

Executive Summary

1. This report summarises the AML/CFT measures in place in India as at the date of the on-site visit from 6 to 24 November 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of India's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- Authorities have a strong understanding of ML risks, and operational authorities have a sophisticated understanding of TF risks. Understanding of ML threats arising from trafficking in human beings and migrant smuggling and ML/TF risks from smuggling and dealing in precious metals and stones can be further developed. Effective domestic coordination and cooperation on AML/CFT issues occurs at both the policy and operational levels.
- LEAs routinely access and use financial intelligence and other relevant information in investigations related to ML, predicate offences and TF. The FIU's analysis and dissemination support the operational needs of competent authorities to a significant extent, although there are low levels of requests from some LEAs, including to support tracing of criminal assets. Nevertheless, significant quantities of proceeds are attached (seized) by LEAs at the early stages of investigations, helping deprive criminals of proceeds and helping prevent asset flight.
- Potential ML is identified systematically via multiple routes, and although LEAs are carrying out parallel financial investigations for underlying predicate offences, their effectiveness appears to be affecting detection to some extent. The Enforcement Directorate is able to investigate and prosecute more complex cases, and pursues ML related to fraud and forgery in line with predicate crime risks, but less so in trafficking in human beings and migrant smuggling, and drug trafficking. The multiple sources of beneficial ownership information available have helped in investigations, although it is not clear to what extent the register of significant beneficial owners is fully populated.
- The number of ML convictions has been significantly impacted by a series of constitutional challenges (settled in 2022) with many cases pending trial and the saturation of the court system observed. Although numbers of

prosecutions and convictions have started to increase, the backlog of pending cases remains considerable, with a large number of accused persons awaiting conclusion of their trials. This also impacts the extent to which confiscation of criminal proceeds is carried out, in particular the ML cases that the ED is responsible for, although India has confiscated proceeds via non conviction-based confiscation including in some significant cases.

- TF investigations are broadly conducted in line with the risks identified and case studies reflect India's ability to conduct complex financial investigations and identify financial flows. However, there are significant delays in prosecutions, resulting in a high number of pending cases and accused awaiting trial. India's emphasis on disruption and prevention of terrorism and TF is broadly consistent with risk, including through asset seizures of designated individuals and entities. Measures relating to the prevention of the NPO sector from abuse are not calibrated with risks.
- There is a good general understanding of risks and obligations as well as application of mitigating measures in the financial sector. The application of preventive measures is steadily progressing with the recent inclusion of VASPs and many DNFBP sectors as reporting entities, although major improvements are still needed. Suspicious transaction reporting by some FI sub-sectors appears limited and DNFBPs are yet to detect suspicious activity and file STRs in a significant way.
- Checks to prevent criminals from entering the financial, VASP and DNFBP sectors are broadly adequate, except for the DPMS sector and some non-banking FIs, and checks in many sectors are insufficient to spot criminal association. Risk understanding and corresponding risk-based supervision is uneven amongst supervisors, although more positive findings are observed for the financial supervisor responsible for the most material sectors. Sanctions applied were not always proportionate and dissuasive. For the DNFBPs sector, supervision is less developed or yet to commence, including in high-risk sectors. The ML/TF risks of the DPMS sector are not sufficiently mitigated by a prohibition on cash transactions under tax law.
- India has taken recent steps to improve MLA coordination within India and the timeliness of responses to formal requests for international cooperation. Competent authorities seek international cooperation where relevant, although some improvements can be made to the quality of requests. LEAs and FIU-IND proactively seek and provide informal cooperation with foreign counterparts.

Risks and General Situation

2. India's main sources of money laundering originate from within India, from illegal activities committed within the country. These proceeds may be laundered within India, laundered abroad, or laundered abroad and returned to India for re-integration into the licit economy. Consistent with the outcomes of the NRA, India's largest money laundering risks are related to fraud including cyber-enabled fraud, corruption, and drug trafficking.

3. India faces a disparate range of terrorism threats, categorised into six different theatres. These can be summarised as theatres associated with ISIL or AQ linked extremist groups active in

and around Jammu and Kashmir, whether directly or via proxies or affiliates, as well as other separatist movements in the region; other ISIL and AQ cells, their affiliates, or radicalised individuals in India; regional insurgencies in the Northeast and North of India; and left-wing extremist groups seeking to overthrow the government. The most significant terrorism threats appear to relate to ISIL or AQ linked groups active in and around Jammu and Kashmir.

4. Terrorist financing risks are generally closely linked with terrorism risks, with flows of funds or provision of other assets constrained to within India or surrounding countries.

Overall Level of Compliance and Effectiveness

5. India has implemented an AML/CFT system that is effective in many respects. Particularly good results are being achieved in the areas of ML/TF risk understanding; national coordination and cooperation; use of financial intelligence for ML, predicate offences and TF investigations; depriving criminals of their assets; preventing misuse of legal structures; the implementation of targeted financial sanctions related to proliferation; and international cooperation. However, major improvements are needed to strengthen prosecution of ML and TF, protecting the non-profit sector from terrorist abuse, supervision and implementation of preventive measures.

6. Many positive developments have taken place in the last two to three years before the on-site visit, and while some initiatives are beginning to show results (e.g., increases in ML investigations, improvements to the timelines for incoming MLA requests, the implementation of a new mechanism of TFS for PF), others have been too recent and require an appropriate period of time to be operational and lead to changes in the effectiveness of the system (e.g., DNFBP and VASP supervision).

7. India has achieved strong results in its technical compliance with the FATF Standards. The remaining areas requiring significant improvement are risk-based measures to protect NPOs, establishing due diligence requirements on domestic PEPs and supervision of DNFBPs.

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

8. Authorities in India have a strong understanding of ML risks and in particular, law enforcement and intelligence authorities involved in CFT have a sophisticated understanding of TF risks as reflected in the 2022 NRA, various sectoral risk assessments, policies, and cases. Consistent with the risks identified in the NRA, India has implemented a broad range of policy, operational and legislative measures to mitigate these risks. A key strength of the Indian system is its continuous domestic coordination and cooperation on AML/CFT issues at both the policy and operational levels at the central and state levels which has improved since the last assessment.

9. There are some shortcomings in risk understanding, particularly relating to ML threats arising from trafficking in human beings and migrant smuggling, and ML/TF risks from smuggling and dealing in precious metals and stones, where understanding can be further developed. A more detailed action plan that provides more granular mitigation measures, which lays out clear priorities and benchmarks implementation, would strengthen responses.

10. The conclusions of the non-public NRA and sectoral risk assessments have been communicated to many of the reporting entities across different states. However, there remains a significant volume of reporting entities that have not been engaged.

*Financial intelligence, ML investigations, prosecutions and confiscation
(Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)*

11. LEAs and intelligence agencies routinely access and use financial intelligence and other relevant information in investigations related to ML, predicate offences and TF. The FIU's (FIU-IND) analysis and dissemination support the operational needs of competent authorities to a significant extent. The lower levels of requests from some LEAs, as well as for tracing and attaching assets, supports the need to improve the feedback framework between the FIU and end users.
12. The Enforcement Directorate (ED), the sole competent authority mandated to investigate ML activities, is able to investigate and prosecute complex ML activity. While LEAs are routinely identifying proceeds when investigating predicate offences, it is not clear it is sufficiently carrying out effective parallel financial investigations and detecting potential money laundering cases.
13. The ED pursues ML related to fraud and forgery in line with predicate crime risks to a large extent, but less so with other offences in particular trafficking in human beings and migrant smuggling, and drug trafficking. The number of ML convictions over the last five years has been impacted by a series of constitutional challenges (resolved in 2022) and the saturation of the court system. Although the number of prosecutions and convictions have started to increase, the backlog of pending cases remains considerable.
14. Competent authorities responsible for asset recovery have a broad set of powers available, enabling them to seize and confiscate property of suspects in a wide variety of circumstances. Operationally and as a matter of policy, the ED makes significant use of powers to attach (seize), depriving criminals of proceeds and helping prevent asset flight, resulting in assets valued at EUR 9.3 billion attached over the last five years.
15. Confiscations based on convictions for ML have amounted to EUR 4.4 million over the evaluation period, which is inconsistent with risk, impacted by the cases pending before the courts. Non-conviction-based confiscation for ML, amounting to EUR 1.84 billion, has been used during the period on a small number of cases, some of which are significant.
16. India has a system of capital controls and has in place a declaration system for incoming cross-border movements and a disclosure system for outgoing movements. However, the focus on cross-border cash movements is directed towards identifying breaches of capital controls rather than AML/CFT concerns.

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

17. Indian authorities have demonstrated a good understanding of both current and emerging TF threats and risks in different theatres of risk in the country, and investigations are broadly conducted in line with the risks identified. Case studies provided reflect India's ability, in particular the National Investigative Agency (NIA) and ED, to conduct complex financial investigation and identify money trails to support the investigation and prosecution of terrorist activity and TF.
18. However, statistics and case studies also reflect significant delays in prosecutions both at the NIA and State level, resulting in a high number of pending cases and accused persons in judicial custody waiting for cases to be tried and concluded. Based on the number of open cases, it could not be concluded that TF offenders were being successfully convicted during the evaluated period.
19. India's strong emphasis on disruption and prevention mechanisms for terrorism and TF, including through asset seizures of designated individuals and entities, is in line with TF risks overall. However, measures relating to preventing the NPO sector from being abused for TF, are not calibrated to the subset of NPOs identified as at risk for TF abuse. While there is ongoing

engagement with NPOs, this is not sufficiently coordinated amongst the different government authorities and more specific TF risks relating to NPOs are not adequately communicated.

20. India has an interagency framework to designate entities for UNSCRs, which it uses to designate terrorists and terrorist organisations. However, the time and manner in which the obligations to freeze should be implemented without delay, is not always clear. In practice, established reporting entities utilise commercial sanction screening software to do this, although more recently regulated DNFBPs require more support to enable them to better implement their TFS obligations.

21. Since January 2023, India has in place a more streamlined framework to implement PF TFS obligations without delay under the WMD Order. In addition, there is a communication mechanism that relays listings to reporting entities through their respective regulators without delay and established FIs and VASPs understand their PF TFS obligations, relying on sanction screening software for this. DNFBPs do not have the same level of awareness or structures. Prior to January 2023, while there was a broad prohibition not to finance sanctioned persons and entities under the WMD Act, there was no clear articulation of the obligation to freeze funds and assets without delay.

22. To date, there have been no TFS matches with designated lists under UNSCR 1718 reported to MEA or FIU-IND, which is consistent with the exposure of India to PF activity.

Preventive measures (Chapter 5; IO.4; R.9–23)

23. There is a good general understanding of ML/TF risks and application of mitigating measures in the financial sector, in particular by commercial banks, but less so for some other FIs including in the foreign exchange sector and cooperative banks. CDD and enhanced measures are being applied but the identification of beneficial owners is an area for improvement. All sectors seem to apply EDD to domestic PEPs, notwithstanding the absence of a legal requirement, but there are some inconsistencies on the breadth of domestic PEPs being identified.

24. Implementation of AML/CFT requirements by VASPs and DNFBPs is in its early stages. VASPs generally demonstrated a good understanding of risks and obligations, and seem to apply preventive measures to a reasonable extent. Despite the lack of supervision for most DNFBPs sectors, DNFBPs seem to understand their obligations and ML risks, commensurate with their materiality and size of business operations. Some improvements are required in relation to TF risk understanding and TFS freezing obligations.

25. Suspicious transaction reporting by some FI sub-sectors appears low (including non-financial banking companies, the Department of Post and rural banks) and DNFBPs are yet to detect and file STRs in a significant way.

Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)

26. Licencing, registration and fitness and probity checks to prevent criminals from entering the financial, VASP and DNFBP sectors are broadly adequate, although less so for DPMS and some smaller FIs. There are insufficient checks to identify criminal associates across many sectors.

27. RBI, the financial supervisor of the banking sector and other material FIs, has a good understanding of inherent ML risks and a reasonable understanding of TF risks, adopting a risk-based approach to supervision for the most material sectors. The supervision of the Money Transfer Services Scheme (MTSS) sector, a type of MVTS identified in the NRA as posing TF risks, is not sufficiently calibrated to the risks of the sector.

28. For the VASP sector, whilst risk-based supervision has commenced, supervisory capacity appears limited considering the complexity and growing nature of the sector. For the DNFBP sector,

supervision is less developed (except for casinos) with limited or no capacity to supervise and monitor compliance with AML/CFT obligations.

29. Financial sanctions imposed by supervisors were generally limited in number and value. Business restrictions imposed by the RBI in a case of systemic failure appear more dissuasive. The enforcement action by FIU-IND against FIs that have committed serious systemic failures in STR reporting has raised the effectiveness of the sanctioning regime to some extent.

30. As a result of tax law provisions relating to cash threshold prohibition, the DPMS sector falls outside the scope of preventive measures. The prohibition is monitored largely through an external audit mechanism with reports prepared by an external accountant and tax inspections conducted by CBDT. However, the adequacy of the compliance monitoring of the DPMS sector with the threshold prohibition is uncertain and there are doubts on the dissuasiveness of the penalty provisions. This raises doubts as to whether the ML/TF risks in the sector are effectively mitigated by the prohibition.

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

31. India has a good understanding of the inherent vulnerabilities associated with different types of legal persons, although there is a need for better assessing residual risks posed by informal nominee arrangements, which is important in the country risk and context.

32. India has taken a number of positive steps to enhance the transparency of information on legal persons and arrangements. This includes conducting an intensive campaign to remove shell companies from its company registry, and implementing a public registry of “significant beneficial owners” of legal persons that have declared having a more complex control structure. The latter contains a small proportion of legal persons in India. A central KYC registry, containing BO information of legal persons and arrangements that have a relationship with an Indian financial institution, provides another source of BO information. Indian competent authorities have been able to access basic and BO information in cases from a variety of sources.

33. There has been a focus on striking off non-compliant companies and shell companies in the MCA registry. However, the limited number and size of sanctions imposed for more serious non-compliance may not have the dissuasive effect needed to prevent non-compliance in all circumstances.

34. India relies on registers of public trusts, tax law and CDD requirements for the availability of information on legal arrangements; however, the fragmented way information is kept in relation to public trusts and the very recent CDD obligations for professional trustees limits availability to some extent.

International cooperation (Chapter 8; IO.2; R.36–40)

35. India has an appropriate legal framework in place to support MLA and extradition and has recently taken important steps, introducing and implementing updated guidelines and an online portal for coordination and prioritisation, to improve the coordination and timeliness of responding to requests for international cooperation. Seeking formal international cooperation where necessary is a standard component of ML/TF investigations in India. Requests have been made in keeping with the country’s risk profile but some improvements could be made to the quality of these requests.

36. LEAs and the FIU proactively seek and provide informal cooperation with foreign counterparts. This cooperation has assisted authorities in India to advance ML/TF investigations. Financial supervisors have sought and provided international cooperation, although this has

generally been limited to the provision of information related to fit and proper checks, including basic and beneficial ownership information.

Priority Actions

- India should undertake more comprehensive financial network analysis especially on ML techniques associated with trafficking in human beings and migrant smuggling, to develop its understanding of the ML risks associated with these.
- India should enhance the capacity of LEAs to enable them, to more effectively pursue parallel financial investigations into proceeds generating predicate offences, including by FIU-IND working with LEAs to enhance use of financial intelligence in support of complex financial investigations and asset tracing.
- India should aim to reduce the number of pending trials in ML cases – both for new trials and for the backlog, addressing the low number of convictions associated ML cases and increasing conviction-based confiscation, by making major changes to increase the capacity of the court system, and potentially the capacity of the ED.
- India should make major changes to address delays relating to the prosecution of TF cases, so as to improve the timeliness of their judicial disposal and clear the serious backlog of unconcluded TF prosecutions.
- India should improve its framework for implementing TFS so that it is clear that all natural and legal persons are obliged to freeze funds and assets without delay, streamline the process for communicating TFS listings so that all reporting entities receive the updates without delay in line with the requirements of R.6, and ensure that outreach to reporting entities is regular and sustained.
- India should ensure that CFT measures aimed at preventing the NPO sector from being abused for TF are implemented in line with the risk-based approach, including by conducting outreach to NPOs on their TF risks. Outreach should be conducted in a more focused coordinated and risk-based manner by the relevant competent authorities, ensuring NPOs at risk of TF abuse enhance their understanding of TF risks, including the sources, channels and end-use of funds as per their respective theatre.
- India should address technical compliance deficiencies in relation to Recommendation 12, establishing clear obligations concerning domestic PEPs. Reporting entities should improve identification of domestic PEPs and take risk-based enhanced measures in relation to them.
- India should develop the capacity of all DNFBP supervisors that have been recently incorporated so that they apply AML/CFT supervisory actions to their sectors on a risk-sensitive basis. DNFBPs should improve detection of suspicious transactions as well as increase the quantity of STRs, particularly by high-risk sectors, when suspicious activity is detected.
- In view of the risks presented by the MTSS Scheme, India should prioritise the risk-based supervision of the sector, including by RBI working with MTSS

principals and Indian agents to increase the level of risk understanding of ML/TF risks and AML/CFT obligations.

- In view of the risk and materiality of the DPMS sector, India should enhance measures to prevent criminals or their associates from participating in the sector and enhance monitoring of the sector's compliance with mitigating measures, including enforcement of the cash prohibition.
- India should enhance monitoring of the MCA registry to ensure the availability of adequate, accurate and up-to-date basic and BO information on legal persons.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Rating

IO.1 - Risk, policy and co-ordination	IO.2 International co-operation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Substantial	Substantial	Moderate	Moderate	Substantial	Substantial
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	Substantial	Moderate	Moderate	Substantial	

Note: Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low - LE, level of effectiveness.

Table 2. Technical Compliance Ratings

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

Note: Technical compliance ratings can be either a C - compliant, LC - largely compliant, PC - partially compliant or NC - non compliant.