criterion 29.4* - The Standard Operating Procedure states that AMLIO is responsible for conducting tactical, operational and strategic analysis consistent with the requirements of Criterion 29.4. On receipt of an STR, AMLIO conducts tactical analysis to determine whether the STR provides reasonable grounds to suspect ML or TF. Tactical analysis is based on domestic databases (including information from all reporting entities under the Law No.50/NA, relevant ministries and sectors having information requested, others as may be defined and the needs of AMLIO activities in each period), public sources including World Check one database and International FIUs. Based on the tactical analysis, AMLIO conducts operational analysis to identify further proof of reasonable grounds for suspect and come up with potential target, identified links and possible proceeds of crime related to ML/TF. In case of reasonable grounds to suspect that funds are the proceeds of a criminal activity or are related to TF, AMLIO will file an FIR and submit to related competent authorities for further investigation.
2. Strategic Analysis is conducted on an annual basis based on information from AMLIO’s internal database including internal and international partners in order to identify potential trends and typologies related to ML/TF. Strategic analysis assists Lao PDR to identify weaknesses and challenges including developing policy and plan to counter such trends.
3. *Criterion 29.5* - Article 3 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No. 02/NCC authorizes AMLIO to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities [For Lao PDR: is there a specific provision related to the requirement to disseminate analysis spontaneously (eg, not based on a request)?]. AMLIO has responsibility to submit documents and financial report relevant to ML/FT to the related investigation organizations including providing financial intelligence report to other organizations. Information and analysis on money laundering or financing of terrorism of individual, entity or other organization are also disseminated to Law enforcement organizations. The Standard Operating Procedure shows that AMILO, law enforcement agencies and related government agencies are required to share information upon request including information related to AML/CFT, trends of ML/FT and other necessary information. The receipant would be aware of the use of information.
4. The Standard Operating Procedure identifies forms for requesting, reporting or providing information shall be made in writing with signatures of authorized persons from both parties and submitted in writing or electronic format according to the information sharing platform in each period. Beyond paper-based channel currently used, AMLIO is developing electronic information sharing system as another dedicated, secure and protected channel for the dissemination (Implementation plan for information sharing system between AMLIO and competent authorities).

[For Lao PDR: Can you clarify whether dedicated, secure and protected channels currently exist for dissemination? What are the measures that apply to the current paper-based channel?]

[For Lao PDR: Is there any electronic dedicated, secure and protected channel used to disseminate information and the results of FIU analysis to relevant competent authorities?]

1. *Criterion 29.6*
2. *Criterion 29.6(a)(c)* - Article 8 of the Agreement on Organization and Operations of The Anti-Money Laundering Intelligence Office No.02/NCC requires FIU authorities to maintain the confidentiality of information collected.
3. The Standard Operating Procedure defines principles of information sharing between AMLIO and other competent authories, and between AMLIO and REs including information exchange with international FIU. The principles cover contents, methods, confidentiality and responsibility for such cooperations in a systematic and prompt manner with regards to AML/CFT. Regarding security and confidentiality of information received, AMLIO shall, in conformity with any applicable laws and regulations, including, without limitation, laws and regulations on the protection of privacy and on computerized databases, operate a database containing all relevant information concerning reports as provided under this law. The officers, employees, agents or such other persons appointed to posts in AMLIO shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the financial intelligence unit. Such information may not be used for any purposes other than those provided for by this Law and may not otherwise be disclosed except by order of a court of competent jurisdiction. In the event that reports were received through post office, the security and confidentiality of requesting letter from LEAs should be the responsibility of AMLIO by referring to the security policies and AML/CFT Law No.50/NA.
4. The Standard Operating Procedure also provides procedures for AMILOs’ analysts concerning receiving reports, methods for prioritizing suspicious cases, preparation, storage of information, approval, dissemination and evaluation of report data. Internal policies on data management and entry-exit analysis division and instruction including internal instruction on information supervision and entry-exit server’s room are provided for relevant staff and other competent authorities.
5. *Criterion 29.6(b) -* AMLIO provides training on ethics and confidentiality of information received to all applicants prior to becoming a permanent staff of AMLIO (Article 3 and Article 7 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office). The Standard Operating Procedure requires AMLIO to provide trainings to staff regarding to AML/CFT in each period to upgrade capacity in performing their duties.
6. Article 51 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA prohibits related staff and competent authorities from disclosing confidential information, neglecting their duties and responsibilities (including impeding STR processing or analysis) and any other activities that contravene laws and legal regulations. AMLIO’s internal policies provide that violations shall be punished by warning and punishment in accordance with applicable laws and regulations.

[To Lao PDR: can you clarify whether AMLIO employs temporary staff and whether these individuals are required to undergo the same training as permanent staff? If not, do temporary staff have the same level of access?]

1. *Criterion 29.7* **–**
2. *Criterion 29.7(a)(c)* – AMLIO is the competent FIU authority under Article 55 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA. AMLIO has been estrablished in the organisational structure of the Bank of Lao PDR and has operational independence over its activities. [For Lao PDR: can you provide any documentation of the operational independence, including any internal guidance or organisational structure that ensures autonomy of AMLIO in decision-making?] AMLIO has main roles and tasks in data collection, analysis, dissemination, coordination with related parties both domestically and internationally to combat and prevent money laundering and terrorism financing. AMLIO uses the budget of the Bank of the Lao PDR; however, it has distinct core functions from the Bank of Lao PDR [For Lao PDR: can you clarify whether the AMLIO budget is separated internally from the rest of the BOL budget? What is the process through which AMLIO gets its budget or has its expenses approved?]. The status, mandate, duties, rights, organizational structure, personnel, principle and work procedures of AMLIO is defined in separate regulation in the Agreement on Organization and Operations of The Anti-Money Laundering Intelligence Office No.02/NCC. In practice, AMLIO is under direct supervision-leadership of National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism (NCC) as stated in Article 2 of the Agreement.
3. Lao PDR manages the AML/CFT activities centrally and unanimously in the nation, by assigning the NCC which is directly responsible for managing, monitoring, inspecting on the basis of coordination with other concerned authorities and related local administrations. Artcle 53 of the law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA identifies that the NCC is non-permanent body and consists of Chairman (Deputy Prime Minister), Deputy Chairman (Governor of Bank of Lao PDR is the first deputy chairman and act as standing member of the committee, and the second deputy chairman is Deputy Minister of Ministry of Public Security) and a number of members (equivalent-ranking of Deputy Minister from relevant ministries and Deputy Head of related organizations) who will be appointed or removed by the Prime Minister. AMLIO is mandated to assist the NCC to ensure the tasks are in order and smooth, in line with law and international standard. In order to ensure that the authorities have capacities to carry out their functions, AMLIO provides internal training courses for its authorities as mentioned in Article 3 and Article 7 of the Agreement on Organization and Operations of The Anti-Money Laundering Intelligence Office and its standard operating procedure.
4. *Criterion 29.7(b)* **–** AMLIO is able to make arrangements or engage independently with other domestic competent authorities or foreign counterparts on the exchange of information. Article 3 of the Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office authorizes AMLIO to collaborate, coordinate and exchange of information independently with relevant partners at domestic level and international level. In addition, the Standard Operating Procedure emphasizes that AMILO, law enforcement agencies and related government agencies are required to provide information upon requests, share information related to the ML/FT trends and other necessary information. These include signing the Memorandum of Understanding with foreign counterparts.
5. *Criterion 29.7(d)* **–** Due to organizational structure and budget of AMLIO related to the Bank of Lao PDR as mentioned above, there is no guarantee that AMLIO will be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political influence or interference, which might compromise its operational independence. Article 6 of the Structure Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No.02/NCC states that director and deputy director of division, staffs and contract’s employee shall be appointed and removed by the standing Vice-Chairman of NCC (Governor of Bank of Lao PDR) upon recommendation by the Bank of Lao PDR.
6. *Criterion 29.8* - At the time of the evaluation, Lao PDR is in the process of applying Egmont Membership under the sponsorship of Indonesia FIU (PPATK) and AMLO. Now, Lao PDR is at step 4 of membership process and is preparing for Egmont On-site visit.

[For Lao PDR: Can you clarify that the application to join Egmont was unconditional?]

Weighting and Conclusion

1. **Recommendation 29 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

1. In its 2011 Lao PDR was rated partially compliant with former recommendation 27 due to a lack of formal designatied law enforcement investigator on FT, coordination between the designated ML investigation unit and other departments in the Police, and effective implementation of ML investigation.
2. *Criterion 30.1* - Law enforcement authorities have been designated to investigate predicate offences which include all criminal offences leading to and including money laundering, to futher prosecution of ML/FT cases. LEAs comprise the Police Investigators (a unit in the Public Security), the Military Investigators, the Investigation Office of Customs, the Investigation Office of Forestry, the Investigation Office of Anti-corruption and other investigation offices as provided by laws including the Lao Securities Commission Office (non-standing organization which is the highest organ of the securities management organization as mentioned in Article 162 of the Law on Securities (Amended version) No. 79/NA). These investigative bodies play significant roles in implementing the activities of AML/CFT as stipulated in Article 3 of the Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT, No.127. The bodies have the rights and duties to conduct criminal investigations within their responsible areas, or at the place where the incident occurred as identified in Aricle 76-81 of the Law on the Criminal Procedure No.37/NA and Article 162 of the Law on Securities (Amended version) No. 79/NA.
3. According to Article 11 of the Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT, No.127/Gov, the Ministry of Public Security is also able to conduct financial investigations. [For Lao PDR: Are there any other laws authorising the designed investigative bodies other than the Ministry of Public Security to conduct financial investigations?]. Article 128 of the Law on the Criminal Procedure No.37/NA authorises designated authorities to intitially confiscate or seize property which might be the proceeds of crime in order to guarantee for compensation, fines, and other fee, or to handover to the state. Whereas other designated bodies have authorities to identify, trace, and initiate freezing or seizing of property that is, or may become, subject to confiscation (Article 54 Law on the Criminal Procedure No.37/NA), the securities investigation officers are required to submit their investigations for consideration by the Office of Public Prosecutor to issue an order to seize or confiscate property, search building and person relating to securities case (Article 163 of Law on Securities (Amended version) No. 79/NA). In addition, it is not clear whether the Anti-Corruption Authority is able to initiate freezing or seizing of property that is, or may become, subject to confiscation.

[For Lao PDR: Are there any other laws enforcement bodies other than the Lao Securities Commission Office unauthorizing to intitially freeze/seize relevant assets for confiscation?]

1. *Criterion 30.2* - Whereas law enforcement officials from the Ministry of Finance; Ministry of Agriculture and Forestry; State Inspection and Anti-Corruption Authority including the Ministry of Public Security have responsibility to investigate predicate offences regardless of where the predicate offence occurred (Article 8 Law on AML/CFT No. 50/NA), only competent authorities from the Ministry of Public Security is able to investigate predicate offences parallel with financial investigation (article 11 Decree No. 127/Gov). The investigative bodies have duties to cooperate or coordinate with relevant partners (Article 47 Law on the Criminal Procedure No.37/NA, Article 163 Law on Securities (Amended version) No. 79/NA, Article 41 Anti-Corruption Law (revised version) No. 27/NA). In addition, the Ministry of Public Security is responsible for providing information such as on the investigation of predicate offences and other related activities of AML/CFT to relevant competent authorities (Article 11 Decree No.127/Gov). However, it is not explicit whether the cooperation and coordination among the investigative bodies focus on referring or providing a financial investigation.
2. In case of sufficient information relating to the offence, the law enforcement investigators will submit their relevant investigations to the public prosecutor to carry out further criminal proceeding (Article 53 and Article 56 Law on the Criminal Procedure No.37/NA, Article 35 the Anti-Corruption Law (revised version) No. 27/NA). However, the securities investigation officers are required to submit their investigations for consideration by the Office of Public Prosecutor to review and prosecute in court (Article 163 of Law on Securities (Amended version) No. 79/NA).
3. *Criterion 30.3* - Article 47 of the Law on the Criminal Procedure No.37/NA requires law enforcement investigators to report complaints regarding offences and submit a copy of the order issued to open investigations to the public prosecutor immediately. Whereas other designated agencies proceed with relevant money laundering investigation (Details stipulated in Rec. 30.1), the Ministry of Public Security is responsible for proceeding money laundering and terrorist financing, and conducting financial investigation parallel with investigation of predicate offences (article 11 Decree No. 127/Gov).
4. Other designated bodies have authorities to identify, trace, and initiate freezing or seizing of property that is, or may become, subject to confiscation; however, the securities investigation officers are required to submit their investigations for consideration by the Office of Public Prosecutor to issue an order to seize or confiscate property, search building and person relating to securities case (Details stipulated in Rec. 30.1). In addition, it is not clear whether the Anti-Corruption Authority is able to initiate freezing or seizing of property that is, or may become, subject to confiscation.
5. *Criterion 30.4* - According to the Law on the Criminal Procedure No.37/NA including the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA and relevant regulations, the Ministry of Public Security is only authority able to investigate predicate offences parallel with financial investigation. In addition, relevant laws and regulations do not authorize other agency sectors including AMLIO to conduct financial investigations. However, Lao PDR has an intention to enhance capacity building of AMLIO's staff by identifying enforcement of the laws especially financial investigation techniques as one of core training course as identified in the Standard Operating Procedure.

[For Lao PDR: Are there any other laws authorising any agency other than the Ministry of Public Security to conduct financial investigations? Do all other agencies have to refer matters to the Ministry of Public Security to conduct a financial investigation? Are there any other laws authorising any agency other than the Ministry of Public Security to investigate TF?]

1. *Criterion 30.5* - The investigation office of Anti-Corruption is authorised to investigate corruption cases prescribed in the law on anti-corruption (Article 80 Law on the Criminal Procedure No.37/NA, Article 12 Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT, No.127/Gov). [For Lao PDR: According to Article 12 of the Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT, No.127/Gov, does State Audit Organization include Anti-Corruption Organisation? Is Anti-Corruption Organisation responsible for interrogation?] Article 5 of the Anti-Corruption Law (revised version) No. 27/NA provides that the Anti-Corruption Authority should deal an offence with strictly, immediately, and with justice. Article 7 of the Anti-Corruption Law (revised version) No. 27/NA) identifies public and private partners to prevent and counter corruption by the timely provision of cooperation, facilitation, information, and evidence. Pursuant to Article 32 and Article 38 of the Anti-Corruption Law (revised version) No. 27/NA, an investigative case shall be submitted to the public prosecutor for consideration within 2 months for major offences and within 3 months for crimes, from the date of the order to open an investigation.Article 41 of the Anti-Corruption Law (revised version) No. 27/NA) empowers Anti-Corruption Authority to identify and trace the evidence related to corruption; however, it is not clear whether the Anti-Corruption Authority is able to initiate freezing or seizing of property that is, or may become, subject to confiscation.

[For Lao PDR: Does the Anti-Corruption Authority have power to initiate freezing or seizing of property that is, or may become, subject to confiscation? If no, what is competent authority to issue an order to freeze or seize the relevant asstes?]

Weighting and Conclusion

1. The moderate shortcomings are that it is not clear whether law enforcement investigators which have the authority to conduct financial investigations parallel with investigations into predicate offences or are required to refer those financial investigation cases to the Ministry of Public Security. Not all law enforcement investigators are authorised to initiate freezing or seizing of property that is, or may become, subject to confiscation. Beyond the Ministry of Public Security in its role as an enforcement body, no laws or regulations authorize other agencies including AMLIO to conduct financial investigations.
2. **Recommendation 30 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

1. In its 2011 Lao PDR was rated largely compliant with former recommendation 28 due to a lack of effective implementation of available powers in investigation and prosecution.
2. *Criterion 31.1* - The Law on the Criminal Procedure No.37/NA empowers law enforcement investigators to obtain access to crucial documents and information for investigative purposes and other relevant intentions [For Lao PDR: would “intentions” be more accurately translated as “purposes”]. The compulsory measures available to authorities are as follows:
3. Articles 43, 113, 115, 116 and 118 of the Law authorise the issuing of warrants and taking of testimony with a documentary record from relevant persons such as an accused person, injured party, civil plaintiff or witness). The warrant shall include the responsibilities in the case of not obeying the warrant. [For Lao PDR: Please clarify what “responsibilities” means here in Article 113, and whether it is referring to the person subject to the warrant not obeying the warrant or the LEA/investigator not obeying the warrant]
4. Articles 121 to 125 of the Law authorise the searching of buildings, vehicles or persons holding records. [For Lao PDR: does “records” also translate as “evidence”?] Searching shall be conducted within 24 hours from the date of signing the order by prosecutor or the People’s Court. In necessary and urgent cases, the search shall be reported to the public prosecutor within 24 hours after completing such search.
5. Articles 126 to 128 of the Law enable the confiscating/seizing and obtaining of objects or documents that are relevant as evidence or for the tracing of offences. Law enforcement investigators are able to confiscate/seize objects or documents at the time of search, suspicious postal objects and telegraphs related to the offences with an order from the head of the investigation or public prosecutor, or objects which are useful for the case with an order from the head of the relevant investigation organization in order to guarantee for compensation, fines, and other fee, or to handover to the state.
6. Articles 129 to 134 of Law authorize law enforcement agencies to inspect incidents (crime scenes [For Lao PDR: please confirm whether “incident site” also translates as “crime scene]) conduct autopsies, appoint experts or specialists to perform inspections and test information.
7. Individuals and related partners must follow and responsd to requests from the authorities including the handover of gathered criminal evidence to the relevant authorities (Article 43 of Law on the Criminal Procedure No.37/NA). Article 26 of the Law on the Criminal Procedure No.37/NA provides that public and private partners which are state authorities, the Lao National Construction Committee, social organizations, civil society, and entities are required to work closely with criminal proceeding authorities within their own responsible areas regarding the measures to prevent and suppress criminal offences.
8. Even though there are a wide range of compulsory measures, there is no explicit power for authorities to obtain and access records heldby FIs, DNFBPs and other commercial entities specifically. [For Lao PDR: please clarify if such explicit powers exist in the legislation or whether they are covered by the broad powers?]
9. *Criterion 31.2 (a)-(d)* - The Law on National Public Security Work, No. 40/NA and the Law on Customs No. 04/NA states that Academic Combatants, which are the academic departments for the protection of political security and social order under the security sector (Article 34 of the Law on National Public Security Work, No. 40/NA), and Customs have key roles to apply investigative techniques for money laundering, associated predicate offences and terrorist financing which relate to accessing computer systems and controlled delivery. [For Lao PDR: Please clarify the translation or meaning of “Academic Combatants”]
10. Article 34 of the Law on National Public Security Work, No. 40/NA authorizes the Academic Combatants to collect information on accounting movements, sources of money which might be illegal and affect on national security and social order. They are also empowered to use communication tools to perform national security tasks in the event of an emergency to prevent damage that may cause to society or harm the country. In addition, the Academic Combatants are assigned to inspect transport vehicles, communications equipment, technical system networks - information, documents, goods, packages, any place related to the commission of a crime (Article 34 of the Law on National Public Security Work, No. 40/NA).
11. Article 16 of the Law on Customs No. 04/NA empowers Customs to control goods arriving at the Customs border checkpoint by requiring the transporter to submit a manifest within 24 hours including conveyance papers, goods cannot be loaded without this submission. Parcel post and mail which are imported, exported or in transit are subject to customs control (Article 21 of the Law on Customs No. 04/NA). A legal entity running a business as a freight forwarder and dispatching parcels and mail shall be responsible for customs clearance on behalf of the goods owner as prescribed in the Customs Law and regulations. Article 20 of this law provides that personal belongings of passengers travelling by car, train, boat, and airplane through customs checkpoints are under customs control. Passengers have to declare any goods in excessive amount permitted by regulations and compliance with other requirements which are, the export and import of foreign currencies, Lao Kip, precious objects, and archeological and cultural objects.
12. There are no explicit laws and regulations concerning investigative techniques relevant to undercover operations and intercepting communications.
13. [For Lao PDR: Are there any other laws authorising the designed investigative bodies to use undercover operations and intercepting communications?]
14. *Criterion 31.3* -
15. *Criterion 31.3(a)* - Articles 2, 3 and 4 of Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No.08/NCC [For Lao PDR: Is this a legal basis for the powers or an instruction/internal policy?] provide that investigative bodies shall use investigative techniques and preventive measures to identify and monitor properties related to money laundering including terrorism or terrorist financing, proceeds of money laundering or predicate offences including instrumentalities for commiting the offences, and property of corresponding value from money laundering or related to money laundering in case it is impossible to withhold, seize or freeze such property at that time. A competent authority shall issue an order to seize or freeze properties immediately without a prior notice if property as defined in Article 3 of this instruction is detected.
16. When reporting entities and postal enterprises receive notification of lists of persons associated with properties subject to seizure or freezing as defined in article 3 of the Instruction from the investigation authorities, or once there is evidence confirming that the property of their customer attempting to conduct a transaction or establish a business relationship with them is connected to money laundering or terrorist financing, reporting entities and postal enterprises must suspend related transactions and withhold such property then report immediately to AMLIO and investigative authorities. In case of receiving a report from reporting entities and postal enterprises, investigative authorities must issue an order to seize or freeze such properties immediately to legal proceedings.

[For Lao PDR: please clarify the translation here, what does “issue an order to seize or freeze such properties immediately **to** legal proceedings” mean? Is it “through legal proceedings”?].

1. Reporting entities and postal enterprises are able to withhold such property for a period not exceeding 30 working days. Any natural persons and legal persons shall strictly comply with the order. If the property is needed for the investigation of predicate offences relating to money laundering, a seizure or freezing order shall be effective till a prosecution comes to an end [For Lao PDR: please confirm this interpretation is correct under your law].
2. Law enforement and investigative authorities are authorized under the Article 26 and Article 43 of the Law on the Criminal Procedure No.37/NA to compel the production of necessary information for an investigation and to gather evidence related to money laundering, associated predicate offences and terrorist financing, including information of ordinary person and legal entities.
3. *Criterion 31.3(b)* - Articles 3 and 4 of Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No.08/NCC provides that investigative bodies shall use investigative techniques and preventive measures to identify and monitor properties identified in Article 3 of the Instruction. A competent authority shall issue an order to seize or freeze properties without a prior notice if traces of properties relating to money laundering or terrorist financing, as defined in Article 3 of this instruction, are detected. [For Lao PDR: while it is clear from the provision that property may be seized or frozen without prior notice, does this article also provide for the identification of this property without prior notification to the owner also?] Any natural persons and legal persons shall strictly implement compliant with the order and the order shall be effective till a prosecution comes to an end.
4. *Criterion 31.4* - Article 43 of the Law on the Criminal Procedure No.37 empowers law enforcement investigators to obtain access to all crucial documents and information for investigation purposes and other relevant intention. Individuals and related partners must follow and respond to requests from the authorities including handing over gathered criminal evidence to the relevant authorities. Significant public and private partners including AMLIO in its role as the FIU are obliged to work closely with criminal proceeding authorities within their own responsible areas regarding the measures to prevent and suppress criminal offences (Article 26 of the Law on the Criminal Procedure No.37/NA).
5. There is explicit power for Ministry of Finance, Ministry of Agriculture and Foresty, State Inspection (and Anti-Corruption Authority and Ministry of Public Security to obtain information from AMLIO. Article 8, 9 and 12 of the Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT, No.127/Gov empowers these competent investigative authorities to request information in their roles from reporting entities and AMLIO. Information sharing on money laundering, associated predicate offences and terrorist financing between the Ministry of Public Securtiy in its role as a significant law enforcement investigator and AMLIO is required under Article 11 of the Decree. The Ministry of Public Security officers are designated to review and consider the completeness and adequacy of information in Financial Intelligence Reports (FIR) conducted by AMLIO including providing feedback or recommendations regarding the FIR in order to initiate a criminal proceeding in the case of ML. Conversly, the Ministry of Public Security officers shall report a result of the investigation to AMLIO. [For Lao PDR: Are there any other laws or MoUs authorising other investigative bodies to obtain information from AMLIO specifically?]
6. Conversely, AMLIO (FIU) is required to submit documents and conduct financial reports relevant to suspicious information on ML/FT in order to disseminate them to the related investigation organisations (Article 3 of Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No. 02/NCC). AMLIO is also authorised to require the provision of extra necessary information from the related organisations of Ministries, agencies, local authorities and other organisations in the jurisdiction including Reporting Entities regarding to their own works (Article 4 of Agreement).

Weighting and Conclusion

1. There is no explicit power for authorities to obtain and access records heldby FIs, DNFBPs and other commercial entities specifically including no explicit laws or regulations concerning investigative techniques relevant to undercover operations and intercepting communications. Competent authorities have a process to identify assets without prior notification; however, the exemption from notification does not explicitly refer to the owner.
2. **Recommendation 31 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 32 – Cash Couriers

1. In the third round, Lao PDR was rated non-compliant with these requirements due to the declaration requirement not including bearer negotiable instruments, declaration requirements not extending to mail or cargo; the absences of a form for incoming and departing passengers; sanctions and confiscation measures not being stipulated in law; the absences of a legal framework to empower Customs Officers to enforce a declaration requirements and effectiveness identified through the fact that a voluntary declaration had never been made by a traveller.
2. *Criterion 32.1* - Lao PDRimplemented a declaration system that exists for incoming and outgoing cross-border transportation of both national and foreign currency at all ports of entry to/departure points from Lao PDR, including airports, rail, road and river crossing border points. [[37]](#footnote-37) Travellers are required to declare to a Customs Officer *all physical inward and outward transportations of foreign or national currency, precious metals and BNIS* above the prescribed threshold of 100,000,000 (one hundred million Kip is approx. $11,000 USD) [[38]](#footnote-38). [For Lao PDR: The customs declaration form for personal effects refers to the requirement of one form per family – can it be confirmed that the requirement therefore extends to the collective value of currency held by a family group]. A disclosure/declaration? system [For Lao PDR: please confirm if a disclosure system or a declaration system is in operation, the detail provided appear to indicate a declaration system given the declaration form/card and the language in the provisions “shall correctly and fully declare”] for inbound/outbound airline passengers was implemented in [Lao PDR: month?] 2020 which requires passengers to disclose the carriage or otherwise of *foreign or national currency, precious metals* *and BNIS* above the prescribed threshold of 100,000,000 (one hundred million Kip) on an Airline Passenger Information form (API). [For Lao PDR: Can the associated regulation be provided for the API form?]
3. Currency control measures exist which require that the Bank of Lao PDR approve the removal of cash or foreign currency from Lao DPR. [For Lao PDR: What is the current prescribed amount? Provide legal reference to this requirement]. Having obtained the corresponding *certification document,* travellers are still required to declare the transportation to a Customs Officer. Transportation of foreign currency in cash through mail and cargo is also subject to prior authorisation [For Lao PDR: Can you provide the legal reference to this requirement?].

[For Lao PDR: when entering and exiting Lao PDR via and airport is it correct that two forms must be completed an API (Airline Passenger Form) and a declaration form?]

1. *Criterion 32.2* - Lao PDRhas a written declaration system in place, and all travellers must complete a Customs Declaration Form when entering or exiting Lao PDR with national or foreign currency, precious metals or BNIs of a value of equal or exceeding the prescribed threshold of 100,000,000 (one hundred million Kip). [[39]](#footnote-39)
2. *Criterion 32.3* - Thedisclosure system is effected by the requirement to complete an API form when arriving or departing by air as this requires travellers to provide a truthful answer.

[For Lao PDR: Clarification is needed on the two forms system previously referred to above]

1. *Criterion 32.4* - Customs[[40]](#footnote-40) has the authority to request and obtain further information from the carrier with regard to the origin and the intended use of the cash, precious metal or BNI upon discovery of a false declaration or a failure to declare. [[41]](#footnote-41)
2. *Criterion 32.5* - There exists a wide range of proportionate and dissuasive sanctions for making a false declaration or failing to declare. Almost all of the relevant sanctions include the ability to freeze, seize, and confiscate the cash involved.[[42]](#footnote-42)

[For Lao PDR: data on actual sanctions imposed is required for cash / BNI smuggling and cash BNI false, inaccurate or non declaration. ensure proportionate and dissuasive sanctions are being applied] This data should include the value and location of the entry / exits point where the non-declaration was detected]

[For Lao PDR: The various legal references at footnote 41 refer to ‘goods’ it is assumed that the definition of goods extends to non-declared cash, BNI and precious metals – this requires confirmation].

1. *Criterion 32.6* - Authorities have established a Cross Border Report Online System in January 2020[[43]](#footnote-43) [For Lao PDR at how many border points has this CBR system been installed? If there are border points where it is not installed, how is the reporting conducted?] through which Customs Officials submit reports to the AMLIO. These reports are required to be submitted within 15 working days of the declaration having been made. [[44]](#footnote-44)

[For Lao PDR: Are the declarations themselves provided to AMLIO?]

1. *Criterion 32.7* - Lao PDR Customs and other security agencies (e.g departments of immigration and related authorities) are required to coordinate and cooperate at the border. [[45]](#footnote-45)

[For Lao PDR: More detail and information is required as to what co-ordination and co-operation actually occurs with regards R32]. [For Lao PDR: Do AMLIO provide intelligence to border authorities?]. [Further information is required re Focal Point see R2.3].

1. *Criterion 32.8* -Customs have the power to inspect particular, suspicious, or random targets; check and examine cross-border vehicles, goods, and articles, and detain items, goods, and articles in violation of relevant laws and administrative regulations, including the regulations on the control of the cross-border transportation of cash. Customs also have the power to seize undeclared cash BNIs or precious metals without delay for the purpose of investigation of money laundering or the financing of terrorism. [[46]](#footnote-46)
2. *Criterion 32.9* - As mentioned at c.32.7, the information collected at the border is made available to the FIU who when appropriate can share and exchange this information with its foreign counterparts. The same information is also available for exchange with some foreign customs authorities via MOUs, and international conventions.

[For Lao PDR: Please confirm how long declarations or associated information is retained by Customs – how long financial intelligence is retained by AMLIO and also confirmation is required that border officials can share information with their counterparts in foreign jurisdictions and specify which foreign jurisdiction Customs can share border collected information].

1. *Criterion 32.10* - Lao PDRhas safeguards in place to ensure proper use of the information collected through the declaration system. [For Lao PDR: Is there any specific Regulation or an employment code that relates to safeguards around information collected? Or is the reliance on Article 51 of the Law on ML/CFT 2014]. The cross-border declaration system does not appear to restrict trade payments between countries nor the freedom of capital movements [For Lao PDR: Please provide further information that demonstrates that the cross-border declaration system, and other safeguards do not restrict trade payments/freedom of capital movements].
2. *Criterion 32.11* - The wide range of sanctions mentioned above in c.32.5, including seizure and confiscation, equally apply to persons who carry out a physical cross-border transportation of currency that is related to ML and TF. In addition, in such cases, persons also qualify for criminal sentences for ML and TF, as set out in R.3 above.

Weighting and Conclusion

1. Further information is required on border co-ordination and the exchange of information.
2. **Recommendation 32 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 33 – Statistics

1. *Criterion 33.1 is* **met/mostly met/partly met/not met**.
2. *Criterion 33.1(a) -* AMLIO is required to maintain statistics as part of its Standard Operating Procedure which was introduced on 15 January 2020. These statistics include data on reports received, disseminated and the international exchange of intelligence.

[For Lao PDR: Please provide comprehensive statistics on the number of reports received from reporting entities and data on the number then disseminated to LEAS – it is noted that stats are contained with the document Anti Money Laundering Intelligence Office Strategic Report however these statistics conflict with the statistics provided within the Report on National Money Laundering and Financing Risk Assessment of the Lao PDR]

1. *Criterion 33.1* (b) - Law Enforcement agencies and Prosecutors are required maintain comprehensive information and statistics associated with ML/TF investigations prosecutions and convictions as per Article 100 of The Memo of Investigation of the Law on Criminal Procedure No.37/NA November 2014. [For Lao PDR: Confirm legislation].

[For Lao PDR: Please provide comprehensive statistics on ML/TF Investigations Prosecutions and Convictions and Sentences]

1. *Criterion 33.1* (c) - Along with 33.1(b) Authorities are required to maintain statistics on property confiscated.

[For Lao PDR: Provide comprehensive statistics on property frozen, seized and confiscated it is noted that some of these statistics are referred to in the Report on National Money Laundering and Financing Risk Assessment of the Lao PDR ]

1. *Criterion 33.1* (d) - It is a Duty of the Public Prosecutors Office to collect statistics on mutual legal assistance request and other international requests for co-operation made and received pursuant to Article 44 Rights and Duties of the Public Prosecutors Office [of which law? ]

[For Lao PDR: Please provide comprehensive statistics on mutual legal assistance request and other international requests for co-operation made and received]

Weighting and Conclusion

1. No statistics have been provided for the four main areas covered by R.33.
2. **Recommendation 33 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 34 – Guidance and feedback

1. *Criterion 34.1* - Lao PDR had issued guidance such as Decision on Reporting Suspicious Transaction Related to ML/TF No.13/NCC, dated 19 October 2015, Instruction On Indicators of Transactions Suspected of Money Laundering or Financing Terrorism No. 41/AMLIU, dated 12 January 2016, Instruction on Suspected Transactions Reporting on Money Laundering or Financing Terrorism No. 42/AMLIU, dated 12 January 2016. In addition, a provision on feedback to REs regarding STR submission was also indicated in the Standard Operating Procedure (SOP) clause 2.3. However, this guidance is mostly related to submission of STR. There is lack of guidance to the reporting entities in areas such as implementation of RBA.

[To Lao PDR: r34 seeks information on guidance from competent authorities, supervisors, and SRBs and relates to applying all national measures, not just STR reporting. Could you please provide further information on guidance outside of STR reporting, such as guidance on CDD and implementation of RBA? Also provide any information on whether there was any engagement or outreach program conducted with RE on other areas.]

Weighting and Conclusion

1. Guidance issued are mostly related to STR and no information on whether there was any engagement or outreach program with the reporting entities.
2. **Recommendation 34 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 35 – Sanctions

1. *Criterion 35.1* is **met/mostly met/partly met/not met**. Law on AML/CFT cover criminal, civil or administrative sanctions for violation of the AML/CFT requirements set in Rec.6, Rec.8 and Rec.23 as determined in the Law on AML/CFT, Article 61, 64, 65, 67 and 69. In addition, there is also Decision on Administrative Measures Violated Regulations and Law on Anti-Money Laundering and Counter-Financing of Terrorism No.09/NCC, dated 30 March 2016. However, the administrative sanctions in the form of warning for initial violations as provided in Article 3 of the Decision on Administrative Measures Violated Regulations and Law on Anti-Money Laundering and Counter-Financing of Terrorism may not be proportionate or dissuasive. This covers key obligations such as compliance program, KYC procedures, CDD collection of detailed customers’ data and data collection on wire transfers. Furthermore, we observed that sanction in the form of education measures may not be proportionate in relation to the serious offence such as delayed STR submission and failure to maintain confidentiality of STR. Meanwhile, other sanctions of the Law on AML/CFT can be summarized as follows:

[To Lao PDR: are administrative sanctions the only sanctions available for key obligations such as compliance programme, KYC, CDD collection, etc?]

[To Lao PDR: can you please provide further information on what is entailed by “education measures” and if there are penalties for a failure to complete an “education measure”]

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| |  |  |  |  | | --- | --- | --- | --- | | **Article** | **Sanction type** | **Applicability** | **Offence** | | Article 62 | Education Measures | Natural person, legal person or organization | * Delayed STR submission * Failure to maintain confidentiality of STR | | Article 63 | Disciplinary measures | Officers | * Non-criminal | | Article 64 | Fining measures | Natural person, legal person or organization | * Non-criminal * Violations of Article 50, 51 and 52 | | Article 65 | 1. Warned in writing and recommended to exercise their rights and obligations;  2. Fined as per a separate regulation. | Reporting entities | * Violation of Article 18: Rights and Obligations of Reporting Entities | |  | 1. Suspended from business operation or subject to management removal; 2. Have their business permits or licenses withdrawn; 3. Be criminally prosecuted in accordance with relevant laws fined 100,000,000kip (USD11,090) up to 2,000,000,000kip (USD22,180,000).” | Reporting entities | * Violation of Article 50 and 52 |   [To Lao PDR: can you clarify what this offence is and what a disciplinary measure looks like in practice? For instance, does it cover all non-criminal activity if that activity is committed by an officer? Similarly, does “officer” capture law enforcement officers only?]  **Criminal measures**   |  |  |  |  | | --- | --- | --- | --- | | **Article** | **Offence Type** | **Applicability** | **Sanctions** | | 66 | Money Laundering | Natural persons | * <1,000,000,000Kip (<USD112,315): shall be deprived of freedom from 3-7 years, fined 300,000,000- 500,000,000 Kip (USD33,300 -USD855,500) with his/her properties to be confiscated. * >1,000,000,000 (>USD112,315) shall be deprived of freedom from 7-10 years, fined 500,000,000 Kip up to 700,000,000 Kip (USD33,300 –USD77,700), and with his/her properties to be confiscated. | | 66 | Money Laundering | Organized group, habitual offense | * An offender shall be deprived of freedom from 10-15 ~~12~~ years, * fined ~~800,000,000~~ 700,000,000 Kip up to 900,000,000 ~~1,000,000,000~~ Kip (USD 89,852 –USD112,315) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. | | 67 | Terrorist Financing | Natural persons | * <1,000,000,000Kip (<USD112,315): shall be deprived of freedom from 5-8 years, fined 500,000,000- 800,000,000 Kip (USD56,158 – USD89,852) with his/her properties to be confiscated. * >1,000,000,000 (>USD112,315) shall be deprived of freedom from 8-12 years, fined 800,000,000 Kip up to 1,000,000,000 Kip (USD 89,852 –USD112,315), and with his/her properties to be confiscated. | | 67 | Terrorist Financing | Organized group, habitual offense | * An offender shall be deprived of freedom from 12-20 years, * fined 800,000,000 Kip up to 1,000,000,000 Kip (USD 89,852 –USD112,315) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. | | 69 | Organized criminal group and racketeering | Natural person | * Imprisonment of 3 to 6 years, * Fined 30,000,000 Kip up to 60,000,000 Kip (USD3,330– USD6,660) and with his/her properties to be confiscated. * The act of preparation and attempt to commit an offence shall also be penalized. | |

1. *Criterion 35.2* - The sanctions in the Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NA, dated 21 July 2014 is applicable to natural person and legal person as provided in Article 61 of the law**.**

**“Article 61 Measures against violators**

Any natural person, legal person or organization violating this law shall be educated, disciplined, fined or criminally punished in accordance with the severity of the violation, and shall pay compensation for damages incurred.”

Weighting and Conclusion

1. Some of the sanctions available may not be proportionate in relation to the serious offence for violation of AML/CFT Law.
2. **Recommendation 35 is rated compliant/largely compliant/partly compliant/non-compliant.**

[To Lao PDR: As above, can you provide further information on nature of the education and professional measures and how they apply in practice?]

Recommendation 36 – International instruments

1. *Criterion 36.1* - Lao PDR acceded to the Vienna Convention on 11 October 2004, the Palermo Convention on 26 September 2003, the United Nations Convention against Corruption on 10 December 2009, and the Terrorist Financing Convention on 29 September 2008. However, Lao PDR has not yet acceded to 2 of the 9 treaties related to the Terrorist Financing Convention, namely (a) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; and (b) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.
2. *Criterion 36.2* is **met/mostly met/partly met/not met**. The relevant articles of the Vienna Convention, the Merida Convention, the Palermo Convention, and the Terrorist Financing Convention have been implemented to some extent, but there are some shortcomings in implementation, such as (a) the absence of a mutual legal assistance law (see R.37 and R.38); (b) investigators are not supported with the power to conduct control deliveries (see R.31); (c) unclear provision for the ancillary offences of association with or participation in money laundering (see R.3); (d) unclear provision to enable law enforcement authorities to conduct joint investigation based on bilateral or multilateral agreement (see R.40).

[For Lao PDR: The rating will depend on Lao PDR response or updating information, particularly in R.3, R.31, R.37, R.38, R.40]

[For Lao PDR: Please fill out the tables annexed to the email with the first draft for Recommendation 36. Although not a formal part of the process these will assist in the analysis of this recommendation. Lao PDR is to insert the corresponding provisions of its law to the listed provisions of the conventions in the tables]

Weighting and Conclusion

1. **Recommendation 36 is rated compliant/largely compliant/partly compliant/non-compliant**.

Recommendation 37 - Mutual legal assistance

1. *Criterion 37.1* - Since Lao PDR’s 2011 mutual evaluation, no comprehensive legal framework for mutual legal assistance has been established. Article 44 of Law on Money Laundering and Counter-Financing Terrorism 2014 provides general provision on mutual legal assistance in money laundering and terrorist financing cases. This provision also states that the mechanism and procedures for mutual legal assistance are defined in the relevant regulations and laws, however, the law has not been enacted yet. The absence of a legal basis for broad mutual legal assistance in Lao PDR produces a fundamental issue considering the threat level of foreign predicate offences is medium-high. However, Article 272 of Law on the Criminal Procedure 2017 requires Lao PDR authorities to comply with agreements with foreign countries, as well as with any international conventions to which Lao PDR has become a party. Lao PDR has signed treaties covering various forms of mutual legal assistance with a few countries, namely the United Kingdom and Northern Ireland, Vietnam, as well as ASEAN MLAT. Nevertheless, the legal basis for broad mutual legal assistance is unclear in the absence of a mutual legal assistance law.
2. *Criterion 37.2* - The assessor acknowledges that based on the draft of mutual legal assistance law designee the People’s Supreme Court Office as a focal coordinator and coordinate with Ministry of Public Security, the People’s Court, Ministry of foreign Affairs, Ministry of Justice, and Local Administration Office. Moreover, article 44(2) of the draft of mutual legal assistance law designates the Public Prosecutor Office to coordinate with foreign organizations about the international cooperation for mutual legal assistance in criminal matter, and article 45(2) of the draft law requires the Ministry of Public Security to take the lead and support the execution of mutual legal assistance in criminal matters requests in accordance with the scope of its own responsibilities.

[For Lao PDR: It is unclear from the translation of draft law which government authority or authorities is/are intended to become the central authority? Please clarify the arrangements. Also, please provide the MLA procedure, both incoming and outgoing complete with the designated authorities and their role in MLA procedure.]

1. Nevertheless, since the mutual legal assistance law has not yet been enacted, and the ASEAN MLAT only contains a general provision regarding nomination of a central authority (Article 4) without specifying one, and there is no other established official mechanism to execute mutual legal assistance, including prioritisation and monitoing of mutual legal assistance requests.

[For Lao PDR: Please provide further information regarding the established official mechanism for transmission and execution of requests, processes for timely prioritisation and execution of requests pursuant to the ASEAN MLAT or other treaties, and information about the case management system in place.]

1. *Criterion 37.3* - There is provision under article 3 of ASEAN MLAT regarding the limitations on providing assistance amongst the countries party to the treaty. Article 3(1)(e) ASEAN MLAT permits parties to provide mutual legal assistance in the absence of dual criminality. Nevertheless, the dual criminality limitation still applies when the domestic law does not permit assistance in the absence of dual criminality. According to the article 8(1) of the draft of mutual legal assistance law, the absence of dual criminality is a basis for authorities to refuse requests for mutual legal assistance. [For Lao PDR: Please clarify as to whether Lao PDR uses an offence based or conduct based dual criminality requirement] Similarly, article 8(6) also regulates the dual criminality requirement, except where defined differently in a treaty on international cooperation for mutual legal assistance in criminal matters to which Lao PDR is a party or international principles of justice, the internal laws of the requesting state or Lao PDR may allow execution of the request, and shows unreasonably or unduly restrictive conditions. The exception provision provides unclear and inconsistent explanation regarding the prohibitation of mutual legal assistance.

[For Lao PDR: please provide an update on the status of the draft Mutual Legal Assistance Law, and further explanation regarding the meaning and implementation of Article 8(6).]

1. *Criterion 37.4* is **met/mostly met/partly met/not met**. There is no provision in the draft of mutual legal assistance law to refuse requests on the sole ground that the offence involves fiscal matters, or on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs. Nevertheless, the draft law has not been enacted yet. However, according to article 1(5) of ASEAN MLAT states explicitly that parties should not refuse the mutual legal assistance on solely on the ground of banks and similar financial institution, as well as related to fiscal matters.
2. *Criterion 37.5* - Article 14 on the draft of mutual legal assistance regulates the requirement of confidentiality of mutual legal assistance requests. A similar requirement is also contained in article 9 of ASEAN MLAT. Nevertheless, Article 14 is unclear as to whom the requirement of confidentiality should apply, and the mechanism on how Lao PDR’s authorities keep the confidential information or documents of mutual legal assistance request, in order to protect the integrity of the investigation or inquiry.
3. *Criterion 37.6* - Article 3(1)(e) ASEAN MLAT permits parties to provide mutual legal assistance in the absence of dual criminality. However, the dual criminality limitation still applies when the domestic law does not permit assistance in the absence of dual criminality. Article 8(1) the draft of mutual legal assistance allows authorities to refuse requests for mutual legal assistance in the absence of dual criminality . Moreover, article 8(6) also regulates similar dual criminality requirement, and prevents Lao PDR from providing mutual legal assistance based on a foreign countries request.
4. *Criterion 37.7* - There is no specific mechanism or legal requirement to decide whether the offence is within the same category of offence, or denominate the offence by the same terminology in the event of implementation of dual criminality requirement, both based on treaties and international conventions that Lao PDR become a party.
5. *Criterion 37.8* - Article 43 on the draft of mutual legal assistance law designee People's Supreme Court Office as a focal coordinator and coordinate with Ministry of Public Security, the People’s Court, Ministry of foreign Affairs, Ministry of Justice, and Local Administration Office. Moreover, several agencies, such as The Public Prosecutor Office, Ministry of Public Security, The People's Supreme Court Office, Ministry of Foreign Affairs, Ministry of Justice, Local Administration Office assigned as management organization of activities of international corporation for mutual legal assistance in criminal matters. Article 45(2) of the draft on mutual legal assistance provide authority to Ministry of Public Security to execute the mutual legal assistance request. However, the provision does not provide further explanation related to the powers and investigative techniques that might be used by Ministry of Public Security as required under Recommendation 31 in response to a mutual legal assistance request. Additionally those powers that are not available to LEAs domestically (Recommendation 31) are equally unavailable in response to a mutual legal assistance request.

[For Lao PDR: Please provide further explanation regarding the implementation of MLA through criminal procedure.]

Weighting and Conclusion

1. **Recommendation 37 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

1. *Criterion 38.1* **-** Article 272 of the Law on the Criminal Procedure 2017 requires competent organisations providing judicial assistance [For Lao PDR: does “judicial assistance” equate to mutual legal assistance under Lao PDR law?] to comply with the agreements that have been signed with other countries to exchange information, to freeze or to seize the assets of an accused person or defendant. Similar provision for such assistance is also made under article 24 on the draft of mutual legal assistance. There is unclear definition or scope of property that can be frozen, seized, and confiscated under article 52 and article 53 Penal Code 2017 that apply for criminal offences. [For Lao PDR: please provide further explanation of the application of article 52 and and article 53 of the Penal Code for MLA purposes.] However, explicit provisions exist under article 41 Law on Money Laundering and Counter Financing of Terrorism 2014, and article 31 the draft mutual legal assistance law, even though there is no provision for confiscation of property of corresponding value. Moreover, article 22 ASEAN MLAT contains similar requirements for parties to article 272 Law on the Criminal Procedures 2017.
2. *Criterion 38.2* - As mentioned above, Article 272 Law on the Criminal Procedures 2017 regulates assistance in compliance with agreements that have been signed with other countries to freeze or to seize the assets of an accused person or defendant. Moreover, article 31 of the draft on mutual legal assistance law also applies to the confiscation of assets according to a court ruling or the competent authority of the requesting state. Nevertheless, the provisions are unclear as to whether this includes non-conviction based confiscation proceedings or when a perpetrator is unavailable by reason of death, flight, absence, or the perpetrator is unknown. There is also no such a provision in the ASEAN MLAT.
3. *Criterion 38.3* –
4. *Criterion 38.3(a)–* Although article 43 on the draft of mutual legal assistance law designates several Lao PDR authorities to manage the mutual legal assistance request and, article 24 of the draft law requires the focal coordinating agency [For Lao PDR: does “focal coordinating agency” mean the same thing as “central authority” as envisaged under the recommendations?] to notify the requesting state of seizure and confiscation action pursuant to the request, this law has not been enacted. Additionally, there is no mechanism regarding the coordination of seizure and confiscation actions with other countries.
5. *Criterion 38.3(b)* – Article 7 of the draft law on Mutual Legal Assistance provides general provision related to storage of seized and frozen properties. This provision require investigative authorities to maintain the freezing and seizing properties. However, the requirement in the Law on Criminal Procedure for maintaining the properties is limited to assets under investigation, and provides an unclear explanation regarding the maintenance of confiscated assets and which agencies are required to maintain the assets. Moreover, there is no specific law regarding the managing and disposing of property frozen, seized, or confiscated.
6. *Criterion 38.4* - There is no asset sharing provision in the draft mutual legal assistance law. Although under article 22(5) ASEAN MLAT there is provision for asset sharing by agreement, this only applies to countries party to the treaty. Notwithstanding the provision in the ASEAN MLAT, there are no further regulations governing Lao PDR’s asset sharing arrangements based on the treaty. [For Lao PDR: Please provide further information on Lao PDR’s asset sharing laws or arrangements.]

Weighting and Conclusion

1. **Recommendation 38 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 39 – Extradition

1. *Criterion 39.1* - Extradition is governed by the Law on Extradition and by treaties and international conventions to which Lao PDR is a party.
2. *Criterion 39.1(a)* – Extraditable offences in Lao PDR are those punishable under the penal law by imprisonment or detention for more than 12 months (Article 7 Law on Extradition). The penalties imposed for both money laundering and terrorist financing under the Penal Code (Articles 130 and 131) qualify these offences for extradition purposes. Moreover, aArticle 4 of the Law on Extradition states that one of the principles of extradition is criminally punishable offences under the penal law (see the definition of penal law on article 3 of the Penal Code), which includes the Penal Code and other laws which define criminal offences such as the Law on Money Laundering and Counter-Financing Terrorism 2014. However, there is limited information regarding treaties that have been signed by Lao PDR on extradition matters.

[For Lao PDR: Does the Extradition Law provide a list of offences? Does it cover ML and TF? Please provide the mechanism provision related with extradition] [For Lao PDR: please provide further information on the extradition treaties that Lao PDR is a party to and the offences covered by those treaties]

1. *Criterion 39.1(b)* - The extradition law only contains general provisions, there is an absence the specific processes related to the steps in the execution of extradition request Lao PDR also has no case management system. However, there is certain time period (within 30 days) for Ministry of Foreign Affairs coordinate with the competent authorities to execute the extradition request.

[For Lao PDR: Is this 30 day period for the entire execution of an extradition request from time of receipt, or for giving effect to a physical extradition once an order is made to extradite by a court in Lao PDR? Please clarify this provision and its implemention by providing a flowchart, including the timeline for each step of extradition process (start from receiving the request until execution)]

[For Lao PDR: Please provide any guidilines or policy frameworks for the execution and management of extradition requests. Do you operate a case management system for extradition requests?]

1. *Criterion 39.1(c)* - The reasons for refusal of extradition requests in Lao PDR, particulary under article 8, article 10 of the Law on Extradition, do not seem unreasonable or unduly restrictive. Although article 7 of the Law on Extradition provides the requirement of dual criminality, an extradition request may still be granted whether both parties classify the conduct as constiuting an offence within the same category of offence or not.
2. *Criterion 39.2* - Although Lao PDR refuses extradition requests relating to Lao PDR citizens, aliens or stateless persons residing in Lao PDR (article 11 Law on Extradition), the refusal may not be grounds for a person to be released from criminal liability, and they will be prosecuted by Lao PDR authorities domestically. [For Lao PDR: does article 11 effectively mean that Lao PDR uses a model under c39.2(b) rather than c39.2(a)?] [For Lao PDR: Does Lao PDR apply the international principle of *aut dedere aut judicare*, to prosecute persons accused of serious international crimes where no state has requested their extradition?]
3. *Criterion 39.3* - As mentioned in subcriterian 39.1(c), although Lao PDR imposes adual criminality requirement, an extradition request may still be granted whether both parties classify the conduct as constiuting an offence within the same category of offence or not. The absence of further regulation regarding procedures makes the mechanism for ensuring this approach is unclear. [For Lao PDR: Please provide provisions that cover implementation of dual criminality for extradition]
4. *Criterion 39.4* - The extradition law of Law PDR does not provide for simplified extradition mechanisms.

Weighting and Conclusion

1. **Recommendation 39 is rated compliant/largely compliant/partly compliant/non-compliant.**

Recommendation 40 – Other forms of international cooperation

1. *Criterion 40.1* - International cooperation in Lao PDR is conducted through bilateral and multilateral agreements. Article 42 of Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 requires competent authorities to conduct international cooperation on AML/CFT in conformity with international agreements and treaties to which Lao PDR is a party. Although articles 14 and article 43 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 promote cooperation and allows Lao PDR to exchange information on money laundering and terrorist financing matters, the provisions are in broad broad terms. According to the information provided to assesors, the competent authorities able to provide international cooperation include FIU, law enforcement, and limited supervisory agencies (insurance only). However, the provisions are unclear, such as (a) whether international cooperation implemented solely through agreements based on article 43(2) of the Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014; (b) whether the scope of international cooperation does include associated predicate offences; and (c) whether the exchange of information may conducted both spontaneously and upon request.

[For Lao PDR: Please provide copies of any bilateral and multilateral agreements, and other regulations that provide international cooperation related with AML CFT]

1. *Criterion 40.2(a) –* Competent authorities related with AML/CFT have a lawful basis for providing international cooperation under article 14 [For Lao PDR: please clarify the interpretation and implementation of article 14, does it impose any obligation or provide a legal basis, or is in encouraging or aspirational? This might be a translation issue.]and article 42 Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014. Moreover, conducting international cooperation is also regulated under several other provisions, such as:

* Article 10 of The Anti-Corruption Law
* Article 8 of Law on the Office of the Public Prosecutor (Amended version)
* Article 7 of Law on People’s Court (Amended version)
* Article 9 of The Law on National Security Work,
* Article 6 of Law on Bank of the Lao PDR
* Article 7 of Law on Insurance
* Article 165 Law on Securities

[For Lao PDR: please provide further details and/or provisions on whether assistance is provided on the basis or agreements and treaties or the principles or mutual cooperation, or a combination of both]

1. *Criterion 40.2(b)–* Article 43(2) of the Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 requires Lao PDR’s competent authorities to conduct international cooperation through signed agreements with foreign countries or to become a party to the international treaties and agreements on AML/CFT. This provision provides limited means for competent authorities to conduct cooperation, and will impact the efficient of international cooperation implementation, except for the FIU with limited requirements. Section 2.2 paragraph 4 of Standard Operating Procedure of AMLIO 2020 provides that the exchange information be conducted through a paper based system or electronically depending on other information exchange system during each period.

[For Lao PDR: Please identify and provide the provisions of the law or treaties that outline the means of cooperation]

1. *Criterion 40.2(c) –* There is no provision in Lao PDR law related the obligation for competent authorities to use secure gateways, mechanisms or channels that will facilitate and allow for the transmission and execution of requests. Additionaly, no such requirement is contained within the MOUs or other agreements provided by Lao PDR. Nevertheless, the confidentiality provisions are in place. However, some efforts for multilateral cooperation agreements are in place to share information, as follows:

* Interpol 24:24 Hour 7:7 Day ‘I 24/7’ for information exchange among Interpol members (as well as further extend to internal cooperation among related agencies such as Immigration Department and utilising the Electronic Asian Database System (EADS) although not established, the signing of MOU on mutual cooperation between AMLIO and Interpol is underway;
* Electronic Asian Database System (EADS) is a website which used to exchange the information between police within 10 ASEAN countries, Software-Defined Wide Area Network: SD-WAN;
* The TF statistics database Japan-ASEAN, Safe Mekong Coordination Centre on drug offences (namely: Lao PDR, Vietnam, Myanmar, Thailand and China); - The Border Liaison Office (BLO) in the form of MOUs (Vietnam, Myanmar, Thailand and China), this particular mechanism for information exchange is able to be utilised without prior approval from MOFA; and
* Lao PDR entered into the WCO member in year 2007.

[For Lao PDR: Please provide further information on the types of information that Lao PDR may shared through these mechanisms and identify the Lao PDR agencies that are able to share information through them.]

1. *Criterion 40.2(d) –* There is no provision in the law or procedure in Lao PDR’s competent authorities related to the prioritisation and timely execution of requests.

[For Lao PDR: Please provide any provisions of the law that outline the prioritisation and timely execution of requests]

1. *Criterion 40.2(e)–* There is no further provision in the law or procedure in Lao PDR’s competent authorities related to the safeguarding of the information received beyond the confidentiality provisions are in place in some MOUs signed by competent authorities.
2. *Criterion 40.3* - Lao PDR’s competent authorities are empowered to conduct international cooperation on AML/CFT through signing/ed? agreements with foreign countries or under international treaties and agreements to which Lao PDR is a party under article 43(2) on Anti-Money Laundering and Counter-Financing of Terrorism 2014. Nevertheless, there are no further provisions in the law or procedures that require competent authorities to negotiate and to sign the agreements in a timely manner. Moreover, according to the MOUs provided to the assessor by Lao PDR the competent authorities engage with a limited range of foreign counterparts, for example AMLIO has agreements with only 14 foreign FIUs. Similar conditions exist with law enforcement agencies and supervisory agencies.
3. *Criterion 40.4* - There are no provisions in the law or procedures from Lao PDR’s competent authorities related to the obligation of competent authorities to provide feedback in a timely manner to competent authorities from which they have received assistance, on the use and usefulness of the information obtained, except for the FIU. Section 2.2 paragraph 4 of Standard Operating Procedure of AMLIO 2020 requires AMLIO to provide feedback that consists of information that has been utilized in their operation from time to time. Moreover, similar provisions are found in the bilateral FIU MOUs.

[For Lao PDR: Please provide further information regarding feedback provisions under existing treaties.]

1. *Criterion 40.5* - There is no all encompassing provision under the Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 that regulates the prohibition of exchange information, nor procedural requirement under competent authorities’ regulations. Nevertheless, limited requirements apply in MOUs among FIUs, particularly that a request should not be refused if there is an inquiry, investigation or proceeding underway in the requested country, unless the assistance would impede that inquiry, investigation or proceeding (e.g.article 5 MoU between AMLIO and AMLC).

[For Lao PDR: Please identify the provisions that place restrictions on cooperation so they can be analysed against c40.5(a)-(d). Do any of those specific grounds for refusal exist in the MOUs or laws? Please confirm that article 5 of the MOU between AMLIO and AMLC is limited to circumstances where an ongoing inquiry would be impaired by the execution of the request.]

1. *Criteria 40.6* - The only provision in the law that regulates the mechanism of control and safeguards related to information exchanged is article 51(2) on Anti-Money Laundering and Counter-Financing of Terrorism 2014 that prohibits staff and competent authorities disclosing confidential information to unrelated natural persons, legal persons or organisations. Moreover, section 2.3.9 of the Standard Operating Procedures of AMLIO states that information may not be used for any purposes other than those provided for by the Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 and may not otherwise be disclosed except by order of a court of competent jurisdiction. The MOUs between FIUs prevent requesting competent authorities from using information provided other than as stated in the MOU and prevent further disclosure without permission from the requested counterpart, such as the article 3(a) and article 3(b) MoU between AMLIO and AMLC. [For Lao PDR: Please provide all relevant MoUs of competent authorities to assist the analysis] Moreover, according to Section 2.2 paragraph 5 Standard Operating Procedures of AMLIO the AMLIO may refuse a case where such requested information is not consistent or aligned with cooperation principles as defined in the MOU signed between the two FIU or other international cooperation principle. While some safeguards and controls exist to limit the unauthorised use and dissemination of information, these are not universal across agreements, however competent authorities have the power to enter such agreements.
2. *Criteria 40.7* - Section 2.2 paragraph 2 Standard Operating Procedures of AMLIO requires confidentiality as the scope of international cooperation with foreign FIU[For Lao PDR: Please provide clarification of the translation of this provision and its implementation. Please clarify where confidentiality is required specifically?] , and the requirement for confidentiality appears in MOUs FIU-to-FIU (e.g. article 6 MoU between AMLIO and AMLC). The FIUs to shall keep the information confindential, and protect the same confidentiality as provided by the national legislation of the receiving parties for similar information from national sources. A gap exists for law enforcement and supervisory agencies for which no requirement on confidentiality currently exists. [For Lao PDR: please provide information regarding the confidentiality requirements in other MOUs]
3. *Criterion 40.8* - There is no provision under the law, nor requirement under the standard operating procedure, for competemt authorities to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. There is also unclear provision under MoUs that exist between competent authorities and their foreign counterparts.

[For Lao PDR: Please provide a clearer translation of any provisions that support compliance with c40.8, or some other documentation that supports Lao PDR’s interpretation of compliance]

*Exchange of Information Between FIUs*

1. *Criterion 40.9* - Article 42 Law on Anti-Money Laundering and Counter-Financing of Terrorism provides principles to be followed by competent authorities when providing international cooperation on AML/CFT matters. [For Lao PDR: Please provide any further provisions or regulation that apply here and information on their implementation. Does this article actually provide a basis for cooperation or does it list the principles that are to be followed when cooperating?] However, there is no explicit legal basis that mentions FIU as a part of competent authorities under this provision. Nevertheless, article 55 Law on Anti-Money Laundering and Counter-Financing of Terrorism explicitly regulates the duties of AMLIO to conduct coordination domestically and internationally in AML/CFT matters. Moreover, section 2.2 paragraph 1 of the Standard Operating Procedure of AMLIO provides the policy upon which AMLIO conducts cooperation with foreign FIUs.
2. *Criterion 40.10* - Section 2.2 paragraph 6 of the AMLLIO Standard Operating Procedures requires AMLIO to provide feedback to the requested jurisdiction on how the information has been utilised either periodically or upon request. Nevertheless, this is unclear that the requirement to provide feedback for foreign counterparts is mandatory, and conducted upon request or whenever possible. MoUs between FIU that provided by Lao PDR shown feedback requirement, both upon request and whenever possible (e.g. article 8 MoU between AMLIO and AMLC).

[For Lao PDR: is the requirement to provide feedback to foreign counterparts in section 2.2 paragraph 6 of the AMLIO SOP mandatory? And must this information be provided on a periodic basis as well as when the feedback is requested?]

1. *Criterion 40.11* - Although they are not clearly defined, AMLIO has broad powers of information collection, as the FIU, under the Agreement on Organisation and Operations of AMLIO. Article 3 paragraph 2 on Agreement On Organization and Operations of AMLIO (Revised) No. 02/NCC stated the duties of AMLIO to collect ML/TF information from reporting parties, including additional information when necessary. These powers are also regulated under article 8 of Agreement on Organisation and Operations of AMLIO, namely that AMLIO has a right and duty to collect and require suspicious transaction reports of money laundering and financing of terrorism, cash transaction reports, cash border reports and other transactions including information from reporting entities. However, based on rights and duties provision as above it is unclear that AMLIO have as wide as possible an authority to obtain information of financial, administrative and law enforcement to undertake its functions. Nevertheless, according to section 2.1 to section 2.3 of Standard Operating Procedure of AMLIO AMLIO is enabled to share what information it is able to collect within its powers, with law enforcement agencies, related government agencies, international FIU, and reporting entities.

*Exchange of Information Between Financial Supervisors*

1. *Criterion 40.12* is **met/mostly met/partly met/not met**. *General provisions -* Article 14 of Law on Anti-Money Laundering and Counter-Financing of Terrorism provides regulation to AMLIO promotes international cooperation, both bilateral, regional, and global in insurance sector. This provision allow the international corporation, including exchange of lessons, information, seminars, technical knowledge upgrading and capacity building, technical assistance. Moreover, Article 42 Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 provide competent authorities to conduct international cooperation on AML/CFT. Moreover, article 14 and article 43(1) of it provision promotes and allows Lao PDR to exchange information on money laundering and terrorist financing matters.
2. *Lao Securities Commission Office* – Article 164 of Law on Securities (Amended version) provides regulation to Lao Securities Commission Office promotes international cooperation, both bilateral, regional, or global in securities sector. This provision allow the international cooperation conducted in many forms, including sharing information, techniques, specialization, and human resources. Nevertheless, article 165 of Law on Securities (Amended version) provide the limitation of foreign counterpart solely to foreign securities commission. Moreover, article 166(1) it provision also require the international cooperation in securities should conduct through signing an agreement.

[For Lao PDR: What powers does the Securities Commission Office have to share information with foreign counterparts? Please identify which international agreements, treaties or conventions it is party to and highlight what obligations for sharing the Securities Commission Office is subject to under those agreements?]

1. *Bank of the Lao PDR –* Article 6 of Law on Bank of the Lao PDR provides regulation to Bank of the Lao PDR promotes international cooperation, both bilateral, regional, and global in banking sector.

[For Lao PDR: Please confirm whether this provision allows for a legal basis for the conduct of international corporation in many forms, including sharing information, experience, technology, and capacity building, or whether it merely encourages what Bank of Lao PDR can share with its foreign counterparts . ]

1. *Ministry of Finance* - Article 7 of Law on Insurance (Amended version) provides regulation to Ministry of Finance promotes international cooperation, both bilateral, regional, and global in insurance sector. This provision allow the international corporation, including exchange of technical lessons, technical expertise and information-news, human resource development.
2. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart.

[For Lao PDR: Please identify which sections of which MOUs the powers and obligations are located in relevant to c40.12?]

1. *Criterion 40.13* - As provisions mentioned above, article 42(1) of Law on Anti-Money Laundering and Counter-Financing of Terrorism, article 164 of Law on Securities (Amended version), article 6 of Law on Bank of the Lao PDR, and article 7 of Law on Insurance (Amended version) able to conduct exchange information. However, those regulation not provide detail provision regarding information that may exchange, including information domestically available to them and information held by financial institutions with foreign counterparts. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart. [For Lao PDR: Please identify which sections of which MOUs the powers and obligations are located in relevant to c40.13?]
2. *Criterion 40.14* - Article 42(1) of Law on Anti-Money Laundering and Counter-Financing of Terrorism, Article 164 of Law on Securities (Amended version), Article 6 of Law on Bank of the Lao PDR, and Article 7 of Law on Insurance (Amended version) provide general provisions of international cooperation in supervisory measures, including AML/CFT supervision. Therefore, there is unclear whether Lao PDR regulates the sharing information related to responsibility for financial institutions operating in the same group, except for Bank of the Lao PDR. Article 94 number 11 to 12 of Law on Bank of the Lao PDR provide rights to cooperate with related sector both domestic and foreign country in bank supervision and cooperate with foreign country, regional and global on bank supervision matter. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart.

[For Lao PDR: Please provide further information about the requirements of c.40.14(a)-(c) under Lao PDR law. And please specifically highlight where the authority to share the information in (a)-(c) is found in its laws or MOUs?]

1. *Criterion 40.15* - Under general provision of international cooperation on supervision measures as mention above, all supervisory agencies have wide ranging power to engage in cooperation and information exchange, which may include conducting inquiries on behalf of foreign counterparts and facilitation of foreign counterparts’ inquiries. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart.

[For Lao PDR: Please clarify the interpretation of the general provision, what it allows, and its implementation. Also, is there any explicit provision allowing foreign counterparts to conduct inquiries themesleves in Lao PDR?]

1. *Criterion 40.16* - The Securities Commission is required to maintain confidentiality regarding any information, documents or evidence by Article 169 of Law on Securities (Amended version). Further the Securities Commission is prohibited from disclosing, providing or otherwise using confidential information without prior authorisation (article 184(1) of Law on Securities (Amended version)) [For Lao PDR: Please confirm this is correct as the translation is unclear, is there another transaltion that can be provided?]. Similar provisions also exist under article 92(1) of Law on Commercial Bank ~~Law on Bank of the Lao PDR~~. Nevertheless, there is no further provision that provide mechanism of financial supervisors should ensure that they have the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and nonsupervisory purpose. There is unclear whether Ministry of Finance regulates it requirement. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart.

[For Lao PDR: Please highlight the requirements in the MOUs? Only one example is provided in the TC Table from Lao PDR.]

*Exchange of Information Between Law Enforcement Authorities*

1. *Criterion 40.17* - ***General provision also applied to Ministry of Finance, Ministry of Agriculture and Forestry, and Ministry of Public Security*** *–* the legal basis of law enforcement to conduct exchange information with foreign counterparts for intelligence or investigation purposes is regulated under article 271 of law on the Criminal Procedure 2017[For Lao PDR: please clarify if article 271 covers intelligence and investigation purposes]. Article 42 of Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 provide competent authorities to conduct international cooperation on AML/CFT. Moreover, article 14 and article 43(1) of it provision promotes and allows Lao PDR to exchange information on money laundering and terrorist financing matters. Nevertheless, Article 42 of Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 not require exchange information related with associated predicate offences. Specific provision, as follows:
2. ***State Inspection and Anti-Corruption Authority*** *- Investigations that are associated with its obligations to investigate the offences of money laundering such as abusing the authority, bribery, grafting, and others that leading to the criminal proceeding in case of Money Laundering and Counter-Financing of Terrorism* it has an authority to exchange information with foreign counterparts regulates under article 10 The Anti-Corruption Law. The provision promotes competent authorities to conduct cooperation with foreign countries, region and international organizations on the prevention and countering of corruption.
3. ***Office of the Public Prosecutor*** – article 8 of Law on the Office of the Public Prosecutor (Amended version) giving an authority to public prosecutor to conduct cooperation with foreign, regional and international level, particularly in exchanging lessons, information, technology, training or seminars, capacity building, technical skill.
4. ***The People’s Court*** – article 7 Law on People’s Court (Amended version) giving an authority to the people’s court promotes foreign, regional and international cooperation, such as legal and judicial cooperation by sharing lessons, information, technology, training or seminars, capacity building to develop investigation and evidence composition, decisions and quality of judgement call, transparency and ensure the fairness in society.
5. [For Lao PDR: Can the information be shared for intelligence purposes or investigative purposes, do those purposes include ML/TF and predicate offences, or for identification and tracing of proceeds and instrumentalitites – and where are the specific provisions allowing it?]
6. *Criterion 40.18* - Ministry of Finance, Ministry of Agriculture and Forestry, and Ministry of Public Security have an authority to conduct criminal proceedings under criminal procedure law, including to conduct inquiries and obtain information on behaf of foreign counterparts, based on agreements that Lao PDR has signed with foreign countries or international conventions that the Lao PDR (Article 46 and 270). Lao PDR has MOUs related to judicial assistance with two countries, namely China and Vietnam. There are unclear provisions under The Anti-Corruption Law, Law on the Office of the Public Prosecutor, and Law on People’s Court (Amended version) as to whether law enforcement agencies are authorised to conduct investigations in response to requests from foreign counterparts, including obtaining information on behalf of a foreign counterpart.
7. *Criterion 40.19* - The criminal procedure law, the Anti-Corruption Law, Law on the Office of the Public Prosecutor, and Law on People’s Court (Amended version) do not regulate the powers of law enforcement to conduct cooperative investigations or form joint investigative teams. Additionally, no such powers were found in the MOUs on judicial assistance

*Exchange of Information Between Non-Counterparts*

1. *Criterion 40.20* - ~~Article 14~~ article 42 par 1 of Law on Anti-Money Laundering and Counter-Financing of Terrorism 2014 provides powers to competent authorities, including law enforcement agencies to conduct wide range relation and cooperation with foreign countries, regions, and international community on AML/CFT, and the scope of cooperation includes the gathering (collection), studying (analysis), [For Lao PDR: please confirm the translation, does “gathering” also translate as “collection”, does “studying” also translate as analysis?] and exchange of information, technologies and lessons on money laundering and financing of terrorism (article 43(1)). Although these general provisons are in place, that may provide the legal basis of exchange of information between non-counterparts, there are no specific provisions in Lao PDR law to authorise the exchange of information with non-counterparts. There is also an absence of MoU or treaties for Lao PDR’s competent authorities to conduct horizontal cooperation with foreign non-counterparts, and therefore these provisions do not yet sufficiently comply with this criterion.

Weighting and Conclusion

1. **Recommendation 40 is rated compliant/largely compliant/partly compliant/non-compliant.**

1. The NRA was commissioned in April 2017 pursuant to the *Decisions on Appointment of NRA Committee for AML/CFT No07NCC 7 April 2017* [↑](#footnote-ref-1)
2. The President of the committee is a Vice Minister of Public Security and the membership comprises the Deputy Head of the Supreme Public Prosecutors Office, The Vice Governor of the Bank of Lao PDR, the Vice Minister of Finance, the Vice Minister of the Government Inspection Authority and the Vice Minister of the Ministry of Industry and Commerce. [↑](#footnote-ref-2)
3. Article 20 of Law on Anti Money Laundering and Countering Financing of Terrorism No50NA July 2014 and Article 14 of the Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT No127/Gov Feb 2020 [↑](#footnote-ref-3)
4. MEQ 1.2 [↑](#footnote-ref-4)
5. Decision on Appointment Committees for National risk Assessment of Money laundering and financing Terrorism of the Lao PDR No.07/NCC 7 April 2017 and Article 3 Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT No127/Gov Feb 2020 [↑](#footnote-ref-5)
6. Government Notice on NRA Outcome No.191/PO dated 5 February 2019 [↑](#footnote-ref-6)
7. Government Notice on NRA Outcomes to Reporting Entities No.1005/AMLIO 21 July 2019 [↑](#footnote-ref-7)
8. The Banking Sector, the Loa Security Commission Office and the Department of State Owned Enterprise and Insurance Management [↑](#footnote-ref-8)
9. Article 13 Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-9)
10. Article 15 Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-10)
11. Article 2 Decision on Designation for AML/CFT Supervisor for Commercial Banks and Financial Institution June 2015 [↑](#footnote-ref-11)
12. MEQ Rec 28.2 [↑](#footnote-ref-12)
13. MEQ Rec 28 [↑](#footnote-ref-13)
14. “Draft” Decree on Casino and Gambling Operation Activities refers at Article 4 that casinos will be supervised by the state [↑](#footnote-ref-14)
15. Article 2 Decision to Designate AML/CFT Supervisor for Security Exchange. [↑](#footnote-ref-15)
16. Section 2-5 Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-16)
17. Article 12 *Risk Management* Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-17)
18. Article 25 and 26 Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-18)
19. Article 12 *Risk Management* Agreement on Know Your Customer and Customer Due Dilligence3 No01/NCC 15 January 2016 [↑](#footnote-ref-19)
20. Article 3(4) Decree on Implementing and Operations of National Coordinating Committee on Ant Money laundering and Counter Financing of Terrorism 14 October 2016 [↑](#footnote-ref-20)
21. Ministry of Public Security, Ministry of Finance, Bank of Lao PDR, the Supreme People’s Prosecutors Office, Ministry of Industry and Commerce, Ministry of Justice, State Audit Organisation, Ministry of Foreign Affairs, Prime Minister’s Office and the Supreme People’s Court Office. [↑](#footnote-ref-21)
22. AMLIO Decision Anti-Money Laundering and Counter Financing of Terrorism Focal Point 14 November 2016 [↑](#footnote-ref-22)
23. NCC Decision on Appointment of Committees for drafting of sub-legislation for implementing measures on counter proliferation financing “PF” 6 February 2019 [↑](#footnote-ref-23)
24. Implementation plan on the development of data sharing system between AMLIO and associated competent authorities 12 February 2020 [↑](#footnote-ref-24)
25. Article 26 Law on Criminal procedure No37/NA 14 November 2017 [↑](#footnote-ref-25)
26. Article 8(2) Law on Anti-Money Laundering and Counter Financing of Terrorism No 50/NA 21 July 2014. [↑](#footnote-ref-26)
27. Major offences are defined at Article 13 of the PC and include offences that are punished by re-education without deprivation of liberty (a sanction undertaken by an offender at his or her employment pursuant to which the offender must remit five – twenty percent of their salary to the state subject to the sentence, re-education must not exceed one year - see Article 47 PC) and offences punishable by 3 months imprisonment to ten years and fines. The statute of limitation for major offences is seven years – see Article 31 PC. [↑](#footnote-ref-27)
28. Money laundering – Article 130 PC – predicate offences defined in Article 8 Law on Anti-Money Laundering and Counter Financing of Terrorism No 50/NA 21 July 2014 and Penal Code No.26/NA, 17 May 2017. [↑](#footnote-ref-28)
29. Financing terrorism - Article 131 PC [↑](#footnote-ref-29)
30. Article 3 Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No08/NCC dated 30 March 2016 [↑](#footnote-ref-30)
31. Article 126 Law on Criminal Procedure No37/NA 14 November 2017 [↑](#footnote-ref-31)
32. Article 53 and 108 Criminal procedure No37/NA 14 November 2017 and Article 3 Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No8/NCC 30 March 2016. [↑](#footnote-ref-32)
33. Article 128 of the Law of Criminal procedure No.37/NA 14 November 2017 [↑](#footnote-ref-33)
34. Article 2-4 Instruction on Application of Provisional Measures on Properties Relating to Money laundering or Terror Financing No08/NCC 30 March 2016 [↑](#footnote-ref-34)
35. Article 6 *Appeal on Seized or Frozen Property* – Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No08/NCC 30 March 2016 [↑](#footnote-ref-35)
36. Article 7 *Storage of Seized or Frozen Properties* - Instruction on Application of Provisional Measures on Properties Relating to Money Laundering or Terrorist Financing No08/NCC 30 March 2016 [↑](#footnote-ref-36)
37. Article 20 Reporting of Personal Belongings Passengers – Customs Law (Revised version) No.04/NA 20 December 2011 [↑](#footnote-ref-37)
38. Article 3 and 4 Declaration of Cash, Precious Metals and Bearer Negotiable Instruments While Entering or Exiting the Lao PDR No.06/NCC 19 May 2015 [↑](#footnote-ref-38)
39. Article 33 Declaration of Cash, precious Metals and Bearer Negotiable Instruments at Border Crossings - Law on Anti-Money Laundering and Counter Financing of Terrorism 21 July 2014. [↑](#footnote-ref-39)
40. Article 3 of the Law on Customs No04 December 2011 establishes that Customs Administraion is a function of the Ministry of Fiance. Article 8 of the Decree on Entrust and Implementing the Activities of AML/CFT No127 20 Feb 2020 outlines the responsibilities of the Ministry of Finance which includes responsibility to co-operation and investigation of violations of failure to declare; or the making false declarations associated with cash, precious metals and BNIs at the border, and to investigate associated predicate offences for which they are responsible. [↑](#footnote-ref-40)
41. Article 34 Examination by Customs Officer at Border Crossings - Law on Anti-Money Laundering and Counter Financing of Terrorism 21 July 2014 [↑](#footnote-ref-41)
42. Customs Law (Revised version) No.04/NA, 20 December 2011, Article 88-96; Law on Foreign Currency Management No55/NA 22 December 2014, Article 49; and Penal code No.26/NA 17 May 2017 Article 284 and 286. [↑](#footnote-ref-42)
43. Notice on Cross Border Report No.245/CD dated 14 January 2020 [↑](#footnote-ref-43)
44. Article 6 Reporting by Customs Officials at Boundary Checkpoints – Regulation on the Declaration of Cash Precious Metals and Bearer Negotiable Instruments While Entering / Exiting the Lao PDR No.06/NCC 19 May 2015 [↑](#footnote-ref-44)
45. Part V (Article 53- 54 ) of the Law on money laundering and counter financing of Terrorism No 50NA July 2014 requires that the NCC (Chair - Deputy Prime Minister of Lao DPR) has a duty to co-ordination the various elements of thte AML/CFT system. [↑](#footnote-ref-45)
46. Article 34 of the Law on Anti Money laundering and counter Financing of terroris No 50NA July 2014 [↑](#footnote-ref-46)