



# Anti-money laundering and counter-terrorist financing measures

# Macao, China

Mutual Evaluation Report

December 2017





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This mutual evaluation report was adopted by the APG at its annual meeting in July 2017.

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## EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in Macao, China as at the date of the on-site visit 20 November – 2 December 2016. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Macao, China's AML/CFT system, and provides recommendations on how the system could be strengthened.

### A. *Key Findings*

- Macao, China has coordination mechanisms established at a multi-agency level for AML/CFT and among agencies on specific issues or operational areas. The AML/CFT Working Group (AML/CFT WG) comprises all relevant agencies and has proven mainly effective in coordinating policy, annual plans and recently the National Risk Assessment (NRA), as well as promotion and awareness activities. The 2015 NRA provides a foundation for Macao, China's understanding of its money laundering/terrorist financing (ML/TF) risks and to address key vulnerabilities as the jurisdiction's AML/CFT strategic plan demonstrates.
- Overall, the authorities see the transfer of proceeds from overseas crime as exposing Macao, China to greater ML risks than domestic crime, which is reasonable. However, the authorities have a mixed understanding of major risks related to foreign proceeds, regional organised crime, cross-border movements, and corruption.
- The authorities access and use a large range of intelligence-rich information. The Financial Intelligence Office (GIF) use of multi-source intelligence and sound analysis results in a high number of disseminated Suspicious Transaction Reports (STRs) opened for investigation. Law Enforcement Agencies' (LEA) use of STR and other relevant information is largely consistent with Macao, China's regional context, exposure to foreign risk and the intelligence value of non-STR information.
- The lack of a cross-border disclosure or declaration system is a major intelligence gap for a jurisdiction exposed to high-risk from vast numbers of visitors and cash-intensive businesses, particularly casinos and related high-value dealers, although mandatory threshold reporting by the gaming sector helps mitigate this gap.
- There have only been five ML convictions. A shortage of prosecutorial resources in the Public Prosecutions Office (MP), heavy evidentiary requirements for third party ML, and the lack of an adequate policy directive have hampered the quantity and quality of ML investigations and prosecutions, resulting in a low conviction rate, with a correspondingly low average sentence length ranging from three to five years for just the ML offence. Overall, ML investigations do

not match the risk profile.

- Except for one major corruption case involving up to US\$100 million, confiscations are limited to cash/currency and casino chips, with only one case of shares confiscated and another case of one half of a commercial property.
- There are minor deficiencies in Macao, China's TF offence. Financing of terrorism not directly linked with a specific terrorist act is not specifically criminalised; instead it is indirectly criminalised through reliance on rules of interpretation. The financing of foreign terrorist fighters is also not directly criminalised but criminalisation is achieved through the broad concepts of "preparatory acts" and "provision of material support".
- Implementation of TF-related sanctions is sound. In practice, no assets have been frozen in connection with targeted financial sanctions (TFS), which does not seem unreasonable within the context of Macao, China's risks.
- Macao, China has a good understanding of the terrorist financing risk in its Non-Profit Organisation (NPO) sector and has conducted two risk assessments of the NPO sector. Macao, China has assessed its risk as low. To monitor the risks of NPOs in association with countries with a high risk of terrorism, GIF conducts quarterly reviews of data on funds flows in and out of Macao, China. To date, other than three STRs that were flagged for initial review, there is no record in the MP of any NPO being suspected of TF or any enforcement actions taken.
- Macao, China's framework to implement the relevant UN counter-proliferation financing sanctions (PFS) is similar to its framework for TF. In practice, no assets have been frozen in connection with PFS, which does not seem unreasonable within the context of Macao, China's risks.
- Macao, China has controls in place to restrict the import and export of dual-use materials which are overseen by the Macao Customs Service (SA). Data on trade provided by the SA indicates that trade with high risk countries such as Iran and North Korea is minimal and limited to food stuff and petroleum for domestic use.
- There is sound implementation of preventative measures in the financial sector and also by the six concessionaires/sub-concessionaires (casinos). With the exception of notaries and accountants, implementation in other FATF-designated Designated Non-Financial Businesses and Professions (DNFBPs) is at an earlier stage.
- All financial institutions (FIs), DNFBPs and other sectors are subject to AML/CFT supervision with resources devoted to higher risk and material sectors. Sound risk-based supervision is undertaken in the two most significant sectors – the Gaming Inspection and Coordination Bureau (DICJ) supervised gaming sector and Monetary Authority of Macao (AMCM) supervised financial sector. Compliance has improved because of supervisory actions undertaken. While there is AML/CFT supervision of other DNFBPs and other sectors (pawnshops, and high value good dealers e.g. vehicles), supervision is not fully risk-based, regular or comprehensive.
- Macao, China has increased the transparency of local legal persons by ensuring that basic and beneficial ownership information is publicly available through the Commercial and Movable Property Registry (CR) database. Notaries are required to verify documents prior to registration with the CR and they are subject to supervision. Macao, China has precluded bearer shares since July 2015. However, beneficial ownership information of legal persons is not always available readily or on a timely basis where there are foreign legal persons

involved in the ownership/control structure.

- While trusts and similar legal arrangements cannot be created under the present legal regime and no trust management company has ever been registered either with AMCM or with the CR since the enactment of Decree-Law no. 58/99/M, foreign trusts do operate on a very limited scale in Macao, China. There is a requirement for trustees in limited circumstances to disclose their status to FIs. There are requirements for FIs and DNFBPs to identify whether a customer is a trustee acting on behalf of a trust.
- Macao, China gives priority to international cooperation and provides a range of international cooperation, including Mutual Legal Assistance (MLA), extradition, intelligence/information, and beneficial ownership information. The overall quality of assistance is generally sound and timely, as confirmed by feedback received from other jurisdictions. Overall, Macao, China authorities are proactive in seeking international cooperation for a range of purposes, including ML, criminal investigations and recovery of assets.

## **B. Risks and General Situation**

2. Macao, China is the world's largest gaming market. The gaming sector dominates the economy, either directly or indirectly. In 2013, gaming accounted for approximately 64.7 per cent of GDP, and in 2015 gaming-related taxes formed 77.1 per cent of total government revenue. Macao, China receives 30 million visitors a year to its casinos, mainly from China; Hong Kong, China; Japan; South Korea; Chinese Taipei and Thailand. Casinos are cash intensive and therefore at higher risk for ML. The gaming sector in Macao, China caters to three main customer types – premium players, junket players and mass gaming players.

3. Overall, the assessment team considers foreign proceeds arising from corruption, fraud and other crimes laundered through the gaming sector as Macao, China's main ML risks. This is consistent with Macao, China's NRA. The assessment team, however, considers that Macao, China is not used just as a 'transshipment port' or conduit to transfer overseas proceeds, but the jurisdiction is also an end destination.

4. The TF risk is considered low. There has been no terrorist incident and there is limited flow of funds to and from jurisdictions with high terrorism risks. In the last ten years, there has been no investigation or prosecution of terrorism or TF. There are some diaspora connections to high risk jurisdictions.

## **C. Overall Level of Effectiveness and Technical Compliance**

5. Following the last APG mutual evaluation in 2006, Macao, China's AML/CFT regime has undergone major reforms. Macao, China has completed numerous thematic assessments on gaming, NPOs, alternative remittance systems, and cross-border controls. In 2015 Macao, China completed its first NRA. It has a yearly AML/CFT strategic plan that serves as its main policy to address ML/TF risk. In 2016, Macao, China amended all sectoral AML/CFT enforceable instruments for all FIs, DNFBPs and other Macao, China designated sectors to address requirements on risk assessments and to include some additional requirements. It also introduced a new Asset Freezing Law for TF and PF to add to Macao, China's previous framework for targeted financial sanctions. Macao, China is either compliant

or largely compliant with 37 of the 40 FATF Recommendations. It has prepared amendments to its ML and TF laws, and a cross-border declaration system is proposed.<sup>1</sup>

6. On effectiveness, it has made substantial progress on international cooperation, supervision, use of financial intelligence, targeted financial sanctions for TF and PF, and the transparency of legal persons and arrangements. In recent years, Macao, China has focused its attention on junket promoters. The number of licensed junket promoters has decreased from 225 in 2011 to 125 in 2016 reflecting market forces, enhanced market entry requirements and greater enforcement of AML/CFT measures.

7. Major or fundamental improvements, however, are needed in the understanding of ML risks, ML investigations and prosecutions, and implementation of AML/CFT requirements in DNFBPs, aside from the concessionaires/sub-concessionaires, financial sector and notaries. Proposed amendments to the TF law will address the deficiencies in R.5 and IO.9.

*C.1. Assessment of risks, coordination and policy setting (Chapter 2; IO.1, R.1 - 2 & 33)*

8. The 2015 NRA provides a foundation for Macao, China's understanding of its ML/TF risks and for addressing key vulnerabilities as the jurisdiction's AML/CFT strategic plan demonstrates. Overall, the authorities see the transfer of proceeds from overseas crime as exposing Macao, China to greater ML risks than domestic crime.

9. Supervisory authorities, LEA and GIF demonstrate a reasonably sound understanding of risks involving the gaming and financial sectors, particularly high-risk junkets. However, the authorities have an uneven understanding of major risks related to regional organised crime, cross-border movements and corruption. In contrast, the authorities have a sounder understanding of TF risk which they assess as low. The NRA offers a useful model for assessing TF in jurisdictions with low terrorism and TF risk. Private sector understanding of ML risks is generally sound and consistent with the NRA but needs to be improved for junket promoters, the real estate sector, and dealers of precious stones and precious metals.

10. The new freezing law, proposed amendments to the AML/CFT laws and tighter supervision measures demonstrate the strengths of the 2016 AML/CFT and Combating the Financing of Proliferation (CFP) plan. However, the plan does not provide adequate direction for LEA to adopt a risk-based approach for ML investigations.

11. Supervisory authorities have enhanced procedures and guidance in line with the strategic plan. GIF's central policy role and strategic intelligence supports supervisors to monitor their sectors and has raised private sector risk awareness. Limited focus on cross-border regional crime trends, due to restrictions on using police intelligence, has hindered GIF's strategic intelligence, as gaps in understanding the main foreign ML risks indicate.

12. LEA investigations of ML generally do not match the risk profile and demonstrate a risk-based approach has yet to be translated into practice. The new parallel financial investigations mechanism in the Judiciary Police (PJ) is a promising step but the very few investigations conducted to date show progress is limited. These operational shortcomings undermine efforts made in other areas.

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<sup>1</sup>All three draft laws were enacted in 2017 following the on-site.

13. Coordination measures have proven mainly effective for strengthening policy, developing annual plans, raising AML/CFT awareness among agencies and the recent NRA. Coordination between GIF, LEA and supervisors is generally effective. The new Asset Freezing Coordination Commission involves relevant agencies but it is too early to assess its effectiveness

*C.2 Financial intelligence and ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.3, 4, 29-32)*

14. The authorities access a large range of intelligence-rich information. GIF's use of multi-source information and sound analysis results in a very high number of financial intelligence disseminations opened for investigation. LEA access and use of STR and other relevant information is largely consistent with Macao, China's regional context and to a varying extent exposure to foreign risk. There are some gaps in the ability of officers to interpret the intelligence value and use of GIF information in predicate investigations.

15. There are information gaps. While STR quality is generally good, consistent with the risk profile, and adequate to support intelligence analysis, STR reporting is very low for the higher risk junket and real estate sectors. Moreover, the lack of a cross-border disclosure or declaration system is a major intelligence gap for a jurisdiction exposed to high-risk from vast numbers of visitors and cash-intensive businesses, particularly casinos and related high-value dealers.

16. GIF uses sound methods and tools to produce operational intelligence and has enhanced its procedures to address practical problems LEAs have identified. GIF's strategic intelligence has shaped AML/CFT policy and raised ML/TF awareness but LEA secrecy protocols limit its ability to include broader criminal intelligence on common regional crime and ML risks in strategic analysis.

17. Cooperation and information exchange works well among GIF, supervisors and LEA, with moderate improvements to information sharing required for GIF and LEA to more effectively use financial and criminal intelligence.

18. GIF operates effectively as an autonomous independent Financial Intelligence Unit (FIU). While current resources are adequate for handling STRs and foreign FIU exchange, without additional staff GIF is likely to struggle to meet its combined FIU, policy development, and expanded coordination roles effectively.

19. There have been some major successes with domestic, corruption related self-laundering cases, yet there have only been five ML convictions. A shortage of prosecutorial resources in the MP, heavy evidentiary requirements for third party ML, difficulty in obtaining evidence on predicate offences from foreign counterparts, and the lack of an adequate policy directive have hampered the quantity and quality of ML investigations and prosecutions, resulting in a low conviction rate, with a correspondingly low average sentence length ranging from three to five years for just the ML offence.

20. ML investigations and prosecutions are limited to self-laundering and third party laundering with no standalone ML case investigated and prosecuted. There are only five cases of parallel financial investigations since the establishment of the parallel investigation working group in 2015. Overall, ML cases do not correspond with the risk profile in the NRA and the key ML risks.

21. There is no national policy or strategy relating to an asset confiscation or recovery regime in Macao, China. MP, PJ, and the Commission Against Corruption (CCAC) do not have a policy directive to pursue the proceeds of crime, and investigation of the proceeds of crime does not seem to be part of

an overall ML investigation strategy, albeit certain seizures were applied to the proceeds of crime. Overall the confiscation results are not consistent with the NRA report and ML risks in Macao, China.

### *C.3 Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R.5-8)*

22. Although Macao, China's TF regime contains technical deficiencies, it should be noted that Macao, China has exhibited an ability to take investigative steps once a report of TF is referred to the competent authorities, MP and PJ. The designated TF investigator, PJ shows improvement in its efforts to conduct parallel financial investigations (refer IO.7) which indicates it has a framework to pursue TF and follow the money. GIF leads an AML/CFT WG comprised of representatives from the Public Security Force (PSP), the Unitary Police Service (SPU), PJ, SA, and AMCM. This Working Group sets policy, conducts ongoing monitoring, and acts as a venue for information sharing. GIF regularly shares information with all members of the Working Group.

23. Macao, China's implementation of TF-related sanctions is generally good. No assets have been frozen in connection with TFS, which is consistent with the risks. There is no substantial delay in implementing TFS. The banking and gaming sectors have a high-level of awareness of their obligations and use internationally recognised third-party software to screen clients for matches with UN sanctions lists. Banks have implemented comprehensive Customer Due Diligence (CDD) policies and procedures, including on beneficiary ownership. All designations must also be published in the Official Gazette which is available and applicable to all FIs, DNFBPs and the public.

24. The regulatory regime for NPOs is sufficient. Macao, China has a good understanding of the terrorist financing risk in its NPO sector, which sectoral assessments in 2011 and 2014 assessed as low. Most NPOs are focused on social or political activities with very few relevant to the R.8 definition. The majority of NPOs obtain financing from the government or subsidy granting authorities, and are therefore required to report on how these funds have been used. Additionally, GIF conducts quarterly reviews of data on funds flows to and from the top three countries transacting with Macao, China to monitor the risks of NPOs associated with countries with a high risk of terrorism. There has been no direct outreach to the NPO sector on TF risks.

25. Macao, China's framework to implement the relevant UN counter PFS is similar to its framework for TF. No assets have been frozen in connection with PFS, which is in keeping with Macao, China's risks. The PJ has conducted one investigation related to PF based on two STRs filed for a match to sanctions lists. Macao, China has an interagency process in place to identify and freeze funds or other assets that are jointly owned or controlled, directly or indirectly by designated persons when these assets are not held in the name of the designated person as required by R.7.2(b)(ii),(iv). Supervisory authorities such as AMCM, DICJ, and the Economic Services Department (DSE) all include compliance with PFS in their AML/CFT on-site reviews. Macao, China has controls in place to restrict the import and export of dual-use materials, overseen by the SA. Trade with high risk countries is minimal and limited to food stuff and petroleum for domestic use.

### *C.4 Preventive measures (Chapter 5; IO.4; R.9-23)*

26. Macao, China has subjected all FIs, DNFBPs and other Macao, China designated DNFBPs, including junket promoters and high value goods dealers (jewellery, pawnshop, watch and motor vehicle dealers) to its AML/CFT regulatory regime, and for junket promoters there is joint liability between a concessionaire/sub-concessionaire (casino) and its junket promoters regarding the junkets' compliance with all applicable laws and regulations.

27. The six concessionaires/sub-concessionaires demonstrate a sound understanding of the ML/TF risks and AML/CFT obligations, while junket promoters display an incomplete awareness of ML/TF risks and AML/CFT obligations. The concessionaires/sub-concessionaires have implemented to a large extent the DICJ Instruction requirements on CDD, determination of beneficial ownership and Politically Exposed Persons (PEPs) (foreign and domestic), record keeping and TFS, including coverage on the junket sector. Concessionaires/sub-concessionaires and their junket promoters work together to implement preventative measures, with the former acting both as second and first lines of defence. Concessionaires/sub-concessionaires have been implementing standards based on their global AML/CFT compliance requirements, which until the issuance of the revised DICJ AML/CFT Guideline in 2016, were higher than Macao, China's requirements.

28. FIs, particularly banks, exhibit a mature understanding of the ML/TF risks and AML/CFT obligations, and have implemented to a large extent CDD, STR, targeted financial sanctions, record keeping and other requirements.

29. DNFBPs such as legal professionals (notaries) and accountants have a reasonable grasp of ML/TF risks and an understanding of the AML/CFT obligations, and have implemented the requirements to some extent. The real estate sector and dealers of precious stones and metals display a limited understanding of ML/TF risks and AML/CFT obligations, and have implemented the requirements to some or to a negligible extent.

30. There are gaps in the understanding and implementation of STR obligations.

#### *C.5 Supervision (Chapter 6; IO.3; R.26-28, 34, 35)*

31. Macao, China has subjected all FIs, DNFBPs and other designated sectors, including junket promoters and high value goods dealers (jewellery, pawnshop, watch and motor vehicle dealers) to its AML/CFT regulatory regime, and for junket promoters there is joint liability between a concessionaire/sub-concessionaire and its junket promoters regarding the junkets' compliance with all applicable laws and regulations.

32. Macao, China is taking a more stringent approach towards licensing and the supervision of junket promoters which, in addition to acting as third party introducers, are also subject to enforceable AML/CFT requirements. This is the subject of enhanced and renewed focus by DICJ. The number of licensed junket promoters has decreased from 225 in 2011 to 125 in 2016 reflecting market forces, enhanced market entry requirements and greater enforcement of AML/CFT measures.

33. All FIs, DNFBPs and other sectors are subject to AML/CFT supervision with resources devoted to higher risk and material sectors. Sound risk-based supervision is undertaken in the two most significant sectors – the DICJ supervised gaming sector and AMCM supervised financial sector and by the Macao Trade and Investment Promotion Institution (IPIM) in the small Company Service Provider (CSP) sector. AML/CFT supervision of other DNFBPs and Macao, China identified DNFBPs (pawnshops, and high value good dealers e.g. vehicles) is not fully risk-based, regular or comprehensive. There is no fit and proper licensing requirement for dealers of precious metal and stones in Macao, China.

34. Licensing controls are robust in all FIs, and most DNFBPs. Macao, China has a range of remedial measures that it can impose on FIs and DNFBPs. However, very few financial penalties have been imposed against any financial institution, DNFBPs, directors or senior management. Other remedial measures have nevertheless been applied, particularly on market entry with licenses for junket promoters either revoked for prudential and/or AML/CFT reasons, and licenses for FIs not

renewed or applications rejected. This has been an effective approach to reducing risk in the junket sector.

35. DICJ, AMCM and most other DNFBP supervisors have undertaken various awareness raising measures on the enforceable requirements in the updated 2016 AML/CFT Guidelines and NRA.

#### *C.6 Transparency and beneficial ownership (Chapter 7; IO.5; R. 24, 25)*

36. The NRA identifies and assesses the level of ML/TF risks and vulnerabilities of legal persons and arrangements in some sectors. The NRA analysis lacks a thorough risk assessment of foreign owned legal persons and legal arrangements that may be operating in the jurisdiction. Nevertheless, competent authorities did demonstrate an understanding of the risks of foreign owned legal persons and legal arrangements that may be operating in Macao, China.

37. Macao, China has increased the transparency of local legal persons by ensuring that basic and available beneficial ownership information is publicly available on demand and through the online database of the CR.

38. While trusts and similar legal arrangements cannot be created under the present legal regime, and no trust management company has ever been registered either with AMCM or with the CR since the enactment of Decree-Law no. 58/99/M, foreign trusts do operate on a very limited scale in Macao, China. There is a requirement for trustees in limited circumstances to disclose their status to FIs. There are requirements for FIs and DNFBPs to identify whether a customer is a trustee acting on behalf of a trust.

39. Macao, China has precluded bearer shares since July 2015 and under the present legal regime, trusts and legal arrangements cannot directly own shares of local companies, which are important mitigating factors countering the risk of using legal persons and arrangements to obscure beneficial ownership information.

40. The legislation of Macao, China does not recognise the figures of nominee shareholders and nominee directors. Any person acting on behalf of a shareholder or director will have to do it through the normal figure of representation which requires the issuing of specific powers of attorney by the represented person to their nominee through a notary.

41. FIs have implemented Macao, China's preventative measures to identify and verify beneficial ownership information of legal persons and foreign trustees operating in the jurisdiction. Notaries and registrars play a key role in the creation of legal persons and are required to undertake CDD and verify the authenticity of documents submitted for registration, including enhanced CDD requirements introduced in 2016. However, because of staffing constraints, the Legal Affairs Bureau (DSA) has not been able to verify that all notaries are applying the enhanced CDD measures.

42. While authorities indicated that timely access to basic and beneficial information of local legal persons is available from the CR, companies, FIs and notaries in most instances, beneficial ownership information of legal persons held by layers and complex groups of foreign legal persons and legal arrangements is not always readily available or available on a timely basis.

43. Sanctions are available (including criminal sanctions) for violations of the Company Registration Law but no effective sanctions have been applied.

### *C.7 International cooperation (Chapter 8; IO.2; R.36-40)*

44. International cooperation is predominantly with China; Hong Kong, China and Portugal, both incoming and outgoing. This is consistent with the risk and context of the jurisdiction, its geographic location and historical ties.

45. Macao, China provides a range of international cooperation, including MLA, extradition, intelligence/information, and beneficial ownership information. The overall quality of assistance is sound and timely to a large extent, as confirmed by feedback received from other jurisdictions.

46. Overall, authorities are proactive in seeking international cooperation for a range of purposes, including ML and criminal investigations and recovery of assets. Macao, China successfully recovered assets through international cooperation, with a sum of about MOP350 million (US\$44.77 million) returned to the government in the Ao Man Long corruption case. This case demonstrates the capability of Macao, China to work with foreign jurisdictions to recover the proceeds of crime.

47. Challenges have been faced in obtaining foreign evidence to prosecute cases in the jurisdiction, with insufficient evidence from overseas hindering the investigation and impeding prosecution. However, information provided to law enforcement in China and Hong Kong, China has led to actions being undertaken in those jurisdictions.

48. The DICJ cannot enter into formal international information exchange instruments for the gaming sector but has used other channels (e.g. GIF) to request information from foreign counterparts. It is able and has responded to foreign requests on a case-by-case basis.

### ***D. Priority Actions***

49. The prioritised recommended actions for Macao, China, based on these findings, are:

- i. Establish a specific, consolidated operational AML/CFT strategy for all LEAs, especially within PJ, which covers parallel investigations, use of financial intelligence in ML, TF and predicate offence, and seizure of illegal proceeds. This should include adopting written internal policies, procedures and mechanisms for more effective cooperation, coordination, investigation and seizure. The strategy should clearly emphasise the importance of investigating identified high risks.
- ii. Pass and implement the proposed amendments to the AML and CFT laws to (i) address the deficiencies in the TF offence (refer R.5); (ii) facilitate ML investigations and prosecution, and (iii) establish a legal framework on asset recovery to ensure the effective tracing, seizure and confiscation of criminal proceeds and the subsequent management and recovery of value from the assets confiscated, as proposed in Macao, China's AML/CFT Strategic Plan 2016-20.
- iii. Enact and implement the proposed cross-border cash declaration system and regulations.
- iv. Take steps to improve the capability of its LEAs to proactively identify and investigate ML (and confiscate proceeds of crime) and TF, particularly complex and foreign predicate ML; organised crime, gaming related usury, fraud and drugs; and the misuse of legal persons. LEA need to balance their current focus on ATM/debit card risk with attention also paid to fraud, gaming and other high risks.
- v. Focus GIF strategic intelligence more on high-risk foreign proceeds and regional crime trends. GIF should approach neighbouring FIUs to produce joint strategic reports on common risks of interest, with input from LEA.

- vi. DNFBP supervisory authorities such as DSAJ, IPIM, DSE, and DICJ should continue to ensure that covered institutions have an increased level of understanding of their ML/TF risks and AML/CFT obligations; particularly among the higher risk entities or those not as aware of the AML/CFT requirements e.g. real estate agents and high value goods dealers. Competent authorities should continue working with DNFBDs to increase compliance with STR reporting, particularly for third party junket introduced business, agents and notaries involved in real estate transactions.
- vii. The CR and DSAJ should continue and enhance their monitoring of compliance by companies and notaries to the Company Registration Law and DSAJ AML/CFT Guideline and impose sanctions for non-compliance.
- viii. The Asset Freezing Coordination Commission should continue to coordinate and implement obligations under PF United Nations Security Council Resolutions (UNSCRs) under the recently introduced Freezing Law.

## E. Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings (High, Substantial, Moderate, Low)

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

### Technical Compliance Ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant)

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

## MUTUAL EVALUATION REPORT OF MACAO, CHINA

### *Preface*

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

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology as updated up to October 2016. The evaluation was based on information provided by Macao, China, and information obtained by the assessment team during visits to Macao, China, namely the pre-ME visit from 26 - 30 September 2016, the on-site visit from 20 November – 2 December 2016 and the face-to-face from 22 - 26 May 2017.

The evaluation was conducted by an assessment team consisting of:

- Ms Patrícia Godinho Silva, Legal Advisor - Litigation Department, Legal Centre, Portuguese Securities Markets Commission (CMVM), Portugal (legal expert)
- Ms Rachel Vaughan, Assistant Director for Asia/Africa, Office of Global Affairs, Terrorist Financing and Financial Crimes, U.S. Department of Treasury, United States (legal expert)
- Mr Alistair Sands, Director, Strategic Intelligence, Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia (FIU expert)
- Mr Foo Wei Min, Deputy Superintendent of Police, Royal Malaysian Police, Malaysia and Group of International Finance Centre Supervisors (GIFCS) representative (law enforcement expert)
- Mr Andrew Holmes, Team Leader Financial Integrity, Department of Internal Affairs, New Zealand (financial expert)
- Mr Alvin Bermido, Bank Officer/Financial Investigator, Anti-Money Laundering Council Secretariat, Philippines (financial expert)

The assessment process was led and supported by Mr Lindsay Chan, Director, Mutual Evaluations and Ms Marnie Campbell, Deputy Director, Mutual Evaluations,, both of the APG secretariat.

The report was reviewed by the FATF secretariat, IMF and Md. Rokon-Uz-Zaman, Deputy Director Bangladesh Financial Intelligence Unit (BFIU), Bangladesh.

Macao, China previously underwent an APG Mutual Evaluation from 4 - 15 December 2006, conducted according to the 2004 FATF Methodology. The evaluation report is available at [www.apgml.org](http://www.apgml.org).

Macao, China's Mutual Evaluation adopted in July 2007 concluded that the country was compliant with seven Recommendations; largely compliant with 19; partially compliant with 22; and non-compliant with one. Macao, China was rated compliant or largely compliant with 10 of the 16 Core and Key Recommendations.

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1. The Macao Special Administrative Region of the People's Republic of China, hereinafter referred to as "Macao, China" is located on the south east coast of China, bordering China and the South China Sea. It consists of the Macao Peninsula and the islands of Taipa and Coloane which have been linked by landfill, forming an area known as Cotai. Macao, China covers an area of only 30.5 km<sup>2</sup>, with an estimated population of 644,900 at the end of 2016 of which 27.5 per cent are foreign workers. Macao, China is very densely populated, with 21,400 inhabitants per square kilometre. The official languages are Chinese and Portuguese, with English also being widely used.

2. The Basic Law is the primary law in Macao, China. It came into effect on 20 December 1999 when China resumed sovereignty over Macao, China. It enshrines several principles, policies and provisions under the principle of "One country, two systems." Under the Basic Law, Macao, China exercises a high degree of autonomy, except in defence and foreign affairs, and enjoys executive, legislative and independent judicial power. Macao, China is able to formulate its own monetary and financial policies, issue and manage its own currency, maintain a separate customs territory and a free port, and determine its own taxation policy. The Basic Law determines when and how Macao, China can negotiate and conclude certain international agreements on its own, or participate in certain international organisations.

3. Macao, China's legal system is based on the continental Roman-Germanic family of law and heavily influenced by Portuguese law. There is no doctrine of binding precedent but the court's decisions are compulsory for all public and private entities and override the decisions of any other authorities.

4. The GDP for 2015 was MOP368.73 billion (US\$46.14 billion), representing a year-on-year decrease of 20.3 per cent in real terms. GDP per capita was MOP574,790 (US\$71,858). The economic contraction was mainly due to a 33.4 per cent decrease in exports of gaming services, which is the dominant sector in Macao, China. However, in late 2016, this downturn was reversed because of the increase in the mass market vis-à-vis the VIP market.

### *ML/TF Risks and Scoping of Higher-Risk Issues*

#### *(a) Overview of ML/TF Risks*

5. This section of the report presents a summary of the assessors' understanding of the ML and TF risks in Macao, China. Overall, the assessment team considers foreign proceeds arising from corruption, fraud and other crimes laundered through the gaming sector as Macao, China's main ML risk. This is consistent with Macao, China's NRA. The assessment team, however, considers that Macao, China is not used just as a 'transshipment port' or conduit to transfer overseas proceeds, but the jurisdiction is also an end destination.

6. Macao, China receives 30 million visitors a year to its casinos, mainly from China; Hong Kong, China; Japan; South Korea; Chinese Taipei and Thailand. Casinos are cash intensive and therefore at higher risk for ML. The gaming sector in Macao, China categorises the customers into two main types: mass gaming players and VIP players.

7. VIP players are further divided into premium players and junket players. Premium players are brought into casinos through direct marketing by gaming concessionaires/sub-concessionaires. These players are often granted gaming credits by the concessionaires/sub-concessionaires after

considering the financial capabilities of the players. Junket players are referred to the casino by junket promoters. Gaming concessionaires/sub-concessionaires contract with junket promoters and offer commissions and complimentary services such as hotels, transport, food and beverages within their casino properties to enable junket promoters to attract customers on their behalf. In 2014, gross revenue generated from VIP operations accounted for around 60 per cent of the total gaming revenue of casinos.

8. Mass gaming players are generally occasional customers, who play table games and slot machines on the mass gaming floors. Transactions in this segment are mostly cash-based, and CDD measures for occasional customers are based on the Report of Large Amount Transaction (ROVE) threshold, or a lower threshold set by the casinos. Since liberalisation of the gaming sector, gaming concessionaires and sub-concessionaires have been developing new casinos and large integrated-casino-resorts offering modern mass gaming facilities and non-gaming amenities that enhance the leisure experience of visitors to Macao, China. Marketing through loyalty programs for mass gaming players was common in casinos, with incentives in return for play also requiring CDD. The mass gaming markets have undergone market growth for more than ten years. In 2014 gaming gross revenue generated from mass players accounted for 40 per cent of gaming gross revenue – an increase from 23 per cent in 2003 when there was one gaming concessionaire in the market.

9. There is also no cross-border declaration or disclosure system in Macao, China. Moreover, for VIP (premium and junket) players there is no need to physically carry cash across borders as they receive gaming credit via casino chips gaming operations (including junket operators), and for those that do, there has been abuse of ATM cash withdrawals and fake transactions using payment cards to move funds into Macao, China without the need for physical carriage and/or declaration of cash across borders in their home jurisdictions. Macao, China has imposed measures to stop the abuse of payment cards, but the ML risk remains, albeit less. There are also mitigation measures in the gaming sector including threshold transaction reporting, but these are less robust among junket operators. These junket operators play a significant role in the VIP market as third party introducers, which has declined in recent years, nevertheless remains significant.

10. The real estate sector is also a risk as the second largest domestic sector, although only about one fifth the size of the gaming sector. The NRA assessed real estate, which until recently experienced rapid growth, as exposed to increased ML risk due to inflows of overseas funds. The real estate market has experienced a downturn because of the significant drop in gaming revenue and macro prudential measures applied to cool the property market, which included limits on loan-to-value ratios and an additional 10 per cent buyer's stamp duty to corporate and non-resident buyers.

11. There are related domestic ML threats and risks associated with the dominance of the gaming sector in Macao, China such as organised crime, loan sharking for gambling activities, gaming-related illegal restraint/hostage taking, robbery/theft and sexual exploitation, which are also acknowledged in the NRA.

12. The assessment team considers that the organised crime risk is still significant. The NRA says little on organised crime risks or on the well-known regional crime syndicates likely to be targeting Macao, China to launder proceeds. This is despite yearly joint 'Thunderbolt actions' with police in Guangdong, China and Hong Kong, China that target cross-border Triad crimes and foreigners with Triad backgrounds. Given their well-documented role in illegal recovery of gaming debts (usury), and use of social and family networks through the region, organised crime, be it Triad or other forms, poses an ongoing risk. However, the NRA does not fully analyse the organised crime threat and there is limited information on their modus operandi in Macao, China.

13. The TF risk is considered low. There has been no terrorist incident and there is limited flow of funds to and from jurisdictions with high terrorism risks. In the last ten years, there has been no investigation or prosecution of terrorism or TF. There are some diaspora connections to high risk jurisdictions.

*(b) Country's risk assessment & Scoping of Higher Risk Issues*

14. Macao, China's identification and assessment of ML/TF risk rests mainly on its ML and TF 2015 NRA. The NRA commenced in January 2014 and was finalised in the last quarter of 2015. The NRA is the first all-sector risk assessment conducted in Macao, China. It follows on from thematic assessments done since 2010 on NPOs, alternative remittance systems (ARS), gaming and cross-border controls. The NRA comprises two threat Analysis Reports (ML and TF) and five Business Sector Risk Assessment Reports including Financial, Gaming, Real Estate, Dealers of High Unit Value Products (jewel/watch shops, pawn shops, car dealers), and Company Service Providers (Notaries, Legal and Accounting Professionals).

15. Macao, China assesses it is exposed to greater ML threats from laundering that uses the jurisdiction as an 'intermediary port' or transit through which to move proceeds generated overseas. As a high-level finding this is fairly reasonable given Macao, China's free port policy, rapid growth in visitors and migrants, and rise as the world's largest gaming centre. The NRA recognises that large capital inflows from neighbouring regions with comparatively high corruption crimes mean ML threats cannot be underestimated. The NRA also clearly identifies the lack of a cross-border declaration as a vulnerability and recommends that a declaration system be set up to address this gap.

16. The sectoral and TF assessments, along with the overall assessment of vulnerabilities, are the strongest parts of the NRA. It assesses each of the five sectors methodically, examining key risk categories (products, services, delivery channels, business operations, customers, compliance and transaction reporting). It frankly identifies gaps and makes logical recommendations to address vulnerabilities.

17. The NRA provides a reasonably sound assessment of the gaming sector's threats, vulnerabilities and risks, across all three tiers - concessionaire, sub-concessionaire and junket promoter. It acknowledges gaps in implementation of existing AML/CFT measures and identifies risk factors via STRs and ROVE (threshold) reports. Overall, it identifies junket operators as high priority for further mitigation actions.

18. Although domestic crime is increasing, the authorities assess it as a low ML threat due to its less serious nature (mainly theft and robbery). The NRA's regional jurisdiction survey also identified fraud and gaming related crimes as the most common predicate crimes. Illicit drugs and swindling (a type of fraud) dominate the number and value of assets seized.

19. Macao, China assesses its TF risk to be low. Political stability and social harmony mean the risk of home-grown terrorism and its financing is negligible. Authorities consider the rapidly growing number of non-resident migrant workers from jurisdictions with terrorism problems, mainly in Southeast Asia, poses a potential risk but this too is assessed as low. The assessment rests on a thorough analysis of potential risk factors. Notably the authorities compare migrant numbers with inward and outward funds flows with jurisdictions with high terrorism risks, to show low likelihood of international TF. Trade-based proliferation financing and FATF 'black list' jurisdiction risks are also assessed. Adequacy of supervision, preventive measures, border inspections, NPOs and international cooperation including among counter-terrorism (CT) authorities are assessed, with a small number of areas for improvement identified. The main recommendations concern risk-based regulating and

outreach to NPOs and raising PSP awareness of TF risks and the need for strong immigration controls. Macao, China provides a good example of how a jurisdiction with inherently low terrorism and TF risks should go about identifying and assessing TF risks.

20. Overall, the NRA employed a generally sound framework and reasonably assesses ML and TF and a number of specific sectoral risks. Its overall assessment of vulnerabilities leads into sound recommendations to address a number of gaps. However, the NRA did not go as far as it could to assess crime threats and overseas ML risks or identify how the barriers to assessing those issues create intelligence gaps that need to be addressed. A deeper understanding of the risks related to real estate and from overseas proceeds, domestic fraud and illicit drug crimes needs to be built. Moreover, some of the more salient points in the NRA on the gaming sector and offshore illicit proceeds could also have been better woven together and stated clearly in the overall conclusion in the executive summary.

*(c) Scoping of Higher/Lower-Risk Issues*

21. During the mutual evaluation on-site visit the assessment team focussed on the following higher risk and lower risk areas, based on material submitted by Macao, China and from open sources:

- **Foreign proceeds/International cooperation:** Given the NRA concludes that foreign proceeds are the major risk to Macao, China, the assessment team focused on how effectively Macao, China responded and sought international cooperation on ML and predicate offences across all competent authorities, and challenges to prosecuting foreign proceeds ML cases. These included issues associated with the abuse of payment cards to move funds into Macao, China.
- **Organised crime:** The team sought additional information on the pattern of organised crime, particularly the Triads in the gaming sector, and mitigating actions undertaken by authorities.
- **Corruption (foreign and domestic):** The team clarified and obtained further information on major domestic corruption cases, the role of CCAC vis-à-vis the MP and PJ, and the mandate of agencies on foreign corruption proceeds.
- **Gaming sector/junket operators/collaborators:** The team aimed to better understand the evolving threats and risks, and mitigation measures (including by the financial supervisor and FIs), in the gaming sector arising from significant recent and longer-term structural changes in the sector.
- **Real estate sector:** The team sought clarification of the ML risks in the real estate sector, particularly the pattern of foreign and domestic ownership, natural persons and legal persons, in the context of a decline in the sector with the significant fall in GDP (gaming revenue) in recent years.
- **Legal persons:** Authorities were interviewed on ML/TF risks, information on beneficial owners and challenges associated with legal persons owned by entities incorporated offshore.
- **Operational coordination (domestic):** The team tried to identify the nexus with implementation of the FATF standards and challenges to domestic coordination.
- **Terrorism/TF risks:** The assessment team probed the ability of competent authorities to respond to a TF incident, if one arose, and while the team acknowledges the TF risk is low, whether the relevant competent authorities are vigilant in identifying potential TF markers or

cases. The team also sought additional information and meetings on the NPO sector, including those NPOs at risk and any mitigation measures undertaken by authorities.

- **Proliferation financing:** The team met with authorities to understand how the new Asset Freezing Coordination Commission works and how authorities could share sensitive information with FIs on issues of concern.

### Materiality

22. The gaming sector dominates the economy, either directly or indirectly. In 2013, gaming accounted for approximately 64.7 per cent of GDP, and in 2015 gaming-related taxes formed 77.1 per cent of total government revenue. According to figures provided by DICJ and the Statistics and Census Service (DSEC), the gaming industry's total gross revenue in 2015 was MOP230.84 billion (US\$28.85 billion), ranking No. 1 in the world despite sluggish performance. The sector contributed MOP89.572 billion (US\$11.197 billion) in direct tax. The industry's gross income for the first six months of 2016 was MOP107.787 billion (US\$13.473 billion), and gaming tax revenues totalled MOP42.036 billion (US\$5.255 billion).

23. In 2015 Macao, China's visitor arrivals stood at 30.7 million, a decrease of 2.6 per cent. The number of day-trippers totalled 16,406,861, accounting for 53.4 per cent of the total number of visitor arrivals, with an average stay of 1.1 day. Most are from China via the land border crossing or via ferry from Hong Kong, China. There is a small international airport that services regional flights to other destinations in Asia.

24. Approximately 20 per cent of the population is comprised of non-resident workers from China; Hong Kong, China, Portugal and nearby Asian countries. Some come from Southeast Asian countries with terrorism risks.

25. Macao, China is a free trade port. There is no cross-border declaration or disclosure system. Arrivals from China and Hong Kong, China are visa free if they possess the correct identification documents. China and Hong Kong, China are the two dominant trading partners accounting for over 95 per cent of exports and imports.

**Table 1: Macao, China Exports top five jurisdictions by value (according to UN COMTRADE database)**

	Value	Percentage	Year
Hong Kong, China	US\$640.99M	75	2015
China	US\$169.07M	20	2015
Japan	US\$12.98M	1.5	2015
Malaysia	US\$6.45M	0.76	2015
Germany	US\$4.04M	0.47	2015

**Table 2: Macao, China Imports top five jurisdictions by value (according to UN COMTRADE database)**

	<b>Value</b>	<b>Percentage</b>	<b>Year</b>
Hong Kong, China	US\$8.52B	80	2015
China	US\$1.59B	15	2015
United States	US\$103.36M	0.97	2015
Saudi Arabia	US\$54.2M	0.51	2015
Japan	US\$48.81M	0.46	2015

### *Structural Elements*

26. The main structural elements for an effective AML/CFT system are in place in Macao, China. There is political and institutional stability; with accountability, integrity, and transparency mechanisms for key institutions. There is an independent judiciary, an anti-corruption agency, and a commission of audit. There is due process and rule of law.

### *Background and other Contextual Factors*

#### *(a) AML/CFT strategy*

27. Macao, China's AML/CFT/PF Strategic Plan 2016-2020 was formulated based on the 2015 NRA. The Strategic Plan lists the major threats identified by the NRA as well as potential threats. It includes a table of prioritised strategic goals and a table of other strategic goals which summarises the goals, action plans, responsible agencies and the time frame.

#### *(b) Legal & institutional framework*

### **Legal and law enforcement**

28. **The Public Prosecutions Office (MP):** The MP, as a judicial institution vested with independent prosecutorial powers, has as its duties in the field of combat and prevention of crimes including ML, to conduct criminal investigation, institute criminal prosecution and to promote criminal trial procedures as well as the prevention of crimes. It is also the central authority for MLA.

29. **Unitary Police Services (SPU), Judiciary Police (PJ) and Public Security Force (PSP):** In order to avoid the overlapping of competencies between the different law enforcement agencies, in the security area, and taking into consideration legal and administrative and political advantages, the competence for the fight against ML and TF has been attributed to the SPU as the command and operational director and to the PJ as the investigatory agency.

30. Law 5/2006 on Organization of Judiciary Police empowers the PJ with a special function to investigate ML, TF and related crimes. This is to cope with investigation work under Law No. 2/2006 on Prevention and Repression of Money Laundering and the AML/CFT measures of Administrative Regulation No. 7/2006. The PJ has specifically set up the Money Laundering Related Crime Division to focus on the investigation of such crimes.

31. The PSP is responsible for maintaining public security in Macao, China. It has an immigration department responsible for incoming/outgoing visitors and residents.

32. **Macao Customs Service (SA):** Customs plays an assisting role in combating ML/TF. Based on Law No. 5/2006 (Competency and Authority of Judiciary police), if SA discovers or suspects ML/TF activities in the checkpoints, it will transfer the case to the PJ.

33. **Commission Against Corruption (CCAC):** The CCAC is granted the power to investigate domestic corruption crimes and may investigate any ML activities associated with domestic corruption.

### Financial sector bodies

34. **Monetary Authority of Macao (AMCM):** Under Law No. 2/2006 and Law No. 3/2006 as well as the supplementary Administrative Regulation, all FIs under the supervision of the AMCM are subject to the legal requirements to carry out CDD measures for AML/CFT purposes and to report suspicious transactions when detected.

35. Article 7 of Law No. 2/2006 and Article 3 to 8 of Administrative Regulation No. 7/2006 state the duties of FIs under the supervision of AMCM including the identification of customers and contract parties, identification of the nature, purpose, source of funds and amount of transactions performed, refusing transactions without adequate information for CDD, record keeping and reporting of suspicious transactions.

### DNFBP and other matters

36. **Commercial and Movable Property Registry (CR):** The CR is responsible for the implementation of the Commercial Registration Code (Decree Law 56/99/M) which governs company registration in Macao, China. Company registration information is publicly available on application.

37. According to the Civil Code (Decree Law 39/99/M), Sections I and II of Chapter II of Book I (Articles 140 to 185), the following types of legal persons can be set up in Macao, China:

- associations;
- foundations;
- societies (which can be incorporated as civil or commercial).

38. The different types of commercial companies and their incorporation process are regulated by the Commercial Code (Decree Law 40/99/M). In Macao, China it is possible to incorporate 5 types of companies:

- (a) General Partnerships (Article 331-347 of Commercial Code)
- (b) Private Companies (Article 356-392 of Commercial Code)
- (c) Public Companies (Article 393-472 of Commercial Code)
- (d) Limited Partnerships (Article 348-355 of Commercial Code)
- (e) Partnerships limited by shares (Article 348-355 of Commercial Code)

39. **Gaming Inspection and Coordination Bureau (DICJ):** The DICJ is the regulatory agency that has the competence to apply administrative penalties to the gambling concessionaires when they do not comply with the AML/CFT obligations according to Articles 9 and 10 of Administrative Regulation No. 7/2006.

40. **Legal Affairs Bureau (DSAJ):** The notaries-public and private and registrars are under the scope of the preventive obligations and are under the supervision of the DSAJ. The Legal Affairs Bureau has the power to enact instructions to better define the preventive obligations and to establish procedures for the fulfilment of those obligations in order to achieve its effectiveness.
41. **Economic Services Department (DSE):** Administrative Regulation No. 7/2006, point 6 of Article 2, DSE regulates DNFBPs such as real estate agents, dealers in precious metals, dealers in precious stones, dealers in luxury transport vehicles, pawnshops, and company services providers. DSE has already issued a series of guidelines to these entities for their detection and reporting of ML activities.
42. **Committee for the Registry of Auditors and Accountants (CRAC):** Under Chief Executive Order No. 2/2005, auditors and accountants are under the supervision of CRAC which directly reports to the Director of Financial Services Bureau (DSF). CRAC is a commission with some representation of the profession and of academic institutions. It functions directly under the authority of the Finance Department Director exercising directly a public authority like that of a government supervisor. By this order, CRAC is authorised to propose sanctions or revocations on auditors and accountants for any infringements. Article 44 of the Statute of Auditors (approved by Decree Law No. 71/99/M) and Article 25 of the Statute of Accountants (approved by Decree Law No. 72/99/M) stipulates that auditors and accountants must comply with the guidelines issued by CRAC.
43. **Trade and Investment Promotion Institute (IPIM):** Article 2 of the abovementioned Administrative Regulation also authorises the IPIM to supervise and monitor the compliance of offshore non-financial entities in AML/CFT measures.
44. **Financial Services Bureau (DSF):** Under the DSF Decree Law 30/99/M the Financial Services Bureau guides, coordinates and supervises the financial activity of the public administrative sector of Macao, China. The DSF focusses on tax issues including accounting.
45. **Identification Services Bureau (DSI):** Under Decree Law No. 39/98/M Article 2 the DSI is authorised with coordination and execution operations relating to the identification of Macao, China residents, including updating the registration of non-profit legal persons.
46. **The Macao Lawyers Association (AAM):** This is the chief supervisory body of the lawyers in Macao, China which supervises the lawyers with the 'General Clauses of Lawyers' approved by Decree Law 31/91/M. The AAM is a public professional association fitting the definition of an SRO for the purposes of application of international standards.
47. **Independent Commission for the Exercise of Disciplinary Power over Solicitors (CIEPDSS):** Under the Guidelines on Combating Money Laundering and Terrorism Financing for solicitors, effective from 12 November 2006 (CIEPDSS AML/CFT Guideline), the CIEPDSS is responsible for supervising solicitors. By article 2 of Administrative Regulation No. 7/2006, solicitors are obliged to comply with the requirements issued by the Independent Commission for the Exercise of Disciplinary Power.
48. **Housing Bureau (IH):** The IH is the competent authority for licensing and supervising the operation of real estate intermediary activities, as set out in Administrative Regulation No. 4/2013. All real estate agents and intermediaries must be registered with the IH. They are subject to an entry exam and required to pass "fit-and-proper" tests to obtain a license to carry out real estate intermediary activities. IH has the power to apply administrative sanctions regarding licensing

matters under Chapter 4 of Law No. 16/2012 and Chapter 4 of Administrative Regulation No. 4/2013. However, it is not a designated AML/CFT supervisor.

### **Proliferation financing**

49. Macao, China established the Asset Freezing Coordination Commission under the Asset Freezing Law 2016 to advise the chief executive on designations and coordinate its members' work (SPU, SA, PJ, MP, AMCM, DSAJ and GIF). While it is early days, members have agreed to internal procedures, information sharing and a work program. This includes a study on ways to apply an RBA to inspect goods and monitor suspicious transactions. Its findings will be important to enable the authorities to set up the freezing framework to target resources effectively.

#### *(c) Financial sector and DNFBPs*

50. Macao, China has become the world's largest gaming market, with a gross revenue of MOP230.84 billion (approximately US\$28.8 billion) in 2015. As noted above, in 2015, gaming-related taxes formed 77.1 per cent of total government revenue. The sector has experienced significant structural changes in recent years with declining gaming revenue and an increase in the mass market vis-à-vis the VIP market. In 2013, gaming accounted for approximately 64.7 per cent of GDP and gaming-related tourism is a mainstay of the economy. According to information published by DSEC for the year 2013, the service sector (including gaming, financial services, wholesale and retail, hotels, food and beverage, transport services etc.) accounted for 99.4 per cent of the GDP (calculated based on the Production Approach).

51. One company was granted a monopoly concession for operating all forms of approved casino games in 1930 and the casino monopoly concession was granted to the company in 1937. In 1962 a new company was given the monopoly rights to all forms of gambling. The company dominated the gaming market in Macao, China for over 40 years. The licence expired at the end of 2001 and was extended until the end of March 2002 when the first gaming concessionaire started to operate.

52. In March 2002, the Macao, China government ended the monopoly system for gambling rights, eventually granting six casino operating concessions and sub-concessions. As of the third quarter of 2016, there were a total of thirty eight casinos in Macao, China. Among the total number of casinos, one company had twenty casinos; a second company had six casinos; a third company had five casinos; a fourth company had four casinos; a fifth company had two casinos; and a sixth company had one casino.

53. 2014 saw the decline of gross revenue from the most popular game, VIP baccarat, with a number of other games of fortune following suit. Both the global financial crisis, with a drop in the value of the currency, and an anti-corruption drive by China are thought to have contributed to a fall in revenue. Macao, China is further exploring the potential of the mass market, and on increasing non-gaming leisure facilities, in looking for more economic diversity.

54. The real estate sector, which until recently experienced rapid growth, is the second largest sector, accounting for 8.3 per cent of Macao, China's GDP in 2013. A majority of real estate transactions (about 90 per cent) were for building units, with land trading accounting for less than 10 per cent. Most real estate transactions were carried out by local Macao, China residents.

55. Macao, China is regarded as an externally-oriented financial centre because the ratio of foreign assets/liabilities exceeds domestic assets/liabilities in the banking sector. The February 2017 IMF Country Report No. 17/50 states that when foreign liabilities and assets are included, the banking

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sector accounts for 375 per cent of GDP. All 29 licensed banks, of which 19 are branches of foreign banks, seven are subsidiaries of foreign banks, and three are local banks, are subject to full AML/CFT requirements. As detailed in the table below, non-bank deposits come from non-resident personal or corporate customers from nearby jurisdictions (especially Hong Kong, China and China). The majority of them are from corporate customers, in which the corporation itself or the business group that the corporation belongs to has a business relationship with Macao, China banks.

**Table 3: Foreign liabilities of banking sector**

<b>Composition of foreign liabilities of banking sector</b>	<b>Dec 2016</b>
Deposits from banks within the same group	41.6%
Deposits from banks not within the same group	7.9%
Deposits from non-bank financial institutions	5%
Deposits from non-bank	43.7%
Others	1.8%
<b>Total foreign liabilities</b>	<b>100%</b>

56. Other FIs constitute only a tiny portion of the financial sector in Macao, China, with their total assets at the end of 2014 amounting to MOP1.3 billion (US\$0.16 billion).

57. The dealers of goods of high unit value (precious items) sector consists of jewel/watch shops, pawn shops, and car dealers and constitutes around 2 per cent of Macao, China's GDP.

58. According to information published by the DSEC for the year 2013 (based on the "Production Approach"), total premiums for the insurance industry accounted for 1.2 per cent of Macao, China's GDP, with around 70 per cent of premiums generated by life insurance business and the remaining 30 per cent by non-life business. The AMCM-Insurance Supervision Department (DSG) has laws, regulations, notices, and guidelines in place to ensure the financial stability and healthy development of the insurance sector.

59. In Macao, China notaries and registrars are the key providers of company formation services as they are required to validate and register most acts involving legal persons as required in the Notary Code and the Commercial Registration Code. Lawyers, notaries and registrars providing company formation services are subject to AML/CFT guidelines issued by their respective supervisory authorities (AAM and DSAJ) and failure to comply with AML/CFT preventive measures may lead to the imposing of sanctions. They have a reasonable grasp of ML/TF risks and AML/CFT requirements.

60. Public accountants can also provide company formation services, but cannot provide the certifications required as noted above. According to information provided by DSF, the number of registered accountants and auditors from 2011 to 2016 is as follows.

**Table 4: No. of accountants and auditors**

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Registered auditors</b>	111	110	113	114	114	116
<b>Registered accountants</b>	160	169	172	175	180	185
<b>Registered audit firms</b>	12	13	13	13	14	14
<b>Registered accounting firm</b>	-	-	-	2	2	2

61. The DSAJ has supervisory powers over both public and private notaries. The licensing requirements for private and public notaries are governed by Decree Law No. 54/97/M and Decree Law No. 66/99/M.

62. All private notaries are also registered lawyers and thus are also subject to supervision by the AAM, which is a self-regulatory organisation (SRO).

**Table 5: No. of public notaries and private notaries**

	2011	2012	2013	2014	2015	2016
<b>Public notaries</b>	3	3	3	3	3	3
<b>Private notaries</b>	55	55	56	56	57	55

63. IPIM provided data on offshore companies providing company services as follows.

**Table 6: Offshore companies providing company services**

	2011	2012	2013	2014	2015	2016
<b>Offshore companies providing company services</b>	6	6	6	6	6	5

64. AAM provided data on registered lawyers and apprentices as follows.

**Table 7: No. of registered lawyers and apprentices**

	2011	2012	2013	2014	2015	2016
<b>Registered lawyers</b>	231	249	284	302	344	359
<b>Apprentices</b>	111	105	109	110	109	109

65. As at the end of 2016 the lawyers and apprentices were concentrated in 87 law firms under their own names or in partnerships.

*(d) Preventive measures*

66. The overarching AML/CFT legislation laying down the framework under which FIs operate in Macao, China are the Financial Systems Act, Decree Law No 32/93/M (FSA), and the Macao Insurance Companies Ordinance, Decree Law 27/97/M (Macao Insurance Ordinance), AML Law 2/2006 (AML Law) and CFT Law 3/2006 (CFT Law). Further, Administrative Regulation 7/2006 on Preventative measures for the crimes of ML and TF (AML/CFT Administrative Regulation 7/2006) has been made pursuant to article 8 (1) of the AML Law and Article 11 of the CFT Law. AML/CFT Administrative Regulation 7/2006 regulates the duties of banking, other financial sector institutions and the insurance sector which are under the supervision of the AMCM. Those subject to supervision of the AMCM include credit institutions, financial companies, offshore financial institutions, insurance companies, money exchangers, exchange counters, remittance companies, financial intermediaries and financial leasing companies. Two guidelines have been issued by the AMCM. These guidelines are the AMCM AML/CFT Guideline for Credit Institutions and other FIs (effective November 2016) and the AMCM AML/CFT Guideline in Insurance (effective from November 2016). Both are updated versions of the two earlier guidelines that came into effect on 8 July 2016 and 2

January 2015 respectively to reflect the 2012 Revised FATF Recommendations and which superseded earlier enforceable guidelines promulgated in 2009 and 2008. These two guidelines issued by the AMCM are “enforceable means”.

67. For the DNFBPs, the AML/CFT legislation that applies is the AML Law, CFT Law, and AML/CFT Administrative Regulation 7/2006. Specifically, those sectors covered by these provisions include gaming, auditors, accountants, tax advisors, lawyers, solicitors, notary and registrars, real estate agents, traders of goods of high unit value, and company service providers.

68. In acknowledgement of the ML risks of other sectors, Macao, China has subjected junket operators and high-value dealers (jewel/watch shops, pawn shops and car dealers) to the AML/CFT regime since 2006 and the latest enforceable means (see below) apply to these designated sectors.

69. Supervisory authorities governed by these laws are responsible for the implementation of the prerequisites contained in the AML/CFT Administrative Regulation 7/2006 as well as the systematisation of the procedures for compliance with these duties through instructions or guidelines. These instructions or guidelines are “enforceable means” and include:

- DICJ Instruction No.1/2016 – Preventive Measures for Anti-Money Laundering and Combating Financing of Terrorism issued for the Gaming Sector, effective from 13 May 2016 (“DICJ AML/CFT Guideline”);
- DSF Instruction – Guidelines for the Preventing and Suppression of Money Laundering and Financing of Terrorism for Auditors, Accountants and Tax Advisers, effective from 1 March 2016 (“DSF AML/CFT Guideline”);
- DSE Instruction - In Respect of General Procedures to be adopted with a view to Prevent Money Laundering Crimes and Financing of Terrorism in the Real Estate, Service Provider and Traders in Goods of High Unit Value sectors, effective from 26 May 2016 (“DSE AML/CFT Guideline”);
- AAM Instruction 1/2006 - Instructions Regarding the procedures to be adopted in order to comply with duties regarding the Prevention of Money Laundering and the Financing of Terrorism for Lawyers, effective from 12 November 2006 (“AAM AML/CFT Guideline”);
- DSAJ Instructions – On Anti- Money Laundering and Countering Financing of Terrorism for Notaries and Registrars, effective from 1 September 2016 (“DSAJ AML/CFT Guideline”);
- IPIM Circular 01/DSO/IPIM/2015 – Preventive Measures on Anti-Money Laundering and Combating the Financing of Terrorism for Off Shore Institutions, effective from 1 January 2016 (“IPIM AML/CFT Guideline”);
- CIEPDSS Guidelines on Combating Money Laundering and Terrorism Financing for solicitors, effective from 12 November 2006 (“CIEPDSS AML/CFT Guideline”).

*(e) Legal persons and arrangements*

70. According to the Commercial Code (Decree Law 40/99/M), the types of legal persons which can be set up in Macao, China are (a) General Partnerships; (b) Private Companies; (c) Public Companies; (d) Limited Partnerships; and (e) Partnerships limited by shares. The Civil Code (Decree Law 39/99/M) allows for associations, foundations, and societies (civil or commercial) to be set up as legal persons.

71. Under the present legal regime, trusts and legal arrangements may not be set up in Macao, China. The trust management regulated by the Law on Macao Offshore Activity, Decree-Law No. 58/99/M (Article 30 onwards), is limited to offshore business. The offshore trusts must be authorised to exercise their activity in Macao, China and be registered with the AMCM. Under Articles 46 and 48 in the Law on Macao Offshore Activity, trust companies are required to obtain and hold (as part of the trust deed) information on the identity of the settlor, trustee(s), the protector, and the beneficiaries or class of beneficiaries. In practice, no offshore trust has been established in Macao, China.

72. Although domestic trusts and legal arrangements may not be set up under the laws of Macao, China to operate in the jurisdiction, there are foreign trusts/trustees present, although very few according to the AMCM. They are subject to the AML/CFT preventive measures for FIs, notaries, trustees and (where applicable) other DNFBPs.

**Table 8: Number of registered companies formed that are not under dissolution status (by CR)**

Overall information on All Locally Registered Companies	As at end of 2016
Natural person sole-proprietorship	22,688
Company with unlimited liability	3
Limited companies	55,040

*(f) Supervisory arrangements*

73. The DICJ is the regulator for casino games of fortune. Its responsibilities include supervising concession compliance, junket licensing, and sector compliance with AML/CFT laws and regulations. Under a concession regime, all concessionaires/sub-concessionaires have equal importance in the DICJ supervision model. Accordingly, reviews are carried out on an industry-wide basis over all six concessionaires/sub-concessionaires. Reviews of junket promoters are conducted on a batch basis based on the concessionaire/sub-concessionaire they operate with. Because there is joint liability, deficiencies identified in individual junket promoters will also affect the risk management and supervision by the related concessionaires/sub-concessionaires and may lead to control deficiencies of the concessionaires/sub-concessionaires.

74. The AMCM is the overall competent supervisory authority for the financial sector, which is comprised of banking, insurance and other FIs. There is no distinction between offshore and onshore supervision. It exercises its supervision through the AMCM-Banking Supervision Department (DSB) and AMCM-DSG. The DSB is responsible for the supervision of the banking and other financial sectors, which include money changers, exchange counters, cash remittance companies, financial intermediaries, a finance company, a financial leasing company, and a stored value card issuer. DSG oversees the insurance industry.

75. The AMCM has a broad range of powers under Articles 6 and 8 of the FSA and Articles 6 and 10 of the AMCM Law to supervise and monitor compliance of FIs in Macao, China with AML/CFT requirements. Under paragraph 2 of Article 2 of AML/CFT Administrative Regulation, the AMCM is also able to issue AML/CFT guidelines to FIs for observance.

76. The DSE, IH, and DSAJ have been working together to exercise continuous supervision over the real estate sector. The competent supervisory authorities have established cooperation mechanisms as well as communicated AML/CFT related issues in the AML/CFT WG.

77. The DSE is the designated AML/CFT supervisor and has the supervisory power to monitor the dealers of goods of high unit value sector, which includes not only precious stones and metals, but also pawnshops and high value vehicles. Supervision includes on-site inspections based on tax data and intelligence from the DSF and the GIF, respectively. Through its membership in the AML/CFT WG, the DSE also maintains close communication with other government agencies in order to better understand ML/TF risks and trends.

78. In Macao, China company service activities are carried out by legal and accounting professionals and a few offshore companies. This sector is collectively regulated by AAM, DSAJ, DSF and IPIM. Supervision consists mainly of issuing AML/CFT guidelines and performing on/off-site inspections.

*(g) International Cooperation*

79. The LEAs, GIF, and competent authorities have established various channels for sharing intelligence with overseas counterparts including formal international cooperation. Courts and MP conduct formal international cooperation through MLA. In addition to the international cooperation legal framework provided by Law No. 6/2006, further progress has been made for the regulation of judicial cooperation in criminal matters. In particular, arrangements for MLA in criminal matters and on the Surrender of Fugitive Offenders with Hong Kong, China are expected to be concluded within 2016 and negotiations with China on a similar arrangement on the surrender of fugitive offenders are ongoing.

80. Macao, China has ten MLA agreements/arrangements with various jurisdictions, including Portugal; China; Hong Kong, China; East Timor; Mongolia and Cape Verde. In addition, a further five MLA agreements are currently being prepared. Two bilateral cooperation agreements with the Republic of Korea are being negotiated.

## CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### *Key Findings and Recommended Actions*

#### **Key Findings**

- The 2015 NRA provides a foundation for Macao, China's understanding of its ML/TF risks and to address key vulnerabilities as the jurisdiction's AML/CFT strategic plan demonstrates. Overall, the authorities see the transfer of proceeds from overseas crime as exposing Macao, China to greater ML risks than domestic crime. Supervisory authorities, LEA and GIF demonstrate a reasonably sound understanding of risks involving the gaming and financial sectors, particularly high-risk junkets. However, the authorities have an uneven understanding of major risks related to regional organised crime, cross-border movements and corruption.
- In contrast, the authorities have a sounder understanding of TF risk which they assess as low. The NRA offers a useful model for assessing TF in jurisdictions with low terrorism and TF risk.
- Private sector understanding of ML risks is generally sound and consistent with the NRA but needs to be improved for junket promoters, the real estate sector, and dealers of precious stones and precious metals.
- The new freezing law, proposed amendments to the AML/CFT laws and tighter supervision measures demonstrate the strengths of the 2016 AML/CFT and CFP plan. However, the plan does not provide adequate direction for LEA to adopt a risk-based approach for ML investigations.
- Supervisory authorities have enhanced procedure and guidance in line with the strategic plan. GIF's central policy role and strategic intelligence supports supervisors to monitor their sectors and has raised private sector risk awareness. Limited focus on cross-border regional crime trends due to secrecy protocols on using police intelligence has hindered GIF's strategic intelligence, as gaps in understanding the main foreign ML risks indicate.
- LEA investigations of ML generally do not match the risk profile and demonstrate a risk-based approach has yet to be translated into practice. The new parallel financial investigations mechanism in PJ is a promising step but the very few investigations conducted to date show progress is limited. These operational shortcomings undermine efforts made in other areas.
- Coordination measures have proven mainly effective for strengthening policy, developing annual plans, raising AML/CFT awareness among agencies and the recent NRA. Coordination between GIF, LEA and supervisors is generally effective. The new Asset Freezing Coordination Commission involves relevant agencies but it is too early to assess its effectiveness.

#### **Recommended Actions**

- Undertake a more in-depth risk assessment of regional crime threats and cross-border proceeds movements to improve the understanding of how Macao, China may be used as a ML transshipment hub and the impact of transnational crime and foreign corruption on its ML environment. Develop a clearer and common understanding of domestic crime and real estate related ML risks. Employ more qualitative analysis to complement quantitative approaches used

in the NRA consistent with FATF guidance.

- Update the yearly strategic plan to provide explicit direction and a timeframe for LEA to properly implement a risk-based approach to ML investigations.
- Continue to progress with establishing a centralised database to monitor AML/CFT trends, support risk assessments and measure performance.
- Strengthen criminal intelligence sharing with GIF to improve operational cooperation and GIF strategic analysis particularly of regional cross-border threats. SPU and GIF should explore ways to increase use of the classified yearly regional crime trends reporting to improve understanding of regional and cross-border risks.
- Engage with global partners to keep updated on TF typologies and risks, including current low-value TF trends related to countries Macao, China identifies as high risk.

81. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R.1-2.

### ***Immediate Outcome 1 (Risk, Policy and Coordination)***

#### *Country's understanding of its ML/TF risks*

82. Macao, China should be commended for the time and effort invested in its first NRA. Completed at the end of 2015, the NRA reflects strong planning, good coordination and the involvement of all relevant agencies and the private sector. It builds on earlier thematic assessments on gaming, NPOs, alternative remittance systems, and cross-border controls that prepared the ground for understanding risk in those sectors. The NRA takes a major step forward in scope as an all-sector risk assessment. It provides a foundation for Macao, China's understanding of its ML/TF risks, with recommendations to address a number of vulnerabilities and gaps. It also offers a useful model for assessing TF in jurisdictions with low terrorism and TF risks.

83. However, in places the NRA overly relies on measurable quantitative data or international trends to assess and weight risk, rather than police intelligence, regional crime trends and qualitative judgement. While funds flows and vulnerabilities are detailed, less attention is paid to major crime threats. Secrecy restrictions limited the NRA's use of police analysis of foreign crime threats, but the assessors consider more could have been done to sanitise and use this information to deepen the threat picture. Overall, the NRA assesses the transfer of proceeds from overseas crimes as exposing Macao, China to greater ML threats than domestic crimes.

84. The authorities generally demonstrated a sounder understanding of a number of major threats from overseas criminal proceeds and laundering activity than is contained in the NRA. Fraud poses a serious risk with foreign criminals targeting residents while overseas groups (particularly European) use shell companies and third parties to launder proceeds of foreign fraud crimes. Proceeds of gaming crimes also mainly involve foreign syndicates and victims. The authorities consider Macao, China is used mainly as a 'transshipment port' or conduit to transfer overseas proceeds. The NRA does not elaborate on how the jurisdiction is exploited as a conduit but the authorities pointed to funds flow and case analysis to show foreign fraud and some corruption

proceeds are generally laundered back to their place of origin. However, recent capital flight from China is more likely to be spent on gaming and high-value goods in Macao, China or moved to third countries than returned to China. A significant percentage of overseas funds remain in Macao, China as revenue.

85. The NRA only goes as far as saying the risk from high corruption in the region ‘cannot be underestimated’, but in discussion the authorities assessed both foreign and domestic corruption risks as high. The lead agencies (GIF, PJ, DICJ and AMCM) have a good grasp of the main typologies and channels used to move corrupt funds into Macao, China. However, based mainly on STRs, the NRA surprisingly ranks Thailand and the Philippines above China as the main high risk jurisdictions for corruption. The large number of cases involving Chinese underground banking and open-source information suggest a different order. The authorities subsequently confirmed they prioritise and work closely with China to respond to corruption risks. The NRA implies domestic corruption risk is low due to limited cases but does not seem to take into account its consequences. Two major domestic corruption cases (see IO.7) highlight the jurisdiction’s exposure to large-scale, complex laundering from not only regional but also local corruption.

86. Authorities’ understanding of regional organised crime risks for ML varies. Yearly joint ‘Thunderbolt actions’ with police in Guangdong, China and Hong Kong, China target cross-border Triad crimes and foreigners with Triad backgrounds. This shows LEA recognise neighbouring organised crime threats but the focus is on predicate crime more than ML. Moreover, in meetings most authorities discounted the continuing presence or threat from Triad crime groups in or to Macao, China. LEAs appear to be targeting lower level, smaller crime groups, not major serious and organised crime syndicates. The NRA also says little on risks associated with organised crime or well-known regional syndicates. In view of the significant presence of Triads in the neighbouring crime environment, their well-documented role in illegal recovery of gaming debts (usury), and use of social and family networks through the region, the mixed understanding of organised crime is a gap.

87. The authorities recognise the need to address the absence of a cross-border declaration or disclosure system as a priority but understanding of cross-border risks is limited. The NRA briefly mentions cross-border risks. It does not explore cash smuggling threats or assess observed typologies. The NRA considers that random checks of cross-border cash movements, coupled with SA-PJ cooperation, serve to mitigate risks and identify criminal proceeds. The extremely low number of detected random cash courier reports (ranging from 3 to 16 a year, with a total of 54 for 2011 to September 2016) compared with the 30 million visitors a year – with an estimated 170,000 visitors and workers crossing the land-border daily – is clearly not likely to mitigate the level of risk or detect most criminal proceeds crossing the border.

88. The NRA identifies and assesses the level of ML/TF risks and vulnerabilities of legal persons and arrangements in some sectors. While the NRA collected information from the private sector on complex structures and high risk customers, it lacks an adequate assessment of foreign owned legal persons and legal arrangements that may be operating in the jurisdiction. Nevertheless, competent authorities did demonstrate an understanding of the risks of foreign owned legal persons and legal arrangements that may be operating in Macao, China.

89. Relevant authorities, particularly GIF and DICJ (gaming) and AMCM (banks, other FIs, insurance), demonstrated a sound understanding of risks involving the gaming and financial sectors. This is consistent with the NRA and earlier strategic analysis of gaming risks. It also reflects relatively strong regulatory oversight of the gaming sector’s three tiers (concessionaire, sub-concessionaire and

junket promoters). This includes a recognised need to apply stronger measures in light of the high priority the NRA gives to mitigating high-risk junkets.

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90. The authorities showed they understood many of the cross-sector risks between gaming and banking, including large cash transactions, cross-border movements, alternative remittance systems (ARS)<sup>2</sup> and new technologies in casinos (Ticket In/Ticket Out (TITO) and Electronic Table Games (ETG)). This is particularly important given the financial nexus between the two sectors, gaming's dominance of the economy and the combined ML risk the two sectors face. The authorities' understanding of risks between the gaming sector and high-value dealers (e.g. car dealers, pawn shops, jewellery/watch shops) has been sufficient to enable them to identify gaps and tighten controls.

91. For other sectors, the approach to understanding risks is mixed. For example, the authorities demonstrated a general understanding of real estate typologies and risk indicators. The NRA usefully identifies real estate sector vulnerabilities and recommends remedies. However, the NRA puzzlingly ranks real estate as the highest risk likelihood and consequence, ahead of the vastly larger and higher risk gaming sector (see R1.1).<sup>3</sup> Real estate is one example where international trends are given more weight than local factors. The authorities explained that policy outcomes to strengthen the sector shaped the rating of real estate risk. A sounder approach would have likely assessed real estate risk as lower than high but with vulnerabilities to warrant intended improvements.

92. As the real estate and corruption examples suggest, Macao, China is still developing and refining its approach to assess ML risks. PJ initially defined ML as low risk-based on relatively low numbers of ML investigations without considering the adverse consequences that even a limited number of ML cases can pose. More generally, the authorities argue that the economy's concentrated structure and relatively small sectors (apart from gaming) within the region make Macao, China unattractive as a place to store proceeds. This helps explain one of the major reasons why Macao, China is primarily used as an ML conduit. However, the authorities need to be careful to not underestimate the impact of incoming foreign proceeds on small sectors in the economy. Given the non-gaming sectors are small, relatively modest amounts of foreign proceeds pose proportionately significant risks as the number of real estate and property cases demonstrate.

93. In contrast to the above limitations with ML, the authorities have a sounder understanding of TF risk. The NRA assesses TF risk to be low. It rests on analysis of relevant potential risk factors such as growing migrant worker numbers from high-risk jurisdictions and low inward/outwards funds flows to those home jurisdictions. Regular assessments of NPO risk, including quarterly checks of NPO international transactions for any suspicious activity, support the low risk rating. The authorities recognise the need to regulate in a risk-based way NPO fund raising for the higher risk NPOs, engage in outreach to NPOs, improve PSP awareness of TF risk, and the importance of strong border controls to strengthen CFT measures. The authorities should also pay attention to the risks related to small amounts of potential TF commingled in normal funds flows and be careful not to conflate TF with the larger amounts of proceeds commonly associated with ML.

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<sup>2</sup> Macao, China uses ARS to refer to debit/credit cards, automated teller machines (ATMs) and cash deposit machines (CDMs). In this context, ARS does not refer to money transfer businesses or hawala-style dealers, as it is commonly used in other jurisdictions.

<sup>3</sup> For 2014, real estate amounted to USD 4.539 billion compared with USD 43 billion for casinos.

*National policies to address identified ML/TF risks*

94. Macao, China's yearly AML/CFT strategic plan serves as its main policy to address ML/TF risk. Yearly policy guidelines issued by the secretary for security also touch on ML, terrorism, AML/CFT and other crimes including high-risk predicates. While the guidelines distil the AML/CFT strategic plan at a high-level, they help guide resource allocation for measures identified in the strategic plan.

95. The 2016 strategic plan, which also embraces countering the financing of proliferation, mostly follows recommendations from the NRA. It expands on yearly plans issued since a 2010 gap analysis of Macao, China's compliance with the then FATF 40 + 9 Recommendations. The 2016 plan allocates measures to responsible agencies to address key gaps according to short-medium-long term timeframes (by 2016, 1-3 years, and 3-5 years). The plan has high-level political endorsement. It was presented to the Executive Council, the jurisdiction's legislature, and adopted by the Chief Executive.

96. The authorities explained the plan places urgency on remedying gaps including vulnerabilities identified in the NRA. The 2016 plan appropriately prioritises strengthening the preventive framework (e.g. revising the AML Law), revising supervision guidelines with enhanced CDD, allocating more resources to supervise high-risk entities, building a centralised crime database, and requiring the private sector to improve risk understanding and adopt stronger controls. Establishing a cross-border declaration system is a strategic priority. The plan also prioritises the AML/CFT Working Group (WG) to cooperate with more training to improve private sector risk awareness. The plan's focus on filling gaps in preventive measures means that in places urgency is given to matters not identified as high risk (e.g. adopting a freezing law although TF and PF are assessed as low risk).

97. Enhancing international cooperation is one of a number 'other strategic goals' under the plan. The authorities say this work is an ongoing priority and does not need to be elevated to the highest priority due to previous efforts made in this area. As noted in IO.2, the authorities have reviewed the MLA framework and intend to enter into more agreements. Operational cooperation with regional authorities, particularly the trilateral Thunderbolt actions, has helped to partly get around barriers to collecting foreign evidence by supporting action instead in China to prosecute cross-border crime. Moreover, the proposed amendments to the AML Law to remove the predicate-link hurdle to mounting ML prosecutions will, once enacted, enable the authorities to partly reduce the need to rely on foreign evidence to progress ML prosecutions. This pragmatic measure recognises the continued difficulties Macao, China would likely face with receiving adequate overseas evidence to prosecute ML.

98. One weakness in the strategic plan is the limited direction given to operational or investigation priorities to target high risks. The potential ML risks mentioned in the front of the plan relate only to financial services and entities but not to identified higher risk domestic or foreign proceeds-generating crimes. The plan assumes a risk-based approach has been put into operation but ML investigations generally do not match the risk profile or priority crime-types in PJ procedure. Questions about the understanding of risks among some LEA and their divergent views with the NRA cast further doubt on how far a risk-based approach will be implemented for investigations.

*Exemptions, enhanced and simplified measures*

99. Based on identified higher ML/TF risk, Macao, China has expanded the scope of the AML/CFT regime to cover junket promoters and high value dealers (jewel/watch shops, pawn shops

and car dealers), which are subject to CDD requirements and AML/CFT supervision. Regulating these sectors goes beyond the AML/CFT requirements specified in the FATF Standards. These sectors were included in 2006 before the NRA was completed. The assessment team agrees that this approach is consistent with the risk profile in Macao, China.

100. The authorities have made a significant effort to follow through from the 2015 NRA and implement enhanced measures to mitigate identified risks. Most of the supervisors have revised their AML/CFT Guideline and issued guidance to specific private sectors requiring entities to conduct risk self-assessments and enhanced CDD on high risk areas.

101. Additional measures require FIs to address NRA-identified high-risks related to high-value cash transactions, remittances, ARS, and high-risk customers (casinos, junkets, and jewel and pawn shops). DICJ has also strengthened requirements for all three casino tiers. In line with the high priority for mitigating junket risk, concessionaires and sub-concessionaires face tighter requirements for continuing business relationships with junket promoters. Junket promoters also now have to report monthly accounts and also file details on key personnel responsible for financial operations.

102. DSE's new mandatory requirement for real estate intermediaries and dealers of precious metal and precious stones to report high-risk transactions is a promising development. It should help address a financial intelligence gap related to identifying high risks with foreign money entering the real estate sector and also cross-sector ML risks with the gaming sector. It should also provide valuable data for an updated assessment of real estate risk.

#### *Objectives and activities of competent authorities*

103. GIF and most supervisors appear to operate consistent with priorities set in the strategic plan and key risks identified in the NRA. GIF, as the coordination lead for the NRA and regular assessments of key risks (alternative remittances, NPOs, gaming, cross-border ML/TF), is strategically placed to focus on major risks. Its strategic intelligence on STR quality, reporting deficiencies, and typologies to supervisors helps guide supervisor monitoring and on-site visits of the private sector, while regular GIF newsletters and outreach support private sector risk awareness. While GIF's well established strategic research program examines overseas funds flows and some cross-border channels, it has not focussed enough on cross-border regional crime trends, as gaps in the NRA and understanding of ML risk indicate.

104. In addition to revision of the AML/CFT Guideline and issuing new sectoral guidance (see C1.3), most supervisors have also updated internal procedure and manuals to mitigate risks. AMCM and DICJ have developed audit programs to address risks identified in the NRA. While the 2016 strategic plan requires RBA supervision to be adopted and implemented by the end of 2016, supervision for most sectors is not fully risk-based or comprehensive, except for AMCM over the financial sector and DICJ over the gaming sector. DSE is moving from a simple RBA to supervision based on the NRA, with GIF support.

105. Whether LEAs have aligned investigative priorities to the same extent remains in question. PJ established an internal parallel financial investigations working group in 2015. This is in line with the 2016 strategic plan but only a few (five) parallel financial investigations compared with ML and associated predicate investigations have been mounted to date.

106. LEAs also did not demonstrate they have adopted a risk-based approach for investigations as intended in the NRA and strategic plan. The recent increase in ML investigations from 2015 relates mainly to abuse of foreign ATM payment cards which are being used to avoid overseas currency

controls and remit illicit foreign proceeds, including corruption. While this is in line with combating a major conduit for cross border transfers of illicit proceeds, authorities do not appear to be targeting the role of organised crime and/or the underlying illicit proceeds related to payment cards. ML investigations into high risk proceeds-generating crimes – fraud, drugs, illegal gaming, organised crime, foreign corruption – remain very low compared with those for ATM/payments cards.

107. The strategic plan gives high priority to establishing a centralised crime database. The authorities through the NRA recognise that consolidating LEA, GIF, and judicial data is an essential building block to not only assess risks but also identify predicate crime trends and measure mitigation efforts. The significant challenges of reconfiguring different agency recording practices have delayed the project but an IT provider has been selected and new agency data systems are expected to be completed in 2018.

#### *National coordination and cooperation*

108. Macao, China has coordination mechanisms established at a multi-agency level for AML/CFT and among agencies on specific issues or operational areas. The AML/CFT WG comprises all relevant agencies and has proven mainly effective in coordinating policy, annual strategic plans and recently the NRA, as well as promotion and awareness raising. The 2016 AML/CFT/CFP strategic plan's improvement on previous efforts, the subsequent implementation of stronger supervisory measures and the development of important legislative changes highlight the AML/CFT WG's effectiveness in coordinating and overseeing major enhancements across the jurisdiction.

109. The NRA also demonstrates the AML/CFT WG's capacity to successfully coordinate a major data collection and analytical exercise across multiple agencies (and the private sector). Some of the NRA's analytical shortcomings point to areas where harnessing information and operational expertise, particularly on regional crime trends, could be improved in future updates.

110. As a strategic priority under the 2016 plan, the authorities established the Asset Freezing Coordination Commission to advise the chief executive on designations and coordinate its members work (SPU, SA, PJ, MP, AMCM, DSAJ and GIF). It continues the coordination role previously undertaken by the AML/CFT WG. While it is early days, members have agreed to internal procedures, information sharing and a work program. This includes a study on ways to apply an RBA to inspect goods and monitor suspicious transactions. Its findings will be important to enable the authorities to set up the freezing framework to target resources effectively.

111. Below the AML/CFT WG, cooperation among most agencies is well-established and reasonably strong. Information sharing between GIF and supervisors has produced outcomes, such as addressing abuse of a major foreign payment card system.

112. LEA cooperation is relatively strong among SPU, PJ, and PSP, with SPU convening weekly meetings with PJ and PSP and yearly joint operations. CCAC's anti-corruption investigations mean at times some of its work will be quarantined from other agencies including LEA. SA works with other LEA on joint operations, particularly identifying, monitoring and where required interdicting people and goods subject to alerts.

113. Cooperation between LEA and GIF works well informally and through the AML/CFT WG but information sharing should be improved in some areas. GIF's use of criminal intelligence for operational and strategic purposes is limited, partly due to restricted access to PJ's database. Gaps in understanding the nexus between regional crime trends and ML also relate to restrictions on GIF use of SPU strategic criminal intelligence.

*Private sector's awareness of risks*

2

114. Private sector involvement in the NRA initial design, data collection, and subsequent outreach and feedback is a positive element of Macao, China's approach to improving risk awareness. The authorities followed the release of a sanitised NRA to the private sector with educational seminars and issued new regulatory guidelines. The coordinated timing of these steps helped to reinforce private sector awareness of both risks and the importance of new measures. The NRA feedback form is a good tool for testing risk findings with the private sector and identifying new risks.

115. Most private sector entities the assessment team met had read the NRA and displayed a general understanding of their sector's main risks. Some said the NRA and educational seminars had helped them to understand broader 'macro risks' outside their own sector, while others said it had improved their awareness of new or emerging risks, such as debit card misuse or crypto-currencies. In contrast, junket promoters, the real estate sector and dealers of precious stones and precious metals displayed a limited understanding of ML/TF risks, despite the efforts of the DICJ and DSE for their respective sectors.

116. **Macao, China has a moderate level of effectiveness for Immediate Outcome 1.**

### *Key Findings and Recommended Actions*

#### **Key Findings**

#### *10.6*

- The authorities access a large range of intelligence-rich information. GIF's use of multi-source information and sound analysis results in a very high number of financial intelligence disseminations opened for investigation. LEA access and use of STR and other relevant information is largely consistent with Macao, China's regional context and to a varying extent exposure to foreign risk.
- There are some gaps in the ability of officers to interpret the intelligence value and use of GIF information in predicate investigations.
- The authorities have used a range of relevant information to examine the small number of suspected TF cases.
- There are information gaps. While STR quality is generally good, consistent with the risk profile, and adequate to support intelligence analysis, STR reporting is very low for the higher risk junket and real estate sectors. Moreover, the lack of a cross-border disclosure or declaration system is a major intelligence gap for a jurisdiction exposed to high-risk from vast numbers of visitors and cash-intensive businesses, particularly casinos and related high-value dealers.
- GIF uses sound methods and tools to produce operational intelligence and has enhanced its procedures to address practical problems LEAs have identified. GIF's strategic intelligence has shaped AML/CFT policy and raised ML/TF awareness but LEA secrecy protocols limit its ability to include broader criminal intelligence on common regional crime and ML risks in strategic analysis.
- Cooperation and information exchange works well among GIF, supervisors and LEA, with moderate improvements to information sharing required for GIF and LEA to more effectively use financial and criminal intelligence.
- GIF operates effectively as an autonomous independent FIU. While current resources are adequate for handling STRs and foreign FIU exchange, without additional staff GIF is likely to struggle to meet its combined FIU, policy development, and expanded coordination roles effectively.

#### *10.7*

- While there is the AML/CFT/CFP Strategic Plan 2016 and the Secretary for Security Policy Guidelines, these are too high level, and only recently introduced to provide an adequate strategic and operational directive to LEAs.
- There are only five cases of parallel financial investigations since the establishment of the parallel investigation working group in 2015.

- There have only been five ML convictions. A shortage of prosecutorial resources in MP, heavy evidentiary requirements for third party ML, and the lack of an adequate policy directive have hampered the quantity and quality of ML investigations and prosecutions, resulting in a low conviction rate, with a correspondingly low average sentence length ranging from three to five years for just the ML offence.
- There have been some major successes with domestic, corruption related self-laundering cases. CCAC has investigated and prosecuted two major domestic corruption related ML cases, namely the Ao Man Long case (former Secretary of the Department of Public Works) and the recent chief of transport bureau case. It is currently prosecuting the former chief prosecutor for 1,500 counts of corruption, fraud, ML, nepotism and other crimes. The CCAC is not legally mandated to investigate foreign corruption cases or related proceeds.
- Most ML cases investigated relate to the abuse of payment cards issued by a major foreign company. While this is in line with combating or disrupting a major conduit for cross-border transfers of illicit foreign proceeds, authorities do not appear to be targeting the role of organised crime and/or the underlying illicit proceeds.
- Overall, ML cases only correspond to some extent with the risk profile in the NRA and the key ML risks i.e. organised crime, gaming, usury, real estate, and drug related ML.
- ML investigations and prosecutions are limited to self-laundering and third party laundering with no standalone ML case investigated and prosecuted.
- There are only limited cases of ML prosecutions involving foreign proceeds because of the difficulty in obtaining evidence on predicate offences from foreign counterparts.

#### 10.8

- There is no national policy or strategy relating to an asset confiscation or recovery regime in Macao, China.
- MP, PJ, and CCAC do not have a policy directive to pursue the proceeds of crime, and investigation of the proceeds of crime does not seem to be part of an overall ML investigation strategy albeit certain seizures were applied to the proceeds of crime.
- The CCAC has achieved one notable success with confiscation of US\$100 million involving direct and indirect proceeds, located in Macao, China and offshore, with the latter derived from sound international cooperation (refer 10.2).
- There is no cross-border disclosure or declaration system for transportation of currency and bearer negotiable instruments in Macao, China.
- Confiscations are limited to cash/currency and casino chips, with only one case of shares confiscated and another case of one half of a commercial property.
- Overall the confiscation results are not consistent with the NRA report and ML risks in Macao, China, except for two corruption related confiscation cases.

**Recommended Actions***10.6*

- Focus GIF strategic intelligence more on high-risk foreign proceeds and regional crime trends. GIF should approach neighbouring FIUs to produce joint strategic reports on common risks of interest, with input from LEA. Increase strategic intelligence training for GIF analysts.
- Revise PJ's financial investigation procedure to require requests to GIF for data matching checks and foreign FIU requests where appropriate for ML and high-risk predicate crime cases.
- Improve sharing of LEA criminal intelligence with GIF directly and through establishing a subgroup under the AML/CFT WG of GIF, LEA, and other officers (e.g. prosecutors) to enhance understanding of crime trends and related ML risks.
- Provide additional training to PJ and other LEAs on the nature and complexity of ML risk to improve the ability of officers to interpret the intelligence value and use GIF information for predicate investigations.
- Consider outposting GIF and PJ officers in each agency to deepen working relationships and maximise the intelligence value of GIF information for investigations. Include a senior GIF officer in the PJ parallel financial investigation working group to improve case selection and promote risk-based investigations.
- Prepare information access and sharing arrangements among GIF, MP, PJ, SA and PSP to enable effective use of intelligence when the cross-border declaration and disclosure system comes into effect.
- Increase awareness of information relevant to detecting TF other than STRs, including through typologies and training from jurisdictions experienced with TF detection and investigation.
- Increase staff resources to GIF to enable it to fulfil its combined increasing FIU, policy and coordination functions.

*10.7*

- Establish a specific, consolidated operational AML strategy for all LEAs, especially within PJ, which covers parallel investigations, use of financial intelligence in ML and predicate offence, and seizure of illegal proceeds. This should include adopting written internal policies, procedures and mechanisms for more effective cooperation, coordination, investigation and seizure. The strategy should clearly emphasise the importance of investigating identified high risks.
- Address the impediment to investigating suspected ML in circumstances where proving the predicate offence is challenging, particularly for foreign proceeds-generating crimes that affect Macao, China.
- Amend the AML law to facilitate stand-alone ML investigations, foreign evidence gathering and prosecution. Consider including all kinds of usury and illegal ARS as predicate offences for ML, as they are crimes with significant proceeds.

- Target complex ML investigations in line with the risk profile including on foreign proceeds, organised crime, gaming related usury, fraud and drugs.
- Improve the capability of its LEAs to proactively identify and investigate ML, particularly complex and foreign predicate ML.
- Provide appropriate training for investigators and prosecutors.
- Enhance operational coordination and cooperation among GIF, PJ, SA, and CCAC.
- Consider empowering SA to investigate certain categories of ML cases.
- Consider authorising/delegating more officials of MP to decide whether to open a ML investigation case, particularly based on GIF STRs.
- Recruit additional prosecutorial staff to undertake investigations related to ML.

#### IO.8

- Adopt a clear policy and operational commitment to prioritise proceeds of crime confiscation.
- Strengthen the institutional framework required to support effective systems that address proceeds of crime confiscation, in accordance with Macao, China's ML/TF risk profile.
- Enact and implement the cross-border cash declaration system and regulations.
- Establish a legal framework on asset recovery to ensure the effective tracing, seizure and confiscation of criminal proceeds and the subsequent management and recovery of value from the assets confiscated, as proposed in Macao, China's AML/CFT Strategic Plan 2016-20.
- Provide targeted proceeds of crime confiscation training to LEAs staff, prosecutors and judiciary to enhance understanding of AML/CFT issues and awareness of Macao, China's system.

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

### ***Immediate Outcome 6 (Financial intelligence ML/TF)***

#### *Use of financial intelligence and other information*

118. The authorities including the FIU can access a large range of intelligence-rich information. In addition to STRs, GIF and LEA have access to domestic information across government data, private sector information and for GIF information held by any entity (i.e. including individuals). Authorities also have access to foreign FIU, criminal and regulatory information.

119. GIF demonstrated during the on-site and with case studies that it uses a wide range of information (e.g. ROVE, company, property and tax data, foreign FIU information) in risk-rating,

analysing and selecting STRs for dissemination. Two cases showed GIF's ability to collect information from private entities in response to law enforcement requests for financial intelligence to support live investigations. GIF says this is rarely required as PJ can collect this information as evidence under court order. Each week GIF checks suspects and their associates named in STRs against PJ criminal investigation records to help identify STRs for priority analysis and reduce delays with dissemination.<sup>4</sup> GIF rigorously selects STRs through risk rating for dissemination (about 10 per cent of the roughly 1700 STRs received yearly). It then builds a financial intelligence package with multi-source information. This approach, coupled with improvements to linking STRs to suspected predicate crimes, increases the likelihood that disseminated STR packages will be opened for investigation.

120. Law enforcement use of GIF disseminated STRs is very high for ML investigations. MP opens most of the STRs disseminated (on average 96 per cent) as investigation files and refers them to PJ (or to a far lesser extent CCAC where suspected ML relates to corruption) for investigation. A small number of STR disseminations (about 10 a year) are referred to current investigations for predicate offences and also opened as new files. MP opened files on 99 per cent of disseminated STRs in 2014 and 100 per cent in 2015 and 2016. These recent increases reflect a new MP policy to have more experienced prosecutors vet STRs and open files on all disseminated STRs based on their confidence in the quality of GIF disseminations. The increase also reflects a jump in 2014-2015 in STRs related to overseas fraud as the suspected predicate crime.

**Table 9: Number of STRs received and disseminated to MP and the number of ML/TF MP files opened**

	2011	2012	2013	2014	2015	2016	Total
Total no. of STRs received <b>(A)</b>	1,563	1,840	1,595	1,812	1,807	2,321	10,938
No. of STRs sent to MP <b>(B)</b>	190	166	147	163	125	240	1,031
<b>Dissemination % (B)/(A)</b>	<b>12.2%</b>	<b>9.0%</b>	<b>9.2%</b>	<b>9.0%</b>	<b>6.9%</b>	<b>10.3%</b>	<b>9.4%</b>
Total no. of STRs resulting in investigation files opened by the MP <b>(C)</b>	181	157	125	163	125	240	991
<b>(C) / (A)</b>	<b>95.3%</b>	<b>94.6%</b>	<b>85.0%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>96.1%</b>

121. PJ demonstrated it uses a wide range of information in investigations and to trace proceeds. As Table 10 shows, PJ's AML Division uses all (100%) GIF dissemination packages MP refers to it for ML investigations. This is in line with PJ's obligation under the jurisdiction's civil law framework to examine all STRs referred to it as formal judicial enquiries. STR use generally matches the risk profile to some extent. It is significantly weighted towards investigations into ATM card abuse that relates to not only avoidance of foreign currency restrictions but is also a key underground banking channel to move foreign corrupt proceeds to Macao, China. STRs are used to a far lesser extent in predicate investigations.

<sup>4</sup> PJ records these STR name lists in the central database of its intelligence and support division. This allows authorised PJ personnel to run name checks at the start of predicate crime investigations or parallel financial investigations.

Table 10: ML investigation by PJ by number of STRs

Type of predicate offences involved	2011	2012	2013	2014	2015	2016	Total	% of Total
Fraud	3	21	9	38	35	108	214	21.6%
Commercial crime	17	20	9	1	7	5	59	6.0%
Corruption - overseas	7	29	2	23	13	12	86	8.7%
Corruption - domestic	2	3	4	3	3	7	22	2.2%
Participation in organised crime	15	7	17	15	15	17	86	8.7%
Possible match with UN sanction lists	-	-	-	2	-	2	4	0.4%
Possible match with other countries' sanction list	11	1	-	-	-	4	16	1.6%
Forgery	6	6	3	6	-	-	21	2.1%
Tax-related crime	-	4	22	1	-	1	28	2.8%
Trade-based criminal activities	-	3	7	2	-	-	12	1.2%
Insider trading and market manipulation	1	-	-	9	-	1	11	1.1%
Smuggling	-	-	-	-	-	2	2	0.2%
Robbery	-	-	-	-	-	1	1	0.1%
Counterfeiting and piracy of products	-	-	-	-	-	2	2	0.2%
Involvement in criminal cases	6	10	3	1	-	-	20	2.0%
Temporarily cannot be linked to specific predicate offence (includes ARS, FX with unidentified funds and suspected illegal financial activity)	113	53	49	62	52	78	407	41.1%
<b>Total</b>	<b>181</b>	<b>157</b>	<b>125</b>	<b>163</b>	<b>125</b>	<b>240</b>	<b>991</b>	<b>100%</b>

122. Similar to many jurisdictions, PJ generally needs to obtain broader information (domestic and foreign) than financial intelligence to support investigations and gather evidence for prosecutions. The AML Division in PJ in 2015, for example, made 1,299 requests to domestic and foreign authorities and Macao-based casinos and banks for information (compared to the 125 STRs referred to it and 16 requests to GIF). PJ considers ROVE reports from casinos to be particularly valuable to complement intelligence leads from STRs.

123. Macao, China's major risk exposure to foreign crime and proceeds also means that PJ will frequently need to rely heavily on overseas criminal and financial intelligence for ML and associated predicate investigations. This is reflected in PJ's extensive requests for foreign LEA intelligence through Interpol. Interpol requests largely match the jurisdiction's higher foreign ML risk and major predicate risks. In the Ao Man Long case (see IO.7 and IO.8), that involved large proceeds laundered and stored overseas, the Hong Kong, China Joint FIU provided significant financial intelligence to support the investigation. PJ uses foreign intelligence to develop evidence and trace proceeds as far as it can but frequently encounters obstacles due to inadequate information or cooperation received. Factors generally beyond PJ's control limit its ability to pursue investigations into overseas fraud and corruption proceeds channelled into and through Macao, China. However, one major international case related to fraud, where a foreign police agency could not provide information PJ requested on the money trail, highlights the importance of seeking information through GIF and the international FIU network, in addition to Interpol requests.

124. PJ and GIF presented a number of cases that demonstrated sound use of diverse information to investigate complex ML and associated predicate crimes. These included lengthy cases where foreign FIU and LEA information, along with GIF support, was progressively gathered to build the intelligence picture and develop evidence to support prosecutions. Two of the recent parallel financial investigations show PJ's use of extensive personal, property, gaming, immigration, and foreign criminal information as well as surveillance (phone intercepts) to trace and seize property and arrest suspects. Since the set-up of the PJ parallel financial investigation working group, PJ has increased its focus on the financial element in tracing proceeds. While the AML division has established sound skills for interpreting financial intelligence, PJ needs to continue to build internal capacity to follow the money trail in predicate investigations (refer IO.7).

125. The above pattern of access and use of STR and other relevant information is largely consistent with Macao, China's regional context, exposure to foreign risk and the intelligence value of non-STR information, particularly ROVE (in line with the gaming sector's economic dominance). LEA need to balance their current focus on ATM/debit card risk with attention also paid to fraud, gaming and other high risks.

126. While LEA requests to GIF for STRs appear relatively low<sup>5</sup>, the level is reasonable as GIF continues to disseminate STRs to ongoing investigations and PJ accesses other relevant information (particularly ROVE through GIF or directly from casinos) to gather intelligence and evidence. A large number of informal requests occur between PJ and GIF that are not recorded in statistics. PJ cross-checks disseminated STRs and STR names stored in PJ's central database for all investigations (ML and predicate) under its internal procedure. This is useful for identifying name matches. However, it does not capitalise on the intelligence value of other important information contained in STRs, such as account and contact (address, phone and IP) details that are important for network analysis and tracing. Cross-checking only STR information in the PJ database also deprives PJ access to the other 90

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<sup>5</sup> For 2011-2015, the three main LEAs (MP, PJ and CCAC) made 54 requests to GIF (38 of which were made in 2015).  
Anti-money laundering and counter-terrorist financing measures in Macao, China - 2017 © APG 2017

per cent of STRs GIF holds that are not disseminated. GIF is examining whether its legislation authorises direct access.<sup>6</sup>

127. For TF, the authorities demonstrated they used a range of relevant information to investigate suspected cases. The small number of STRs (five TF STRs based on suspected sanctions list or other watch list matches, since 2011 – see IO.9) aligns with the low TF risk profile. A range of domestic and foreign information was used to examine suspected cases.

#### *STRs received and requested by competent authorities*

128. STRs make up the core data that GIF receives and analyses. GIF supplements STRs with a broad range of information other agencies collect which it uses to cross-check, analyse, and risk-rate STRs for dissemination. GIF requests a large amount of additional information from reporting entities and foreign counterparts related to ultimate beneficial owners, tracing the source and destination of funds, and to identify predicate offences. It disseminates this intelligence as follow-up reports to STRs already disseminated to LEA. Direct reports from reporting entities to PJ over concerns about ATM card activity is another important information source. These reports have grown significantly since 2014 in response to GIF, PJ and other authorities raising awareness of ATM card risks. 271 direct reporting entities reports initiated ML investigations during 2013-2016. These reports may also be submitted to GIF as STRs.

129. GIF receives about 1,700 STRs a year (averaged over 2011-2015, rising to 2,321 in 2016) with gaming-related transactions dominating. The gaming sector accounts for over 70 per cent of STRs by number yearly, followed by the financial sector. However, the situation is reversed when STRs are measured by value (i.e. turnover) with the FIs accounting for almost 80 per cent of overall value. Many STRs from FIs relate to gaming transactions.

130. STR disseminations by predicate offences and typologies appear generally in line with the risk profile as identified in the NRA. Overseas fraud (with funds channelled through banks and the gaming sector), large funds associated with foreign PEPs, frequent foreign exchange with unknown foreign income sources, and debit/credit card use to move overseas funds into Macao, China dominate the STRs GIF disseminates to MP for investigation. These overwhelmingly focus on overseas risks rather than domestic predicate risks.

131. STR quality is reasonably good, timely, and adequate to support GIF analysis. Case studies show that STRs contain sufficient information for GIF analysts to produce actionable intelligence and identify leads for investigation. Only 58 STRs from over 1,300 disseminated to MP over 10 years have been closed due to inadequate information within the STR. GIF stated that STRs had improved, with the gaming sector reporting high quality STRs. This reflects GIF and DICJ's combined efforts to raise awareness and improve STR reporting, and also the gaming sector's responsiveness to feedback on high-risk typologies. GIF and AMCM have done similar work with FIs.

132. While STR quality is good, the quantity reported appears low by comparison with gaming transaction volumes. Gaming STRs average about 1,200 a year compared with an average 700,000 large gaming transactions (ROVE) a year. The attractiveness of casinos for laundering and spending illicit proceeds suggests gaming-related STRs from the sector and FIs might be higher. However, the

<sup>6</sup> After the on-site GIF and PJ agreed that GIF will include more personal identifiers in the weekly list of STR names and related parties sent to PJ to cross-check and add to its intelligence database.

authorities consider STR report volumes to be appropriate and, moreover, highlight that STR and ROVE provide complementary intelligence. STRs capture suspicious activity below the high ROVE threshold, while ROVE (that includes financial and other 'gaming transactions' such as chips and cashier orders) provides quick access to detailed information on gaming histories, abnormal activity, funds flows and related party identities. PJ uses ROVE to request gaming history information from other casinos (and sometimes DICJ) and shares it with foreign LEA counterparts where required.

133. STR reporting from junket operators is low compared with their identified high risk. Junket operators have close relationships with customers and intermediaries (known as 'collaborators') that potentially provide a vantage point for them to observe and provide more detailed reporting on suspicious behavioural and other activity than concessionaires/sub-concessionaires. Very few STRs related to real estate have been reported despite the authorities' view that it is high-risk.

134. The most serious intelligence gap stems from the absence of a cross-border disclosure or declaration system. The cross-border nature of the major risks, the 30 million visitors yearly (including 170,000 visitors and workers crossing the land-border daily) and the casinos' cash-intensive nature (therefore raising cash smuggling risks) highlight the scale of this deficiency. In contrast, GIF receives very few large-value cash courier reports from SA (ranging from 3 to 16 a year for 2011-2016). The average value of cash interceptions is almost US\$380,000. This very high value points to the potential for large cash amounts to move across the border undetected. The progress of cross-border declaration and disclosure draft bill through the legislature is a promising development for remedying this major gap.

#### *Operational needs supported by FIU analysis and dissemination*

135. GIF provided examples of STR analysis and cases that demonstrated it uses sound methods and tools to analyse multi-source information to support LEA investigations. Analysts cross-check the suspect and related persons named in the STR against name lists other authorities (MP, PJ, Civil Affairs Registry (CRC), DSF, DICJ, and names from ROVE transactions) and foreign FIUs have provided. Analysts also examine and weigh other factors such as nationality, typology, place of incorporation, and source and destination of funds. Shareholder histories are checked against the commercial registry where applicable. A risk-rating approach determines further action including additional information collection.

136. GIF has enhanced its procedure in a number of ways to improve support of LEA operational requirements and address problems identified in practice. GIF's weekly name checks of PJ's criminal records on suspects named in STRs helps prioritise analysis on STRs more likely to be relevant to investigations. It also partly addresses barriers related to GIF's indirect access to PJ criminal intelligence.

137. In response to LEA feedback, GIF improved its information collection to link STRs more clearly to predicate crimes. Requests to foreign FIUs now include new fields on whether a matter is under criminal investigation overseas and relate to identified victims (the latter is particularly important for high-risk fraud cases). This is a good example of an effective feedback loop between LEA intelligence users and GIF intelligence producers to support investigations.

138. LEA did not indicate any concerns with the quality and timeliness of GIF's STR disseminations. MP said GIF disseminations are generally of good quality. PJ uses STRs to target investigations and trigger leads, but at times finds other information such as ROVE more valuable for developing a richer picture of suspects, networks and financial behaviour. While PJ indicated it

regularly needs to obtain broader information to support investigations and evidence requirements, this is common practice in the interaction between intelligence and operations. GIF's lack of direct access to police intelligence limits its ability, to some extent, to perform large network analysis to better support operational needs.

3

139. GIF's regular strategic reporting on specific topics (e.g. typologies, yearly gaming STR/ROVE trends, NPOs and ARS) is reasonably sound and has been important for shaping AML/CFT policy. LEA and supervisors told the assessment team that GIF's strategic reports had enhanced their understanding of emerging typologies and also the broader ML/TF environment. Strategic analysis focuses mainly on transaction behaviour, typologies and international trends. Secrecy restrictions hinder GIF from taking advantage of valuable strategic intelligence contained in PJ threat analysis and yearly regional crime trends reporting SPU produces based on trilateral 'Thunderbolt' exercises with Hong Kong, China and Guangdong, China police. This has also restricted use of PJ threat analysis in the NRA.

140. GIF's current information exchange related to POS and ATM transactions with China's FIU since 2014 is a positive development that supports this operational priority, but as mentioned previously should not dominate information sharing efforts.

#### *Cooperation and exchange of information/financial intelligence*

141. GIF has used its financial intelligence expertise, strategic reporting and central position as the designated coordinator of the AML/CFT Working Group and NRA, to raise ML/TF awareness among other authorities. This works well for coordinating policy, as the 2016 AML/CFT Strategic Plan demonstrates.

142. GIF's cooperation and information exchange arrangements with other agencies, particularly DICJ for sharing ROVE, work smoothly. ROVE exchanges occur regularly and feed into GIF strategic analysis that supports supervision of the gaming sector and awareness of ML gaming typologies.

143. GIF also disseminates to LEA information and intelligence on current concerns (e.g. ISIL and TF typologies) and trends from overseas FIU counterparts and international bodies such as FATF and APG. For example, even prior to taking up its new secretariat role for the Asset Freezing Coordination Commission, GIF disseminated to SPU, SA, and AMCM a recent report on regional TF risks in Australia and South East Asia.

144. GIF and LEA cooperation operates generally well with close ongoing informal contact between analysts and investigators during cases. As noted above, secrecy restrictions have limited GIF analysis in some areas, particularly its ability to include important regional criminal trends in its strategic product. A PJ officer used to be outposted to GIF. The authorities say this worked well but ceased due to budget pressure.

145. During the on-site GIF demonstrated it had sound security procedure and controls in place to protect its database and intelligence holdings. These include a secure backup off-site for its database in the event of damage or risk to the GIF office. LEAs have appropriate protocols and measures to safeguard GIF information they receive.

146. GIF has operated well as an autonomous independent FIU. Among other things its independence is important in its coordination of agencies from different portfolios. This arrangement should be maintained and strengthened. Similar to other agencies GIF was established on a three-year

renewable basis but the government intends to put it on a permanent footing. This positive measure would reinforce its independence and central coordination role.

147. Resources are currently adequate for analysing and disseminating STRs and handling foreign FIU exchange. GIF considers it has also been able so far to manage the secretariat and coordination of the AML/CFT WG, including monitoring implementation of the 2016 strategic plan. However, GIF's workload has increased with its new role as secretariat to the Asset Freezing Coordination Commission. It is also overseeing the centralised database project. The intelligence burden is about to grow significantly with high risk transaction reporting from DSE and particularly when the cross-border declaration system comes into effect in late 2017. The assessors consider more staff and IT resources will be required to enable GIF to continue to balance its FIU, policy development and expanded coordination roles effectively.

148. **Macao, China has a substantial level of effectiveness for Immediate Outcome 6.**

### *Immediate Outcome 7 (ML investigation and prosecution)*

#### *ML Identification and Investigation*

149. The PJ and CCAC are the only LEAs conducting ML investigations, with the MP designated to supervise criminal investigations and prosecution for ML (and TF). CCAC investigates ML cases derived from domestic corruption matters. PJ is the responsible agency for investigating foreign corruption related cases. The other LEAs such as SA and PSP, which are responsible for border control and immigration, are not permitted to investigate ML cases.

150. Within the PJ, the AML division is the lead investigative unit for ML investigations. The AML division is reasonably staffed (15 investigators) and has received training like the financial investigation courses in ML (and TF) from Hong Kong, China, financial investigation courses held by ILEA in Thailand.. The AML division can identify potential ML cases from (i) those initiated by the MP; (ii) reports from LEAs as PJ, SA and PSP; (iii) STRs from GIF; and (iv) direct report from citizens and private entities to the authorities.

151. All potential cases must be referred to the MP for decision to undertake ML investigations, irrespective of the source. MP possesses autonomous power to decide on ML investigations based on reports received including STRs from GIF. Upon receiving GIF's analysis report of the STR(s), an MP Deputy Prosecutor General assisted by a technical support team will analyse the ML element in the report to determine whether to open a file for ML investigation and refer to PJ or CCAC or whether no further action will be taken. For reports sent directly from the police to the MP, the prosecutor on duty determines whether or not to open an ML investigation. One prosecutor is assigned daily to review potential ML cases and decide whether to refer to PJ (or CCAC).

152. According to PJ, MP has not rejected any ML cases initiated by PJ so far. All PJ initiated ML investigation cases are decided by Director of PJ, there is no evidence showing any standard procedure and guided criteria on activating ML investigation. On average 96 per cent of the STRs forwarded by GIF to MP are opened for investigation, with this reaching 100 per cent in 2015 and 2016.

153. Authorities advised of 520 ML investigations from 2013 to 2016 (see table below). Overall the number of ML investigations has increased in recent years. There were only 33 ML cases in 2013, 63 cases in 2014, a large increase to 161 ML cases in 2015 and 263 ML cases investigated in 2016. The

increase is significant from a low base, with most of the recent cases investigated relating to suspicious payment card cash withdrawals (see explanation below).

**Table 11: 2013-2016: Total ML investigations**

	2013	2014	2015	2016	Total
<b>(i) STR initiated ML investigations</b>	28* (125)	44* (163)	60* (125)	98* (240)	230
<b>(ii) PJ initiated ML investigations</b>	5	19	101	165	290
<b>Total PJ ML investigations</b>	<b>33</b>	<b>63</b>	<b>161</b>	<b>263</b>	<b>520</b>

(\*The number of STRs disseminated by GIF and the number of ML cases activated.)

154. There are more ML cases initiated by the PJ, mainly from its AML Division and to a far lesser extent from parallel financial investigations or overseas police intelligence. Further details are provided in the table below.

**Table 12: 2013-2016: PJ initiated ML investigations**

Investigations by PJ*	2013	2014	2015	2016	Total
<b>Special Investigation Cases initiated by Anti-Money Laundering Division (Cards)</b>	1	19	93	158	<b>271</b>
<b>Parallel Investigations</b>	0	0	4	1	<b>5</b>
<b>Overseas Police Intelligence</b>	4	0	4	6	<b>14</b>
<b>Total</b>	<b>5</b>	<b>19</b>	<b>101</b>	<b>165</b>	<b>290</b>

(\*The number of cases investigated by PJ does not correspond to the number of STRs because a case may involve more than one STR.)

155. The second source of ML investigations is from STRs referred by the MP. The PJ will examine and investigate all STR cases that are forwarded by MP, although a significant number are closed due to lack of evidence and predicate offences not being captured in the ML investigation. Significantly, only one ML conviction has originated from an STR, which was in 2012, noting that there have only been five ML convictions.

**Table 13: 2013-2016: STR initiated ML investigations**

Investigations by PJ*	2013	2014	2015	2016	Total
STR initiated by GIF - Cards	4	9	27	24	64
STR initiated by GIF - Others	24	35	33	74	166
<b>TOTAL</b>	<b>28</b>	<b>44</b>	<b>60</b>	<b>98</b>	<b>230</b>

(\*The number of cases investigated by PJ does not correspond to the number of STRs because a case may involve more than one STR.)

156. Debit/credit card transactions and ATM card transactions have been identified in the NRA as one of the most common channels (after junket operations) being used by suspected criminals, including PEPs and syndicates, in moving their funds to Macao, China and overseas. Macao, China has been working closely with China to crackdown on ARS syndicates.

157. While this is in line with combating or disrupting a major conduit for cross-border transfers of illicit proceeds, authorities do not appear to be targeting the role of organised crime and/or the underlying illicit proceeds. The heavy allocation of resources to payment card investigations to disrupt this ML channel affects resources for addressing other identified high risks. ML investigations into higher risk proceeds-generating crimes – fraud, drugs, illegal gaming, organised crime, foreign corruption (as a primary focus) – remain very low by comparison. The current focus on payment card abuse is a response to a priority international request from China rather than a more proactive and risk-based approach to investigations. The latter is due to an incomplete understanding of ML risks.

158. While the PJ may be aware of a number of potential ML cases it identifies through its own and foreign intelligence, PJ only sees full STR details from those referred to it by the MP. As noted in IO.6, GIF disseminates about 10 per cent of the STRs it receives yearly. While PJ can see names of persons cited in STRs through GIF's weekly request for data matching against PJ's criminal records, it does not have direct access to all STRs or financial intelligence GIF holds. This information may hold useful intelligence to identify a larger number of potential ML cases for investigation (see IO.6).

159. CCAC has investigated a few corruption related ML cases since 2011 (see table below). However, all the cases are domestic based corruption with recovery of illegal proceeds either in Macao, China or overseas. (The CCAC is not legally mandated to investigate foreign corruption cases or related proceeds.) The most significant ML investigations and convictions related to the Ao Man Long case in 2007 (former Secretary of Transport and Public Works). This case ran from 2009 to 2012 and involved multiple ML investigations and prosecutions against him and two persons that offered him bribes. ML convictions against the three individuals were achieved and up to US\$100 million in proceeds were recovered (refer IO.8). During the on-site, the CCAC was prosecuting the former chief prosecutor on 1,500 counts of corruption, fraud, ML, nepotism and other crimes.

**Table 14: Number of ML investigations handled by CCAC**

2011	2012	2013	2014	2015	2016
4	1	2	4	3	3

160. Parallel financial investigations only commenced after the PJ established an internal working group in 2015. The Parallel Investigation Working Group comprises of the Criminal Investigation Department, Gaming-related and Economic Crime Investigation Department, Anti-Money Laundering Division, and Intelligence and Support Department which is headed by the Director of PJ. Only four cases of parallel investigation were initiated in 2015 and one case in 2016.

161. For the parallel financial investigations, two cases were initiated from STR filing: one related to human smuggling and the other related to fraud and was connected to dismantling a prostitution ring. Comprehensive financial tracing of criminal proceeds was observed in all five parallel financial investigation cases conducted to date. While the tracing of proceeds helped to establish robust cases for prosecution, more use could have been made of financial intelligence (STRs from GIF) to establish all elements of the ML offence.

162. The CCAC has not conducted any parallel ML investigations but the two major corruption related ML cases it has undertaken demonstrate its capability to conduct complex investigations.

163. LEAs, including MP, have good access to bank records. Direct online access to information (e.g. company registration and vehicle identification) held by other government agencies enables easy access for LEAs. Although ideally the ordering judge should be present at the place of searching and seizure, LEA agents can act as long as they have the warrant from the judge. In the case of an emergency where there is a risk of losing evidence, LEAs can act without prior authorisation from the judge or MP, but validation must be obtained from MP office or a judge within 72 hours of the action.

#### *Consistency with risk profile and national AML/CFT policies (Investigation and Prosecution)*

##### *i. AML strategy*

164. The AML/CFT/CFP Strategic Plan 2016 and the Secretary for Security Policy Guidelines outline Macao, China's general policy, but are adopted at such a high level that they fail to provide adequate direction for ML investigations. For example, LEAs have not at this stage adopted a risk-based approach for ML investigations, as the table below on ML cases by predicate offence demonstrates. This is despite the strategic plan and PJ's financial investigation procedure making a risk-based approach a priority. At the time of the on-site, there was a lack of LEA operational policies and directives. Some progress is being made with the recent establishment of the parallel financial investigations working group. Overall, however, as noted in IO.1, LEAs do not demonstrate a mature understanding of the full scope of ML threats, vulnerabilities and residual risks, despite the completion of the NRA.

##### *ii. Foreign threats*

165. As noted in IO.6 (Table 10), STR generated ML investigations match the risk profile to some extent. It is significantly weighted towards investigations into ATM card abuse that relate to avoidance of foreign currency restrictions and is also a key underground banking channel to move foreign corrupt proceeds to Macao, China.

166. All ML cases investigated (see table below), generally correspond with the risk profile in the NRA to only a certain extent. According to the NRA, the main ML threats are from overseas criminal proceeds with their nexus to the gaming sector; domestic proceeds pose lesser threats. The main domestic crimes are theft, robbery and damage to property; illegal immigration and related crimes; fraud; drug related crimes; and illegal gambling and usury.

167. The focus has been, as noted earlier, on the abuse of payment cards issued by a major foreign company. There were only five cases in 2013, but the number increased to 28 in 2014, 120 in 2015 and 182 in 2016. This is an important area of focus given the use of this channel for ML and other illegal activities, but it should not distract from other higher risk areas.

**Table 15: PJ ML case breakdown on Predicate Offence**

Predicate Offence	2013	2014	2015	2016
1. Suspicious Bank card ATM transactions	5	28	120	182
2. Fraud	7	6	6	8
3. Human smuggling syndicate			1	
4. Usury syndicate				1
5. Suspicious remittances	5	15	13	31
6. Organised Crime	1		3	1
7. Large cash deposit		1		4
8. Other Gaming related	1		1	
9. Illegal fund raising	1		1	1
10. Cyber crimes			1	1
11. PEP	1	2		1
12. Watch list	6	4	4	14
13. Interpol red alert			4	6
14. Others	6	3	7	13
<b>Total</b>	<b>33</b>	<b>59</b>	<b>161</b>	<b>263</b>

**Table 16: Number of LEA requests broken down by types of crimes (shown in no. of STR)**

	2011	2012	2013	2014	2015	2016	Total
Corruption	4	7	2	37	6	8	64
- Domestic	1	1		15	4	6	27
- Overseas	3	6	2	22	2	2	37
Fraud	1	2		2	6	34	45
Underground banking	3				5	9	17
Commercial Crime		1				1	2
Human Trafficking					1		1
Other crimes	2	1	2		3	21	29
<b>Total</b>	<b>10</b>	<b>11</b>	<b>4</b>	<b>39</b>	<b>21</b>	<b>73</b>	<b>158</b>

168. The NRA recognised that the high rate of corruption in neighbouring regions raised the risk of corruption crimes for Macao, China's ML environment. However, ML investigations of foreign and domestic corruption related cases have been low. PJ has only conducted five ML investigations (two in

2015, three in January to September 2016) related to suspected corruption matters. Authorities have stated that investigations of payment card abuse also involve foreign corruption proceeds.

169. CCAC is confined to only investigating domestic corruption cases because of its legal mandate. It has been active in investigating, prosecuting and recovering the proceeds from the 2007 Ao Man Long case. In addition, a total of 219 corruption cases were investigated between 2010 and 2015, with 169 cases (77.2 per cent) prosecuted in the court. However, only 14 of these cases (6.4 per cent) were investigated for ML.

*iii. Domestic threats*

170. According to the authorities, organised crime or Triad activity in Macao, China has decreased in the last decade. However, as the annual joint ‘Thunderbolt’ actions (with police from Guangdong, China and Hong Kong, China) against cross-border Triad crime threats demonstrate, organised crime groups continue to pose a risk and be involved in ML, usury and illegal detention related to gaming. Predicate crime statistics show there were 249 usury and illegal gambling cases investigated in 2010, 262 in 2011, 235 in 2012, 304 in 2013, 466 in 2014, and 587 in 2015. Despite the large number of cases, no investigations of the ML element were conducted in earlier years, while only three ML cases were conducted in 2015 and one case in 2016.

171. The NRA also identifies drug related offences in Macao, China as having a higher risk for ML. As noted in IO.1, the authorities expressed inconsistent views on the level of ML risk related to drug crimes and whether such proceeds are laundered through Macao, China or settled offshore. The PJ opined that since Macao, China, is used mainly as a transit centre for drug trafficking, criminal proceeds and related financial transactions do not appear or occur in Macao, China. In PJ’s view, only small amounts of cash on the drug traffickers can be found and are mostly intended as remuneration, to pay for travel expenses or are spent on drugs or gaming. Even though there were seizures of cash by PJ’s Narcotics Division on drug related predicate offences in recent years, there have been only two ML investigations (both initiated by STRs, not predicate offence investigations). The focus is still on the drug traffickers rather than tracing the funds related to the transactions. See table below:

**Table 17: Seizure of drug related cash by PJ Narcotics Division**

Year	MOP	HKD	RMB	TWD	USD	EURO
2014	202,520	707,440	85,284	--	1,970	--
2015	308,390	903,250	27,930	19,000	8,220	2,950
2016	770,900	986,950	31,942	88,000	18,653	950
<b>Total</b>	<b>\$1,281,810</b>	<b>\$2,597,640</b>	<b>\$145,156</b>	<b>\$107,000</b>	<b>\$28,843</b>	<b>\$3,900</b>

172. According to PJ’s seizure statistics, 1,408 cases investigated in 2014 led to seizures, yet only 23 ML investigations were activated. All these cases generated proceeds of crime which led to seizures of cash worth MOP54 million (US\$6.76 million), casino chips worth MOP37 million (US\$4.63 million) and bank accounts with MOP350,258 (US\$43,837) in value. All these cases were merely investigated under a predicate offence, without the element of ML investigated despite massive proceeds of crime gained.

173. In 2015, out of 1,430 cases with seizures, only 99 cases of seizure derived from ML investigations. The total cash seized amounted to MOP71 million (US\$8.99 million) with MOP18 million (US\$2.25 million) seized from ML investigation. The amount seized could have been increased if all predicate cases which generated proceeds of crime were also investigated under ML as parallel investigations by PJ.

174. There are only a few ML investigations related to fraud and human smuggling. This is also not consistent with the risk profile in the NRA, nor the predicate crime statistics and seizure/confiscation statistics for fraud.

*iv. ML channels*

175. Except for payment cards, there have been no significant investigations of major channels for ML, involving organised crime, casinos or junket promoters, or cash couriers. Authorities have primarily focused on payment card abuse, which has been identified as a significant issue, but the allocation of resources on payment cards appears to have been at the expense of investigating other channels linked to identified high risk activity. The abuse of debit card transactions and withdrawal of funds by using large number of third party ATM cards were identified in Macao, China's thematic reviews and in the NRA as the most common channels used by suspected criminals for large amounts of cross-border fund movements. To mitigate the risks, PJ has taken extra efforts to investigate ARS related activities and to work closely with LEAs in Hong Kong, China and in China to fight against cross border crimes and ARS used by criminals. China has successfully cracked down on syndicates of ARS at Zhuhai, China using intelligence generated by Macao, China.

*Different type of ML cases prosecuted and convicted*

176. The numbers of prosecutions and convictions have remained very low with only five convictions from 2011 to September 2016. All these relate to domestic predicate offences. ML investigations and prosecutions in Macao, China are limited to self-laundering and third party laundering, with no standalone ML case. Only 13 (2.6 per cent) ML cases have been prosecuted out of 492 cases investigated from 2011 to September 2016. Of the five convictions secured over this period, two (in 2012 and 2014) relate to the Ao Man Long corruption case. There has been no conviction since 2014. There is no evidence showing that legal persons have been prosecuted for ML by the authorities.

177. To prosecute an ML case, it is necessary to prove a link to a specific predicate offence in order to proceed from investigation to conviction and this has been an obstacle to successful prosecutions (and commencing ML investigations, as noted in IO.6). This is even though under the legal framework in Macao, China, ML is considered a stand-alone offence. For foreign proceeds, investigations mainly rely on information obtained from overseas counterparts through international cooperation. In such cases, insufficient intelligence or evidence from overseas can hinder the investigation and impede it moving to prosecution. Macao, China has provided a few examples where overseas authorities prosecuted their citizens based on Macao, China information or requests.

178. Moreover, the proposed amendments to the AML Law to remove the predicate-link hurdle to mounting ML prosecutions will, once enacted, reduce the need for authorities to rely on foreign evidence to progress ML prosecutions. This is a sensible, pragmatic measure that recognises the continued difficulties Macao, China would likely face with receiving adequate overseas evidence to prosecute ML.

179. The MP may have been too cautious in its approach to prosecuting ML cases. Only cases with more than a 50 per cent chance of success are likely to be taken forward. Statistics show the number of ML prosecutions mounted yearly is very low. Three cases were prosecuted each year in 2011 and 2012. There was only one ML case prosecuted each year in 2013 and in 2014 and a slight increase in 2015 with three cases. However, during the on-site MP demonstrated a willingness to prosecute more ML cases brought forward from the LEAs. Combined with the early progress made on pursuing

parallel financial investigations, the assessors are encouraged that the authorities recognise the importance of increasing ML prosecutions.

180. Both LEAs and MP demonstrated sound interaction and cooperation during the investigation of criminal cases. Prosecutors face no difficulties in working with investigator officers on cases. More focus needs to be given to ML and prosecutions, but efforts are hampered by MP's resource constraints.

181. While Macao, China is making some effort, fundamental improvements are required to overcome barriers to investigating and prosecuting ML from foreign predicates. While there has been a significant increase in ML investigations of suspicious payment card ATM transactions by the PJ, it has been difficult for the authorities to prove the source of funds and offences committed outside of jurisdiction for the reasons stated above. The case below is the only case provided by Macao, China that shows an ML investigation related to foreign offending that, to date, is expected to proceed to prosecution. It highlights the importance for conducting ML investigations in close cooperation with foreign authorities to establish overseas predicate offences.

**Figure 1**

**Case Study: Cracked Down a Money Laundering Case with Nine People under Arrest (Source: PJ)**

The PJ was notified of a smashed human smuggling criminal syndicate by the China Public Security Bureau in July 2015 with 10 involved persons under arrest, among which a couple from Macao, China were the masterminds of the criminal syndicate. These masterminds were found concealing illicit foreign funds with the bank accounts in Macao, China and used some of the crime proceeds to purchase property, vehicle, and gold jewellery. Through parallel investigations PJ identified nine relatives of the masterminds, whom were suspected of assisting the human smuggling syndicate to launder the crime proceeds, channelling funds into the accounts in Macao, China.

After the China Public Security Bureau cracked the criminal syndicate in January 2015, PJ arrested the nine involved individuals in various places of Macao, China and also searched six residential units. In this case, 10 bank accounts involving HKD12.3 million of funds, RMB140,000, one residential property and one parking space were blocked for investigation; cash, one vehicle and gold jewellery, etc. were also seized, with a total value of around MOP25 million (about US\$3 million). PJ transferred the nine involved persons to MP to prosecute for the offence of money laundering.

*Sanctions for ML convictions*

182. In Macao, China the punishment for ML offences can range from 2 to 8 years imprisonment (paragraph 2 of Article 3 of Law no. 2/2006). If the offence is committed by a criminal associated with Triads it can be aggravated to 3 to 12 years of imprisonment. However, the sanctions imposed in the four ML convictions between 2011 and 2015 are low. The highest conviction was only 60 months (five years) imprisonment for the perpetrator.

183. The appropriateness of sanctions for legal persons is moot as no legal person has been charged with an ML offence to date.

184. Macao, China's judiciary has had some experience in judging ML cases, especially corruption related cases. The judiciary indicates they are ready to receive more ML cases and are mindful of the need to impose appropriate sentences in order to combat ML.

185. There were no other criminal justice measures applied in the judicial procedure of Macao, China where a ML conviction is not possible.

186. There have been no instances where it has not been possible to obtain a conviction because of a fundamental principle of law.

187. **Macao, China has a low level of effectiveness for Immediate Outcome 7.**

### ***Immediate Outcome 8 (Confiscation)***

#### *Pursuit of confiscation as a policy objective*

188. There is no national policy, strategy, or objective relating to asset confiscation and recovery of illegal proceeds in Macao, China. The only reference to confiscation in Macao, China's AML/CFT Strategic Plan 2016-20 is the proposal to establish a legal framework on asset recovery to ensure the effective tracing, seizure, and confiscation of criminal proceeds and the subsequent management and recovery of value from the assets confiscated. Both LEAs and MP do not have a policy directive to pursue the proceeds of crime, and investigation of the illegal proceeds does not seem to be part of an overall ML prevention strategy.

189. Nevertheless, Macao, China applied its confiscation regime on a case by case basis and has a largely compliant legal framework. There has been some progress in this area with the formation of a parallel financial investigation group in 2015.

#### *Confiscation of foreign and domestic predicates, and proceeds moved offshore*

##### (i) Domestic confiscation/Proceeds moved offshore

190. The CCAC and MP have undertaken a few successful domestic confiscation cases. The most significant is the Ao Man Long (former Secretary for Transport and Public Works) corruption case. A total of US\$100 million in direct and indirect proceeds was recovered in Macao, China and from other jurisdictions. This included bank deposits and real estate property in Hong Kong, China totalling MOP340 million and bank deposits, property and real estate sales proceeds in the United Kingdom (UK) and Northern Ireland totalling MOP350 million (US\$44.77 million). The recovery of proceeds commenced in 2009, and while all proceeds located within Macao, China have been recovered, some assets held overseas remain to be repatriated although foreign court confiscation orders have already been issued.

191. This case demonstrates that the CCAC has the ability, when needed, to trace, seize, and confiscate both the direct and indirect proceeds of crime located within Macao, China and offshore. The latter, as detailed in IO.2, demonstrates the capacity of Macao, China to seek assistance via MLA and also Chapter V of the UNCAC on asset recovery, particularly Article 51 to request the UK to freeze and recover proceeds located in the UK. However, the CCAC did not provide the assessment team with statistics on corruption related seizures or confiscations, beyond two cases.

192. The statistics provided by PJ on seizure and confiscation of assets related to ML cases from 2012 to 2016 (see tables below) do not demonstrate that significant assets have been seized or confiscated, or that they pertain to the proceeds of crime. The assets are mainly cash and chips (Tables 18 and 19) related to the gaming sector. ML related seizures were the major type of cash seizures in 2015 and 2016 and the statistics (Table 20) show an increase from 2012 to 2016. While there was confiscation of assets related to ML investigation in 2012 totalling MOP31.9 million

(US\$4 million), there was no confiscation in the following year. Nevertheless, the amount of confiscation increased to MOP37 million (US\$4.6 million) in 2014 but again there was no confiscation in 2015. Authorities are more likely to seize cash under provisional measures during predicate offences investigation instead of ML investigation. While the PJ also provided statistics on assets seized and confiscated (Table 20), it is not clear from those statistics whether the assets are from the proceeds of offences or instrumentalities of crime. In absolute terms, the amounts seized and confiscated are not significant.

**Table 18: Seizure of cash classified by crime type by PJ- in MOP**

Type of Crime	2012	2013	2014	2015	2016
Gaming-related Crimes	21,742,798	11,719,958	24,030,496	6,115,873	12,149,867
Money Laundering	134,975	2,985	2,865,098	18,336,591	42,760,838
Fraud-related Crimes	787,950	1,876,731	9,993,274	4,961,952	1,768,993
IT-related Crimes	238,491	659,581	16,901,610	17,067,797	42,460,254
Personal Offences	0	0	0	30,534	0
Property Offences	1,280,719	2,108,598	1,127,351	5,224,794	983,756
Robbery Offences	82,716	515,691	1,055,471	1,279,891	1,176,591
Narcotics Crime	194,558	910,012	1,057,662	1,370,391	2,009,205
Organised Crime	92,200	840,705	3,205,075	4,395,822	900,924
Arson Offences	0	21,138	0	0	0
Others	1,683,066	744,288	685,769	113,458	525,821
<b>Total (in MOP)</b>	<b>26,237,473</b>	<b>19,399,687</b>	<b>60,921,806</b>	<b>58,897,103</b>	<b>104,736,249</b>
<b>Total (in US\$)</b>	<b>3,286,092</b>	<b>2,425,895</b>	<b>7,628,003</b>	<b>7,380,589</b>	<b>13,124,843</b>

**Table 19: Confiscation of cash assets for all crime types by Court - in MOP**

Type of assets	2012	2013	2014	2015	2016	Total
Cash	1,358,014	1,778,118	950,323	3,192,458	2,635,303	<b>9,914,216</b>
Chips	2,407,790	162,350	596,975	2,008,420	2,783,781	<b>7,959,316</b>
<b>Total (in MOP)</b>	<b>3,765,804</b>	<b>1,940,468</b>	<b>1,547,298</b>	<b>5,200,878</b>	<b>5,419,084</b>	<b>17,873,532</b>
<b>Total (in US\$)</b>	<b>470,961</b>	<b>242,680</b>	<b>193,509</b>	<b>650,435</b>	<b>678,429</b>	<b>2,236,014</b>

**Table 20: Judicial Police (PJ) Seizure and Confiscation of Assets related to ML Crimes (MOP million)**

	2012	2013	2014	2015	2016
Seizure of Assets related to ML crimes (Source: PJ)	MOP5.67 (US\$0.71)	MOP34.60 (US\$4.33)	MOP2.86 (US\$0.35)	MOP58.78 (US\$7.37)	MOP42.76 (US\$5.35)
Confiscation of Assets related to ML crimes (Source: Court)	MOP31.92* (US\$4.0)	-	MOP37.00** (US\$4.6)	-	-

\*Other assets confiscated in the form of shares, but their values have not yet been determined.

\*\*For one case, the asset confiscated in 2014 is half ownership of a commercial property, but its value has not yet been determined.

193. Macao, China further explained that for Table 20, the difference between the value of assets seized by the Court and PJ is due to the Court decision to return part of the assets classified as unrelated, or the time lag for cases proceeding through the Court.

(ii) Confiscation of foreign predicates

194. Macao, China has a handful of cases involving the confiscation of foreign proceeds, which is not consistent with the NRA's findings that illicit proceeds are primarily offshore in origin. There is no evidence of confiscation related to proceeds from offshore corruption, even though this is acknowledged as a higher risk in the NRA. As noted in IO.7, the CCAC remit is limited to domestic corruption and associated proceeds, and to prosecute a ML case, it is necessary to prove a link to a specific predicate offence in order to proceed from investigation to conviction. This has been an obstacle to successful prosecutions, and therefore to successful confiscations of any foreign proceeds.

195. Macao, China's few successes with foreign proceeds are derived from foreign requests. For example, in response to a foreign request to recover proceeds of an illegal casino case in another jurisdiction, the PJ seized HKD30 million of illegal proceeds which were later confiscated by the Court.

(iii) Asset management

196. It is unclear how confiscated assets are managed in Macao, China, although as noted in R.4, it has the legal framework to manage seized property under the Criminal Procedure Code. Authorities did not provide evidence to the assessment team of any designated authority responsible for handling recovered properties, even though substantial confiscations had been made on cash, shares, casino chips and properties such as parking lots and commercial property.

*Confiscation of falsely or undeclared cross-border movement of currency/BNI*

197. Macao, China's NRA report stated clearly that foreign proceeds are the major threat/risk to the jurisdiction. The report further identified that cash transportation is one of Macao, China's vulnerabilities, especially with the gaming sector i.e. casinos. Despite the NRA report and also a recommendation of the 2007 MER, Macao, China has not implemented a disclosure or declaration system for cross-border currency movement and bearer negotiable instruments (BNI). Authorities

advised that a draft Law on the declaration system of cross-border transportation of currency and BNI has been submitted to Macao, China's legislative body for approval.<sup>7</sup>

198. Overall, the measures undertaken by the authorities are not effective to dissuade laundering of physical currency and BNIs. Despite that, as part of the routine inspection procedures incorporated in the SOP, Macao, China Customs (SA) does carry out a large number of random checks at each border every day (see Table 21). SA has also used its limited powers under Articles 1 and 2 of the Customs Service Law to stop or restrain currency when there is suspicion of ML/TF linked to certain crimes. There were a few interceptions conducted by SA with large volumes of cash discovered totalling MOP164.2 million from 2011 to 2016. These cases were later passed to PJ by SA for investigation. In the absence of declaration or disclosure requirements, while the efforts of SA are commendable, statistics (see Table 22 below) on cash intercepted show low amounts given that the main land border crossing with China records daily averages of 170,000 entries and 180,000 exits.

**Table 21: Statistics on cross-border inspection carried out by SA**

Random Checks	2011 - 2014	2015	2016	Total
<b>Individuals</b>				
No. of general inspection	4,083,726	1,462,977	1,565,550	<b>7,112,253</b>
No. of strict inspection*	153,368	42,459	43,599	<b>239,426</b>
<b>Vehicles</b>				
No. of general inspection	555,603	145,517	157,964	<b>859,084</b>
No. of strict inspection*	48,638	17,432	13,756	<b>79,826</b>

\*Strict inspections include private questioning or searching.

**Table 22: Random checks statistics for cross-border transportation of cash**

	2011	2012	2013	2014	2015	2016	Total
No. of cases of large-volume cross-border transportation of cash reported by the SA	3	16	9	14	7	5	<b>54</b>
Amount of cash involved (MOP million)	5.4 (US\$0.68)	53.4 (US\$6.68)	19.1 (US\$2.39)	55.9 (US\$7)	25.6 (US\$3.2)	4.8 (US\$0.6)	<b>164.2 (US\$20.5)</b>
No. of cases passed to the PJ resulting in cash retention	1	3	4	8	3	4	<b>23</b>
Amount of cash detained by the PJ (MOP million)	3.9	4.7	16.3	2.4	19.9	31.9	<b>79.1</b>

<sup>7</sup> This was approved after the on-site.

Figure 2

**Case Study: Five Held Over Macao, China file-Sharing Website (Source: SA)**

SA arrested a suspect in connection with the operation of a website which charged users for illegal song and movies download. The crime was found operated from Hong Kong. Subsequently, two other men and two women were also detained believed to help laundered the website's proceeds.

The main suspect is a Macao, China resident. This website owns nearly 900,000 members with each paid a fee of between HK\$300 and HK\$700 in return for access to illegally unloaded songs and movies. The website also received HK\$5,000 per day from advertising in the webpage since its operation began 2003. SA and PJ raided a home in northern Macao, China and seized five computers, watches, and cash in HKD and euros which were believed to be illegal proceeds. SA further seized others' properties estimated to be MOP12 million belonging to the suspect and his accomplices.

199. The SA has undertaken awareness raising and training and implemented green and red self-declaration channels at the only airport, ferry terminals and land border crossing with China in March 2016 in preparation for the proposed cross-border currency and BNI declaration system, once ratified. These declaration channels only apply to existing requirements; cash and BNIs would only be included after the Law has been adopted.

*Confiscation result reflection of ML/TF risk and national policies and priorities*

200. Macao, China, as mentioned above, has no operational policies on confiscation; therefore the assessment team's analysis is limited only to whether the confiscation results reflect Macao, China's ML/TF risks. Details of confiscations by crime categories are provided in the confidential NRA document. The NRA statistics show the major asset confiscations are for robbery/theft, trafficking in drugs and psychotic substances, kidnapping and illegal restraint, counterfeiting currency, and illicit arms trafficking. There does not appear to be any confiscation of foreign proceeds. Overall, the confiscations are not aligned with Macao, China's risk profile. Given the nature of the confiscations, they are more likely to be instrumentalities used or contraband than the proceeds of crime. The clear exception is corruption confiscations as details have been provided on those cases.

201. **Macao, China has a low level of effectiveness for Immediate Outcome 8.**

## CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### *Key Findings and Recommended Actions*

#### **Key Findings**

##### *10.9*

- At the time of the on-site, there were minor deficiencies in Macao, China's TF regime. Where the financing of terrorism is not directly linked with a specific terrorist act, it is not specifically criminalised, instead criminalisation, according to Macao, China officials, is achieved through reliance on rules of interpretation. Further, the financing of foreign terrorist fighters is not directly criminalised but criminalisation is achieved through the broad concepts of "preparatory acts" and "provision of material support". However, it should be noted, Macao, China has exhibited an ability to take investigative steps once a report of TF is referred to the competent authorities, MP and PJ.
- The designated TF investigator, PJ shows improvement in its efforts to conduct parallel financial investigations (refer IO.7) which indicates it has a framework to pursue TF and follow the money.
- GIF leads an AML/CFT Working Group comprised of representatives from MP, SPU, SA, PJ, PSP and AMCM. This Working Group sets policy, conducts ongoing monitoring, and acts as a venue for information sharing. GIF regularly shares information with all members of the Working Group.

##### *10.10*

- Implementation of TF-related sanctions is generally good. In practice, no assets have been frozen in connection with TFS, which does not seem unreasonable within the context of Macao, China's risks.
- Article 7 of the AMCM AML/CFT Guideline requires FIs to freeze without delay or prior notice the funds or other assets of any persons that are designated by the UNSC for freezing through UNSCR 1267 and its successor resolutions, as well as UNSCR 1373. In practice, this means that there is no substantial delay in implementing TFS. There are also similar requirements in the DICJ Guideline for the gaming sector and Asset Freezing Law for all natural and legal persons. All designations must also be published in the Official Gazette which is available and applicable to all FIs, DNFBPs and the public.
- The banking sector has a high-level of awareness of their obligations to comply with UN sanctions lists as does the gaming sector, by far the most consequential DNFBP. Both have strong monitoring of their customer base using internationally recognised third-party software to screen for matches with UN sanctions lists. Banks have implemented comprehensive CDD policies and procedures, including on beneficiary ownership.
- Macao, China has a good understanding of the terrorist financing risk in its NPO sector and has conducted two risk assessments of the NPO sector, one in 2011 and one in 2014. Macao, China has assessed its risk as low.
- Macao, China has a robust and active NPO sector comprising over 7,000 organisations but most are not relevant for R.8. Most NPOs are focused on social or political activities with very few

actively engaged in humanitarian work. Therefore, Macao, China's regulatory regime for NPOs is sufficient given that there are very few NPOs directly relevant to the R.8 definition and Macao, China has a low TF risk. To date, other than the three STRs related to NPOs flagged for initial review, there is no record of any NPO being suspected of TF or any enforcement actions taken.

- To monitor the risks of NPOs associated with countries with high risk of terrorism, GIF conducts quarterly reviews of data on funds flows in and out of Macao, China. Analysis includes funds flows to and from the top three countries transacting with Macao, China. GIF shares the result with the AML/CFT Working Group. GIF flagged three STRs related to NPOs for further examination, but analysis indicated these three STRs did not need to be referred to MP.
- Macao, China employs a registration and certification regime which provides transparency on the ownership and structure of the NPO board. The majority of NPOs obtain financing from the government or subsidy granting authorities who are subject to robust procedures to ensure the funds are used for the activities declared. No direct outreach to the 10 NPOs categorised as higher risk for TF by Macao, China has been conducted.

#### 10.11

- Macao, China's framework to implement the relevant UN counter-proliferation financing sanctions (PFS) is similar to its framework for TF. In practice, no assets have been frozen in connection with PFS, which does not seem unreasonable within the context of Macao, China's risks.
- The PJ is the competent authority for conducting investigations relating to funds held by designated persons and information related to suspicion of PF. Records indicate that PJ has conducted one investigation related to PF based on two STRs filed for a possible match to sanctions lists. Macao, China has an interagency process in place to identify and freeze funds or other assets that are jointly owned or controlled, directly or indirectly by designated persons when these assets are not held in the name of the designated person as required by R7.2(b)(ii),(iv).
- Macao, China's mechanism for interagency coordination is the AML/CFT Working Group, which includes agencies involved in export control, border control, law enforcement, and AML/CFT supervision.
- In practice, the supervisory authorities such as AMCM, DICJ, and DSE include compliance with PFS in their on-site reviews for AML/CFT compliance.
- Although there is no requirement to adopt RBA in the context of countering PF activities, Macao, China has controls in place to restrict the import and export of dual-use materials which are overseen by the SA. Data on trade provided by the SA indicates that trade with high risk countries such as Iran and North Korea is minimal and limited to food stuff and petroleum for domestic use.

#### **Recommended Actions**

#### 10.9

- Macao, China should pass and implement the following proposed amendments to the TF law: (1) clearly criminalise TF offences regardless of the intention of the perpetrator; (2) clearly

criminalise TF offences when not related to a specific terrorist act; (3) criminalise financing the travel of foreign terrorist fighters; and (4) broaden the definition of funds to funds or other assets to include the concept of economic resources. (Also for IO.10).

- Macao, China should put in place a high-level policy approach to combating TF domestically and internationally, and PJ should develop more detailed operational policies and procedures on combating TF.

#### IO.10

- Macao, China should consider asking the AML/CFT Working Group, or identify another relevant authority, to take on the task of conducting outreach to the few higher-risk NPOs to advise them on their vulnerabilities.
- Macao, China should consider implementing a system to more proactively inform FIs and DNFBPs of new listings/designations (which would be additional to the current obligations for FIs and DNFBPs to check the UNSC website for listings/de-listings).

#### IO.11

- The Asset Freezing Coordination Commission should continue to coordinate and implement obligations under UNSCRs 1718 and 1737 under the recently introduced Freezing Law, including a training programme on how to identify dual use goods and sanctions evasion.

202. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

### ***Immediate Outcome 9 (TF investigation and prosecution)***

#### *Prosecution/conviction of types of TF activity consistent with the country's risk-profile<sup>8</sup>*

203. The NRA rates the TF risk as low. No actionable cases of terrorist financing have been detected from STRs or through other intelligence channels. There is, therefore, no data on successful investigations, prosecutions, or convictions because none have been undertaken. The lack of statistical information is not inconsistent with Macao, China's risk profile. The prosecution of TF offences is the responsibility of the MP.

204. However, despite the low risk, Macao, China's lack of legal authority to prosecute for terrorist financing unconnected to a terrorist attack or the funding of a FTF is a deficiency. As set out below, Macao, China has demonstrated a framework for detecting and investigating TF where it is connected to a terrorist attack, which Macao, China has not experienced. Macao, China's law does not clearly set out the legal framework to prosecute TF unconnected to a terrorist attack or related to the funding of a financing of TF. Macao, China disputes that its former law did not cover TF when not related to a

<sup>8</sup> The assessment methodology for Immediate Outcome 9 was revised by the FATF in February 2017 (i.e. after the on-site visit), to broaden the reference to types of TF activity to include 'other assets' in addition to funds. The revised version has been taken into account in the recommendations presented in this report.

significant act noting that the broad definition of terrorism would allow for prosecution of such activity. The lack of clear authority to prosecute for such activities could account for the lack of detailed operational policies and procedures to Macao, China's monitoring and investigative activity relating to TF.

#### *TF identification and investigation*

205. Macao, China's terrorism coordinating agency, the SPU, leads and coordinates LEA on both operational and policy issues relating to TF. PJ is the competent authority to carry out criminal investigations of TF cases and has the responsibility to develop TF intelligence received from the MP. Several agencies are authorised to refer cases to PJ for investigation on suspicion of TF, including GIF and SA, although any criminal investigation must be initiated by the MP. Should the PJ receive lead information independently from other sources, or from the private sector it will first conduct a preliminary investigation to substantiate the information. Once that preliminary investigation is complete, PJ will refer the lead to the MP to open a case prior to conducting a formal investigation. In practice, only five cases have been referred to PJ on suspicion of TF, all of which resulted from the filing of an STR for a match to the sanctions list.

206. On average, only one TF STR per year has been filed with GIF, and all STRs have resulted from a match to a sanctions list or other watch lists using automated screening software. Of the five STRs filed on suspicion of TF since 2011, three were false positives (those filed in 2011, 2012, and 2015) although all five were referred to the MP on suspicion of TF.

**Table 23: Number of TF-Related STRs Filed Per Year**

2011	2012	2013	2014	2015
1	1	-	2	1

207. The two STRs reported in 2014 were related to transactions carried out by an individual at a mass gaming floor of a casino without any front money accounts. GIF conducted a preliminary analysis of the reports, and confirmed that the individual did indeed match the UN sanctions list. GIF submitted a request to FIUs in Guangdong, China and Hong Kong, China for further information on the suspect and at the same time referred the STRs to the MP to open a TF case and pass it to the PJ for investigation. PJ undertook investigation of the case and determined the suspect had departed Macao, China after completing his transactions. As a follow up, PJ reached out to Interpol to verify the suspect and request any available information. PJ kept the file open on the suspect and, when he returned to Macao, China in 2015, PSP intercepted him at the border checkpoint. However, by that time the suspect had been removed from the UNSCR list and the case was closed.

208. All formal FIs utilise well known international screening software as do the most consequential DNFBPs: the casino concessionaires/sub-concessionaires and junket operators. The FIs and DNFBPs screen all customers and file STRs where they detect a match.

209. The SPU has put in place a Standard Operating Procedure (SOP) for TF investigations and requires PJ employees to undertake training on TF investigations when offered by international law enforcement agencies, although this training is not routine and is not required unless offered. These procedures could be further enhanced and made more detailed. Although it is the competent authority to investigate TF, historically PJ has relied on other agencies to provide lead information, such as an STR, before it has investigated TF-related activity. Although the information provided indicates that

the PJ conducts proactive investigations to detect terrorists, terrorist organisations, or planned terrorist activities, for those cases where the PJ has actively investigated, such as predicate offences for ML, it has a very weak track record for conducting parallel ML investigations to deprive criminals of their proceeds. This raises some concern about its capacity to pursue TF and follow the money proactively.

4

210. The PSP screens all entrants into Macao, China whether they arrive through ferry, land, or air travel. PSP conducts several checks including a screen of the identification card for a match to watch lists, which include information from LEAs and Interpol, as well as the UN sanctions lists. PSP takes a picture of the entrant's face and runs it through a facial recognition check. Should PSP have reason to conduct further investigation, it also has the ability to run fingerprint checks. In certain cases of concern, PSP investigates whether the individual possesses a return ticket or if they have the basic resources for a visit to Macao, China. PSP works closely with the PJ and SPU and cooperates on the interception of individuals of concern, as the case above shows. No other cases have been reported.

211. From the details provided in the investigation of the five suspected cases of TF, it is evident that Macao, China has put in place the framework to: screen for matches to sanctions lists; analyse STR data; and, conduct an investigation into reported matches to sanctions lists. At the operational level, however, it is apparent that identification and investigation of TF within law enforcement (PJ) is not conducted without a referral from MP, although the SPU can also command PJ to conduct an investigation should intelligence indicate an investigation is warranted. There appears to be a lack of focus in PJ on independently developing intelligence related to TF-activity and there is no directive from SPU to focus on following the money of suspected terror-related activity should the need arise. This lack of focus may be due to the deficiency in the TF law where the financing of FTF or TF without a connection to a terror attack isn't criminalised, and therefore wouldn't garner the attention of the LEAs. Also, as noted in IO.6, PJ relies largely on STRs as a lead for TF investigations. While TF risk is low, the small number of STRs related to TF suggests this is a very narrow intelligence base to rely upon for TF detection.

212. GIF has sophisticated tools for analysing STR data and is able to prioritise its analysis based on a series of risk classification factors. GIF has the ability to simultaneously check ROVE reports, DICJ's records of junket collaborators, SA records, MP records, PJ records, registry of Macao, China officials, and entities and individuals designated at the UN. GIF can also use these analysis tools to run reports based on a variety of criteria and can map out linkages to other individuals, entities, and transactions. GIF is able to provide information to other agencies upon request.

#### *TF investigation integrated with -and supportive of- national strategies*

213. Macao, China does not have an established, written cross-agency strategic approach to counter the financing of terrorism within a broader counter-terrorism strategy, although, in practice, Macao, China has shown that the AML/CFT Working Group provides a platform for coordination and cooperation on efforts to combat TF. Macao, China's annual AML/CFT strategic plan does not include a comprehensive approach to TF and no other documented policy or procedure outlines an integrated cross-agency approach. It should be noted, however, that the recent Asset Freezing Law passed by Macao, China established an Asset Freezing Coordination Commission to coordinate and implement its obligations under UNSCR 1267 and 1373. This Commission was formally established in 2016 and held three meetings prior to the on-site. Macao, China has indicated that it expects the Commission to serve an important role of coordinating cross-agency efforts to combat TF although it has not had any significant opportunities to demonstrate that it is effective.

*Effectiveness, proportionality and dissuasiveness of sanctions*

214. Under Macao, China's law, both natural and legal persons are subject to prosecution for TF offences. However, there have been no prosecutions for TF in Macao, China and accordingly no sanctions imposed. This is not unreasonable given Macao, China's low risk for TF.

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

215. For the reasons stated above, there has been no need to employ alternative measures where it is not practicable to secure a TF conviction.

216. **Macao, China has a moderate level of effectiveness for Immediate Outcome 9.**

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

217. Implementation of TF-related targeted financial sanctions (TFS) is generally good. In practice, no assets have been frozen in connection with TFS, which does not seem unreasonable within the context of Macao, China's risks. For designations pursuant to the 1267/1989 and 1988 and 1373 sanctions regimes, Macao, China must first receive word from the Central People's Government (CG) of its obligations to list certain individuals or entities, after which the listings are published in the Official Gazette and immediately come into effect. Under Article 13 of Macao, China's Basic Law, the CG is responsible for foreign affairs relating to the Macao Special Administrative Region. Transposition can take several months.

218. To overcome this significant delay in implementation, Macao, China requires FIs to freeze without delay or prior notice the funds or other assets of any persons that are designated by the UNSC for freezing through UNSCR 1267 and its successor resolutions, as well as UNSCR 1373. Article 7.1.2 of the AMCM AML/CFT Guideline requires "institutions should freeze without delay and prior notice, the funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by any persons" that are subject to designation by the UNSC or designated by Macao, China pursuant to 1373. There is a similar requirement in the DICJ AML/CFT Guideline for the gaming sector and Asset Freezing Law for all natural and legal persons. In practice, this means that despite the delay in listing under Article 13 of Macao, China's Basic Law, FIs and DNFBPs implement TFS without delay under Article 7.1.2 and DNFBP specific AML/CFT guidelines respectively. Designations and de-listings are communicated to the private sector through notice in the Official Gazette (which could cause a delay as stated above) and through direct communication (via circulars and official letters) by supervisors (such as AMCM and DICJ) to FIs and DNFBPs. The communication to FIs and DNFBPs takes place well before the lists are published in the Official Gazette. For example, whenever there is an update to the sanctions lists the AMCM immediately alerts FIs to update their screening filters.

219. As outlined in IO.4, all FI's have implemented automated monitoring/screening against sanctions lists. This monitoring applies to account opening and includes ongoing monitoring of all transactions, including wire transfers. TFS name screening at account opening and subsequent batch checking that is done on a daily, weekly, or monthly basis. The AMCM's thematic review has not revealed any significant concerns regarding the effectiveness of the CFT database.

220. The banking sector has a high-level of awareness of their obligations to comply with UN sanctions lists. The internal procedures of these banks require screening of customers using

internationally recognised third-party screening software when onboarding a customer, at the time of a transaction, as well as batch checking for existing customers on a periodic basis.

221. Banks have comprehensive CDD policies and procedures, including on beneficiary ownership (refer IO.4). They drill down to attempt to identify the natural person(s) who owns or controls a legal person, and as noted in IO.5, this may be difficult when a Macao, China company is owned by another legal person(s) incorporated overseas.

222. Additionally, the gaming sector, by far the most consequential DNFPB, has strong monitoring of its customer base using internationally recognised third-party software to screen for matches with UN sanctions lists (refer IO.4). The supervision of the gaming sector is robust as outlined in the report relating to IO.3 and includes compliance with TFS.

223. Supervisory authorities such as AMCM, DICJ, and to a lesser extent the DSE and DSAJ include compliance with TFS in their on-site reviews for AML/CFT compliance although the assessment team did not obtain statistics for compliance with TFS. Although it is unclear how well these sectors implement TFS, these sectors (other than FIs and gaming) are markedly less significant than the gaming sector which implements robust controls and is subject to effective supervision for TFS.

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

224. Macao, China conducted two reviews of the NPO sector in 2011 and 2014. The results of both reviews fed into the NRA which also covered the NPO sector. Each review focused on the risk-based registration and monitoring system as well as the potential vulnerabilities in connection with fund-raising activities.

225. NPO sector is a large and active sector of Macao, China's economy, comprising over 7,000 organisations. However, most are not as relevant for R.8 because they are focused on social or political activities and very few are actively engaged in charitable, humanitarian work. Most NPOs are the recipients of government grants via the government controlled Macao Foundation (the Foundation).

226. In 2016, the Foundation provided subsidies to approximately 1,000 NPOs totalling about MOP150 million (US\$18.77 million) - 52 per cent to groups focused on education and research; 30 per cent to cultural organisations; and 7.3 per cent given to social service NPOs. In all, 98 per cent of subsidies granted by the Foundation are given to NPOs focused solely on domestic activities. Subsidies provided by the Foundation for charitable activities outside of Macao, China are granted only for activities in China. The Foundation receives 1.6 per cent of the tax revenue received from the concessionaires and the sub-concessionaires of the casino sector. These are available for cultural, social, economic, scientific, and charitable activities.

227. The Macao Foundation provides 98 per cent of its funds to local charities and has a reporting mechanism in place to trace funds that it does provide. The only overseas activities are in China. The assessment team met with the Macao Foundation on NPOs, and two NPOs (out of the 10 NPOs identified at risk for TF). Given that no NPOs registered in Macao, China conduct humanitarian operations in high risk regions for TF, the NPOs selected for interview were known to conduct charitable giving overseas. The Foundation and two NPOs displayed a mixed understanding of what factors would indicate higher TF risk related to charitable fundraising and giving.

**Table 24: Total Number and Types of NPOs Registered with DSI**

<b>Classification Types</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Employer</b>	348	389	425	477	527	571
<b>Labour</b>	239	263	277	297	314	322
<b>Professional</b>	371	429	476	520	583	665
<b>Charity</b>	1,067	1,154	1,224	1,299	1,364	1,464
<b>Culture</b>	977	1,071	1,181	1,293	1,424	1,596
<b>Education</b>	189	211	227	247	271	301
<b>Sports</b>	1,106	1,171	1,243	1,331	1,407	1,494
<b>Others</b>	870	951	1,091	1,264	1,426	1,448
<b>Total</b>	<b>5,167</b>	<b>5,639</b>	<b>6,144</b>	<b>6,728</b>	<b>7,316</b>	<b>7,861</b>

228. There is a registration system for NPOs. Most registration certificates expire after three years at which point the Identification Services Bureau (DSI) will request new registration certification. In order to apply for an NPO, the applicant must apply with DSI for a certificate representing that the NPO is new and the proposed name is unique. The NPO applicant then takes this certificate to the registration department of the DSAJ to perform the registration, and then gets this document notarised. The applicant has to provide to the notary the identification of the administrative body of the NPO (the directors who have management power over the NPO), the registered address, and the Memorandum of the Articles of Incorporation.

229. The NPO's legal identity must be published in the Official Gazette for the purpose of providing legal notice to third parties and NPOs must provide the registration certificate to any FI in order to open a bank account. Although there is no competent authority charged with outreach and risk-based oversight of the NPO sector in Macao, China and no outreach has been conducted to NPOs, GIF does lead an effort to conduct risk-based supervision through the NPO Working Group, established in 2009. The NPO Working Group is comprised of members from the AMCM, DSF, DSI, DSAJ, and GIF, with assistance from the SAFF, and a legal expert from the Secretary of Security, and takes a proactive approach to monitoring financial transactions related to NPOs.

230. Although very few NPOs are engaged in charitable, humanitarian work Macao, China has employed a risk-based approach to its regulatory regime. The NPO Review Working Group conducts a quarterly review of all inward and outward financial transactions conduct by NPOs, which is a robust mitigating strategy. The purpose of the NPO Review Working Group includes: (1) review and evaluate the adequacy and effectiveness of the supervisory measures undertaken by government agencies and private sector for NPOs in Macao, China against ML/TF risks; (2) study of financial transactions carried out by NPOs to overseas recipients; (3) study the possible enhancement and implementation plans for the NPO sector. Although risk is very low, and Macao, China employs a risk-based approach, no outreach has been made directly to any NPOs ranked as higher risk.

231. To monitor the risks of NPOs in association with countries with high risk of terrorism, GIF conducts quarterly reviews of data on cross-border fund flows in and out of Macao, China. Analysis includes fund flows to and from the top three countries transacting with Macao, China. GIF utilises immigration data from PSP and relevant information from LEAs related to NPOs or foreign workers found in criminal investigations as part of its quarterly review of transactions.

232. The results of GIF's quarterly review are shared with banks, DSF, DSI, AMCM and LEAs.

233. Since 2009, GIF's analysis team has identified three STRs related to NPOs which were flagged for additional analysis. After additional scrutiny, GIF ultimately determined that there was no indication that these NPOs were conducting transactions related to TF. GIF closed the file and did not refer any of the cases to the MP.

**Table 25: Number of STRs Related to NPO**

2009	2012	2013	2016
1	1	1	0

#### *Deprivation of TF assets and instrumentalities*

234. As mentioned above, the banking sector and the most consequential DNFPB, the casino sector, have strong monitoring for their customer base and use internationally recognised software to screen for matches with UN sanctions lists. Further, as stated above, Article 7 of the AMCM AML/CFT Guideline requires FIs to freeze without delay or prior notice of any persons that are designated by the UNSC for freezing through UNSCR 1267 and its successor resolutions, as well as UNSCR 1373. In practice, this means that there is no substantial delay in implementing TFS when an institution identifies a match to a sanctions list.

235. As noted under IO.9, the Asset Freezing Coordination Commission was established in mid-2016 to coordinate and implement UNSCR obligations, although it had only three meetings before the on-site. This Commission formalises the work undertaken by the AML/CFT Working Group, hosted by GIF. AML/CFT Working Group acted as the coordinating body for identifying persons or entities for designation by the UN 1267/1988 Committees, upon referral through China. Macao, China has not made any such recommendations which is not unreasonable given its low risk profile.

236. Macao, China has not frozen assets pursuant to 1373 (either on its own in response to a foreign request), which is not unreasonable given its low risk profile.

#### *Consistency of measures with overall TF risk profile*

237. The authorities display a good understanding of Macao, China's TF risk and have implemented TFS measures, including in the higher-risk gaming sector. There has been no asset frozen, which is consistent with the risk profile. It has taken a risk-based approach to NPOs, and while no outreach has been taken, authorities monitor the international remittances (inward and outward) of all NPOs and undertake quarterly reviews using a risk-based approach. There were only 18 transactions in 2015 and 2016 that were sent to/from higher risk jurisdictions, but authorities verified that they were for legitimate purposes.

238. **Macao, China has a substantial level of effectiveness for Immediate Outcome 10.**

### *Immediate Outcome 11 (PF financial sanctions)*

#### *Implementation of targeted financial sanctions related to proliferation financing without delay*

239. Macao, China's framework to implement the relevant UN counter-proliferation financing sanctions (PFS) is similar to its framework for TF. In practice, no assets have been frozen in connection with PFS, which does not seem unreasonable within the context of Macao, China's risks. Article 1 of the Asset Freezing Law provides the framework for enforcement and implementation for freezing of any individuals or entities that are designated by UNSC through UNSCR 1718 and 1737 and their successor resolutions.

240. Under Macao, China's Basic Law Article 13, the CG is solely responsible for foreign affairs relating to Macao, China. Officially, Macao, China must first receive word from the CG of its obligation to list certain individuals or entities which have been designated by the UN. The CG notifies the Chief Executive, as head of Macao, China. After notification, the UNSCRs are published in the Official Gazette in accordance with the Civil Code and Law 3/1999 (Law on the Publication and Formulary of Legal Diplomas), at which time they officially become effective in Macao, China. This process often results in a delay between the time of listing at the UN and the time of publication in the Official Gazette, however, Article 7 of the AMCM AML/CFT Guideline requires FIs to freeze without delay or prior notice the funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by any persons that are designated by UNSC for freezing through UNSCR 1718 and 1737 and their successor resolutions. Thus, in practice, there is no significant delay in the implementation of PFS.

241. To overcome this delay, Macao, China issued regulations. Under Article 7.1.2 of the AMCM AML/CFT Guideline requires "institutions should freeze without delay and prior notice, the funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by any persons" that are subject to designation by the UNSC including those relating to PF (see IO.10).

242. The banking sector has a high-level of awareness of their obligations to comply with UN sanctions lists. The internal procedures of these banks require screening of customers using internationally recognised third-party screening software when onboarding a customer, at the time of a transaction, as well as batch checking for existing customers on a periodic basis.

243. As stated in IO.10, and outlined in IO.4, all FI's have implemented automated monitoring/screening against sanctions lists. This monitoring applies to account opening and includes ongoing monitoring of all transactions, including wire transfers. FI's conduct screening at account opening and subsequent batch checking that is done on a daily, weekly, or monthly basis. The AMCM's thematic review has not revealed any significant concerns regarding the effectiveness of the CFT database.

244. Banks have comprehensive CDD policies and procedures, including on beneficiary ownership (refer IO.4). They drill down to attempt to identify the natural person(s) who owns or controls a legal person, and as noted in IO.5, this may be difficult when a Macao, China company is owned by another legal person(s) incorporated overseas.

245. Additionally, the gaming sector, by far the most consequential DNFPB, has strong monitoring of its customer base using internationally recognised third-party software to screen for matches with UN sanctions lists. The supervision of the gaming sector is robust as outlined in the report relating to IO.3 and includes compliance with TFS.

246. As stated above in IO.10, supervisory authorities such as AMCM, DICJ, and to a lesser extent the DSE and DSAJ include compliance with TFS in their on-site reviews for AML/CFT compliance although the assessment team did not obtain statistics for compliance with TFS. Although, it is unclear well these sectors implement TFS, these sectors are markedly less significant than the gaming sector which implements robust controls and supervision.

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247. As noted under IO.9, an Asset Freezing Coordination Commission (Commission) to coordinate and implement obligations under UNSCRs 1718 and 1737 was established in mid-2016 and held three meetings prior to the on-site. Prior to the formation of the Commission, Macao, China achieved interagency coordination through the AML/CFT Working Group. Establishment of the Commission formalises the efforts already underway through the Working Group and provides an expedited process for seizing funds related to PF. (see IO.1).

248. SPU confirmed that it receives intelligence on suspected proliferation financing activity, including front companies and front people, from partner countries in addition to the information generated internally through the Macao, China government by PSP or PJ. Through the coordination mechanism (first the AML/CFT Working Group and now through the Commission) information relating to suspected PF or individuals or entities of concern can be shared with all other LEAs with GIF. When the PJ identifies information of concern, it contacts GIF to request that it undertake an investigation and provide further information. If GIF verifies this information and concludes it should be disseminated to FIs, even if sensitive, GIF has the competency to share information with both AMCM and with FIs. GIF can provide this information through secure channels of communication with the AMCM and has a track record of using this communication channel to share sensitive information in the past. This mechanism allows FIs to identify and freeze the assets which may be jointly or beneficially owned by a designated person or entity as well as funds or other assets of persons or entities acting on behalf of, or at the direction of a designated person or entity.

249. The Commission also has the competence to recommend the public listing of front companies or front persons on behalf of a designated entity. If the Commission find that a shell company is a front, they have the authority to recommend that the Chief Executive publish these names in the Official Gazette and will provide a pre-notification to FIs. Although front companies have been listed related to PF, the AML/CFT Working Group has a track record of such recommendations in the TF context.

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

250. The PJ is the competent authority for conducting investigations relating to funds held by designated persons and information related to suspicion of PF. Records show that there have been three STRs filed on suspicion of PF-related activity. All three, the result of matches to UN sanctions lists, are currently under investigation by the PJ. Two of these relate to the same activity, discussed below.

251. Macao, China has a mechanism through the AML/CFT Working Group to facilitate information sharing between the LEAs and the supervisory agencies on information related to suspicion of PF. Additionally, Macao, China has a track record of formally and informally sharing classified or sensitive information with FIs on issues of concern.

**Figure 3****Case Example: UNSCR 2270**

In 2016, a Casino customer who attempted to subscribe for membership was flagged by the third-party screening software to be associated with an organisation which was a possible match to a UNSCR 2270 sanctions list. The Casino filed two STRs which were referred to the PJ for investigation on suspicion of PF. PJ took the following steps to investigate the STRs: (1) PJ requested the Casino provide the gaming activity records and the front money account history of the suspect; (2) PJ Conducted background checks utilising resources from PJ, CRC, and DSF to determine whether or not the suspect had any interest in local companies; (3) reviewed ROVE records; (4) checked with PSP for immigration records; (5) requested bank account transactions from GIF; and, (6) reviewed records in Official Gazette to confirm whether or not they had been listed domestically. The case is still under investigation. (D.S. 1110/2016) (14104/16 and 14105/16).

252. Macao, China also has controls in place to restrict the import and export of dual-use materials which are overseen by the SA. These restrictions include: (1) export and import of restricted goods or materials requires licenses subject to approval by the DSE; (2) the restricted materials include, but are not limited to, chemicals, electronic instruments, arms, ammunitions, and parts and accessories which may have dual-use, are defined in List A and List B in the Notice issued by the Chief Executive; (3) export license applicants must provide information such as consignee, destination country, means of transport, types of goods, amounts, price, value, and country of origin; (4) import license applicants must provide similar information but must also provide details of the sender of the goods.

253. All import and export activities must be conducted at designated ports, under supervision of the SA, and are subject to criminal prosecution with imprisonment penalties.

254. Breach of the export and import licensing requirements of restricted goods and materials can lead to administrative penalties and seizure of the goods or materials involved.

255. Data provided to the assessment team demonstrates SA has the ability to identify and intercept suspicious dual use products, materials, and equipment and employ a RBA.

256. SA is the competent authority to investigate such cases. As a member of the World Customs Organization (WCO), through which the SA shares intelligence and exchanges information with international counterparts, it maintains the ability to conduct thorough investigations on suspicious activity.

257. As stated above, if the PSP identifies information on suspected activity, it contacts GIF to request that it undertake an investigation and provide further information (and in so doing provide the relevant information to GIF). If GIF verifies this information and concludes it should be disseminated to the AML/CFT Working Group (now the Asset Freezing Coordination Commission), even if sensitive, GIF can provide this information through secure channels of communication with the AMCM, or other Macao, China agencies, and has a track record of using this communication channel to share sensitive information in the past.

### *Competent authorities ensuring and monitoring compliance*

258. In practice, the supervisory authorities such as AMCM, DICJ, DSAJ and DSE include compliance with PFS in their on-site reviews for AML/CFT compliance. Macao, China's efforts to

incorporate supervision for PF into the current supervisory structure are not unreasonable within the context of its lower risk.

259. The authorities display a good understanding of Macao, China's PF risk.

260. **Macao, China has a substantial level of effectiveness for Immediate Outcome 11.**

## CHAPTER 5. PREVENTIVE MEASURES

### *Key Findings and Recommended Actions*

#### **Key Findings**

- Macao, China has subjected all FIs, DNFBPs and other Macao, China designated DNFBPs, including junket promoters and high value goods dealers (jewellery, pawnshop, watch and motor vehicle dealers) to its AML/CFT regulatory regime. There is joint liability between a concessionaire/sub-concessionaire (casino) and its junket promoters regarding the junkets' compliance with all applicable laws and regulations.
- The six concessionaires/sub-concessionaires demonstrate a sound understanding of ML/TF risks and AML/CFT obligations, while junket promoters display an incomplete awareness of ML/TF risks and AML/CFT obligations. The concessionaires/sub-concessionaires have implemented to a large extent the DICJ Instruction requirements on CDD, determination of beneficial ownership and PEPs (foreign and domestic), record keeping and TFS, including coverage on the junket sector. Concessionaires/sub-concessionaires and their junket promoters work together to implement preventative measures, with the former acting both as second and first lines of defence. Concessionaires/sub-concessionaires have been implementing standards based on their global AML/CFT compliance requirements, which until the issuance of the revised DICJ AML/CFT Guideline in 2016, were higher than Macao, China's requirements.
- FIs, particularly banks exhibit a mature understanding of ML/TF risks and AML/CFT obligations, and have implemented to a large extent CDD, STR, targeted financial sanctions, record keeping and other requirements.
- DNFBPs such as legal professionals (notaries) and accountants have a reasonable grasp of ML/TF risks and an understanding of the AML/CFT obligations, and have implemented the requirements to some extent. The real estate sector and dealers of precious stones and metals display a limited understanding of ML/TF risks and AML/CFT obligations, and have implemented the requirements to some or to a negligible extent.
- There are gaps in the understanding and implementation of STR obligations. Concessionaires and sub-concessionaires are reporting the highest number of suspicious transactions (6,155 from 2011 to 2015) arising from the alerts generated by their monitoring system, including for the junket sector. However, junket operators themselves have only submitted five STRs for the period 2011 to 2015 and 13 in 2016, although the DICJ and concessionaires and sub-concessionaires are working to improve compliance. STR reporting in other DNFBPs and outside of the banking/exchange counter sector is negligible.

#### **Recommended Actions**

- DNFBP supervisors should further amend their AML/CFT guidelines to bring them into compliance with the FATF Recommendations, including adding express provisions for the gaming sector to carry out CDD on occasional transactions above the designated threshold for transactions not classed as suspicious, covering international PEPs, subject to threshold reporting, etc.

- DNFBP supervisory authorities such as DSAJ, IPIM, DSE, and DICJ should continue to ensure that covered institutions have an increased level of understanding of their ML/TF risks and AML/CFT obligations; particularly among the higher risk entities or those not as aware of the AML/CFT requirements e.g. junket promoters, real estate agents and high value goods dealers.
- DNFBP supervisory authorities should continue to seek regular yearly feedback from reporting entities on their understanding of ML/TF risks and on implementation of enhanced measures to combat high risks.
- Supervisors and concessionaires/sub-concessionaires should continue their efforts to assist and ensure junket promoters' implementation of the DICJ AML/CFT Guideline, given junket promoters are a major source of VIP introduced business for casinos.
- Competent authorities should continue working with DNFBPs to increase compliance with STR reporting requirements, particularly for third party junket introduced business.
- Review the level of STR reporting in relation to gaming related transaction volumes, and increase training and outreach to junket operators, and agents and notaries involved in real estate transactions, to improve risk awareness and increase STR reporting.
- All reporting entities should consider forming an AML/CFT compliance association to share information on implementation of AML/CFT requirements across all sectors.

261. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The recommendations relevant for the assessment of effectiveness under this section are R.9-23.

### ***Immediate Outcome 4 (Preventive Measures)***

#### *Understanding of ML/TF risks and AML/CFT obligations*

##### i. Gaming sector

262. The level of understanding of ML/TF risks (including the NRA results) and AML/CFT obligations by concessionaires/sub-concessionaires has evolved and is considered sound. All concessionaires/sub-concessionaires operating casinos in Macao, China are part of global casino operators/gaming groups with high levels of maturity in terms of AML/CFT compliance. In practice, the concessionaires/sub-concessionaires have been implementing standards higher than those in the previous DICJ guideline because of their home supervisory requirements. These concessionaires/sub-concessionaires draw on their global knowledge and practices to help further inform their understanding of AML/CFT risks in Macao, China.

263. During the on-site, the larger concessionaires/sub-concessionaires outlined and demonstrated to the team comprehensive risk assessment methodologies in identifying and assessing risks associated with the casino sector, including junket promoters. The assessments covered national/geographic risk, customer risk, product and service risk, risks associated with the nature of the transactions such as VIP, technology involved (TITO), etc. One major global concessionaire outlined its risk assessment methodology and risk assessment which detailed threats, inherent risks,

vulnerabilities and residual risks, and demonstrated impressive knowledge of the risk environment, and practices to mitigate those identified risks.

264. The coverage of the DICJ AML/CFT Guideline extends to junket promoters but junket promoters' understanding of ML/TF risks and of the more granular requirements in the DICJ guideline is limited. This is confirmed by DICJ's own conclusions and surveys, and on-site interviews with the assessment team. The varying and inconsistent responses specifically relating to the results of the NRA (TF risks, manner by which the source of funds is verified), as well as to some provisions of DICJ guidelines (KYC/CDD, transaction monitoring and reporting of suspicious transactions) reflect their limited understanding of AML/CFT obligations. Risk profiling and stand-alone EDD measures are not clearly understood or implemented by junket promoters.

265. While junket operators are captured as direct reporting entities by Macao, China's regulatory regime, they are also accountable to the concessionaires/sub-concessionaires as providers of third party introduced business. There is joint liability to comply with AML/CFT obligations by the concessionaires/sub-concessionaires and junket promoters, with the former more focused as the second line of defence, including verifying that junket operators have performed the required CDD and screening using commercially provided software. Concessionaires/sub-concessionaires undertake regular monitoring of compliance by junket promoters (including a formal Junket Oversight Committee by one concessionaire), and have given renewed focus to enhancing junket promoters' compliance and understanding since the issuance of the revised DICJ AML/CFT Guideline. The concessionaires/sub-concessionaires have ultimate responsibility for AML/CFT.

#### ii. Financial Institutions

266. The major banks met with during the on-site demonstrated a sound understanding of the ML/TF risk environment, AML/CFT obligations and the NRA findings. Most banks operating in Macao, China are international banks, including some of the largest global banking groups which dominate the banking sector. They follow the AML/CFT compliance procedures and processes of their global group. Similarly to the gaming sector, in practice, the global banks have been implementing standards higher than those in the previous AMCM AML/CFT Guideline. Banks also demonstrated a universal understanding of the risk posed by Macao, China's gaming sector, including the risk posed by junket operators, the use of cash and the ATM risk. Banks also consider all NPO customers as high risk, with individual NPO's risk profiles calibrated along the high risk spectrum based on the bank's risk criteria, even though the NPO sector is relatively low risk, based on the NRA results. This view of NPO risk reflects the group risk rating of the NPO sector globally, although this has not led to any de-risking in Macao, China.

267. The views of the AMCM (banking supervisor) on the banking sector's understanding of ML/TF risks and AML/CFT obligations are broadly consistent with the outcomes of on-site meetings with the banks sampled. All 29 banks have been subject to thematic examinations which confirmed progress made.

268. Other FIs also demonstrate a sound understanding of ML/TF risks and AML/CFT requirements, although not to the same extent as the global banks. All FIs have implemented AML/CFT policies that identify higher risk areas and have applied risk mitigation measures. The higher risk areas identified are generally in line with the AMCM AML/CFT guidelines and the NRA.

#### iii. Other DNFBPs

269. For other DNFBPs, the level of awareness of risk and AML/CFT requirements varies, with a good awareness of risks and obligations among notaries, lawyers and accountants, and a lower awareness among real estate agents and high value goods dealers. The NRA assessed real estate, which until recently experienced rapid growth, as exposed to increased ML/TF risk due to large inflows of overseas funds. However, during the on-site the private sector representatives displayed limited understanding of the threats and vulnerabilities of that sector, despite the NRA providing a foundation for identifying and addressing sector vulnerabilities.

270. High value goods dealers, given the cash intensive nature of the sector and regular abuse of payment cards, have not demonstrated a sound understanding of the risks and obligations, beyond the basic requirements.

### *Application of risk mitigating measures*

#### i. Gaming sector

271. The concessionaires/sub-concessionaires exercise different degrees of preventive measures commensurate to their risk and apply mitigating measures after determination of the inherent risks posed by their customers/patrons in relation to products, services, and delivery channels. Acceptance of VIP customers under the premium loyalty program for purposes of CDD is at “zero threshold”. Concessionaires/sub-concessionaires undertake on-going monitoring of the gaming transactions of patrons and VIP players, as well as reclassification of risk profiles. VIP customer onboarding is subject to multi-layered and enhanced screening, first by junket promoters and then concessionaires/sub-concessionaires. Walk in customers are also subject to this multi-layered process, but not necessarily to enhanced due diligence. In addition, an escalation process is implemented in cases of a high risk scenario/event. Casinos extend EDD measures even to the financial activity (payment methods) of the customer such as wire transfers, alternative remittance (inter-property transfer), and limiting repayments of gaming credit and cashier orders, direct bank remittances or remittances through a money changer. Large cash reporting mechanisms (ROVE) provide an additional mitigating tool as CDD is also required on transactions identified by ROVE. The above practices help mitigate the CDD threshold gap for occasional customers identified under R.22.

272. Concessionaires/sub-concessionaires also apply sound internal control measures. They apply “Know Your Employee” processes when hiring officers and staff, and there is senior management involvement in the AML committee on a periodic basis and during events escalation. Periodic assessments (proactive and reactive) of ML/TF risks are conducted to ensure updated risk levels and scores. In addition, comprehensive vetting of junket applicants, including an annual review of contracts, is undertaken. The absence of AML/CFT profiling of individual junket promoters has been addressed through the issuance of the junket risk assessment framework to enable concessionaires and sub-concessionaires to focus on higher risk junkets. There is adequate surveillance and a monitoring team manning the casinos on 24/7 basis to prevent fraud and gaming irregularities.

273. As part of the contractual arrangements between concessionaires/sub-concessionaires and junket promoters as third party introducers, and as direct reporting entities, the junket promoters are also implementing their own mitigating measures. However, these are inconsistent with their risk exposure and rely on mitigating measures undertaken by their concessionaires/sub-concessionaires, such as the conduct of enhanced due diligence, AML/CFT training, on-going monitoring and the screening of transactions. To some extent, concessionaires/sub-concessionaires mitigate the compliance lapses of junket promoters including the reporting of suspicious transactions.

#### ii. Financial Institutions

274. Banks and insurance businesses have policies and procedures approved by the Board of Directors/board-level committee. There is a risk scoring model for customers and transactions, delivery channels are well-established, effective courses and refresher training courses on AML are provided as well as an escalation process for high risk scenarios and the involvement of the compliance office or AML Committee.

275. For merchant acquiring business, banks are obliged to comply with the provisions of their settlement agreement with their card provider. Granting an overdraft facility to jewellery shops and merchants designated by the card provider as high risk is prohibited.

276. All banks apply different levels of transaction limits for “on-line banking”, specifically the transfers to “self-own accounts” or third-party accounts and certain banks even require an “e-token”.

277. Money remitters and money exchangers apply basic CDD and on-going monitoring of their customers. A money remitter interviewed by the assessment team has group-wide compliance testing for AML/CFT conducted by its parent bank. This remitter has more comprehensive AML/CFT policies and procedures approved by its board.

iii. Other DNFBPs

278. The small offshore company service providers sector, and legal and accounting professionals have procedures in identifying clients, as well as understanding the nature of their clients’ businesses. Notaries have more comprehensive CDD practices given their long history of checking, verifying and certifying documents for company registration purposes, and the tighter regulatory environment for notaries in Macao, China.

*Application of enhanced or specific CDD and record keeping requirements*

i. Gaming sector

279. Concessionaires and sub-concessionaires apply robust CDD and record-retention measures. Existing minimum information parameters for conducting accurate risk profiling of customers are reasonable. In addition, screening policies and procedures to identify PEPs (foreign and domestic), and mandatory screening of the junket’s database are in place. There is also periodic sharing of typologies between the DICJ and concessionaires/sub-concessionaires. Multi-layered CDD is applied to VIP patrons with automated transaction monitoring in place. In practice, all casinos apply CDD on the following even prior to the issuance of the regulatory guideline in 2016:

- (a) All alternative remittance transactions (EDD);
- (b) All customers who are granted gaming credit, or use incoming bank remittances, cheques and cashier orders as their means of payment regardless of threshold;
- (c) All payees of gaming cheques and outgoing bank remittances regardless of threshold;
- (d) All VIP customers referred by junkets;
- (e) All customers who have an ongoing relationship with the casino, including gamers from the mass market sector who have taken out membership (there are many incentives offered to join);

(f) All casino front money account holders during account opening for the deposit/withdrawal of funds; and

(g) Identification documents for occasional customers.

280. In addition, transactions by mass market gamblers who exceed MOP500,000 (US\$62,500) are captured by ROVE. A low threshold is also set up by gaming concessionaires (in both mass and VIP) to obtain the ID information to track the aggregation of MOP500,000 (US\$62,500).

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281. The gaming sector accounted for the highest number of attempted transactions which were eventually reported as suspicious transactions. There were 135 attempted transactions reported as STRs by the gaming sector during the period 2013-2015. There were specific instances when business was refused by casinos such as: (i) incomplete or failure of CDD such as third party remittance to junket promoters; (ii) failure to produce ID information or other personal information for the purchase/redemption of chips; and (iii) refused bank remittance and third party remittance transactions due to suspected fraud. It is not clear whether any of the 135 attempted transactions squarely fall under the abovementioned parameters, and which casino entity (concessionaire/sub-concessionaire or junket promoters) handled them.

282. However, the application of enhanced measures by junket operators is lacking. In general, only basic CDD is applied and the requirement of the DICJ regulation for approval or involvement by at least senior management level in the on-boarding process of junkets' PEP customers is not uniformly implemented. This is improving, with measures including the use of screening programs provided by concessionaires/sub-concessionaires which are also responsible for the CDD information provided by the junket promoters as third party introducers. As noted earlier, both concessionaires/sub-concessionaires and junket promoters work together to implement EDD, with the former "double checking" that CDD has been applied.

283. Concessionaires and sub-concessionaires are aware of the use of phone and proxy betting and other activities to circumvent CDD, including beneficial ownership requirements. For phone proxy betting, concessionaires/sub-concessionaires have extensive surveillance facilities to monitor the casino floor and have customer profiles for their regular patrons. The ban on the use of mobile phones at gaming tables by the DICJ in May 2016 has helped. From May 2016 to April 2017 DICJ has conducted 319 inspections (thematic inspections and inspections initiated by client complaints) and 92 verbal warnings have been issued to prevent proxy betting. However, implementation remains a challenge for concessionaires/sub-concessionaires given the evolving nature of this risk.

284. Record keeping is in compliance with the requirements. Concessionaires and sub-concessionaires also have access to records held by junket promoters.

#### ii. Financial Institutions

285. FIs apply comprehensive CDD and record-keeping measures as verified by AMCM inspection reports. Customers such as PEPs, junket operators and those coming from high risk jurisdictions are regarded as high risk by banks and other FIs. In addition, most branches of overseas banks rolled out a multiple risk scoring approach, whereby the level of transaction monitoring procedures are enhanced as the customer's ML/TF risk increases. Significant issues were not identified on the overall effectiveness of the risk scoring models of the banking sector (by AMCM) and banks generally have adequate EDD procedures for high-risk customers. FI's likewise pay attention to cash transactions conducted by junket promoters and PEPs. Banks and other FIs have terminated business relationships and rejected transactions whenever there is adverse information gathered, or there is a failure of the

validation process. They were able to demonstrate with a reasonable number of cases where customers were rejected when inadequate know your customer (KYC) information was available, including for legal persons with foreign ownership. Banks undertake monitoring of the annual licensing renewal process for junket promoters, and if a junket operator license is revoked, banks will and have terminated the business relationship.

286. Compliance with beneficial ownership information has been improving over the years because of the ongoing AMCM focus, and compliance is now satisfactory. The AMCM noted eight banks were previously found to have shortcomings in identifying beneficial ownership of legal persons. These findings were formally conveyed to the banks and duly rectified, and verified by AMCM inspections and an independent party as required by the AMCM. Most banks require a group chart certified by the company's management to assist with identifying the ultimate beneficial ownership for corporate customers with complex ownership structures.

287. Based on a cursory survey conducted by the AMCM, there are not many foreign trusts operating in the jurisdiction. The general practice for trusts is to verify the existence, legal form and identification of all involved parties including the trustee, settler, protector, beneficiary, etc., as required by the AMCM. Banks also check the register in the country of establishment and the relevant laws that govern such arrangements in that jurisdiction. In case of doubt, a legal opinion is also required.

### iii. Other DNFBPs

288. Basic CDD information is obtained at the account opening stage or upon initial engagement except by notaries and accountants. Private notaries undertake reasonable CDD checks on their customers including on the beneficial ownership of legal persons. A high percentage of accounting professionals conduct EDD on higher risk customers - company clients with complex structures making identification of ultimate beneficial ownership difficult, clients from high risk countries and offshore companies or ultimate beneficial ownership from offshore companies and those owned by domestic or foreign PEPs.

289. Enhanced measures or processes are not clear for real estate agents when they capture a red flag. Despite the higher risk of ML, real estate agents/intermediaries apply only basic AML/CFT obligations. The real estate association conveyed to the assessment team that only basic customer identification is undertaken by the real estate agents. They rely either on FIs or lawyers and notaries to verify the source of funds (purchaser) and source of wealth (seller) with respect to the down payment, "sincerity" money and full payments.

290. There seems to be a broken chain of CDD on the customer resulting in an incomplete picture of the overall profile of purchaser/customer. Being the first line of defence responsible for meeting the purchaser and seller, full KYC and CDD should be conducted by the real estate agents, rather than relying on the verification of the FIs and notaries, as the same customers pose a different profile mix when conducting transactions with FIs, lawyers and notaries. The recently issued and revised DSE AML/CFT Guideline of May 2016 requires that they must consider the high risk areas already identified in the Macao, China NRA, including large cash transactions, customers which have complex structures or involve offshore companies, PEP, customers from high risk countries and sanction lists.

291. The results of the on-site inspections and the sector questionnaire both indicate that dealers of goods of high unit value have implemented only basic CDD measures which are not commensurate with the risk indicated by the NRA. The entities covered lack the corresponding awareness on the

obligation to request additional information whenever ARS or cash transaction is the mode of payment.

292. Legal professionals consider the geographic risk of their customers when conducting CDD for both natural and legal persons. Seventy-eight per cent (78 per cent) of respondents to the NRA legal sector questionnaire profile customers as high risk if coming from higher risk jurisdictions and offshore entities with complex structures. A lower percentage considers offshore companies and PEPs as high risk clients. Some respondents were unable to classify which high risk customers are reportable as suspicious transactions (clients who transact in cash but cannot provide supporting documents, and clients with unusually large transaction amounts), and which customers just necessitate on-going monitoring or require EDD (high risk jurisdictions, PEP both foreign and domestic) but are not necessarily reportable as suspicious transactions.

293. Most DNFBPs have reasonable record keeping practices for purposes not purely for AML/CFT. Notaries keep comprehensive records.

### *Application of EDD measures*

#### i. Gaming sector

- (a) **PEPs:** All concessionaires/sub-concessionaires have a risk-based approach to their screening policy and procedure to identify PEPs (both domestic and foreign) i.e. consideration of political influence and public interest instead of solely relying on position and titles. PEPs from China and Hong Kong, China are considered foreign PEPs. In addition, EDD is carried out to closely monitor any gaming activities of an identified PEP. Junket promoters rely on the screening software provided by concessionaires/sub-concessionaires and undertake basic CDD.
- (b) **New technologies:** New technologies involving gaming payments undergo risk assessments by concessionaires/sub-concessionaires and then DICJ approval before launch. AML/CFT risk assessments and the adequacy of controls are evaluated based on the amount of money involved, and the volume and frequency of transactions e.g. purchase of ticket in/ticket out (TITO) using credit cards.
- (c) **Targeted financial sanctions TF:** Policies and procedures on verification with sanctions list relating to TF on its customers (mass gaming and VIPs) are in place. Automated screening/matching with UNSCR designations, and other useful information from third party vendors including individual review of false positives are undertaken by concessionaires/sub-concessionaires and junkets. During the on-site one of the major concessionaires advised that they have around 170 false positives per year. A compliance check is also part of the scope of the AML on-site process conducted by DICJ.
- (d) **Higher-risk countries identified by the FATF:** Concessionaires/sub-concessionaires perform due diligence checks to determine whether their customers and gaming funds (inflow and outflow) are coming from high risk countries as listed in the FATF public statements. Automated screening systems aid senior management when dealing with these types of customers and their funds, and at the beginning of, and in deciding to terminate gaming relationship with patrons. Junket promoters rely on the screening software provided by concessionaires/sub-concessionaires.

#### ii. Financial Institutions

- (a) **PEPs:** Only a small portion of the customer portfolios at banks are PEPs and nearly all banks have enhanced measures at the start of the account relationship. Foreign PEPs (including from China and Hong Kong, China) are also classified as non-residents and are subject to enhanced measures such as account opening approval at a senior level and enhanced monitoring. For example, one bank met with during the on-site sought clarification from the AMCM before deciding to open an account for a foreign PEP. Banks will perform a risk assessment to determine whether a domestic PEP poses higher risk, and enhanced measures will be applied to those classified as high risk. Some banks have yet to establish policies to classify PEP-related corporate accounts (i.e. companies with PEPs as shareholders, directors, authorised signatories or beneficial owners) as high risk for purposes of applying enhanced measures. Most branches of overseas incorporated banks have adhered to their group policy.
- (b) **Life insurance companies** perform risk assessments on PEPs and apply EDD at the account opening stage with corresponding approval from an officer at senior management level.
- (c) **Correspondent banking:** Banks review and monitor their correspondent banking business. Adequate due diligence checks on the level of AML compliance for both the respondent institutions and their home jurisdictions are performed. Rejections of relationships were presented as evidence of the EDD conducted. Correspondent bank accounts are mostly maintained by banks for trade settlement and remittances on behalf of customers. No bank allows customers to conduct transactions directly through their nostro/vostro accounts.
- Banks perform rankings for the correspondent bank and apply appropriate reviews to check whether the transaction volume changes substantially, or whether there is any adverse information or news regarding the correspondent bank.
- (d) **Wire transfers:** Banks' and non-bank remitters' compliance and monitoring process of originator/beneficiary information requirement is sound. Wire transfer transactions from casinos, junkets and correspondent banking relationships are captured and monitored. All banks have procedures to scan SWIFT messages for both inward and outward remittances to screen out sanctioned or high risk countries, individuals and entities before execution.
- (e) **New technologies:** Developments mainly focus on new delivery channels such as online banking, mobile banking and CDMs, and new products like prepaid cards. Banks are required to perform feasibility studies and AML/CFT risk assessments on new technologies. Prior approval from the AMCM is necessary before the launch of new technologies. Not all payment card providers have taken measures to reduce the abuse of cards in order to circumvent foreign currency controls in China.
- (f) **Targeted financial sanctions TF:** All FIs have implemented automated monitoring/screening against sanctions lists. Such monitoring systems apply to account opening and ongoing monitoring of all transactions, including wire transfers. Enhanced measures consist mainly of real time transaction screening, CFT name screening at account opening and subsequent batch checking that is usually on a daily, weekly or monthly basis. All banks have specified policies and procedures for CFT name screening and regular batch checking, and use external databases and search engines.

Since all banks are using CFT databases from professional service providers, the AMCM's thematic review has not revealed any significant concerns regarding the comprehensiveness of the CFT database. Previously the scope of CFT checking for some banks did not cover all necessary parties. Rectifications by the relevant banks have been completed.

(g) **Higher-risk countries identified by the FATF:** All banks are aware of the higher-risk countries included in the FATF public statements. Country risk is considered by all banks in customer risk rating, and corresponding enhanced due diligence measures are applied and senior management approval is required for account opening.

(h) **Non-residents:** All FIs regard non-resident customers as higher risks and they are subject to enhanced due diligence. Non-resident workers now account for 20 per cent of Macao, China's workforce.

iii. Other DNFBPs

(a) **PEPs:** There is a varying approach in treating PEP customers as high risks for offshore company service providers, accounting and legal professionals. It appears senior management involvement/approval in the on-boarding process is not obtained and corresponding enhanced measures are not uniformly implemented within the sector. For DNFBP providers that are very small, separation of duties may be challenging.

(b) **Targeted financial sanctions TF:** Given the small size of other sectors, the information provided by GIF and/or UNSCR websites are used to check for sanctioned entities.

(c) **Higher-risk countries identified by the FATF:** The information provided by GIF and/or UNSCR websites are used to check for sanctioned entities.

### *Reporting obligations and tipping off*

i. Gaming sector

294. The gaming sector accounts for over 70 per cent of STRs by number yearly, followed by the financial sector. However, the situation is reversed when STRs are measured by value (turnover) with the FIs accounting for almost 80 per cent of overall value. Many STRs from FIs relate to transactions through the gaming sector. While STR quality is satisfactory, with issues being addressed by follow-up actions, the quantity reported appears low by comparison with gaming transaction volumes. Gaming STRs average about 1,200 a year compared with an average 700,000 large gaming transactions (ROVE) a year. The attractiveness of casinos for laundering and spending illicit proceeds suggests gaming-related STRs from the sector and FIs might be higher.

295. Concessionaires and sub-concessionaires are reporting the highest number of suspicious transactions (6,155 from 2011 to 2015) arising from the alerts generated by their monitoring system. Most concessionaires/sub-concessionaires have complex STR monitoring systems in place while two rely mostly on IT screening system to report STRs.

296. However, junket operators have only submitted five STRs for the period 2011 to 2015, and 13 in 2016. STR reporting from junket operators is also low compared with their identified high-risk. The authorities have started to address this through increased guidance and requirements for junkets, such as internal monitoring systems (with support from the concessionaire where required). Junket

operators rely heavily on STRs being reported by their concessionaires/sub-concessionaires. The DICJ Guideline mandates independent compliance by junket operators on CDD, reporting of suspicious transactions and record-keeping in view of their joint liability relationship. During on-site meetings, all three junket operators spoken to provided vague responses on the manner by which suspicious transactions are reported and pointed to their concessionaire/sub-concessionaire as capturing the same. Concessionaires/sub-concessionaires noted that their STR monitoring and reporting covers their junket promoters. Efforts are being made to enhance compliance by junket operators.

297. Junket transactions account for about 40 per cent of all STRs reported. While this provides a large degree of top-down visibility, junket operators have closer relationships with customers and intermediaries (known as ‘collaborators’) that positions them to provide more detailed reporting on suspicious behaviour and other activity.

#### ii. Financial Institutions

298. STR reporting in banks is stable at an average of 477 submissions annually, totalling 2,155 STRs covering the period 2011-2015. No major ML/TF events transpired within the same period to warrant the surge in reporting by FIs. However, the figure is relatively low, although GIF indicates STR quality is high. Exchange counters inside casinos posted the second highest number of reports, and as noted, not surprisingly STRs relating to the gaming sector dominate.

**Table 26: Number of STRs received FIs**

Number of STRs received	2011	2012	2013	2014	2015	2016
<b>Banks</b>	403	399	443	425	485	675
<b>Insurance companies</b>	2	2	4	1	13	16
<b>Exchange counters*</b>	67	108	5	12	4	3
<b>Other financial institutions</b>	5	1	5	3	1	2
<b>Total number of STRs received</b>	477	510	457	441	503	696

\* Six gaming operators in Macao, China are authorised to operate exchange counters in their self-owned properties to provide foreign currency exchange services to their gaming clients.

#### iii. Other DNFBPs

299. Real estate agencies, notaries and dealers of precious stones and metals posted very low levels of STR reporting while no TCSPs and accountants/auditors have reported any suspicious transactions from 2010 to 2013. This translates to a low understanding of risks and suspicious transaction indicators, and implementation.

**Table 27: Number of STRs received other DNFBPs**

Number of STRs received	2011	2012	2013	2014	2015	2016
<b>Real estate agencies</b>	4	2	-	-	-	-
<b>Notaries</b>	-	-	-	1	-	-
<b>Others#</b>	-	-	-	-	57	79
<b>Total number of STRs received</b>	4	2	-	1	57	79

# GIF also received 57 and 79 STRs from other institutions in 2015 and 2016 which mainly included the merchants of high value products.

### *Internal controls and legal/regulatory requirements impeding implementation*

#### i. Gaming sector

300. Based on on-site interviews and the results of surveys and inspections by supervisors, the gaming sector has a mature internal control environment with a board-level audit committee responsible for overseeing the audit function and risk management. In general, there are policies and procedures to mitigate the high-risk aspects of products, services, delivery channels and junket operations.

301. The DICJ guideline requires the appointment of at least one compliance officer, responsible for compliance with AML/CFT laws and regulations and coordinating the implementation of AML/CFT internal controls through different process owners in daily operations. AML/CFT training programs are company wide within the concessionaires and sub-concessionaires. The senior compliance officers in the six gaming companies have extensive experience in AML/CFT compliance, not only in Macao, China but also overseas. For the junket sector, there are internal controls in place, including appointed compliance officers. Junket operators have simpler internal controls but they work within, and subject to, the more complex and extensive controls of their concessionaires/sub-concessionaires, which also oversee junket promoters. For smaller junket operators, the compliance officer may also be the principal of the organisation. The compliance officers of the concessionaires/sub-concessionaires and junket promoters operate work together on a daily basis.

302. The effectiveness of the concessionaires and sub-concessionaires control measures on junket promoters' compliance is not clear, given the poor STR reporting, as highlighted above, and the formal junket risk management framework is still a new measure, the data is yet to be compiled. As noted, the concessionaires/sub-concessionaires, act as a "second line of defence" for gaps by junket promoters. There have been instances where concessionaires and sub-concessionaires have revoked contractual arrangements with junket promoters because of poor compliance.

#### ii. Financial Institutions

303. Banks generally apply adequate internal controls to ensure compliance with AML/CFT requirements and there is no evidence of impediments to implementation of CDD procedures by legal or regulatory requirements. The members of the board of directors or top management of all banks have formulated proper AML/CFT policies and procedures and have performed mapping exercises of their internal guidelines. Thematic examination showed that internal audits are acceptable while the

framework for compliance review needs to be reinforced to enhance effectiveness. All banks have ongoing employee training programs with various AML focus and dissemination of material to staff.

304. All life insurers have AML/CFT policies and procedures detailing the scope of internal audits. No major AML issues were noted during the series of routine inspections in 2015 and 2016 on all exchange counters, remittance companies and securities trading companies.

iii. Other DNFBPs

305. Other sectors have basic controls on CDD while other controls mostly pertain to training. There were no adequate control measures to detect suspicious transactions in the majority of entities in the real estate sector. The revised DSE guidelines issued are set to address this control gap for real estate agents and dealers of precious stones and metals.

306. **Macao, China has a moderate level of effectiveness for Immediate Outcome 4.**

## CHAPTER 6. SUPERVISION

### *Key Findings and Recommended Actions*

#### **Key Findings**

- Licensing controls are robust in all FIs and most DNFBPs. There is no fit and proper licensing requirement for dealers of precious metal and stones in Macao, China.
- Macao, China is taking a more stringent approach towards licensing and the supervision of junket promoters which, in addition to acting as third party introducers, are also subject to enforceable AML/CFT requirements. This is the subject of enhanced and renewed focus by DICJ. The number of licensed junket promoters has decreased from 225 in 2011 to 125 in 2016 reflecting market forces, enhanced market entry requirements and greater enforcement of AML/CFT measures.
- The Macao, China gaming sector is vulnerable to ML, which the authorities recognise. Whilst the NRA identifies many vulnerabilities at the concessionaires/sub-concessionaires level, the overall results of the NRA, given the low number of STRs filed by junket promoters do not maximise the potential value to the gaming sector.
- All FIs, DNFBPs and other sectors are subject to AML/CFT supervision with resources devoted to higher risk and material sectors. Sound risk-based supervision is undertaken in the two most significant sectors – the DICJ supervised gaming sector and AMCM supervised financial sector.
- AML/CFT supervision of other DNFBPs and Macao, China identified DNFBPs (pawnshops, and high value good dealers e.g. vehicles) is not fully risk-based, regular or comprehensive. The DSAJ had previously undertaken regular comprehensive on-site inspections (one month per visit) of all notaries on a biennial basis, but due to staff departures, not all notaries have been subject to at least one biennial on-site inspection in recent years. The DSE has an ongoing on-site inspection programme of high value goods dealers, and while it has increased its supervisory focus on the real estate sector in 2016, there were limited AML/CFT inspections of the real estate sector from 2012 to 2015. The AAM has undertaken no AML/CFT on-site inspections (off-site monitoring only) of lawyers since 2011 and the DSF on-site inspection visits have been irregular.
- The AMCM's supervisory college approach with key foreign counterparts has contributed to its effectiveness. Of particular note the AMCM has prohibited the granting of overdraft facilities to jewellery shops and merchants designated as high risk, as well as prohibiting merchants in jewellery shops near casinos acquiring access to a payment card provider amongst other proactive steps.
- Macao, China has a range of remedial measures that it can impose on FIs and DNFBPs. However, very few financial penalties have been imposed against any financial institution, DNFBPs, directors or senior management. Other remedial measures have nevertheless been applied, particularly on market entry with licenses for junket promoters either revoked for prudential and/or AML/CFT reasons, and applications for licenses of FIs rejected. This has been an effective approach to reducing risk in the junket sector.
- DICJ, AMCM and most other DNFBP supervisors have undertaken various awareness raising measures on the enforceable requirements in the updated 2016 AML/CFT Guidelines and NRA

results.

### ***Recommended Actions***

- Macao China should introduce fit and proper licensing requirements for Dealers of Precious Metal and Stone Dealers.
- The following market entry requirements for junket promoters should be strengthened to enhance the integrity of concessionaires'/sub-concessionaires' reliance on the junket sector's CDD and other AML/CFT processes, and the compliance culture in the junket sector:
  - (i) Increased financial requirements, and greater scrutiny by DICJ along with diversification amongst the services offered by junket promoters, will help ensure criminals and associates do not enter the market.
  - (ii) DICJ should review and consider the requirements for junket promoters to be limited only to companies and a majority of directors, shareholders and senior management to be residents of Macao, China.
  - (iii) DICJ should consider making public more information regarding junket promoters, including the name of administrators, shareholders, senior management and collaborators.
  - (iv) To assist with tracing the funds and wealth of junket patrons, set up a central credit database to assist junket promoters assess the credit worthiness of patrons before the granting of credit for gaming activities.
- The DICJ and PJ should continue to work together to detect and stop "Under the Table" bets and "Proxy Betting".
- DICJ should review the effectiveness of its supervisory policy in respect to STR compliance, given the current level of use of the tools at its disposal, and the joint liability that exists between concessionaires/sub-concessionaires and junket promoters.
- DSE/DSAJ should ensure effective supervision for AML/CFT compliance across the real estate sector and notaries involved in property transactions, through risk-based, targeted and prioritised outreach.
- DSE should raise the awareness amongst entities of ML/TF risks and typologies and raise awareness of the reporting regime across the sectors it supervises.
- IH should formally be designated as an AML/CFT supervisor and have the power to revoke licences for AML/CFT breaches by real estate agents and intermediaries.

307. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The recommendations relevant for the assessment of effectiveness under this section are R.26-28 & R.34 & 35.

**Immediate Outcome 3 (Supervision)***Licensing, registration and controls preventing criminals and associates from entering the market***Gaming sector (DICJ)**

308. Macao, China awarded licenses for three gaming concessionaires using an open tender process which adopted international standards for suitability and financial assessment procedures, namely those applied by the International Association of Gaming Regulators. The three concession contracts were entered in 2002 for up to 18-20 years. Authorities also approved as part of this process sub-concessionaire arrangements for each of the three concessionaires between 2002 and 2006. As a result, six companies are granted the concession to operate casinos. The focus is to regulate the six companies, not to grant licenses to individual casinos. There are no new concessions for concessionaires or sub-concessionaires until the current contracts for the six companies expire between 2020 and 2022. These six concessionaires/sub-concessionaires are, however, permitted to open new casinos at any time during the concession period. As at 31 December 2016 there were 38 casinos in Macao, China.

309. The suitability assessment procedures for the gaming sector are set out in Article 14 of Law no. 16/2001 and Article 8 of the Regulation Governing the Condition for the Public Tender to Concessions for the Operation of Games of Fortune in Casinos, the Concession Contract and the Appropriate Qualifications and Financial Capacity of the Bidders and Concessionaires, Administrative Regulation no. 26/2001, to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino. The first suitability assessments were carried out by DICJ before the concessionaires/sub-concessionaires were granted the contracts to operate casinos. The suitability assessment also covered shareholders - natural persons or legal persons who directly or indirectly hold 5 per cent or above of the company's share capital. The assessment procedures set out in Administrative Regulation no. 26/2001 require persons or companies to disclose to DICJ extensive information, including criminal background, assets and liabilities, past business or work experience and known associates.

310. The DICJ has undertaken ongoing monitoring to ensure continued compliance, as the suitability assessment is ongoing throughout the term of the concession and in particular when there are changes in shareholders, directors, or key employees. Concessionaires/sub-concessionaires are obliged to have adequate control procedures in place to identify changes of such persons and must inform DICJ in accordance with article 26 of the Concession Contract so DICJ can carry out a suitability assessment of any changes. No breaches of such licensing have been identified by DICJ. Concessionaires/sub-concessionaires spoken to by the team also highlighted that the six gaming companies operating in Macao, China are listed on major share markets. As such, they are open to media inquiry, shareholders and the scrutiny of the financial markets.

311. Macao, China has applied AML/CFT measures, including licensing and fit and proper test requirements to include junket promoters and their formal collaborators. This is a necessary response to the inherent risk of the sector, and the reliance of concessionaires/sub-concessionaires on junket promoters to undertake preliminary CDD and introduce business. Under the current regime, the DICJ undertakes separate market entry/licensing requirements for junket promoters and their formal collaborators, which are additional to the due diligence undertaken by concessionaires/sub-concessionaires before entering into a business relationship with junket promoters, as under Articles 29 and 30 of the Administrative Rule 6/2002, a gaming concessionaire/sub-concessionaire is liable to

monitor its junket promoters. There is joint liability between a concessionaire/sub-concessionaire and its junket promoters regarding the junkets' compliance with all applicable laws and regulations. Moreover, a junket promoter cannot obtain a DICJ license unless it has an agreement with one or more concessionaires/sub-concessionaires. By having layered and parallel market entry requirements, the risk of criminal abuse at this level has been reduced. The DICJ, as required by legislation, publishes the list of licensed junket promoters in the Official Gazette no later than 31 January of each year.

312. Suitability assessment requirements for junket promoters are stipulated in Chapter 2 of the revised Administrative Regulation no. 6/2002. Suitability assessments are conducted at the following times: a) initial application for a company junket license – covering shareholders owning >5%, directors and key employees; b) initial application for a natural-person junket; c) Changes of those persons in every sixth year for company junket promoters, and every third year for natural person junket promoters. Concessionaires/sub-concessionaires also undertake their own investigations of their junket promoters that mirror the criteria set by DICJ. Resources used include reputable legal and AML/CFT available internet research products (which perform PEP, legal and financial background checks) and investigations conducted by in-house legal departments with resources to conduct background checks internationally. If suitable, a declaration of intent is issued by the concessionaires/sub-concessionaires for each junket promoter as part of their internal licensing process.

313. DICJ does not have an investigation arm. As such all background investigations relating to suitability are given to law enforcement to undertake any domestic or international checks. The yearly junket promoter licensing process also requires a “Certificate of no criminal history” to be obtained. As at 31 December 2016, there were 125 junket licensees in Macao, China. Among the 33 junket promoters which were cancelled/expired during 2016, all junkets licenses were cancelled due to incomplete accounting obligations, failed ROVE reporting obligations, poor AML/CFT compliance, or due to commercial reasons. Junket promoter licence applications rejected due to AML/CFT reasons are rare. In 2006 the DICJ identified one such case involving two shareholders associated with arms trafficking. Given the competitive nature of the junket sector, and the regulatory requirements on concessionaires/sub-concessionaires and junket promoters, there has been no creditable report of unlicensed junket operators introducing business to casinos.

**Table 28: Number of junkets licensed in Macao, China**

	2011	2012	2013	2014	2015	2016
No. of junket licenses at the beginning of the year	195	225	246	224	186	145
New licenses issued during the year	67	64	25	24	18	13
	<b>262</b>	<b>289</b>	<b>271</b>	<b>248</b>	<b>204</b>	<b>158</b>
Existing licenses cancelled/expired during the year	(37)	(43)	(47)	(62)	(59)	(33)
<b>No. of junket licenses at the end of each year</b>	<b>225</b>	<b>246</b>	<b>224</b>	<b>186</b>	<b>145</b>	<b>125</b>

314. There are, however, potentially significant challenges to implementing fit and proper test requirements for key stakeholders in the junket promoter system. The junket license application process is robust, including only allowing natural persons to be shareholders of junket companies and vetting collaborators (persons referring clients to junket promoters), but the fit and proper tests for beneficial owners, particularly among the smaller providers, can be difficult evidentially to establish, be it by the DICJ or the concessionaires/sub-concessionaires.

315. The DICJ's recent focus on the financial controls of junket promoters, and the decrease in the issuing of new junket licenses and efforts to encourage smaller operators to consolidate appears to be an effective measure at limiting criminals and associates from entering the junket market.

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### **Banks, other FIs & Insurance (AMCM)**

316. All 29 banks (27 of which are foreign owned) and other FIs are licensed. The AMCM undertakes a comprehensive assessment against criteria outlined in the FSA Act as well as the Guidance for Licensing Applications. Of the 23 banking and other FI licensing applications received from 2011 to 2016, one was rejected by AMCM, four were closed and 13 were withdrawn after discussions with the AMCM. Of the 13 withdrawn applications, four applications were found through the vetting process to involve shareholders linked to criminal activity or linked to the gaming industry. All insurer and insurance intermediaries need to be licensed. Suitability assessments that include fit and proper tests for banks, other FIs and insurance institutions are effective. There is no separate licensing process for offshore banking services as all 29 banks provide both onshore and offshore services.

### **Real estate, precious stones/metals and high value goods/companies providers (DSE)**

317. Fit and proper tests for the real estate sector are generally effective. The real estate sector is the second largest sector in the jurisdiction and constituted about 8.3 per cent of GDP in 2014. As at 31 December 2015, there were 1,737 licensed real estate intermediaries, and 5,855 individuals with real estate agent licenses in Macao, China. From 2013 to 31 August 2016, five real estate agents had been refused a license due to criminal convictions by IH. IH, whilst not a formal designated AML/CFT supervisor, has undertaken both on-site and off-site inspections of real estate intermediaries to ensure compliance with the real estate law for licensing purposes. There is no fit and proper licensing requirement for dealers of precious metal and stones in Macao, China for the purpose of preventing criminals and associates from entering the market but there are other controls implemented by supervisor and competent authorities. The sector constituted around 2 per cent of GDP in 2014.

### **Other DNFBPs**

318. Effective fit and proper tests exist for all 294 registered auditors and accountants, 60 public and private notaries, 344 practicing lawyers, and 109 trainee lawyers (as at 31 December 2015). The number of applications received each year for entry into these professions is very low. No applications within these professionals were rejected due to fit and proper tests. There are fit and proper tests for the very small offshore companies sector.

## *Supervisors' understanding and identification of ML/TF risks*

### **Gaming sector (DICJ)**

319. The gaming sector is the dominant sector in Macao, China. The sector has experienced significant structural changes in recent years with declining gaming revenue and an increase in the mass market vis-à-vis the VIP market. The NRA identifies the major ML/TF risks in the gaming sector, including for concessionaires, sub-concessionaires, junket promoters and collaborators. It examines

risks associated with use of cash, cross-border cash/wire transfers, PEPs, potential abuse of chips, junket promoters and collaborators. DICJ was involved in the development of the NRA.

320. The DICJ identifies and maintains a sound understanding of the ML/TF risks in the gaming sector as a whole, especially at the concessionaire and sub-concessionaire levels. DICJ relies on STR, ROVE, AML/CFT audits and intelligence from foreign counterparts, and projects (ARS, NPO, large transaction reporting) to identify ML/TF risks. The team notes that DICJ understanding of the ML/TF risks in the junket sector and at the individual junket level, which has been built on over the last 10 years through the improving quality of ROVE data reporting, is the subject of enhanced and renewed focus in the 12 months prior to the mutual evaluation on-site. This enhanced focus is due to the appointment of a new DICJ director and concerns associated with the accounting practices of a small number of junket promoters. Moreover, DICJ demonstrates a sound understanding of the relative risks between different categories of gaming providers, and between larger and smaller junket promoters. DICJ demonstrated to the team a clear understanding of the relative risks among the six concessionaires/sub-concessionaires.

321. However, the team notes that the NRA does not address “under the table” and “proxy betting” by phone, internet, or other forms of technology, although the DICJ did demonstrate a clear and sound understanding. These betting practices raise ML/TF risks, notably around CDD, record keeping, and accounts monitored at all level of the casino industry. Proxy betting also allows participants to escape from regulatory controls. These gaps impact on the understanding and identification of ML/TF risks. Nevertheless, these forms of gambling were made illegal on 9 May 2016 in Macao, China. The DICJ has taken enhanced supervisory measures to ensure compliance (92 verbal warnings issued) and has worked closely with the PJ. The DICJ has noted that proxy betting is an evolving risk with actors resorting to other techniques to conduct proxy betting.

#### **Banks, other FIs & Insurance (AMCM)**

322. Macao, China has a well-developed financial sector. AMCM was closely involved in the development of the NRA and has a good understanding of ML/TF risks in all its sectors. To gain insight into the potential ML/TF threats, AMCM uses an annual sector survey to obtain information on the scope and perceived risks of the banking, other FI and insurance sectors. The non-bank sector makes up a minimal portion of the financial sector in Macao, China, and by its nature is less vulnerable to ML/TF risks, considering the fact there are limitations and restrictions both on scope of operation and transaction amounts.

323. With respect to the banking sector, AMCM has devised a risk rating mechanism for banks by identifying potential ML/TF threats and assessing the quality of AML/CFT prevention. To gain insight into these threats, surveys have been conducted to obtain information on the scope of business and perceived risks within banks. The annual sector survey also helps collect comprehensive information, including the nature and scale of high risk transactions, exposure to AML/CFT deficient countries, customer structures, products and delivery channels. The risk profiles of individual banks are constantly updated on completion of each on-site inspection, or other major triggers. Under this risk-based approach, lower risk institutions within the banking, other FIs and insurance sectors are mainly monitored through off-site surveillance, supplemented by less frequent inspections and thematic reviews.

#### **Real estate, precious stones/metals and high value goods (DSE)**

324. The DSE was involved in the NRA process that concluded the real estate sector (the second largest sector) has high consequential risks despite the fact that the real estate sector is materially

small compared with gaming and regional economies. As noted under IO.1, the NRA puzzlingly ranks real estate as the highest risk likelihood and consequence, ahead of the vastly larger and higher risk gaming sector. Real estate is one example where international trends are given more weight than local factors. The authorities explained that policy outcomes to strengthen the sector shaped the rating of real estate risk. A sounder approach would have likely assessed real estate risk as lower than high but with vulnerabilities to warrant intended improvement. The assessment team found the overall conclusion of the NRA has exaggerated the ML risks with the real estate sector, as findings in the detailed NRA analysis indicated that there is only medium risk with the sector. DSE's understanding of the ML/TF risks in the real estate sector should further improve with their inspection procedures, which require a preliminary risk assessment of covered entities; amended guideline which contains more stringent CDD measures and mandatory reporting requirements (GIF has received information of mandatory reporting from DSE since November 2016); and an increased number of on-site inspections.

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325. The NRA referred to problems with high staff turnover at DSE, and DSE confirmed during the evaluation that it was in the process of recruiting additional staff. These extra staff will be assigned to on-site and off-site supervisory inspections of real estate intermediaries and dealers of goods of high value goods.

326. Overall, authorities demonstrate an understanding of the ML/TF risks inherent in high value goods, including the nexus between pawnshops and the gaming industry, use of cash and abuse of payment cards by subjecting pawnshops and high value car dealers to AML/CFT requirements. The DSE did articulate some understanding of the relative risks among reporting entities, noting that the four big brands have over 50 per cent of the market share of jewellery shops, but downplays the potential risks among small players, although some could be even higher risk.

#### **Other DNFBPs (DSAJ, DSF, AAM, IPIM)**

327. The DSAJ, DSF, and AAM all acknowledged and agreed with the NRA. However, the team identified some gaps in their understanding of the ML/TF risk by DSF and AAM within their small respective sectors. DSAJ has a good understanding of the ML/TF risks in relation to the real estate sector. IPIM understands their ML/TF risk within their very small sector.

#### *Risk-based supervision of compliance with AML/CFT requirements*

##### **Gaming sector (DICJ)**

328. The DICJ has a designated AML/CFT audit team which is experienced and suitably qualified. As at 30 September 2016, DICJ employed 14 staff within the AML/CFT audit team dedicated to AML/CFT audits. DICJ also employed 113 frontline casino inspectors involved in AML/CFT monitoring within the casinos. Since 2010, the number of senior auditors within DICJ has increased by three, and the number of casino inspectors has dropped by 21 from a high of 134 frontline casino inspectors. The team believes more casino inspectors are required at DICJ, noting the increase in the number of casinos in Macao, China between 2010 and 2016, and the recent publishing of an updated AML/CFT guideline.

329. DICJ has had a risk-based approach since 2007. All on-site inspections or off-site inspections carried out by DICJ are based on the audit procedures manual developed by DICJ in 2007, such that DICJ must carry out audit procedures based on a risk assessment model that is comprised of both internal controls and legal compliance criteria. The risk assessment model is built upon and continuously updated based on i) the understanding of the DICJ obtained during reviews, by means of

walk-through, interviews and/or examination of ROVE; ii) emerging risks communicated from the GIF in their STR supervision; and iii) international AML/CFT typologies which may apply to the gaming sector. The DICJ and GIF both confirmed that GIF intelligence is used in this risk assessment model.

330. To monitor and supervise AML/CFT compliance, DICJ takes a “sector based approach” to casino audits. In summary this means only when the DICJ obtains adequate audit evidence and understanding of the business processes associated to the risks from all six concessionaires and sub-concessionaires and/or junket promoters can the effectiveness of the AML/CFT internal controls and legal compliance of the whole sector be assured (casino audits are counted at the concessionaire level not individual casino level). The on-site inspections of DICJ began with full-scope audits over all the AML/CFT system areas. The audits in later years (from 2013 onwards) became more thematic and allocated to areas with higher risks, based on on-going update of the risk. From 2013 to 2015 DICJ completed an AML/CFT system audit at each of the six concessionaires and sub-concessionaires for each given year. In 2012 and 2016 no AML/CFT system audits were undertaken at any of the six concessionaires and sub-concessionaires. From 2012 to 2016, 42 junket ROVE audits were carried out by DICJ on a batch basis based on the concessionaires/sub-concessionaires they operate with. The ROVE reporting system is an important AML/CFT tool for concessionaires/sub-concessionaires, the DICJ and the GIF for AML analysis for ML investigations by law enforcement.

331. The “sector based approach” to AML/CFT supervision and monitoring is a risk-sensitive approach to AML/CFT supervision. Supervisory activity and the allocation of resources by DICJ are prioritised on a risk-sensitive basis targeting the concessionaires and sub-concessionaires that have been assessed with higher ML/TF risks. During the assessment, the team was provided with the confidential risk factors used by DICJ that indicated which of the six concessionaires and sub-concessionaires had greater vulnerability to ML/TF risks and were therefore the subject of closer supervision by DICJ, such as more frequent inspections and/or more comprehensive AML/CFT audit procedures. The quality of the AML/CFT audits reviewed during the evaluation appeared robust.

### **Banks, other FIs and Insurance (AMCM)**

332. The AMCM applies a risk-based approach to supervision on all financial sectors, in particular the banking sector. Supervision of compliance with AML/CFT requirements within the financial sector is robust. A high amount of regulatory effort is allocated for supervising institutions with higher risk exposure and greater vulnerability to ML/TF risks.

333. The AMCM-DSB rates banks into a five level scoring tool to assist with monitoring. The tool rates banks into five categories by identifying their inherent ML/TF threats and assessing the quality of AML/CFT prevention, which includes risk management, preventative measures, on-going due diligence and CFT. During the evaluation, the AMCM-DSB confirmed that 38 per cent of banks are rated “1” or “2”, meaning they are fundamentally sound. 41 per cent of banks are rated “3”, and 21 per cent were rated “4”. No banks were rated a “5”. Under the risk-based approach used by the AMCM-DSB, banks with the lower ratings are examined more frequently and more in depth. Lower risk banks are mainly monitored through off-site surveillance supplemented by less frequent on-site inspections.

334. The non-bank sector makes up a minimal portion of the financial sector in Macao, China. They are mainly monitored through off-site surveillance supplemented by less frequent on-site inspections and thematic reviews.

335. Three rounds of on-site inspections had occurred from 2007 to 2016 (ongoing) targeting the small insurance sector in Macao, China. Since 2015 the on-site inspections have been based on a new

AML/CFT on-site examination procedure manual (released in June 2015). Third round on-site inspections have been based on the NRA results on a risk-based approach.

### **Real estate, precious stones/metals and high value goods (DSE)**

336. Monitoring by the DSE is undertaken on a simplified risk-based approach across all sectors it supervises. The DSE's supervision of the 1,737 licensed real estate intermediaries, 2,592 jewel/watch shops, 307 pawn shops and 747 car dealers is largely based on the volume of business conducted, location, sector, trading status, size criminal records and information received from GIF. There appears to have been limited risk-based targeted on-site inspections of real estate agents by the DSE from 2012 to 2015. However, in 2016, DSE completed 560 on-site inspections of real estate agents after the release of the revised AML/CFT guidelines to increase awareness amongst entities of their new obligations to carry out AML/CFT preventative measures and the mandatory reporting requirements recently introduced. For on-site inspection, DSE uses a generic "on-site inspection checklist" and the team were informed that it usually takes more than 30 minutes (subject to requests for supplemental information) to complete an average on-site inspection. Inspections are done in teams of two to ensure integrity of the inspection. After each on-site inspection entities must sign off on the DSE report and it is legally binding. (Please refer to the table below.)

337. IH, a non-designated AML/CFT supervisor, also carries out on-site and off-site inspections on real estate intermediaries, though these inspections are focused specifically on real estate laws not AML/CFT requirements. In 2015, IH had 14 inspectors and completed 2,576 on-site inspections and 31,659 off-site licensing inspections. In 2016 IH completed 3,192 on-site inspections. Multiple on-site inspection visits in one day to different real estate intermediaries is not uncommon depending on the size and complexity of the visited agents (many are 1-5 persons operations). These random visits last around 15-20 minutes and focus on whether licences comply with legal requirements. Off-site inspections by IH include mainly a review of websites and newspaper advertisements to detect if the contents are compliant with real estate laws.

### **Other DNFBPs**

338. The DSAJ, DSF and AAM do not undertake risk-sensitive AML/CFT based supervision. IPIM has adopted a risk-based approach. However, due to the small size of all these sectors, visits appear to be ad hoc and include general financial soundness issues as well as ML/TF. Although these sectors are small, the DSAJ in particular plays an essential role supervising notaries, who play an important role in all real estate transactions and legal person registrations in Macao, China. Although DSAJ does not carry out many on-site inspections, the number of notaries in Macao, China is small, and DSAJ have oversight of all real estate transactions entered in the central database which is monitored daily by DSAJ. Such oversight should provide DSAJ with oversight of suspicious transactions. Ordinary and extraordinary inspections conducted by DSAJ last at least one month at a notary's office. Inspections are conducted ex-parte and refusal by a notary will result in automatic revocation of license and bond of US\$186 800. From 2012 to the end of October 2015, DSAJ had only one inspector to conduct on-site inspections, *inter alia*, based on the following criteria: i) notaries who were not inspected for the longest time; and ii) the notaries that presented the highest workload of notarial acts. From November 2016 the number of inspectors at DSAJ in charge of supervision increased to three. The increase in inspectors is a positive step to assist with future supervision.

**Table 29: Number of AML/CFT on-site inspections (by AMCM, DICJ, DSE, DSF, DSAJ and IPIM)**

	2011	2012	2013	2014	2015	2016	Total
Banks and other FIs	16	9	11	15	21	19	<b>91</b>
Insurance (Life Insurance Companies)	0	0	10	0	2	8	<b>20</b>
Gaming – No. of AML/CFT System Audit	12	0	6	6	6	0	<b>30</b>
Gaming – No. of junket ROVE Audits	48	12	6	10	8	6	<b>90</b>
DSE – Real Estate*	583	1	0	84	0	560	<b>1228</b>
DSE – High Value Dealers	371	475	226	543	25	492	<b>2132</b>
DSF – Accountants, Audits and Accounting Firms	20	0	0	19	0	0	<b>39</b>
DSAJ – Public and Private Notaries	3	6	7	4	6	5	<b>31</b>
IPIM – Offshore	3	6	11	10	20	111	<b>161</b>

\* Prior to this period, DSE had carried out 204 and 1,245 inspections in 2009 and 2010 respectively.

### *Remedial actions and effective, proportionate, and dissuasive sanctions*

#### **Gaming sector (DICJ)**

339. The DICJ has a range of remedial measures that it can impose on concessionaires, sub-concessionaires and junket promoters. In practice, the majority of supervisory action taken by the DICJ is based on the issuing of written communication reports that require concessionaires/sub-concessionaires to take remedial action to enhance their AML/CFT policies and procedures. Where there continues to be unresolved significant control deficiencies, a warning letter would be issued. The last warning letter was issued by the DICJ before 2012. Warning letters are highly likely to have a negative impact on the share price of a warned concessionaire/sub-concessionaire, and are therefore a dissuasive instrument (please see the table below).

340. To date, especially in relation to junket promoters the preferred remedial action has focused on the suspension of licenses which is an expedient tool as licences are issued/renewed annually, despite the array of tools at the DICJ's disposal. While this approach appears to be effective, the more stringent supervisory approach towards junket promoters started only in 2015, when the DICJ revoked the licenses of eight junket promoters due to ROVE reporting breaches, although poor AML/CFT compliance is considered generally in licence renewal decisions (noting that overall 59 licenses were cancelled/expired in 2015 – see Table 28 above).

**Table 30: Supervisory actions taken by DICJ**

	Before 2012	2012	2013	2014	2015	2016	Total
<b>Concessionaires/sub-concessionaires</b>							
<b>Written communications for control deficiencies (corrective actions) per:</b>							
AML/CFT system review written communication (corrective actions)	6	0	1	1	5	0	<b>13</b>
Junket ROVE Reviews (corrective actions)	19	6	3	2	3	3	<b>36</b>
Official communications (warning letters)	3	0	0	0	0	0	<b>3</b>
No. on junket promoters communicated to concessionaires/sub-concessionaires due to inadequate ROVE reporting (corrective actions)	137	34	14	2	11	0	<b>198</b>
No of junket promoters disqualified to renew license due to failure to fulfil AML/CFT obligations (suspension of license).	0	0	0	0	8	3	<b>11</b>
Penalised measures	0	0	0	0	0	0	<b>0</b>

**Banks, other FIs & Insurance (AMCM)**

341. The AMCM has a range of remedial measures that it can impose on institutions. These range from written communications for corrective action following on-site inspections, to the suspension of licenses and administrative sanctions under the AML/CFT Administrative Regulation 7/2006.

342. The assessors found no recent evidence or allegations regarding serious AML/CFT deficiencies in Macao, China's financial sector. Current remedial action by AMCM is effective, proportionate and dissuasive noting the size of the banking, other FI and insurance sectors. The AMCM has been employing a collaborative supervisory approach instead of imposing sanctions which has proven effective. Findings and issues identified during inspections by both the AMCM-DSB and AMCM-DSG are communicated to the management and relevant staff of institutions at exit meetings. Formal inspection letters on the findings and recommendations are issued and monitored as required. Any material control deficiencies identified are formally stated in inspection letters requiring immediate rectification. High-level meetings are arranged if remediation action is not completed in a timely manner (i.e. over 90 days) No formal sanctions have been applied in the banking and other FI sectors since 2012. However, historically financial penalties have been obtained against a money changer and a financial intermediary for failing to keep proper transaction records and report STRs. No severe or significant violations have been detected; therefore no sanctions have been applied against any insurance institutions by the AMCM-DSG for violation of AML/CFT regulations. The table below shows the supervisory action taken by the AMCM-DSB against banks and other FIs from 2012 to June 2016 and the AMCM-DSG against the insurance sector during the three rounds of inspections.

**Table 31: Supervisory actions taken by AMCM-DSB**

	2012	2013	2014	2015	2016	Total
<b>Banks</b>						
Given caution during on-site inspection	6	11	14	10	9	50
Asking for correction*	67	112	151	15	147	492
Letter requesting rectification	17	0	0	8	24	49
Warning	0	0	0	0	0	0
Penalised measures	0	0	0	1	0	1
<b>Other FIs</b>						
Given caution during on-site inspection	3	0	1	11	10	25
Issues asking for correction	14	0	6	36	37	93
Letter requesting rectification	3	0	0	12	10	25
Warning	0	0	0	0	0	0
Penalised measures	0	0	0	0	0	0

\* The issues asking for correction were mostly rectified by the banks within 90 days after the receipt of the inspection letters that were signed by a member of the Board of Directors of the AMCM. Implementation of the rectifications was verified by an independent party as required by the AMCM. Under the risk-based approach, rectifications of high-risk banks were also verified by follow-up on-site inspections by AMCM.

**Table 32: Supervisory actions taken by AMCM-DSG**

	1 <sup>st</sup> Round 2007-2008	2 <sup>nd</sup> Round 2009 - 2013	3 <sup>rd</sup> Round 2015 - 2016)	Total
Given caution during on-site inspection	23	10	10	43
Asking for correction	23	10	4	37
Warning	0	0	0	0
Penalised measures	0	0	0	0

### Real estate, precious stones/metals and high value goods (DSE)

343. The remedial action undertaken by DSE after on-site inspections (see below) consists predominately of oral caution, asking for correction and formal warnings as the table below shows. The DSE advised that there was difficulty to differentiate the supervisory actions according to entity types (e.g. real estate agents verse other DNFBNs) in the supplied data. It was only confirmed that the two penalties in 2014 were related to one jewel shop and one pawn shop. DSE confirmed during the assessment that no significant non-compliance has been found for real estate agencies.

344. The assessment team has concerns that remedial action by DSE is not effective, proportionate and dissuasive in the real estate sector. The low number of on-site inspections (from 2012 to 2015) by DSE and low number of STRs filed by the real estate sector and the limited statistical data provided on imposed sanctions justifies this conclusion.

**Table 33: Number of supervisory actions taken on DNFBPs by DSE**

	2012	2013	2014	2015	2016	Total
Oral caution	476	260	372	1	156	1264
Asking for correction	2	0	30	2	15	49
Warning	2	17	18	3	0	40
Penalty	0	2	2	1	0	5

### Notaries (DSAJ)

345. The DSAJ has issued a range of sanctions as shown in the table below ranging from observations and suggestions for small mistakes, recommendation for non-conformity (but not non-compliance) with DSAJ instructions, and warnings for non-compliance with DSAJ instructions. According to the DSAJ, since December 1999, five notaries have seen their licenses terminated. Currently, there is an ongoing disciplinary action against a private notary.

**Table 34: Number of supervisory actions taken on notaries by DSAJ**

	2012	2013	2014	2015	2016	Total
<b>Observations and suggestions*</b>	37	28	18	10	100	193
<b>Recommendations**</b>	38	93	28	13	75	247
<b>Warnings***</b>	48	57	25	14	60	204
	123	178	71	37	235	644

\**Observations and suggestions*: small mistakes detected during inspection

\*\**Recommendations*: Notarial acts/practices detected during the inspection that are not in conformity with the DSAJ's Instructions – official circular – nonetheless, they do not constitute an infringement to the Law.

\*\*\**Warnings*: irregular acts or bad practices, errors or non-compliance with the DSAJ's AML/CFT Instructions.

### Other DNFBPs

346. DSF and AAM remedial action appears limited. DSF has taken no remedial action and sanctions, and AAM conducted no on-site inspections and applied no remedial action relating to AML/CFT issues. IPIM completed a good number of on-site inspections with no breaches found with offshore companies providing company services.

## *Impact of supervisory actions on compliance*

### **Gaming sector (DICJ)**

347. The DICJ appears to be well respected, and the gaming operators spoken to welcome the interaction and professional advice provided by DICJ staff. DICJ considers that over the last 10 years the AML/CFT system on the concessionaires/sub-concessionaires in Macao, China, has developed and matured. Through AML/CFT system reviews, junket ROVE reviews, and a proactive outreach programme to concessionaires/sub-concessionaires, the impact of supervisory action on compliance has received positive feedback from the gaming sector. DICJ provided some examples which highlighted the impact of supervisory action on compliance including the issuing of a non-winning cheque, cashier orders from junket promoters and under reporting of ROVE reports by some junket promoters. However, (noting the size of the gaming sector in Macao, China), more specific examples (since 2011) would have helped demonstrate actual influence on compliance. Likewise, besides improvements in internal control processes (e.g. more designated AML/CFT compliance officers and enhanced screening/transaction monitoring) limited tangible evidence was provided by DICJ that demonstrates that DICJ actions influenced compliance in other areas in the junket promoter sector (as third party introducers and direct reporting entities in Macao, China) over the same period especially in the filing of STRs (refer IO.4). Previously junket promoters submitted only five STRs for the period 2011 to 2015. Junket operators rely heavily on the STRs being reported by their concessionaires/sub-concessionaires. While still insignificant, junket promoters submitted 11 STRs in 2016. In late 2015, DICJ started a more stringent supervisory approach towards junket promoters. The team believes the impact of this new approach on AML/CFT compliance is not yet finished, the effects of which will require time to evaluate and determine.

### **Banks, other FIs and Insurance (AMCM)**

348. The AMCM has demonstrated that its actions have influenced compliance by banks, other FIs and insurance institutions. As evidenced by the feedback from banks and insurance companies during the on-site, AMCM is well regarded within the banking and insurance sector it monitors. AMCM provided many examples, including on beneficial ownership, TFS, improved policies and procedures, adoption of enhanced customer risk rating and transaction monitoring systems, increased industrial AML/CFT awareness and resources devoted by management, which highlight the impact of supervisory actions on compliance. Based on the risk rating model adopted under the risk-based supervision by the AMCM-DSB, 83 per cent of banks have improved the level of compliance after the sector-wide AML/CFT thematic review. Of particular note was the proactive work undertaken by AMCM in 2014 prohibiting the granting of overdraft facilities to jewellery shops and merchants designated as high risk, as well as prohibiting banks from providing merchant acquiring service to jewellery shops inside casinos. Other actions have been taken including introducing a limit per ATM cash withdrawal transaction by China issued bank cards in Macao, China and a real-time monitoring system of such bank cards on high-risk merchants. The AMCM's supervisory college approach with key foreign counterparts has contributed to its effectiveness. The AMCM is well regarded within the banking and insurance sector it monitors.

### **Real estate, precious stones/metals and high value goods (DSE)**

349. DSE has provided limited evidence that demonstrates that its actions have had a major effect on compliance especially within the real estate sector. DSE confirmed during the assessment that no significant non-compliance has been detected in the real estate sector because of an on-site inspection. However, the team notes the limited number of on-site inspections undertaken from 2012 to 2015, and the limited scope of on-site inspections within the real estate sector.

**Other DNFBPs**

350. The actions taken by DSF, IPIM and AAM on compliance are focused primarily on non AML/CFT issues within the small sectors supervised. Limited evidence was provided to the assessment team that their actions have influenced AML/CFT compliance.

351. The DSAJ has focused on AML/CFT requirements in addition to broader requirements under the notaries act. DSAJ's increased focus on notaries and recently updated AML/CFT Guideline is encouraging. Based on inspections since 2006, DSAJ noted that notaries generally have a sound compliance culture. The team confirmed during the on-site that several verbal observations, recommendations and warnings had been made by DSAJ as a result of on-site inspections and later included in final inspection reports. Areas of non-compliance were remedied in a timely manner due to supervisory oversight. The DSAJ noted the requirement for notaries to provide a deposit of MOP1,500,000 (US\$186,800) provides a dissuasive measure for non-compliance, as the bond can be forfeited in the event of serious non-compliance.

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

**Gaming sector (DICJ)**

352. The major means for the DICJ to promote a clear understanding to the gaming sector is through the interaction mechanism built in the on-going AML/CFT reviews using the 2007 audit procedure manual.

353. DICJ also updated its AML/CFT Guideline which became effective from May 2016. The updated AML/CFT Guideline introduced some key changes from the previous AML/CFT Guideline issued in 2006. The updated AML/CFT Guideline introduced some major changes. Major changes include:

- The introduction of a risk-based approach and continuous evaluation of internal controls by concessionaires and sub-concessionaires,
- Updated definitions, and distinguishing between foreign and domestic PEP,
- A requirement for DICJ to pre-approve the AML/CFT internal rules and procedures issued by concessionaires and sub-concessionaires,
- Greater obligations to identify the ultimate beneficiaries,
- Greater control and review by concessionaires and sub-concessionaires of STR reports and large transaction reports submitted by junket promoters.

354. In addition, DICJ provides industry training once every year to the gaming sector with a thematic topic/objective. Training provided by DICJ since 2011 has addressed AML/CFT requirements and ML typologies in the casino sector, ROVE reporting requirements, an overview of the NRA, and an explanatory session on the 2016 updated AML/CFT Guideline. The training provided has been directed at the concessionaires, sub-concessionaires, and junket promoters.

355. AML/CFT obligations contained in the updated DICJ AML/CFT Guideline and ML/TF risks appear to be well understood by the concessionaires and sub-concessionaires. Understanding of the updated AML/CFT obligations and ML/TF risks is less apparent in the junket promoter sector, especially amongst the smaller junket promoters.

**Banks, other FIs and Insurance (AMCM)**

356. The AMCM promotes a clear understanding to the banking, other FIs and insurance sectors of their AML/CFT obligations and ML/TF risks.

357. Exit meetings are held with management subsequent to every on-site inspection. To raise industry-wide awareness, the AMCM-DSB holds bi-annual AML/CFT seminars for all licensed FIs (and has done so since 2007). Topics addressed have included the revised FATF recommendations, and NRA. International speakers have also presented from major international banks on topics including sources of criminal money, new ML/TF techniques, key challenges faced, controls on PEPs and common deficiencies. Seminars focused on the gaming sector, trade-based ML, beneficial ownership, and recent CUP merchant trends have been provided.

358. All banks and insurance institutions are required to complete and submit an annual sector questionnaire to the AMCM. The questionnaire requires institutions to perform a self-risk assessment of their policies, customers, products and services. With regards to CFT, the AMCM has issued a substantial number of notices and circulars to the banking, other FIs and insurance sector.

359. The AMCM issued two updated AML/CFT Guidelines to the banking, other FIs sector, and insurance sector respectively in November 2016.

**Real estate, precious stones/metals and high value goods (DSE)**

360. The DSE issued updated guidance on 26 May 2016 in respect of general procedures to be adopted with a view of preventing ML/TF crimes in the real estate, service provider and traders in goods of high unit value. The DSE has also provided ad hoc seminars and training to the real estate sector. Other government departments (non AML/CFT supervisors) also provided ad hoc training covering basic AML/CFT obligations, and understanding of ML/TF risks to the real estate and traders in goods of high unit value. These changes are encouraging but the impact of these actions will require time to measure.

361. Basic AML/CFT obligations appear to be understood in the sectors supervised by the DSE. However, the promotion of a clear understanding of ML/TF risks is limited due to the general low management capacity and small size of business sectors it supervises and by gaps in the DSE's own understanding of the ML/TF risks in these sectors. This shortcoming impacts on the effectiveness of the measures taken by DSE to promote an understanding of ML/TF risk in the sectors it supervises.

**Other DNFBPs**

362. Taking into consideration contextual factors, the DSF, AAM and IPIM promote a basic understanding to their members of their AML/CFT obligations through the publishing of updated AML/CFT guidelines, all issued during 2016 (except AAM), along with informal, ad hoc communication channels. The DSAJ has performed better in raising awareness among notaries. However, there is a need for more awareness-raising of ML/TF risks to all individual practitioners, particularly amongst the professionals handling real estate transactions.

363. **Macao, China has a substantial level of effectiveness for Immediate Outcome 3.**

## CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

### *Key Findings and Recommended Actions*

#### **Key Findings**

- The NRA identifies and assesses the level of ML/TF risks and vulnerabilities of legal persons and arrangements in some sectors. The NRA analysis lacks a thorough risk assessment of foreign owned legal persons and legal arrangements that may be operating in the jurisdiction. Nevertheless, competent authorities did demonstrate an understanding of the risks of foreign owned legal persons and legal arrangements that may be operating in Macao, China.
- Macao, China has increased the transparency of local legal persons by ensuring that basic and available beneficial ownership information is publicly available on demand and through the online database of the CR.
- While trusts and similar legal arrangements cannot be created under the present legal regime, and no trust management company has ever been registered either with AMCM or with the CR since the enactment of Decree-Law no. 58/99/M, foreign trusts do operate on a very limited scale in Macao, China. There is a requirement for trustees in limited circumstances to disclose their status to FIs. There are requirements for FIs and DNFBPs to identify whether a customer is a trustee acting on behalf of a trust.
- Macao, China has precluded bearer shares since July 2015 and under the present legal regime, trusts and legal arrangements cannot directly own shares of local companies, which are important mitigating factors countering the risk of using legal persons and arrangements to obscure beneficial ownership information.
- The legislation of Macao, China does not recognise nominee shareholders and nominee directors. Any person acting on behalf of a shareholder or director will have to do it through the normal figure of representation which requires the issuing of specific powers of attorney by the represented person to their nominee through a notary.
- FIs have implemented Macao, China's preventative measures to identify and verify beneficial ownership information of legal persons and foreign trustees operating in the jurisdiction. Notaries and registrars play a key role in the creation of legal persons and are required to undertake CDD and verify the authenticity of documents submitted for registration, including enhanced CDD requirements introduced in 2016. However, because of staffing constraints, the DSAJ has not been able to verify that all notaries are applying enhanced CDD measures.
- While authorities indicated that timely access to basic and beneficial information of local legal persons is available from the CR, companies, FIs and notaries in most instances, beneficial ownership information of legal persons held by layers and complex groups of foreign legal persons and legal arrangements is not always readily available or available on a timely basis.
- Sanctions are available (including criminal sanctions) for violations of the Company Registration Code but no effective sanctions have been applied.

**Recommended Actions**

- Macao, China should fully identify and assess in their NRA the ML/TF risks relating to foreign legal persons and legal arrangements that may be operating in the jurisdiction, and the findings of this risk assessment should be shared with the main competent authorities and the private entities.
- PJ should continue to develop a sound understanding of the ML/TF risks, trends and typologies relating to legal persons and foreign legal arrangements, and share it with other relevant authorities or to reporting entities, for them to be aware of the typologies of ML through legal persons and arrangements.
- Informed by the comprehensive risk assessment recommended above, develop a plan/strategy to further mitigate the risk posed by foreign owned legal persons and legal arrangements.
- The DSAJ should continue and enhance their monitoring of compliance by notaries and registrars and impose sanctions for non-compliance when applicable.
- The CR could have powers to apply fines and to start sanctions proceedings for failing to comply with the duty to register and the deadlines established.

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

**Immediate Outcome 5 (Legal Persons and Arrangements)***Public availability of information on the creation and types of legal persons and arrangements*

365. Information on the creation and operation of legal persons is widely available in both Chinese and Portuguese<sup>9</sup>. The online database of the CR supervised by the DSAJ is available to competent authorities and to some reporting entities (e.g. all private notaries and 18 banks), although with varying levels of access (paragraph 3 of Article 70 and paragraph 1 of Article 118-A of the Commercial Registry Code). Upon request, the public is also able to access information (verbal or written) and the corresponding filed documents subject to registration as provided in the Commercial Registration Code (Article 69).

366. Under the Commercial Registration Code and Commercial Code, companies must maintain and update details of shareholders in their books, and changes must be registered with the CR. Notaries and registrars also check and verify the authenticity of information filed with the CR both for natural and legal person owners during the registration process. The DSAJ also undertakes checks of the system to ensure notaries and registrars have performed their due diligence, but as noted in IO.3, the on-site inspection component of this programme has suffered from staffing shortages in recent

<sup>9</sup> e.g. from:

[http://www.dsaj.gov.mo/iis/ContentFrame\\_pt.aspx?ModuleName=SFT/ServiceList.ascx&DeptCode=CRCBM&Lang=pt](http://www.dsaj.gov.mo/iis/ContentFrame_pt.aspx?ModuleName=SFT/ServiceList.ascx&DeptCode=CRCBM&Lang=pt) and [http://www.dsi.gov.mo/asso\\_p.jsp](http://www.dsi.gov.mo/asso_p.jsp)

Anti-money laundering and counter-terrorist financing measures in Macao, China - 2017 © APG 2017

years and verification of the enhanced CDD requirements introduced in 2016 has not been comprehensive or risk-based.

367. For establishing and registering a NPO and in order to be effective against third parties, the act of incorporation, the articles of association (stating the purpose and activities to be carried out, the organisational structure and the management board) and its amendments have to be done also through a notary and published in the Official Gazette and registered in the DSI, which has a database system for NPO registrations and updates and on request also issues for public use certificates of any facts subject to registration.

368. Under the present legal regime, trusts are not recognised in Macao, China. Decree-Law no. 58/99/M on Macao Offshore Activity, however, allows for the establishment of offshore trust management institutions in Macao, China, and their information must be registered in the CR, but no offshore trust company has been formed under this legislation.

7

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

369. The NRA (pages 441 to 474) analyses the vulnerabilities which can arise from company services provided by legal and accounting professionals. In addition, in the study of different business sectors including gaming, real estate and car dealers, a study has also been carried out to examine the risk of company vehicles being used to hide the ultimate beneficial owners when carrying out transactions in these sectors. In all these sectors, data on resident and non-resident legal persons and legal arrangements have been obtained and analysis carried out on the significance of the volume of business conducted by overseas legal persons, especially when they are legal arrangements or offshore companies established in high-risk countries. The NRA does not establish the level of ML/TF risks for foreign owned legal persons, and foreign legal arrangements that may be operating in the jurisdiction. Nevertheless, Macao, China provided evidence that they considered the ML/TF risks with foreign owned legal persons and legal arrangements operating in their territory and applied mitigation measures, such as enhanced CDD in revised AML/CFT guidelines.

370. Furthermore, Macao, China undertook a separate review of vulnerabilities associated with bearer shares and legislated to ban their existence in Law no. 4/2015, which entered into force on 1 July 2015. Only registered shares are permitted in Macao, China.

371. The DSAJ, CCAC, GIF and MP expressed an awareness and understanding of the vulnerabilities associated with legal persons incorporated in Macao, China that are owned by another legal person(s) incorporated overseas, including significant challenges in identifying the ultimate beneficial owner(s). GIF also demonstrated an understanding of risks associated with legal persons, including shell companies, which have increased in recent years. Authorities identified two foreign jurisdictions which accounted for the majority of foreign owned legal persons formed in Macao, China.

372. The PJ has investigation procedures on legal persons and legal arrangements and expressed to the assessment team a sound understanding of the ML/TF risks, trends and typologies relating to legal persons and foreign legal arrangements, including with the presentation of cases on how to investigate legal persons and legal arrangements, even when they are held by layers and complex groups of overseas legal persons and legal arrangements.

#### *Mitigating measures to prevent the misuse of legal persons and arrangements*

373. Authorities have taken several other measures aimed at preventing and mitigating the risk of misuse of legal persons in Macao, China. The CR requires sole proprietorships (natural persons) and

companies (legal persons) to perform registration at their opening or upon the change of any company details, and requires a third party, namely the notary and registrar profession, to validate and register most acts involving legal persons, as required in the Notary Code and the Commercial Registration Code. The registration of legal persons should be done within 15 days of commencement of business or when any change takes effect (Article 14 of the Commercial Registration Code). The company registration and any changes to it will only affect any third party after the registration takes place, meaning that a contract with a company will not be effective without registration (Article 9 of the Commercial Registration Code). From a practical perspective, an operational company needs to open bank accounts for its daily business transactions. At present banks have adopted comprehensive CDD measures on companies and require them to provide updated tax and company registration documents which are valid as a general rule for no more than 3 months (Article 69 of the Notarial Code). Thus, a company, in order to be fully operational, must complete the registration or it cannot perform normal operations.

374. There can only be registered shares in Macao, China as bearer shares are no longer allowed. To the extent that it is held, legal ownership and beneficial ownership information of shares can be ascertained through the Shares Registration Book, which must be kept at the company registered headquarters and be easily accessible to competent authorities. According to Article 472 of the Commercial Code, the identity of dominant shareholders must be published and attached to the company's annual report. A dominant shareholder according to Article 212 is an individual or collective person who has a controlling interest or influence.

375. Notaries and registrars play a key role in the creation of legal persons and are required to undertake CDD and verify the authenticity of documents submitted for registration. The DSAJ has introduced enhanced measures in its AML/CFT Instructions in 2016, including when providing company formation services to legal persons from overseas because of difficulties in determining the BO when such legal persons are incorporated in other jurisdictions. However, because of staffing constraints, the DSAJ has not been able to verify that notaries are applying the enhanced CDD measures to offshore company registration customers.

376. The legislation of Macao, China does not recognise the figures of nominee shareholders and nominee directors. Any person acting on behalf of a shareholder or director will have to do it through the normal figure of representation which requires the issuing of specific powers of attorney by the represented person to their nominee through a notary. This specific power of attorney always identifies both parties involved in the representation procedure (Article 68 and 128 of the Notary Code and DSAJ's Instructions on AML/CFT).

377. Under the present legal regime, trusts are not recognised in Macao, China therefore it is not possible to set up trusts or equivalent legal arrangements or shareholding of local companies by trusts and legal arrangements. However, Decree-Law no. 58/99/M allows for the establishment in Macao, China of offshore trust management companies which may only open for business after authorisation is granted by AMCM. Since the enactment of the Decree-Law no. 58/99/M, no offshore trust management company has ever been registered with AMCM.

378. There are preventative measures to identify the beneficial owners of foreign owned legal persons which are being implemented by banks and FIs. FIs are also required and have implemented systematic procedures to identify and verify the identity of beneficial owners before or during the establishing of business relationships, or conducting transactions for occasional customers, and when carrying out regular review of existing records to ensure the records remain up-to-date and relevant. Banks indicated that they are no longer willing to open accounts if the ultimate beneficial owner(s) or

senior management natural person(s) cannot be identified. As indicated in IOs 4 and 3, implementation of beneficial ownership requirements in the financial sector is sound.

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

379. Competent authorities in most instances have access on a timely basis to adequate, accurate and current basic information in the CR online database. As noted, in most instances, access to adequate, accurate and current beneficial ownership information on legal persons that are owned by residents is readily available from the CR. The Act of Incorporation, including the Articles of Association and its amendments must be registered (Article 5, a) and Article 14 of the Commercial Registration Code) within a maximum timeframe of 15 days from the date on which those facts have occurred. If there is no registration of the change with the Commercial Registry, then the act will not affect any third party and the company cannot perform normal operations (Article 9 of the Commercial Registration Code).

380. Notaries and registrars are required to check and authenticate customer information before entering and before submitting documents to the CR via the online system respectively. While the DSAJ undertakes regular checks of the CR to ensure the accuracy of information, the on-site inspection programme, as noted above, has been hampered by staffing constraints in recent years.

381. LEAs can also access information held by companies themselves in compliance with the requirements of the Commercial Code. For the books of companies (including the Shares Registration Book), the administrators, the company secretary (if there is one) and the company are responsible for ensuring their accuracy, and for updating them immediately when changes take place (Article 192 and 327 of the Commercial Code). However authorities cannot be sure they are updated immediately when changes take place.

382. LEAs can also access information held by supervisory authorities such as the DSAJ, AMCM, DICJ, IPIM, DSI and DSF. Information held by these supervising authorities may help competent authorities to obtain additional information when the CR database is not enough (for instance when legal persons have complex structures with foreign shareholders).

383. GIF, LEAs and supervisory authorities have access to additional beneficial ownership held by reporting entities (e.g. banks and notaries). As noted in IO.3, the AMCM has focused on ensuring banks, insurance and other FIs compliance with beneficial ownership requirements. Foreign settled trusts that are customers of FIs must disclose the required information through EDD to the FIs. This information will be always easily accessible both to LEAs and judicial authorities and to other competent authorities through the supervisory powers of AMCM.

384. Information on beneficial owners may not be as timely or even available when owned by foreign legal persons or legal arrangements. For companies registered in Hong Kong, China, GIF can obtain information online directly from the Hong Kong, China companies' registry to the extent that registry holds such information. In other jurisdictions, however, company information can only be obtained via counterpart FIUs, which usually takes longer.

385. Overall, authorities in Macao, China have indicated and presented some case examples to demonstrate that they are able to identify in a timely manner (one to three weeks) the real beneficial owner of legal persons operating in the jurisdiction from the above-mentioned sources (reporting institutions and companies). There have been cases where the competent authorities have traced the beneficial owner of legal persons held by layers and complex groups of overseas legal persons. The MP

and CCAC achieved a major success with the identification of beneficial owners in the Ao Man Long corruption case against the former Secretary of Transport and Public Works which led to investigations of shell companies and the recovery of US\$100 million.

386. Despite the above positive measures, authorities acknowledged that beneficial ownership information on Macao, China companies that involve ownership by foreign entities, is often difficult to obtain, and not available to competent authorities in a timely manner.

*Effectiveness, proportionality and dissuasiveness of sanctions*

387. Sanctions are available (including criminal sanctions), as stated in criteria 24.13, but no sanctions have been applied. It is a requirement that a company has to complete the registration process otherwise it will not gain legal personality (Article 176 of the Commercial Code)<sup>10</sup> and cannot be fully operational and its acts will not affect any third party (Article 9 of the Commercial Registration Code). However, Macao, China has not provided evidence to demonstrate that this is an effective and dissuasive alternative to applying sanctions.

388. The refusal to provide information on current and BO information may lead to the imposition of administrative penalties that can range between MOP10,000 and MOP5,000,000 (US\$1,250 and US\$625,000) under the FSA, or between MOP10,000 and MOP500,000 (US\$1,250 and US\$62,500) for individuals and MOP100,000 and MOP5,000,000 (US\$12,500 and US\$625,000) for legal persons under Administrative Regulation 7/2006.

389. Moreover, the disrespect of a legitimate order issued by a competent LEA or a court may lead the author to incur in the commission of the offence of aggravated disobedience foreseen in the Penal Code which carries a maximum prison sentence of 2 years' imprisonment or a fine of 240 days. Under article 122, no. 2, k) of the FSA this is applicable to natural/legal persons who refuse to provide information to AMCM. Under Administrative Regulation 7/2006 (Articles 8 and 9) this is applicable to the entities under the obligation of complying with the duties provided for in Article 6 of the Law 2/2006.

390. **Macao, China has a substantial level of effectiveness for Immediate Outcome 5.**

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<sup>10</sup> Article 176 of the Commercial Code refers that: "Commercial companies gain legal personality with the registration of their act of incorporation."

## CHAPTER 8. INTERNATIONAL COOPERATION

### *Key Findings and Recommended Actions*

#### **Key Findings**

- Macao, China provides a range of international cooperation, including MLA, extradition, intelligence/information and beneficial ownership information. The overall quality of assistance is generally sound and timely, as confirmed by feedback received from other jurisdictions.
- Overall, Macao, China authorities are proactive in seeking international cooperation for a range of purposes, including ML, criminal investigations and recovery of assets. Macao, China successfully recovered assets through international cooperation and a sum of about MOP350 million (US\$44.77 million) was returned to the government of Macao, China (Ao Man Long corruption case). This case demonstrates the capability of Macao, China to seek and work with foreign jurisdictions to recover the proceeds of crime.
- Macao, China has faced challenges in obtaining foreign evidence to prosecute cases in Macao, China. The authorities have reviewed the MLA framework and intend to enter into more agreements. Operational cooperation with regional authorities, particularly the trilateral Thunderbolt actions, has helped to partly get around barriers to collecting foreign evidence by instead supporting action in China to prosecute cross-border crime. Moreover, the proposed amendments to the AML Law to remove the predicate-link hurdle to mounting ML prosecutions will, once enacted, reduce the need for authorities to rely on foreign evidence to progress ML prosecutions. This is a pragmatic measure that recognises the continued difficulties Macao, China would likely face with receiving adequate overseas evidence to prosecute ML.
- The DICJ cannot enter into formal international information exchange instruments for the gaming sector but has used other channels (e.g. GIF) to request information from foreign counterparts. It is able and has responded to foreign requests on a case-by-case basis.

#### **Recommended Actions**

- Macao, China to enter more MLAs with overseas jurisdictions with which there are ongoing linkages.
- LEAs should continue to work with overseas counterparts through enhancing international cooperation mechanisms to facilitate information sharing for the gathering of sufficient evidence from overseas to facilitate ML investigation and prosecution in Macao, China, or in foreign jurisdictions.
- Provide a legal basis for the DICJ to enter into international information exchange instruments.

391. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

## *Immediate Outcome 2 (International Cooperation)*

### *Providing constructive and timely MLA and extradition*

392. All requests for MLA are handled by the MP, which is the designated central authority, and staff (around six staff of the Judicial Affairs Department and one adviser) and MP gives priority to process letters of request for MLA.

393. Macao, China has taken an active approach to enter into bilateral MLA agreements with overseas countries/jurisdictions. Currently Macao, China has signed 10 MLA agreements, including with China; Hong Kong, China; and Portugal.

394. Macao, China provides constructive and timely MLA including when related to the surrender of fugitive offenders. The quality of assistance provided by Macao, China is generally good, as confirmed by the feedback received from other jurisdictions.

395. For incoming requests, Macao, China in general meets the requirements of the requesting party. From 2011 to September 2016, MP received a total of 125 requests from overseas jurisdictions, with a total of 88 requests from China; Hong Kong, China; Chinese Taipei and Portugal, and from those without signed MLA agreements. Six other jurisdictions each submitted three to six MLA requests (mostly three to four) and another nine each submitted one to two requests to Macao, China in this period. Macao, China has been actively providing assistance with responses given to 80.3 per cent of requests. Most MLA requests relate to obtaining evidence and notifying suspects, defendants, witnesses or forensic experts about hearings. There were no rejected requests. The response time ranged from 15 days to 20 months (just one case).

396. Based on experience, despite different legal systems, policies on criminal matters and other issues between the requesting party and Macao, China, local authorities always try to satisfy the specific requirements of the requesting party or make it an exceptional case as permitted by law. Macao, China always makes efforts to offer as much assistance as possible. Moreover, even if the result cannot meet the requirements of the requesting party, Macao, China is able to offer further assistance on the condition that a supplementary request is sent from the requesting party.

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

397. The quality of outgoing MLA requests is also in general satisfactory and consistent with the geographic risk profile of Macao, China. However, it usually takes a longer time for Macao, China to receive responses from overseas requesting parties, due to different legal systems between the requesting party and Macao, China.

398. For outgoing requests made by MP and the Courts, a reminder will be sent to the requesting party asking about the progress of the requests made and the MP will contact the requesting party through email, phone call, fax and official letter to see if it is necessary to provide supplementary information or amend the content of the request and follow up the relevant matters. Furthermore, appropriate adjustments must be made according to the law of the requesting party to comply with the requirements of the requesting party.

399. From 2011 to September 2016, the MP sent a total of 77 MLA requests to overseas jurisdictions including China; Hong, Kong, China and Portugal (totalling 49 requests), and including some without signed MLA agreements. The only other jurisdiction of significance is the United

Kingdom which received numerous requests relating to the Ao Man Long corruption case, including obtaining evidence and requesting the court to issue assets injunctions (assets recovery). To date, about 74.2 per cent of the requests were responded to (excluding the rejected requests). Most MLA requests related to obtaining evidence and notifying suspects, defendants, witnesses or forensic experts about hearings. Four requests were rejected, mainly because they did not match the essential requirements for provision of MLA by the requesting jurisdictions. There were 26 successful prosecutions and 17 convictions resulting from the MLA requests. The response time ranged from 2.5 months to 3.5 years (just one case).

400. Currently Macao, China has signed MLA agreements with China; Hong Kong, China; Cape Verde; Mongolia; East Timor and Portugal. In addition, nine further arrangements are now being negotiated by Macao, China with Korea, Mongolia, Nigeria, China and Hong Kong, China.

401. Macao, China has faced challenges in obtaining sufficient foreign evidence to prosecute ML cases within Macao, China. For foreign proceeds, investigations rely mainly on information obtained from overseas counterparts through international cooperation, notwithstanding the necessary domestic investigation and gathering of evidence from different domestic sources including immigration information from PSP, identification information of legal persons and legal entities from the DSI and Commercial Registry, tax registration information from DSF, and from DICJ in the case of gaming entities or from IPIM for local offshore companies. In such cases, insufficient evidence from overseas can hinder the investigation and impede it from moving to prosecution. The proposed amendments to the AML Law to remove the predicate-link hurdle to mounting ML prosecutions will, once enacted, reduce the need for authorities to rely on foreign evidence to progress ML prosecutions. This is a sensible, pragmatic measure that recognises the continued difficulties Macao, China would likely face with receiving adequate overseas evidence to prosecute ML.

402. The MP, as the central authority, is fully aware of the challenges and has been working towards enhancing the framework for MLA. Enhancing international cooperation is an ongoing priority in the 2016 AML/CFT and CFP plan, although not its highest priority. The DSAJ has undertaken an internal review of Macao, China's MLA linkages. As part of Macao, China's plan to enhance the framework for MLA, Macao, China is planning to enter into more MLAs with overseas jurisdictions with which there are ongoing linkages.

403. Macao, China has successfully recovered assets through international cooperation and a sum of about MOP350 million (US\$44.77 million) was returned to the government of Macao, China (Ao Man Long corruption case). The total assets recovered amounted to US\$100 million (including within the jurisdiction) and demonstrates the capability of Macao, China to seek and work with foreign jurisdictions to recover the proceeds of crime.

#### *Seeking other forms of international cooperation for AML/CFT purposes*

404. Macao, China authorities also seek other forms of international cooperation including for AML/CFT purposes. Cooperation among LEAs occurs regularly and involves information exchange, for example, by PJ/Interpol, CCAC, SA and GIF.

405. Between 2011 and 2016, the PJ sent a total of 4,554 requests to Interpol counterparts. The major type of crime associated with these requests is fraud, although other major areas include ML, cybercrime, loan sharking, narcotics, payment card abuse and forged documents. Interpol counterparts replied to over 85 per cent of the requests. PJ focus has been with counterparts in China and Hong Kong, China and PJ frequently seeks assistance from them. The PJ also exchanged information via Interpol with over 57 other jurisdictions, namely: Malaysia, the Philippines, Latvia,

New Zealand, Cyprus, Dominican Republic, Abu Dhabi, Africa, Canada, Monaco, Sweden, Cambodia, France, Republic of Korea, Singapore, Japan, Republic of Zaire, Spain, Thailand, Uruguay, China, Czech Republic, Australia, Turkey, Ghana, Germany, Belgium, Ireland, United Kingdom, India, Brazil, United States of America, Republic of Guinea-Bissau, Bangladesh, United Republic of Tanzania, Nigeria, Commonwealth of the Bahamas, Nepal, Republic of Suriname, Mexico, Myanmar, Indonesia, Iran, Romania, Peru, Hungary, Saudi Arabia, Mongolia, Vietnam, Italy and the Russian Federation.

406. CCAC obtains most of its intelligence through domestic agencies including MP, PJ and GIF. However, it also maintains open cooperation channels with overseas counterparts and from 2011 to 2015 sent a total of 30 requests.

407. On average, SA sent 133 requests per year via the WCO platform to overseas counterparts between 2012 and 2015. All of them were duly responded to by counterparts. Macao, China has signed three MOUs with overseas counterparts (China, Japan and Thailand). SA is also a member of the WCO, and has actively participated in WCO Asia/Pacific Regional Office of Capacity Building and WCO Asia/Pacific Regional Intelligence Liaison Office groups. SA participated in a total of 40 WCO meetings, workshops, seminars and conferences from 2012 to 2015.

408. GIF has signed 18 MOUs for exchange of ML/TF/PF intelligence with the FIUs in overseas jurisdictions, including China Anti-Money Laundering Monitoring and Analysis Center, Hong Kong Joint Financial Intelligence Unit, Financial Intelligence Unit of Portugal, Korea Financial Intelligence Unit, Indonesian Financial Transaction Reports and Analysis Center, Singapore Suspicious Transaction Reporting Office, Australian Transaction Reports and Analysis Centre, Japan Financial Intelligence Center, Bank Negara Malaysia, Financial Crimes Enforcement Network of the United States of America, Federal Financial Monitoring Service of the Russian Federation, United Kingdom Financial Intelligence Unit, Financial Transactions and Reports Analysis Centre of Canada, Philippines Anti-Money Laundering Council, Thailand Anti-Money Laundering Office, Fiji Financial Intelligence Unit and Israel Money and Terror Financing Prohibition Authority.

409. Between 2011 and 2015, 199 requests on average per year were sent by GIF. 41 per cent of the replies to GIF were made within 60 days and the remainder in excess of 61 days, with 10 per cent unanswered.

410. GIF has an IT system which can automatically keep track of the dates whenever a request is sent or received, and an alert will pop up in red with the indication of overdue days, so that the responsible officer can follow up with the requesting or receiving foreign counterparts.

411. The AMCM - Banking Supervision has signed MOUs with key counterparts in China and Hong Kong, China and also with Portugal and Cape Verde. They have adopted a supervisory college approach to supervising FIs active in all three jurisdictions. This includes working with supervisors from China and Hong Kong, China when they undertake supervisory visits to Macao, China including sharing on-site inspection reports. The AMCM also shares information with its counterpart in the Philippines for its largest non-bank remittance provider. Between 2011 and 2015, the AMCM - Banking Supervision sent 57 requests for assistance to overseas authorities especially to China and Hong Kong, China. The Insurance Supervision Department of AMCM made five requests to overseas supervisors and although all replies to such requests have been positive, none of them related to AML/CFT.

412. SPU has been cooperating with its overseas counterparts regarding intelligence exchange for terrorism and proliferation financing via secure channels by SPU through designated officers. Moreover, SPU, Public Security Bureau of Guangdong, China and the Hong Kong, China Police Force

hold periodic meetings and the three regions of Macao, China; Guangdong, China and Hong Kong, China have also held joint counter-terrorism training courses, drills and manoeuvres.

413. The SPU and PJ have also worked with counterparts in Guangdong, China and Hong Kong, China as part of the annual joint Thunderbolt actions against cross-border Triad crime threats. In Operation Thunderbolt 2016, the major areas of cooperation include those consistent with the crime risk profile of Macao, China. Based on statistics provided, there were numerous cases involving drug trafficking (22); illegal usury, gaming and kidnapping (122) and ML (38).

414. The DICJ cannot enter into formal international information exchange for the gaming sector but has used other channels (e.g. GIF) to request information from foreign counterparts. In addition to this, DICJ also actively establishes cooperation with overseas counterparts through meetings to share experiences on gaming regulatory issues as well as AML/CFT issues, for instance with the US Consulate, Casino Regulatory Authority of Singapore, North West Gambling Board and Western Cape Gambling Board of South Africa.

415. Macao, China provided statistics showing its willingness and capacity to provide international assistance to and seek it from foreign counterparts. GIF and PJ follow the standard procedures and templates of Interpol and Egmont respectively.

#### *Providing other forms international cooperation for AML/CFT purposes*

416. As noted in Chapter 1, Macao, China is a Special Administrative Region of China, under a “one country, two systems” arrangement. As such, authorities in both jurisdictions (and Hong Kong, China) work closely together, with Macao, China highly responsive to priority directives from China. The cooperation has been in two priority areas. First, as noted above, LEAs such as the SPU and PJ have worked closely with the Public Security Bureau of Guangdong, China and the Hong Kong, China Police Force, including as part of the annual joint Thunderbolt actions against cross-border Triad crime threats. Second, in response to China’s requests, as noted in IO.7, the PJ has worked closely with LEAs in Hong Kong, China and in China to fight against cross-border crimes and ARS used by criminals. China has successfully cracked down on ARS syndicates in Zhuhai, China using intelligence generated by Macao, China. The latter is particularly important given the challenges in gathering evidence to prosecute the proceeds of foreign predicates in Macao, China. Macao, China provided case examples of China prosecuting criminals based on Macao, China’s information.

417. In the period 2011-2016, PJ received 663 requests for assistance via Interpol from 38 different jurisdictions, including: China; Hong Kong, China; Portugal; the Philippines; Latvia; Cyprus; Abu Dhabi; Africa; Canada; Monaco; Sweden; Cambodia; France; Republic of Korea; Singapore; Japan; Spain; Thailand; Czech Republic; Poland; Australia; Ghana; Belgium; Ireland; United Kingdom; India; Brazil; United States of America; Namibia; Bangladesh; Ukraine; Kyrgyzstan; Indonesia; Iran; Pakistan; Mongolia; Netherlands and Italy. Fraud and ML accounted for 441 (67 per cent) of all incoming requests. Based on statistics provided, the PJ responded to 94 per cent of the incoming requests, with the gap due mostly to requests in 2016 yet to be responded to. The average response time to Interpol was 30 to 60 days.

418. The AMCM has a mechanism to receive, assess and prioritise requests for assistance and for the years from 2011 to 2016 indicated 30 cases involving AML/CFT investigations, and at least three cases involving AML/CFT prosecutions, arising from international cooperation. Moreover, the AMCM in 2014 working with its counterpart in China prohibited the granting of overdraft facilities to jewellery shops and merchants designated as high risk, as well as prohibiting banks from providing merchant acquiring service to jewellery shops inside casinos. Other actions have been taken including

introducing a limit per ATM cash withdrawal transaction by Chinese bank cards in Macao, China and a “real-time monitoring system of Chinese bank cards” on high-risk merchants.

419. CCAC obtains most of its intelligence through domestic agencies including MP, PJ and GIF. However, it also maintains open cooperation channels with overseas counterparts and during 2011 to 2015 received a total of 35 requests.

420. The SA also provides assistance in response to enquiries made by overseas counterparts. SA received an average of 170 requests per year via the WCO platform during 2012 to 2015. All requests were duly responded to.

421. Between 2011 and 2015, an average of about 41 requests per year was received from overseas FIUs; several were general requests to all FIUs. Without counting the general requests, 67.7 per cent of the replies were made by GIF within 30 days (24.2 per cent of the replies were made within 1 to 7 days while 43.5 per cent of the replies were made within 8 to 30 days) and another 21.7 per cent of the replies were made within 60 days.

422. In order to assess the usefulness of intelligence sent by GIF, GIF sent out questionnaires to the FIUs of Hong Kong, China and China to gather their feedback. The replies received indicated that the intelligence is useful to them and they had further disseminated the useful intelligence to LEAs to carry out further criminal investigations.

423. Other than meeting with foreign counterparts, DICJ information-sharing with foreign counterparts exists under the general response mechanism of the DICJ, namely those information requests from foreign gaming authorities for the purpose of suitability assessments of their licensees/applicants of licenses. Subject to the organic statute of the DICJ (AR No. 24/2003), the DICJ does not enter any agreement or treaty with foreign countries in relation to international cooperation to share information. The DICJ would respond to those counterparts based on the written authorisation/consent (i.e. release authorisation) of the subject individual/companies in each request that allows those foreign gaming authorities to obtain any information from authorities in other jurisdictions. On average, there are about 2-5 requests to Macao, China per year asking for information from DICJ from other jurisdictions. Macao, China has responded to these requests.

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

424. The judicial authority, LEAs, FIU and supervisory agencies have all established cooperation mechanisms with counterparts for obtaining beneficial ownership information through MLA, Interpol, MOUs or cooperation agreements. The LEAs in Macao, China and the FIU can have access to company information with beneficial ownership (to the extent it is held) via direct online search in the company registry, as well as tax registration from DSF, and any shareholding information which involves offshore companies from IPIM upon request.

425. For the MP, from 2011 to 2015, there were 10 outgoing and 26 incoming MLA requests that related to basic and beneficial ownership information of legal persons/arrangements, among which four outgoing requests responded to Macao, China and 18 incoming requests were responded to by Macao, China. The eight remaining incoming requests were not executed due to lack of original copy or a certified copy of the letter of request or lack of supplementary information.

426. During 2014 PJ sent a total of 96 requests via Interpol to ask for assistance to obtain information including data of involved companies, car registration, etc. and around 76 per cent of the

requests were replied to. During the same period, it received 20 requests of the same kind and all were duly responded to by PJ.

427. GIF will search for the beneficial ownership information of all suspects which are legal persons/arrangements. For local companies, GIF personnel can have direct access to online Company Registry information and will cross-check all data. If the companies involved offshore companies, GIF will ask IPIM for the basic and beneficial ownership information.

428. From 2011 to 2015, an average of 238 searches/requests have been conducted by GIF via the online local Company Registry system or the Hong Kong Integrated Companies Registry Information System (ICRIS), or sent by GIF to IPIM asking for details of organisation and shareholding structure of offshore companies.

429. Regarding overseas companies, during 2011 to 2015, an average of 105 requests was sent out by GIF while an average of 37 requests were received by GIF.

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430. GIF also presented some successful cases where overseas intelligence was used for the identification of beneficial ownership information for overseas companies with complex structures.

431. **Macao, China has a substantial level of effectiveness for Immediate Outcome 2.**

## TECHNICAL COMPLIANCE ANNEX

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

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation adopted in 2007. This report is available from [www.apgml.org](http://www.apgml.org).

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

3. *Criterion 1.1* - Macao, China's identification and assessment of ML/TF risk rests mainly on its ML and TF Risk Assessment Report 2015 (NRA). The NRA commenced in January 2014 and was finalised in the last quarter of 2015. The NRA is the first all-sector risk assessment conducted. It follows on from thematic assessments done since 2010 on NPOs, alternative remittance systems (ARS), gaming and cross-border controls. An external consultant was engaged to help produce the NRA.

4. A number of the elements required to produce a reasonable assessment are evident. A special Risk Assessment Steering Committee comprising 17 key AML/CFT agencies developed a comprehensive plan to, among other things, shape national AML/CFT strategic planning and share results with the public and private sectors. The NRA tailored the IMF risk assessment model to suit Macao, China's circumstances based on government and private sector input. Analysis of a large range of information and data including from the private sector and a survey of nine regional jurisdictions informs its findings. The NRA report is lengthy, totalling 694 pages.

5. Although domestic crime is increasing, it is mainly less serious crimes such as simple theft that do not reach the penalty threshold to count as predicate offences for ML. The other main crimes – fraud, gaming related, organised crime and narcotics – are mostly cross-border in nature and involve domestic and foreign criminals. The NRA assesses these crimes as high risk.

6. Macao, China assesses it is exposed to greater ML threats from laundering that uses the jurisdiction as an 'intermediary port' or transit through which to move proceeds generated overseas. As a high-level finding this is fairly reasonable given Macao, China's free port policy, rapid growth in visitors and migrants, and rise as the world's largest gaming centre, but the NRA does not elaborate on how the jurisdiction is exploited as a transit for laundered proceeds. The NRA recognises that large capital inflows from neighbouring regions with comparatively high corruption crimes mean ML threats cannot be underestimated but does not assess the level of risk. The NRA clearly identifies the lack of cross-border declarations as vulnerability and recommends that a declaration system be set up to address this gap.

7. The NRA provides a reasonably sound assessment of the gaming sector's threats, vulnerabilities and risks, across all three tiers - concessionaire, sub-concessionaire and junket promoter. It acknowledges gaps in implementation of existing AML/CFT measures and identifies risk factors via STRs and ROVE (threshold) reports. Overall, it identifies junket operators as high priority for further mitigation actions.

8. The NRA's generally strong assessment of sector vulnerabilities and sound recommendations make it a useful tool for strengthening preventive measures and guiding supervision. However, weaknesses related to assessing crime threats and different levels of ML risk hamper the NRA's value for prioritising operational responses.

9. The assessment of ML crime threats, particularly from overseas, is limited, despite the survey of nine regional jurisdictions. The NRA only briefly refers to corruption in neighbouring regions and says little about internationally-recognised transnational crime syndicates that dominate the regional crime environment. It candidly discusses how difficulties in tracing overseas money trails and collecting foreign evidence limit the number of ML prosecutions. The NRA could also have identified these barriers as creating serious intelligence gaps and therefore vulnerabilities that need to be addressed.

10. Some internal inconsistencies arise in parts of the NRA. It includes findings that show international proceeds are not only funnelled through Macao, China as an 'intermediary port' but also appear to be laundered into the jurisdiction and stored there (e.g. overseas 'hot money' flowing into real estate and laundering proceeds into high-value goods, such as luxury cars where non-residents account for about 30 per cent of sales). The NRA summarises that fast growth has exposed the real estate sector to increased ML/TF risk, with a 'heat map' showing it as the highest ranked sector for risk likelihood and consequence ahead of gaming. However, the detailed sectoral assessment of real estate later in the NRA does not support those findings. Moreover, the gaming sector poses much higher risks, both in terms of likelihood and consequence.

11. Real estate is one of several examples where the NRA appears to have used overseas trends and typologies to adjust the assessment of risks upwards (another is illicit drugs). A more useful approach would have been if the NRA had used international comparisons to identify how and why Macao, China differs from other jurisdictions as a basis for further analysis.

12. In contrast, the NRA's assessment of TF is stronger. It rests on a thorough analysis of potential risk factors. Macao, China assesses its TF risk to be low. Political stability and social harmony mean the risk of home-grown terrorism and its financing is negligible. Authorities consider the rapidly growing number of non-resident migrant workers from jurisdictions with terrorism problems, mainly in Southeast Asia, poses a potential risk but this too is assessed as low. Notably the authorities compare migrant numbers with inward and outward funds flows with jurisdictions with high terrorism risks, to show low likelihood of international TF. Trade-based proliferation financing, NPOs and FATF 'black list' jurisdiction risks are also assessed, as is the adequacy of the AML/CFT framework. A small number of areas for improvement are identified. The main recommendations concern regulating NPOs and raising PSP awareness of TF risks and the need for strong immigration controls. Macao, China provides a good example of how a jurisdiction with inherently low terrorism and TF risks should go about identifying and assessing TF risks.

13. The NRA focuses primarily on risk likelihood but does not discuss risk consequences closely. It includes a risk likelihood/consequences heat map that ranks sectors but it is hard to find any further discussion in the NRA of the heat map results or whether they were incorporated into NRA findings. The results would have been useful for weaving the ML threat and sectoral analysis together better or to weight different levels of risk across sectors.

14. In sum, the NRA employed a generally sound framework and reasonably assesses TF and a number of specific sectoral risks. Its overall assessment of vulnerabilities leads into logical recommendations to address a number of gaps. However, the NRA did not go as far as it could to assess crime threats and overseas ML risks or identify how the barriers to assessing those issues create intelligence gaps that need to be addressed. A deeper understanding of the risks related to real estate and from overseas proceeds needs to be built. Moreover, some of the more salient points in the NRA on the gaming sector and offshore illicit proceeds could also have been better woven together and stated clearly in the overall conclusion in the executive summary.

15. *Criterion 1.2* - In 2014 Macao, China established a Risk Assessment Steering Committee to coordinate a full-sector ML/TF risk assessment. It comprised 17 agencies under GIF's lead and coordinated internal government input to the assessment and also contact with the private sector.

16. *Criterion 1.3* - The 2015 NRA is an up-to-date all-sector assessment of ML and TF risks that also identifies emerging risks (such as virtual currencies) and areas for monitoring. Ongoing assessments of the NPO, ARS and gaming sectors indicate the authorities continue to monitor activity in a number of risk areas.

17. *Criterion 1.4* - The NRA process featured close involvement of 17 relevant authorities and the private sector. The NRA and its key findings and recommendations have been shared with relevant authorities. This includes supervisors that deal directly with the private sector. A simplified version of the NRA was released through April-June 2016 to stakeholders including the private sector. Its release included a survey of private sector views on the accuracy of the findings, other risks not identified in the NRA, and measures entities have taken to identify risks and raise staff awareness. Authorities have also informed the private sector of the NRA findings through outreach and seminars.

18. *Criterion 1.5* - The AML/CFT/CFP Strategic Plan 2016 translates many of the identified sectoral risks, vulnerabilities and recommendations from the NRA 2015 into prioritised goals for action. These concentrate on extending and strengthening the preventive framework, including introducing a freezing law and cross-border cash declaration system. The plan prioritises allocating more supervision resources to higher risk entities and increasing training and awareness-raising for the private sector. Adopting a risk-based approach to prioritise investigations and to carry out parallel financial investigations (which started in 2015) suggests resources will be reallocated but, in contrast to supervision, this is not stated explicitly. Cross-sector risks help frame the plan's measures but crime risks are omitted. This is a gap given the plan only provides high-level direction on risk-based investigations.

19. *Criterion 1.6* - The regulatory framework requires FIs and DNFBPs to implement most of the requirements of the relevant FATF Recommendations (see section of report on preventive measures). There are minor gaps with the specificity, scope and language of some of the preventive measures. They do not relate to any claim for exemption under the NRA. For example, the CDD threshold for occasional transactions for casinos is higher than the FATF threshold (refer c.22.1).

20. *Criterion 1.7* - Authorities have used the 2015 NRA to revise the AML/CFT guidelines of supervisors on areas where enhanced due diligence and additional measures need to be applied. High-risk areas and customers identified in the NRA have influenced EDD requirements for FIs and DNFBPs. The AML/CFT regime has also been extended to cover other DNFBP activities such as junket promoters, auction houses, pawnshops, watch shops and luxury car dealers. This expanded scope occurred in 2006 and before the 2015 NRA.

21. *Criterion 1.8* - Consistent with the NRA's assessment of some lower risks for credit institutions and insurance as generally lower risk, the AMCM AML/CFT Guidelines permit simplified measures for areas of lower risk. Simplified measures are not provided for in the DICJ AML/CFT Guideline for the gaming sector or in any of the other DNFBP AML/CFT guidelines consistent with the NRA conclusions.

22. *Criterion 1.9* - Under recently revised guidelines all FIs and most DNFBPs must adopt a risk-based approach including identifying risks and adopting EDD to mitigate the risks they face. GIF worked with supervisory agencies to revise guidelines in light of the NRA findings.

Supervision activity and outreach with the private sector on the NRA have been undertaken to reinforce compliance with this requirement.

23. *Criterion 1.10* - Under revised AML/CFT guidelines, FIs and most DNFBPs are required to assess, document and update ML/TF risks, considering relevant factors and appropriate mitigation, on an ongoing basis and be able to share findings with the authorities. There are clear requirements in AML/CFT guidelines for the gaming sector, notaries and registrars, and accountants, but they are lacking for real estate agents, dealers of precious metal and stones, company service providers and lawyers.

24. *Criterion 1.11* - Obligations on FIs reflect the FATF requirements and DNFBPs mostly reflect the FATF requirements. The deficiencies for DNFBPs are the same as in c.1.10 above.

25. *Criterion 1.12* - The limited instances where simplified measures are permitted do not extend to circumstances where there is a suspicion of ML or TF.

### *Weighting and Conclusion*

26. Macao, China has soundly assessed TF risk and, on balance, assessed its ML risks to a general extent. Weight is given to the largely reasonable sector assessments and understanding of vulnerabilities particularly for the material gaming and financial sectors, although it needs to enhance the understanding of risks related to real estate risk and overseas proceeds. The strategic plan should provide more explicit direction on LEA adopting a risk-based approach to investigations and keeping the assessment of risks up-to-date. Minor concerns exist over risk-based measures for some DNFBPs.

27. **Recommendation 1 is rated largely compliant.**

### *Recommendation 2 - National Cooperation and Coordination*

28. Macao, China was rated largely compliant with former R.31. The main deficiencies noted related to a lack of SOPs on how information sharing and assistance among agencies were safeguarded, and questions on how operational cooperation was achieved.

29. *Criterion 2.1* - Macao, China produces an annual AML/CFT strategic plan. It primarily covers the review and change of AML/CFT law, with the NRA included since 2014. It identifies agencies responsible for projects and goals set out in the plan. The plan also includes information-sharing and public awareness activity. The 2016 plan provides more detailed policy direction than earlier plans, prioritising strategic goals over 'other strategic goals'. While it lists major threats and potential ML/TF risks identified in the NRA, these are not as clearly linked as they could be to the strategic goals in the plan which are largely high-level. The plan focuses mainly on strengthening preventive measures. Operational goals include developing a centralised data system, setting up a coordination mechanism to address PF, and adopting a risk-based approach to prioritise investigations and supervision. Overall, the strategic plan, particularly the latest, provides sufficient direction to serve as a national policy.

30. *Criterion 2.2* - On its establishment in 2006, GIF became Macao, China's designated coordinator of its AML/CFT Working Group (WG) that oversees national AML/CFT matters. Previously the AMCM had coordinated the AML/CFT WG from 2001. In 2014 Macao, China gave the AML/CFT WG a formal identity under Chief Executive Ruling (CER) no. 11/CE/2014. In addition to GIF, the AML/CFT WG comprises industry supervisors, LEA, PSJ (security service) and the IPIM. It meets at least thrice yearly and GIF receives twice yearly updates from WG members on progress with implementing AML/CFT measures. In formalising the WG the CER also set up under it a sub-group to collect information for the NRA.

31. *Criterion 2.3* - GIF through the AML/CFT WG coordinates review, revision and implementation of policy and the NRA. This allows NRA findings to inform policy development through the annual AML/CFT strategic plan. The strategic plan extends to coordinating improved information collection across agencies, relevant training of authorities including the courts, and public awareness campaigns. GIF also liaises with agencies on issues arising from strategic analysis of STRs. While the AML/CFT WG coordinates policy, this does not appear to extend to operational coordination. For example, the yearly strategic plans make no mention of operational matters. Operational agencies share general intelligence and views on priorities through the WG but employ other mechanisms to coordinate operational matters. SPU coordinates LEA, including weekly meetings between the heads of SPU, PSP and PJ. These agencies conduct joint operations yearly against crime. Whether SA (Customs) is included in LEA coordination mechanisms is unclear. Agency to agency relationships (among supervisors and GIF-DICJ on the gaming sector) also help with coordination and exchange of intelligence. Closer coordination exists between GIF and supervisors than appears to exist between those agencies and LEA.

32. *Criterion 2.4* - The AML/CFT WG was the main body that coordinated efforts to combat PF of WMD. As a strategic priority in the 2016 plan, the authorities have established under Chief Executive Ruling No. 291/2016 the Asset Freezing Coordination Commission to advise the Chief Executive on designations and coordinate member agency efforts on CFP. The commission comprises SPU, SA, PJ, DSAJ, AMCM and GIF, with GIF serving as the secretariat. Its first meeting in September 2016 agreed that SPU would coordinate LEA investigations in conjunction with GIF intelligence analysis of reported matters. Subsequent meetings have also agreed to a work program that respective agencies will undertake.

### *Weighting and Conclusion*

33. GIF and AML/CFT WG coordinate policy, annual strategic plans and the NRA, as well as promotion and awareness raising. Operational matters appear to be coordinated mainly at the agency level and from time to time through joint operations. A new mechanism to coordinate efforts to combat PF has been established. Similar to the 2007 MER, some doubt exists over the extent of operational coordination.

34. **Recommendation 2 is rated largely compliant.**

### *Recommendation 3 - Money laundering offence*

35. In its 2007 MER, Macao, China was rated largely compliant with former R.1 and R.2 (pages 32-38 and 40-41). The main technical deficiencies were (i) "Active corruption" crime was not a predicate offence, (ii) predicate offences for ML did not extend to those offences committed outside Macao, China where the conduct was not an offence in the foreign jurisdiction.

36. *Criterion 3.1* - Both the Vienna and Palermo Conventions are applicable in Macao, China. ML has been an autonomous offence in Macao, China since 1997. Following the scope of the above mentioned Conventions, a legislative framework devoted to AML has been in place since 4 April 2006, through the AML Law, which was drafted in accordance with both the Conventions. Paragraphs 2 and 3 of Article 3 of AML Law and paragraph 1 of Article 227 of the Criminal Code DL 58/95/M correspond to Article 6(1)a)i) and ii) of the Palermo Convention and Article 3(1)b) and c) of the Vienna Convention. According to Articles 7 to 9 of Law 17/2009 (Prohibition of production, trafficking and consumption of illicit narcotics and psychotropic substances), the production of narcotics and psychotropic substances is considered a predicate offence and, subsequently included in the net of the money laundering crime.

37. *Criterion 3.2* - According to paragraph 1 of Article 3 of the AML Law, the predicate offences for ML are all the offences that are punishable with a penalty of imprisonment of a maximum term above three years<sup>11</sup>. The deficiency referred in the 2007 MER (pages 40-41), “active corruption”<sup>12</sup> still cannot be considered a predicate offence of ML since the maximum term of imprisonment possible is three years (below the threshold of maximum term of imprisonment above three years). Additionally, “insider trading and market manipulation”, “smuggling and tax crimes” are not predicate offences for ML at this stage.

38. *Criterion 3.3* - According to Macao, China criminal law, all the offences punishable with a penalty of imprisonment of a maximum term above three years are considered serious offences. Macao, China decided to choose the first of the available criteria to define the predicate offences (those “which fall within the category of serious offences under their national law”). The adoption of that criterion in paragraph 1 of Article 3 of the AML Law means the predicate offences for ML are defined as those that are “punishable with a penalty of imprisonment of a maximum term above 3 years”.

39. *Criterion 3.4* - The AML Law uses the concept “advantages” to refer to the proceeds of crime. Paragraph 1 of Article 3 of that law establishes that “advantages shall be regarded as any assets derived from the commission, through any form of participation, of a typified act punishable with a penalty of imprisonment of a maximum term above 3 years, as well as any assets obtained therefrom.” According to that provision, there are no limits imposed for the nature of the property or for its value that directly or indirectly (“as well as any assets obtained therefrom”) represents the proceeds of crime.

40. *Criterion 3.5* - It is not necessary that a person be convicted of a predicate offence if proved that the property is the proceeds of crime. The defendant can be convicted of ML without any correspondent conviction of a predicate offence. The prosecution must only prove beyond a reasonable doubt that the proceeds are the proceeds of crime (“punishable with a penalty of imprisonment of a maximum term above 3 years”). According to paragraph 2 of Article 3 of the AML Law, “Whoever converts or transfers advantages, or assists or facilitates any of those operations, for the purpose of disguising its illicit origin or of avoiding the main perpetrator or participant of the preceding crimes from being prosecuted or submitted to a criminal sanction, shall be punished with a penalty of 2 to 8 years of imprisonment”. Paragraph 3 of the same Article also stipulates that “whoever conceals or disguises the true nature, source, location, disposition, movement or ownership of the advantages incurs the same penalty.”

41. *Criterion 3.6* - According to paragraph 4 of Article 3 of the AML Law, the punishment for ML shall take place if the predicate offence from which the proceeds of crime derive from has been committed outside Macao, China, provided that it is also punishable by the law of the state or region with jurisdiction over such act. In addition, Article 5 (“Acts practiced outside Macao”) of the Macao Criminal Code extends the jurisdiction of Macao, China on predicate offences for ML to those offences committed outside Macao, China (by a resident) even where the conduct is not an offence in the foreign jurisdiction.

42. *Criterion 3.7* - The offence of ML applies to those who commit the predicate offence (self-laundering) and also to those who did not commit, or participate in the commission of the predicate offence. According to paragraphs 2 and 3 of Article 3 of the AML Law, the ML

<sup>11</sup> It includes, for example, the predicate offences found in Article 128, 129, 138, 139, 140, 152, 153-A, 154, 155, 163, 164, 170, 198, 204, 211, 215, 227, 252, 262, 268, 269, 288 of the Criminal Code.

<sup>12</sup> Punished in the Article 339 of the Criminal Code and for the private sector in Article 3 and Article 4 of the Law for the Prevention and Suppression of the Crimes of Corruption in the Private Sector, Law no. 19/2009.

offence applies to whoever has the purpose of disguising the illicit origin of the advantages (persons who committed the predicate offence and other persons) or assisting the main perpetrator or participant of the preceding crimes to avoid being prosecuted or submitted to a criminal sanction (persons who did not commit the predicate offence), and to whoever conceals or disguises the true nature, source, location, disposition, movement or ownership of the advantages (persons who committed the predicate offence and other persons).

43. *Criterion 3.8* - According to Article 114 of the Criminal Procedure Code “unless the law otherwise provides, the evidence is appreciated according to rules of experience and inner conviction of the competent entity”. The Court/judge is free in the evaluation of any evidence, according to the rules of experience and his or her free conviction. So, to demonstrate the fault element of intention, inferences can be drawn from objective factual circumstances.

44. *Criterion 3.9* - When the ML offence is committed by a natural person, the punishment can range from 2 to 8 years of imprisonment, as ruled in paragraph 2 of Article 3 of AML Law. Moreover, the punishment of natural person is aggravated to 3 to 12 years of imprisonment as stipulated in Article 4 of the AML Law. In any of the mentioned cases, the applicable penalty may not exceed the maximum limit of the penalty provided for the predicate offence, according to paragraph 6 of Article 3 of the AML Law and the cross reference to that paragraph in Article 4.

45. *Criterion 3.10* - As ruled by Article 5 of the AML Law, legal persons, even if irregularly formed, and associations without legal personality are liable for the criminal offence of ML when it is committed on their behalf and in their collective interest by their organs or representatives or by a person under their authority, when the commission of the criminal offence has been rendered possible by virtue of an intentional breach of the duties of supervision or control that they are entrusted with. In addition to the criminal liability for the commission of the ML offence, there are also established administrative infractions for those entities who fail to comply with the fulfilment of the preventive obligations related to the ML offence, even if they act negligently, according to paragraph 2 of Article 9 of the AML/CFT Administrative Regulation no. 7/2006. Prosecution of legal persons does not bar or otherwise affect parallel proceedings, whether civil or administrative<sup>13</sup> and also does not preclude the individual responsibility of the respective perpetrators, according to paragraph 2 of Article 5 of the AML Law.

46. *Criterion 3.11* - The general part and Article 8 of the Criminal Code, establishes the appropriate ancillary offences to all the criminal offences in Macao, China, including the offence of ML. The attempt to commit the ML offence is always punishable as ruled in Articles 21 and 22 of the Criminal Code. According to Article 22 of the Criminal Code, the attempt to commit an offence is always punishable if the offence is punishable with a penalty of imprisonment of a maximum term above three years. The penalty is the same applicable to the main perpetrator, but with a special mitigation in the terms of Article 67 of the Criminal Code.

47. Those who aid and abet the commission of the ML crime are punishable as main perpetrators of the crime, according to Article 25 of the Criminal Code. That article establishes that those who commit the offence, directly or by an intermediary, those who commit the

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<sup>13</sup> However, when the same fact constitutes simultaneously a criminal offence and an administrative offence, the perpetrator is punished by the criminal offence and with the accessory penalties of the administrative offence. This is a development of the *ne bis in idem principle* (no legal action can be instituted twice for the same cause of action) which is a fundamental principle of Macao, China’s criminal law.

offence with others and those who instigate others to commit the offence are punishable as main perpetrators of the ML offence. According to Article 26 of the Criminal Code, those who facilitate the commission of the ML offence, or give moral help to its commission, are punished as accomplices. The penalty is the same applicable to the main perpetrator, but with a special mitigation in the terms of Article 67 of the Criminal Code. The conspiracy to commit an offence, including the ML offence, is an autonomous offence punishable by Article 288 of the Criminal Code and the penalty for the commission of the offence of conspiracy to commit ML is 3 to 10 years of imprisonment.

### *Weighting and Conclusion*

48. All criteria except criterion 3.2 on predicate offences are met. Less weight is given to predicate crime deficiencies because there is no securities market and Macao, China is a very low tax jurisdiction and free trade port.

49. **Recommendation 3 is rated largely compliant.**

### *Recommendation 4 - Confiscation and provisional measures*

50. In its 2007 MER, Macao, China was rated partially compliant with former R.3 (pages 45-49). The main technical deficiencies were (i) no freezing provisions, mechanisms and procedures in place as provisional measure of ML regime; (ii) no possibility of providing MLA to foreign requests on freezing orders issued by or demanded by foreign authorities on ML.

51. *Criterion 4.1* - Macao, China's criminal legal framework<sup>14</sup>, enables the confiscation of all proceeds, laundered property, instrumentalities of crime, property related to any criminal activities committed within the context of a criminal or terrorist organisation, and property of equivalent value, regardless of whether the property is held by criminal defendants or third parties, except if it belongs to *bona fide* third parties. There is no requirement for prior notice.

52. According to Article 163 of the Criminal Procedure Code, property that must be seized is broadly defined as any object which was used or was to be used to commit an offence, or which was the offence's product, profit, price or reward or which was left by the perpetrator in the local of the offence or any other property which can be used as evidence.

53. As ruled by paragraph 1 of Article 101 of the Criminal Code, the objects which were used or were to be used to commit an offence, or produced by the offence, are subject to confiscation when, by its nature or by the case's circumstances, they are dangerous for the security of persons, their moral or public order, or when they might be used for the commission of new offences.

54. As ruled by paragraph 2 of Article 103 of the Criminal Code, the things, rights or advantages which were directly obtained with the offence must be forfeited; the same must happen to the things or rights obtained by any transaction or change with the things or rights obtained with the offence, as stated by paragraph 3. If the confiscation of the rewards, things, rights or advantages is not possible, there should be payment of the equivalent value (paragraph 4 of Article 103).

55. The paragraph 4 of the same provision rules that if the property cannot be seized and confiscated in species, the confiscation is made by payment of the equivalent value. Both

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<sup>14</sup> *Vide* Article 163 to 171 of the Criminal Procedure Code, Articles 101 to 104 of the Criminal Code and Article 10 of the Law no. 3/2006 and Article 5 of Law no. 2/2006.

situations apply regardless of whether the property is held or owned by a defendant or a third party. Article 102 of the Criminal Code has some exceptions to these provisions, however, in order to protect *bona fide* third parties.

56. If the ML or the TF offences are committed by legal persons, even if irregularly formed, or by associations without legal personality (Article 10 of Law no. 3/2006 and Article 5 of Law no. 2/2006), they will be criminally liable and, so, their property can be confiscated in the same terms that the property of natural persons would be confiscated.

57. Based on those provisions, the property that was laundered or which constitutes proceeds from the commission of money laundering and the instrumentalities used in or intended to be used in the commission of money laundering must be seized and confiscated.

58. *Criterion 4.2* - Macao, China has in place legal provisions which grant the competent authorities with a wide range of powers to allow the identification and tracing of property, including examination orders (Articles 156 to 158 of the Criminal Procedure Code), searches (Articles 159 to 162 of the Criminal Procedure Code), seizure (Articles 163 to 171 of the Criminal Procedure Code), freezing mechanisms (Asset Freezing Law no. 6/2016 ), among others (e.g. Law no. 5/2006, Article 31 of Law no. 6/97/M and Articles 273 and 274 of the Civil Code DL 39/99 M).

59. *Criterion 4.3* - Article 102 of the Criminal Code provides protection for the rights of *bona fide* third parties. For example, the confiscation does not take place if the property was not owned by any of the offence perpetrators or beneficiaries when the offence was committed, or if the property is not owned by them when the confiscation is declared (paragraph 1 of the Article 102 of the Criminal Code).

60. *Criterion 4.4* - Macao, China has mechanisms to manage seized property during criminal proceedings according to the relevant articles of the Criminal Procedure Code (Articles 163, 169, 170, 171) and the Criminal Code (Articles 101, 102 and 103), either domestically or pursuant to requests by foreign countries.

61. **Recommendation 4 is rated compliant.**

### **Recommendation 5 - Terrorist financing offence<sup>15</sup>**

62. *Criterion 5.1* - Article 7 of Law no. 3/2006 on Prevention and Suppression of the Crimes of Terrorism (“offence CFT Law”) makes it a criminal offence to render available or collect funds with the purpose of financing, totally or partially, the commission of terrorism. The law does not, however, cover all the terrorist offences in line with Article 2(1)(a) of the Terrorist Financing Convention. The criminal penalty for such an act is one to eight years of imprisonment, if a heavier sentence is not applicable by virtue of another legal provision. Under Macao, China law, attempts to commit an offence are always punishable under Articles 21 and 22 of the Criminal Code if the offence itself is punishable by a three year maximum term of imprisonment: here, the maximum term of punishment is eight years. Thus, an attempt to commit terrorist financing is punishable under Macao, China law. Article 25 of the Criminal Code makes punishable aiding and abetting the commission of the offence of the financing of terrorism.

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<sup>15</sup> The methodology for R.5 was revised by the FATF in February 2017 (i.e. after the on-site visit), to broaden the reference to types of TF activity to include ‘other assets’ in addition to funds. The revised version will be taken into account during the follow-up process.

63. *Criterion 5.2 and 5.2bis* - Article 7 of the CFT Law extends the TF offence to whoever has the purpose of financing terrorism acts, terrorist organisations, and other terrorist association. Crimes of terrorist financing that are not associated with a specific terrorist act are not explicitly criminalised in the Macao, China legal system. Instead, the criminalisation of such acts appears to be achieved by an interpretation of Articles 4, 5, 6 and 7 of the CFT Law read in combination. The requirement to criminalise the financing of foreign terrorist fighters under criterion 5.2bis is only achieved by the broad concept of “preparatory acts”, rather than explicit provisions. As for the coverage of “any assets” other than funds, the CFT Law does it by utilising the concept of “provision of material support” contained in Article 4, paragraph 2 of the CFT Law. The absence of explicit legal provisions, or in the alternative persuasive case law, that clearly indicate the scope of the offences in the Macao, China legal system related to financing that is not associated with a specific terrorist act and the financing of foreign terrorist fighters represents a minor shortcoming.

64. *Criterion 5.3* - Article 7 of the CFT Law criminalises the act of collecting funds with the purpose of financing, totally or partially, the commission of terrorism and imposes a one to eight year term of imprisonment for such an offence. The law does not differentiate between legitimate or illegitimate funds.

65. *Criterion 5.4* - As stated above in c.5.2, terrorist financing that is not associated with a specific terrorist act is not explicitly criminalised under Macao, China’s legal system, but criminalisation appears to be achieved by the combined interpretation of Articles 4, 5, 6, and 7 of the CFT Law. The Terrorist Financing Convention requires countries to criminalise the financing of terrorist organisations and individual terrorists without a link to a specific terrorist or terrorist act(s). The absence of explicit legal provisions, or in the alternative persuasive case law, and the need to utilise rules of interpretation with no clear or proven application rather than specific legal provisions represents a minor shortcoming.

66. *Criterion 5.5* - Article 114 of the Criminal Procedure Code does not impose a limit or an affirmative requirement to demonstrate intent or knowledge of the financing of the criminal offence of terrorist financing; inferences can be drawn from objective factual circumstances.

67. *Criterion 5.6* - While Article 7 of the CFT Law imposes a one to eight year term of imprisonment for the offence of terrorist financing, the term of imprisonment is consistent with other jurisdictions and has been determined to be sufficient to qualify as a proportionate or dissuasive sanction.

68. *Criterion 5.7* - Under Macao, China law, legal persons, even if irregularly formed *are liable* for the criminal offence of TF when it is committed on their behalf and in the collective interest by their organs or representatives, or by a person under their authority—when the commission of the criminal offence has been rendered possible by the intentional breach of responsible individuals. Proof of intention must be attributed to a representative or an organ of the entity that has been authorised (expressly, tacitly, or impliedly) or permitted to take such action. Responsibility of legal persons, even if irregularly formed does not exclude individual responsibility under Article 10 of Law the CFT Law.

69. *Criterion 5.8* - Attempts to commit financing of terrorism are punishable in accordance with Article 22 of the Criminal Code. As stated in c.5.1, attempts are punishable under Articles 21 and 22 of the Criminal Code given that the attempt to commit an offence is always punishable if the offence itself is punishable with a penalty of imprisonment of a maximum term of three years: here the maximum is eight years. Relating to sub criteria (b) and (d), under Macao, China law, TF is a predicate offence for a money laundering crime. Under Article 25 of the Criminal Code, those who aid and abet the commission of the money laundering crime are punishable as main perpetrators of the crime. That article establishes that those who commit

the offence, directly or by an intermediary, those who commit the offence with others and those who instigate others to commit the offence are punishable as main perpetrators of the money laundering offence.

70. *Criterion 5.9* - Under Article 3 of the AML Law, all offences punishable by a maximum penalty of three years or more are considered predicate offences of money laundering; as stated above, the offence of financing of terrorism is punishable by one to eight years, which means that the offence of TF is considered a predicate offence of money laundering.

71. *Criterion 5.10* - Under Article 3 of the CFT Law the financing of terrorism offence is applicable to acts of TF committed in Macao, China as well as acts constituting a criminal offence against China provided that the perpetrator is a resident of Macao, China or is found within the jurisdiction of Macao, China. Acts against a foreign state or an international public organisation are only criminalised if the perpetrator is found within the jurisdiction of Macao, China and may not be surrendered to another territory or State.

### *Weighting and Conclusion*

72. Macao, China has explicitly criminalised the financing of terrorism where it is associated with a terrorist organization and/or a terrorist act. However, where the financing of terrorism is not directly linked with a specific terrorist act, criminalisation is indirectly achieved with recourse to rules of interpretation. Similarly, the financing of foreign terrorist fighters is indirectly criminalised through reliance on the concepts of “preparatory acts” and “provision of material support”. The lack of clarity regarding the scope of the offences for financing a terrorist for any purpose and financing of foreign terrorist fighters represents a minor shortcoming.

73. **Recommendation 5 is rated largely compliant.**

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

74. *Criterion 6.1* - Under Macao, China’s Basic Law Article 13, the Central Government in China (CG) is solely responsible for the foreign affairs relating to Macao, China. Macao, China itself is not a State or an independent country; instead it is a Special Administrative Region of China and is not legally permitted to conduct foreign affairs on its own behalf. Macao, China has, however, established a competent authority to propose persons and entities for designation but cannot make such a proposal directly to the 1267/1989 Committee for designation. Article 20 of Law 6/2016 on Asset Freezing Regime (Asset Freezing Law) authorises the Chief Executive of Macao, China to suggest to the CG that it propose certain persons or entities. Additionally, for sub-criterion 6.1(d), any proposal from Macao, China would be submitted to the UN by China. For (b), Article 20 of Law 6/2016 provides the authority for the Chief Executive to propose names for designation, and the Asset Freezing Coordinating Commission (Commission) is empowered to provide technical assistance to the Chief Executive to identify targets based on the relevant criteria set out in the relevant UNSCRs. For (c), the Asset Freezing Law applies a “reasonable grounds” criteria to both Article 24 for designations under 1267 and 1373 Article 24 also references designation requests from other jurisdictions and refers to “reasonable fact-finding criteria.” For (e), Article 20 of the Asset Freezing Law at paragraph three cites that as much information as possible must be provided with designation proposals, including identifiers and a narrative with the reasons for the proposal. But it is not clear whether, if the CG accepts Macao, China’s proposal, the latter would be identified as the designating jurisdiction.

75. *Criterion 6.2* - For 6.2(a) Article 24 authorises the Chief Executive to designate persons or entities believed to “have committed or attempted to commit or facilitate or participate in the commission of any terrorist acts under Law 3/2006 [CFT Law];” to designate natural or legal

persons acting on their behalf of or at their direction; and to designate legal persons owned or controlled, directly or indirectly, by designated persons or entities. Article 24 also authorises designations based on a request from another jurisdiction. For 6.2(b), the Commission can identify and propose to the Chief Executive targets for designation. Additionally, Article 24 of the Asset Freezing Law provides for Macao, China to examine, give effect to receive requests from other countries related to proposed designation, and allows the Commission to investigate and effect such a designation.

76. Although the Asset Freezing Law does not include a specific time frame in which determinations need to be made upon the request of another state, its other regulations, Articles 12 and 60 of the Administrative Procedure Code, set forth both that the Administration should ensure promptness of its decisions, and that all public entities should act in an expedited and efficient manner in carrying out their duties and procedures. 6.2 (e) to the extent that Macao, China is able to request another country to give effect to designations, Article 25 (1), (2) of the Asset Freezing Law require detailed information to be included in designations.

77. *Criterion 6.3* - Article 5 of the Asset Freezing Law authorises the Commission to collect or solicit information to identify individuals or entities that, based on reasonable grounds, meet the criteria for designation. Article 16 of the Asset Freezing establishes the procedures to collect or solicit that information. Article 17 of the Asset Freezing Law provides exemptive authority from the obligation to inform individuals or entities at the time of collecting and processing their personal data when necessary for the purposes set forth in the law. Further, Article 23 (3) states that the application of restrictive measures found in Articles 7 and 8 shall not be dependent on the notification procedure provided for in other parts of the law.

78. *Criterion 6.4* - Domestic designations pursuant to UNSCR 1373 implement targeted financial sanctions without delay by taking immediate legal effect as set forth in Article 7 of the Asset Freezing Law. For designations pursuant to the 1267/1989 and 1988 sanctions regimes, Macao, China must first receive notification from the CG of its obligations to list certain individuals or entities. Under this system, the CG notifies the Chief Executive, as head of Macao, China. After notification by the CG the UNSCRs are published in the Official Gazette pursuant to Article 4 of the Civil Code, Law 3/1999 on Publication and Formulary of Legal Diplomas, and Law 4/2002 on the Compliance with Certain International Acts. As soon as they are published UNSCRs, their annexes, or designations are implemented immediately. It should be noted, however, that even though it may take some time after a name is added to the UN list before it is published as a designation in Macao, China, Article 7 of the AMCM AML/CFT Guideline requires FIs to freeze without delay and prior notice the funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by any persons that are designated by UNSC for freezing through UNSCR 1267 and its successor resolutions. This requirement applies to the institutions once the names are listed at the UN and even prior to the publication in the Official Gazette. Macao, China's gaming sector, the most consequential DNFPB, also employs robust monitoring of its customer base using internationally recognised third-party software to screen for matches to UN sanctions lists.

79. *Criterion 6.5* - All natural persons and legal persons in Macao, China are required to freeze without delay and without prior notice the funds and assets of designated persons as set forth in Articles 3 and 7 of the Asset Freezing Law. Macao, China nationals and those within its jurisdiction are prohibited from making any assets available to, for providing financial services for those acting for or on behalf of or those owned or controlled, directly or indirectly, by designated persons or entities. For (d) and (e), Article 5 of the Asset Freezing Law require the Commission to provide clear guidance to the financial and DNFBP entities referred to in Article 6 of the AML Law (equivalent Article 11 in CFT Law) about their obligations and duties under the law and issue specific instructions to ensure compliance with the Commission. Article 16 requires these entities to report to the Commission, within two working days upon detection of

any operation, where there is a reasonable presumption that a natural or legal persons or entity is operating on behalf of, or at the direction of, a designated person or entity. For (f), Article 18 of the Asset Freezing Law exempts the natural or legal person who implemented its obligations to freeze assets in accordance with its obligations under this Law from liability when acting in good faith and without negligence.

80. *Criterion 6.6* - For 6.6(a), Article 23 of the Asset Freezing Law outlines the procedures to submit de-listing requests to the relevant UN sanctions committee. The Chief Executive suggests to the CG that it propose the de-listing to the competent international body. Similarly, for 6.6(d) and (e) complaints lodged by a designated person must be referred to the CG by the Chief Executive for it to be submitted to the competent international body. As noted above under Recommendation 5, to the extent this recommendation requires that Macao, China directly notify the relevant UN sanctions committee, Macao, China can only implement this indirectly through the CG under Article 12 of its Basic Law. For 6.6(b) Article 30 of the Asset Freezing Law provides the requisite authority for the Chief Executive to revoke the designations act and all restrictive measures applied under Articles 7 and 8 of the Law and states the revocation act procedures are conducted by the Commission. For 6.6(c) designations under 1373 are in effect for two years before being reviewed for renewal and Article 27 of the Asset Freezing Law explains that a designated person may appeal in the renewal procedure; however, the appeal is to the court as an independent authority. For 6.6(g) Article 6 of the Asset Freezing Law addresses mandatory publication in the Official Gazette of listings and de-listings; the law further states that the Commission is responsible for communicating to the financial sector the de-listing or revocation of the designation act.

81. *Criterion 6.7* - Article 12 of the Asset Freezing Law authorises the termination of freezing of certain assets or providing access to frozen assets or other assets, upon the request of any interested party, provided the conditions met are deemed appropriate, in accordance with procedures set out in UNSCR 1452.

### *Weighting and Conclusion*

82. **Recommendation 6 is rated compliant.**

### ***Recommendation 7 – Targeted Financial sanctions related to proliferation***

*The financing of proliferation is a new Recommendation added in 2012.*

83. *Criterion 7.1* - Article 1 of Asset Freezing Law establishes the legal enforcement regime for targeted financial sanctions relating to the prevention, suppression, and disruption of weapons of mass destruction. As noted above, there is sometimes a delay between the time that names are listed at the UN and when they are published in the Macao, China Official Gazette. Officially, Macao, China must first receive notification from the CG of its obligations to list certain individuals or entities. The CG notifies the Chief Executive, as head of Macao, China. After notification by the CG the UNSCRs are published in the Official Gazette pursuant to Article 4 of the Civil Code, Law 3/1999 on Publication and Format Requirements, and Law 4/2002 on the Compliance with Certain International Acts. However, Article 7 of the AMCM AML/CFT Guideline requires FIs to freeze without delay and prior notice the funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by any persons that are designated by UNSC for freezing through UNSCR 1718 and 1737 and their successor resolutions. This requirement applies to FIs once the names are listed at the UN and even prior to the publication in the Official Gazette.

84. *Criterion 7.2* - All natural persons and legal persons in Macao, China are required to freeze without delay and without prior notice the funds and assets of designated persons as set

forth in Articles 3 and 7 of Asset Freezing Law. Asset freeze obligations those subject to Macao, China's jurisdiction from making any assets available to, or providing financial services for, those acting for or on behalf of or those owned or controlled, directly or indirectly, by designated persons or entities. Freezing obligations apply to: (1) natural persons who are in Macao, China, or on board any vessel or aircraft registered in Macao, China; legal persons with their head office or domicile in Macao, China, branches, agencies, subsidiaries, delegations or representative offices set up in Macao, China; (2) natural persons who are residents of Macao, China and legal persons established according to the law of Macao, China, wherever they may be. For (d) and (e), Article 5 of Asset Freezing Law requires the Commission to provide clear guidance to the financial and DNFBP entities referred to in Article 6 of the AML Law (equivalent Article 11 of CT Law) about their obligations and duties under the law and issue specific instructions to ensure compliance with the Commission. Article 16 requires these entities to report to the Commission, within two working days upon detection of any operation, where there is a reasonable presumption that a natural or legal persons or entity is operating on behalf of, or at the direction of, a designated person or entity. For (f), Article 18 of Asset Freezing Law exempts the natural or legal person who implemented its obligations to freeze assets in accordance with its obligations under this Law from liability when acting in good faith and without negligence.

85. *Criterion 7.3* - Article 16 of the Asset Freezing Law provides the legal basis for monitoring and ensuring compliance by FIs and DNFBPs with the relevant laws and enforceable means under Recommendation 7. Failure to comply with the requirements set forth in Article 16 is subject to administrative sanctions under Article 32 of Asset Freezing Law and criminal sanctions under Articles 22 and 24 of Law 4/2002 on Compliance with Certain Acts of International Law. Article 32 of the Asset Freezing Law stipulates that without prejudice to the applicable criminal sanctions, non-compliance with applicable provisions is punishable with a monetary fine of MOP10,000-500,000 (US\$1,250-US\$62,500) to a natural person and MOP100,000-5,000,000 (US\$12,500-US\$625,000) to a legal person.

86. *Criterion 7.4* - For (a) Article 19 of the Asset Freezing Law outlines the procedures to submit de-listing requests to the Focal Point; however, as noted above, Macao, China does not have the authority to request de-listing at the Focal Point directly. Instead, the Chief Executive suggests to the CG that it propose the de-listing to the competent international body. For (b), Article 15 provides the legal basis for the parties who have had their assets blocked due to a false positive match with a listed person can submit a request to the Commission to request the assets be unfrozen. Once the request is received and confirmed the Commission is empowered to contact the entity where the assets are frozen and terminate the application of the freezing measure. For (c), Article 12 of the Asset Freezing Law provides the legal authority to authorise access to frozen assets or other assets, upon the request of any interested party, provided the conditions met are deemed appropriate, in accordance with procedures sent out in UNSCRs 1718 and 1737. For (d) Article 5 of the Asset Freezing Law requires the Commission to provide clear guidance to the financial and DNFBP entities referred to in Article 6 of the AML Law (equivalent Article 11 of CT Law) about their obligations and duties under the law and issue specific instructions to ensure compliance with the Commission. Article 16 requires these entities to report to the Commission, within two working days upon detection of any operation, where there is a reasonable presumption that a natural or legal persons or entity is operating on behalf of, or at the direction of, a designated person or entity.

87. *Criterion 7.5* - For (a) Article 8 of the Asset Freezing Law permits frozen accounts to accrue interest and applies the freezing obligation to amounts credited on frozen accounts from payments due under contracts, agreements, or any other obligations that were concluded or arose before the account became frozen. For (b), Article 8 of the Asset Freezing Law excepts from the freezing order "other activities or operations expressly authorised" which satisfies the

obligations for this sub criterion relating to activities authorised by the 1737 sanctions committee.

### *Weighting and Conclusion*

88. **Recommendation 7 is rated compliant.**

### ***Recommendation 8 – Non-profit organisations***

89. *Criterion 8.1* - An NPO Review Working Group coordinated by GIF was formed in 2009, with five agency members and assisted by the Public Administration and Civil Service Bureau (SAFP) and a legal expert from the Office for Secretary of Security. The terms of reference for the group include review of the legal framework and risk assessment(s) of the sector.

90. Two comprehensive reviews of the NPO sector were conducted in 2011 and 2014. The results of both reviews fed into the NRA (see R.1) which also covered the NPO sector. Each review focused on the registration and monitoring system as well as potential vulnerabilities in connection with fund-raising activities. The first NPO review in 2009 led to enhanced registration requirements, information exchange among competent authorities and preventive measures for NPO customers for FIs. The 2014 review focused on the new Recommendation 8, including a more comprehensive review of the legal and regulatory framework and identified some gaps (no regulation of charitable fund raising) with NPOs. The 2014 review made a number of recommendations including the enactment of a new charities law.

91. The results of the sector reviews and NRA show that the risk of TF through NPOs in Macao, China is reasonably low. The reviews identified those NPOs at risk of TF which include only a few organisations among the 6,728 registered NPOs (NRA figure). Despite the large number of NPOs registered in Macao, the actual number of NPOs meeting the FATF definition of NPOs is very minimal as the majority of NPOs are local societies formed for election purposes or with special aims like sports, charity and culture, and 39 per cent of registered NPOs are inactive. NPOs formed for charity purpose account for 19.3 per cent of the total and of those, only 2.7 per cent have links to foreign jurisdictions, and even a smaller percentage with links to countries with a higher risk of terrorism. Most NPOs rely mainly on government subsidies for funding and the use of such funds is governed by 28 competent government authorities. Nevertheless, Macao, China has identified 10 NPOs to be at risk.

92. *Criterion 8.2* - (a) The Civil Code provides the governance framework for NPOs. The requirements are reasonably comprehensive, except neither the Civil Code nor any other law covers charitable fund raising and sanctions are lacking in some requirements. Once a NPO is notarised in accordance with Article 157 of the Civil Code, it enjoys legal personality and is required to be registered with the Identification Services Bureau (DSI) as per subparagraph e) of Article 2, and subparagraph c) of paragraph 1 of Article 10 of the Organic Law of Identification Services Bureau. All information on a NPO's constitution, management and changes in registered details must be published in the government Official Gazette under Decree-Law 39/98/M. NPOs with business activities also need to register with the Financial Services Bureau (DSF) for tax purposes though they can apply for tax exemption under Article 10 of the Law for Declaration of Legal Persons of Public Interests, Law 11/96/M.

93. As declared under Order no. 54/GM/97, the General Rules for the Allocation of Financial Support to Individuals and Private Institutions, paragraph 1, NPOs which apply for a government subsidy (the majority of NPOs) are required to submit to the relevant

government agencies activity reports indicating the source and application of funds for their activities.

94. (b) - (c) GIF has conducted on-site visits to the main subsidy granting authority, the Macao Foundation, for ML/TF awareness-raising. However, the new FATF requirements pertain to the conduct of sustained outreach to the actual NPO sector as well as the donors concerning TF issues. Macao, China has not undertaken outreach and educational programmes to those 10 NPOs at risk about TF vulnerabilities, including refining best practices on TF risks and encouraging those NPOs to conduct transactions through regulated financial channels (given the NPOs in existence, the latter is not an issue).

95. In 2015, GIF issued a newsletter focussing on AML/CFT risks and preventive measures, particularly in relation to NPOs. The newsletter is publicly available on the GIF website and is provided to NPOs upon their application for certification. GIF intends to conduct outreach visits to the NPO sector in the near future. The issuance of newsletters only has the effect of promoting general understanding of NPO vulnerabilities on TF.

96. (d) GIF has been conducting reviews of quarterly data provided by banks on their NPO customers to assess the cross-border fund flows into and out of their bank accounts in Macao, China. Analysis included fund flows to and from the top three countries identified, fund flows to and from high risk countries, and carried out by major international NPOs. The results of quarterly data reviews are sent annually to all banks and DSF, DSI and AMCM for their reference.

97. *Criterion 8.3* - There are enhanced monitoring requirements for NPOs with international connections, with GIF conducting quarterly reviews of cross-border fund flows using data provided by banks. The NPO regulatory requirements apply equally to all registered NPOs, although those that have received government funding through the Macao Foundation and other government agencies, as noted above, are subject to additional reporting requirements.

98. *Criterion 8.4* - (a) The DSI is the regulatory authority for legal persons, including NPOs formed under the Civil Code. The DSI appears to undertake off-site monitoring but not on-site monitoring of registered NPOs, irrespective of risk. DSI information is shared as part of the ad hoc NPO Review Working Group that undertakes off-site monitoring. All NPOs receiving grants (most NPOs) are subject to reporting and compliance requirements. As noted above, GIF does undertake regular quarterly reviews of quarterly data provided by banks on their NPO customers to assess the cross-border fund flows.

99. (b) The DSI is able to apply sanctions including revocation of registration.

100. Macao, China has identified gaps in sanctions as an issue in its 2014 NPO sector review. There are sanctions, but these are limited to the extinction of the legal person under Articles 170-171, including by the Public Prosecutions Office through a court order. This sanction cannot be considered proportionate.

101. *Criterion 8.5* - GIF and LEAs (refer R.31), as well as supervisory authorities, are empowered by their respective mandates to obtain information on the administration and management of NPOs. The AMCM and GIF are also able to obtain bank transaction details and account opening information of any particular NPOs from respective banks on request of local authorities.

102. Cooperation mechanisms also exist among competent authorities as part of the ad hoc NPO Review Working Group and between LEAs and GIF. GIF, under its mandate, is able to

access any needed information concerning NPOs as indicated above, and results of GIF's analysis are circulated to other competent authorities including the DSI and DSF.

103. The Judiciary Police (PJ) through the mechanisms described under R.30-31 is able to use its powers to undertake TF investigations, if the need arises. From 2010 to 2014, the PJ has conducted only a few investigations in relation to terrorism or terrorist financing activities. All cases originated from STRs matching names to sanctions lists. There were no prosecutions or convictions as three were found to be a false matching and two are still under investigation.

104. *Criterion 8.6* - Macao, China's ability to respond to international requests for information is undertaken via formal channels (Mutual Legal Assistance) and informal channels (between FIU and LEA counterparts).

#### *Weighting and Conclusion*

105. Macao, China has demonstrated significant improvements and taken steps to address deficiencies identified during the last MER. The creation of the NPO Working Group and two comprehensive NPO reviews in 2011 and 2014, and the NRA contributed to Macao, China's understanding of NPOs vulnerabilities for TF. Macao, China monitors all international fund flows of NPOs and has identified 10 NPOs at risk but has not undertaken outreach to those NPOs. However, while these 10 NPOs have connections to higher risk jurisdictions, they exist primarily to provide services to migrant workers in Macao, China, and they do not exist primarily to raise or disburse funds. No extra weight was therefore given to deficiencies in c.8.2 when deciding on the overall rating, noting that all other essential criteria are mostly met or met. Nevertheless, Macao, China should undertake outreach to these 10 NPOs.

106. **Recommendation 8 is rated largely compliant.**

#### **Preamble to Preventive Measures**

107. A description and analysis of laws, enforceable means and non-enforceable means are in Chapter 1 (pages 26 - 27).

#### ***Recommendation 9 – Financial institution secrecy laws***

108. In its 2007 MER, Macao, China was rated compliant with former R.4. Macao, China had in place legal provisions and regulations that ensured that FI secrecy laws did not inhibit implementation of FATF recommendations.

109. *Criterion 9.1* - According to Article 7 of the AML Law and Article 11 of CFT Law, banking and other financial sector institutions have a duty of collecting, retaining and reporting information which may indicate crimes relating to ML and TF, as well as the duty of collaborating with competent authorities in the prevention and suppression of ML and TF. Under paragraph 3 of Article 7 of the AML Law disclosure of information in good faith, in compliance with the duties stated above, shall not constitute breach of any secrecy. Under Article 8 of the AML Law and Chief Executive Ruling no. 227/2006 (establishment of an Office of Financial Intelligence (GIF)), GIF is empowered to request information from any public or private entities and provide information to entities outside Macao, China in accordance with regional agreements, or international conventions. Article 11 of the CFT contains the same provisions as Article 8 of the AML Law. In addition, under Article 79 of the FSA, the AMCM is allowed to exchange information with other competent domestic and foreign authorities for supervisory purposes.

110. The two AMCM AML/CFT Guidelines for Credit Institution, other FIs and Insurance provide for sharing of information between FIs where this is required by Recommendations 13, 16 and 17.

*Weighting and Conclusion*

111. **Recommendation 9 is rated compliant.**

**Recommendation 10 – Customer due diligence**

*Detailed CDD requirements*

112. In its 2007 MER, Macao, China was rated partial compliant with former R.5 (pages 78-91). The main technical deficiencies were (i) the majority of key CDD obligations were not in law or regulation, (ii) the insurance guidelines did not cover verification of the legal status of legal persons and legal arrangements, the requirement to understand the ownership and control of legal arrangements; the scrutiny of transactions in order to have a reasonable understanding of account activity; EDD for higher risk transactions/relationships; and were incomplete regarding delayed verification.

113. *Criterion 10.1* - Article 106 of the FSA requires FIs to verify the identity of a customer, record the identity of all customers who make significant transactions, and refuse to service those who decline to provide evidence of their identity. Article 106 also outlines that opening of accounts, deposits in cash or other valuables and hiring of safe deposit boxes should only be conducted in the name of customers identified by name, address, and official proof of identity. Paragraph 6.5 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs states that institutions should not establish a business relationship with a customer who provides a fictitious name or insists on anonymity. The AMCM AML/CFT Guideline for Insurance, paragraph 37, states insurance institutions should not keep anonymous accounts or accounts in fictitious names.

*When CDD is required*

114. *Criterion 10.2* - Detailed CDD requirements for establishing business relationship are set out in the AMCM AML/CFT Guideline for Credit Institutions and other FIs at paragraphs 8 and 9 for c10.2 (a). In addition, Article 106 of the FSA requires that credit institutions should verify the identity of the customers, record the identity of all customers who make significant transactions and refuse to service those who decline to provide evidence of their identity. Paragraph 11.1 defines occasional transactions including those that appear to be linked and aggregate to an amount equalling or exceeding the threshold. Paragraph 11.2 requires that CDD be performed on occasional transactions in an amount equal to or exceeding MOP/HKD 120,000 (EUR 13 208/US\$15 000) and for cross-border and domestic wire transfers regardless of the amount – see also analysis regarding R.16 below. For c.10.2 (d) and (e), paragraph 8.1.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to carry out regular and ongoing review of existing customer records to ensure that records remain up-to-date and relevant on the basis of materiality and risk, particularly when suspicion is noted or where there are doubts about the veracity or adequacy of previously obtained customer identification data. The AMCM AML/CFT Guideline for Insurance at paragraphs 31, 32, 39, 73 and 99 is consistent with the above analysis.

*Required CDD measures for all customers*

115. *Criterion 10.3* - Paragraph 8.1.1(a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to identify, verify and record the identity of customers and the related beneficial owners using reliable and independent source documents.

Paragraph 11.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs states that institutions should record and exercise reasonable measures to verify the identity of the customer by reference to their valid official identification documents for occasional transactions. The AMCM AML/CFT Guideline for Insurance, paragraph 37(a), states insurance institutions should identify the customer and verify the customer's identity using reliable, independent source documents, data or information.

116. *Criterion 10.4* is **met**. Paragraph 8.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to identify, verify and record the identity of those persons authorised to act on behalf of the customer by carrying out the same identification and verification measures as a personal customer. Institutions are also required to obtain written authority to verify that the persons purporting to represent the customer are properly authorised to do so. Paragraph 11.4 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to understand whether the occasional transactions are realised by a customer on behalf of some other persons. In such case, the identification information of all the persons involved in the transactions should be recorded. The AMCM AML/CFT Guideline for Insurance, paragraph 58, requires insurance institutions to verify that any person purporting to act on behalf of the customer is so authorised, and to identify and verify the identity of that person.

117. *Criterion 10.5* - Further to the analysis in c.10.3 on paragraph 8.1.1(a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, paragraph 8.2 defines the beneficial owner as a person(s) ultimately having a controlling interest in the legal person as set out in footnote 33 to c.10.10 in the FATF methodology. Paragraph 11.4 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to understand whether the occasional transactions are realised by a customer on behalf of some other persons. In such case, the identification information of all the persons involved in the transactions should be recorded. AMCM AML/CFT Guideline for Insurance paragraph 37(b) states insurance institutions should identify the beneficial owner and verify their identity. The definition of beneficial owner is also consistent with the FATF's definition. For legal persons and arrangements, insurance institutions should understand their ownership and control structures and verify such information - paragraphs 52 to 57 of the AMCM AML/CFT Guideline for Insurance.

118. *Criterion 10.6* - Under paragraph 8.1.1(c) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions are required to understand and obtain information on the purpose and intended nature of the business relationship. According to the AMCM AML/CFT Guideline for Insurance, paragraph 31, prior to the establishment of a business relationship, insurance institutions should assess the characteristics of the required product, the purpose and nature of the business relationship and any other relevant factors in order to create and maintain a risk profile of the customer relationship.

119. *Criterion 10.7* - Under paragraph 8.1.1(d) and 8.1.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, there are requirements for ongoing monitoring, including scrutiny of transactions to ensure they are consistent with the FI's knowledge of the customer, its business and risk profile, and to ensure that documents, data and information are kept up-to-date and relevant on the basis of materiality and risk. The AMCM AML/CFT Guideline for Insurance at paragraphs 97 and 110, outlines that insurance institutions should perform ongoing due diligence on the business relationship, and should ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant, particularly for higher risk clients or business relationships.

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

120. *Criterion 10.8* - Under paragraphs 8.1.1(b) and 8.4.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions are required to understand the nature of the customer's business and its ownership and control structure. The AMCM AML/CFT Guideline for Insurance, paragraph 37(b), outlines that for legal persons and arrangements, insurance institutions should understand their ownership and control structure.

121. *Criterion 10.9* - Paragraph 8.4.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs sets out the minimum information to be obtained from legal persons/legal arrangements for account opening. The information includes that mentioned in criteria 10.9 (a) to (c) and documents including incorporation or equivalent documents issued by the relevant government agencies, company search report, tax declaration, certificate of incorporation, business registration certificate, memorandum and articles of association, need to be obtained to verify the relevant information. Identification documents and/or address proofs of responsible personnel of the legal persons or arrangement are also required for verification purposes. For large corporate customers, financial statements of the business or a description of the customers' principal line of business are obtained on a risk-based approach. The AMCM AML/CFT Guideline for Insurance, paragraph 58, requires insurance institutions to verify the legal status of the legal person or legal arrangements, information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the legal person or arrangement. Paragraph 59 of the AMCM AML/CFT Guideline for Insurance lists the documents that should be obtained in respect of corporate customers.

122. *Criterion 10.10* - For customers that are legal persons institutions are required to identify the natural persons who ultimately own the legal persons. Paragraph 8.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs defines a beneficial owner and gives guidance in identification and verification for legal persons/legal arrangements in different circumstances. As explained in relation to c.10.5 above, this provision meets the definition of ultimately having a controlling interest in the legal persons as set out in footnote 33 to c.10.10. Paragraphs 63 and 64 of the AMCM AML/CFT Guideline for Insurance require if the corporate customer is not classified as lower risk, insurance institution should look behind the company to identify the beneficial owners and those who have control over the funds. In effect, the insurance institution should verify the identity of all the principal shareholders, at least two directors (including the managing director) of the company and all authorised signatories designated to sign insurance contracts. In the case of one-director companies, insurance institutions are only required to verify the identity of that director. The insurance institution should also identify the source of funds. If the corporate customer is a non-FIs listed company and has a number of layers of companies in the ownership structure, the insurance institution should follow the chain of ownership to the individuals who are the ultimate principal beneficial owners of the customer of the insurance institution and verify the identity of these individuals.

123. *Criterion 10.11* - In the case of trusts, paragraph 9.1 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires the identification of the settlor, trustees, beneficiaries and any other persons involved in the structuring of the arrangement (e.g. a protector). Paragraph 9.2 requires institutions to obtain satisfactory evidence of the nominees or the intermediaries (e.g. lawyers, accountants) and the persons on whose behalf they are acting, and the details of the arrangement in place. Paragraph 69 the AMCM AML/CFT Guideline for Insurance outlines where the customer is a trust, the insurance institution should verify the identity of the trustees, any other person exercising effective control over the trust property, the settlors and the beneficiaries. Verification of the beneficiaries should be carried out prior to any payments being made. Paragraph 58 of the AMCM AML/CFT Guideline for Insurance requires insurance institutions to verify that any person purporting to act on behalf of the customer is so authorised, and to identify and verify the identity of that person. Further, insurance institutions should also verify the legal status of the legal person or arrangement, information concerning

the customer's name, legal form, address, directors and provisions regulating the powers to bind the legal person or arrangement.

#### *CDD for Beneficiaries of Life Insurance Policies*

124. *Criterion 10.12* - Paragraph 48 of the AMCM AML/CFT Guideline for Insurance requires that for life, or other investment-related insurance business, insurance institutions should, in addition to the CDD measures required for the customer, and the beneficial owner, conduct CDD on the beneficiary(ies) of life insurance, and other investment related insurance policies, as soon as the beneficiary(ies) are identified/designated. Paragraph 46 stipulates that for the following cases, verification and identity of the beneficiary should occur at the time of the pay-out: (i) Paragraph 48(a) for beneficiary(ies) that are identified as specifically named natural or legal persons or legal arrangements – taking the name of the person; and (ii) Paragraph 48(b) for beneficiary(ies) that are designated by characteristics or by class or by other means – obtaining sufficient information concerning the beneficiary to satisfy the insurance institution that it will be able to establish the identity of the beneficiary at the time of the pay-out.

125. *Criterion 10.13* - Paragraph 86 of the AMCM AML/CFT Guideline for Insurance requires insurance institutions to take reasonable measures to determine whether the beneficiaries of a life insurance policy and/or, where required, the beneficial owner of the beneficiary are politically exposed persons. Where there are higher risks identified, in addition to performing normal CDD measures, insurance institutions should inform senior management and conduct enhanced scrutiny of the whole business relationship with the policyholder. This should occur at the latest at the time of the pay-out. In the case of a legal person, AMCM AML/CFT Guideline for Insurance, Section III 2.9 (Corporations) will apply, requiring enhanced measures to identify and verify the identity of the beneficiary at the time of pay-out.

#### *Timing of verification*

126. *Criterion 10.14* - Under paragraph 8.1.1 (a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions are required to identify, verify and record the identity of customers and the related beneficial owners using reliable and independent source documents, data or information. Under paragraph 8.1.2(b) to (d) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, the CDD process should be completed at the outset of the relationship. Paragraph 8.1.2 (c) provides, "If it is not practicable to do so, institutions should complete the verification procedures as soon as possible after establishment of the relationship, while adopting risk management procedures concerning the conditions, for instance, at least setting limitations on number, types and/or amount of transactions that can be performed by such customers and closely monitoring such relationships pending completion of the identity verification." Once a business relationship has been established, if CDD cannot be completed within a reasonable period of time and with no reasonable explanation for the delay, institutions should suspend or terminate the business relationship and consider making a STR.

127. Paragraphs 46 and 47 of the AMCM AML/CFT Guideline for Insurance outline that identification and verification of customers and beneficial owners should take place when the business relationship with those persons is established. The customer and beneficial owners need to be identified and their identity verified before, or at the moment when the insurance contract is concluded. However, in Macao, China insurance institutions should identify the beneficiary while permitting the verification to take place after the establishment of the business relationship, provided that the ML/TF risks are effectively managed. In all such cases, identification and verification should occur before the time of pay-out or the time when the beneficiary intends to exercise vested rights under the policy.

128. *Criterion 10.15* - As noted in c10.14, if it is not practicable to do so, institutions should complete the verification procedures as soon as possible after establishment of the

relationships, while adopting risk management procedures. Paragraph 49 of the AMCM AML/CFT Guideline for Insurance outlines where a customer and/or a beneficial owner is permitted to utilise the business relationship prior to verification, insurance institutions should be required to adopt risk management procedures concerning the conditions under which this occur. These procedures should include measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out.

#### *Existing customers*

129. *Criterion 10.16* - Under paragraph 8.1.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions are required to perform CDD measures in relation to their existing customers, based on their own assessment of materiality and risk, taking into account suspicion, material changes, significant transactions and insufficient records, or outdated information. As per Section III 2.13 of the AMCM AML/CFT Guideline for Insurance, insurance institutions should perform ongoing due diligence on the business relationship. In general, the insurance institution should pay attention to all requested changes to the policy and/or exercise of rights under the terms of the contract. Enhanced due diligence (EDD) is required with respect to higher risk categories.

#### *Risk-based approach*

130. *Criterion 10.17* - Paragraph 8.1.4 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs sets out the EDD measures for establishing a business relationship with high-risk customers which include senior level approval, extra documentation or information, and more frequent review. Section 9 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs also points out examples of higher risk customers which require EDD that include nominee and fiduciary accounts or client accounts opened by professional intermediaries, non-face-to-face relationships, customers of private banking, legal persons or arrangements such as trusts that are personal assets holding vehicles, non-profit organisations, wire transfers, correspondent banking as well as politically exposed persons and connected parties. The AMCM AML/CFT Guideline for Insurance, paragraph 73, outlines that insurance institutions should apply EDD in respect of high risk customers and/or beneficial owners. Paragraph 73 provides a list of higher risk customers and/or beneficial owners. Paragraphs 74 and 75 provide a list of additional measures applicable to EDD.

131. *Criterion 10.18* - According to paragraph 8.1.5 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions may consider applying simplified or reduced measures for those corporate customers that are properly regulated, namely listed companies, state-owned enterprises and regulated FIs, in jurisdictions where AML/CFT measures similar to those outlined in the Guideline are adequately adopted. However, simplified CDD should not be permitted whenever there is ML/TF suspicion, or where specific higher-risk scenarios apply. The AMCM AML/CFT Guideline for Insurance, section III 2.3, states that insurance institutions may apply simplified or reduced CDD measures in respect of a customer where there is no suspicion of ML and TF, and the risk of ML and TF is assessed to be low, there is adequate public disclosure in relation to the customers or adequate checks and controls exist in domestic systems. Paragraph 43 of the AMCM AML/CFT Guideline for Insurance states that simplified or reduced CDD measures are not acceptable whenever there is suspicion of ML or TF or specific higher risk scenarios apply.

#### *Failure to satisfactorily complete CDD*

132. *Criterion 10.19* - Under paragraph 8.1.2(b) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions should not open accounts, establish business relationships or carry out any transactions with customers unless the customer due diligence is

completed and the customer identity is satisfactorily established. Paragraph 8.1.2(d) stipulates that once having opened an account or established a business relationship, if CDD cannot be completed within a reasonable period of time and with no reasonable explanation for the delay the FI should suspend or terminate the business relationship and consider making a suspicious transaction report. FIs are required to make a suspicious transaction report when unable to complete transactions (attempted transactions), or CDD regardless of whether or not the relationship has commenced or the transaction has been conducted.

133. The AMCM AML/CFT Guideline for Insurance, Section III 2.7 outlines where the insurance institution is unable to satisfy itself on the identity of the customer and/or beneficial owner, it should not commence a business relationship or perform the transaction and should consider making a suspicious transaction report. However, if the insurance institution has already commenced the business relationship and is unable to satisfy itself on the identity of the customer and/or beneficial owner, it should consider terminating the business relationship, if possible, and making a suspicious transaction report.

134. *Criterion 10.20* - Under paragraph 8.1.6 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, if an institution reasonably believes that performing the CDD process will tip off the customer then the process should be discontinued and the case should be reported to the GIF. The AMCM AML/CFT Guideline for Insurance is compliant with c.10.20.

### *Weighting and Conclusion*

135. **Recommendation 10 is rated compliant.**

### ***Recommendation 11 – Record-keeping***

136. In its 2007 MER, Macao, China was rated largely compliant with former R.10 (pages 101-104). It was noted that time was needed to demonstrate implementation of record keeping requirements.

137. *Criterion 11.1* - The AMCM AML/CFT Guideline for Credit Institutions and other FIs and the AMCM AML/CFT Guideline for Insurance contain the following requirements for record retention: Under paragraph 12 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions must maintain all necessary records on domestic and cross-border transactions for at least five years from the date of completion of the transaction. The AMCM AML/CFT Guideline for Insurance, paragraph 109, outlines that insurance institutions should maintain, for at least five years after the business relationship has ended, all necessary records on transactions, both domestic and international.

138. *Criterion 11.2* - Article 6 of AML/CFT Administrative Regulation 7/2006 requires FIs to maintain documents for customer identification for a period of five years. Paragraph 12 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs further prescribes that institutions should maintain for at least five years after the termination of the business relationship or the date of the occasional transaction, all records obtained through CDD measures, account files and business correspondence and results of any ongoing review, monitoring or analysis (e.g. inquiries to establish the background and purpose of complex unusual large transactions). The AMCM AML/CFT Guideline for Insurance, paragraph 108, outlines that insurance institutions should keep records obtained through the CDD process, and the account files and business correspondence, including the results of any analysis undertaken for at least five years after the end of the business relationship, or after the date of the occasional transaction or longer, if requested by a competent authority.

139. *Criterion 11.3* - Under paragraph 12.1 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs transaction records should be sufficient to permit reconstruction of individual transactions, including the amounts and types of currency involved, entries of the accounts and details of transactions involving funds transfers, so as to provide, if necessary, evidence for prosecution of criminal activity. The AMCM AML/CFT Guideline for Insurance paragraph 109 outlines that such records must be sufficient to permit reconstruction of individual transactions, so as to provide, if necessary, evidence for prosecution of criminal activity.

140. *Criterion 11.4* - Under paragraph 12 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions are required to retain transaction records and CDD information for at least five years and such records should be readily available for investigation by AMCM and/or other law enforcement agencies. In accordance with Article 6.3 of AML/CFT Administrative Regulation 7/2006 these documents need to be retained in original format or may be substituted by microfilms or transferred to a digital platform. AMCM AML/CFT Guideline for Insurance, paragraph 107 and 108 complies with criterion 11.4.

### *Weighting and Conclusion*

141. **Recommendation 11 is rated compliant.**

### *Recommendation 12 – Politically exposed persons*

142. In its 2007 MER, Macao, China was rated largely compliant with former R.6 (pages 91-92). Whilst the Guidelines covered PEPs, there was insufficient time for full implementation to be demonstrated.

143. *Criterion 12.1* - For foreign PEPs (which includes PEPs of China and Hong Kong, China), FIs are required to implement the four measures set out in c.12.1. The text of paragraphs 9.4.2 (c) to (f) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs follows c.12.1. Likewise, the AMCM AML/CFT Guideline for Insurance, paragraphs 81 to 83 mirrors c.12.1.

144. *Criterion 12.2* - In relation to domestic PEPs or persons who have been entrusted with a prominent function by an international organisation, paragraph 9.4.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs requires institutions to take reasonable measures to determine if a customer or beneficial owner is such a person and in such cases, where there is higher risk business relationship with such a person adopt the measures in c.12.1 (b) to (d). The AMCM AML/CFT Guideline for Insurance, paragraph 84 mirrors the AMCM AML/CFT Guideline for Credit Institutions and other FIs. In cases of a higher risk business relationship with such persons, insurance institutions should apply the measures referred to in paragraph 83 (b) to (d).

145. *Criterion 12.3* - The relevant measures in c.12.1 (b) to (d) are applied to family members or close associates of PEPs with the terms “family members” and “close associates” defined in paragraph 9.4.1 (and footnote 15 and 16) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, and paragraph 85 of the AMCM AML/CFT Guideline for Insurance.

146. *Criterion 12.4* - Paragraph 86 of the AMCM AML/CFT Guideline for Insurance outlines that insurance institutions should take reasonable measures to determine whether the beneficiaries of a life insurance policy and/or, where required, the beneficial owner of the beneficiary are PEPs. This occurs at the latest at the time of the pay-out. Where there are higher risks identified, in addition to performing normal CDD measures, insurance institutions are required to inform senior management before pay-out of the proceeds; and are required to

conduct enhanced scrutiny on the whole business relationship with the policyholder, and consider making a suspicious transaction report.

### *Weighting and Conclusion*

147. **Recommendation 12 is rated compliant.**

### *Recommendation 13 – Correspondent banking*

148. In its 2007 MER, Macao, China was rated compliant with former R.7 (page 92).

149. *Criterion 13.1* - Under paragraph 9.7.3 (a) and (b) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions in addition to taking the normal CDD measures, are required to gather sufficient information about a respondent institution to understand fully the nature of the business, domicile location, ownership and management structure and purpose and intended nature of accounts or facilities. FIs are also required to determine, based on the information from those publicly available databases, the reputation of the respondent institution and the quality of supervision, including the system of banking regulation and supervision in its domicile location, and whether it has been the subject of any ML/TF investigations or regulatory action.

150. Paragraphs 9.7.3(c) to (e) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs require institutions to assess if the respondent institution's AML/CFT controls are adequate and effective, top management approval be obtained before establishing any new correspondent banking relationship, and that institutions clearly understand and document the respective responsibilities of each institution particularly from the AML/CFT perspective.

151. *Criterion 13.2* - Where a correspondent banking relationship involves the maintenance of “payable-through accounts”, paragraph 9.7.3(f) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs states that institutions must be satisfied that (a) the respondent institution has performed all normal, adequate and ongoing CDD and monitoring obligations on those customers that have direct access to the accounts of the correspondent institutions; and (b) the respondent institution is able to provide relevant CDD information and identification data upon request to the correspondent institutions.

152. *Criterion 13.3* - Under paragraph 9.7.5 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, institutions in Macao, China are prohibited from entering into or continuing a correspondent banking relations with any shell institution in particular shell banks.

### *Weighting and Conclusion*

153. **Recommendation 13 is rated compliant.**

### *Recommendation 14 – Money or value transfer services*

154. In its 2007 MER, Macao, China was rated largely compliant with former SR. VI (pages 134 – 138). It was noted that the implementation of the November 2006 AML/CFT framework could not be judged given the short period of time since its implementation. The two guidelines issued by AMCM lacked examples of suspicion in the context of remitters.

155. *Criterion 14.1* - In Macao, China the incorporation of MVTS requires the prior authorisation of the Governor granted by executive order under Article 6 of the Law Regulating Cash Remittance Companies, Decree-Law no. 15/97/M (Cash Remittance Companies law).

According to Article 22 of the same Decree-Law, and Article 36 of the FSA, cash remittance companies are subject to registration with AMCM. Article 48 of the FSA prevents criminals from holding management positions in cash remittance companies. As outlined in Article 14 of the FSA, AMCM publishes a list of authorised institutions in the Official Gazette of Macao, China Government at the end of January each year. Under Articles 6 and 10 of the AMCM Statute, Decree Law no. 14/96/M for the AMCM (AMCM law), and Articles 6 and 8 of the FSA, the AMCM is authorised to supervise cash remittance companies operating in Macao, China.

156. *Criterion 14.2* - The AMCM has exerted substantial effort in combating unauthorised financial activities which also cover MVTS. Statistics indicate that AMCM has adequate capacity and has taken proportionate and dissuasive actions against any unauthorised financial activities including illegal MVTS taking into consideration the small size of the MVTS sector in Macao, China.

157. A range of proportionate and dissuasive sanctions are available and any unauthorised activities are considered administrative offences. Article 22 of the Cash Remittance Companies law extends the sanction measures laid down in Articles 122 to 138 of the FSA. The maximum penalty for operating a MVTS company without a license (amongst other sanctions) is a fine not exceeding MOP5,000,000 (EUR548,633/US\$625000). In the case of a repeated offence, the maximum limit for the fine shall be twice the original and an offence shall be deemed to have been repeated if the offender commits an identical offence within a period of one year from the date on which the conviction was handed down.

158. *Criterion 14.3* - MVTS are supervised by AMCM. MVTS companies need to comply with paragraph 2.4 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs. Under paragraphs 2.4 and 5.1 of the Guideline, MVTS companies should establish and implement adequate and appropriate AML/CFT systems, including AML/CFT policies, procedures and controls by observance of the requirements of the AMCM AML/CFT Guideline for Credit Institutions and other FIs with necessary adaption in conformity with the nature, size, and risk profile of their respective business.

159. *Criterion 14.4* - Article 18 of the Cash Remittance Companies law requires MVTS companies to maintain on file any contracts signed with any entity (or agent) abroad authorised to carry on the same activity. Due to the small size of the MVTS sector, Macao, China reports that of the two licensed remittance businesses in the jurisdiction, neither employs nor contracts with agents.

160. *Criterion 14.5* - Under paragraph 26 of the Guideline on Outsourcing (Circular no. 032/B/2009-DSB/AMCM dated 14 August 2009) FIs should ensure that with the outsourcing arrangement in place, any statutory requirements on AML/CFT or record keeping procedures and practices would continue to be met. Paragraph 12 and 13 require the institution to monitor, review and manage the risk on a continuous basis with the outsourced service provider.

### *Weighting and Conclusion*

161. **Recommendation 14 is rated compliant.**

### ***Recommendation 15 - New technologies***

162. *Criterion 15.1* - General requirements are in place for new technologies. The AMCM has its own internal procedures and policies for assessing and approving new technologies. Paragraph 6.6 of the AMCM AML/CFT Guideline requires FIs to conduct sign-offs to identify and assess ML/TF vulnerabilities of new and pre-existing products and business practices. Paragraph 30 of the AMCM AML/CFT Guidelines for Insurance mandates identification and

assessment of ML/TF vulnerabilities for new insurance products and business practices including delivery mechanisms by insurance institutions.

163. *Criterion 15.2* - The specific requirements to undertake risk assessments prior to the launch and use of new products, and to take appropriate measures to manage and mitigate the risks are set forth under the AMCM AML/CFT Guideline paragraph 6.6.2 for Credit Institutions and other FIs. There are also explicit requirements for insurance providers to take measures to manage and mitigate the risk of new technologies in paragraph 30 of the AMCM AML/CFT Guideline for Insurance.

#### *Weighting and Conclusion*

164. **Recommendation 15 is rated compliant.**

#### **Recommendation 16 – Wire transfers**

165. *Criterion 16.1* - Paragraph 9.6 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs explicitly requires accurate originator and beneficiary information, as well as traceability for all wire transfers (international and domestic). Additional instructions require beneficiary institutions to take reasonable measures to identify wire transfers that lack the required originator or beneficiary information. The requirement for beneficiary information on wire transfers by MVTs is explicitly stated in the same Guideline.

166. *Criterion 16.2* - The same requirements are present for wire transfers in batch as mandated under paragraph 9.6.5 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs.

167. *Criterion 16.3* - There is no de minimis threshold. All wire transfers are required to be accompanied by originator and beneficiary information under paragraph 9.6.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs.

168. *Criterion 16.4* - As mentioned in c.16.3, where there is suspicion of ML/TF, FIs are required to identify and verify the information.

169. *Criterion 16.5* - This is covered by paragraph 9.6.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs as per c.16.1.

170. *Criterion 16.6* - Originator and beneficiary information are required to be included in wire transfers as stated above under c.16.5 and c.16.1. Under paragraph 12.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, the CDD information and transaction records are to be available swiftly to competent authorities. Article 166 of the Criminal Procedure Code empowers the judiciary authority to use compulsory measures for the production of records by FIs.

171. *Criterion 16.7* - Paragraph 9.6.2(c) AMCM AML/CFT Guideline for Credit Institutions and other FIs requires all information collected to be maintained. The findings on R.11 are also applicable to this criterion.

172. *Criterion 16.8* - Paragraph 9.6.2 of AMCM AML/CFT Guideline for Credit Institutions and other FIs prohibits the ordering institution from conducting a wire transfer whenever specified originator and beneficiary information cannot be obtained.

173. *Criterion 16.9* - Obligations imposed upon intermediary FIs for cross-border wire transfers are covered by paragraph 9.6.4 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs.

174. *Criterion 16.10* - Paragraph 9.6.4(b) of the same Guideline imposes a record-keeping requirement for at least five years on the receiving intermediary institutions whenever technical limitations prevent originator or beneficiary information accompanying a cross-border wire transfer from remaining with another related wire transfer.

175. *Criterion 16.11* - Intermediary FIs are required to take reasonable measures under paragraph 9.6.4(c) of AMCM AML/CFT Guideline for Credit Institutions and other FIs.

176. *Criterion 16.12* - Laid down under paragraph 9.6.4 (d) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, intermediary FIs are required to have effective risk-based policies and procedures for determining: i) when to execute, reject, or suspend a wire transfer lacking the required originator or beneficiary information, and ii) the appropriate follow-up action.

177. *Criterion 16.13* - Paragraph 9.6.3(b) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs meets the requirements of criterion 16.13.

178. *Criterion 16.14* - Paragraph 9.6.3(a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs explicitly covers this criterion on verification of beneficiary and record keeping.

179. *Criterion 16.15* - Paragraph 9.6.3(b) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs covers this criterion on when to execute, reject or suspend a wire transfer.

180. *Criterion 16.16* - MVTS (cash remittance companies and services by agents) are subject to the AMCM AML/CFT Guideline for Credit Institutions and other FIs under paragraph 2.4, originator and beneficiary information are required to be obtained for both occasional wire transfers and those made using customer account.

181. *Criterion 16.17* - As indicated above, MVTS are captured under paragraph 2.4. There are requirements in section 10.3 to monitor all transactions and to file an STR if necessary. However, there is no explicit reference to both the ordering and beneficiary side of a wire transfer. More importantly, the requirement is only to file an STR to GIF, and not to file an STR in any country.

182. *Criterion 16.18* - The CDD and targeted financial sanctions requirements with designated persons under UNSCRs 1267 and 1373 are embodied in paragraphs 6.3.2, 7.1.1 and 7.1.2 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, and paragraph 39 of the AMCM AML/CFT Guideline for Insurance enshrined the same requirement for criterion 16.18.

#### *Weighting and Conclusion*

183. There is a minor gap on filing of an STR in any country.

184. **Recommendation 16 is rated largely compliant.**

### ***Recommendation 17 – Reliance on third parties***

185. *Criterion 17.1* - The requirements for third-party reliance, including provision for the assumption of responsibility by the relying institution on customer due diligence performed by third parties, are clearly stipulated under paragraphs 5.8 and 5.8.3 in the AMCM AML/CFT Guideline for Credit Institutions and other FIs, respectively. In addition, paragraphs 5.8.2 and 5.8.2(a) set forth specific criteria that third parties must be properly regulated, supervised and monitored to have properly implemented CDD and record keeping requirements under the Guideline, as well as requiring institutions to satisfy themselves that the third parties are not located in countries identified by the FATF as having strategic AML/CFT deficiencies. The requirement to provide CDD information without delay by the third party is clearly stipulated under paragraph 5.8.2(b) and (c). Similar rules have been incorporated under paragraphs 101 and 102 of the AMCM AML/CFT Guideline for Insurance with explicit requirement for information to be provided without delay.

186. *Criterion 17.2* - The requirement in regard to information on the level of jurisdiction risk is provided for under paragraph 5.8.2(a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs. Section III 2.14 of the AMCM AML/CFT Guideline for Insurance covers reliance on insurance intermediaries or third parties for CDD.

187. *Criterion 17.3* - Paragraph 2 of the AMCM AML/CFT Guideline enumerated the coverage and applicability to include among others, FIs either incorporated abroad or Macao, China. Group-wide policies, procedures and compliance to tackle ML/TF risks are explicitly declared under paragraph 5.7 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs. In addition, paragraph 104 of the AMCM AML/CFT Guideline for Insurance includes explicit requirements for group-wide policies, procedures and compliance, including tackling ML/TF risks. The implementation of CDD and record keeping is supervised at a group level by the AMCM. Specific requirement relative to group-wide reliance procedures is couched under paragraph 5.7. 2 “Institutions should ensure that such overseas establishments comply with the guideline to the extent that the laws and regulations of the host jurisdictions permit, and should pay special attention to whether the AML/CFT measures similar to those outlined in the guideline are sufficiently applied in the host jurisdictions.” Paragraph 5.8.2(a) further states that institutions should satisfy themselves that the third parties (including members of the same financial group) are properly regulated, supervised and monitored to have implemented adequate measures in compliance with CDD and record-keeping requirements in line with the AMCM Guideline.

#### *Weighting and Conclusion*

188. **Recommendation 17 is rated compliant.**

### ***Recommendation 18 – Internal controls and foreign branches and subsidiaries***

189. *Criterion 18.1* - Specific provisions on the appointment of a compliance officer at senior management level as well as the “Know Your Employee” Rule, an on-going AML training program and an independent audit function to test the system are present in paragraphs 5.4-6 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, as well as in the AMCM AML/CFT Guideline for Insurance, paragraphs 126-140.

190. *Criterion 18.2* is - There are clear requirements to implement group-wide policies, procedures, programmes on AML/CFT including on ML/TF risk management for all institutions including overseas establishments as stated in paragraph 5.7 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs. Also, paragraphs 28 and 104 of the AMCM AML/CFT Guideline for Insurance include explicit requirements for group-wide

policies, procedures and compliance. There is a requirement in Article 78 of the FSA to protect and safeguard the confidentiality and use of information.

191. *Criterion 18.3* - Institutions should ensure that their overseas establishments comply with the Guideline to the extent that the laws and regulations of the host jurisdictions permit, and should pay special attention to whether the AML/CFT measures similar to those outlined in the Guideline are sufficiently applied in the host jurisdictions (paragraph 5.7.2 AMCM AML/CFT Guideline for Credit Institutions and other FIs). Paragraph 5.7.3 provides for application of measures with higher standards in case of variance. If any such overseas establishments could not comply with the Guideline because this is prohibited by the laws and regulations of the host jurisdictions, institutions should advise the AMCM in writing and take appropriate measures to mitigate the ML/TF risks effectively.

192. With respect to insurance groups, the AMCM AML/CFT Guideline for Insurance, paragraph 28(f) and paragraph 96, provide for similar requirements.

#### *Weighting and Conclusion*

193. **Recommendation 18 is rated compliant.**

#### *Recommendation 19 – Higher-risk countries*

194. *Criterion 19.1* - The Risk-Based approach to combat ML and TF under paragraph 6.4.1 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs provides for the basis of the application of enhanced customer due diligence, where the customer comes from a higher risk jurisdiction, subject to sanctions and embargos or similar measures or links to terrorist activities, or is identified by FATF or similar international organisations as having strategic AML/CFT deficiencies. Under paragraph 73 and Section III.2.12.3 of the AMCM AML/CFT Guideline for Insurance, for customers in connection with higher risk countries/jurisdictions named by the FATF or other sanction lists with international implications, insurance institutions are required to apply an enhanced due diligence with respect to higher risk customers and/or beneficial owners.

195. *Criterion 19.2* - The AMCM is able to issue separate notices or circulars to institutions subject to its supervision under the FSA (Article 6), including to instruct FIs to apply enhanced due diligence and counter measures, as provided under paragraph 8.1.4 under the AMCM AML/CFT Guideline for Credit Institutions and other FIs. Paragraph 93 of the AMCM AML/CFT Guideline for Insurance states that insurance institutions should apply counter-measures as recommended by the FATF/APG to jurisdictions named in FATF/APG public statements, or as notified generally by local or foreign regulatory authorities.

196. *Criterion 19.3* - The AMCM has clear processes for advising institutions of concerns about weaknesses in the AML/CFT systems of other countries to give effect to Article 6 of the FSA. The AMCM regularly circulates sanction list information and FATF public statements to FIs. At the same time, under paragraph of 6.4.1(a) of the AMCM AML/CFT Guideline for Credit Institutions and other FIs, FIs are required to refer to those publicly available reliable sources, in particular information related to those jurisdictions subject to the ongoing process of FATF or information released by other international bodies through relevant websites. The AMCM AML/CFT Guideline for Insurance (paragraph 73 and paragraphs 89-95) advises that higher risk jurisdictions are named in FATF and APG public statements and gives the website link for both organisations.

#### *Weighting and Conclusion*

197. **Recommendation 19 is rated compliant.**

### ***Recommendation 20 – Reporting of suspicious transaction***

198. In its 2007 MER, Macao, China was rated largely compliant with former R.13 and compliant with former R.14 (pages 112 -113). Reporting requirements were embodied in law and regulation; however, concerns with effectiveness of implementation and weakness in the insurance sector were noted.

199. *Criterion 20.1* - Under Article 6 and sub paragraph 5) of Article 7 of AML Law, Article 11 of CFT Law and Article 7 of AML/CFT Administrative Regulation 7/2006, FIs have obligations to report any suspicious transactions to the GIF within 2 working days following the performance of such transactions. This includes transactions which indicate suspicion of activities related to ML or TF, due to *inter alia*, their nature, complexity, amount involved, volume or frequency. These obligations are outlined also in paragraph 13.1 of the AML/CFT Guideline for Credit Institutions and other FIs that states that transactions indicating signs of ML and/or TF, or transactions suspiciously involving converting, transferring or dissimulating illegally obtained funds or property in order to conceal the true ownership and origin of the funds or properties to make them appear to have originated from a legitimate source, are considered suspicious ML and/or TF transactions. Paragraph 128 of the AMCM AML/CFT Guideline for Insurance outlines, where an employee suspects or has reasonable grounds to believe that a customer might have carried on drug trafficking or might have been engaged in other indictable offences and where the customer seeks to take out, maintain or redeem a policy with the insurance institution, this must promptly be reported to the compliance officer. The compliance officer must promptly evaluate whether there are reasonable grounds for such belief and must then immediately report the case to the GIF, unless he considers, and records his opinion that such reasonable grounds do not exist.

200. *Criterion 20.2* - Under paragraph 13.1.3 of the AMCM AML/CFT Guideline for Credit Institutions and other FIs an institution should make a suspicious transaction report when unable to complete transactions (attempted transactions) or CDD regardless of whether or not the relationship has commenced or the transaction has been conducted. The reporting obligations apply regardless of the amount of the transaction involved. Likewise, paragraph 129 and 135 of the AMCM AML/CFT Guideline for Insurance refers respectively to “unusual and attempted transactions” and “suspicious transactions, including attempted transactions” being promptly reported to GIF and no reference is made to a threshold for reporting.

### ***Weighting and Conclusion***

201. **Recommendation 20 is rated compliant.**

### ***Recommendation 21 – Tipping-off and confidentiality***

202. In its 2007 MER Macao, China was rated compliant with former R.4 and R.14.

203. *Criterion 21.1* - Paragraph 3 of Article 7 of AML Law and Article 11 of CFT Law provide for the disclosure of information in good faith, in compliance with the duties outlined in sub paragraphs 5) and 6) of paragraph 1 of Article 7 (of reporting to and co-operating with GIF), shall not constitute breach of any secrecy, nor shall it imply responsibility of any nature to whoever made such disclosure.

204. *Criterion 21.2* - Paragraph 4 of Article 7 of AML Law and Article 11 of CFT Law stipulate that facts that become known as a result of the performance of the functions, relative to the compliance with the duties in sub paragraphs 5) and 6) of paragraph 1 of Article 7, (of reporting

to and co-operating with GIF), may not be revealed to the customer, patrons, contracting parties or any third persons the reporting of suspicious transaction.

### *Weighting and Conclusion*

205. **Recommendation 21 is rated compliant.**

### *Recommendation 22 – DNFBPs: Customer due diligence*

206. In its 2007 MER Macao, China was rated partially compliant with former R. 6 and 8 to 11 and 12 (pages 139 – 157). Key CDD and record keeping obligations were not included in law or regulation. The established threshold for obtaining casino customer data was too high. No provisions existed for ongoing verification of customer information and ongoing monitoring of customer activity. A number of deficiencies in guidelines for DNFBPs were also detected.

207. *Criterion 22.1* - In accordance with Article 7 of the AML Law and Article 11 of the CFT Law, DNFBPs referred to in Article 6 of AML Law are subject to the customer identification and other principles listed in Article 7 1) to 6) and sub paragraph 1) and 2) of paragraph 2 of Article 3 of the AML/CFT Administrative Regulation 7/2006. In addition to the listed legal requirements, supervisory authorities of DNFBPs under Article 3.2.2 of AML/CFT Administrative Regulation 7/2006 and in other instruments have published sector specific AML/CFT guidelines to incorporate the necessary CDD requirements.

208. (a) *Casinos*: According to Article 9 of the DICJ AML/CFT Guideline, the entities under DICJ's supervision (concessionaires, sub-concessionaires, respective management companies and junket promoters) identified in Article 3 of the DICJ AML/CFT Guideline are required to conduct CDD including the obligation to identify and verify the identity of the following persons when:

- 1) Patrons or beneficiaries of gaming credits who are involved in a stable business relationship, suspicious transaction or large-sum transaction, which cover all premium customers of concessionaires and sub-concessionaires as well as customers opening front money or credit accounts with junket operators;
- 2) Representatives or agents of the persons referred in 1);
- 3) If there is knowledge that the patrons, gamblers or beneficiaries of gaming credits are acting on behalf of others, the persons on whose behalf they act for should also be identified;
- 4) Beneficial owners of patrons who designate the patrons to act on their behalf through any forms of assignment;
- 5) Any of the persons referred above whenever there are doubts about the validity and accuracy of the information being provided.

209. There are also provisions in the DICJ AML/CFT Guideline for risk-based approach (Article 6), which apply enhanced CDD without threshold on all “financial nature transactions” including wire transfers, front money account transfer, credit granted, cash deposits and withdrawal from front money or premium accounts.

210. There are also CDD requirements on occasional transactions through the obligation on reporting large sum transactions (ROVE), but the threshold is MOP500,000 (EUR55,000/US\$62,500) and not equal to or above US\$/EUR3,000. Article 10.1 1), 2) and 4) of the DICJ AML/CFT Guideline defines a “large-sum transaction” to include gambling or wagering, provision or repayment of gaming credit, gaming promotion activities (including gaming

settlement payment of the patron, or beneficiary owner) in the amount equal to or exceeding MOP500,000 (EUR55,000/US\$62,500) or equivalent amount in any other currency. Article 10.1 3) of the DICJ AML/CFT Guideline further defines a “large-sum transaction” as any gambling, wagering, provisions, or repayment of gambling credit, individually less than MOP500,000 (EUR55,000/US\$62,500), but with an aggregated total within 24 hours that has reached or exceeded the threshold amount of MOP500,000 (EUR55,000/US\$62,500) or equivalent amount in any other currency.

211. The exception is for wire transfers under Article 19 (4) for an occasional transaction equal to or exceeding MOP8,000 (EUR937/US\$1,000) which is also subject to CDD requirements. In addition, the exchange counters of casinos are subject to supervision by AMCM and their AML/CFT guidelines for CDD of foreign exchange transactions.

212. The definition of “Financial transactions” includes gambling transactions that involve casino chips or tokens as they would be considered as gaming credit under the DICJ AML/CFT Guideline. A “Stable business relationship” includes any business or professional relationship established between the gaming concessionaires of casino games of fortune, pari-mutuel, or gaming activities open to the public, with the customers which in the moment that is conducted is expected to be or to become permanent and usually involves provision of service or offering products or services in a stable and continuous manner, and without regard to the number of individual transactions to carry out or to be carried out. “Occasional transaction” includes any transaction carried out by any gaming concessionaire that is not within the definition of an established business relationship, namely a transaction that occurs on sporadic or isolated time basis, and without regard to the actual number of transactions performed.

213. There are also provisions in the DICJ AML/CFT Guideline for a risk-based approach (Article 6), ECDD (Articles 16, 21 & 26), failure to complete CDD (Article 22) and CDD and tipping off (Article 11 (2)).

214. *(b) Accounting professions:* DSF has revised their AML/CFT guideline according to the AML Law, Statutes of Auditors and Accountants and Regulation of the Committee for the Registry of Auditors and Accountants. Under the revised DSF AML/CFT Guideline, auditors, accountants and tax advisors are obligated to comply with the duties provided in paragraph 2.3 when participating or assisting in the exercise of their professional activities listed in c.22.1 (d) and c.22.1 (e) CDD requirements in paragraph 5 of the revised DSF AML/CFT Guideline comply with R.10, including measures to be taken to verify and identify the identity of beneficial owners of legal persons and legal arrangements according to the requirements of c10.9 to 10.11 (see paragraphs 5.5 and 5.6 of the revised DSF Guideline). There is a requirement for risk assessment and a risk-based approach in paragraph 3.

215. *(c) Legal Professions:* Under Article 2 and 4 of the AAM AML/CFT Guideline, lawyers and trainee lawyers must obtain the identification of the customer or their representatives involved in the activities listed in R.22.1 (d). However, transactions under MOP1,000,000 (EUR111,000/US\$125,000) are excluded from the duty to identify, unless there is suspicion of ML or TF. Likewise, under Article IV of the CIEPDSS AML/CFT Guideline, solicitors must obtain the identification of the customer or their representatives involved in the activities listed in R.22.1 (d). However, transactions under MOP500,000 (EUR55,000/US\$62,500) are excluded unless there are signs of ML or TF. The AAM AML/CFT and CIEPDSS AML/CFT Guideline do not specify the requirements around timing of verification (c10.14 to 10.15) and applying CDD to existing customers (c10.16). An explicit risk-based approach is not taken (c.10.17) in the AAM and CIEPDSS AML/CFT Guideline. Not all requirements (e.g. beneficial ownership) under R.22 relating to R.10 are covered in the AAM and CIEPDSS AML/CFT Guideline.

216. *(d) Notaries and Registrars:* Under paragraph VII of the DSAJ AML/CFT Guideline, notaries and registrars are bound to apply CDD measures in the following situations: when they intervene in buying and selling of real property and other moveable property that is subject to registration; establishment or incorporation of legal persons; transfer against payments, total or partial, of commercial enterprises as well as shares or participation when, as a result of the transfer, a shareholder will take up more than 80 per cent of the share capital of commercial entrepreneurs, legal persons which assets include immovable properties; legal acts or transactions related capital increase, mergers or demergers. The duty to identify, must be done whenever an occasional transaction is conducted through an operation or several interlinked transactions/operations, with an amount equal or more than MOP130,000 (EUR14,500/US\$16,000) or when it pertains to moveable properties that are subject to registration and the transaction of an amount equal or exceeding such value is paid in cash; regardless of the value of the operations, when it is suspected that they are related to the crime of ML or TF; when there are doubts about the veracity or adequacy of the identification data of the parties intervening in the acts. Paragraph VI of the DSAJ AML/CFT Guideline includes measures regarding the verification of the identity of the beneficial owner of the act.

217. *(e) Real Estate Agents, Dealers of Precious Metal and Stones and Company Service Providers:* Real estate agents, dealers of precious metal and stones, and company service providers are required to identify and verify the identity of their customers and maintain records in line with the DSE AML/CFT guidelines issued under AML/CFT Administrative Regulation, Article 6 of AML Law and Article 11 of CFT Law in relation to real estate transactions when the transaction threshold is over MOP200,000 (EUR22,000/US\$25,000) and MOP120,000 cash (EUR13,000/US\$15,000) for dealers of precious metal and precious stones. No threshold for company service providers exists.

218. *(f) Offshore company service providers:* Offshore company service providers are subject to the requirements of the IPIM AML/CFT Guideline. The guideline includes requirements on CDD, beneficial ownership, EDD, ongoing CDD, and tipping off (c.10.20).

219. *Criterion 22.2 [record keeping]* - According to the AML Law, DNFBPs described under subparagraphs 2) to 6) of Article 6 of the AML Law must comply with the record-keeping duties set out in subparagraph 4) of Article 7. Article 8 1) of the AML Law states that the prerequisites and the contents of the duties established in Article 7 of the AML Law shall be regulated under the AML/CFT Administrative Regulation. Article 11 of the CFT Law adopts the same provisions of Articles 6, 7 and 8 of AML Law for the preventative measures against TF. Article 6 of the AML/CFT Administrative Regulation specifies that customer identification, transaction records, account files and business correspondence must be kept for five years. Article 24 of the DICJ AML/CFT Guideline for the gaming sector, paragraphs 7 of DSF Guideline for accountants, subparagraph 7 of paragraph VIII of the DSAJ AML/CFT Guideline for Notaries and Registrars, Article 3 of the DSE AML/CFT Guidelines for Real Estate Agents, Dealers of Precious Metal and Stones, and Company Service Providers, and Article 3.2.1 of the IPIM AML/CFT Guideline for offshore company service providers meet the requirements of c.11.1 to 11.3. Under Article 5 of the AAM AML/CFT Guideline, lawyers and trainee lawyers must keep records for five years. Article IV of the CIEPDSS AML/CFT Guideline, solicitors must keep records for at least five years. The AAM and CIEPDSS AML/CFT Guideline do not specify the detailed requirements to keep CDD records (c.11.2) and transaction records (c.11.3). For c.11.4 according to subparagraph 6 of paragraph 1 of Article 7 of the AML Law, all DNFBPs are required by law to cooperate with the competent authorities which covers the provision of information and documents requested by the authorities.

220. *Criterion 22.3 [PEPs]* - According to subparagraphs 3 to 6 of Article 6 of the AML Law DNFBPs must comply with the duties of identification as stated under subparagraph 2 of paragraph 1 of Article 7. Article 11 of the CFT Law adopts the same provisions of Articles 6, 7

and 8 of the AML Law for the preventative measures against TF. The AML/CFT guidelines of all DNFBPs have classified foreign PEPs as high risk and enhanced CDD should apply. However, not all the guidelines are in compliance with R.12. The DICJ, DSAJ, AAM and CIEPDSS AML/CFT Guidelines do not include international organisation PEPs. The guidelines for notaries and registrars do not distinguish between domestic and foreign PEPs and both are subject to enhanced CDD. However, PEPs as defined in Section II 3) of the DSAJ Guideline are limited to those public officials entrusted with prominent public functions for “up to one year”, which is not in accordance with FATF standards

221. *Criterion 22.4 [new technologies]* - Under the Macao, China Legal Gaming Framework, all gaming equipment is subject to a governmental authorisation before entering into business. The Electronic Gaming Machine and associated gaming devices are subject to the Systems and Requirements for the Supply of Gaming Machines Regulations (Administrative Regulation 26/2012) and Macao EGM Technical Standards (DICJ Instruction 1/2012) and Macao EGM Technical Standards and Macao Electronic Table Games (ETG) Technical Standard (DICJ Instruction 2/2014). In line with these legal requirements Articles 20.1 and 20.2 of the DICJ AML/CFT Guideline requires all gaming operators should identify and assess the ML/TF risks of new products and technology and of new mechanisms for new and pre-existing products and services used within the casino and other gaming concessions. Gaming operators also need to introduce appropriate measures to manage and mitigate the risks before the launch of these products. Paragraph 3.4 of the DSF AML/CFT Guideline for accountants requires that accountants, auditors and tax consultants should identify and assess the ML and TF risks that may arise in relation to new products, services and delivery channels, and the use of new technologies in existing and new products. All other AML/CFT Guidelines (except the IPIM Guideline paragraph 3.3) do not comply with the new technologies requirements set out in R.15, due to the small size and scale of these sectors.

222. *Criterion 22.5 [third parties]* - There is specific reference to third parties in the DICJ AML/CFT Guideline for the gaming sector and junket promoters are subject to those guidelines including on CDD, record keeping. For accounting professionals, there are third party requirements as outlined in paragraph 5.17 of the DSF AML/CFT Guideline. There are no requirements pertaining to third parties for real estate, precious metals and stones and company service providers. The DSAJ AML/CFT Guideline for notaries and registrars complies with the third parties requirements set out in R.17. There is also no requirement in the IPIM, AAM and CIEPDSS AML/CFT Guideline.

### *Weighting and Conclusion*

223. There are a number of deficiencies, mostly relating to CDD, record keeping, PEPs and third parties.

224. **Recommendation 22 is rated partially compliant.**

### *Recommendation 23 – DNFBPs: Other measures*

225. In its 2007 MER, Macao, China was rated largely compliant with former R.13-15 and 21. Attempted transactions that were suspicious in nature were not explicitly made a requirement for reporting. Elements relating to compliance and paying special attention to business relationships and transactions with persons from or in jurisdictions insufficiently applying the FAFT Recommendations were not included in the Instructions and Guidelines of DNFBPs.

226. *Criterion 23.1 [STR]* - The requirement to report suspicious transactions set out in relation to Recommendation 20 equally applies to DNFBPs under Article 6 and 7 of AML Law,

Article 11 of CFT Law and Article 7 of the AML/CFT Administrative Regulation 7/2006. The law has not specified any thresholds. However, they are not explicit concerning attempted transactions. There are further details on STR reporting in various DNFBP AML/CFT guidelines but attempted transactions are also not explicitly stated in some sector specific guidelines.

227. *Criterion 23.2 [Internal Controls] - (a) Gaming Sector:* complies with the internal controls set out in Recommendation 18 under DICJ AML/CFT Guideline – see Articles 5, 17, 27, 28, 29, and 30. There are no explicit requirements, either in the DICJ AML/CFT Guideline, Law No 16/2001 on Operating Games of Fortune in Casinos (Law on Games of Fortune) or Administrative Regulation 26/2001 on Games of Fortune, for screening employees during the hiring stage, except those in key positions. There are general references to internal and external audit in the Law on Games of Fortune (Articles 30 and 34), and the ability of the most senior official at DICJ or DSF to authorise an external audit (Article 35) but no explicit reference that the AML/CFT system should be subject to independent audit function to test the system. *(b) Accounting Profession:* complies with the internal controls set out in c.18.1 (a) to (d) under paragraph 4.1 -4.4 DSF AML/CFT Guideline. *(c) Notaries and Registrars:* The DSAJ AML/CFT Guideline complies with the internal controls set out in c.18.1 (a) to (d) under sections XII to XIV of the DSAJ AML/CFT Guideline. The other DNFBP's have no guidance covering the requirements relating to internal controls set out in Recommendation 18.

228. *Criterion 23.3 [high risk countries] - (a) Gaming Sector:* Article 6 of the DICJ AML/CFT Guideline stipulates that gaming operators are required to identify high risk activities *inter alia* patrons from higher risk countries and to perform enhanced EDD measures when high risks are identified in patrons, respective representatives or ultimate beneficiaries and for any high risk countries, patrons or transactions (Article 26 of the DICJ AML/CFT Guidelines), or persons or companies from high risk countries called for by FATF. *(b) Accounting Profession:* Paragraphs 5.14 to 5.16 of the DSF AML/CFT Guideline requires accountants to comply with Recommendation 19. *(c) Real Estate, Dealers of Precious Metal and Precious Stone, Company Service Providers:* Article 4.1 of the DSE AML/CFT guidelines require these sectors to comply with some of the requirements set out in Recommendation 19. *(d) Notaries and Registrars:* comply with the requirements of Recommendation 19 as detailed in the DSAJ AML/CFT Guideline. *(e) Lawyers/Solicitors:* The AAM and CIEPDSS AML/CFT Guidelines do not include reference to high risk jurisdictions. *(f) Offshore company service providers:* Section 3.2.3 of the IPIM AML/CFT Guideline complies with this requirement.

229. *Criterion 23.4 [tipping-off] -* Under paragraphs 3 and 4 of Article 7 of the AML Law and Article 11 of the CFT Law tipping-off and confidentiality requirements set out in relation to R.21 equally apply to DNFBPs.

### *Weighting and Conclusion*

230. There are a range of deficiencies among all DNFBPs concerning attempted transactions and internal controls.

231. **Recommendation 23 is rated partially compliant.**

### *Recommendation 24 – Transparency and beneficial ownership of legal persons*

232. In its 2007 MER, Macao, China was rated partially compliant with former R.33 (pages 175-179) because (i) the requirements to obtain beneficial ownership and control information do not apply to company service providers, notaries and lawyers, and (ii) the implementation has not been ascertained.

233. *Criterion 24.1* - Macao, China identifies and describes publicly the different types of legal persons (associations, foundations, civil societies and commercial companies) as seen in the Civil Code (Articles 140 to 189) and the Commercial Code (Articles 174, 331, 348, 356, and 393), the process for their formation and the information required.<sup>16</sup>

234. In Macao, China it is possible to incorporate five types of commercial companies: (i) General Partnerships, (ii) Private Companies, (iii) Public Companies, (iv) Limited Partnerships, and (v) Partnerships limited by shares. Commercial companies are formed under the Commercial Code and must register with the Commercial Registry (under the supervision of the DSAJ). Information is publicly available on demand (Article 69 of the Commercial Registration Code)<sup>17</sup> and publicly available through the online database of the Commercial Registry (Article 118-A, paragraph 1) of the Commercial Registration Code) to government agencies, including LEA and to some reporting entities (e.g. all private notaries and 18 banks).

235. Associations, foundations, civil societies (currently identified by NPOs) must publish the articles of association and its amendments in the Official Gazette to have legal effect and register with DSI. Information is publicly available via the Gazette and through the DSI upon request.

236. Information from the companies (e.g. the Shares Registration Book<sup>18</sup>) is accessible on demand for the competent supervisors (e.g. AMCM/DICJ/IPIM) and the LEA and the judicial authorities. Furthermore, the identity of dominant shareholders must be published, and attached to the company's annual report (Article 472 of the Commercial Code, as amended by Elimination of Bearer Share Law).

237. *Criterion 24.2* - The NRA (pages 441 to 474) analyses the vulnerabilities which can arise from the company service provided by legal and accounting professionals. In addition, in the study of different business sectors including gaming, real estates and car dealers, a study has also been carried out to examine the risks that company vehicles may be used to hide the ultimate beneficial owners when carrying out transactions in such sectors. In all these sectors, data on resident and non-resident legal persons and legal arrangements have been obtained and analysis was carried out on the significance of the volume of business conducted by overseas legal persons, especially when they are legal arrangements or offshore companies established in high risks countries. The NRA analysis does not cover companies that are not in these sectors or shell companies, and it does not establish the level of ML/TF risks for foreign owned legal persons, and foreign legal arrangements that may be operating in the jurisdiction. Nevertheless, Macao, China provided evidence that it considers the ML/TF risks with foreign owned legal persons and legal arrangements operating in its territory. Furthermore, as part of this process and in parallel to it, Macao, China identified the specific risks associated with bearer shares and has legislated to prohibit the issue of bearer shares, as explained above and in c.24.11.

#### *Basic information*

238. *Criterion 24.3* - Macao, China established a Commercial Registry which is responsible for the registration of basic information of all the commercial companies (including the incorporation act and any changes except for the transfer of shares in the case of public

<sup>16</sup> e.g. from:

[http://www.dsaj.gov.mo/iis/ContentFrame\\_pt.aspx?ModuleName=SFT/ServiceList.ascx&DeptCode=CRCBM&Lang=pt](http://www.dsaj.gov.mo/iis/ContentFrame_pt.aspx?ModuleName=SFT/ServiceList.ascx&DeptCode=CRCBM&Lang=pt) and [http://www.dsi.gov.mo/asso\\_p.jsp](http://www.dsi.gov.mo/asso_p.jsp)

<sup>17</sup> According to paragraph 1 of Article 69 of the Commercial Registration Code, anyone can request certificates of any facts subject to registration and the corresponding filed documents, as well as obtain verbal or written information on such facts.

<sup>18</sup> Vide paragraph 1 d) of Article 417 and paragraph 2 of Article 424 of the Commercial Code.

companies/partnerships limited by shares which should be registered in the Shares Registration Book).

239. In order to be fully operational and to perform their activities, Macao, China requires that all the commercial companies created in the jurisdiction are registered in the Commercial Registry which records the information related to the company, including (i) the company name; (ii) the proof of incorporation, (iii) legal form and status, (iv) the address of the registered office, (v) basic regulating powers and (vi) a list of directors.

240. In fact, the Commercial Registry will register the Act of Incorporation including the Articles of Association and any of its amendments (Article 5 of the Commercial Registration Code). The Act of Incorporation must mention the date of its conclusion, the identity of the shareholders and that of their representatives in such act, the declaration of the shareholders' intention to create a company of one of the types recognised by the law, the capital subscribed by each shareholder, the Articles of Association that shall regulate the functioning of the company, and the appointment of the administrators and, if they exist, the auditor or the members of the audit committee, and the company secretary (paragraph 1 of Article 179 of the Commercial Code. Furthermore, the registration of a company should include specifically: a) the firm of the company; b) the head office, company object and capital; c) the name and address of the shareholders; d) the name and address of the board of directors and of the company secretary (Article 62 of the Commercial Registration Code). This information is publicly available to anyone on demand (Article 69 of the Commercial Registration Code).

241. Companies have also books to record basic information about the company, as in the case of the Shares Registration Book (that must be kept at the registered office of the company or in any other location within the Territory, provided that this location has been communicated for this purpose to the register, by a declaration signed by the secretary, if he exists, or by the administration of the company – paragraph 3 of Article 252 of the Commercial Code) from which is possible to ascertain the ownership of public companies (Article 393 of Commercial Code) and partnerships limited by shares (Article 348 of Commercial Code) which must be available to any competent authorities under demand. Furthermore, the identity of dominant shareholders must be published, and attached to the company's annual report (Article 472 of the Commercial Code, as amended by Elimination of Bearer Share Law).

242. Concerning other commercial companies (general partnerships, private companies and limited partnerships) the identification of shareholders is an element of the incorporation act (Paragraph 3 b) of Article 179 of Commercial Code), which is subject to mandatory commercial registration (paragraph a) of Article 5 of the Commercial Registration Code DL 56/99 M), making the identification of the legal ownership publicly available. The transfer of the company capital is also subject to commercial registration (Article 62 and 366 of the Commercial Code<sup>19</sup>).

243. Regarding NPOs, the registered details cover the Articles of Association which state the objectives of their stated activities and the identification of management board. The Articles of Association and any subsequent changes need to be published in government Official Gazette to have legal effect and registered in the DSI. Information is publicly available via the Gazette and through the DSI upon request.

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<sup>19</sup> Article 366 of the Commercial Code: "1. The *inter vivos* transfer of a share shall be made in writing, with certification by a notary of the signature of the contracting parties, except if there is a legal provision stating otherwise, and is subject to registration. 2. A copy of the document mentioned in the previous paragraph shall be filed with a notary. 3. The transfer of a share has no effect in relation to the company until it has been communicated to it in writing."

244. *Criterion 24.4* -. According to the Commercial Registration Code (Article 5 a) and Article 62) the list of company's shareholders and board members, the number of shares held by each shareholder and the categories of shares should be recorded in the registration. According to Article 380, paragraph 1 of the Commercial Code, each MOP100 (US\$12.50) of capital corresponds to one vote for a private company, and according to Article 452 each MOP10,000 (US\$1,250) of capital corresponds to at least one vote for a public company. Amongst other requirements, companies must have a book for the registration of shares issued by the company and that book must be kept at the head office of the company or any other place in Macao, China as long as the shareholders are aware of its location. These companies' books must be permanently updated and they are available at any time to any competent authorities (Articles 252 and 417 of the Commercial Code).

245. *Criterion 24.5* - The notaries are always involved in the establishment and to validate any changes of legal persons as registration requires some specific documents (such as the Act of incorporation) and they are required to undertake full CDD under the DSAJ AML/CFT Guideline. The Act of Incorporation, including the Articles of Association and its amendments must be registered (Article 5, a) and Article 14 of Commercial Registration Code) within a maximum timeframe of 15 days from the date on which those facts have occurred. If there is no registration of the change with the Commercial Registry, then the act is not valid. The DSAJ undertakes off-site supervision (checking the Commercial Registration Code for violations) and has a programme of on-site inspection of notaries which are also subject to a screening system online.

246. For the books of companies (including the Shares Registration Book), the administrators, the company secretary (if there is one) and the company are responsible for ensuring their accuracy, and for updating them immediately when changes take place ( Article 192 and 327 of the Commercial Code).

247. The MP shall request, without the need for a prior declarative procedure, the judicial liquidation of companies that: (a) not being registered, exercise activity for more than three months; (b) are not incorporated or do not function in accordance with the law; or (c) have an object which is unlawful or contrary to public order (Article 329 Commercial Code).

#### *Beneficial Ownership Information*

248. *Criterion 24.6* - Macao, China uses a combination of mechanisms to obtain beneficial ownership information, as detailed below:

- **Commercial Registry (CR):** The information on the beneficial ownership of general partnerships, private companies and limited partnerships can be obtained through certificates issued or through information provided by the Commercial Registry (Article 69 Commercial Registration Code) and via the online CR system, to the extent that the CR holds beneficial ownership information. This may not be the case with companies owned by foreign legal persons.
- **Companies:** As for public companies and partnerships limited by shares, since there will only be registered shares in Macao, China, the information on the beneficial ownership of such companies can be identified through the book for registration of shares (paragraph 1 of Article 417 of the Commercial Code), including the name and address of the shareholder. The identity of dominant shareholders must be made public with the annual report of the company according to Article 472 of the Commercial Code.

- **FIs and DNFBNs:** Information on beneficial ownership can also be obtained from reporting institutions subject to AML/CFT Guidelines as discussed under R.10. For the financial sector, sections 6.1 and 6.2 of the AMCM AML/CFT Guideline require FIs to establish systematic procedures to identify and verify the identity of beneficial owners before or during the course of establishing business relationships or conducting transactions for occasional customers, and to carry out regular review of existing records to ensure the records remain up-to-date and relevant.
  - Similar guidelines exist for DNFBNs as noted under R.22, most notably for the gaming sector, notaries accountants/auditors and offshore company service providers, but to a lesser extent other DNFBN sectors. Company formation providers, primarily notaries and registrars, are required under Section VI and VII of the DSAJ AML/CFT Guideline to apply comprehensive CDD measures, including taking reasonable measures to identify beneficial ownership, in the establishment or incorporation of legal persons (the threshold issue identified for real estate transactions in c.22.1 does not apply to company formation). As noted in c.24.2, this is challenging when the legal person is foreign owned. Notaries have an ongoing relationship with companies as they provide services in updating the CRC on changes (to be registered within a maximum timeframe of 15 days), as noted above (Article 14 of the Commercial Registration Code) and they are responsible for entering such information correctly into the CR.
- **Supervisors and tax authorities:** Information on beneficial ownership can also be obtained from AMCM (in the case of FIs and Insurance companies<sup>20</sup>), DICJ (gaming sector<sup>21</sup>), IPIM (offshore sector), DSI (NPOs) and DSF (tax authorities).

249. *Criterion 24.7* - The conclusions against c.24.5 on ensuring accurate and updated basic information are also applicable to beneficial ownership information. There is a general requirement in the AML/CFT Administrative Regulation no. 7/2006 (paragraph 2 of Article 3) for reporting entities under AML/CFT Law to ensure that the documents, data and information they hold on customers are kept up to date.

250. Notaries and registrars are required under the DSAJ AML/CFT Guideline (vide Section V and VI) to undertake CDD when, for instance, there is transfer against payments, total or partial, of commercial enterprises as well as shares or participation when, as a result of the transfer, a shareholder will take up more than 80 per cent of the share capital of commercial entrepreneurs, legal persons, which assets include immovable properties and legal acts or transactions related to the capital increase, mergers or demergers. The DSAJ undertakes off-site supervision of notaries' compliance, and has an on-site inspection programme and a screening system online.

251. Companies are required to ensure that the information they hold is accurate and up-to-date otherwise they will be liable for damage caused (Article 327 of the Commercial Code).

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<sup>20</sup> IFs and Insurance companies are subject to special registration with AMCM without which they shall not commence business. Among the items to be recorded for registration are the identity of the qualified shareholders and their respective holdings in the share capital and any agreement among shareholders concerning the exercise of voting rights (Article 36 FSA and Article 22 DLno.27/97/M).

<sup>21</sup> All concessionaire/sub-concessionaire of casinos must be a limited company incorporated in Macao SAR and all the shares of the company should be nominative shares, and the transfers of shares are subject to prior approval of the Macao SAR Government (Articles 7 and 17 Law no. 16/2001). Regarding junket promoters only individuals can be shareholders (no complex structures allowed) according to paragraph 1 of Article 4 of the Administrative Regulation no. 6/2002 as amended by Administrative Regulation no. 27/2009.

252. The AMCM (as indicated in IOs 3 and 4) has applied thematic focus and corrective actions to ensure compliance by FIs on undertaking CDD, including on beneficial ownership requirements. Moreover, all authorised FIs have to publish annually in the Official Gazette and two local newspapers a set of information related to the previous year in which is included, the accounts, the activities report, the audit commission report a list of qualified shareholders and the name of their governing bodies (Article 75 of the FSA). For FIs as discussed under R.10, the AMCM AML/CFT Guideline requires CDD information to be updated based on risk and materiality.

253. *Criterion 24.8* - Macao, China has in place mechanisms to ensure that companies cooperate with competent authorities, for instance: (i) a company's administration shall manage and represent it before the competent authorities to provide information (including basic and beneficial ownership, the latter if available) regarding the company (paragraphs 1 and 3 of Article 235 of the Commercial Code); (ii) for those companies which exercise permanent activity in Macao, China but without having their registered office or main administration in Macao, China, they must designate a representative with residence in Macao, China that has to be empowered to receive any communication, citation or notification addressed to the company (Article 178 of the Commercial Code). Legal persons formed under the Civil Code (associations, foundations and civil societies) also have representatives which must provide information to competent authorities (Article 145 of the Civil Code).

254. *Criterion 24.9* - Without prejudice to special provisions, a commercial entrepreneur (including companies) shall keep the books, correspondence, documentation and other items recording the exercise of his enterprise, duly ordered, for 5 years from the last entry made in the books and the termination of the exercise of the enterprise by the entrepreneur does not relieve him of this duty and, if he has died, such duty shall fall upon his heirs; in the case of dissolution of a company, it is for the liquidators to fulfil those obligations (paragraph 1 and 2 of Article 49 of the Commercial Code). Moreover, a company in liquidation shall keep the books and documentation of the company for five years (Article 322 of the Commercial Code). Under the AMCM AML/CFT Guidelines, there is a requirement to maintain records five years after the end of the business relationship (refer R.11).

255. Furthermore, the Commercial Registry is required to store and keep permanently, registration contents, documents filed in accordance with law and documents on which the registration is based (Article 1 of the Commercial Registration Code).

256. In addition, there are record keeping requirements in (i) Section VIII of the DSAJ AML/CFT Guideline which are applicable to notaries and registrars of the Commercial Registry, that states the records referred to in Section VI shall be kept for at least five years; and (ii) Article 6(1) of Administrative Regulation 7/2006 also establishes the five years record-keeping rule.

257. *Criterion 24.10* - The competent authorities have the powers to timely access the information on companies and companies' shares which are subject to commercial registration because the commercial registry is public (Article 1 of the Commercial Registration Code). Law enforcement authorities have direct online access to all information contained in the commercial registry and original documents can be obtained upon request. Furthermore, the competent authorities can access DSI registration details of the remaining legal persons, namely the civil societies, associations and foundations.

258. Competent authorities, and in particular law enforcement authorities, have the powers necessary to obtain timely access to the basic and beneficial ownership information held by the relevant parties. According to Articles 167 (Professional Secrecy and Secrecy Related to the Territory) of the Criminal Procedure Code and Articles 9 (the Right of Access to Information) of

the Organic Law of the PJ, Law no. 5/2006, the PJ has the power to ask for the production of records held by FIs, DNFBPs and other natural or legal persons. GIF can also request information from any public or private entities for AML/CFT analysis under paragraph 2 of Article 8 of Law no. 2/2006 and paragraph 5 of Chief Executive Ruling no. 227/2006. Information can also be obtained from the companies themselves, namely from the Book for registration of shares (paragraph 1(i)) of Article 417 of the Commercial Code.

259. *Criterion 24.11* - The third revision of the Commercial Code executed by Law no. 4/2015 extinguished bearer shares (and bearer share warrants) from the Macao, China commercial legal framework (Article 11). Only nominative shares are now accepted. In order to implement tax transparency and to prevent the crime of ML, Macao, China prohibited the issue of bearer shares since July 1, 2015 (Paragraph 1 of Article 2 of the Law no. 4/2015). Holders of bearer shares, or their successors, were required to request the issuing company to convert their bearer shares into registered shares within one year (paragraph 1 of Article 4). Companies were able to convert the shares by replacing the existing shares or amending the text (paragraph 3 of Article 4).

260. *Criterion 24.12* - The legislation of Macao, China does not recognise the figures of nominee shares and nominee directors. Any person acting on behalf of a shareholder or director will have to do it through the normal figure of representation which requires the issuing of specific powers of attorney by the represented person to their nominee through a notary. This specific power of attorney always identifies both parties involved in the representation procedure (Article 68 and 128 of the Notary Code and DSAJ's Instructions on AML/CFT).

261. *Criterion 24.13* - For legal persons<sup>22</sup> (e.g., the owners and directors of legal persons) there are proportionate and dissuasive sanctions available. The failure to include the required information will invalidate the registration of a given act, such as the transfer of shares to a new owner or will not be effective to third parties (Article 9 of the Commercial Registration Code) and there are criminal sanctions in the Commercial Code for whoever provides to other persons in an untruthful manner information on matters of the activity of the company (Article 482) or obstructs or hinders, or leads another person to obstruct or hinder, acts necessary to the supervision of the activity of the company (Article 484). Moreover, the MP shall request, without the need for a prior declarative procedure, the judicial liquidation of companies not being registered and with activity for more than three months or which are not incorporated or do not function in accordance with the law (Article 329 and 187). Additionally, there is civil liability (Article 192<sup>23</sup> and 327 of the Commercial Code) for the company and for the administrators and the company secretary, if there is one, for damage caused to shareholders or third parties by any discrepancy between the content of acts practiced, the content of registration and the content of publications.

262. Furthermore, if a person makes a false declaration, he will be subject to criminal liabilities, as provided for in the Criminal Code (Articles 244 and 245). Moreover, the disrespect of a legitimate order issued by a competent LEA or a court may lead the author to incur in the commission of the offence of aggravated disobedience foreseen in the Penal Code which carries a maximum prison sentence of 2 years' imprisonment or a fine of 240 days. Under article 122,

<sup>22</sup> Article 12 of the Commercial Code refers that: "A commercial entrepreneur is especially obliged to: a) adopt a firm; b) have commercial bookkeeping; c) **provide for the entry in the commercial register of acts subject to registration**; d) render accounts."

<sup>23</sup> Article 192 of the Commercial Code refers that: "The **administrators and the company secretary**, as well as the **lawyer** who issue the statement according to which, having examined the whole process of incorporation, they verify the absence of any irregularity in it, **are jointly and severally liable towards the company** for its falsehood, inaccuracy or deficiency, without prejudice to any criminal liability that may arise."

no. 2, k) of the FSA there are sanctions applicable to natural/legal persons who refuse to provide information to AMCM.

263. For reporting entities under the AML/CFT Law, non-compliance with the requirements to obtain the basic and beneficial ownership information from customers who are legal persons, as stipulated in the guidelines of AMCM, DICJ, IPIM and DSAJ's Instructions on AML/CFT (Section XV), are subject to sanction measures under Articles 9 to 11 of AML/CFT Administrative Regulation 7/2006. These are discussed under R.35.

264. *Criterion 24.14* - The conclusions on R.37 (MLA) and R.40 are applicable here. There is no prohibition for the Commercial Registry and other competent authorities to share both basic and beneficial ownership information with foreign counterparts. Most competent authorities have online access to the CR and therefore can respond rapidly to any foreign request. For additional information not contained in the CR, information can be requested and shared through MLA and other mechanisms such as Interpol and GIF's international cooperation instruments.

265. *Criterion 24.15* - Authorities provided information, including statistics on international cooperation in beneficial ownership information. For example, Macao, China PJ's in-house department Interpol Macao Sub-Bureau of the China National Central Bureau of Interpol, processes data exchange requests with overseas counterparts through "a secure global police network" and monitors the quality of assistance received from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

### *Weighting and Conclusion*

266. Macao, China meets most of the criteria, except for risk assessment of legal persons and arrangements, beneficial ownership and mechanisms for accurate and timely updating of company registration, all of which are mostly met.

267. **Recommendation 24 is rated largely compliant**

### ***Recommendation 25 - Transparency and beneficial ownership of legal arrangements***

268. In its 2007 MER, Macao, China was rated largely compliant with former R.34 (pages 180-181) and two factors were underlined (i) the guidelines for FIs would cover most foreign legal arrangements using Macao, China, however, not all legal arrangements were necessarily covered, and (ii) the other guidelines, including the TSP/CSP Instructions, did not cover the beneficial ownership and control of legal arrangements.

269. *Criterion 25.1* - Under the present legal regime, express trusts and similar legal arrangements may not be set up under the laws of Macao, China. However, under the Law on Macao Offshore Activity, Decree-Law no. 58/99/M (Article 30 onwards), trust management companies may be established as offshore businesses and must be incorporated and registered according to the law of Macao, China (Paragraph 1, Article 5 and Article 33) as explained in c.24.1. The offshore trust management institutions must be authorised and be registered with the AMCM (Article 31). Under Articles 46 to 48 in the Law on Macao Offshore Activity, trust management companies are required to obtain and hold (as part of the trust deed) information on the identity of the settlor, trustee(s), the protector, and the beneficiaries or class of beneficiaries. Since the enactment of Decree-Law no. 58/99/M no trust management company has ever been registered either with AMCM or with the Commercial Registry.

270. There are general beneficial ownership and record keeping requirements in the DSAJ AML/CFT Guideline (Section VI and VIII). There are also legal provisions which impose identification obligations and the duty of record keeping on providers of services, in preparing or performing operations for a customer acting as a trustee or otherwise providing services for a third party to act as trustee (Articles 6 and 7 of the AML Law, Article 11 of the CFT Law and Articles 3 and 6 of the AML/CFT Administrative Regulation 7/2006).

271. *Criterion 25.2* - There is a general requirement in the AML/CFT Administrative Regulation no. 7/2006 (paragraph 2 of Article 3) for reporting entities under AML/CFT Law to ensure that the documents, data and information they hold on customers (including when they act as a trustee) are kept up to date.

272. According to the Law on Macao Offshore Activity, Decree-Law no. 58/99/M, the deed of constitution, modification or termination of an offshore trust shall be subject to commercial registration (Articles 50 to 57). According to Article 52 all acts relative to the constitution, modification or extinction of an offshore trust which lasts longer than a year are subject to registration in the Commercial Registry. The registration must occur within six months of the constitution of the offshore trust or within three months of its modification or extinction (Article 54). Furthermore, and as noted, the DSAJ AML/CFT Guideline also imposes ongoing CDD requirements.

273. *Criterion 25.3* - Macao, China took measures to ensure that trustees disclose their status to FIs and DNFBPs but only under limited circumstances such as suspicion of ML/TF and not a general requirement of disclosure. The AML Law [Article 6, 6), (4)] refers that providers of services, in preparing or performing operations for a customer when acting as a trustee are under the obligation of complying with the duties provided for in Article 7 of the same law.

274. In relation to customers that are legal arrangements, paragraph 9.1 (Trusts) of the AMCM AML/CFT Guideline provides that institutions should establish whether or not the customers are acting on behalf of other persons as trustees and they should identify, verify and record details of the nature of the trust, including: a) name of the trust; b) date of establishment/settlement; c) jurisdiction whose laws govern the arrangement as set out in the trust instrument; d) identification number, if any, granted by any competent authorities; and e) identity of the trustee(s), settlor(s), beneficiaries and any other persons involved in the structuring of the arrangement (e.g. a protector).

275. For insurance institutions, according to the insurance guidelines, paragraph 69, where the customer is a trust, the insurance institution should verify the identity of the trustees, any other person exercising effective control over the trust property, the settlers and the beneficiaries. Verification of the beneficiaries should be carried out prior to any payments being made to them.

276. *Criterion 25.4* - In principle, there are no provisions in law or regulation which would prevent the disclosure of information regarding a legal arrangement to competent authorities or from providing FIs and DNFBPs, upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

277. However, there is a special case with the information on beneficial ownership for the offshore trusts managed through trust management companies under Decree-Law no. 58/99/M. According to Decree-Law no. 58/99/M, the names of the settlor and beneficiaries of the offshore trust must be kept secret and can only be disclosed as a result of a court decision (Article 59) except for competent authorities (such as GIF) who mentioned to the assessment team that they can access this information directly without a court order. Nevertheless, even if it is necessary to have a court order, due to the small size of Macao, China it is very easy for LEA to have access,

through the MP, in no more than 24 hours, to the necessary warrants<sup>24</sup> (vide paragraphs 3 and 4 of Article 159 and Article 250 and 251 of the Criminal Procedure Code). Since the enactment of Decree-Law no. 58/99/M no offshore trust has ever been registered either with AMCM or with the Commercial Registry.

278. Foreign settled trusts that are customers of FIs do not benefit from this secrecy provision from Decree Law no. 58/99/M and will have to disclose the required information through EDD to the FIs and this information will be always easily accessible both to LEAs and judicial authorities and to other competent authorities through the supervisory powers of AMCM.

279. *Criterion 25.5* - The conclusions on R.27 and 31 are applicable here. Article 167 of the Criminal Procedure Code, and Articles 8 and 9 of Law no. 5/2006 (the Judiciary Police) empower the PJ to ask for the production of records held by any government agencies and entities in Macao, China including FIs, DNFBPs and other natural or legal persons. In addition, competent authorities including LEAs can apply Article 8 of AML/CFT Administrative Regulation 7/2006 to require persons to provide them with information on the beneficial ownership and control of trusts and other legal arrangements. Under Article 80 of FSA, and Articles 122 and 251 of the Criminal Procedure Code, LEAs can access bank account information without prior notice to the owner only under court order obtained in a maximum term period of 24 hours (vide Article 166 and Article 250 and 251 of the Criminal Procedure Code). In the financial sector "Institutions subject to supervision shall submit to AMCM at such time and in such manner as the latter may prescribe, all accounting, statistical and other relevant information as AMCM may deem necessary for the proper discharge of its functions stipulated by law" (Article 7 of the FSA). According to paragraph 105 of insurance guidelines, the Penal Code and the Criminal Procedure Code entitle PJ and the Court to examine all relevant transactions.

280. *Criterion 25.6* - The conclusions on R.37 and R.40 are applicable here. According to Article 94 of the Basic Law and the relevant provisions of the CFT Law and MLA Law, Macao, China can carry out legal cooperation in criminal matters with other countries or regions, therefore, the authorities of other countries or regions can obtain the basic and beneficial ownership information of the offshore trust management companies registered in Macao, China through the relevant departments. The judicial authority, LEAs, FIU and AMCM agencies have established cooperation mechanisms with counterparts for the purpose of getting beneficial ownership information through MLA, Interpol, MOUs or cooperation agreements.

281. *Criterion 25.7* - The sanctions for trustees not meeting their obligations on identification, verification and record keeping of beneficial ownership information are contained in various enforceable instruments. Article 3 of the AML/CFT Administrative Regulation requires all entities (FIs and DNFBPs) including trustees referred to in Article 6 of the AML Law (equivalent Article 11 in CFT Law) to identify beneficial ownership of legal arrangements and maintain records. Any breaches of the requirements are subject to penalty measures of fines ranging from MOP10,000 up to MOP5,000,000 (US\$1,250 to US\$625,000), depending on whether the offender is a natural or legal person (Articles 9 to 11 AML/CFT Administrative Regulation 7/2006). For institutions subject to licensing and supervision by the AMCM, there are sanctions under the FSA and in the AMCM AML/CFT Guidelines. Similar sanctions exist in the DSAJ and DSF AML/CFT guidelines for notaries and accountants acting as

<sup>24</sup> In some cases, where there is reason to believe that the delay may represent serious danger to legal interests of great value, **searches can be made by the criminal police agency without a court order** but the accomplishment of the diligence shall be immediately communicated to the judge of preparatory hearing who evaluates for its validation, otherwise the diligence shall be null (Article 159 of the Criminal Procedure Code).

trustees. Furthermore, according to Decree-Law no. 58/99/M, the failure to comply with the duty to register the deed of an offshore trust and the deadlines established in Article 54 shall be sanctioned with a fine ranging from MOP1,000 to MOP5,000 (US\$125 to US\$625).

282. *Criterion 25.8* - The sanctions contained in the FSA and AML/CFT Administrative Regulation 7/2006 (refer R.35) may be imposed in cases where timely access to information by competent authorities is denied. Moreover, the failure to comply with legitimate orders from competent authorities may make the individual not complying with those orders liable to a criminal offence of aggravated disobedience.

### *Weighting and Conclusion*

283. Under the present legal regime, express trusts and similar legal arrangements may not be formed under the laws of Macao, China. The special legal regime on trust management companies regulated by the Law on Macao Offshore Activity, Decree-Law no. 58/99/M (Article 30 onwards), is limited to offshore business. Since the enactment of Decree-Law no. 58/99/M there has been no trust management company and no trust formed under this law.

284. **Recommendation 25 is rated largely compliant.**

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

285. In its 2007 MER, Macao, China was rated largely compliant with former R.23 (pages 122 – 134). The on-site inspection program of the insurance sector had not yet commenced.

286. *Criterion 26.1* - The AMCM is the overall competent supervisory authority for the financial sector, which is comprised of banking, insurance and other FIs. It exercises its supervision through the AMCM-Banking Supervision Department (DSB) and AMCM-Insurance Supervision Department (DSG). The DSB is responsible for the supervision of the banking and other financial sectors, while DSG oversees the insurance industry. The other financial sectors include money changers, exchange counters, cash remittance companies, financial intermediaries, a finance company, a financial leasing company and stored value card issuers. Under paragraph 2 of Article 2 of AML/CFT Administrative Regulation, the AMCM is to issue AML/CFT guidelines to FIs for observance.

287. *Criterion 26.2* - All FIs including insurance providers in Macao, China, are required to obtain a licence and are subject to registration before commencing business and providing financial services as required under Articles 2, 17, 18 and 118 of the FSA.

288. The rules around licensing and the carrying on of insurance business in Macao, China are laid down in Chapter III “conditions of access to insurance activity” of the Macao Insurance Ordinance 27/07/M (Insurance Ordinance). Under the Insurance Ordinance insurers need to be licensed under any one of three categories: locally incorporated company, branch with head office overseas, or representative’s office, and for carrying on either life insurance or non-life insurance business. In terms of insurance intermediaries, there are four main categories. All are subject to legislative requirements established by the Insurance Agents and Brokers Ordinance Degree Law No. 38/89/M (Insurance Agents and Brokers Ordinance).

289. Article 2 of the Law on Money Changers, Degree Law no. 38/97/M (Law on Money Changers), stipulates that money changers need to be licensed by the Chief Executive. Article 6 of the Cash Remittance Companies law DL15/97/M also requires authorisation for a licence from the Chief Executive in the form of an Executive order to set up a cash remittance company.

290. Article 2 of the Law on Finance Companies, Degree Law no. 15/83/M (Law on Finance Companies) regulates that authorisation from the Chief Executive is required to establish a finance company.

291. There are some provisions in Article 22 of the FSA and criterion in the AMCM Guidance for Licensing Application to preclude the establishment of a shell bank in Macao, China. Article 47 of the FSA requires that the board of directors of credit institutions shall have a minimum of three persons, all of recognised suitability, and at least two of whom shall be resident in Macao, China, sufficiently able and experienced to carry out their duties and with full powers to effectively direct the business of the institution.

292. *Criterion 26.3* - Under the FSA, shareholders and management members of any FIs are subject to prior fit and proper checks. For credit institutions as defined in the FSA, Article 40 of the FSA states that any direct or indirect qualifying holding (10 per cent or more of the share capital or voting rights) of a credit institution requires prior approval from AMCM. Under Article 49 of FSA, board members and persons with management mandate are subject to fit and proper assessment and special registration with the AMCM before performing their duties. Article 41 of the FSA outlines the assessment of suitability for a shareholder, while Article 48 of the FSA outlines the assessment of suitability of management including director and key management members which require the assessment of the legitimacy of the source of the funds to be applied in acquiring the holding, and the true identity of the owner of the funds, and fit and proper tests on whether any member of the management board has been declared bankrupt or insolvent or indicted for fraud, robbery, theft, embezzlement, bribery, extortion, abuse of confidence, usury, corruption, issuing cheques without cover or unauthorised receipt of deposits and other repayable funds (amongst others).

293. Article 20 of the Macao Insurance Ordinance stipulates the conditions and criteria for the granting of authorisation of insurance company, including the qualification requirement of senior management. Article 14 of the Agents and Brokers Ordinance, in relation to the authorisation of insurance intermediaries, requires details of all partners, directors or managers of the corporate entity to be provided. Record of no criminal conviction should also be submitted for the personal representative.

294. For financial intermediaries and other FIs, as defined in the FSA, the provisions for credit institutions are also applicable.

295. *Criterion 26.4* - AMCM adopts the Basel Core Principles in the supervision of all core principles institutions (and other FIs including MVTS and money changers). According to paragraph 3 of Article 9 of the FSA, the AMCM shall adopt practices to permit and facilitate supervision on a consolidated basis by the competent authority of the home jurisdiction incorporated overseas which have branches or subsidiaries in Macao, China, and may, for this purpose, enter into agreements with the relevant authorities.

296. *Criterion 26.5* - The AMCM supervises authorised institutions by means of off-site surveillance, on-site examination, thematic reviews and cross-border supervisory cooperation. A risk-based approach has been adopted with the aim of achieving an effective supervisory model. The AMCM has introduced tools and processes to enable it to define the institution's ML/TF risk profile and to identify AML/CFT supervision priorities, individually for each institution or sector groups. These are documented in the AMCM's risk-based supervision manuals for both the DSB and DSG. These tools and processes consider the institution's or financial sector's policies and the internal control and procedures associated with the FI or the financial sector, including risk management systems and controls, and oversight from senior management.

297. The AMCM also requires FIs (credit institutions, other FIs and insurance) to submit their risk assessments to AMCM every year, and requires banks to submit an annual AML/CFT Sector Questionnaire to assist with identifying high-risk areas for each bank and the banking sector. For the insurance sector AMCM uses a risk-based approach to determine the frequency and intensity of on-site and off-site AML/CFT supervision based on the criterion in R.5 (a) to (c).

298. *Criterion 26.6* - The AMCM's supervisory manuals provide for reviews of ML/TF risk profiles of FIs through its ongoing supervision (including follow-up to on-site visits) or when major events occur and have an impact on the institutions.

### *Weighting and Conclusion*

299. **Recommendation 26 is rated compliant.**

### *Recommendation 27 – Powers of supervisors*

300. *Criterion 27.1* - The AMCM has a broad range of powers under Articles 6 and 8 of the FSA and Articles 6 and 10 of the AMCM Law to supervise and monitor compliance of FIs in Macao, China with AML/CFT requirements. This includes powers to issue notices and circulars, carry out on-site inspections of authorised institutions to ensure that institutions have effectively implemented rules and regulations, to examine records and to inspect any other entity whenever there are reasonable grounds to believe it is involved in unauthorised financial activity. Under paragraph 2 of Article 2 of the AML/CFT Administrative Regulation 7/2006, the AMCM is to issue AML/CFT guidelines to FIs.

301. The AMCM's powers to supervise insurance institutions are also stipulated in Article 10 of the Macao Insurance Ordinance. Major powers include: issuing notices, authorising insurance policies and alterations, cancelling authorisation to carry on insurance business or a particular class of insurance, carrying out inspections of both licensed and suspected unauthorised insurance activities; and conducting infringement proceedings for entities/individuals violating the Macao Insurance Ordinance.

302. *Criterion 27.2* - Article 10 of the AMCM Law and Article 8 of the FSA empower the AMCM to carry out on-site inspections on FIs (including insurance) in Macao, China. As per Article 12 of the Macao Insurance Ordinance, AMCM may carry out inspections at the insurer's premises and examine documents.

303. *Criterion 27.3* - Under paragraph 1 of Article 10 of the AMCM Law, inspection staff of AMCM can examine at any time, with or without prior notice, relevant documents either of authorised FIs or of any other persons and entities with signs of engaging in illegal financial activities. Under Article 7 of the FSA, FIs subject to supervision shall submit to AMCM at such time and in such manner as prescribed by AMCM, all documents and information AMCM may deem necessary for the discharge of its functions stipulated by law. Article 8 of the AML/CFT Administrative Regulation 7/2006 places a duty to co-operate on all institutions. In addition, Article 12 of the Macao Insurance Ordinance outlines those insurers are required to provide information to AMCM. The AMCM may request any information and document deemed necessary for a complete execution of its functions. Under Article 13 of the Macao Insurance Ordinance AMCM may examine the information with or without prior notice. These powers to compel production of information or to obtain access to information for supervisory purposes do not require a court order.

304. *Criterion 27.4* - The AMCM is empowered under various instruments to impose sanctions (see R.35) for non-compliance. Under Article 131 of the FSA, the AMCM is empowered for preparing and initiating proceedings, including publication in the Official Gazette, arising

from any offences provided under the Act including in relation to circulars or notices issued (Article 122). The AMCM under Articles 42-46 of the FSA can also suspend voting rights of shareholders, prohibit the holding of board, directorship or management duties, and publish sanctions. The AMCM can issue warnings, and under paragraph 1 f) of Article 35 of the FSA revoke licences. Under Article 10 of the AML/CFT Regulation, the AMCM is able to impose penalties for administrative infractions under Article 9 of the same Regulation. In addition, for insurance, the AMCM under Article 10 (2) (g) and Article 134 is authorised to commence and conduct infringement proceedings referred to in the Macao Insurance Ordinance. Further clarification is provided in Article 133 on the authority for the imposition of penalties.

### *Weighting and Conclusion*

305. **Recommendation 27 is rated compliant.**

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

306. In its 2007 MER, Macao, China was rated partially compliant with former R.24 (pages 163 – 173). No comprehensive risk assessment had been undertaken to understand the scope of ML/TF vulnerabilities in the DNFBP sector. DNFBP monitoring had not yet commenced and there were issues with staffing and training of DNFBPs.

307. *Criterion 28.1* - Article 7 of the Legal Framework for Operating Games of Fortune in Casinos, Law no 16/2001 (Law on Gaming), establishes the legal framework for casinos to operate in Macao, China. Under the Law on Gaming, Macao, China granted the operations of casinos on a concession basis. The concession is a temporary administrative contract between the Government and a private company. The concession of casino games of fortune is selected through public tender in accordance with Article 8 of the Law on Gaming. The suitability assessment procedures for casinos and concessions are set out respectively in Article 14 of the Law on Gaming and in Article 8 of the Regulation Governing the Conditions for the Public Tender to Concession for the Operation of Games of Fortune in Casinos 26/2001 (Regulation on Concessions).

308. The Annexes to the Regulation on Concessions contain a comprehensive fit-and-proper questionnaire and declaration for granting of the concessions, as well as requirements to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino in Macao, China.

309. Under paragraph 2 of Article 6 of AML Law, subparagraph 1 1) of Article 2 of the AML/CFT Administrative Regulations 7/2006 and item 3) of Article 4 of the DICJ Administrative Regulation 34/2003 (DICJ Inspection Regulation), the DICJ is the competent authority to supervise compliance of the AML/CFT laws and regulations over the gaming concessionaires and junket promoters.

310. *Criterion 28.2* - According to paragraph 1 of Article 2 of the AML/CFT Administrative Regulation 7/2006, the following authorities have been designated as AML/CFT supervisors:

- i. The DICJ and IPIM, in relation to the entities subject to their respective supervision, respectively gaming and offshore company service providers;
- ii. The DSF, in relation to auditors, accountants and tax advisers;
- iii. The AAM, in relation to lawyers;
- iv. The DSE, in relation to other entities;

- v. The CIEPDSS, in relation to solicitors.
- vi. The DSAJ, in relation to notaries-public and registers;

311. There is also the Committee for the Registry of Auditors and Accountants (CRAC). Under Chief Executive Order 2/2005, the CRAC has been officially designated to supervise auditors and accounts for AML/CFT, although being the designated authority to determine entry to the two professions under Article 2 of the Statute of Auditors, Decree-Law no. 71/99/M, and Article 2 of the Statute of Accountants, Decree-Law no. 72/99/M.

312. The supervisory powers of these government agencies and SRO are defined in their respective Statutes.

313. *Criterion 28.3* - According to Article 6 of the AML Law, other categories of DNFBPs including pawnshops and car dealers also have obligations to comply with the duties in Article 7 of the AML Law, namely the duties of identification, refusal to perform suspicious transactions, record keeping, reporting of suspicious transactions and collaborating with the competent authorities in the prevention and suppression of ML. Article 11 of the CFT Law adopts the same provisions of Articles 6, 7 and 8 of the AML Law for the preventive measures against TF. These DNFBPs are subject to the same monitoring and supervision on compliance with AML/CFT requirements by DSE as defined in Article 2 of AML/CFT Administrative Regulation 7/2006.

314. *Criterion 28.4* - As outlined in c.28.2, subparagraph 1 of paragraph 1 of Article 2 and 8 of the AML/CFT Administrative Regulation 7/2006 empowers the DICJ, IPIM, DSF, AAM, DSE, CIEPDSS, and DSAJ to supervise the entities under their supervision. In addition, CRAC under its enabling legislation as a sectorial supervisor has the powers to perform functions as stated in this criterion.

315. In terms of measures to prevent criminals or their associates from being professionally accredited or holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in such entities, the majority of DNFBPs are subject to such requirements. There is a lack of special licensing requirement for the purpose of preventing criminals from taking up controlling interest or important positions in precious item dealer entities (jewel/watch shops, pawn shops car dealers). There are also fit and proper tests as envisaged under this criterion for IPIM supervised institutions e.g. offshore company service providers. Decree Law no. 58/99/M on the offshore sector does not explicitly contain measures to prevent criminals or their associates from being accredited, or being the beneficial owners of a significant, controlling interest or holding a management function.

316. For other DNFBPs, there are fit and proper tests as described below:

- i) *Legal professionals (lawyers, notaries and registrars)*: Legal professionals must pass the fit and proper tests of DSAJ to qualify as public or private notaries and AAM as practicing lawyers in Macao, China. Article 23 of the Statute of Lawyers under AAM, stipulates several conditions under which an individual shall not be registered or be suspended or revoked from registration as a lawyer, one of which is the lawyer being convicted of any seriously dishonourable crimes fraud or bankruptcy.

According to paragraph 1 of Article 1 of the Statute of Private Notaries, Decree-Law no. 66/99/M, lawyers are not eligible for appointment as private notaries if being prosecuted or assigned a trial date or sentenced because of felony of serious damage to reputations.

- ii) *Accountants/auditors*: Article 2 of the Statute of Auditors, as approved by Decree-Law no. 71/99/M, and Article 2 of the Statute of Accountants as approved by Decree-Law no. 72/99/M requires auditors and accountants to obtain registration with CRAC before they can carry out their operations. According to paragraph 1 (c) of Article 6 of both statutes, the registration of auditors and accountants has to be rejected if the applicants are not fit for registration, especially if they were convicted of a property invasion offence or, for previous civil servants or judicial officers, were dismissed or forced to retire or convicted of a criminal offence in the course of duty. Both Statutes require candidates/applicants to submit a certificate of no criminal record for registration.
- iii) *Real estate*. According to Article 6 of Law no. 16/2012, the real estate intermediary company, the members of administration, directors, managers of the company and real estate agents cannot have been convicted by final judgment of an offence with a maximum penalty exceeding three years imprisonment, or their registration will be rejected or revoked.

317. Sanctions are available in Article 9 of the AML/CFT Administrative Regulation 7/2006 and under the respective enabling legislations of DNFBP regulators.

318. *Criterion 28.5* - Some DNFBP supervisors, mostly notably the DICJ, have documented supervision manuals. However, the risk-based approach described in sub paragraphs (ii), to (v) is not consistent with FATF Standards, which require a risk-based approach based on ML/TF risks (e.g. risk understanding and risk profiling) as further detailed below:

- i) The DICJ established a designated AML/CFT audit team and manual in December 2007 to supervise the AML/CFT compliance of the gaming sector. The manual sets out the industry wide risk-based approach to audits. The supervisory approach enables the DICJ to determine the frequency and intensity of its supervision of the gaming sector based on its understanding of the gaming sector. The NRA also provides an important basis for DICJ to plan its supervision strategy. From 2013 DICJ has also sent out NRA questionnaires to its sector regarding controls and the data necessary for sector risk assessment.
- ii) Macao, China advised that the DSF takes a preliminary risk-based approach to on-site inspections, which are directed towards accountants and auditors with the highest reported revenue. This claim is inconsistent with table 29, where there were only 20 onsite inspections for 2011, 19 on-site inspections for 2014, and none for the other four years in the table.
- iii) According to Macao, China, the AAM carries out off-site reviews with periodic updates of information from its members to ensure AML/CFT compliance by its members under their guidelines. AAM also relies on complaints as part of its supervision model. The DSAJ has a special division to scrutinise the work of notaries. DSAJ AML/CFT inspection work is included in its routine inspection of notaries on a random basis. Article 1 and paragraph 3 and 4 of Article 2 of Ordinance no. 10/99/M outlines that there should be an ordinary inspection of registries and notary offices every two years; and there should be ordinary inspections of all private notaries every year on a random check basis. Neither DSAJ nor AAM adopt a RBA in their inspection. No evidence was provided by Macao, China to support the supervision approach of CIEPDSS, although Macao,

China confirms there are only two solicitors in Macao, China. Solicitors existed before the current laws for lawyers were passed, and there will be no more solicitors.

- iv) DSE applies a simplified risk profiling approach to its on-site supervision work on precious item dealers. Risks of the sector and decisions around on-site inspections are based on information received relating to taxable income and turnover provided by DSF. DSE also carries out its supervision plan based on feedback provided by GIF in the form of periodic newsletters and the exchange of information including STR and blacklist data.
- v) DSE, IH and DSAJ work together to exercise continuous supervision over the real estate sector. Based on data of turnover and taxable income from DSF, DSE applies a simplified risk profiling approach to identify the risks of the sector and to decide which entities should be supervised on-site. A new procedure recently introduced requires entities under the supervision of DSE to submit details and statistics of “high risk transactions” on a semi-annual basis, starting at the end of 2016.
- vi) Macao, China has advised that the IPIM has adopted a risk-based approach for monitoring the compliance with both offshore laws and AML/CFT laws and regulations for Macao, China registered non-financial offshore companies. Off-site and on-site inspections are conducted according to risk level, although there are only six offshore companies registered.

### *Weighting and Conclusion*

319. There are minor deficiencies concerning market entry and risk-based supervision among some DNFBP supervisors.

320. **Recommendation 28 is rated largely compliant.**

### *Recommendation 29 - Financial intelligence units*

321. Macao, China was rated largely compliant with former R.26. The FIU (GIF) had only been recently established and the rating reflected that the FIU had yet to become fully operationally effective.

322. *Criterion 29.1* - Chief Executive Ruling no. 227/2006 (CER 227/2006), under paragraph 2 of Article 8 of the AML Law, established the GIF to perform the function of Macao, China’s FIU. GIF operates on a three year renewable term. CER 187/2015 renewed GIF’s current term to 7 August 2018. GIF has the authority to collect, analyse and disseminate suspicious transactions relating to ML/TF and to maintain a database of the information it receives. CER 227/2006 authorises GIF to also provide assistance to LEA, judicial and other authorities to combat ML/TF; provide and receive information from international entities; collaborate with other Macao, China authorities on AML/CFT guidelines; and develop educational programs for public awareness about AML/CFT.

323. *Criterion 29.2* - Under CER 227/2006, GIF is the central agency for the receipt of information from any public or private entities. Article 7 of AML/CFT Administrative Regulation requires all Suspicious Transaction Reports (STRs) to be submitted to GIF. There is further articulation of GIF as the central agency to receive STRs in various AML/CFT guidelines issued (refer R.20 and R.23). There is no national legislation requirement for reporting entities to submit other reports. There is a requirement under the DICJ AML/CFT Guide for Large

Transaction Reports related to gaming (ROVE) to be submitted to the DICJ, but not directly to GIF.

324. *Criterion 29.3* - Under paragraph 5 of CER 227/2006 and Article 8 of the AML Law and Article 11 of the CFT Law, GIF can request information from any public and private entity. Under this broad power, GIF is empowered to request a wide range of information held by other authorities. This includes direct access to information on company registration, ROVE, CBM random checks and indirect access to any other public or private information. This exceeds the FATF standard that requires FIUs be able to collect additional information only from reporting entities.

325. *Criterion 29.4* - GIF has demonstrated it conducts operational analysis and strategic analysis. GIF SOP for handling and operational analysis of STRs sets out the steps to be taken depending on the risk rating given to an STR. This includes collating and analysing relevant information including additional information from other government authorities. Strategic analysis under the SOP focuses briefly on periodic reports on overall STR reporting, including cases passed to MP, STR reporting by industry, and a typologies and trends report. GIF also produces annual strategic analysis reports on trends in large transaction reports, STRs related to gaming and risks with remitters and NPOs in Macao, China. GIF coordinated and developed strategic analysis for the NRA.

326. *Criterion 29.5* - CER 227/2006 authorises GIF to disseminate analysed STRs to the MP and, upon validly justified requests, to a wide range of authorities. GIF procedures require relevant STRs to be included in the preliminary analysis reports of cases referred to MP. MP determines whether a criminal investigation should start, and if so, passes the case file to PJ. This includes GIF analysis and related STRs. If an STR concerns corruption, MP may forward the case to CCAC instead of PJ. GIF can also proactively disseminate strategic analysis based on STRs (such as typologies, ML trends and supervision issues) to LEAs and other competent authorities. GIF SOPs require and its systems use dedicated, secure and protected channels.

327. *Criterion 29.6* - GIF has a comprehensive set of SOPs that set rules for protective and IT security, including dissemination. Security checks of GIF staff extend to the families of STR analysts. Staff are also required to update their knowledge of SOPs from time to time. Strong rules apply to IT security and access to data, including half yearly reviews of staff access to systems and data.

328. *Criterion 29.7* - GIF is hierarchically accountable to the Secretary for Economy and Finance (SEF) and operates under his or her guidance. In practice, GIF is functionally independent. CER 227/2006 empowers GIF to collect information from any public and private entity, to disseminate to MP and upon request to a wide range of authorities. Daily operational management rests with the FIU director or their legal substitute. The Macao, China Chief Executive commissions the fixed tenure of the FIU director and deputy. The FIU's budget is recorded under the budget for the Office of the SEF but it is empowered to establish a permanent fund for its operational needs. GIF's director manages its budget subject only to general government determinations.

329. *Criterion 29.8* - GIF has been a member of the Egmont Group since May 2009.

### *Weighting and Conclusion*

330. **Recommendation 29 is rated compliant.**

**Recommendation 30 – Responsibilities of law enforcement and investigative authorities**

331. Macao, China was rated partially compliant with former Recommendation 27. The MER noted major deficiencies, namely the PJ was the only law enforcement agency empowered to investigate ML/TF cases. The number of officers dedicated to the ML/TF division was not adequate. Also, there was a lack of trained ML/TF officers in Macao, China. Thus, the effectiveness of the law enforcement agency dealing with ML/TF was yet to be determined.

332. *Criterion 30.1* - The MP is the designated competent authority supervising criminal investigations and prosecutions, including ML and TF. According to Articles 246, 249 and 252 of the Criminal Procedure Code, criminal investigations are directed by the MP. It has placed a priority on ML and TF crimes and related predicate offences by way of a special internal ML/TF working group and responsible prosecutors. This special AML working group is composed of the legal adviser from the Office of the Prosecutor General, Chief of the Judiciary Assistance Department, the functional head and other administrative supporting staff from the department.

333. The PJ is the primary law enforcement agency for investigation of ML/TF crimes, including ML associated predicate offences and TF. The Judiciary Police Law 5/2006 (PJ Law 5/2006) empowered PJ with ML/TF investigation, in addition to investigation obligations established by the AML Law and the AML/CFT measures laid down in AML/CFT Administrative Regulation 7/2006.

334. Under Article 12 of the Regulation on the Organization and function of the PJ, Administrative Regulation 9/2006 (Administrative Regulation on Function of PJ 9/2006), the Anti-Money Laundering Division (AML Division) under the Gaming-related and Economic Crime Investigation Department is designated as the responsible unit for preventing and investigating ML crime as stipulated in subparagraphs 1) and 11) of paragraph 1 of Article 7 of the PJ Law 5/2006.

335. Article 8 of Administrative Regulation on Function of PJ 9/2006, empowers the Organised Crime Division, under the Criminal Investigation Department to prevent and investigate terrorism crimes as stated in subparagraph 12) of paragraph 1 of Article 7 of PJ Law 5/2006.

336. The CCAC in addition to PJ has the power to investigate corruption crimes and also any ML activities as long as there is a relationship between those crimes, according to subparagraph 1) of paragraph 1 of Article 3 of the CCAC Law 10/2000.

337. The activities of the MP, PJ and CCAC are conducted within the framework of Macao, China's national AML/CFT policies as discussed under R.2.

338. *Criterion 30.2* - The MP, PJ and CCAC are authorised to undertake parallel investigations of both predicate and ML/TF offences. The Unitary Police Service, the Macao Customs Service and the Public Security Police do not have the mandate to investigate any ML/TF offences during a parallel financial investigation. They can refer matters to the PJ under Article 7 (2) of the PJ Law 5/2006, "Without prejudice to the provisions of The Code of Criminal Proceedings, the rest of criminal police bodies shall immediately report to the PJ facts that came to their knowledge and related to planning and execution of crimes referred to in the previous paragraph, and while waiting for the intervention of the former, they shall take all precautionary measures that are thought to be necessary to ensure the preservation of evidence." Article 13 in the CCAC Law 10/2000 provides the same for CCAC. Within the PJ, Macao, China provided evidence that there have been cases referred to the AML division from

predicate crime investigation units within PJ regardless of where the predicate offence occurred.

339. *Criterion 30.3* - Similar to ML/TF investigations, the MP and PJ are designated under their respective laws as noted under c.30.1 to initiate seizing of property that may become subject to confiscation. All LEAs are required under Articles 163 to 171 of the Criminal Procedure Code to undertake provisional measures to seize the assets or proceeds of crimes which can be confiscated pursuant to a court decision.

340. *Criterion 30.4* - Macao, China has no other competent authorities, which are not law enforcement authorities *per se*, but which have responsibility for pursuing the financial investigation of predicate offences and ML investigations.

341. *Criterion 30.5* - The CCAC is also designated to undertake ML investigations. Article 4 of the CCAC Law lists the powers of that agency, but the initiating of seizure of assets is merely mentioned under Article 103 of the Criminal Code of Macao, China with no provision for identifying and tracing assets.

### *Weighting and Conclusion*

342. **Recommendation 30 is rated largely compliant.**

### ***Recommendation 31 - Powers of law enforcement and investigative authorities***

343. Macao, China was rated largely compliant with former Recommendation 28. The deficiency noted on the last MER was that LEAs were unable to execute a freezing or seizure order without having to obtain a judiciary order despite cases that require immediate action.

344. *Criterion 31.1* - Macao, China's LEAs and investigative authorities have sufficient powers to access all necessary documents and information for use in ML, associated predicate offences and TF investigations, prosecutions and related actions. Power to search persons or premises, recording of witness statements and seizure of evidence are comprehensively covered in Articles 118-166 of the Criminal Procedure Code.

345. *Criterion 31.2* - LEAs conducting ML/TF and predicate offences investigation are equipped with a wide range of investigative techniques. Undercover operation is permitted under Article 31 of Law no. 17/2009 and Article 15 of Law no. 6/97/M. A Judge can also grant authorisation to intercept communications under Articles 172 to 175, and 251 of the Criminal Procedure Code. LEAs under MP's instruction can access computer systems for information and apprehend the system as evidence under Articles 163 and 235 of the Criminal Procedure Code. Lastly, under Articles 30 and 31 of Law no. 17/2009, Article 15 of Law no. 6/97/M and Article 7 of the CCAC Law, controlled deliveries can also be executed by LEAs.

346. *Criterion 31.3* - LEAs with an order from the prosecution office and the Criminal Instruction Judge can acquire all information of natural or legal persons controlling accounts and transactions from the FIs in a timely manner. All FIs are obliged to cooperate under Article 7 of Law 2/2006 and Article 8 of Administrative Regulation No. 7/2006. Under the same regulation, competent authorities can identify assets without prior notification to the owner. The FIs acknowledge the confidentiality of investigation information and are subject to legal penalties upon breach of confidentiality.

347. *Criterion 31.4* - Competent authorities conducting investigations of money laundering associated predicate offences and terrorist financing are able to ask for all relevant information

held by the GIF. Under Articles 8 and 9 of Judiciary Police Law 5/2006 and Articles 5, 6 and 8 of Law no. 10/2000, the PJ and CCAC can request information from GIF whenever needed.

### *Weighting and Conclusion*

348. **Recommendation 31 is rated compliant.**

### *Recommendation 32 – Cash Couriers*

349. Macao, China was rated not compliant with former Special Recommendation IX. The 2007 MER concluded that Macao, China does not enforce a disclosure or declaration system for cross-border currency movement and travellers cheques. There were no appropriate statistics or data maintained for domestic and international requirements. Macao Customs is the sole designated agency with oversight of illicit cross-border cash carriers, was under-equipped with inadequately trained officers. There was little integration between Customs and other competent agencies like PJ which carries investigations and GIF as the centre of financial intelligence. It was further noted that Macao, China had no plan to implement any system to detect cross-border cash carrier activities and also bearer negotiable instruments.

350. *Criterion 32.1* - Macao, China has not implemented a declaration or disclosure system for incoming or outgoing cash border transportation of currency and bearer negotiable instruments since the last MER. There is no law or regulation nor any other system requiring passengers coming in or out to perform declaration or disclosure of currency or bearer negotiable instruments<sup>25</sup>.

351. *Criterion 32.2* - There is no declaration system practiced by Macao, China or any other similar system imposed at its cross-border checkpoints.

352. *Criterion 32.3* - Macao, China does not use any disclosure system.

353. *Criterion 32.4* - As noted above, there is no declaration or disclosure system therefore there is no authority for Customs to obtain further information in the event of any violations.

354. *Criterion 32.5* - As noted above, there is no declaration or disclosure system therefore there are no available sanctions.

355. *Criterion 32.6* - As noted above, there is no declaration or disclosure system therefore no information is obtained and made available to the FIU.

356. *Criterion 32.7* - There is adequate co-ordination between Customs and PJ and GIF in the implementation of Recommendation 32. There is also an information exchange mechanism between Customs and PJ, and information relating to the interception of large amounts of currency or precious metals/stones has been provided by Customs to PJ. Information exchange between Customs and GIF has also taken place. However, there is very little or no interaction between Customs and the PSP despite the crucial role of PSP in the implementation of R.32.

357. *Criterion 32.8* - Customs officers have general responsibilities and powers according to subparagraph 3 of Articles 1, numbers 2) and 5) of Article 2 and subparagraph 1(2) of Article 3 of the Law on Customs Service. 11/2001 (Customs Service Law). While there are references to intellectual property, illicit trafficking and customs fraud, compliance with

<sup>25</sup> Authorities advise that the draft Law on the declaration system of cross-border transportation of currency and bearer negotiable instruments will be passed on June 2017 and fully implemented by December 2017.

maritime laws and regulations, there is no reference to stopping or restraining currency or BNIs when there is suspicion of ML/TF or predicate offences beyond those specified.

358. *Criterion 32.9* - As noted above, there is no declaration or disclosure system therefore there is no scope for international cooperation and assistance based on the former.

359. *Criterion 32.10* - As noted above, there is no declaration or disclosure system therefore the issue of safeguards is not applicable.

360. *Criterion 32.11* - Persons who are carrying out a physical cross-border transportation of currency that is related to ML/TF or predicate offences are subject to proportionate and dissuasive sanctions and measures consistent with Recommendation 4. These include the sentence of 2 to 8 years of imprisonment under Paragraph 2 of Article 3 of the AML Law 2/2006 and Article 11 of the CFT Law 3/2006.

### *Weighting and Conclusion*

361. Macao, China has neither a declaration nor a disclosure system.

362. **Recommendation 32 is rated non-compliant.**

### *Recommendation 33 – Statistics*

363. Macao, China was rated partially compliant with former Recommendation 32. The main deficiencies noted were that no comprehensive statistical data was provided on ML cases. There was no breakdown on predicate offences in years of evaluation, type of properties seized and result of cases prosecuted on year 2002/2003. Also, statistical data on TF cases was not available. Statistics were not maintained on the use of powers to compel production of, search persons or premises for, and to seize and obtain, records, documents and information in relation to ML or TF investigations.

364. *Criterion 33.1(a)* - Macao, China maintains comprehensive statistics relating to STRs reported to GIF (by sector) and disseminated to MP by GIF (including data on the sectors).

365. *Criterion 33.1(b)-(c)* - Macao, China maintains comprehensive ML related statistics in investigation (predicate/ML cases investigated; amounts seized) and prosecution (cases prosecuted; amounts confiscated). However, statistics are not comprehensive on the types of properties seized and confiscated.

366. *Criterion 33.1(d)* - There are statistics available for MLA and other international requests.

### *Weighting and Conclusion*

367. The breakdown of statistics on ML investigations and confiscation is not comprehensive.

368. **Recommendation 33 is rated largely compliant.**

### *Recommendation 34 – Guidance and feedback*

369. In its 2007 MER, Macao, China was rated partially compliant with former R.25. Guidance issued to FIs did not cover all of the issues in the relevant FATF Recommendations.

Guidelines issued to the DNFBP did not include ML/TF techniques and trends. There were notable deficiencies in the specific guidance provided by Macao, China, to the casino sector on the scope of ML and FT procedures and obligations. There was also no specific outreach or education strategy for the sector on AML/CFT obligations and typologies with a view to testing the effectiveness of measures taken by casinos.

370. *Criterion 34.1 - Supervisory Guidance and outreach to FIs:* The AMCM uses a range of measures to provide guidance and feedback to the FIs they regulate and supervise to assist them with the understanding of, and compliance with their AML/CFT obligations. The AMCM has issued guidance for the FIs authorised under the provisions of the FSA and separate guidance to the insurance sector. The guideline for the FI's contains reference to risk assessment, international standards, CDD, EDD, NPOs, wire transfers, correspondent banking, ongoing monitoring, occasional transactions, recording keeping and STR filing. In addition, the insurance guideline contains references to ML and TF risks, vulnerabilities in the insurance sector, and policies and procedures and controls to be adopted by insurance institutions in preventing ML and TF. Also attached for insurance institutions to use are references to CDD, record keeping, STR filing, staff training and screening, and practical examples.

371. *Supervisory Guidance and outreach to DNFBPs:* DNFBP supervisors have issued guidance to the entities under their supervision. AAM and CIEPDSS issued the AML/CFT Guideline to lawyers and solicitors in 2006 which is limited to a duty to identify, retain records (including STR filing), a duty to co-operate and privilege. DSAJ have issued the AML/CFT Guideline to Notaries and Registrars in September 2016. The DSE issued AML/CFT guidelines in 2016 for real estate, services providers, and traders in goods of high unit value which cover STR filing. The DICJ AML/CFT Guideline for the Gaming Sector has recently been updated in 2016. The DICJ AML/CF Guideline contains references to risk assessment, international standards, CDD, EDD, NPOs, wire transfers, correspondent banking, ongoing monitoring, occasional transactions, record keeping and STR filing. DSF has produced the AML/CFT Guideline for auditors, accountants and tax advisers in 2016, and IPIM has published the AML/CFT Guideline for offshore service institutions (both refer to detecting and STR filing).

372. *Feedback:* GIF works closely with the supervisory authorities in order to raise awareness. GIF has carried out strategic analysis and provides periodic reports on typologies with case studies. Such feedback is provided by GIF to supervisory authorities, SROs and reporting entities, as well as members of the AML/CFT WG, in the form of newsletters, annual reports and through workshops. AMCM organises annual seminars for all FIs (one for banking and one for the insurance sector). In cooperation with GIF, findings from AMCM and STRs have been shared with reporting entities at the annual seminars. The AMCM will host future AML/CFT workshops with special topics, jointly with other parties, in order to update FIs (and insurance institutions) with international trends and best practice. DICJ has been providing AML/CFT training since 2011 to reporting entities. DICJ's training has included seminars at an operational level for employees of concessionaires/sub-concessionaires and junket promoters. DICJ has prepared a NRA Questionnaire for the gaming sector since 2013. DSF has conducted seminars on awareness of ML/TF for tax advisers, auditors and accountants. DSE has also held ad hoc seminars for real estate agents and dealers of precious metal and stones.

### *Weighting and Conclusion*

373. **Recommendation 34 is rated compliant.**

### ***Recommendation 35 – Sanctions***

374. In its 2007 MER, Macao, China was rated largely compliant with former R.17 (page 128). A lack of sanctions in respect of the insurance sectors was detected.

375. *Criterion 35.1* - There are administrative sanctions available under the AML/CFT Administrative Regulation 7/2006, the FSA and the enabling legislations for supervisory authorities. There do not appear to be available criminal sanctions for breach of preventive AML/CFT measures. The available administrative sanctions are explained below:

376. *Financial sector:* FIs Paragraphs 1 and 2 of Article 9 of AML/CFT Administrative Regulation 7/2006, non-compliance with the requirements of AML/CFT preventative measures will be subject to a fine of MOP10,000 (EUR1,100/US\$1,250) to MOP500,000 (EUR56,495/US\$62,500) for natural persons, and from MOP100,000 (EUR1,100/US\$1,250) to MOP5,000,000 (EUR564,000/US\$625,000) for legal persons. In addition, negligence is also punishable. When the economic benefits gained by the offender by committing the offence is more than half the maximum fine set in paragraph 1 of Article 9, the maximum fine will be increased to twice the benefit under paragraph 3 of Article 9. Article 10 of Administrative Regulation no. 7/2006 states that the competent authorities are to initiate, within their respective area of supervision, enforcement procedures in relation to administrative infractions.

377. In addition, paragraph 1 f) of Article 35 of the FSA, stipulates that licences for running financial activities will be revoked when FIs in a systematic and serious manner, fail to observe the laws and regulations of Macao, China, or the decisions and guidelines issued by the Chief Executive or AMCM. Articles 122 to 138 of the FSA stipulate the details of acts that violate the regulations, responsibilities of natural and legal persons, sanctions and procedures of initiating administrative proceedings of sanctions. Article 122 of the FSA states that all acts which violate regulations contained in notices or circulars from AMCM are contraventions punishable under chapter 2 of the Act. Articles 126 and 127 of the FSA list the kind of sanctions that can be applied, including fines, suspensions of voting rights of shareholders, prohibitions from holding board positions, directorships, or management duties, loss of capital invested and publication of the sanctions. Under Article 130 of the FSA, the AMCM can issue a warning for infringements that do not result in significant losses. Under Section II Chapter X of Decree-Law 27/97/M “infringement and respective proceedings”, any violation of the AMCM AML/CFT Guideline for Insurance or circulars issued by AMCM relating to the insurance sector shall be punishable by fine, suspensions or temporary suspension of the administrative body, partial or total, and revocation of such authorisation. Under Article 128 of Decree-Law 27/97/M the amount of fines applicable to insurance companies mirrors those for FIs.

378. *Casinos:* In the Gaming Sector administrative sanctions in Article 9 of the AML/CFT Administrative Regulation 7/2006 are applicable to the entities under DICJ’s supervision – including concessionaires/sub-concessionaires and junket promoters. The administrative sanctions for entities under DICJ’s supervisions have also been incorporated into Article 32 of the DICJ AML/CFT Guideline. The fines are identical to the fines for the FI and Insurance sectors. Under Article 47 of the Law on Casinos 16/2001 and Article 80 of Concession Contracts of Casino Games of Fortune, the Government has the right to unilaterally terminate concession agreements with the concessionaires/sub-concessionaires due to their failure to comply with concession obligations – including non-compliance with the AML/CFT laws, regulations and guidelines. Junket promoters must comply with all AML/CFT laws and regulations as set out in Article 32 of the Conditions for the Access and Activity of Games of Fortune in Casinos, Administrative Regulation no. 6/2002 (Administrative Regulation on Game of Fortune no. 6/2002). Under Articles 29 and 30 of the Administrative Rule 6/2002, a gaming concessionaire/sub-concessionaire is liable to monitor its junket promoters. There is joint liability between a concessionaire/sub-concessionaire and its junket promoters regarding the junket’s compliance with all applicable laws and regulations.

379. *Accounting Profession:* In accordance with paragraph 1 of Article 3 of the Code of Ethics for Registered Auditors, Administrative Regulation no. 36/2004 an auditor should comply with the laws, regulations and technical standards for the profession. When an audit fails to comply

with AML/CFT Administrative Regulation no. 7/2006, they also fail to comply with the code of Ethics for Registered Auditors. The applicable penalties for a breach of the Statute of Auditors, Decree Law no. 71/99/M ranges from a warning, fines of up to MOP500,000 (EUR56,500/US\$62,500), suspensions of up to three years and cancellation of registration.

380. *Lawyers:* Lawyers face sanctions under Article 8 of the Lawyers Statute, Decree Law no. 31/91/M. Sanctions range from a written warning, fines up to MOP100,000 (EUR11,200/US\$12,500), and suspension from 10 days to 15 years. Under Article 18 of Decree Law no. 66/99/M the license of a private notary (who is also a lawyer) can be revoked for a severe breach of conduct or illicit acts.

381. *Real Estate, Dealers of Precious Metal and Stones, CSP:* For CSPs, Real Estate Agents, Dealers of Precious Metal and Stones the DSE is authorised under Articles 12 and 13 of Administrative Regulation no. 15/2003 to apply sanction measures on the entities under its scope. In addition, according to paragraph 5 of the IPIM's revised AML/CFT Guideline issued in 2015, non-compliance with obligations constitutes an administrative infraction punishable under the terms of Articles 9 to 11 of the AML/CFT Administrative Regulation no. 7/2006 outlined above.

382. *Criterion 35.2-* The sanctions laid down in Article 9 of AML/CFT Administrative Regulation 7/2006 and the FSA above, are applicable to FIs and their directors and senior management. Article 124 of FSA, stipulates that legal and natural persons have the same responsibilities for the committed infractions, this includes directors and senior management. As per Article 127 of the Macao Insurance Ordinance, the liability for committing infringements in the insurance sector extends to the directors, general mandates, and person responsible for the establishment of insurers shall be jointly and severally liable for the payment of fines and other liabilities. The liability may fall, jointly, or not upon individuals or companies.

383. The administrative sanctions in Article 9 of the AML/CFT Administrative Regulations no. 7/2006 apply to the entities under DICJ's supervision, as defined by Article 2 of the AML/CFT Administrative Regulation No. 7/2006 including the directors and senior management. In the event an auditor, who is the partner of an audit firm, fails to comply with the provisions of the "Code of Ethics for Registered Auditors", disciplinary sanctions will apply. Paragraph 3) of Article 89 of the Statute of Auditors, Decree-Law no. 71/99M, states that disciplinary infringements of the partners are considered as infringements of the firm itself. In accordance with paragraph 2) of the same article, the disciplinary proceeding against the audit firm is independent of the disciplinary proceedings against its partners. Similar provisions appear for accountants in Article 69 of Degree Law no. 72/99/M. The sanctions provided by Article 10 of the AAM AML/CFT Guidelines and Article VIII of the CIEPDSS AML/CFT Guideline, (which mirror the sanctions outlined in AML/CFT Administrative Regulation 7/2006) are applicable on a personal basis to legal professions. Directors and senior management of real estate, dealers of previous metal and stones, and notaries and registrars are also subject to the sanctions laid down in Article 9 of AML/CFT Administrative Regulation 7/2006.

### *Weighting and Conclusion*

384. **Recommendation 35 is rated compliant.**

### ***Recommendation 36 – International instruments***

385. In its 2007 MER, Macao, China was rated largely compliant with former R.35 and SR.I.

386. *Criterion 36.1* is **met**. In accordance with the Basic Law, for international conventions and treaties to become part of Macao, China legal order, they have to be duly ratified or

approved by China, or in the appropriate fields by the Chief Executive, and published in the Official Gazette. All the following conventions are applicable in Macao, China as they have been published in the Macao, China Official Gazette – the Vienna Convention on 29 March 1999, the Palermo Convention on 8 September 2004, the United Nations Convention against Corruption (the Merida Convention) on 21 February 2006 and the Terrorist Financing Convention on 28 June 2006.

387. *Criterion 36.2* is **mostly met**. The Vienna Convention, the Palermo Convention, the United Nations Convention against Corruption (the Merida Convention) and Terrorist Financing Convention have been mostly implemented (refer R.3-5).

### *Weighting and Conclusion*

388. **Recommendation 36 is rated largely compliant.**

### *Recommendation 37 - Mutual legal assistance*

389. In its 2007 MER, Macao, China was rated partially compliant with former R.36 and SR.V.

390. *Criterion 37.1* - Macao, China's legal cooperation framework on criminal matters under the Mutual Legal Assistance in Criminal Matters Law 6/2006 (MLA law) and the Criminal Procedure Code provides a wide range of MLA in relation to ML, associated predicate offences and terrorist financing investigations, prosecutions and related proceedings by, for instance, affording cooperation even without the existence of a bilateral agreement or even in the absence of the principle of reciprocity. Moreover, the principle of dual punishment also allows the possibility of cooperation whenever the offence that constitutes the object of the cooperation request is punishable with a criminal reaction under the legislation of the requested party and under the legislation of the requesting party without requiring the qualification of the offence as a crime in both jurisdictions.

391. Macao, China has to comply with an additional procedural step for MLA, namely to notify the Central People's Government (China) of any request addressed to, or to be sent by Macao, China pursuant to Law 3/2002 on the Notification Procedure of Requests within the Mutual Legal Assistance Framework (MLA Notification Procedures law) and the Chief Executive decides on the admissibility of any incoming or outgoing requests under articles 22 and 23 of the MLA law. The notification process provides for the Central People's Government to object within 15 days but there is no need for approval in each case and for urgent operations, the Macao, China competent authorities may submit to or accept request by foreign authorities, and notify the Central People's Government in accordance to the law stated above.

392. *Criterion 37.2* - The Public Prosecutions Office (MP) is designated pursuant to articles 22 and 23 of the MLA law as the central authority responsible for MLA requests, and has set up a specific unit for that purpose. There are procedures in place to prioritise more urgent requests. The MLA Notification Procedures law, articles 5(3) and 6, allow exceptions to the Central Government notification requirements, including provisional detention of the accused, gathering and keeping evidence, searches and seizures and other provisional measures related to criminal or civil proceedings. There is a case management system in place to monitor progress on requests.

393. *Criterion 37.3* - The principles, requisites and grounds for refusal of legal assistance requests are established in the MLA law. MLA does not appear to be prohibited or made subject to unreasonable or unduly restrictive conditions.

394. *Criterion 37.4* - The refusal of a MLA request on the sole ground that the offence also involves fiscal matters is not found in the Macao, China law (grounds for refusal mentioned in Articles 4 to 20 of MLA law). The MLA law (Article 12) establishes a limitation as regards secrecy or confidentiality requirements vis-à-vis MLA requests. Nevertheless, under the terms of the law: (i) the judiciary authority may conduct an inquiry whenever there are doubts regarding the legitimacy of such request of exemption, and a court may order the breach of that duty whenever it deems to be appropriate - with the exception of religious secrecy (paragraphs 2 and 3 of Article 122 of the Criminal Procedure Code) and (ii) this duty shall be set aside in certain legal circumstances (for instance, whenever there is the suspicion of the commission of the ML offence or financing of terrorism), according to Paragraph 3 of Article 7 of AML Law and Article 11 of the CFT Law.

395. *Criterion 37.5* - Macao, China's legal framework (Article 134 of MLA law) stipulates that, "Upon application of the requesting party, the request for assistance, its purpose, the measures taken upon the request, as well as the documents involved shall be kept confidential. If the request cannot be executed without breaking the confidentiality requirement, the MSAR authorities shall inform the requesting party to confirm or annul its request."

396. *Criterion 37.6* - Pursuant to the MLA Law (paragraph 1 of Article 6) cooperation can be afforded "whenever the offence that constitutes the object of the cooperation request shall be punishable with a criminal reaction<sup>26</sup> under the legislation of the requested party and under the legislation of the requesting party". Non-coercive measures can be taken in response to a MLA request even if investigation is ongoing and charges have not yet been brought against a specific person. Moreover, paragraph 2 of Article 6 mentions that cooperation may be afforded even without the principle of dual punishment: "The non-punishment of the relevant facts in the Macao SAR does not preclude the execution of the cooperation request if its purpose is proved to be the exclusion of an unlawful act or fault of a person against whom criminal proceedings were filed." (Paragraph 2 of Article 6 of the MLA Law).

397. *Criterion 37.7* - Article 6 (Dual Punishment) of the MLA law establishes the principle of dual punishment by stating that cooperation can be afforded "whenever the offence that constitutes the object of the cooperation request shall be punishable with a criminal reaction under the legislation of the requested party and under the legislation of the requesting party". A criminal reaction means "any penalty or security measure involving deprivation of liberty, any pecuniary sanction or any other non-custodial sanction, including accessory sanctions" (paragraph 4 of Article 3 (Definitions) of Law no. 6/2006).

398. *Criterion 37.8* - All available powers and investigative techniques available to competent authorities for the investigation of domestic offences can equally be used in the execution of an MLA request including in regards to ML/TF investigation. ML/TF crimes that have predicate offences in the areas of drug trafficking and organised crime, can take advantage of some forms of special investigative techniques, such as undercover operations and persons (Law no. 10/2000 and Law no. 17/2009).

### *Weighting and Conclusion*

399. **Recommendation 37 is rated compliant.**

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<sup>26</sup> Vide paragraph 4 of Article 3 of the MLA Law ("Definitions").

### ***Recommendation 38 – Mutual legal assistance: freezing and confiscation***

400. In its 2007 MER, Macao, China was rated partially compliant with former R.38 (pages 200-204).

401. *Criterion 38.1* - Macao, China has provisional measures to allow MLA requests, concerning trace, search, seizure and forfeiture related to laundered property, as well as proceeds arising therefrom, and instrumentalities used or intended to be used in the commission of any ML/TF. The new adopted Law 6/2016 specifically on assets freezing also allows cooperation with foreign jurisdictions on freezing requests.

402. *Criterion 38.2* - According to article 6 of the Basic Law, the right to private property is protected by law in Macao, China and according to articles 101 and 103 of the Criminal Code, loss of property depends on a court decision. Private property is an individual fundamental right protected under the Basic Law which has constitutional value. Thus, any deprivation of property may only occur through a judicial sentence passed by a competent court.

403. *Criterion 38.3* - Macao, China does not have an assets forfeiture fund. However, it has in place mechanisms for managing and co-ordinating seizure and confiscation proceedings<sup>27</sup>. Regarding confiscated property, paragraph 5 of Article 29 of MLA stipulates that “objects subject of being declared lost in favour of a State or Territory or in favour of the MSAR may be shared among parties, by agreement, on a case-by-case basis, between the MSAR and a State or Territory”.

404. *Criterion 38.4* - Macao, China MLA Law (Paragraph 4 and 5 of Article 102) states that the handover of property being declared lost in favour of a jurisdiction or territory or in favour of Macao, China, may be shared among parties, by agreement, on a case-by-case basis, between Macao, China and the jurisdiction or territory concerned.

#### *Weighting and Conclusion*

405. Macao, China mostly meets criterion 38.3 and criterion 38.2 is considered not applicable.

406. **Recommendation 38 is rated largely compliant.**

### ***Recommendation 39 – Extradition***

407. In its 2007 MER, Macao, China was rated partially compliant with former R.39 (pages 204-206) and it was mentioned that “given that Macao, China has the provision of surrender of fugitive offender as a very similar legal definition of the extradition required under international MLA, Macao, China, as far as legally possible, may consider providing assistance under such existing provision.”

408. *Criterion 39.1* - Under Article 13 of the Basic Law, extradition agreements are strictly the prerogative of the People’s Republic of China. Nevertheless, Macao, China’s MLA provides for the surrender of fugitive offenders under Article 32. Bearing in mind that ML and TF are criminal offences in Macao, China (ML law and CFT law) both with penalties of imprisonment clearly above the minimum one (1) year threshold and the principle of dual criminality established in the MLA law (Article 32), both the ML and TF offences are offences which fit the

<sup>27</sup> Vide Article 103 of the Macao Criminal Code, Article 163 of the Criminal Procedure Code, Articles 1 and 2, paragraph h) of Decree Law 30/99/M, Decree Law 14/96/M and Articles 29, 30, 89, 91 and 131 of Law 6/2006.

criteria for the surrender of fugitive offenders. The surrender of fugitive offenders procedure is set forth in Articles 46 to 63 of the MLA law, but as noted under criteria 37.1 and 37.2 above, there is an additional procedural system for this request. There are mechanisms in place to prioritise and consider the urgent nature of surrender requests (Article 74 and Articles 39 and 40 of the MLA law). The specific grounds to refuse the surrender of a fugitive offender are referred to in Article 33 of the MLA law. This provision has to be read together with Articles 7 and 8 of the MLA law that establish the general grounds and conditions for refusal. Such grounds are in line with normal criteria used in similar laws and international conventions for grounds of refusal.

409. *Criterion 39.2* - According to Article 33 of the MLA law, surrender of fugitive offenders shall be refused in the cases mentioned in Articles 7 to 9 (general grounds for refusal), as well as in the following cases: 1) the crime was committed in Macao, China; 2) the person claimed is a Chinese national non-resident of Macao, China, or 3) the person claimed is a Macao, China resident, unless the request is formulated by the jurisdiction of which the person is a national or whenever the obligation to surrender derives from a self-executing norm of an international convention applicable to Macao, China. Whenever surrender of fugitive offenders is refused on any of the grounds the above mentioned items 1) and 3) or subparagraphs 4) to 7) of paragraph 1 of Article 7 of the MLA law, domestic criminal proceedings shall be filed for the facts on the grounds of which the request was made. In addition, the judge may impose any provisional measures that are deemed to be appropriate (paragraphs 2 and 3 of Article 33 of the MLA law).

410. *Criterion 39.3* - Dual criminality is required for the surrender of fugitive offenders (Article 32 of MLA law). This requirement is deemed to be satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence. Moreover, paragraph 3 of Article 32 of the MLA law states that: "If the surrender of a fugitive offender is based on several separate facts, each of which is punishable under the MSAR law and the law of the requesting party by a penalty or security measure involving deprivation of liberty, and, however, one or some of which do not fulfil the requirement mentioned in the preceding paragraph, surrender of fugitive offender shall be possible."

411. *Criterion 39.4* - There is an additional step for requests as noted above due to the legal status of Macao, China. Nevertheless, there are two situations in which the surrender of fugitive offenders can be expedited and the procedure deadlines shall run during holidays (due to the urgent nature of the above procedure - Article 74 of the MLA law): (i) the surrender with the consent of the person requested (Article 41 of Law no. 6/2006) and (ii) the process for the surrender of fugitive offender having been started in which case this procedure shall be expedited (Articles 39, 64 and 65 of Law no. 6/2006).

### *Weighting and Conclusion*

412. Macao, China meets all criteria, except criteria 39.1 and 39.4 which are mostly met.

413. **Recommendation 39 is rated largely compliant.**

### ***Recommendation 40 – Other forms of international cooperation***

414. In its 2007 MER, Macao, China was rated partially compliant with these requirements (pages 207-208). The main technical deficiencies were (i) GIF does not have any formal cooperation established with foreign FIUs on information sharing; (ii) PJ has only one formal

agreement with a foreign counterpart, Portugal. Other forms of cooperation on an informal basis are mostly with China and Hong Kong, China.

415. *Criterion 40.1* - Macao, China competent authorities can provide international cooperation (spontaneously or upon request) related to ML/TF and associated predicate offences<sup>28</sup> but it is not clear if they can provide for timely execution of the request.

416. *Criterion 40.2* - (a) The competent authorities have a lawful basis for providing cooperation<sup>29</sup>; (b) Nothing prevents them from using the most efficient means to cooperate; (c) PJ, through the in-house INTERPOL Macao Sub-Bureau of the China National Central Bureau of INTERPOL and FIU, through the Egmont Secure Website (ESW) use clear and secure gateways, mechanisms or channels. Customs has similar arrangements through the World Customs Office (WCO) and WCO Asia/Pacific Regional Intelligence Liaison Office groups. It is not clear if CCAC, AMCM, DSF, DICJ and IPIM use them as well, although the AMCM has its own international instruments for information exchange with foreign counterparts. DSE has an encryption and decryption mechanism for electronic transmission of information and does not use the ESW; (d) FIU requests are prioritised according to risks for handling, with target of completion within 30 days and in relation to DSF (paragraphs 2) and 3) of Article 6 of the Law no. 20/2009) upon the authorisation of handling a request on exchange of tax information from an applicant party, the enquiry is prioritised and conducted in written form to the entities, and the mandatory reply period is five working days. In the case of proper reason, an extension of an additional five working days could be granted; (e) all competent authorities are subject to confidentiality provisions in their enabling organic laws or other instruments but not necessarily clear processes. The FIU (Chief Executive Ruling no. 227/2006) and (DSF (Law no. 20/2009) contain clear processes for safeguarding the information received.

417. *Criterion 40.3* - For those that need international information exchange instruments, the main competent authorities have either multilateral or bilateral arrangements for information exchange. However, some key competent authorities such as the CCAC (domestic corruption mandate only) and DICJ do not because they are not needed, as stated by Macao, China.

418. *Criterion 40.4* - For those competent authorities that have received foreign requests, statistics demonstrate that they have provided responses. For example, PJ-INTERPOL, FIU and DSF provide feedback to competent authorities from which they have received assistance, either (FIU) via feedback forms, (DICJ/CCAC) at bilateral meetings or (DSF) through OECD's Global Forum, but there is no clear evidence that this feedback is provided in a timely manner.

<sup>28</sup> PJ-Interpol (Administrative Regulation no. 9/2006); CCAC (subparagraph 2) of paragraph 1 of Article 18 of the Organization and Functions of CCAC, Administrative Regulation no. 3/2009 and Organic Law, Law no. 10/2000); SA-WCO (The Macao, China Government has signed three MOUs with overseas jurisdictions (China, Japan and Thailand) regarding cooperation in customs matters. SA is also a member of the WCO); GIF (subparagraph 2) of paragraph 3 of Article 8 of Law no. 2/2006, and subparagraph 4) of paragraph 4 of Chief Executive Ruling no. 227/2006) was admitted as a full member of the Egmont Group on 26th May 2009; AMCM (AMCM By-Law, Decree Law no. 14/96/M); DSF (paragraph 2 of Article of Law no. 20/2009); DICJ, DSE and IPIM (subparagraph 2 of paragraph 3 of Article 8 of Law no. 2/2006 and Article 8 of Administrative Regulation no. 7/2006).

<sup>29</sup> PJ (Article 21 of Administrative Regulation no. 9/2006); CCAC (subparagraph 2) of paragraph 1 of Article 18 of the Organization and Functions of CCAC, Administrative Regulation no. 3/2009); GIF (subparagraph 2) of paragraph 3 of Article 8 of Law no. 2/2006, and subparagraph 4) of paragraph 4 of Chief Executive Ruling no. 227/2006); AMCM (AMCM By-Law, Decree Law no. 14/96/M); DSF (paragraph 2 of Article of Law no. 20/2009); DICJ, DSE and IPIM (Article 8 of Law no. 2/2006 and Article 8 of Administrative Regulation no. 7/2006).

419. *Criterion 40.5* - The competent authorities do not prohibit or place unreasonable or unduly restrictive conditions on information exchange or assistance, and do not refuse requests for assistance on any of the four grounds listed in this criterion.

420. *Criterion 40.6* - Macao, China has established control systems and legislation to ensure the strict usage of the information under the terms of authorisation, for instance, in the case of the FIU (has set out specific requirement in the standard MOU template (paragraph 3 about “Use of disclosed information”) regarding the use and disclosure of information) and AMCM (Article 6.1 g) of Decree-Law no. 14/96/M and Article 79 of the FSA).

421. *Criterion 40.7* - Competent authorities are required to maintain appropriate confidentiality for any request for cooperation and the information exchanged.<sup>30</sup>

422. *Criterion 40.8* - LEAs and FIU are able 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<sup>31</sup>, but there is no clear evidence that DSF is also able to do this.

#### *Exchange of Information Between FIUs*

423. *Criterion 40.9* - GIF's establishing legislation (Law No. 2/2006, subparagraph 2 of paragraph 3 of Article 8, and CER 227/2006, subparagraph 4 of paragraph 4) empowers it to exchange information with external entities regarding ML and TF in compliance with regional agreements or international legal instruments. Exchange under the Egmont protocols satisfies these conditions.

424. *Criterion 40.10* - GIF procedure (SOP 6 – Handling of Information with other FIUs) outlines the process for GIF to seek feedback from foreign FIUs. The authorities say that this does not explicitly refer to providing feedback to foreign FIUs because not all counterparts request feedback. Instead, GIF's STR procedure (GIF-SOP-STR-6) requires staff handling STRs to provide feedback to other FIUs when requested. Macao, China provided examples of feedback provided to foreign counterparts upon request.

425. *Criterion 40.11* - GIF's wide powers to request information from any public or private entity (Law No. 2/2006, subparagraph 1 of paragraph 3 of Article 8, and CER 227/2006, paragraph 5) provide the basis for it to obtain and exchange all information required of a FIU under R.29 and additional information as well.

#### *Exchange of Information Between Financial Supervisors*

426. *Criterion 40.12* - Through Article 6.1 g) of Decree-Law 14/06/M, AMCM has signed MOUs with supervisory authorities of foreign jurisdictions. Article 6.1 g) provides the legal basis for AMCM to engage in relations with the supervisory authorities of other jurisdictions and territories. The MOUs include provisions for information sharing, including information related to or relevant for AML/CFT purposes. In addition, Article 79 1 b) of the FSA stipulates that such exchange of information between AMCM and other supervisory authorities is permitted

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<sup>30</sup> PJ (under Article 14 of Law no. 5/2006); the CCAC (Article 20), his deputies (Article 26) and all staff from CCAC (Article 34, all articles quoted pertaining to Law no. 10/2000); FIU (Paragraph 4 of the MOU standard template and paragraph 6 of Chief Executive Ruling no. 227/2006); the AMCM (Article 79 of the FSA, paragraph 6 of Article 78) and DSF have the duty of confidentiality.

<sup>31</sup> LEAs (Article 131 of the Law no. 6/2006) and FIU (subparagraph 1) of paragraph 3 of Article 8 of Law no. 2/2006 and paragraph 5 of Chief Executive Ruling no. 227/2006).

provided that the information remains subject to secrecy, and is not used for any purpose other than supervision.

427. *Criterion 40.13* - The AMCM through Article 6.1 g) of Decree-Law no. 14/06/M has signed MOUs with supervisory authorities of foreign jurisdictions. The MOUs include provisions for exchanging of information sharing, including information held by FIs, in a manner proportionate to their respective needs. Paragraph 1 of Article 7 of the FSA, AMCM can obtain all accounting, statistical and other relevant information from institutions subject to its supervision as AMCM may deem necessary for the proper discharge of its functions stipulated by law. Under paragraph 2 of the FSA, AMCM may also request any public or private entity to provide it directly with any information necessary to carry out its functions.

428. *Criterion 40.14* - Article 6.1 g) of Decree-Law no. 14/06/M provides a specific legal basis for AMCM to exchange (i) regulatory information; (ii) prudential information; and (iii) AML/CFT information as outlined in criterion 40.14. Article 79 of the FSA stipulates that such exchanges of information between AMCM and other supervisory authorities are allowed provided that the information remains subject to secrecy and is not used for any purpose other than supervision. The MOUs concluded between AMCM and overseas counterparts include provisions for sharing of relevant information including regulatory information, prudential information and AML/CFT information. AMCM is a signatory of the International Association of Insurance Supervisors (IAIS) MoU scheme.

429. *Criterion 40.15* - Under paragraph 3 of Article of 9 of the FSA, AMCM shall adopt practices to permit and facilitate supervision on a consolidated basis by the competent authority of the home country of institutions incorporated overseas which have branches or subsidiaries in Macao, China and may, for this purpose, enter into agreements with the relevant authorities. For this purpose, AMCM may collect information on behalf of its counterpart from the institution in accordance with Article 7 of the FSA, and exchange such information in accordance with Article 79 1 b) to facilitate consolidated supervision.

430. *Criterion 40.16* - Article 79 1 b) of the FSA stipulates that exchange of information between AMCM and other supervisory authorities is allowed provided that the information remains subject to secrecy and is not used for any purpose other than supervision. The dissemination of information exchange by AMCM is bound by MOUs with the relevant overseas counterpart. In situation where no MOU has been signed for the exchange of information, AMCM specifies in the relevant document to keep such information confidential and to request its consent prior to onward dissemination to other parties. For counterparts with no MOUs signed, AMCM would only provide general information which is publicly available domestically.

#### *Exchange of information between law enforcement authorities*

431. *Criterion 40.17* is - Subparagraph 2 of Article 2 of the Organic Statute of PJ (Administrative Regulation no. 9/2006) stipulates that the PJ can establish cooperation relationships with counterparts outside Macao, China. CCAC, according to subparagraph 2 of paragraph 1 of Article 18 of Administrative Regulation no. 3/2009, 1st and 2nd Departments of Investigation, provide the basis for establishing contacts outside of Macao, China. Customs can exchange information via the WCO platform but no specific reference was cited by Macao, China.

432. *Criterion 40.18* - Macao, China has stated that the PJ under Law no. 6/2006 is able to use its powers, including any investigative techniques available in accordance with its domestic law, to conduct inquiries and obtain information on behalf of foreign counterparts. The CCAC is also entitled to communicate with entities which are outside of Macao, China and provide such entities with assistance for the purpose of investigation. Appropriate provisions to this effect

exist in the Criminal Procedure Code (Article 215) and Law of Judicial Cooperation in Criminal Matters (Articles 26, 30, 136).

433. *Criterion 40.19* - Macao, China has stated that Interpol Macao Sub-Bureau of the PJ can act as a platform, and coordinate the investigating departments of PJ to undertake investigation together with foreign police counterparts. There is evidence of joint operations with other law enforcement agencies outside Macao, China, including the Chinese Ministry of Public Security, the Guangdong Province Public Security Department and the Zhuhai Public Security Bureau. The SA is actively engaged in cooperation with the counterparts of other jurisdictions, especially with the Customs of Hong Kong, China and China. Whether Macao, China can engage in cooperation beyond these jurisdictions is less clear.

#### *Exchange of Information Between Non-Counterparts*

434. *Criterion 40.20* - Interpol, Macao Sub-Bureau of PJ can exchange information indirectly with non-counterparts, on condition that the information is used for combating crimes. GIF tries to accommodate such requests by asking the foreign non-counterpart to route its request through their FIU for GIF to be able to provide such information. AMCM, to the extent permitted by Decree-Law no. 14/96/M, facilitates exchange of information with other agencies, in accordance with international standards, including the practices advocated by Basel Committee of Banking Supervision.

#### Weighting and Conclusion

435. There are minor gaps in international cooperation among competent authorities.
436. **Recommendation 40 is rated largely compliant.**

*Summary of Technical Compliance – Key Deficiencies*

<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
1. Assessing risks & applying a risk-based approach	LC	<ul style="list-style-type: none"> <li>■ Gaps in the NRA on real estate sector, overseas proceeds and legal persons/arrangements.</li> <li>■ Activities of LEAs not risk-based.</li> <li>■ Minor concerns on risk-based measures for DNFBPs.</li> </ul>
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> <li>■ Gaps in operational coordination among LEAs.</li> </ul>
3. Money laundering offence	LC	<ul style="list-style-type: none"> <li>■ Minor gaps in two predicate offences.</li> </ul>
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> <li>■ Does not cover terrorist offences regardless of the intention of the perpetrator in line with Article 2(1) (a) of the Terrorist Financing Convention.</li> <li>■ Does not criminalise directly TF offences when not related to a specific terrorist act. Does not criminalise directly financing the travel of foreign terrorist fighters.</li> <li>■ Does not include the concept of economic resources in its definition of funds.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
7. Targeted financial sanctions related to proliferation	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
8. Non-profit organisations	LC	<ul style="list-style-type: none"> <li>■ No outreach to NPOs at risk.</li> </ul>
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
10. Customer due diligence	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
11. Record keeping	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
12. Politically exposed persons	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
13. Correspondent banking	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
14. Money or value transfer services	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
15. New technologies	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
16. Wire transfers	LC	<ul style="list-style-type: none"> <li>■ There is a minor gap on filing of an STR in any country.</li> </ul>
17. Reliance on third parties	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>
18. Internal controls and foreign branches and subsidiaries	C	<ul style="list-style-type: none"> <li>■ The Recommendation is fully met.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
19. Higher-risk countries	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
20. Reporting of suspicious transaction	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> <li>The DICJ AML/CFT Guideline does not contain expressed provisions for CDD to be carried out on occasional transactions above the designated threshold for transactions not classed as suspicious or large transactions except wire transfers conducted when in an occasional transaction equal to or exceeds MOP8,000 (approx. EUR937/US\$1,000).</li> <li>International organisation PEPs not covered in DICJ guideline and PEP definition not consistent with FATF's in DSAJ guideline.</li> <li>The AAM and CIEPDSS AML/CFT Guidelines do not specify the detailed requirements to keep CDD records and transactions records.</li> </ul>
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> <li>Deficiencies on attempted transactions in some sector specific AML/CFT Guidelines including the gaming sector.</li> <li>There are no explicit requirements for screening employees during the hiring stage, except those in key positions in the gaming sector.</li> <li>For lawyers, real estate agents, precious metals and stones and company service providers there are no guidance covering the requirements relating to internal controls.</li> <li>The AAM and CIEPDD AML/CFT Guideline do not include reference to high risk jurisdictions.</li> </ul>
24. Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> <li>Lack of a comprehensive risk assessment of legal persons and arrangements.</li> <li>Gaps in timely access to beneficial ownership information for legal persons owned by foreign legal persons.</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	LC	<ul style="list-style-type: none"> <li>Except in limited circumstance, there are no explicit obligations on trustees to disclose their status to FIs or DNFBPs. Obligations are on reporting entities.</li> </ul>
26. Regulation and supervision of financial institutions	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
27. Powers of supervisors	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
28. Regulation and supervision of DNFBPs	LC	<ul style="list-style-type: none"> <li>Gaps in market entry for precious stones and metals and offshore company service providers.</li> <li>Lack of a risk-based approach among some DNFBP supervisors.</li> </ul>
29. Financial intelligence units	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> <li>The initiating of seizure of assets is under article 103 of the Criminal Code of Macao, with no provision for identifying and tracing assets.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
32. Cash couriers	NC	<ul style="list-style-type: none"> <li>No disclosure or declaration system.</li> </ul>
33. Statistics	LC	<ul style="list-style-type: none"> <li>Breakdown of statistics on ML investigations and confiscation is not comprehensive.</li> </ul>
34. Guidance and feedback	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
35. Sanctions	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
36. International instruments	LC	<ul style="list-style-type: none"> <li>Gaps in implementation of TF Convention.</li> </ul>
37. Mutual legal assistance	C	<ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> <li>No assets forfeiture fund.</li> </ul>
39. Extradition	LC	<ul style="list-style-type: none"> <li>MLA Notification Procedures law does not provide for prioritisation for more urgent requests.</li> <li>No simplified extradition mechanisms except in specific circumstances.</li> </ul>
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> <li>It is not clear if CCAC, AMCM, DSF, DICJ and IPIM use clear and secure gateways, mechanisms or channels.</li> <li>Some key competent authorities such as the CCAC and DICJ do not have authority for either multilateral or bilateral arrangements for information exchange.</li> <li>There is no clear evidence that DSF is able to conduct inquiries on behalf of foreign counterparts, and exchange with its foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.</li> </ul>

*Glossary*

AAM	Macao Lawyers Association
AMCM	Monetary Authority of Macao
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AMCM AML/CFT Guideline for FIs	Monetary Authority of Macao Anti-Money Laundering/Combating the Financing of Terrorism Guidelines for Financial Institutions
ARS	Alternative Remittance System
BO	Beneficial Owner
CBM	Cross-Border Movement
CCAC	Commission Against Corruption
CDD	Customer Due Diligence
CDM	Cash Deposit Machine
CER	Chief Executive Ruling
CFP	Combating the Financing of Proliferation (of Weapons of Mass Destruction)
CFT	Countering the Financing of Terrorism
CG	Central People's Government
CIEPDSS	Independent Commission for the Exercise of Disciplinary Power over Solicitors
CR	Commercial and Movable Property Registry
CRAC	Committee for the Registry of Auditors and Accountants
CRC	Civil Affairs Registry
CSP	Company Service Provider
CT	Counter-Terrorism
DICJ	Gaming Inspection and Coordination Bureau
DNFBP	Designated Non-Financial Businesses and Professions
DSAJ	Legal Affairs Bureau
DSB	Banking Supervision Department
DSE	Economic Services Department
DSEC	Statistics and Census Service
DSF	Financial Services Bureau
DSG	Insurance Supervision Department
DSI	Identification Services Bureau
DSRJDI	Law Reform and International Law Bureau (merged into DSAJ in January 2016)
EDD	Enhanced Due Diligence
EGM	Electronic Gaming Machine
ETG	Electronic Table Games
FATF	Financial Action Task Force
FI	Financial Institution
FIU	Financial Intelligence Unit
FSA	Financial System Act
FTF	Foreign Terrorist Fighters
GIF	Financial Intelligence Office
IAIS	International Association of Insurance Supervisors
ICRIS	Hong Kong Integrated Companies Registry Information System
IH	Housing Bureau
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organization
IPIM	Macao Trade and Investment Promotion Institute
LEA	Law Enforcement Agency

MER	Mutual Evaluation Report
Merida Convention	The United Nations Convention Against Corruption 2003
ML	Money Laundering
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
MOP	Macao Pataca
MOU	Memorandum of Understanding
MP	Public Prosecutions Office
MVTS	Money or Value Transfer Service
NPO	Non-Profit Organisations
NRA	National Risk Assessment
OECD	Organisation for Economic Cooperation and Development
Palermo Convention	The United Nations Convention against Transnational Organized Crime 2000
PEP	Politically Exposed Person
PF	Proliferation Financing
PFS	Proliferation Financing Sanctions
PJ	Judiciary Police
PSJ	Security Service
PSP	Public Security Force
RBA	Risk-Based Approach
ROVE	Report of Large Amount Transaction
SA	Macao Customs Service
SAFP	Public Administration and Civil Service Bureau
SEF	Secretary for Economy and Finance
SOP	Standard Operating Procedures
SPU	Unitary Police Service
SRO	Self-Regulatory Organisation
STR	Suspicious Transaction Report
TC	Technical Compliance
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
TITO	Ticket In/Ticket Out
TSP/CSP	Trust Service Provider/Company Service Provider
UIF	Financial Investigations Unit
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
Vienna Convention	The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1998
WCO	World Customs Organization
WG	Working Group
WMD	Weapons of Mass Destruction



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# December 2017

Anti-money laundering and counter-terrorist financing measures – Macao, China

## *3rd Round APG Mutual Evaluation Report*

In this report: a summary of the anti-money laundering (AML)/counter-terrorist financing (CTF) measures in place in Macao, China as at December 2016. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Macao, China's AML/CFT system, and provides recommendations on how the system could be strengthened.