



Anti-money laundering and counter-terrorist financing measures

Republic of Guinea Bissau

February 2022

**Mutual Evaluation
Report**





The Inter-Governmental Action Group against Money Laundering (GIABA) is a specialized institution of ECOWAS and a FATF Style Regional Body that promotes policies to protect member States financial system against money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter terrorist financing (CTF) standard.

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Executive Summary

1. This report summarizes the AML/CFT measures in place in Guinea Bissau as at the date of the on-site visit during January 18th – February 5th, 2021. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Guinea Bissau's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) Guinea Bissau has a low level of understanding of its ML/TF risks. The country has assessed its ML/TF risks through a national risk assessment but yet to finalize the report at the time of the onsite. Shortcomings were noted in the comprehensiveness of the risk assessment in some areas, availability of statistics, and scope of the exercise which impacted on the overall understanding of risk in the country.
- b) Guinea Bissau has yet to develop a national AML/CFT policy that addresses the risks identified. Nonetheless, the country has adopted a seven-year (2021-2027) National Integrated Plan which addresses some of the main risks identified in the NRA.
- c) There are vulnerabilities that adversely impact on the effective implementation of the AML/CFT regime in Guinea Bissau. These include a large informal and cash-based economy, under-resourced authorities, porous land borders and the weak monitoring/lack of government presence in most of the islands, weak measures to control cash movements at the borders, weak implementation of AML/CFT requirements by NBFIs and DNFBPs, absence of AML/CFT supervision, especially in the DNFBPs, and lack of effective, proportionate, and dissuasive sanctions against reporting entities that violate AML/CFT requirements.
- d) The Inter-Ministerial Committee (IMC) is the mechanism for AML/CFT national coordination at the policy level. However, due to several factors, including administrative and resource constraints, the IMC is not operational or functional. As regards coordination at the operational level, authorities generally cooperate under some operational platforms, such as the Joint Airport Interdiction Task Force (JAITF-AIRCOP). Nevertheless, there is room for improvement especially operational cooperation amongst supervisory authorities. There is no cooperation mechanism in relation to PF.
- e) LEAs have access to a broad range of information sources but make limited use of financial intelligence to support their investigative activities. The FIU has not made full use of its powers to access information held by some key competent

authorities to support its analysis. Notwithstanding, the quality of the Unit's financial intelligence and analysis reports is considered generally good. There is little reference or evidence on the use of financial intelligence from the FIU to initiate ML/TF investigations. The FIU has not yet conducted strategic analysis and lacks adequate resources.

- f) The legal framework for preventive measures is generally sound, although improvements are required in some areas. The implementation of preventive measures across sectors is mixed, strongest in the banking sector and low in the NBFIs and DNFBBs. The weak implementation of AML/CFT preventive measures by NBFIs and DNFBBs adversely affects the overall effectiveness of preventive measures in Guinea Bissau.
- g) The implementation of a risk-based approach to AML/CFT supervision is weak or at best, at rudimentary level for banks and non-existent in non-bank financial institutions and DNFBBs. In general, improvements are required in BCEAO/Banking Commission risk assessment methodologies / risk rating system to have a more robust basis for its application of AML/CFT risk-based supervision (RBS). Some AML/CFT onsite examinations have been undertaken in the banking sector by BCEAO, and bureau de changes (BDCs) by BCEAO and MEF. Overall, improvements are required in the supervisory regime of BCEAO and MEF. Although a wide range of sanctions (especially administrative) are available to supervisors, they are not being applied in practice despite significant violations noted during AML/CFT supervision. Insurance supervisors have not yet implemented RBS, nor have they commenced AML/CFT supervision for their sectors. Other than BCEAO, other financial supervisors are generally under-resourced given their AML/CFT responsibilities and associated workload. Guinea Bissau is yet to designate an AML/CFT oversight authority for the DNFBB sector.
- h) While Guinea Bissau has a legal framework to implement targeted financial sanctions (TFS) against terrorist financing, major improvement is required in terms of implementation. In addition, unlike the large commercial banks belonging to international groups, NBFIs and DNFBBs are yet to effectively implement their TFS obligations in relation to TF.
- i) Guinea Bissau has legal framework for the implementation of TFS related to proliferation of weapons of mass destruction (WMD). However, the country has not designated competent authority responsible for implementing TFS related to PF.
- j) Generally, Guinea Bissau has good legal framework and institutional structure to investigate and prosecute ML. However, in practice, the criminal investigative and prosecutorial authorities, especially the criminal police agencies and the Public Prosecutor's Office, do not prioritize ML investigations. Investigations and prosecutions of proceed generating offences focus more on the underlying predicate offences, resulting in very few ML investigations and prosecutions. Furthermore, the criminal investigative and prosecutorial agencies have a low level of expertise in financial investigations and lack the resources to deal with ML cases.

- k) Guinea Bissau has not conducted a comprehensive assessment of the NPO sector and thus, yet to identify the NPOs potentially at risk of misuse for TF. There has been no outreach to the NPO sector and no targeted risk-based supervision and monitoring of the NPOs by the designated competent authority.
- l) Guinea Bissau has adequate legal framework on provisional measures and confiscation that allows LEAs to deprive criminals of proceeds and instrumentalities of crime. However, the use of provisional measures appears limited. Similarly, confiscations are limited and the institutional framework for managing confiscated assets (Asset Recovery Office and the Asset Management Office) is not operational. In general, confiscation of criminal proceeds, instrumentalities and property of equivalent value are not being pursued by the authorities as a policy objective.
- m) Guinea Bissau has not criminalized the financing of an individual terrorist and a terrorist organization for any purpose. Although the Attorney General's Office and the Judicial Police have the legal power to open investigations on TF cases, they do not have specialized or dedicated TF unit to conduct TF investigation. In addition, investigative prosecutorial and judicial authorities (criminal police agencies and the Public Prosecutor's Office) have not been sufficiently trained to effectively conduct TF investigations, and did not demonstrate that they could actively detect, investigate, and prosecute terrorist financing. Guinea Bissau does not have a national counter-terrorism strategy. Coordination and collaboration among national authorities on TF matters is limited.
- n) Basic information on legal persons is maintained at the Centre for Formalization of Enterprises (CFE) and is publicly available. Legal persons are subject to general obligations that could protect them from misuse for ML purposes. However, there are no sanctions to enforce compliance with these requirements, which raises concerns regarding the retention of adequate, accurate and up-to-date information. In addition, there is no obligation to keep beneficial ownership information at the CFE. Information on beneficial owners held by banks can be accessed through the FIU or directly by competent authorities through a court order. The risk of ML/TF risk associated with legal persons has not been assessed, and authorities demonstrated low understanding in this regard. Substantial number of companies created in Guinea Bissau are dormant but have not been de-registered which create potentials or possibilities for misuse.
- o) Guinea Bissau does not have a specific law on MLA and extradition. Nevertheless, the country uses the general provisions of the Criminal Procedure Code for international cooperation. There is no comprehensive internal prioritization or case management system to monitor or track the processing of requests for MLA, and extradition, and response time to MLAs is generally long. The FIU and other competent authorities generally exchange information with foreign counterparts through informal networks. Overall, Guinea Bissau's authorities make little use of international cooperation mechanisms, which is inconsistent with the transnational nature of the most important proceed generating crimes in the country.

Risks and General Situation

2. Guinea Bissau faces ML threats from proceeds of crime generated both domestically and internationally, especially through its financial sector. The main proceeds generating predicate offences are corruption, drug trafficking, embezzlement, tax fraud and tax evasion, swindling, abuse of trust, and maladministration. Whilst most of these criminal activities are committed domestically, drug trafficking has transnational character and is the main external threat to the country. Transnational organized crime groups use Guinea Bissau as a transit route for drug trafficking.
3. There is widespread use of cash and a large informal economy, including informal cross-border physical transportation of cash. There are some sectors identified as significant in terms of their scale, role, or vulnerability. Overall, the financial sector is considered to have higher inherent ML/TF risks. Within the financial sector, banks accounts for a significant part of the total assets. Furthermore, banks offer a variety of products and transactions, and have a deeper connection with the international financial system than other FIs and the DNFBPs. Within the latter, lawyers are most vulnerable to misuse for ML purposes. The other DNFBPs such as dealers in stones and precious metals, casinos, and accountants face lesser ML/TF risks while real estate agents do not exist in Guinea Bissau.
4. According to its draft NRA report, TF risk in Guinea Bissau is assessed as medium low. Guinea Bissau has not experienced incidents of terrorism nor cases of funds raised in and/or moved out of Guinea Bissau for use in financing of terrorism within or outside of the country. Guinea Bissau remains vigilant as the authorities are aware of the country's characteristics, such as cash economy; the presences of a dormant cell of the al-Qa'ida in the Islamic Maghreb (AQMI) in Gabu (eastern Guinea Bissau); radicalization of some Guinea Bissau citizens and some nationals that were recruited by the AQMI cell and trained in Mali, Pakistan and Nigeria; porosity of Guinea-Bissau's borders and several unmanned islands that expose the country to the risk of terrorism/TF. In light of the above, the assessment team broadly agrees with the conclusion of the NRA that the TF risk in Guinea Bissau is medium low.

Overall Level of Compliance and Effectiveness

5. Since its last mutual evaluation in 2009, Guinea Bissau has taken some steps to improve its AML/CFT regime in line with international standards. Specifically, the country domesticated the Uniform law¹ by enacting the AML/CFT Law No. 3/2018. This legislation strengthened the country's legal framework particularly as regards preventive measures, provisional freezing measures and targeted financial sanctions related to terrorism and proliferation. Guinea Bissau has also put in place measures to implement targeted financial sanctions in relation to TF. Important improvements in the country's institutional framework include the establishment of the Asset Recovery Office and the Asset Management Office, and other agencies that deal with ML/TF cases. However, some deficiencies remain in Guinea Bissau's technical compliance framework, including the non-criminalization of the financing of an individual terrorist and a terrorist organization for any purpose. Guinea Bissau also needs to improve its technical framework in relation to beneficial ownership of legal persons and definition of PEPs.

¹The Law on Combating Money Laundering and Terrorist Financing within the Member States of the West African Economic and Monetary Union (UEMOA)

6. Guinea Bissau has implemented an AML/CFT system with a low level of effectiveness in all areas. Fundamental improvements are required in the understanding of risks and in the areas of confiscation, investigation, and prosecution for ML, particularly with regard to conducting parallel investigations, as well as TF Investigation and Prosecution. Significant improvements are also needed to strengthen and/or commence supervision on a risk sensitive basis and monitoring of reporting institutions, as well as implementation of preventive measures by these entities, and in preventing misuse of the NPO sector. The FIU requires additional human, technical and financial resources, and there is the need for capacity building on AML/CFT within the criminal justice system. In addition, the country should strengthen international cooperation, particularly judicial assistance. Generally, Guinea Bissau needs to enhance its collection and maintenance of comprehensive ML/TF-related statistics in order to better document the actions taken and assist the country in evaluating the effectiveness of its AML/CFT system.

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

7. Guinea Bissau demonstrated a low understanding of its ML/TF risks. As at the time of onsite (January 18 – February 5, 2021), the country had concluded its NRA but yet to finalize the report. Nonetheless, a draft NRA report was made available to the assessment team. The process was inclusive, involving relevant stakeholders from the public and private sector² and led by the FIU. Both qualitative and quantitative data, including information from suspicious transaction reports (STRs), data from investigative and prosecutorial authorities, etc were utilized in the assessment of the NRA (see Para 99 for details). Although the conclusions in the draft NRA were generally reasonable in that they reflect the main ML/TF risks facing the country, some shortcomings were noted which adversely impacted on the overall understanding of risks in the country. These include insufficient analysis and understanding of Guinea Bissau Islands' vulnerabilities within an international context; inadequate analysis of some inherent contextual factors that may influence the risk profile of a country, especially the informal economy, and the lack of specific analysis on the risk associated with legal persons and legal arrangements as well as the real estate sector. In addition, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in Guinea Bissau, which have an impact on LEAs' understanding. The assessment of TF risk in the NRA lacks granularity and a sound analysis of trends, with limited analysis on sources, financial products and services that could be misused, while the TF risks emanating from NPOs was not comprehensively assessed in the NRA.
8. In general, the level of risk understanding varies across the public sector. The highest levels of understanding were demonstrated by the financial intelligence unit (FIU), judicial police (JP), GLCCDE, BCEAO and the Intelligence and Security Service (SIS). The private sector demonstrated a varied understanding of ML/TF risks, with the banks demonstrating a more advanced understanding compared to NBFIs and DNFBPs.
9. Guinea Bissau is yet to finalize and disseminate the results of the NRA and also yet to develop comprehensive national AML/CFT policies informed by ML/TF risks. The country had a national strategy for the period spanning 2016 to 2019 but had not updated it since it expired. Nevertheless, the country has adopted a seven-year NIP (2021-2027) which addresses some of the main risks identified in the draft NRA. The country can benefit

² See details in the footnotes 79 and 80 on criterion 1.1

from commencing the implementation of the NIP. In addition, it can also benefit from finalizing the report of the NRA and communicating the results of the risks identified to the private sector to foster improved application of appropriate mitigation measures.

10. The objectives and activities of the competent authorities are generally determined by their own priorities and not based on identified risks and AML/CFT/PF Strategy and Policies. Overall, LEAs have been focused mainly on predicate offenses rather than ML. LEAs' activities are aligned with the TF risk only to the extent such risks are recognized. The objectives and activities of BCEAO/Banking Commission to prevent, detect and respond to ML/TF are informed by risk assessments only to some extent, while the objectives and activities of other supervisors are not informed by risk assessments.
11. The authorities in Guinea Bissau cooperate and coordinate on AML/CFT better on operational issues and to a little extent on policy issues. The Inter-Ministerial Committee is the overarching domestic coordination and cooperation body within Guinea Bissau with responsibility for the development of national policies and the coordination of AML/CFT issues. However, due to several factors, including administrative and resource constraints, the Committee is not operational. Currently, this role is being performed by the FIU, which led the conduct of the NRA. Nevertheless, cooperation and coordination at policy level is weak, at best. At the operational level, cooperation and coordination generally works well between the criminal police agencies, the Public Prosecutor's Office and the FIU, but is still at rudimentary stages amongst supervisors. There is no cooperation mechanism in relation to PF.

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

Use of Financial Intelligence (Immediate Outcome 6)

12. Guinea Bissau has a functional FIU which analyzes STRs and other information it receives and disseminates financial intelligence to relevant competent authorities, including the prosecution authorities. All the STRs and CTRs received by the Unit are from the banking sector. The STRs are generally of good quality, but the volume is considered low. The non-submission of STRs by NBFIs and DNFBPs as well as the non-receipt of cross border currency declarations from Customs, potentially deprives the FIU of the necessary transaction information to support in-depth intelligence analysis; produce different types of financial intelligence consistent with the risk profile of the country; could adversely impact on the ability of the Unit to perform its core functions and effectively meet its domestic and international obligations; and ultimately, the availability of financial intelligence in the country..
13. The FIU has powers to access a number of public databases to generate reasonable financial intelligence and other information. However, the Unit has not adequately used its powers to access information that would have further enhance the execution of its core mandate from some key agencies, including the SIS, GLCCDE, the Immigration Service and regulatory authorities, which represents a gap that could impacts its ability to conduct comprehensive analysis.
14. The financial intelligence and other information provided by the FIU to the investigative and prosecutorial authorities (upon request and spontaneously) are useful. However, these are primarily utilized by LEAs to support investigation of predicate offences and have contributed to only few ML/TF investigations. LEAs provided limited feedback to the FIU on the use of its financial intelligence. This practice does not allow the FIU to adequately

assess the quality of its analysis and prioritize its own course of actions. While the FIU performs operational analysis, it has not yet conducted strategic analysis to identify trends and patterns and inform stakeholders on emerging risks.

15. The FIU lacks adequate human, technical and financial resources that would enable it to effectively perform its core functions, especially analysis. Overall, there is a need for the government to provide more resources to the FIU so that it can strengthen its capacity to effectively support the operational needs of LEAs.
16. The FIU and other competent authorities cooperate but exchange information to a limited extent. The FIU has signed MoUs with and has designated focal points in some domestic competent authorities. In addition, officials from six critical government agencies, including Judicial Police, Customs Services, and BCEAO have been seconded to the Unit to promote cooperation. However, these measures have not been effectively utilized to facilitate information exchange between the FIU and the relevant agencies.

ML Investigation and Prosecution (Immediate Outcome 7)

17. Guinea Bissau has put in place a legal framework for conducting investigations and prosecuting ML cases. The country has established specialized institutions to investigate and prosecute predicate offences as well as ML. These include the Judicial Police, the Public Order Police, the National Guard, and the Office for the Fight against Corruption and Economic Crimes in the Attorney General's office.
18. Overall, Guinea Bissau does not systematically pursue parallel financial investigations. Competent authorities have not demonstrated that they prioritize ML investigations, and focus on different types of ML. Consequently, the number of ML investigations and prosecutions relative to the predicate offences reported, investigated, and prosecuted is low and not consistent with the identified ML risks. Other factors contributing to the low ML investigation include a low level of financial investigative skills, the lack of resources to effectively investigate and prosecute money laundering cases, the marked institutional weakness, weak national and international cooperation, as well as strong interference of the political power in the judiciary regarding the conduct of investigations into economic and financial crimes, including ML. There have been no third party or standalone money laundering cases in Guinea Bissau.
19. The one ML (self-laundering) convictions is not consistent with the risk profile of the country, especially given the high level of threats associated with the various predicate offences in Guinea Bissau that potentially generate significant proceeds of crime. The negligible number of ML conviction and the scarcity of concrete cases make it impossible for the assessors to verify whether the sanctions are effective, proportionate, and dissuasive. Although there is a legal framework that allows for alternate measures, Guinea Bissau has not demonstrated that it applies other criminal justice measures in cases where, for justifiable reasons, it is not possible to obtain a conviction of ML after investigation.

Confiscation (Immediate Outcome 8)

20. Guinea Bissau has adequate legal framework on provisional measures and confiscation that allows LEAs to deprive criminals of proceeds and instrumentalities of crime. The country has established the Asset Recovery Office and the Asset Management Office to ensure that confiscated assets are properly managed. However, these agencies are not operational due to the lack of technical, financial and human resources to carry out their functions, while the confiscation of proceeds and instrumentalities of crime, as well as property of equivalent value is not generally pursued as a policy objective.

21. Competent authorities do not systematically seize or confiscate illicit proceeds because they have very limited training on financial investigation and generally do not conduct financial investigations to trace money when conducting investigations on proceeds generating crimes. Guinea Bissau's confiscation efforts are largely directed towards predicate offences, while statistics provided do not indicate significant success. Non-conviction based confiscation is not possible in Guinea Bissau, even in cases where the perpetrator is not available because of death, flight, absence, or the perpetrator is unknown. Guinea Bissau authorities do not generally, identify, trace and repatriate proceeds that have been transferred or moved to other countries.
22. Guinea Bissau has a declaration system for cross-border movements of cash or BNIs. However, this system is not being enforced effectively, as the proportion of falsely declared cash that is confiscated is very low. Authorities generally impose administrative penalties for non-compliance. Given that the use of cash is prevalent in Guinea Bissau and it has been identified as a vulnerability factor in the NRA, the limited confiscation results do not reflect the risks to the country.
23. Guinea Bissau did not demonstrate that it thoroughly pursues confiscation or freezing of proceeds derived from a foreign predicate. Overall, Guinea Bissau's confiscation regime is weak and confiscation of proceeds of crime is generally not consistent with the risk profile of the country.

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

TF Investigation and Prosecution (Immediate Outcome 9)

24. The legal framework for TF is inadequate. The country has not criminalized the financing of individual terrorists and terrorist organizations for any purpose, and the financing of foreign terrorist fighters (FTFs). There are institutional structures (Judicial Police, SIS and the prosecutor's office) responsible for the investigation and prosecution of terrorism and terrorist financing. Although the overall TF risk understanding is low, the SIS demonstrated the most developed understanding of TF risk that Guinea Bissau is facing.
25. Guinea Bissau lacks counter-terrorism strategy and there is limited coordination and collaboration among the national authorities on TF matters. In addition, there is inadequate technical, and financial resources across relevant authorities which constitute obstacles in the identification, investigation, prosecution, and conviction of TF cases.
26. Guinea Bissau had carried out only one investigation related to FTFs, and there has been no TF case prosecuted in the country as at the time of onsite. There was also no STRs relating to terrorism or TF filed to the FIU. This is broadly not in line with the overall TF risk (assessed as medium-low) in the draft NRA.
27. The country could not demonstrate if it uses alternative measures when TF conviction is not possible. In the absence of a TF case, the effectiveness, proportionality and dissuasiveness of the sanctions which could be implemented by the authorities to deter TF activities could therefore not be determined.

Preventing Terrorists from raising, moving and using funds (Immediate Outcome 10)

28. Guinea Bissau has a legal framework for the implementation of targeted financial sanctions (TFS). However, the country has not designated an authority that is responsible for the dissemination of the sanctions list and as such timely transmission of the lists to all reporting entities is not possible. Thus, deficiencies exist in the communication to reporting

entities of amendments to the list of persons and entities designated under TFS relating to TF. Nevertheless, banks affiliated with international groups have software which enable them to monitor clients and transactions based on the UN's sanctions list and other relevant lists irrespective of measures taken at a national level. In general, reporting entities, except banks affiliated with international groups, do not implement systematically UNSCRs without delay. BCEAO monitoring of banks for compliance with TFS obligation relating to TF is weak. There is no evidence that other reporting entities are monitored for compliance in relation to TFS obligations relating to TF. Guinea Bissau has not designated any persons or entities on the basis of resolution 1373.

29. The TF risks emanating from NPOs was not comprehensively analyzed in the NRA. Guinea Bissau can benefit from conducting a comprehensive assessment of the sector to identify the types of NPOs that are vulnerable to misuse for TF purposes. There has been no outreach conducted to NPOs and no guidance provided. The supervisory authority for NPOs (General Directorate for the Coordination of Non-Governmental Aid (DGCANG)), has not adopted targeted risk-based supervision or monitoring of NPOs. In addition, it does not have adequate powers to effectively perform its functions. The lack of TF cases makes it impossible to ascertain the extent to which terrorists, terrorist organizations and terrorist financiers would be deprived (whether through criminal, civil or administrative processes) of assets and instrumentalities related to TF activities.

Proliferation Financing (Immediate Outcome 11)

30. Guinea Bissau has a legal basis (AML/CFT law) for the implementation of targeted financial sanctions relating to the financing of proliferation. However, the law does not designate the competent authority responsible for implementing TFS related to PF. Thus, there is no properly defined mechanism for disseminating the lists of designated persons to reporting entities. In addition, competent authorities do not have a good understanding of the obligation to implement TFS in relation to the financing of proliferation. Except for the large commercial banks belonging to international groups that demonstrated some understanding of their obligations regarding PF TFS, other FIs and DNFBPs had little or no understanding of their obligations relating to PF. There is no monitoring of reporting entities on PF obligations, which could be as a result of limited number and scope of supervisory actions. In addition, there is no national coordination mechanism to combat the financing of proliferation of weapons of mass destruction. No assets of persons linked to relevant DPRK or Iran, UNSCRs have been identified in the country and as a result no assets or funds associated with PF have been frozen.

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

31. The AML/CFT Law no.3/2018 is the primary legislation setting out AML/CFT obligations for reporting entities³ in Guinea Bissau. However, there are some deficiencies in the AML/CFT law, including in relation to CDD, definition of Foreign PEPs, new technologies and wire transfers which impact Guinea Bissau's overall compliance.
32. Reporting entities' overall understanding and implementation of their AML/CFT obligations is mixed. Commercial banks have a better understanding of their ML/TF risks and AML/CFT obligations. They have conducted internal ML/TF risk assessments (albeit at different levels of sophistication) and thus, have a better understanding of ML/TF risks

³ Reporting entities in Guinea Bissau include financial institutions and all DNFBPs, except for real estate agents. There are no VASPs in Guinea Bissau

and are applying mitigating measures in a manner that is mostly commensurate to the assessed level of risk. NBFIs are yet to conduct internal risk assessment, have limited understanding of ML/TF risk and their AML/CFT obligations while measures adopted to mitigate risks are inadequate. The level of understanding of sector specific ML/TF risks and AML/CFT obligations is very low across the DNFBP sectors. They generally do not apply adequate mitigating measures. This is a major concern more specifically as some DNFBPs (e.g lawyers) were considered as being exposed to high risk of ML in the draft NRA.

33. Generally, CDD and record-keeping requirements are complied with by most reporting entities, although stronger in the FIs (especially the commercial banks). Commercial banks in particular are more rigorous in their efforts to apply CDD measures that could be regarded as somewhat sufficient, and to determine the beneficial owner of funds. NBFIs and DNFBPs apply some elements of CDD; however, their efforts are not fully consistent with AML/CFT requirements or the ML/TF risks they face. In general, reporting entities have challenges in the implementation of effective CDD measures, including the verification of beneficial owners. Apart from large banks belonging to international groups that have some measures to implement TFS, other FIs and DNFBPs do not implement TFS. These categories of reporting entities demonstrated little or no awareness of TFS regimes and of their obligations in this regard.
34. Only commercial banks are filing STRs and threshold reports (CTRs). The overall number of STRs filed over the evaluation period is considered low given the significance of the banking sector and the risks it faces. Additionally, STRs filed are not reflective of all proceeds generating crimes in Guinea Bissau. NBFIs and DNFBPs demonstrated a low level of understanding of reporting obligations, and have not submitted any report (STRs or CTRs) which presents a significant gap.

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

35. The legislative and regulatory measures in place to prevent criminals and their associates from participating in the ownership, control or management of financial institutions are generally sound. Appropriate checks on directors and officers are conducted both at market entry and while the financial institutions are in existence. In relation to DNFBPs, licensing or registration procedures are undertaken by prudential regulatory authorities and/or self-regulatory bodies. These include background checks, especially in the case of lawyers and accountants. The challenges in the identification of beneficial ownership remains an obstacle to preventing criminals or their accomplices from owning a business or participating in the management of a business.
36. The understanding of ML/TF risks by the financial supervisors is uneven, with the BCEAO/Banking Commission having a relatively good understanding with respect to banks. Understanding of risk by supervisory authorities for insurance companies is low. Guinea Bissau has not designated AML/CFT oversight authorities for DNFBPs. Existing prudential supervisors and SRBs, especially the Ministry of Tourism, the Bar Association, and ORNATOC-GB exhibited very little knowledge and understanding of ML/TF risks present in their respective sectors.
37. Generally, the implementation of a risk-based approach to AML/CFT supervision is weak or at best, at rudimentary level for banks and non-existent in non-bank financial institutions and DNFBPs. In general, improvements are required in BCEAO/Banking Commission risk assessment methodologies / risk rating system, including risk mapping/classification of institutions to have a more robust basis for its application of AML/CFT RBS. Other

supervisors have not yet put in place a methodology and appropriate supervisory tools to carry out AML / CFT risk-based supervision.

38. The BCEAO has carried out some on-site AML/CFT inspections of the banks, and foreign exchange bureaus (jointly with MEF). However, improvements are required in this regard, including frequency of onsite visits, scope and depth of analysis on preventive measures covered during the onsite examinations, to ensure that inspections adequately reflect the risk and complexity of the sectors inspected. No AML/CFT inspections have been carried out in the other NBFIs and DNFBBs regardless of the risk profile noted in the draft NRA. Generally, supervisors lack adequate resources (human, financial and technical) to effectively undertake their supervisory roles.
39. The legal framework for sanction is adequate, and provide a wide range of administrative, civil and criminal sanctions for non-compliance with AML/CFT requirements. However, these sanctions, with the exception of few remedial actions, are not being applied in practice despite significant violations noted during AML/CFT supervision. The remedial actions are not effective, proportionate and dissuasive. In the absence of supervision, no sanction has been applied to DNFBBs for non-compliance with AML/CFT obligations.
40. BCEAO, Banking Commission and CIMA have issued AML/CFT directives/instructions to FIs. This coupled with outreach and training/awareness-raising provided by the FIU are aimed at promoting a consistent understanding of AML/CFT obligations. No AML/CFT sector specific guidelines have been provided to the DNFBBs and outreach to these entities is limited. In addition, limited information has been provided to help the private sector identify and understand ML/TF risks due in part to a lack of a finalized NRA report. Overall, the impact of the initiatives by the supervisors and the FIU has been very limited in respect of the NBFIs. Reporting entities, especially banks generally have a good working relationship with the FIU and BCEAO.

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

41. The OHADA Uniform Act on Commercial Companies and Economic Interest Groups defines the framework for the establishment of various types of legal entities in Guinea Bissau. Basic information on legal persons is maintained at the Business Formalization Center (CFE), while information about NPOs are maintained at the Registry Office of the General Directorate of Civil Identification, Registries and Notary (DGICRN) and are publicly available. They can also be access from other competent authorities such as the tax authority.
42. Guinea Bissau has not conducted an assessment of the ML / TF risk posed to legal persons established in the country. Thus, LEAs have a low understanding of the risks associated with different types of legal persons, and the extent to which legal persons (both foreign and domestic), can be or have been misused for ML/FT purposes. Staff at the CFE and Registry Office and lawyers, who are typically involved in the incorporation of legal persons also demonstrated a low understanding of the risk posed by these entities.
43. Under the OHADA Uniform Act, legal entities are subject to general obligations designed to protect them against misuse for ML purposes. These include the obligation relating to the registration of legal persons, updating the information at the CFE following any changes and maintenance of records by the companies. However, information provided both at the time of registration and at the time the changes occurred, is not verified for accuracy by the CFE. In addition, there are no sanctions to enforce compliance with these requirements,

which raises concerns in regarding the retention of adequate, accurate and up-to-date information.

44. As regards legal arrangements, Guinea Bissau's domestic law does not permit the creation of trusts. Similarly, foreign trusts are not permitted to operate in Guinea Bissau.
45. There is no obligation to keep beneficial ownership information at the CFE. Nevertheless, Guinea Bissau has taken some steps to ensure BO is available by placing requirements on reporting entities under the AML/CFT law to collect beneficial ownership information. However, these measures have not yet been fully implemented by reporting entities, and deficiencies in supervision and the application of preventive measures mean that adequate and accurate BO information is not available in all cases. In general, competent authorities can access information on beneficial owners held by FIs, especially banks, through the FIU or directly through a court order.

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

46. Guinea Bissau does not have a specific law on MLA and extradition. Nevertheless, the country uses the general provisions of the Criminal Procedure Code and the AML/CFT law for international cooperation. Guinea Bissau has ratified all relevant international instruments relevant to AML/CFT, which have been mostly domesticated or transposed into the domestic legal system to ensure international cooperation. There are also some bilateral and multilateral agreements that have been useful in facilitating exchange of information with foreign counterparts. Requests for MLA to and from Guinea-Bissau are made through the diplomatic channels via the Ministry of Foreign Affairs. This process is slow due to the time it takes for requests to reach the Attorney General's Office. In addition, the AG's office does not have a case management system to manage and prioritize processing of MLA requests. Guinea Bissau is using other forms of international cooperation through the various domestic agencies, such as the Judicial Police, FIU and BCEAO which are able to exchange information with their foreign counterparts.
47. Guinea Bissau received few MLA and extradition request on ML/TF. Although, response to extradition appears to be timely, the country has not responded to the single request for MLA related to ML. However, Guinea Bissau does not appear to engage proactively in international cooperation with counterparts, and the limited requests made by the country is not consistent with the country's risk profile, especially given the transnational nature of the most important proceed generating crimes in the country. The shortcomings identified under IO.5 mean that BO information may not always be available in Guinea Bissau. This means that the authorities may have a limited ability to share BO information in a timely manner. In general, the effectiveness of international cooperation is constrained by the use of diplomatic channels via the Ministry of Foreign Affairs which causes delays, and by the lack case management system to allow for efficient tracking or monitoring and accounting of MLA and extradition requests received and sought.

Priority Actions

- a) Guinea Bissau should finalize the draft NRA report and ensure widespread dissemination of its findings to all relevant stakeholders in the public and private sectors; develop a national AML/CFT policy based on the risks identified, map out a timeline for the regular updating of the NRA, and improve the scope of future assessments by incorporating especially legal persons and arrangements, international components of risk faced by the country; a more comprehensive assessment of NPOs and TF risks.
- b) Guinea Bissau should strengthen national cooperation and coordination by reviving and ensuring effective operationalization of the Inter-Ministerial Committee. The authorities may wish to extend the mandate of the Committee to cover PF issues and the membership of the Group to include other relevant stakeholders.
- c) Government should provide adequate technical, human, and financial resources to the FIU to enhance its analytical capacity and operational efficiencies in order to better support financial investigations by LEAs. In addition, the FIU should access and fully optimize all the available information in the databases of relevant public authorities to support its analysis.
- d) Adequately prioritize investigation and prosecution of all types of ML offences and focus on parallel financial investigation when dealing with proceeds generating crimes. Guinea Bissau should strengthen operational cooperation amongst LEAs in ML investigation and pay particular attention to identifying, investigating and prosecuting the different types of ML cases consistent with the ML threats facing the country; put in place measures, including training of LEAs to enhance financial investigations; and ensure that financial investigations are systematically undertaken when dealing with proceeds generating crimes. In addition, the FIU should improve its engagement and sensitization of LEAs to enhance the uptake and utilization of its intelligence for investigations.
- e) Ensure confiscations of criminal proceeds, instrumentalities, and property of corresponding value are done as a matter of national policy objective. In particular, Guinea Bissau should systematically pursue assets tracing, restraints and confiscation actions on high risk predicate crimes, foreign predicate crimes, and proceeds moved or transferred to other jurisdictions. In addition, Guinea Bissau should strengthen existing mechanisms for management of confiscated assets by, inter alia, providing the Asset Recovery Office and the Asset Management Office with the necessary technical, materials and human resources to carry out their functions.
- f) Guinea Bissau should appoint AML/CFT monitoring and supervisory authorities, with sufficient powers to conduct inspections and apply sanctions for all DNFBPs beginning with the high-risk DNFBPs. Financial supervisors, especially BCEAO/Banking Commission should strengthen AML/CFT supervision on a risk-basis, including improving their risk-based monitoring systems and tools, enhanced frequency and comprehensiveness of off-site monitoring and on-site inspections. Supervisors should apply effective, proportionate, and dissuasive sanctions (especially monetary penalties),

and remedial measures against reporting entities that do not comply with AML/CFT obligations to promote compliance.

- g) Make rigorous use of the mutual legal assistance mechanism when conducting investigations on ML/TF or proceeds generating domestic predicates that are transnational in nature. Guinea Bissau should: (a) consider joining Egmont Group, and (b) establish within the Attorney General Office: (i) a central authority dedicated to processing requests for international cooperation, and (ii) a case management system for effective management of requests. In addition, they should ensure that staff are adequately trained in this regard.
- h) Guinea Bissau should criminalize the financing of an individual terrorist and a terrorist organization for any purpose, as well as the financing of a foreign terrorist fighter. In addition, the country should strengthen the capacities of investigation and prosecution authorities by providing them with specialized training and adequate human and material resources to effectively identify TF activities and conduct TF investigations, including financial investigation. Also, Guinea Bissau should develop and implement a national counter-terrorism strategy that fully integrates TF.
- i) Guinea Bissau should maintain comprehensive statistics on AML/CTF related issues, including prosecutions, convictions, MLA and international cooperation, to allow the country review the effectiveness of its system to combat money laundering and terrorist financing.
- j) Guinea Bissau should ensure that NBFIs and DNFBPs, particularly higher-risk sectors, conduct ML/TF institutional risk assessments in order to implement appropriate ML/TF risk mitigation measures while commercial banks strengthen implementation of their AML/CFT programmes. The authorities should provide guidance on major ML/TF risks such as corruption and drug trafficking to ensure that implementation of mitigation measures, especially reporting is aligned with risks facing the country.
- k) Put in place measures, including oversight measures and enforcement action, to ensure that basic information available at the Business Formalization Center (CFE) and Registry Office is adequate, accurate and current, as well as assess BO risk and ensure that beneficial ownership information is available and easily accessible.
- l) Guinea Bissau should ensure that targeted financial sanctions are implemented effectively and that high-risk NPOs are better monitored to disrupt terrorists and deprive them of their means of financing.
- m) Guinea Bissau should enhance the implementation of measures that promote a wider use of the financial system and aim at reducing the ML/TF risk associated with cash by promoting financial inclusion, strengthening controls in the use of cash, awareness raising, as well as an incentive component such as tax incentives.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
LE	LE	LE	LE	LE	LE	LE	LE	LE	LE	LE

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	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	PC	PC	LC	PC	PC	PC	NC	C	PC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
LC	PC	LC	PC	NC	PC	LC	LC	PC	PC
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	PC	PC	PC	PC	PC	C	NC	LC	C
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	PC	PC	PC	LC	LC	PC	LC	LC	LC

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

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place in Guinea Bissau as at the date of the on-site visit. It analyses Guinea Bissau's level of compliance with the FATF 40 Recommendations and the level of effectiveness of the 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. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from January 17 – February 5, 2021.

The evaluation was conducted by an assessment team consisting of:

- Ms. Dulce Correia, Financial Intelligence Unit, Cabo Verde
- Ms. Killy Fernandes, Public Ministry, Cabo Verde
- Ms. Juzelena Pires Dos Santos Das Neves, Central Bank of Sao Tome and Principe, Sao Tome e Principe
- Mr. Ibrahim Salvaterra, Central Bank of Sao Tome and Principe, Sao Tome e Principe
- Mr. Carlos Sarmiento, Financial Intelligence Unit, Portugal

With the support from the GIABA Secretariat, represented by:

- Dr Buno Nduka, Director of Evaluation and Compliance,
- Ms Olayinka Akinyede, Senior Legal Officer (deceased),
- Mr. Giwa Sechap, Financial Sector Officer,
- Mr. Devante Alibo, Program Officer,
- Mrs Adelaide Lima, Interpreter.

The report was reviewed by:

- Francisca Salomé André Massanga de Brito, FIU of Angola;
- Ricardo João, FIU of Angola
- Agboola T. Pius, National Insurance Commission, Nigeria, and
- The FATF Secretariat.

Guinea Bissau previously underwent a GIABA Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology. The 2009 evaluation has been published and is available at <http://www.giaba.org>.

That Mutual Evaluation concluded that Guinea Bissau was rated largely compliant on 3 Recommendations, partially compliant on 13 Recommendations, and non-compliant on 33 Recommendations. Guinea Bissau was placed on the Expedited Regular follow-up process (annual reporting) immediately after the adoption of the MER in November 2009. However, as a result of failure to address some of identified strategic deficiencies in its AML/CFT regime, the GIABA Plenary intermittently placed Guinea Bissau on Enhanced Follow Up process (November 2011-May 2015; and May 2017 - May 2019. A public statement was issued on the country in May 2017). In line with GIABA Mutual Evaluation Process and Procedures (ME P&P), Guinea Bissau exited the follow-up process in May 2019 to enable the country prepare for its second round of mutual evaluation.

CHAPTER 1. ML/TF RISKS AND CONTEXT

48. The Republic of Guinea-Bissau is located on the coast of West Africa. The country borders with Senegal to the north, the Republic of Guinea-Conakry to the south and east, and the Atlantic Ocean to the west. The capital city is Bissau. Guinea-Bissau is a low-income country⁴. It is one of the world's poorest countries⁵ with a history of political and institutional fragility dating back to its independence from Portugal in 1974⁶. The country is made up of a mainland and the archipelago of "Bijagos" consisting of about 100 islands and islets, of which only 17 are inhabited⁷. Guinea-Bissau is comprised of eight regions and one autonomous sector.
49. Guinea-Bissau covers a land area of 36,125 square kilometers (13,948 sq. mi) with an estimated population of 1,874,303⁸. The World Bank estimate of the country's Gross Domestic Product (GDP) in 2019 is \$1.339 billion.
50. Guinea-Bissau is a member of GIABA and the UEMOA, which comprises eight member States sharing a common currency, the CFA Franc. It is also a member of the Economic Community of West African States (ECOWAS), African Union, Community of Portuguese Language Countries (CPLP) and the South Atlantic Peace and Cooperation Zone.
51. The 1984 Constitution adopted a semi-presidential representative democratic republic, with separation of powers between the executive, legislative and judicial branches. The President is Head of State and the Prime Minister is Head of Government. Executive power is exercised by the government while the legislative power is vested in both the government and the unicameral National People's Assembly (Assembleia Nacional Popular). The judiciary comprises the following four judicial categories: the Supreme Court, Courts of Appeal, Regional Courts and Sectoral Courts. The Supreme Court is the highest court in the hierarchy and the final court of appeal in both civil and criminal matters, and oversees constitutionality issues. The Supreme Court consists of nine Justices, who are appointed by the Superior Council of the Judiciary. Courts of Appeal act as second instance courts, namely in issuing extradition decisions, followed by the regional courts. There is one regional court in each of the country's eight regions. The regional courts are courts of first instance and include the courts of specialized competence, namely the Criminal Court and the civil Court⁹. They try all felony cases, as well as civil cases involving over \$1,000. Below the regional courts are 24 sectoral courts, presided over by judges which hear civil cases under \$1,000 and misdemeanour criminal cases punishable by imprisonment of up to three years.

⁴ <https://data.worldbank.org/country/XM>

⁵ <https://www.worldbank.org/en/country/guineabissau/overview>

⁶ <https://www.worldbank.org/en/country/guineabissau/overview#1>

⁷ National Integrated Plan (NIP), 2021-2027

⁸ "World Population prospects – Population division". population.un.org. United Nations Department of Economic and Social Affairs, Population Division. Retrieved November 9, 2019.

⁹ NIP, 2021-2027

1.1. ML/TF Risks and Scoping of Higher Risk Issues

1.1.1. Overview of ML/TF Risks

52. This section presents a summary of the Assessment Team’s understanding of the money laundering (ML) and terrorist financing (TF) risks in Guinea Bissau set out in Chapter 2. It is based on materials and information provided by Guinea Bissau as well as publicly available documents, discussions with competent authorities and the private sector during the on-site visit. It includes consideration of Guinea Bissau’s National Risk Assessment (NRA), which was concluded in 2020.
53. Guinea Bissau is exposed to ML/TF risks of varying degrees. According to its draft NRA, Guinea Bissau is exposed to high ML risk and medium low TF risk. The NRA noted that corruption, drug trafficking, embezzlement, tax fraud and tax evasion, swindling, abuse of trust, and maladministration are the main proceed generating ML predicate offences or activities which generated the highest illicit proceeds (draft NRA Table 3, pg. 19). Cross-border traffickers of narcotics (drug trafficking) is the main external threat in Guinea Bissau. There is no estimate available of the overall value of criminal proceeds in Guinea Bissau, in particular for the identified prevalent predicate offences. There is limited information in the draft NRA on the techniques used or the degree to which domestic or foreign proceeds are being laundered in Guinea Bissau.
54. Drug trafficking is one of the main threats identified in the NRA in Guinea Bissau. The value of the illicit narcotics trade in Guinea-Bissau has been indicated as being much greater than its legitimate national income¹⁰. Guinea Bissau’s geographic position, including porosity of its land borders, weak government presence and inability to monitor shipping traffic of the 88 islands that make up the Bijagos Archipelago combined with the internal threats of complicity of high-level government employees in narcotics trafficking¹¹ potentially expose the country to being used as a transit route for illicit goods and drugs, especially cocaine. Guinea Bissau, dubbed by the global media as Africa’s first narco-state¹², is known to be a major hub or transit point for illicit drugs (cocaine) from South America en route Europe and other destinations. In 2017, airport agents caught 14 mules, carrying 8.65 kilograms of cocaine in Guinea Bissau¹³. In March 2019, the Police in Guinea Bissau seized about 800kg of cocaine¹⁴. Similarly, in September 2019, the Police seized more than 1.8 tonnes of cocaine in the biggest seizure in the country’s history¹⁵. The seizures pointed to Guinea-Bissau as a key trans-shipment point in the supply chain of cocaine produced in Latin America and destined primarily for Europe¹⁶. In recent times, the government has made significant efforts to address this problem. For instance, in

¹⁰ Guinea-Bissau - State.gov - US Department of State <https://2009-2017.state.gov/j/ct/rls/crt/>

¹¹ Guinea-Bissau - State.gov - US Department of State <https://2009-2017.state.gov/j/ct/rls/crt/>

¹² <https://www.bbc.com/news/world-africa-52569130>; <https://globalinitiative.net/analysis/guinea-bissau-illegal-drug-economy/>; <https://www.aljazeera.com/videos/2020/1/11/drug-trafficking-guinea-bissau-used-as-transit-point>;

¹³ <https://globalinitiative.net/analysis/guinea-bissau-illegal-drug-economy/>

¹⁴ <https://www.news24.com/news24/Africa/News/police-seize-800kg-of-cocaine-in-guinea-bissau-20190312>

¹⁵ <https://www.reuters.com/article/us-bissau-drugs-idUSKCN1VO1VU>; <https://www.interpol.int/en/News-and-Events/News/2019/Guinea-Bissau-cocaine-seizure-INTERPOL-team-supporting-investigation>

¹⁶ https://globalinitiative.net/wp-content/uploads/2021/01/Guinea_Bissau_RB1.pdf

connection to the 1.8 tonnes of cocaine, 12 people were arrested and on 31 March 2020, Guinea-Bissau's Regional Court of Cacheu sentenced the criminals to between 4 and 16 years imprisonment, on charges of drug trafficking, criminal association and money laundering¹⁷. The loot seized in the case included more than 20 vehicles and US\$3m (£2.5m) stashed in bank accounts¹⁸. The recent adoption of the National Integrated Plan (NIP), 2021-2027, to combat drugs, organized crimes and risk reduction is yet another positive initiative to address the threat of drug trafficking in the country.

55. Bribery and corruption remain areas for concern and important sources of illicit gains in Guinea Bissau. Governance weaknesses, particularly in the fiscal area, create significant vulnerabilities to embezzlement of state resources, abuse of office, and tax evasion facilitated by corrupt officials. In addition, the lack of application of dissuasive and proportionate sanctions for offenders increase the scope for bribery and corruption. Political instability also contributes to a deep-rooted corruption, entrenched rent-seeking, and predatory behavior¹⁹ in the country. The 2019 Mo Ibrahim Index of African Governance ranked the country 41st out of 54 countries and Transparency International in its Corruption Perception Index of 2020, ranked the country as 165th out of 180 countries in the world. Although political leadership is aware of corruption risks and their materiality and is vocal about the need for change, significant reforms are required to effectively address the threat of corruption. The conclusions of a recent IMF report²⁰ indicate that there are weakness in corruption controls measures (both preventive and repressive), low corruption related convictions and insignificant amount of confiscated proceeds of corruption, and highlights an immediate need for a comprehensive national anti-corruption strategy.
56. Banks, bureau de change, lawyers, accountants and remittance service providers were identified as significant in terms of their scale, role, or vulnerability. The NRA assessed them as sectors most exposed to ML risk. Overall, the banking sector remains the most vulnerability sector to ML risks due to its size and weight or importance in the overall financial sector²¹. The predominance of cash/cash transactions in the economy, large informal sector, and significant capacity and resource constraints of competent authorities increase the country's vulnerabilities to ML. Similarly, porous land borders, weak cash controls at the borders, poor application of preventive measures, especially by DNFBPs, and the lack of supervision of DNFBPs for AML/CFT purposes also contribute to ML/TF vulnerabilities.
57. The risk of TF was assessed to be medium low in the NRA. Notwithstanding that Guinea Bissau has not witnessed any acts of terrorism, there are some factors that could make the country vulnerable to TF/terrorism, including the presences of a dormant cell of the al-Qa'ida in the Islamic Maghreb (AQMI) in Gabu (eastern Guinea Bissau). There are also

¹⁷ https://globalinitiative.net/wp-content/uploads/2021/01/Guinea_Bissau_RB1.pdf

¹⁸ <https://www.bbc.com/news/world-africa-52569130>

¹⁹ IMF, 2020 – Technical Assistance Report – Enhancing Governance and the Anti-Corruption Framework- Next Steps. <https://www.imf.org/en/Publications/CR/Issues/2020/06/30/Guinea-Bissau-Technical-Assistance-Report-Enhancing-Governance-and-the-Anti-Corruption-49540>

²⁰ IMF, 2020 – Technical Assistance Report – Enhancing Governance and the Anti-Corruption Framework- Next Steps.

²¹ The sector has an assets size of XoF 198,815 million (approx. US\$ 360, 148 Million) and accounts for 22.5% of Guinea Bissau's GDP as at 2019

instances of radicalization of Guinea Bissau citizens and some nationals that were recruited by the AQMI cell and underwent training in Mali, Pakistan and Nigeria²². In addition, the NRA noted instances where tourists entering Guinea-Bissau from the sub-region and other countries had been referenced in terrorist activities by INTERPOL. Although there have been no known cases of funds raised in and/or moved out of Guinea Bissau for use in financing of terrorism within or outside of the country, the NRA noted that the dormant cell of AQMI based in Gabú financed its activities through trade of luxury cars from Mauritania. The porosity of Guinea-Bissau's borders with several routes of clandestine crossings without any presence and knowledge of the authorities, inadequate legal framework on TF, the predominance of cash transactions, and the lack of supervision and control of NGO's are other factors that further increase the vulnerabilities of the country to terrorism/TF. The authorities have remained alert and continued to monitor any potential activities that may support terrorism or that may be linked to terrorism and its financing.

1.1.2. Country's Risk Assessment & Scoping of Higher Risk Issues

58. Guinea Bissau concluded its first ML/TF national risk assessment (NRA) in May 2020. The NRA was coordinated by the National Risk Assessment Working Group (GTANR) and led by the FIU. The NRA was carried out by expert Working Groups. The Working Groups which comprised of representatives of relevant competent authorities, including the FIU, LEAs, intelligence services, supervisory authorities, and private sector representatives collected data and information to inform the NRA. Sources of information included supervisory, STR, investigative, and prosecutorial data. The Working Groups also analysed relevant primary and secondary legislation and held discussions with relevant stakeholders. Guinea Bissau used the World Bank Methodology as the basis for its assessment.
59. The NRA considered relevant data and information to form conclusions about the main ML/TF risks in Guinea Bissau. However, the NRA did not sufficiently assess some areas while some important sectors were not covered. For instance, the NRA analysis did not adequately include an analysis of some inherent contextual factors that may influence the risk profile of a country, especially the informal economy; the TF risks emanating from NPOs was not comprehensively assessed; and there is insufficient analysis and understanding of Guinea Bissau Islands' vulnerabilities within an international context. In addition, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in Guinea Bissau, which have an impact on LEAs' understanding. Furthermore, there is absence of specific analysis on the risk associated with legal persons and legal arrangements as well as the real estate sector. These shortcomings impact adversely on the country's overall understanding of ML/TF risks. Additionally, vulnerabilities were identified in relation to resourcing within the competent authorities to analyse and investigate ML/TF offences, while the lack of AML/CFT oversight of some sectors, including DNFBPs was also identified as a key vulnerability. These factors also impact Guinea Bissau's ability to have a comprehensive understanding of its ML/TF risks at the country and sectoral level.
60. The report of the NRA was yet to be finalized and disseminated to relevant stakeholders at the time of onsite. Thus, Guinea Bissau has not yet used the results of its NRA to strategize on how it would combat ML or TF. Although the country has developed a NIP (2021-2027) which addresses some of the main risks, this was not derived by any risk assessment.

²² Draft NRA report

Beyond the NRA, there was no evidence that the country has conducted any sectoral or thematic risk assessment.

Scoping of Higher Risk Issues

61. In deciding on which issues to prioritise, the assessment team reviewed material provided by Guinea Bissau on their national ML/TF risks and information from reliable third party sources (e.g. reports of other international organisations). The assessment team focused on the following priority issues, which are broadly consistent with the issues identified in Guinea Bissau's NRA.

- **Predominance of the informal economy and use of Cash:** Guinea Bissau's economy is largely cash-based with a high informality index. Transactions in several sectors are characterized by cash transactions. This can allow proceeds of crime to be easily integrated into the economy and can also exacerbate the shadow/informal economy. The assessors paid attention to the measures taken, including financial inclusion to minimize the use of cash and reduce the size of the informal economy; extent the FIU is making effective use of cash transaction reports to identify ML and associated predicate offences; and the measures implemented by the financial sector, particularly banks, to identify the source of funds in relation to cash transactions.
- **Cross-border movement of cash:** Guinea Bissau has porous borders and several islands with little or no maritime controls. Thus, there are risks associated with the cross-border movement of cash, including significant bulk-cash smuggling, which is associated with ML derived for example, from drug trafficking. The assessment team focused on the effectiveness of controls and monitoring of cross-border physical transportation of cash and bearer negotiable instruments.
- **Investigation, Prosecution and Confiscation of Money Laundering, and the use of Financial Intelligence:** Corruption, drug trafficking, embezzlement, tax fraud and tax evasion, swindling, abuse of trust, and maladministration were identified in the draft NRA as the main ML predicate offences that pose significant threat in Guinea Bissau. This was also reinforced in the NIP (p26). The evaluation team sought to understand the extent to which competent authorities such as the Judicial Police, the Judicial Magistrates, Interpol and Customs take measures to identify, trace, seize and confiscate criminal proceeds. Assessors also focused on the investigation (including parallel investigation) and prosecution of ML offences arising from these predicates. The number of analysis by the FIU is quite limited therefore, it was important to look at the way in which competent authorities access and use financial intelligence in ML investigations as well as the extent to which authorities are adequately resourced to identify, pursue and prosecute ML/TF.
- **FIU operations:** The FIU is a key agency in the fight against ML/TF. The Secretariat analysis of the 15th FUR of Guinea Bissau noted that resources (human, financial and technical) of the FIU are inadequate. The Assessors focused on the extent to which the lack of resources impacts the effective discharged of the FIU's function, particularly, the FIU's capacity to conduct operational and strategic analysis.
- **Supervision:** The draft NRA report and the 15th FUR of Guinea Bissau adopted by the Plenary noted limited supervision of reporting entities for

AML/CFT purposes. Other than the banking and foreign exchange bureaus sectors, AML/CFT supervision has not been undertaken in other FIs and DNFBP sectors. In light of the potential vulnerabilities and the limited or lack of supervision, the assessors paid attention to supervisory authorities' understanding of sector risks (especially banks, foreign exchange bureaus, and MVTS /remittance service providers, and the DNFBPs, especially lawyers). The team also explored the extent to which these reporting entities are subject to a risk-based AML/CFT supervision; and the effectiveness of supervisory programmes. In addition, assessors also paid attention to the level of resources allocated, on a risk basis, to the supervision of FIs and DNFBPs for AML/CFT compliance, the nature and the extent of the supervisory actions, including the extent to which remedial actions and sanctions available are applied by supervisory authorities and their impact on compliance by reporting entities.

- **Preventive measures:** The draft NRA report noted a low level of AML/CFT compliance by reporting entities. Assessors focused on the extent to which the higher risk sectors (especially banks, foreign exchange bureaus, and MVTS /remittance service providers, and the DNFBPs, particularly lawyers), understand their ML/TF risk and the effectiveness of the AML/CFT measures implemented by them, particularly the reporting of suspicious transactions; the implementation of appropriate CDD measures especially when doing business with higher risk customers such as PEPs, and whether the beneficial ownership information of their clients are identified.
- **Terrorist financing:** There are potential TF risks that emanate from the presence of radicalised Guinea Bissauan youths that have travelled to neighboring countries where terrorism is active. In this regard, the assessment team paid attention to the adequacy of the legal framework governing targeted financial sanctions and TF, particularly in relation to FTFs. In addition, the assessors paid attention to the level of extent to which measures adopted by relevant law enforcement authorities to identify TF financial flows are implemented, and the extent to which targeted financial sanctions and NPO measures were being implemented.
- **International cooperation:** Guinea Bissau is considered one of the transit hubs / routes for illicit drugs, especially cocaine (NRA & NIP). The assessment team sought to understand international co-operation efforts pertaining to trans-national crimes such as drug trafficking and the measures put in place by relevant local authorities (JP, OAG, Interpol) to obtain necessary information and financial intelligence, to facilitates criminal investigation and assets recovery. The assessment team also examined the country's legal framework for international cooperation and its impact on the country's ability to effectively engage in international cooperation
- **National Cooperation:** Guinea Bissau has a national coordination mechanism (the Inter-Ministerial Committee - IMC) but this is not operational or functional (NRA). The assessment team considered the impact of the non-functionality of the IMC on national cooperation and coordination, and specifically appraised the mechanisms in place to allow competent authorities to co-operate as well as coordinate policies and actions to combat money laundering, terrorist financing and the financing of proliferation.

- **Transparency of legal ownership:** In view of the prevalence of corruption and other financial crimes in Guinea-Bissau, the assessment focus on transparency of legal persons, including the availability of and access to beneficial ownership information as well as the system in place for registration, record keeping and updating of basic and beneficial ownership information.

Areas of Lesser Risk and Attention

62. The assessment team devoted lesser attention to insurance companies, micro-finance institutions (MFIs) and casinos due to their relatively lower level of ML/TF risk.

1.2. Materiality

63. Guinea Bissau had a Gross Domestic Product (GDP) of US\$1.34bn²³ in 2019 and US\$1.43 billion in 2020²⁴ and is one of the smallest economies in the West African region. The country's economy is heavily dependent on agriculture, particularly cashew farming. Cashew production is the mainstay of the country's economy and its dominant source of export revenue. Guinea Bissau is the sixth largest producer of cashew nuts in the world²⁵. The bulk of the nuts are exported in raw form, mainly to India. Available statistics indicate that as at 2017, the sector accounted for about 10 percent of GDP and cashew sales for close to 90 percent of total export²⁶.
64. The size of shadow/informal economy in Guinea Bissau constitutes a significant ML vulnerability which may pose some problems for the authorities in the effective implementation of the AML/CFT regime in the country. The informal sector in Guinea Bissau accounts for about 37 percent of the GDP according to IMF's ranking²⁷. Substantial percentage of the country's commercial activity is informal and information on transactions and capital movements is unknown. This means that significant part of economic activities falls within the unregulated sector which features the preponderant use of cash and facilitates opacity of transactions. Notwithstanding that transactions in the informal sector are not necessarily criminal; the informal sector facilitates the development of illegal or criminal operations for lack of transparency and monitoring. In addition, informal sector is associated with a very strong affinity for cash transactions which limits the transparency of some economic activities, and makes traceability of transactions difficult. Guinea Bissau has taken some measures to reduce the level of cash transactions and the size of the informal economy as well as promote financial inclusion. These include the implementation of cash transaction limit (amount greater or equal to XoF 500, 000 (approx. US\$860) between private economic operators and state departments must be done by cheque or bank transfer²⁸); and the promotion of microfinance institutions, and mobile money transfer

²³ <https://data.worldbank.org/country/guinea-bissau>

²⁴ <https://knoema.com/atlas/Guinea-Bissau/GDP>

²⁵ <https://www.umoatitres.org/en/pays/guinee-bissau/>

²⁶ <https://www.elibrary.imf.org/view/journals/002/2017/381/article-A001-en.xml>

²⁷ https://www.elibrary.imf.org/view/IMF002/24816-9781484333198/24816-9781484333198/24816-9781484333198_A006.xml?lang=en

²⁸ Dispach No. 16/GMEF/2007 of January 13th. Similarly, Decree N° 1/ 2017 article 9° on the payment system in UEMOA, and the order of the Minister of Finance provides that payment of expenses resulting from the provision of services and acquisitions of goods in excess of 100,000 XoF has to be done by bank transfer or by transfer vouchers

service. Nonetheless, the informality index is still high and the use of cash in transactions is still widespread and identified in the NRA as a risk factor for ML.

65. Guinea-Bissau has a small and underdeveloped financial system²⁹. The financial sector is dominated by banking or credit institutions³⁰. As at end of 2019, the asset size of the banking sector was XoF 198,815 Million (approx. US\$360.148 million)³¹. The sector comprises five banks of which one is a national bank with a majority foreign capital, and four (4) are either subsidiaries or branches of foreign/ international banks (NRA p46). The banking sector handles the largest number of transactions that occur in the financial system, is interconnected with the international financial system and is therefore considered of greater importance in the AML/CFT context of Guinea Bissau.
66. Collectively, non-bank financial institutions, including insurance companies, foreign exchange bureaus, and MFIs /DFS account for a small part of the financial sector. Overall, given the small size of these subsectors and the low level of operations they handle, their impact on the AML/CFT preventive system is of moderate significance.
67. All DNFBPs designated by FATF operate in Guinea Bissau (except real estate agents)³² and are very diverse in terms of numbers, size and activities (see Table 1.2 below for more details). Accountants and lawyers are the largest groups among independent legal and accounting professionals. There are about 428 licensed lawyers and 30 licensed legal firms. There are 38 accountants, including 22 members of Institute of Chartered Accountants in Guinea Bissau. In relation to real estate agents, there are no real estate agents/companies operating in Guinea Bissau. Authorities stated that sales and purchase of real estates in the country are managed by the real estate registrar. In particular, in Guinea Bissau, land is subject to atypical regulation, where land is state-owned, with only two ways of obtaining it, through the right of use or customary authorization. With regard to the mining sector, there are no known dealers in precious metals and stones in Guinea Bissau, only a small jewelry store. The assessment team was informed by the authorities that the few licensed casinos in the country were not operational. Due to the lack of awareness of ML/TT risks, weak implementation of (risk-based) AML/CFT requirements, and the lack of supervision or monitoring, the DNFBP sector is generally considered to be vulnerable to abuse.
68. VASPs do not exist in Guinea Bissau. The BCEAO stated that no entity has been licensed in this regard. Reporting entities interviewed, particularly banks, indicated that they do not have customers that are VASPs or involved in cryptocurrency exchanges.

1.3. Structural Elements

69. The key structural elements (political stability; high-level commitment to address AML/CFT issues; stable institutions with accountability, integrity and transparency; rule of law; and a capable, independent and efficient judicial system) which are necessary for an effective AML/CFT regime though present, are generally weak in Guinea Bissau. The

²⁹ <https://www.elibrary.imf.org/view/journals/002/2017/381/article-A006-en.xml?lang=en>

³⁰ <https://www.elibrary.imf.org/view/journals/002/2015/195/article-A003-en.xml>

³¹ The total financial sector asset was not provided by the country

³² The authorities stated that there are no real estate agents in the country. In addition, casinos though exist but are non-operational at the time of onsite

World Bank's 2019 Worldwide Governance Indicators (WGI)³³ Report shows that in all dimensions of governance (voice and accountability, political stability, government effectiveness and rule of law), Guinea is below the 40 percentile rank among the countries surveyed. Guinea-Bissau has been faced with constant and continuous political instability in recent years which has resulted in the fragility of the state and its institutions.

70. The assessment team noted with concern the negative effect that inadequate resources on investigative officials have had on the efficient functioning of the AML/CFT system particularly in relation to combatting drug trafficking and corruption. Notwithstanding this, Guinea Bissau has made high-level commitment from the highest office in the country to implement AML/CFT measures consistent with the FATF Standards.

1.4. Background and Other Contextual Factors

71. Corruption is widespread in Guinea Bissau and it is said to be the gateway to all other crimes relevant to the ML/TF.³⁴ In 2019, the Ibrahim Index of African Governance Index Report ranked the country 41st out of 54 countries³⁵ and Transparency International in its Corruption Perception Index of 2020 ranked the country as 165th out of 180 countries in the world. There was, for example, a case of mismanagement of 10,492,720,000 XOF (approx.16 million euros), generated by the Fund for the Promotion of the Industrialization of Agricultural Products (FUNPI) in Guinea-Bissau³⁶. Although government appears committed to the fight against corruption, significant reforms are still required, including strengthening of legal framework; adequate resourcing of relevant investigative authorities, and the development of a comprehensive national anti-corruption strategy to effectively address corruption risks in the country.
72. As at end of 2019, about 38.7%³⁷ of the total population have access to financial services, thus, access to banking and financial services in Guinea Bissau / the level of financial inclusion is generally low. The authorities are promoting financial inclusion by extending financial services through MFIs, E-Postal Voucher and Postal Reimbursement, and the development of mobile money services. While the usage of mobile money is gradually increasing in money transfers and popularity, the use of other electronic payments and ATM are very low and limited to the major urban areas. Some banks are also promoting debit cards, mobile banking products and offering other financial inclusion products to encourage the use of the formal financial system.

1.4.1. AML/CFT strategy

73. Guinea Bissau had a national AML/CFT strategy for the period spanning 2016 to 2019 and had not been updated since it expired. Thus, the country does not have an existing national AML/CFT policy / strategy at the time of the on-site visit. Nevertheless, the country has taken commendable steps to develop a National Integrated Plan (NIP) to Combat Drugs, Organized Crime and Risk Reduction (2021-2027) to address some of the main ML/TF risks in the country. In general, the NIP aims to place the fight against corruption and

³³ <http://info.worldbank.org/governance/wgi/Home/Reports>

³⁴ Draft NRA report

³⁵ [file:///C:/Users/hp/Downloads/2020-index-report%20\(1\).pdf](file:///C:/Users/hp/Downloads/2020-index-report%20(1).pdf)

³⁶ KPMG Audit Report of 2017, published in the Generalist Journal "Observer".

³⁷ FIU, Guinea Bissau

organized crime, including drug trafficking and money laundering in the context of national development policy through an integrated approach. It sets some policy priorities, including: mobilization of political, institutional and civil society decision makers; leadership and prioritization; integrity and corruption risk prevention; national coordination; modernization of the legal framework; international cooperation; capacity building; and analysis and statistics. Though the NIP was not developed on basis of any formal risk assessment and has little AML/CFT component, it nevertheless addresses some of the main risk identified in the country. Guinea Bissau can either turn the NIP framework into a unified overarching national AML/CFT strategy after the finalization/adoption of the draft NRA report in order to respond to the outcomes of the NRA or developed a comprehensive national AML/CFT policy based on the risk identified to further reinforce the NIP.

74. As a member of UEMOA, Guinea-Bissau also draws on the AML/CFT policy formulated by the UEMOA (supranational strategy), including its financial inclusion policy to promote economic and financial stability and the protection of the integrity of the region's financial system. The main thrusts of the UEMOA policy are prevention and repression through international cooperation.
75. Guinea Bissau is deploying the (ECOWAS)³⁸ Political Declaration and Common Position against Terrorism and its financing in addressing the issues of terrorism and terrorist financing pending when the country is able to develop its own national Counter-Terrorism Strategy.

1.4.2. Legal & institutional framework

76. The legal framework for AML/CFT in Guinea Bissau is set out in the WAEMU Uniform Law 2016-008 and other community directives regulations and instructions. The Uniform Law is required to be transposed into the national legal arsenal of a member State through the parliament. Also, the community regulation is directly applicable and does not go through the transposition mechanism. In general, the standards issued by the WAMU (Uniform Laws) and the BCEAO (Instructions), as well as the WAEMU Directives and Regulations, are all binding and meet the enforceable means criteria of FATF standards. Ordinarily, the community texts have supremacy over national texts. The different instruments either prescribe sanctions in the body of the text or refers them to the sanctions provided for in the substantive law. The Uniform Law applies to all reporting entities (FIs and DNFBPs). The regulations (of WAEMU) and directives/instructions (of BCEAO and CIMA) apply to FIs in all Member States.
77. Guinea Bissau's AML/CFT legal framework is generally drawn from the WAEMU Uniform AML/CFT legislation and Directives issued by the BCEAO, the CIMA Rules, the Directives of the Regional Council of Public Savings and Capital markets (CREPMF) and Revised OHADA Uniform Acts. These texts are complemented by various domestic legislations and some implementing texts. The AML/CFT institutional framework comprises community and national institutions. The Inter-Ministerial Committee is mandated to oversee the implementation of the AML/CFT regime at the policy level, and at the operational level, a broad range of competent authorities respond to the ML/TF risks faced by the country. The country is yet to establish co-operation and coordination mechanisms to assist the development of policies for combating the financing of

³⁸ <https://www.ecowas.int/wp-content/uploads/2019/05/IMPLEMENTATION-PLAN-CT.pdf>

proliferation. The institutions and agencies including community institutions, responsible for AML/CFT in Guinea Bissau are presented in Table 1.1 below.

Table 1.1. Institutions and summary of AML/CFT responsibilities

Institution	Summary of AML/CFT responsibilities
West Africa Economic and Monetary Union (UEMOA)	Develop Community political norms: AML/CFT Guidelines Regulation No 09/2010/CM/UEMOA Regulation No.14/2002/CM/UEMOA
Central Bank for West African States (BCEAO)	Develop AML/CFT Guidelines and Instructions for implementation of AML/CFT Guidelines or laws in WAEMU financial institutions.
UEMOA Banking Commission (CBU)	Administrative sanctions for the financial sector. Supervision, control and administrative and disciplinary sanctions involving banks, financial institutions and decentralized financial systems.
Inter-African Insurance Authority – (CIMA)	Development of CIMA Regulation No. 00004 of 04 October 2008 on AML/CFT for the Insurance sector.
Regional Commission for Insurance Control - (CRCA of CIMA)	Supervision and control of the insurance and reinsurance sectors: control and proposal of administrative and disciplinary sanctions.
Regional Council of Public Savings and Financial Markets – (CREPMF)	Develop instructions on the implementation of AML / CFT laws and regulations for securities and values sector: supervision, control and administrative and disciplinary sanctions.
Ministry of Economy and Finance	Under the terms of the Government Organic Law, it is the government department responsible for defining, conducting and executing the State's financial policy, namely in the budgetary and fiscal policies. This Ministry has increased responsibilities in the area of ML and TF prevention, since, in addition to monitoring compliance with the legislation in force by some services under its purview, it also oversees the FIU, as shown in Article 59 of AML/CFT law no 3/2018 of 7 of August 2018 .
Inspector-General of Finance	This the central financial control and specialized technical support service of the Ministry of Finance. It oversees entities from the public administrative and business sectors, as well as from the private and cooperative sectors. It is therefore incumbent, among other duties, to carry out or have audits carried out on exclusively publicly-held companies and jointly-owned companies, with the exception of financial institutions subject to BCEAO supervision, propose measures to promote the improvement of the control system, and carry out inspections, accounting examinations, inquiries and verification in any public and private sector companies. It has no direct, only indirect, competence in terms of ML / FT prevention.
Directorate General of Customs	This department is under the organic structure of the Finance Ministry, with competences in customs controls and controls of imports and

Institution	Summary of AML/CFT responsibilities
	<p>exports in Guinea-Bissau. Although it does not have direct powers assigned to it in ML prevention, it has an important role to play in border controls on the movement of goods, merchandise and valuables carried by people or by any means of transport, also is also a member of the FIU Directorate.</p>
Fiscal Brigade	<p>This is a specialized unit with national coverage, with specific investigative powers to enforce compliance with the tax and customs mandate of the National Guard.</p>
FIU	<p>The Unit is responsible for collecting and processing financial information relating to money laundering and terrorist financing and predicate offences and transmitting the results to relevant authorities. Thus, it is in charge of receiving, analyzing and processing information aimed at establishing the origin or the nature of transactions that are the subject of suspicious transaction reports. It also receives all information from other authorities, supervisors or police, necessary for the exercise of its functions. It also has powers to establish relations with its counterparts in the UEMOA and third-party States, and is able to exchange with the latter information based on reciprocity.</p>
Ministry of Interior	<p>Government department responsible for ensuring public order and the security of citizens and property, as well as for controlling State intelligence services. It also oversees the Public Order Police.</p>
Public Order Police	<p>An agency under the Ministry of Interior Administration responsible for maintaining public order and for the security of citizens and property and is present throughout the national territory, with a regional police commissioner in each of the eight (8) administrative regions and a commissioner in each of the thirty-six (36) sectors according to the country's administrative division. It has generic competences in matters of criminal investigation, with competences to investigate money laundering offences, assisting the Public Ministry when so requested.</p>
Ministry of Justice	<p>Government department responsible for formulating and implementing justice and human rights policy, as well as for the registry services. It is also the Ministry responsible for the licensing the of NGOs.</p>
Judiciary police	<p>The Agency with powers to conduct criminal investigations, throughout the national territory, assisting the administration of justice and is under the Minister of Justice. It is functionally dependent on the Public Prosecutor's Office, assisting with criminal investigations, as provided for in the Criminal Procedure Code. In this regard, the JP is responsible for conducting surveillance and inspection of all places that by their nature favor criminal activity, surveillance and inspection of all entry and exit points of people or goods, borders, means of transport, public places where commercial and banking operations are carried out and all places that may favor delinquency. It also carries out surveillance and inspection of establishments that buy antiques, jewelry, rentals, purchase and sale of vehicles and their ancillaries. It also carries out investigations, by delegation from the AGO, meaning that the Judiciary Police also has competence to conduct ML investigations.</p>
Public Ministry	<p>Under the Constitution of the Republic, its Statute and the Code of Criminal Procedure, the MP is the sole bearer of criminal action. The Public Ministry represents the State, the people and entities to which the</p>

Institution	Summary of AML/CFT responsibilities
	<p>State owes protection, promotes and coordinates actions to prevent crime and oversees criminal investigations, in accordance with the principle of legality. The Public Ministry enjoys full autonomy in relation to other executive and legislative bodies, at central, regional and local levels.</p> <p>In regards to investigations, the MP has powers to order or authorize searches of places and people, as well as seizures, with the exception of those that occur in the course of searches or arrests in <i>flagrante delicto</i>. The Public Ministry also has competence to supervise and direct criminal investigations, even when carried out by the police, it cooperates with the courts to unravel the truth and applies the Law objectively, receiving complaints and denouncements. It can also file appeals and promote the enforcement of all applicable sanctions.</p>
Ministry of Trade, Industry and Art crafts	Government department responsible for implementing the Government's policy in the field of commerce, industry and art crafts. It is responsible for granting licenses for the exercise of certain activities and the supervision of their exercise.
Ministry of Foreign Affairs	<p>The government entity responsible for drafting, proposing, coordinating and executing Guinea-Bissau's foreign and cooperation policy, namely ensuring and coordinating international cooperation relations and promoting the implementation of cooperation agreements with other countries and international organizations, as well as conducting negotiations binding the State internationally and initiating procedures for receiving international treaties and conventions under international law.</p> <p>It is also the entity responsible for receiving and disseminating the United Nations Security Council Resolutions to other sectoral Ministries in the area of combating terrorism and its financing. It comprises the Secretariat of State for International Cooperation, in charge of ensuring permanent dialogue and collaboration with development NGOs, with a view to framing their interventions within the scope of the Government's Program objectives. In this context, it is currently responsible for receiving NGO's annual activity reports and financial reports, as well as their action plans for the following year, as well as monitoring their compliance with the provisions of money laundering prevention.</p>
Ministry of Tourism	Government department responsible for implementing the Government's tourism policy and, among other aspects, for licensing tourism agencies and granting of gaming licenses, namely for the opening and operations of casinos. It is also responsible for supervising the compliance of their activities with their money laundering prevention obligations.
AML/CFT Inter-Ministerial Committee	Established in 2003. The purpose of the Committee is to ensure national coordination and consultation in the area of ML/TF prevention. It is made up of representatives of various entities, both public and private, and also by representatives from the civil society. Its tasks include developing proposals, such as the Action Plan for the training of all agents involved in preventing and combating this type of crime.
National Order of Accountants	The Order is responsible for the admission/registration of Chartered Accountants as well as for granting them their respective Professional Certificates. The exercise of the profession is subject to registration with

Institution	Summary of AML/CFT responsibilities
	the Order. The Order has disciplinary power over its members. Chartered Accountants are subject to inspection by the Ministry of Finance. The competence of the Order's intervention is limited to disciplinary matters for violation of their respective Statutes.
Bar Association	The Bar Association has no competence to inspect the compliance of duties that result from the legislation in force. It is unclear who is the competent authority, since the Bar Association only has competence in disciplinary matters in situations of violation of their respective Statute, as it is not granted with self-regulatory powers in matters relating to money laundering prevention.
National Commission to Combat the Proliferation of Light Weapons (NCCLW)	Combats the proliferation and illicit circulation of small arms and light weapons (SALW) in Guinea-Bissau; Implements the national policy to combat the proliferation of SALW; Combats illicit trafficking in SALW.
Directorate General of Tax (DGI)	Prepares and implements the national tax legislation and is responsible for tax collection.
Directorate General of Customs (DGA)	Prepares and implements customs legislation and collection of relevant taxes and fees.
Interministerial Drug Commission	Implements government policies and international treaties related to the fight against narcotic drugs and as psychotropic substances; Prepares decisions and proposals of action plans and effective control measures; Coordinates sectoral measures and centralizes national and international information and other drugs related information; Adopts policies for the treatment of drug addicts.
Interpol – National Central Office	Coordinates LEA-Interpol activities at national level; Assists in the fight against common law crime at the international level in collaboration with the Directorate of the Judicial Police.
Intelligence and Security Services	The entity exclusively responsible for producing intelligence that contributes to safeguarding the National Independence, National Interests, Internal Security and ensuring Internal Security, and for prevention of sabotage, terrorism, espionage, organized crime and acts that by their nature can alter or destroy the constitutionally established rule of law.
National Guard	A security force of military nature, made up by soldiers organized in a special corps of troops and endowed with administrative autonomy. Their mission, within the national security and protection systems, is to ensure democratic legality, ensure internal security and the rights of citizens, as well as collaborate in the implementation of the national defense policy, according to the Constitution and the law.
High Inspectorate against Corruption	An independent body defending the interests of the Republic and its citizens, at the National People's Assembly, with the task of preventing and investigating acts of corruption and fraud committed in the exercise of political and administrative functions, It must report these acts to the competent authorities for the purposes of criminal and disciplinary proceedings
	An independent body for auditing public revenues and expenditures,

Institution	Summary of AML/CFT responsibilities
Court of Audits	with particular responsibility for preventive inspection of legality and budgetary coverage of acts and contracts resulting in revenues or expenses for the State; carrying out inquiries, audits and other forms of investigation, as well as ordering the total or partial reimbursement of funds illegally spent.

1.4.3. Financial sector, DNFBPs and VASPs

78. This section gives general information on the size and make-up of the financial, DNFBP and VASP sectors in Guinea Bissau. The levels of importance of the sectors as well as the ML/TF risks inherent in the sectors vary. Also the ML/TF risks facing particular sectors differ.
79. An overview of the financial and non-financial sector is provided in the table below. The capital market is not active or operational in Guinea Bissau, while VASPs do not exist in the country. There are gaps in information available, particularly for DNFBPs.

Table 1.2. Type & Number of FIs and DNFBPs in Guinea Bissau as at December 2020

Reporting Entities	Number	Size of the Sector (Total Asset Base) XoF (Million)	% of the total asset base of the Financial Sector	Estimated % of GDP
Financial Institutions & VASPs				
Commercial Banks	5	198,815	NA	22.5
Insurance Companies	2			
Microfinance institutions	6			
Foreign Exchange Bureaus	11			
Credit Union	NA			
Finance companies	NA			
Mortgage companies	NA			
Mobile Money Service Providers	2			
Remittance Service providers (MVSBs)	20			
Virtual Currency Exchange Service Providers (VASPs)	NA			
DNFBPs				
Dealers in Precious metals & stones (DPMS)	NA			
Casinos	NA			
Real Estate agents	NA			
Accountants	38			
Auditors (sole practitioner or partner /employee of audit firm)	5			
Notaries	NA			
Lawyers	428			
Trust and Company service	NA			

providers				
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80. The assessment team ranked the sectors based on their relative importance in Guinea Bissau’s context given their respective materiality and level of ML/TF risks. The assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report, but is most evident in IO.3 and IO.4. In general, the Assessment team gave the highest importance to commercial banks, foreign exchange bureaus (bureau de change), and remittance service providers. Lawyers were weighted as moderately important. Insurance companies, other financial institutions and other DNFBPs were considered to be of less importance. The rationale for this is summarized below:

Heavily weighted / Most important weighting

- **The banking sector** - There are 5 banks with 32 branches operating in Guinea Bissau. One of the five banks is a national bank with majority foreign capital, while the other four banks are subsidiaries or branches of foreign banks. The sector has an assets size of XoF 198,815 million (approx. US\$ 360, 148 Million) and accounts for 22.5% of Guinea Bissau’s GDP as at 2019. The sector is weighted heavily important based on its materiality and risk in Guinea Bissau. The banking sector plays a predominant role in Guinea Bissau and is, therefore, materially significant. The banking sector is at higher risk for ML/TF as its relative size, volumes and values of transactions processed, ease of access, and interconnection to the global financial system make it attractive to criminals seeking to hide the proceeds of crime among the huge volumes of legitimate business. The banking sector was assessed as having medium risk (medium high threats and medium low vulnerabilities) in the draft NRA largely due to compliance challenges and weak supervision.
- **Foreign exchange bureaus (bureau de change)** – There are 11 licensed entities that provide currency exchange services. Guinea Bissau’s draft NRA rated this sector as having medium risk (medium ML threats and vulnerabilities) due to the cash intensive nature of the business, and the low understanding of ML/TF risk and implementation of AML/CFT obligations / preventive measures. There are many unlicensed persons who also provide currency exchanges which further increase the ML/TF risk presented by the sector. In addition, the ease of access, and the ability to process large cash transactions further expose the sector to considerable/ high risk of ML.
- **Remittance service providers** – The remittance service sector consist of both local and international players. According to the draft NRA report, there are 20 agencies that provide remittance services in the country³⁹. To operate as a remittance service provider, the persons (legal or natural persons) must enter into a subcontract or service delivery agreements with any of the commercial banks authorized by the BCEAO to carry out rapid transfer transactions. The authorized banks sign contracts with sub-agents and agents who carry out this rapid transfer service on their behalf and under their supervision. This agreement legitimizes the sub-agents/agents in the exercise of the money and value transfer. Some of the service providers are authorized to undertake or engage in cross border (inward and outward) remittance business, while a few are authorized only to receive inward remittances. All the service providers are affiliates of commercial banks and are guided by the AML/CFT procedures of the banks. Cross border transfers above 500,000XoF (approx. US\$895) must be approved by higher authority. In addition, for all transfers exceeding this limit, the senders must justify the origin of funds, in addition to presenting

³⁹ These include Western Union, Moneygram, Ria, Wari, Rapid Transfert, Small World, and Remit.

appropriate means of identification⁴⁰. Data on total value of remittances (local, inward or outward) was not provided for the assessors to ascertain the volume of activities in the sector. Guinea Bissau's draft NRA rated this sector as having high ML threats and medium low ML vulnerabilities. Assessors considered this factor as well as the involvement of cash and movement of cross-border funds, ease of access, patronage of some high-risk customers, the global ML/TF risk associated with this sector which can be classified as high, as well as the lack of supervision in weighting this sector heavily important. Money remittance service providers (MVSBs) have features that could be abused for the purposes of both ML and TF risk.

Moderately weighted

- Lawyers in Guinea Bissau provide a full suite of legal services. Some are also involved in sales and purchase of real estate and to a limited extent in other relevant activities (eg creation, operation or management of legal persons or arrangements). The licensed entities in this sector comprise 428 lawyers. Guinea Bissau considered them, in their draft NRA, to have a high ML/TF risk due to their low understanding of ML/TF risk and implementation of AML/CFT obligations. Assessors also considered their easy access coupled with lawyers' gatekeeper role and use in every phase of ML/TF and in many different ML/TF typologies.

Low weight /less important

- **Insurance:** There are 2 licensed insurers in Guinea Bissau. Though the sector was rated as having medium risk for ML in the draft NRA, assessors considered that the sector is small in size and underdeveloped with low insurance penetration, simple products, low volume of operations, and offers limited life insurance product (link to bank credit) and the lack of evidence of ML, small size and simple products.
- **Other financial institutions:** These include a range of businesses such as mobile money service providers and MFIs. The draft NRA found these to have, in general, a medium to low ML/TF risk. Majority of these entities are less developed with low volumes of transactions and coupled with the fact that, so far, no evidence of ML or TF case has been linked to any of them.
- **Other DNFBPs** including accountants, casinos, and DPMs are less developed with low volumes of transactions. In addition, there is no evidence of ML or TF case linked to any of these sectors. The few registered casinos are not operational at the time of onsite, while DPMS are limited to a few shops selling jewelries.

1.4.4. Preventive measures

81. The AML/CFT Law No. 3/2018 is the main legal basis of AML/CFT obligations on the FIs and DNFBPs. The preventive measures apply to all FIs and DNFBPs and require them to amongst other things: (a) apply CDD measures; (b) keep records and (c) report STRs to the FIU. For some sectors, the regulatory or supervisory authorities have taken more specific measures (or issued AML/CFT instructions and directives) to provide a precise framework for the AML/CFT activities that fall within their purview.
82. In addition to the AML/CFT Law No. 3/2018, financial institutions that are supervised by BCEAO are also governed by Regulation 14/2002/CM/UEMOA on the freezing of funds and other financial resources in the fight against the financing of the terrorism. Also, a

⁴⁰ Draft NRA report

series of Directives have been developed and issued by the BCEAO which FIs are expected to comply with. These include Directives No. 01/2007/RB of 2nd July 2007, on the fight against money laundering within financial institutions; No. 007-09-2017 on the modalities of application by FIs of the Uniform Act on the fight against ML/TF in the member States of the UMOA; No. 008-09-2017, setting the declaration threshold for cross-border physical transportation of cash, both at entry and exit points; No. 009-09-2017, setting the threshold for the payment of claims in cash and No. 010-09-2017, setting the threshold amount for the submission of cash transaction reports to the FIU. Instructions have also been issued by the Banking Commission, including Circulars N°04-2017/CB/C R on risk management, and N°03-2017/CB/C on internal controls. The e-money sector is governed by Directive No. 008-05-2015 which sets down the conditions and procedures for operating as electronic money issuers. The insurance industry is governed by Regulation No. 0004/CIMA/PCMA/PCE/SG/08 of 4th October 2008 on preventive measures. All the Directives, Instructions and Circulars are enforceable means under the FATF Methodology as they set out clearly stated requirements, which are sanctionable for non-compliance.

83. In addition to the FATF designated DNFBPs, Guinea Bissau has also designated travel agencies, hotels and transporters of funds as reporting entities under the AML/CFT law upon which AML/CFT measures are applied. However, there is no evidence that this designation was done following any formal risk assessment.

1.4.5. Legal persons and arrangements

84. Guinea Bissau is a signatory to the OHADA Treaty which established the Uniform Acts relating to General Commercial Law (AUSCGIE) that govern creation and operation of Companies and Economic Interest Grouping (EIG). Table 1.3 shows the categories and number of legal persons in Guinea Bissau. Over 70% of the companies created in Guinea Bissau are dormant but have not been struck off the register.

Table 1.3. Legal persons (as categorized under the OHADA Uniform Act)

Types of Entities	Number of Registered Entities			
	2017	2018	2019	2020
Public companies with an administrative nature	30	35	17	37
Limited liability companies	662	408	304	368
Limited liability companies (one member)		2	3	
Branch of Foreign Companies				
Cooperative				
Representative Office				
Economic Interest Groupings (EIG)				
Anonymous Society				
Anonymous Society (one-member)				
Real estate company				
Professional civil society				
Limited Joint Venture Company				
Simplified Joint Stock Company				
Simplified Stock Company (one-member)				
Branch Office (SA)				
Branch Office (SARL)				
Branch Civil Society Real Estate				
Total	692	445	324	405

85. Basic information on the creation of companies is recorded and maintained at the Business Formalization Center (CFE) and Registry Office of the General Directorate of Civil Identification, Registries and Notary (DGICRN). There is no legal requirement for any of the competent authorities or companies to obtain, retain and maintain beneficial ownership information.
86. The OHADA Uniform Act on General Commercial Law subjects legal persons to some general obligations designed to protect them against misuse. These include record-keeping obligations, the obligation to register companies, updating the information contained in the CFE and monitoring changes that may occur throughout the existence of the legal entity. However, there are no mechanism to implement these measures in Guinea Bissau.
87. As regards legal arrangements, Guinea Bissau's domestic law does not permit the creation of trusts. Nevertheless, the AML/CFT law requires reporting entities to obtain basic and beneficial ownership information of trusts.

1.4.6. Supervisory arrangements

88. In Guinea Bissau, supervision of financial institutions for AML/CFT compliance fall under the competencies of Community and National Authorities, specifically the Ministry of Finance. The BCEAO and the UMOA Banking Commission (BC) supervise Banks and some non-bank financial Institutions and CIMA is responsible for Insurance. In particular, BCEAO, the Banking Commission and Ministry of Finance supervise the banks, large decentralized financial institutions (DFIs), electronic money issuers (EMIs), and Foreign Exchange Bureaus. The Agency for Supervision of Savings and Microcredit Activities (ASAPM), within the Ministry of Finance supervises MFIs or Decentralized Financial System (DFIs). CIMA, through the CRCA and the Insurance Department within the Ministry of Finance, supervises insurance companies and brokers. The capital market in Guinea Bissau is not developed or operational and no VASPs has been licensed in the country.

Table 1.4. Licensing, Regulatory and Supervisory Authorities for FIs in Guinea Bissau

Type of Institutions	Licensing Authorities	Monitoring Authority	Supervisory Authority
Banks	Minister of Finance, BCEAO and Banking Commission (CB-UMOA)	Minister of Finance BCEAO CB-UMOA	Minister of Finance BCEAO CB-UMOA
Insurance	Minister of Finance (DGSAFS) CIMA/CRCA	Minister of Finance (DGSAFS) CIMA /CRCA	Minister of Finance (DGSAFS) CIMA/CRCA
Other financial institutions			
Microfinance Institutions	Minister of Finance BCEAO	Minister of Finance (ASAPM) BCEAO CB-UMOA	Minister of Finance (ASAPM) BCEAO CB-UMOA
Foreign	Minister of Finance	Minister of Finance	Minister of Finance

exchange bureaus	BCEAO	BCEAO	BCEAO
Rapid money transfer companies	Authorized Commercial Banks	BCEAO Minister of Finance CB-UMOA Authorized Commercial Banks	BCEAO Minister of Finance CB-UMOA Authorized Commercial Banks
Electronic money companies	BCEAO CB-UMOA	BCEAO CB-UMOA	BCEAO CB-UMOA
Postal financial services	Minister of Finance	Minister of Finance	Minister of Finance
Social Security Institute	The government	Ministry of Public Service	Ministry of Public Service

Credit Institutions

89. The appendix to the UEMOA convention which establishes the Banking Commission grants the Commission powers to conduct on-site and off-site inspections of banks and some non-bank financial institutions to ensure compliance with the relevant obligations. The Banking Commission, which is chaired by Governor of the BCEAO, is responsible for ensuring the soundness of the UMOA banking system, particularly through these inspections. The UMOA Banking Commission has two (2) decision-making bodies: a supervisory college and a resolution college. The UMOA Banking Commission has its rules of procedure and a code of ethics applicable to its Members, which regulate conflicts of interest.

Microfinance sector (Decentralized Financial System)

90. Microfinance Institutions are jointly supervised by ASAPM of the Ministry of Finance, the BCEAO and the UMOA Banking Commission. Microfinance operations are governed by the Uniform Law regulating the Decentralized Financial Systems (DFIs) and its enforcement decree as well as the directives issued by the BCEAO. Article 44 of the law on the regulation of DFIs and Directive N° 007-06-2010 of the Central Bank, provides that " the Central Bank and the Banking Commission shall, after informing the Minister, inspect any decentralized financial system whose level of activity attains a threshold of two (2) billion CFAF of outstanding deposits or credits after two consecutive years.

Authorized Foreign Exchange Bureaus

91. The BCEAO and/or the Ministry of Finance are responsible for ensuring compliance by the authorized foreign exchange bureaus with the provisions governing the exercise of the foreign exchange business. The activities of Foreign Exchange Bureaus are governed by Regulation No. 09/2010/CM/UEMOA of 1st October 2010, on the external financial relations of the member States of the Union.

Electronic Money Issuers Sector

92. The conditions and procedures for the activities of electronic money issuers are under the supervision of the BCEAO and the Banking Commission.

Insurance Sector

93. In line with Article 16 of the CIMA Code, the Regional Insurance Supervisory Commission (CRCA), is the regulatory body of the insurance sector. This body supervises insurance companies and contributes to the organization of the national insurance markets. Pursuant to Article 15 of the CRCA, Statutes, CRCA has powers to impose disciplinary sanctions in the event of an infringement of the insurance regulations. The sanction ranges from warnings to withdrawal of license and suspension or compulsory resignation of officers, depending on the seriousness of the offence.

DNFBPs

94. DNFBPs have self-regulating bodies and prudential supervisors that supervise them. However, these supervisors do not have oversight powers with respect to compliance with AML/CFT legislation. The AML/CFT Act 03/2018 does not designate a supervisory authority, nor a Self-regulating body for DNFBPs.

1.4.7. International cooperation

95. Due to its location and geographical characteristics, Guinea-Bissau is susceptible to the international risks and threats of ML. In fact, the porosity of its land borders and the weak control of island areas and maritime borders make the country vulnerable to be used as a transit for drug trafficking in the region and for other illicit purposes, such as the smuggling of goods and other transnational crimes.

96. Guinea Bissau cooperates with many countries, and in recent years, the most frequently requested and requesting countries have been the Portugal, Ivory Coast, and Cabo Verde. MLA and extradition requests are processed in accordance with the AML/CFT law, the Criminal Procedure Code, as well as multilateral and bilateral agreements. MLA and Extradition are processed using diplomatic channels through the Ministry of Foreign Affairs.

97. Guinea Bissau also engages in areas of informal international cooperation. The country engages in international cooperation through the membership of international organizations like the CPLC (Community of Portuguese Speaking Countries) and World Customs Organization, among others. Competent authorities including the Judicial Police, other LEAs and the FIU engage in information exchange with their counterparts, although the FIU is not yet a member of the Egmont Group. The supervisory authorities cooperate with foreign counterparts in the supervision of the financial market and exchange information to the extent necessary for the performance of their tasks.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

- a) Guinea Bissau assessed its ML/TF risks through a national ML/TF risk assessment. However, the report was not yet finalized at the time of onsite. The conclusions of the draft NRA report provided to the assessment team appear to reasonably reflect the main ML/TF risks. The draft NRA report identified drug trafficking, corruption, embezzlement, tax fraud, swindling, mismanagement, and abuse of trust as the main underlying crimes in the country while banks, bureaux de change, lawyers, accountants and remittance service providers were assessed as sectors most exposed to ML risk. However, some shortcomings were noted in the comprehensiveness of assessment in some areas, availability of statistics, and scope of the exercise. Guinea Bissau has not conducted any sectoral ML/TF risk assessment.
- b) Overall, Guinea Bissau demonstrated a low understanding of its ML/TF risk, though this varies across the competent authorities /public sector. The FIU, BCEAO and criminal police agencies have a more developed or reasonable knowledge of ML/TF risks while other competent authorities and SRBs displayed a very limited understanding of ML/TF risks.
- c) Guinea Bissau has not finalized its NRA report and thus yet to address identified ML/TF risks through policies and activities. Nonetheless, the country has developed a National Integrated Plan (NIP) to Combat Drugs, Organized Crime and Risk Reduction (2021-2027). However, the NIP does not have a significant AML/CFT component and implementation had not commenced.
- d) The objectives and activities of the competent authorities are generally determined by their own priorities and not based on identified risks and AML/CFT/PF Strategy and Policies. Furthermore, AML/CFT risks do not appear to be a factor in the allocation of resources in Guinea Bissau.
- e) Guinea Bissau has a coordination mechanism (AML/CFT Inter-Ministerial Committee) for the development of national policies and the coordination of ML/TF issues. However, it is not operational or functional due to several factors, including administrative and resource constraints. Thus, there is currently no effective overarching mechanism to ensure domestic cooperation and coordination, especially at the ministerial level. Nonetheless, at operational levels, relevant authorities generally cooperate under some operational platforms. With the exception of the BCEAO, operational cooperation between

the FIU and other supervisors appears limited or not well established. There is no cooperation mechanism in relation to PF.

- f) The private sector demonstrated varying level of awareness of the ML/TF risks. Commercial banks exhibited a good understanding of the ML/TF risks as framed in the draft NRA and relevant to the type of business activities they are engaged. The level of understanding of ML/TF risk by NBFIs and DNFBPs varies but is generally low.
- g) The NRA report has not been finalized and disseminated to the private sector, consequently, majority of reporting entities, especially NBFIs and DNFBPs are not aware of the findings in the draft NRA.

Recommended Actions

- a) Guinea Bissau should finalize the draft NRA report, and ensure widespread dissemination of its findings to all competent authorities and the private sector in order to ensure a consistent understanding of the ML/TF risks and facilitate the implementation of the recommendations. In addition, the country should conduct, as necessary, targeted awareness-raising on the findings of the NRA, especially for the higher risk elements of the private sector to foster better understanding of the country's ML/TF risks.
- b) Guinea Bissau should further enhance ML/TF risk understanding by: (i) expanding the depth of future risk assessments of certain areas that were not sufficiently assessed in the current draft NRA, such as the vulnerabilities of the informal/cash economy, geographical factors (Guinea Bissau Islands' vulnerabilities), as well as conduct assessment of risk posed by legal persons and legal arrangements, VASPs and other sectors that could be vulnerable to ML/TF risks, including real estate sector, car dealers, timber trade, and cashew nut which were not assessed in the draft NRA, (ii) deepening the analysis on TF risks assessment, including comprehensively assessing and understanding the vulnerabilities posed by NPOs to TF risk, (iii) deepening analysis on financial inclusion/exclusion, (iv) comprehensively highlighting the main methods, trends and typologies used to launder proceeds of crime in Guinea Bissau, and (vi) promoting a shared understanding of ML/TF risk amongst all stakeholders (public and private sectors) at national level through targeted stakeholder engagements centred on the results of the ML/TF risk assessment. Additionally, the risk understanding should always be kept up to date.
- c) Guinea Bissau should develop and implement a national AML/CFT policy and strategy based on the results of the NRA. The national AML/CFT Policy and strategy should include all AML/CFT stakeholders, set clear priority actions, timelines, and responsible institutions, tying together prevention, detection and suppression actions, and providing for training and sensitization programmes for AML/CFT stakeholders so as to increase AML/CFT understanding and implementation. In addition, it should include a monitoring mechanism to ensure

progress is regularly monitored. Alternatively, in view of resource constraints, the country may consider reviewing the NIP, taking into consideration all the identified risks in the NRA.

- d) Develop mechanisms for collecting and maintaining information and statistical data on ML/FT investigations, prosecutions, convictions and seized and confiscated property; for implementing the control measures on reporting entities; for international cooperation; and any other factors that would enable authorities to assess the effectiveness of AML/CFT measures and also allocate resources appropriately.
- e) Guinea Bissau should strengthen national coordination and cooperation on ML/TF issues by resuscitating the IMC and adequately funding its operations; raising awareness among all relevant agencies and stakeholders on the risk of ML/TF, and the role of each agency in the AML/CFT system.
- f) Guinea Bissau should ensure that competent authorities review their operational strategies against the outcome of the NRA in order to realign their activities to the full range of the identified risks or so that their objectives and activities are generally consistent with AML/CFT policy developments, and that adequate resources (covering law enforcement, supervision and prosecution) are in place to deliver the national AML/CFT priorities.
- g) Guinea Bissau should ensure that supervisors assess and understand ML/TF risks in the sectors/ institutions under their supervision. In addition, the country should consider establishing Regulators Forum to enhance operational cooperation amongst supervisory authorities, and also improve operational cooperation between supervisors with the FIU.
- h) The FIU and relevant supervisors should take measures to improve the understanding of ML/TF risks in the NBFIs and DNFBPs sectors in order to improve the overall level of understanding of risk in the country. Such measures may include greater outreach and provision of technical support to these entities to conduct their own internal ML/TF risk assessments; review of all AML/CFT sector specific regulations to adequately reflect the outcome of the NRA to better guide the institutions, and provision of best practices/guidance to the private sector on ML/TF risk assessments.
- i) Enhance implementation of measures targeting the informal economy (controls on cash flows; reduction of the use of cash; promotion of financial inclusion) and that promote a wider use of the financial system. These actions should amongst other things, include: dialogue between AML/CFT authorities and national authorities in charge of financial inclusion; active involvement of AML/CFT authorities in the definition of a national financial inclusion strategy, simplified measures and tiered CDD, implementation of the BCEAO's efforts to support a regional financial inclusion strategy, and an incentive component to lead the actors operating in the informal sector to enter the formal regulated sector, and a repressive component to fight against the operators who would continue to practice in the informal sector.
- j) Guinea Bissau should establish mechanisms for the co-ordination of PF actions. The authorities may wish to extend the mandate of the AML/CFT IMC to cover

PF issues and the membership of the Group to include other relevant stakeholders.

98. 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 Recommendations 1, 2, 33 and 34, and elements of R.15.

2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

2.2.1. Country's understanding of its ML/TF risks

99. Guinea Bissau has a low understanding of its money laundering and terrorist financing risk. The assessment team based its conclusions on its review of key documents, including the draft NRA report ; the NIP; and on the discussions held with the official of competent authorities, such as MF, MEF, MI, MP, PJ, FIU, Supervisory authorities (BCEAO, General Direction of Supervision of Financial Activities and Insurance⁴¹, Ministry of Tourism, National Order of Chartered Accountants-Guinea Bissau-ORNATOC, etc) and select reporting entities (banks, bureau de change, insurance companies, remittance service providers , accountants, lawyers, etc). The understanding of Guinea Bissau derives mainly from the NRA as the country has not conducted any thematic, sector specific or geographical risk assessment that would have further enhance their understanding of risk. The NRA report had not been finalized at the time of onsite and consequently, yet to be disseminated. Moreover, there are some important areas or components of the private sector that were not sufficiently assessed or not covered in the risk assessment (see analysis below) which impacted adversely on the overall understanding of risk in the country.
100. Guinea Bissau first identified and assessed its ML and FT risks through a national assessment concluded in May 2020. This exercise was a key step in understanding the ML/TF risks in the country. The NRA was coordinated by the National Risk Assessment Working Group (NRAWG), while the FIU led the NRA process with participation and inputs from relevant competent authorities⁴² and private sector representatives⁴³.
101. The methodology of the NRA is good. The World Bank risk assessment tool and the FATF Guidance on Assessing the Risk of ML/TF were adopted as the basis for the national risk assessment. In assessing its ML/TF risks, Guinea Bissau used both qualitative and quantitative data, including information from Suspicious Transaction Reports (STRs), data from investigative and prosecutorial authorities, information provided by supervisory authorities and some reporting entities as well as information obtained from interviews conducted. The data analyses were conducted by Working Groups comprise of representatives from key institutions involved in AML/CFT from the public and private

⁴¹ This is under the Ministry of Economy and Finance and has two directorates: The General Directorate for the Supervision of Financial Activities; and Directorate for the Supervision of Insurance;

⁴² These include the Public Ministry (MP), General Directorate of Customs; Information and Security Service (SIS), FIU, BCEAO ; ASAPM, Tax authority, Directorate-General for the Supervision of Insurance and Financial Activities; Public Prosecution Office; Judiciary Police ; and Jean-Piaget University

⁴³ These include representatives of all the five commercial banks, insurance companies, and some DNFBPs including Portugues Bar Association (OA) , and ORNATOC-GB

sectors. The FIU provided dedicated staff that worked with each Working Group to provide technical support throughout the assessment process.

102. The NRA analyzed the ML/TF threats and vulnerabilities in the key sectors and concluded that the overall ML risk is high and TF risk is Medium low. The draft NRA report identified drug trafficking, corruption, embezzlement, tax fraud, swindling, mismanagement, and abuse of trust as the main underlying crimes in the country. The NRA highlighted some of the factors that increase the exposure of the country to ML/TF risk, including preponderant use of cash in transactions, porous land borders and lack of government presences in most islands, significant capacity and resource constraints of competent authorities, and weak application of preventive measures by reporting entities, especially DNFBPs. Across the key public AML/CFT stakeholders, and some of the reporting entities, especially commercial banks, there is a reasonable shared understanding of the ML/TF threats and vulnerabilities facing the country. For instance, both the public and private sector regard drug trafficking and corruption, as did the NRA, as major ML concerns. The assessment team broadly agrees with the authorities and believes these conclusions are reasonable.
103. Banks, bureau de change, lawyers, accountants and remittance service providers were assessed as sectors most exposed to ML risk. Some of the authorities, especially the FIU and BCEAO demonstrated a moderate understanding of ML/TF risk exposure of these sectors.
104. The level of understanding of ML risks varies among the competent authorities. The FIU and some LEAs, especially the JP and GLCCDE generally demonstrated a reasonably good understanding of ML risks in Guinea Bissau. This understanding of risks is mostly derived from their operational activities. For instance, in the case of the LEAs, cash seizures (see IO 8) and seizures in relation to drugs trafficking⁴⁴ assist in their understanding. Their involvement in the development of the NRA also contributed to their understanding of the ML risks in the country. Amongst supervisory authorities, the BCEAO has more advance understanding of risks compare to other supervisors. The BCEAO generally has a good understanding of the risks in the sectors it supervises, especially commercial banks, and the findings of the draft NRA report. This is based to a large extent on the results of its supervisory activities and its participation in the NRA process. Other FIs and DNFBP supervisors demonstrated a low understanding of ML risks within their supervised sectors and a limited knowledge of the findings in the draft NRA relating to their sector, notwithstanding that some of them took part in the NRA⁴⁵. However, the low level of understanding by the Directorate General of Supervision of Financial Activities and Insurance (DGSAF) which supervises the foreign exchange bureaus (an important sector in Guinea Bissau) is mitigated by the fact that it shares the supervisory responsibility of this sector with the BCEAO, which has reasonable understanding of risk in the sector. Given that the insurance sector, Microfinance institutions, casinos, accountants and dealers in precious metals and stones (DPMS) are not materials in the context of Guinea Bissau and considered less important, the low level of understanding within their supervisors is not considered a significant shortcoming and is therefore weighted lightly by the assessment team. Beyond the NRA, supervisors have not undertaken any sector risk assessment to better understand the risks specific to the sectors and the entities they

⁴⁴ NIP, 2021-2027

⁴⁵ This may be largely attributed to the fact that the NRA report has not been finalized and disseminated to relevant stakeholders

supervise and how sectoral understanding of risks relate to the overall risk context of the country.

105. Generally, competent authorities exhibited limited understanding of the method used for laundering proceeds of crimes in Guinea Bissau. There is also limited analysis in this regard in the NRA report. Although authorities are aware of the vulnerabilities associated with cash transactions and are taking steps to reduce cash transactions and improve access to the formal financial system by introducing cash transactions limit, and promoting mobile money services amongst other things, however, given the weaknesses in the currency declaration system at the borders, and currency transaction reporting regime by reporting entities, especially non-bank financial institutions (NBFIs) and DNFBPs, the cash-based nature of the Guinea Bissau's economy may affect the availability of information or data to enable the authorities to comprehensively identify and understand ML/TF risks.
106. Regarding TF, the understanding of risk is mixed across agencies. Broadly, the key national authorities for combating TF have a good understanding of TF risks. This is particularly the case for the FIU, and the Information and Security Services (SIS). These authorities demonstrated good understanding of how the dormant cell of AQMI based in Gabú (eastern Guinea Bissau) raised funds to support its activities. For instance, they noted the financing of recruitment activities of the dormant cell of AQMI through trade of luxury cars from Mauritania. In addition, they cited another case in which wire transfers were used as a means of moving terrorist funds. In this case, the FIU (in collaboration with the Judicial Police and other authorities) identified international transfers via Western Union of funds suspected of financing terrorism from South Africa, and Palestine to Mauritanian terrorists who have fled to the national territory. They also highlighted instances where some citizens of Guinea Bissau were recruited by the dormant AQMI cell in Gabu and trained in countries prone to terrorism (Mali, Pakistan and Nigeria). Besides, the NRA highlighted an instance where some tourists entered Guinea-Bissau from the subregion and other countries, with terrorist records in the INTERPOL database. This implies that SIS and other relevant authorities are maintaining monitoring of the terrorism threat in the country which provided a basis for further TF understanding. Furthermore, Guinea Bissau has investigated one case relating to FTFs (See IO.9). Although the authorities did not file any terrorism or TF charges following the investigation, this operational activity added to the understanding of TF risks. In general, it is the view of the assessors that, these authorities' understanding of TF risk is fairly good, and can be further developed. Supervisors' understanding of TF risks is less developed, and this can negatively impact the implementation of relevant preventive measures by reporting entities (see IO.3).
107. The FIs and DNFBPs met during on-site demonstrated varying levels of understanding of ML/TF risk. The assessment team noted that the level of awareness and understanding of ML/TF risks is generally stronger in the commercial banks, compared to NBFIs and DNFBPs which have low awareness and understanding of the ML/TF risks they face. The good understanding of risks by the commercial banks is mainly due to the institutional risk assessments that have been undertaken by majority of them and their participation in the NRA process. Since the NRA report is yet to be finalized and disseminated, some of the private sector actors were not aware of the findings of the NRA, while all reporting entities are generally yet to access the findings of the NRA as the report is yet to be finalized and disseminated.
108. Although Guinea Bissau has made considerable efforts to understand its ML/TF risks through the NRA, significant gaps exist (in the NRA) which impact adversely on the

country's overall understanding of risks. The NRA did not sufficiently assess some areas while some sectors were not covered. For instance, the NRA analysis did not adequately cover analysis of some inherent contextual factors that may influence the risk profile of a country, especially the informal economy. The features of the informal economy are not analysed in conjunction with the extensive use of cash in Guinea Bissau. The preponderance use of cash provides an opportunity to disguise the source of cash. Nevertheless, Guinea Bissau did not analyse the effect of the informal economy/use of cash on the ML/TF environment. Although some steps are being taken to enhance financial inclusion, there is, however, no analysis on the impact this has had on reducing the use of cash in criminal activities. Similarly, there is insufficient analysis and understanding of Guinea Bissau Islands' vulnerabilities within an international context. Furthermore, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in Guinea Bissau, which have an impact on LEAs' understanding. Although, the NRA identified some TF vulnerabilities, it did not contain a sufficiently substantive analysis of how the vulnerabilities could be exploited. Also, the TF risk assessment lacks granularity and a sound analysis of trends, with limited analysis on sources, financial products and services that could be misused. The assessment of TF risks under the NRA had not fully assessed the threat of foreign terrorist fighters (FTF), including the risks of nationals that were trained in Mali, Pakistan and Nigeria returning home. Furthermore, the TF risks emanating from NPOs have not been comprehensively assessed in the NRA. The assessment of the NPOs lacks granularities – the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse (see also IO 10). Similarly, potential TF risk associated with the poor control on the cash movements across the country were not adequately covered. Financial instruments such as virtual currencies as well as the use of fictitious corporate structures, may also pose a certain level of risk, which has not been explored. Most importantly, there is absence of specific analysis on the risk associated with legal persons and legal arrangements. Given concerns about corruption in the country, there is potentials for abuse of legal persons and arrangements, and therefore, the lack of analysis in the NRA in this area presents a gap. These shortcomings impeded the country's understanding of how these elements contribute to overall ML/TF risks in Guinea Bissau. In general, the assessors are of the opinion that Guinea Bissau's understanding of the overall risks in the country could be further enhanced if the risks associated with the sectors that the NRA did not adequately assess, did not cover, and certain sectors, they believed are vulnerable to ML/TF risk, such as the real estate sector, car dealers, timber trade, and cashew nut which were not covered in the NRA are properly assessed.

2.2.2. National policies to address identified ML/TF risks

109. The report of the NRA was yet to be finalized as at the time of the on-site visit. Consequently, Guinea Bissau has not yet developed a national AML/CFT policy based on ML/TF risks identified in the NRA. Nonetheless, the country has taken commendable steps to develop a National Integrated Plan (NIP) to Combat Drugs, Organized Crime and Risk Reduction (2021-2027) to address some of the main ML/TF risks identified in the country. The NIP was developed based on relevant UN conventions against illicit drugs, organized crime, corruption and money laundering, the Political Declaration by the ECOWAS Heads of State and Government on the Prevention of Drug Abuse, Illicit Drug Trafficking and Organized Crimes in West Africa, and findings in reports produced by international organizations, such as IMF, UNODC and GIABA. Although NIP is not based on any risk assessment, its adoption will strengthen good governance, and contribute to the prevention, early detection, and reduction of criminal activities.

110. The NIP establishes the general policy framework and priorities to be followed by Guinea Bissau in addressing some of the main risks in the country. Broadly, the NIP aims to place the fight against corruption and organized crime, including drug trafficking and money laundering in the context of national development policy through an integrated approach. The NIP identified the stakeholders with roles in its implementation; highlights series of actions to be completed in the lifespan of the Plan; the critical factors for the successful implementation of the Plan; budgetary implications; and integrates a process of monitoring and review. The implementation of the NIP is under the overall coordination of the Minister of Justice. Although the implementation of the NIP was yet to commence as at the time of onsite, it has provided the basis for: (i) legislative and institutional improvements; (ii) strengthening the capacity of competent authorities /critical stakeholders (iii) Improving the collection of statistics on the type and value of frozen, seized and confiscated property; and (iv) enhancement of the effectiveness of investigation and prosecution of ML/TF, including through better use of a national and international cooperation framework. However, the NIP does not have a significant AML/CFT component as such it does not prioritize AML/CFT measures. Overall, the NIP is a positive initiative which ultimately, is expected to contribute to the effectiveness of the country's AML/CFT regime.
111. Prior to the development of the NIP, Guinea Bissau had the National Operational Plan to combat drug trafficking, organized crime and drug abuse (2011-2014) designed to address some of the main risks in the country. Implementation of the Plan resulted in a more functional Judiciary Police, the implementation of AIRCOP, participation in the West African Coast Initiative (WACI Project), with the implementation of the Transnational Crime Unit (TCU)⁴⁶. The implementation of the AIRCOP and TCU has led to significant seizures of cocaine and arrests between 2017-2019⁴⁷. Similarly, the country developed a National Strategic Plan to Combat Money Laundering and Terrorist Financing, which ran from 2016 to 2019. However, the country could not demonstrate effective implementation and results achieved remain insignificant due to several factors, including capacity and resource constraints. Based on discussions with the authorities, the team noted that competent authorities, including the FIU lack adequate resources to undertake their functions. Guinea Bissau did not demonstrate that the available resources are aligned to the risk areas in the country.
112. In recognition of the risk posed by cash transactions prior to the NRA, Guinea Bissau introduced the currency transaction reporting regime (CTRs) as well as promoting mobile money services amongst other things. The CTR regime allows reporting entities to report large cash transactions above certain threshold (XoF 15 million – approx. US\$27,347) to the FIU. These demonstrate how Guinea Bissau's national AML/CFT policies are addressing identified ML/TF risks. The BCEAO has adopted a risk-based approach in its supervisory frameworks, although this is weak and can benefit from further improvements.
113. Despite the lack of a formal Counter-Terrorism Strategy, the country addresses TF risks in a manner which is fairly consistent with the nature and level of TF risk in the country. Generally, TF is part of the broader terrorism related intelligence gathering activities. CFT activities are based on a collaborative and information-sharing approach, especially between the FIU, SIS, and Judicial Police, with the support of Interpol, the

⁴⁶ NIP, 2021-2027

⁴⁷ NIP, 2021-2027

National Guard (NG), and the Public Order Police (see IO.9). The authorities informed assessors of a case where the FIU and other key intelligence services collaborated leading to the identification, through international transfers via Western Union of funds suspected of terrorist financing from South Africa, Pakistan and Lebanon whose recipients were AQIM terrorists originating in Mauritania. Supervision/monitoring of NPOs to ensure transparency in the utilization of their funds is lacking (see IO.10). Consequently, Guinea Bissau needs to do more to address potential TF risks associated with NPOs as the sector is identified in the draft NRA as one of the sectors exposed to high risk. Similarly, the country needs to do more to address the potential TF risk associated with the poor control on the cash movements across the country.

114. There are some risks which Guinea Bissau's policies and activities do not sufficiently address. For instance, there remains an insufficient policy response to address the risks posed by legal persons in Guinea Bissau, with reforms on beneficial ownership not forming an explicit part of Guinea Bissau's NIP. In addition, insufficient activity by the relevant supervisory authorities in terms of supervision of some medium to high risk entities, such as foreign exchange bureaus, money remitters and some DNFBPs for AML/CFT compliance was noted by the assessment team. There is no evidence of visible policy shift or activity that would mitigate the risks associated with these entities. Similarly, Guinea Bissau has not demonstrated its ability to respond to new and emerging risks, such as VASPs. Guinea Bissau should ensure that a robust national AML/CFT policy is developed to address the risks identified in the NRA.
115. Currently Guinea Bissau has no defined policies, activities and resource allocation that focus in addressing the ML/TF risks whether at national and agency level of risk assessments. There is no national security strategy that addresses major ML predicate offences and terrorist financing. In addition, there is no substantive focus of tracking related ML/TF issues in line with the country's main threats as identified in the NRA and each major ML/TF risk is not addressed through national AML/CFT policies and actions.

2.2.3. Exemptions, enhanced and simplified measures

116. The AML/CFT Law No. 3/2018 provides for the application of enhanced and simplified CDD for all reporting entities. In general, reporting entities are required to apply enhanced measures for higher risk situations and only allowed to apply simplified measures for lower risks situations. In particular, the AML/CFT Law (Articles 46, 47 and 48) allow reporting institutions to take simplified measures when they have identified low risk of ML and TF, and also provides for the application of EDD measures by reporting institutions (Articles 51, 53, and 54) where higher risks are identified. There are no exemptions to the FATF Recommendations under the AML/CFT Law.
117. In light of the above, some FIs, especially commercial banks have conducted ML/TF risk assessments which are used to inform the application of their AML/CFT measures. On the basis of these assessments, the commercial banks are able to categorize the risk level of their customers, transactions and delivery channels. These risk-ratings are the basis for simplified and enhanced due diligence measures being applied. For instance, the banks perform EDD in relation to PEPs, correspondent banking relationships, transactions from high risk jurisdictions etc. DNFBPs have not conducted institutional ML/TF risk assessment to inform the proportionality of the mitigating measures. In other words, the level of understanding of ML/TF risks and AML/CFT application particularly relating to proportionate CDD measures are not yet developed in the DNFBPs. As a result,

there is less focus on application of the different CDD measures based on ML/TF risk differentiation when entering into business relationships or conducting transactions.

118. The NRA identified certain products (postal money orders and Postal reimbursement) as having low level of ML/FT risk for which there should be exemption or simplification measures. However, the NRA is yet to create any impact as the report of the assessment is yet to be finalized, and its findings had not been disseminated to reporting entities in order for them to take into account its findings in their AML/CFT compliance programmes.

2.2.4. Objectives and activities of competent authorities

119. The NRA report had not been finalized as at the time of the on-site visit, therefore the NRA has had little or no impact on the competent authorities' operational policies, strategies and activities. However, it is important to mention that before the conduct of the NRA, the country had taken some measures aimed at addressing the main ML/TF risks and predicate offences. For instance, as a response to the challenge of corruption, an Office for the Fight against Corruption and Economic Crimes (GLCCDE) was established within the Public Prosecutor's Office, to mainly investigate corruption by public officials and other related crimes. However, the number of ML investigated and prosecuted by this agency, and indeed, other LEAs remains limited (see IO.7). This implies that Guinea Bissau has not sufficiently prioritised ML investigations and prosecutions in line with the main risks in the country. The ineffectiveness of these agencies might be linked to the existence of a number of major challenges, including the lack of resources, training, and appropriate working tools. In addition, as a response to the threat posed by drug trafficking, Guinea Bissau established the Inter-Ministerial Anti-Drug Committee⁴⁸, the Joint Airport Interdiction Task Force in April 2018 (JAITF-AIRCOP); the launch of a High-level National Dialogue on drug trafficking, organized crime in November 2018; and the successful conduct of two operations which resulted in the two largest ever cocaine seizures in the country, 789 kg and 1947 kg, on 9th March 2019 and 2nd September 2019, respectively⁴⁹. Similarly, the Asset Recovery Office and the Asset Management Office were established in 2018. Although these offices have been inoperative since inception due to lack of technical, material and human resources, nevertheless, their establishment is a positive initiative in the pursuit and confiscation of criminal asset and management of such assets in the country.
120. Guinea Bissau has taken some limited steps, including the enactment of the AML/CFT law, 2018, to counter the risk of terrorism and TF. Although there has not been TF cases prosecuted in Guinea Bissau, there was one case relating to FTF that was investigated (see IO.9). In general, authorities' activities are guided by broader counter terrorism efforts. The authorities' objectives and activities can however be improved by establishing robust CFT strategy, specialized investigative unit for the repression of terrorism and its financing, and developing a standard operating procedures for investigation of TF. In addition, the country needs to criminalize the financing of individual terrorists and terrorists organizations for any purposes as well as foreign terrorist fighters.
121. Whilst the BCEAO demonstrated a reasonable understanding of ML/TF risks of the supervised entities, its risk based approach to AML/CFT supervision could benefit from

⁴⁸ NIP, 2021-2027

⁴⁹ <https://www.unodc.org/westandcentralafrica/en/guinea-bissau.html>

further enhancement (see IO.3). The supervisory tools and frameworks of other supervisors are not informed by AML/CFT policies or any risks consideration. Overall, supervisory authorities would generally benefit from having better supervisory tools that would provide them with comprehensive, timely, and consistent data on the nature and quantity of inherent risk at the level of individual institutions in their sectors.

2.2.5. National coordination and cooperation

122. Guinea Bissau has a coordination mechanism [the Inter-Ministerial Committee (IMC)] for the development of national policies and the coordination of AML/CFT issues. The IMC was established by order of the Minister of Economy and Finance, Order No. 54/GMEF/2003 of 27 October, 2003 and consists of relevant national authorities involved in AML/CFT implementation⁵⁰. Amongst other things, the Committee is assigned the responsibility for the development and implementation of national AML/CFT policy; and taking measures aiming at enhancing national and international AML/CFT cooperation. However, the Committee is not operational. Thus, cooperation and coordination in the development and implementation of AML/CFT policies and activities by the Committee is lacking while engagements at policy and strategic levels between key stakeholders is limited. Notwithstanding the efforts by the FIU to fill this gap, the non-functionality of the IMC remains a major gap or shortcoming which adversely impact on the efficacy of national AML/CFT cooperation mechanism in Guinea Bissau.
123. At the operational level, some coordination mechanisms exist to share information and coordinate efforts. For instance, the Joint Airport Interdiction Task Force (JAITF-AIRCOP). provides a platform for key stakeholders, including the Customs, Judiciary Police and Immigration to cooperate on intelligence and information sharing, and other joint activities relating to drug trafficking. As noted above, the Task force has recorded appreciable success in the seizure of drugs and arrest of drug traffickers. In addition, there is the Superior Council for Police and Internal Security Coordination (COSIPOL) which is the coordination platform for intelligence sharing amongst all LEAs including the Judiciary Police on combating drug trafficking and transnational organized crime that affect the internal security of the country⁵¹.
124. Operational cooperation amongst supervisory authorities on AML/CFT matters is at rudimentary stages. There is no operational platform for the supervisors to discuss cross-sectoral and other issues of strategic interest including AML/CFT supervision, ML/TF risks facing the financial and the DNFBP sectors, as well as emerging risks and the collective actions required. Overall, the level of cooperation and coordination between AML/CFT supervisors requires improvements in order to increase the convergence of supervisory practices, sharing of experiences, good practices and tools to improve the approach to AML/CFT supervision on a risk-basis. There is a demonstrable level of cooperation between the FIU and the other competent authorities, especially JP, GLCCDE, SIS, OPCs and Interpol, in the exchange of information. This cooperation is largely facilitated by the

⁵⁰ Representative of the Ministry of Economy and Finance, the General Directorate of Customs, the Ministry of Justice, the Ministry of Internal Administration, the Ministry of Foreign Affairs, International Cooperation and Communities, the Ministry of National Defence, the Association of Professional Banks and Financial Establishments, the National Directorate of BCEAO, the National Financial Information Processing Cell, Civil Society, the General Directorate of Taxes and Contributions, the Higher Inspection of the Fight against Corruption, the Center for the Formalization of Enterprises.

⁵¹ UN Secretary General's Peacebuilding Fund Project Document, 2019 – Source: https://info.undp.org/docs/pdc/Documents/GNB/191217_GBissau_Strengthening%20justice%20and%20response%20to%20drug%20trafficking_ProDoc.pdf. No information is available on the activities of this platform.

FIU correspondents / focal persons in some of the competent authorities. The exchange of information is done either on spontaneous basis (especially to the PGR/GLCCDE) or based on request directed by a party requiring the information. With the exception of the BCEAO, cooperation between the FIU and other supervisors appears limited or not well established. These supervisors can benefit from robust engagements with the FIU, especially to get a better understanding of ML/TF risks and develop joint work to improve compliance by entities under their supervisory purview.

125. As regards the framework of counter-terrorism, there is no evidence that Guinea Bissau has a committee for counterterrorism coordination. Similarly, there is no coordination mechanism in place for countering PF.

2.2.6. Private sector's awareness of risks

126. Guinea Bissau took an inclusive approach in conducting its NRA as private sector officials also participated in some of the Working Groups to identify and assess the country's ML/TF risks. Although the NRA report was yet to be finalized, some officials of reporting entities interviewed during the onsite visit confirmed that they were aware of the NRA. In addition, some of the reporting entities that participated in the NRA process, especially the commercial banks demonstrated understanding of the risk highlighted in the draft NRA specific to their sector, and indicated broad agreement with the NRA risk ratings as well as the key threats and vulnerabilities identified. The remittance service providers were unanimous that based on the controls and mitigation measures they implement, the risk of the sector should be low. They do not think the risk level (high ML threats and medium low ML vulnerabilities) assigned to the sector in the draft NRA report reflect the actual risk of the sector. A few others (reporting entities) generally accepted the findings of the draft NRA and were not able to provide insights into their understanding of the ML/TF risks based on their own experience.
127. In general, the private sector demonstrated a varying level of awareness of the ML/TF risks. FIs, especially commercial banks are aware of their ML/TF risks, with a more developed understanding among the large banks belonging to international groups, as they benefit from their groups' experience and knowledge. The understanding of ML/TF risk by the commercial banks is attributed to the fact that they have conducted institutional ML/TF risk assessment. Non-bank FIs and DNFbps understanding of risk is mixed but generally low. They are yet to conduct their institutional ML/TF risk assessment. This limitation contributed to the poor understanding of their risks and inhibits the understanding of risks by their relevant supervisors. The low understanding of risk by these entities also raises concerns as some of them are vulnerable to ML/TF risks.
128. Private sector engagement on ML/TF risks is limited. There is no evidence that competent authorities have published material and analysis of risks that could be used by the private sector to enhance its awareness of the risks specific to their operations within the country. Overall, there is need for national authorities to finalize and disseminate the NRA report, conduct, as necessary, targeted awareness raising on the findings of the NRA, especially for the higher risk elements of the private sector to foster good understanding of the country's ML/TF risks, and also provide particularly NBFIs and DNFbps with the necessary technical support to undertake their internal ML/TF risks assessment.

Overall Conclusion on IO.1

129. Guinea Bissau has completed a national risk assessment to identify, assess and understand its ML/TF risks, however, the report has not been finalized. The assessment, while comprehensive in certain areas, lacked an in-depth analysis of certain areas, including analysis of some inherent contextual factors that may influence the risk profile of a country, especially the informal economy, and the TF risks emanating from NPOs while certain sectors such as the legal persons and arrangements, real estate sector, and car dealers, which could be vulnerable to ML/TF risk, were not covered in the NRA. No sectorial risk assessment had been undertaken. Notwithstanding, the assessment team concluded that the results of the draft NRA (on adoption) could be used as the basis for the authorities, and reporting entities to begin having a process of developing a common understanding of the ML/TF risks, develop application of risk-based approach to mitigate the risks, and review the risks as and when emerging risks appear. The level of risk understanding varies in the public sector. Overall, Guinea Bissau has a low understanding of its ML/TF risk.
130. Guinea Bissau is yet to develop a national AML/CFT policy and strategy based on the risks identified (as the NRA report is yet to be finalized), and thus, objectives and activities of the competent authorities are yet to be aligned with the identified risk. Although the country has developed a National Integrated Plan (NIP) to Combat Drugs, Organized Crime and Risk Reduction (2021-2027), this is not informed by any risk assessment and implementation is yet to commence. Guinea Bissau has mechanisms to cooperate and coordinate at Policy and operational levels. However, at policy level, the national coordination committee (AML/CFT Inter-Ministerial Committee) exist but not operational. Similarly, there is no coordination mechanism in place for countering PF. At an operational level, some cooperation / coordination mechanisms exist to share information and coordinate efforts but could benefit from further improvement, with more efforts needed in the operation coordination between the FIU and supervisors (except BCEAO). Awareness of ML/TF risk amongst the private sector actors varies, but stronger in commercial banks and low in the NBFIs and DNFBPs. Majority of reporting entities, especially NBFIs and DNFBPs were not aware of the findings in the draft NRA as the report has not been finalized and disseminated
131. **Guinea Bissau has achieved a low level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6 (Financial Intelligence ML/TF)

- a) LEAs in Guinea Bissau have access to a broad range of information sources but make limited use of financial intelligence to support their investigative activities. Overall, the use of the financial intelligence in ML/TF investigations remains low.
- b) The FIU has power to access a variety of public and private sector databases to enhance the quality of financial intelligence and other information it produces and provide to LEAs. However, this power has not been fully utilized to access information from some key competent authorities such as SIS, GLCCDE, and Immigration Service to support its analysis.
- c) The FIU produces and provides reasonably good financial intelligence and other information which has been, to some extent, used by the LEAs to pursue cases of a few ML/TF and a number of predicate offences. However, FIU's intelligence has not resulted into ML/TF conviction. In general, awareness of the potential of the FIU's database as an additional resource in the course of ML/TF and predicate offence investigations is still evolving given the limited number of request for information made by LEAs in the review period. Intelligence produced by the FIU reflect a few of the major risks of the country, especially tax fraud, and corruption. However, there are some factors which may limit the effectiveness of the analysis process, including the lack of advanced IT tools for STR analysis; inadequate human resources (especially analysts); and limited training on analysis. This could lengthen the processing time of STRs/case files.
- d) Banks account for all the STRs submitted to the FIU. The quality of the STRs is generally considered to be good. However, the number of STRs filed is low and appears not consistent with the materiality of the banking sector in Guinea Bissau. The underlying suspicious crime for the STRs relate largely to tax fraud and corruption. The new online reporting system established by the FIU in November /December 2020 is expected to facilitate reporting. NBFIs and DNFBPs did not file any STR to the FIU during the review period. This shortcoming has a negative impact on the entire AML/CFT chain as it limits the availability and use of such reports to detect and combat potential financial crimes. In addition to STRs, the FIU also receives CTRs which have helped to enhance its analysis. The FIU did not receive any reports on the physical cross-

border transportation of currency and bearer negotiable instruments from Customs.

- e) The FIU is yet to conduct strategic analysis which is useful to identify emerging risks and assist law enforcement to pursue potential ML investigations in particular and contribute to broader AML/CFT initiatives in the country.
- f) Feedback to reporting entities on the usefulness of the STRs filed to and analyzed by the FIU is not regular, unsystematic and unstructured to effectively impact on the behaviour of the reporting entities in respect of discharging their reporting obligations. Similarly, limited feedback is provided to the FIU on use of financial intelligence by LEAs. This practice does not enable the FIU to adequately assess the quality of its analysis and prioritize its own course of actions.
- g) In general, the FIU and other competent authorities have good level of cooperation but exchange information to a limited extent. The cooperation is facilitated through MoUs, operational cooperation platforms, FIU focal persons designated in some competent authorities, as well as some officials seconded to the FIU from key agencies. There are no concerns about the confidential handling of information.

Immediate Outcome 7 (ML Investigation and Prosecution)

- a) The competent authorities responsible for investigation and prosecution of ML lack financial investigation expertise, financial and technical resources to deal with money laundering cases.
- b) Criminal investigative and prosecutorial authorities do not seem to prioritize investigations on ML. In addition, there is no evidence that investigations focus on the different types of money laundering activities, especially stand-alone, third-party laundering, and laundering the proceeds of foreign predicate offense.
- c) Guinea-Bissau's law enforcement authorities do not conduct systematic parallel investigations into ML when investigating underlying predicate offenses such as corruption and drug trafficking. The limited number of parallel investigations is not consistent with the risk profile or high level of threats associated with the multiplicity of predicate offenses that can generate significant illicit proceeds in the country.
- d) Guinea Bissau has established an Office for the Fight against Corruption and Economic Crimes within the Public Prosecutor's Office to investigate mainly corruption by public officials and other related crimes. However, its effectiveness remains a concern as there are few investigations and indictments on money laundering, and convictions are practically non-existent.
- e) Guinea Bissau does not maintain comprehensive statistics on money laundering, including detailed statistics on the types of predicate offences and types of ML investigated or prosecuted.

- f) Guinea Bissau has not applied other criminal justice measures where it is not possible, for justifiable reasons, to obtain a ML conviction after investigation.

Immediate Outcome 8 (Confiscation)

- a) Guinea Bissau has adequate legal framework for confiscation of proceeds of crime. Sufficient provisional measures exist, while national authorities such as the FIU and National Guard are empowered to apply these measures. However, the country does not pursue confiscation of criminal proceeds, instrumentalities and property of corresponding value as a national policy objective consistent with its risk profile.
- b) The Asset Recovery Office and the Asset Management Office were established in 2018 to identify, locate and seize property and assets, and to manage seized or recovered assets respectively. However, they are not operational due to the lack of technical, financial, and human resources to carry out their functions.
- c) Guinea Bissau's confiscation efforts are largely directed towards predicate offences, such as drug trafficking. In addition, authorities in Guinea Bissau do not systematically pursue confiscation or freezing of proceeds located abroad. Confiscation in Guinea Bissau is not consistent with the risk profile of the country.
- d) Law enforcement agencies generally do not conduct financial investigations to trace money when they conduct investigations on proceeds generating crimes which impacts negatively on confiscation or seizures related to ML. There are no specific guidelines on identifying and tracing illicit assets to facilitate freezing and confiscation of such assets and there is very limited training on financial investigative techniques.
- e) . Customs and National Guard confiscate falsely declared cash at the borders. However, it appears that no inquiries are made to establish whether the amounts seized are linked to TF or ML. Furthermore, the implementation of confiscation of falsely declared or undeclared cross-border transaction of currency/BNI through the postal system or by cargo and at the land borders appears weak. Overall, the number of confiscations recorded is very low and not consistent with the ML risks in the country.

Recommended Actions

Immediate Outcome 6 (Financial Intelligence ML/TF)

- a) Authorities should prioritize and increase the financial, technical and human resources of the FIU to enable it strengthen its analytical capacity, including procurement of a more advance analytical tools, and skilled personnel to enhance its operational efficiencies and better support financial investigations by LEAs. In the immediate term, the FIU should re-calibrate its analysis priorities to focus on the highest ML risks and make more effective use of its limited resources.

- b) Guinea Bissau should take necessary steps, including raising awareness about the importance of using financial intelligence by different LEAs while pursuing predicate offences and ML/TF cases, and providing parallel financial investigations training, to ensure that relevant LEAs are well equipped to appreciate the value and use of the financial intelligence and other information from the FIU to actively pursue ML/TF cases and associated predicate offences. Creation of a national database to facilitate exchange of information could be beneficial for LEAs in their investigative activities. In addition, LEAs should be more proactive in requesting information from the FIU during their investigative activities (intelligence gathering and investigations of ML, FT and related predicate offences and the identification and tracing of proceeds).
- c) The FIU should access and fully optimize all the resources or information in the databases of relevant public authorities, especially SIS, GLCCDE, and Immigration Service to support its analysis in order to produce more robust intelligence. Similarly, the FIU should consider subscribing to and accessing commercially or privately-owned databases as this can enable it to access relevant information that will support its analysis.
- d) Guinea Bissau should take necessary steps to improve suspicious transaction reporting by reporting entities (consistent with the risk profile of the entities) in order to increase the availability and scope of useful information at the disposal of the FIU to support analysis. In this regard, the FIU should: (i) increase collaboration with the relevant sector regulators and SRBs to enhance outreach and training to reporting entities and provide sector specific guidance, especially to the NBFIs and DNFBPs, to facilitate identification and reporting of STRs; and (ii) publish risk indicators to help diversity and increase the number of STRs. In addition, the FIU should hold discussions with banks to ensure that reporting is further aligned with the risks facing Guinea Bissau.
- e) The FIU should pursue and develop strategic analysis to support the operational needs of LEAs, inform the objectives of reporting entities, as well as contribute to broader AML/CFT initiatives. Such analysis should identify emerging trends, patterns, typologies and vulnerabilities, as well as an appropriate response, which considers Guinea Bissau's context.
- f) The FIU should provide regular and systematic feedback to reporting entities on the usefulness of the STRs filed to it, including on a case by case basis, to further improve the quality of STRs. Similarly, LEAs should provide regular and timely feedback to the FIU on the usefulness of the financial intelligence and information disseminated. In this regard, LEAs and the FIU should establish a feedback mechanism, including adopting a Feedback Form to elicit feedback on the usefulness or quality of information disseminated and their outcome, including the number of investigations, prosecutions and convictions resulting therefrom. Information provided should be broken down by ML, FT and predicate offences. The FIU should hold systematic meetings with all LEAs to discuss the use of its analysis products.
- g) The FIU should sensitize the Customs administration to forward reports, especially suspicious cross-border transportation incidents in order to enable it have more pertinent information to support analysis, and generate the kind of financial intelligence and information required to assist LEAs in relation to

ML/TF cases related to cross-border cash or BNI declarations. In this regard, Customs authorities should strengthen their AML/CFT knowledge and develop sound mechanisms to be able to detect false or non-declarations and suspicions of either ML or FT.

Immediate Outcome 7 (ML Investigation and Prosecution)

Guinea Bissau should:

- a) Prioritize financial investigation and parallel financial investigations when handling predicate offences in order to effectively investigate and prosecute ML cases. In this regard, they should sensitize investigative authorities to proactively use financial information in their investigations
- b) Align investigation and prosecution of ML to the main threats and risks identified in the NRA and ensure that investigative and prosecutorial authorities pursue the different types of ML cases consistent with the ML threats facing the country, including foreign predicate offences in accordance with the identified risks in Guinea Bissau.
- c) Provide law enforcement and prosecution authorities with adequate human, financial, and technical resources in order to facilitate execution of their activities.
- d) Strengthen the capacity of law enforcement officials and prosecutors involved in investigation and prosecution of ML cases, with a particular focus on financial investigation/ML investigations.
- e) Develop comprehensive statistics on the different types of money laundering offences investigated and prosecuted, as well as convictions.
- f) Implement measures aim to strengthen operational cooperation amongst LEAs in ML investigation. In particular, Guinea Bissau should introduce cross-cutting objectives and priorities to facilitate coordination between the various LEAs involved in ML investigation; existing operational cooperation platforms, especially the Superior Council for Police and Internal Security Coordination (COSIPOL) should be made functional, with frequent meetings; and LEAs should consider encouraging joint operations on ML investigation to strengthen domestic cooperation.

Immediate Outcome 8 (Confiscation)

Guinea Bissau should:

- a) Pursue confiscation of criminal proceeds, instrumentalities and properties of equivalent value as a policy objective consistent with its risk profile. In this regard, the AML/CFT strategy should incorporate confiscation of assets and instrumentalities used or intended to be used to commit ML/TF and associated predicates;
- b) Provide the Asset Recovery Office and Asset Management Office with sufficient human, financial and technical resources to carry out their duties. This will reinforce and facilitate the strategic objective to pursue confiscation of illicit property related to ML, TF and other predicates;

- c) Develop guidelines on freezing, seizure and confiscation to ensure compliance with the national objective to focus on confiscation of proceeds of crime;
- d) Strengthen the capacity of law enforcement authorities and other relevant officers on financial investigative techniques to enable them effectively trace, freeze, seize and confiscate proceeds and instrumentalities of crime;
- e) Strengthen the capacity of tax, customs, and other relevant authorities operating at the borders regarding financial crimes, and in particular, on the importance of confiscating all proceeds of crime as well as conducting financial investigations following seizures;
- f) . Guinea Bissau should strengthen implementation of measures to control cross-border movement of cash and BNI that at the land borders and monitor transportation of cash and BNI by post or cargo given ML/TF risks faced by the country. Custom officers should take reasonable measures to ascertain that cash and BNIs being transported are not linked with ML or TF
- g) Maintain comprehensive statistics on the number and volume of seizures and confiscations for ML and the predicate offences including TF.

3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)

3.2.1. Use of financial intelligence and other information

132. In Guinea Bissau, LEAs have access to a number of sources of financial intelligence and other information, but make limited use of financial intelligence to support their investigative activities. In general, financial intelligence is predominately used by LEAs to support investigations of predicate offences and trace assets and to a limited extent in supporting ML and TF investigations and developing ML and TF evidence. The FIU has power to access a wide range of databases containing financial, administrative and law enforcement information which it can use to develop intelligence. The investigative agencies and the FIU have exercised their statutory powers to some extent to access and obtain information held by public and private databases.

133. The primary source of financial intelligence for the FIU are the STRs contained in its own database. The FIU also has access to a wide variety of public⁵² and private sector information sources. The FIU has access (indirect) to records and other information held by various public authorities, including the Judicial Police (criminal records information), General Directorate of Taxes (taxpayer information), and Directorate General of Property Registration (landed property information). Where information is required from any competent authority, a formal request is made to the agency. In order to facilitate communication with the FIU, focal points were established in most of the competent authorities, including the Judicial Police, and tax administration. Despite these arrangements, the FIU indicated that, on some occasions, there have been delays in responding to the requests made by the Unit. This may largely be attributed to the fact that some of the organizations do not have well-structured or organized databases and/or the technical capacity to collect, process, and disseminate information. As indicated in Table 6.1 below, the FIU makes use of some of the sources of information to enrich analysis of

⁵² Law enforcement, financial and administrative and other publicly held information

STRs, leading to the production of good financial intelligence. Between 2017 and 2020, the Unit made a total of 71 requests for information to competent authorities, and received 67 responses, representing 94% of total requests made.

Table 3.1. Number of Request made by the FIU on Other Competent Authorities, 2017-2020

Name of Institution	Number of Requests	
	Number of Requests Made	Number of Response Received
Directorate General of Customs	13	13
Directorate General of Contributions and Taxes	13	13
Directorate General of Property Registration	13	11
Judicial Police	13	13
Directorate of Justice Administration/Criminal Register	10	08
Business Formalization Center	09	09
Total	71	67

134. Although the FIU can access a number of public databases to generate reasonable financial intelligence and other information, as can be seen from Table 6.1 above, the Unit has not adequately use its powers to access other information that would have further enhance the execution of its core mandate from some key agencies, including the SIS, GLCCDE, Immigration Service and regulatory authorities, especially the BCEAO⁵³. Information from these agencies could add value to the analysis at the FIU.
135. Despite the relevance of the information (cross-border cash and BNI declaration/disclosure information) held by the customs authorities, the Customs do not communicate such information spontaneously to the FIU (see Table 6.3). Thus, the FIU is deprived of information that could enable it generate the kind of financial intelligence and information required to assist LEAs in relation to ML/TF cases related to cross-border cash or BNI declarations. Given the potential TF risk associated with cross-border cash movements/BNIs, the inability of the Customs to communicate such information to the FIU is a gap, capable of impacting its ability to conduct comprehensive analysis. Although this appears to be mitigated by the request being made by the FIU to Customs (as indicated in Table 6.1 above), the total requests made in the review period is generally low (only 13 over a four-year period).
136. The FIU has power to access privately-owned databases but does not have access to any in practice. This may be due to resource constraints given the payment of subscription. The FIU can benefit from access to commercially available databases as this can enable it to access relevant information on, inter alia, PEPs, business associates/relationships and transactions, which may otherwise not be readily available in the public space, to augment its analysis.

⁵³ This could largely be attributed to human resource constraint at the FIU

137. The FIU has the power to request and obtain additional information useful for the performance of its duties (analysis of STRs) from any competent authority or reporting entity. The FIU has demonstrated the use of its powers to request additional information from reporting institutions, regardless of whether such institution submitted the original STR or not (see Table 6.2 below). The requests are usually made when the FIU is undertaking its analytical work on STRs. The requests for additional information covers all documents and information held by the entity related to the requested customer or transaction, including CDD data, transactions data, and all documents attached to the reporting entities' customer and transaction files. The results thereof augmented the analysis and the quality of financial intelligence and other information produced by the FIU to support law enforcement operations. As at onsite, all the additional requests made by the FIU were to commercial banks, which hold the majority of financial information in the country. The FIU indicated that the requests were processed by the reporting institutions within a range of 24 hours to a few days. Between 2017 and 2020, the FIU made 13 additional request for information mainly to the commercial banks, which in the view of the assessors, appears few (about 3 on the average per year).

Table 3.2. Number of Requests for additional information made by the FIU to Credit Institutions, 2017-2020

Reporting Entity	No of Requests Made	Number of Responses Received
Commercial banks	13	13

138. The FIU receives Currency Transaction Reports (CTRs) at above XoF 15 million (approx. US\$27,347) threshold from reporting entities, in addition to STRs (see Table 6.4). In addition, it receives, upon request or spontaneously, information from other FIUs through bilateral arrangements (see IO.2). The information from other FIUs are used to support production of financial intelligence for use by LEAs.

139. LEAs, especially those responsible for ML/TF investigations (the GLCCDE, the Criminal Courts, and the PJ), have full prerogatives to access a wide variety of financial and other relevant information source of information deemed useful to support their investigations. The range of relevant sources of financial information includes information from reporting entities, landed property information, tax records, custom's cross-border cash/BNI declaration system, passport information, company registry information - basic information on legal persons and BO information where it is collected (see IO.5); and international investigative organisations such as the Interpol. However, LEAs predominantly use this intelligence to gather evidence and trace criminal proceeds related to predicate offences.

140. Other agencies, such as the National Guards (NG), through the Tax Brigade, and the DGA collect financial information from cases of infractions of the transaction and physical cross border transportation of cash and bearer negotiable instruments in excess of 5 million CFAs. They also detect other cases of offenses such as tax fraud and timber smuggling. The information is passed on to the PJ, and the MF. However, no data were made available to the assessors to demonstrate their effective use for the purposes of investigating ML/TF or predicate offences.

141. LEAs make requests to the FIU for information to support on-going cases, including tracing the proceeds of crime. However, this is on a low scale (see Table 6.3 below). Between 2017 and 2020, the FIU received a total of only 26 requests from LEAs (an average of about 7 request per year). The FIU responded to about 92% of the requests (see Table 6.8), indicating that the FIU actively responds to the requests of LEAs. The majority of the requests relate to suspected offences of corruption, drug trafficking and tax evasion which are in line with some of the main predicate offences in Guinea Bissau's NRA (see IO.1) Most of the requests were made by JP and GLCCDE that handle some of the main proceed generating crimes in Guinea Bissau. Some of the LEAs have dedicated focal persons within their agencies to facilitate receipt or exchange of financial intelligence and other information from the FIU. Overall, the evaluation team believes the number of requests by LEAs could be higher considering concerns around drug trafficking, corruption and other major predicate offences in the country.

Table 3.3. Number of Requests made by LEAs, Interpol and MP on the FIU, 2017 – 2020

Name of Institution	Number of Requests
General Directorate of Customs	4
Directorate General of Contributions and Taxes	1
Judicial Police	8
Public Prosecutor's Office / Vara Crime / Bissau Regional Court	3
Office for the Fight against Corruption and Economic Crimes (GLCCDE)	8
National Interpol Office	2
Total	26

142. In addition to the information the FIU provides to LEAs in response to their requests, the FIU also disseminates intelligence spontaneously to the OAG in line with the requirements of the AML/CFT law (see Table 6.6). The FIU mentioned that, with the exception of drug trafficking, spontaneous disseminations cover underlying key predicate offences in Guinea-Bissau, such as tax fraud, corruption and other economic and financial crimes. Thus, the disseminations align to some extent, with the highest risk predicate offences for ML identified in Guinea Bissau's NRA. However, assessors noted that the GLCCDE has to a negligible extent utilized disseminations received from the FIU (through the OPG) as there are still significant pending cases in the agency (see Table 6.6). This could largely be due to capacity (human, technical and financial) constraints.

143. LEAs rarely provide feedback to the FIU on the use of its intelligence (the FIU could not demonstrate that it receives regular feedback from the LEAs). The lack of such feedback could be largely due to inadequate man-powers and capacity in the LEAs. The FIU can benefit from such feedback as it could help to further improve the quality of its intelligence. Some of the LEAs, especially the Judicial Police and Office for the Fight against Corruption and Economic Crime (GLCCDE) regard the quality and usefulness of the intelligence reports and other information from the FIU as being helpful to their operational needs, and noted that response to request by the FIU is timely. Overall, the use of FIU intelligence by LEAs could be significantly improved by strengthening their investigative capacity.

144. In relation to TF, intelligence services, especially SIS, accesses and uses intelligence from other sources to initiate or support TF/terrorism related investigation. There has not been STR submission associated with TF, nevertheless, there was one investigation relating to FTFs, which did not result in prosecution or a conviction (see IO.9). The investigation was based on intelligence from other sources. In general, the close co-operation between the FIU and the SIS in the intelligence gathering stage in TF / terrorism related matters (see IO.1) is a positive indicator.
145. Overall, the wide range of databases available to the FIU and the LEAs are reasonable to enable them to generate relevant financial intelligence and other information for criminal proceeds and TF. However, there are some impediments impacting the quality of operational financial intelligence gathered and its subsequent use for evidence gathering and tracing of criminal proceeds related to ML, underlying predicate offences and TF. For example, no STRs have been filed by DNFBPs and there have been very few STR filings from FIs, especially by commercial banks. In addition, as noted earlier, the use of the FIU's intelligence provided spontaneously or on request in ML investigations is grossly inadequate, due to the lack of capacities (including specialized human resources), and greater focus of LEAs on the use of intelligence in predicate investigations.
146. In general, Guinea Bissau does not have a broad network of specialist financial investigators nor do LEAs employ specialist financial investigative personnel to assist in the pursuit and interpretation of financial intelligence. Also, the LEAs do not have adequate capacity to effectively review FIU's intelligence as routine part of their investigative process and there is little evidence that financial intelligence have been successfully used to identify new targets, including money launderers, and dismantle criminal network. Presently, there is no platform involving various stakeholders (FIU; supervisors; LEAs; selected private sector; etc.) for facilitating strong development of financial intelligence and intelligence-led approach in identifying ML/TF. There is no distributed STR-model in Guinea Bissau to facilitate access of financial intelligence to a wide range of accredited end-users.

3.2.2. STRs received and requested by competent authorities

147. The FIU receives STRs and Currency Transactions Reports (CTRs) at a threshold of XoF 15 million (approx. US\$27,347) from reporting institutions. The FIU does not receive Cross Border Currency Declaration Reports from the Customs. The STRs and CTRs are filed to the FIU manually (in hard copies, CDs etc), until June 2020 when the Unit established an online reporting system⁵⁴. It is expected that in the near future, FIs and DNFBPs will be able to submit STRs electronically through secured means provided adequate training and full awareness creation are undertaken to facilitate effective use of the online reporting tool.
148. All the STRs received by the FIU are from the banking industry. No STR has been filed by NBFIs or DNFBPs. The STRs received by the FIU are all ML-related. Of the total 33 STRs filed between 2017 and 2020, the suspected predicate offences contained in the STRs relate largely to corruption and tax fraud, which represent only very few of the main ML risk identified in the NRA - drug trafficking, corruption, embezzlement, tax fraud, swindling, mismanagement, and abuse of trust. Some of the STRs were filed on grounds of suspicious cash deposits (this is consistent with the cash-based nature of the Guinea

⁵⁴ There was a Ministerial Order by Ministry of Finance and Economy in July 2020 to formalize the online reporting obligation and ensure that reporting institutions, especially banks file reports to the FIU via the online reporting platform

Bissau's economy) and bank/wire transfers⁵⁵. There was no STR received in relation to TF in Guinea Bissau during the period under review. This could be attributed to the lack of abilities of the reporting entities to identify potential TF-related STRs. Given the medium low rating for TF risk in the NRA (see IO.1), this is not consistent with the risk profile of the country.

149. Regarding the quality of the STRs received, the FIU indicated that the quality varies, but generally good, with the bigger banks providing higher quality reports. The STRs generally contain relevant information such as name, Date of Birth, date of transaction, amount, reason for suspicion, account number, address, etc which form the basis of the FIU's analysis and intelligence generated to support investigations by the LEAs. While FIU was unable to provide information on the number of STRs with incomplete/missing information, it stated that when such a case occurs, the Unit would contact the reporting entity and request it to provide the necessary information. The table below summarizes the STRs and other reports received by the FIU between 2017 and 2020.

Table 3.4. Types and Number of Reports Received by the FIU, 2017-2020

Year	STRs	CTRs	CDRs
2017	7	0	0
2018	13	3	0
2019	8	30	0
2020	5	51	0
Total	33	84	0

150. Statistics in Table 6.4 above indicate an appreciable rise in the number of STRs filed to the FIU in 2018. The statistics also show a steady decline in the volume of STRs filed from 2019 to 2020. The FIU attributed the rise in 2018 to the sensitization and trainings provided by the Unit, and the decline in 2019 to the political tension arising from the 2019 legislative and presidential elections. The FIU did not provide explanation for the decline in the number of STRs received in 2020. In general, even given the small size of the country's economy, the relative volume of STRs filed by commercial banks is very low (an average of 8 STRs per year), and appears not consistent with the materiality of the banking sector in Guinea Bissau, taking into consideration the fact that majority of transactions are processed through the banking sector. Overall, the downward trend shows that more attention to enhancing the quantity of reported STRs would be beneficial. No STR was filed by NBFIs and DNFBPs (some of which are considered medium to high risk in the NRA), which is not consistent with the risk profile of the country. The FIU started receiving CTRs in 2018 and the annual number of CTRs filed has followed a constant upward trend throughout the review period (no explanation was provided for this). The Unit indicated that STRs are escalated from the CTRs received. However, no statistics was provided on the number of STRs escalated from CTRs, nor did the Unit provide the parameters used for such escalation. Assessors believe that, based on the concerns around drug trafficking, corruption, tax crimes, etc (see IO.1) in Guinea Bissau, the STRs received could be far higher than in Table 6.4 above. No CDR was filed to the FIU about suspicious cross-border transportation incidents in the review period. Although no specific reason was

⁵⁵ 2018 Annual Report of the FIU

provided by the FIU or Customs for this, the team believes this could largely be attributed to capacity constraints at the Customs. Overall, this gap is mitigated to some extent by the request being made by the FIU to Customs (as indicated in Table 6.1).

151. In general, the diversity of the STRs filed is not sufficiently broad as all the STRs are filed by commercial banks. The main reason for the low number of STRs by commercial banks in general, and the non-filing of STRs by NBFIs and the DNFBPs in particular, could be attributed to inadequate supervision and monitoring of the sectors, the lack of sanctions for non-compliance with reporting obligations, and the lack of sector-specific AML/CFT guidance, especially to the DNFBPs (see IO.3 for details). In addition, feedback from the FIU during the on-site visit suggests that one of the reasons for the low volume of STRs filed to date by banks is that the reporting entities believe the STRs will leak (this could not be substantiated as no statistics or evidence, including leakages of information on STRs was provided to back this claim). It is the view of the Assessors that the low or lack of reporting of suspicious transactions by some reporting entities (some of which are identified as medium to high risk in the NRA), potentially deprives the FIU of the necessary transaction information to support in-depth intelligence analysis, and may have some adverse implications on the ability of the Unit to perform its core functions and effectively meet its domestic and international obligations. Overall, it limits the scope of information available for FIU analysis and ultimately, the availability of financial intelligence in the country. Notwithstanding, the FIU has powers to request and receive information from reporting entities in the course of conducting its analysis function independent from filing a suspicious transaction report. As can be seen from Table 6.2 above, the FIU has exercised this power to make request for additional information in order to enhance analysis of STRs and other information received, and has received positive responses from these reporting entities. However, this is limited to the banks. The FIU has not made use of the power to make requests for additional information from NBFIs and the DNFBPs. Thus, assessor concerns noted in relation to the adverse impact of non-reporting of STRs above subsist.

152. The FIU does not appear to provide robust and systematic feedback to reporting entities on the quality and usefulness of the STRs filed to it. The FIU indicated during the onsite that it provides general feedback, including acknowledging receipt of STRs filed. The FIU could not demonstrate that it has taken any steps, including industry and bilateral engagements with the reporting entities, to improve the quality and relevance of the reports filed. In particular, the reporting entities did not indicate that they are aware of guidance products for STR filing, other than the STR reporting template provided by the FIU. There was no any firm confirmation from reporting entities interviewed on the usefulness of the feedback from the FIU on their ability to detect and file quality STRs. In addition, there are no other platforms that facilitate contributions from other stakeholders (LEAs; other end-users; etc) for improvement of the quality of STRs filed by reporting entities. Considering the low number of STRs received per year, the evaluation team considers that many reporting entities would benefit from a more systematic feedback from the FIU, including on a case by case basis.

3.2.3. Operational needs supported by FIU analysis and dissemination

153. The FIU produces reasonably good financial intelligence and information, which has been used, to limited extent by LEAs to support their operational activities, especially in the investigations of predicate offences and tracing of assets and to a lesser extent on supporting ML and TF investigations.

154. The FIU's operational analysis is based on STRs and other information received, including, incoming requests from LEAs and foreign FIUs. The Unit indicated that the time taken to complete analysis of an STR varies – on the average, this could take about two (2) months from the date of receipt of an STR. The Unit uses MS Excel application to process STRs or perform analysis. Given the limited volume of STRs, the current analytical tool appears fairly adequate in mining relevant information as it supports analysis and dissemination of intelligence to LEAs. The FIU, after receiving STRs, enters the data into its database (by the FIU's IT Unit), and thereafter, the STR is assigned to an analyst. The security of the submissions and storage of the information is achieved through protection from unauthorized access to information. The FIU indicated that it prioritises STR based on the complexity of cases, amount involved, and nature of underlying suspected offence (example – drugs, corruption or where there is TF related STRs). However, it could not demonstrate any instances where it prioritizes STRs for analysis on the basis of the parameters it highlighted. When analyzing STRs, the analyst will review all data accessible to the FIU. This includes a combination of information held in the database of the FIU (CTRs), accessed from public databases and other information (e.g., from internet search engines) to enrich the quality of the financial intelligence. The FIU also adds value to STRs by seeking additional information from reporting entities and other institutions, where necessary. The FIU has a written operating procedures manual which serves as a guide to staff for undertaking analysis. However, this can benefit from further review to amongst other things, strengthen criteria and indicators covering prioritisation of cases, and depth of analysis warranted - depending on the complexity and importance.

155. In the case of analysis of STRs, the FIU determines whether the elements of suspicion appear sufficient to justify the opening of a criminal case. If this is the case, it transmits the financial information to the OAG (Office of the Attorney General). This is in line with the requirement of the AML/CFT law. The OAG forwards it to GLCCDE or the criminal court. The FIU indicated that the suspected underlying predicate offences identified in its disseminations to the OAG include tax fraud, corruption and drug trafficking which appears consistent with some of the main ML risk of Guinea Bissau. Where the underlying suspected predicate offence cannot be identified or the basis of dissemination cannot be established, the file is kept in view (KIV) and monitored. Table 6.5 below provides an overview of all analytical reports disseminated between 2017 and 2020.

Table 3.5. Number of STRs Received, Analyzed, Disseminations, KIV, and Closed by the FIU, 2017 - 2020

Year	No of STRs Received	No fo STRs Analyzed	Number of Dissemination to OPG (Attorney General's Office)	KIV / Pending	Closed
2017	7	4	4	0	3
2018	13	6	3	3	4
2019	8	6	6	0	2
2020	5	0	0	5	0
Total	33	16	13	8	9

156. Out of 33 STRs received by the FIU between 2017 and 2020, only 16 have been analyzed, with about 51% of the STRs still pending. The disparity in STRs analysed (when compared to what is submitted) highlights the challenges being experienced by the FIU regarding its ability to effectively support its partners. Table 6.5 above demonstrates that

the FIU is increasingly analysing a lower proportion of what they receive. For instance, no single analysis was undertaken in 2020. This could be a combination of several factors, including insufficient human and technical capacity to keep pace with the number of submissions. The FIU does not have specialist skills such as forensic accounting to effectively undertake financial analysis. As at onsite, the FIU had a total number of 8 employees, including two analysts, Director, an assistant Secretary and representatives from the MP, PJ, Customs and NG. This suggests there is room for improvement in the human capacity and analysis conducted by the FIU.

157. As noted earlier, the results of the FIU's STRs analysis are disseminated to the OAG which disseminates it to the GLCCDE for operational actions. The GLCCDE acknowledged the good quality of the FIU's intelligence during interview with the assessors. However, it was not clear to what extent it has used the FIU's intelligence to initiate or support ongoing investigations as significant number of the FIU's disseminations to GLCCDE remains unutilized or pending (see Table 6.6 below). Similarly, only one accusation was recorded in the review period. The GLCCDE indicated that, although investigation is ongoing in some of the cases, majority of the pending cases are due to several factors, including the lack of resources, lack of complementary information, weak institutional collaboration, and frequent changes in leadership of critical institutions which occasionally makes it difficult to access past records. Assessors are of the view that the challenge may largely be the lack of capacity and resources, as 7 out of 8 requests made to the FIU (see Table 6.8) were responded to and the GLCCDE could not demonstrate that it had made information requests to other agencies and did not receive responses. The total spontaneous disseminations from the FIU to GLCCDE (through the OAG) between 2017 and 2020 is highlighted in the Table below.

Table 3.6. Disseminations by FIU to GLCCDE (OAG), 2017-2020

YEARS	TOTAL	FILE	PENDING	ACCUSATIONS
2017	4	0	4	0
2018	3	1	2	1
2019	6	0	6	0
2020		0	0	0
Total	13	1	12	1

Source: OAG

158. Based on the statistics in the Table above, the number of investigations launched by GLCCDE on the basis of spontaneous disseminations by the FIU is insignificant (1), and cast doubts on its understanding of how to use the intelligence in its investigations. Thus, it is not possible to ascertain the uses of spontaneous dissemination for: identification of unknown targets; generation of investigative leads and new cases; identification of new activities related to existing investigation; and detection of new ML/TF trends.
159. The data contained in Table 6.7 below indicate that FIU's spontaneous disseminations triggered or resulted in ML investigations. The FIU did not provide examples of some of the ML cases its spontaneous intelligence were used to initiate, and the agency(ies) that utilized these intelligence to initiate the ML investigations. However, Assessors are puzzled by the statistics as the GLCCDE, which appears to be main recipient of the FIU's spontaneous intelligence, has many pending cases (see Table 6.6 above). For example, the GLCCDE received a total number of 13 FIU's disseminations between 2017 and 2020 and only filed 1 case, with over 90% of the disseminations received still pending.

This may imply that the GLCCDE lacks adequate capacities to fully utilize the intelligence received from the FIU for investigations. Thus, given the significant pending cases at the GLCCDE, it is not clear whether the FIU's spontaneous intelligence were actually used to initiate ML or predicate offence investigations. Regarding the use of FIU intelligence to secure confiscation, statistics in the table below indicates that there has been successful confiscation of assets worth XoF 228 million (approx. US\$423,792) in 2019 as a result of the disseminations from the FIU.

Table 3.7. Number of Investigations & Confiscation resulting from FIU Intelligence, 2017-2020

Type of Crime	2017	2018	2019	2020
ML	4	3	0	6
TF	0	0	0	0
Others (Predicate Offences)	0	0	0	0
Value of confiscations facilitated by FIU intelligence			228.324.772 XoF	

160. Upon request, the FIU regularly supports ongoing investigations by providing financial information. Most requests are hand delivered and result in a database search (STR, CTR etc) or the provision of financial information (such as account statements or any other banking documents). Between January 2017 and 2020, the FIU received 26 requests and responded to 24. Most of the requests are from the JP and the GLCCDE (see Table 6.8 below). Overall, the FIU better supports the operational activities of LEAs through the provision of information upon requests.

Table 3.8. Reactive Disseminations (Upon Request) by the FIU, 2017-2020

Name of Institution	Number of Requests & Responses	
	Request made on FIU	Response provided by FIU
General Directorate of Customs	4	4
General Directorate of Taxes	1	1
Judicial Police	8	8
Public Prosecutor's Office / Vara Crime / Bissau Regional Court	3	3
Office for the Fight against Corruption and Economic Offenses	8	7
National Interpol Office	2	1
Total	26	24

161. LEAs met during the onsite expressed appreciable satisfaction about the usefulness of FIU analytical reports. However, the evaluation team noted that after intelligence is disseminated, the FIU appears not to receive appropriate feedback from the LEAs about their use. Thus, feedback on the use of financial intelligence from the LEAs to the FIU is insufficient to contribute to improving the quality of analytical/investigative products. There is no evidence of any regular operational meetings and discussions between FIU and recipients of disclosure to discuss investigative priorities, analytical processes, development of indicators and assistance in the use of financial intelligence. Therefore, it may be difficult for the FIU to establish what are the priorities for LEAs and what are their

needs. Improving the feedback system would benefit the entire upstream information chain up to the reporting entities. The FIU could benefit from designing a Feedback Form to facilitate the provision of feedback on the quality and usefulness/relevance of its disseminations.

162. The FIU is yet to conduct strategic analysis to identify trends and patterns, and inform stakeholders on emerging risks. This may be due to the lack of adequate resources (human, technical, and financial resources). Thus, it is not possible to ascertain any added value of strategic analysis to: identification of geographic and systemic “hot spots”; identification of new and emerging phenomena; and provision of detailed lead information to LEAs / intelligence community. It is the view of assessors that the lack of strategic analysis impacts adversely on the sharing of information to identify ML/TF risks, inform coordinated interventions, and promote a shared understanding of the risks facing the country. Thus, the FIU needs to build capacity to conduct strategic analysis in order to assist competent authorities and reporting entities in understanding ML trends and methods in Guinea Bissau.
163. Overall, it is the view of the evaluation team that the limited human resources or staff dedicated to analysis, inadequate budget, low volume of STRs filed by commercial banks and the non-filing of STRs by other FIs and DNFBPs (some of which are assessed as medium to high risks in the NRA), and the inability of the FIU to conduct strategic analysis contribute to the challenges faced by the Unit in effectively supporting the operational needs of LEAs.

3.2.4. Cooperation and exchange of information/financial intelligence

164. The FIU and other competent authorities cooperate but exchange information to a limited extent. The evaluation team based this conclusion on the fact that LEAs and other competent authorities make limited requests for information on the FIU (see Table 6.3). The FIU has signed MoUs⁵⁶, and also has focal points in some domestic competent authorities aimed at facilitating information exchange, nevertheless there is limited evidence to demonstrate that these authorities, including the LEAs, make adequate requests for information from the FIU to support their investigative activities. Similarly, the FIU’s structure comprising officials seconded from critical government agencies⁵⁷, including Judicial Police /ministry in charge of security; Customs Services, Ministry of Justice and BCEAO is designed to promote cooperation with the FIU. However, this appears not to have been effectively utilized to facilitate information exchange between the FIU and the relevant agencies. For instance, there is no evidence that the FIU has exchanged information with the BCEAO.
165. There are some operational cooperation platforms, such as AIRCOP-JAIF. This platform is operational and recorded some successes (see IO.1), however, the task force does not meet frequently to share information or discuss AML/CFT related issues, including giving each other feedback.
166. The FIU and other competent authorities take the necessary steps to protect the confidentiality of information that they store, use and exchange. Exchange of information

⁵⁶ These include the Institute of Women and Children, responsible for preventing trafficking in women and children

⁵⁷ Article 61 of the AML/CFT Law. The seconded officers include an official from the Ministry of Finance, a magistrate seconded by the Ministry of Justice, two judicial police investigators, by the Ministry of Justice, a representative of BCEAO, a customs inspector, seconded by the Ministry of Finance.

with competent authorities is undertaken in a secured way through dedicated personnel on either side (dedicated staff at the FIU and focal person in other competent authorities). This procedure helps to safeguard and protect the information accessed or disseminated for use by competent authorities. As at the time of the on-site visit, there has not been an instance where the confidentiality of the information exchange between the FIU and competent authorities had been compromised.

167. The FIU recently created an IT system (domain), and it is not possible to assess whether it has adequate measures in place to guarantee the security and confidentiality of the information it holds. Nevertheless, it is implementing IT security policies, and has adequate physical security measures, including perimeter wall with security guards, video surveillance and POP and GN neighborhood. Thus, the Unit's facilities appears secured enough to prevent unauthorized access and ensure safeguarding of the information.

Overall conclusion on IO.6

168. LEAs and FIU have access to a broad range of information sources. However, the FIU has not fully utilized its powers to access information from some key competent authorities to develop analytical products. LEAs do not employ specialist financial investigative personnel to assist in the pursuit and interpretation of financial intelligence, and make limited use of financial intelligence to support their investigative activities. All the STRs received by the FIU are from the banking sector. The number of STRs received is low and the quality is generally considered to be good. No STR has been filed by NBFIs or DNFBPs which limits the scope of information available for FIU analysis and ultimately, the availability of financial intelligence in the country. Additionally, CDRs are not been filed spontaneously to the FIU by Customs. Nonetheless, this gap is mitigated to some extent by the request on CDR information being made by the FIU to the Customs in the course of its analysis. Feedback to reporting entities by the FIU is not regular and systematic while limited feedback is provided to the FIU on use of financial intelligence by LEAs. The FIU is yet to conduct strategic analysis to identify trends and patterns, and inform stakeholders on emerging risks. Thus, it is not possible to ascertain any added value of strategic analysis to the identification of geographic and systemic "hot spots"; identification of new and emerging phenomena; and provision of detailed lead information to LEAs / intelligence community. The Unit lacks sufficient human, material and technical resources to effectively perform its core functions. The weak outcomes in terms of support provided to the operational needs of competent authorities derive mainly from the lack of capacity and prioritization of ML/TF investigations. The FIU and other competent authorities cooperate but exchange information to a limited extent.

169. **Guinea Bissau has achieved a low level of effectiveness for IO.6.**

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

170. Guinea-Bissau has a legal framework that supports identification and investigation of a significant number of ML and predicate offenses. There were, however, considerable deficiencies in the identification and investigation of ML due, in particular, to the fact that

the operational units and agencies dealing with proceeds generated from predicate offences do not have sufficient technical, material and human resources available to carry out their duties. Thus, the country could not adequately demonstrate if ML cases are identified and investigated at the preliminary stage of the investigation nor consistently view ML as a priority. In Guinea-Bissau, the Public Ministry is the main criminal investigation authority. Other authorities that investigate predicate offences in the country include the Judiciary Police, the Public Order Police and the National Guard. According to Article 9 k) (1) of Law No. 8/2011 on the organization of criminal investigations, the Judiciary Police has reserved competencies in relation to ML and other economic and financial crimes. Thus, the other criminal police agencies, particularly the National Guard, deal only with the predicate offences, without prejudice to being able to carry out urgent precautionary acts necessary for the conservation of evidence, whenever there is a crime which competence is reserved to the JP, and subsequently report the case to the JP.

171. LEAs in Guinea-Bissau can conduct joint investigations, particularly in drug trafficking cases, through the setting-up of a task force. The task force brings together different experts, including experts in financial investigation, which facilitates investigations. However, it was not possible to determine whether this task force has a permanent character or is set up on an ad hoc basis to solve specific cases, and no concrete cases or statistical data were presented attesting that the different LEAs conducted joint ML investigations. In other words, it is not possible to establish if the task force facilitates adequate sharing of expertise and capabilities for investigating ML cases or whether the inter-agency taskforce platforms complement agency-specific expertise and resources. Therefore, the lack of comprehensive sharing of financial intelligence across agencies is a risk to investigative opportunities.
172. During the onsite, the Assessment Team was informed by competent authorities that there is a coordination platform known as the Superior Council for Police and Internal Security Coordination (COSIPOL). This is a platform for intelligence sharing amongst all law enforcement institutions on combating drug trafficking and transnational organized crime that affects internal security. No information was provided on the operational activities of this platform. The authorities underlined that, generally the exchange of information and coordination between and among the different criminal investigation authorities is based on the national criminal legislation, namely the Penal Procedure Code, as well as the Criminal Organization and Investigation law. They stated that currently there are no memoranda of understanding or protocols of agreement between the different criminal police agencies at the national level, and that the frequency of meetings held by these authorities is low. The Judiciary Police has a specialized division (National Unit on the Fight Against Drugs and Money Laundering) to fight against drugs and money laundering. Within the AG's office, prosecutors and magistrates can also conduct ML investigations. In addition, Guinea Bissau has established a Unit to fight corruption and economic crimes within the Public Prosecutor's Office. This Unit only investigates corruption and other related crimes committed by public servants. Authorities indicated that the Unit's scope of work was recently extended to include investigation of other crimes like drug offences and ML. Competent authorities, particularly the Judiciary Police, the Public Prosecutor's Office, and the courts, have recently begun to focus on investigation, prosecution, and adjudication of money laundering offences. This view is based on the increase in the number of ML related investigations from 2 in 2019 to 7 in 2020, and a rise in the ML related prosecution from 2 to 6 in the same period (see Table 7.1). Nonetheless, these numbers are considered few, and convictions are practically non-existent.

173. Guinea Bissau did not demonstrate capacity to ascertain factors trigger decisions to charge ML investigation such as: (i) requirement for a clear separation between predicate offences and conduct that form ML activity, (ii) ability to charge individuals who assisted with ML activities, but are not otherwise implicated in the predicate offence (3rd party ML), and (iii) inability to charge an individual with the predicate offence but where ML is an option, foreign predicate offences in particular.
174. Competent authorities stated that ML is detected through the intelligence report disseminated by the FIU, on the basis of anonymous tips or in the course of investigating predicate offences. It is important to note that the FIU sends the report of its analysis to the AG and not directly to LEAs, as the Public Prosecutor's Office is the competent authority under the Bissau-Guinean law to initiate legal actions. It was not clear how the dissemination of such information to other criminal police agencies is done. Overall, the number of STRs filed to the FIU is very low (see IO6) which could account for the low number of intelligence reports disseminated by the Unit to the AG's Office. From interviews with relevant criminal investigation authorities, it was not clear if there are criteria to prioritize ML cases once they are identified. Despite the existence of a fairly comprehensive legal framework, as well as the different institutional structures dedicated to criminal investigation, the number of ML investigations remains very low. Moreover, discussions with the various LEAs revealed that there is an urgent need for training on ML investigation. Some LEAs were not able to distinguish the different types of ML (self-laundering, third-party laundering, and stand-alone laundering). Thus, it is not clear how financial investigation has been systematically included in the investigation into proceeds-generating offences.
175. LEAs rarely conduct parallel ML investigations when investigating predicate offences. The authorities provided an example of a case where ML investigation was also conducted while investigating drug trafficking⁵⁸. Various LEAs attributed the lack of ML investigations to the inadequate human and financial resources to conduct parallel financial investigations, ill-equipped operational units, and a lack of specialization. In addition, the NRA indicated that there are problems with the integrity and independence of investigators and judges and according to some authorities met during the on-site, these had not led to any disciplinary actions. It is not unusual for a case to be stalled or completely abandoned without any justifiable reason. Other factors that may justify the low number of ML investigations are institutional instability and low level of national and international cooperation. Assessors were informed that there is strong interference of the political power in the judicial sector, which constitutes a major constraint in conducting investigations into economic and financial crimes, including ML.

Table 3.9. ML investigations, prosecutions, and convictions, 2017-2020

	2017	2018	2019	2020
Number of ML-related investigations	04	03	02	07
Number of ML-related prosecutions	04	01	02	06
Number of ML related convictions			01	00
Cases initiated as ML-related but prosecuted as predicate offence				

⁵⁸ Operation Navara.

176. Guinea Bissau provided statistics which show that only 16 ML investigations were conducted in the last four years from a significant number of proceeds generating offences investigated⁵⁹ in the country. Although statistics show that there were 16 ML investigations, documentary evidence was only provided for one case. Therefore, it is not possible to corroborate the information. LEAs in Guinea Bissau still focus essentially on traditional crimes and typically do not conduct parallel investigations to identify ML given the facts stated previously.

Box 1. Case of a ML investigation related to transnational drug trafficking (Operation Navara)

In September 2019, the PJ, after collecting and processing data, in the course of operation 'Navara', identified a set of individuals, of various nationalities (Guinean, Malian, Colombian), who were engaged in drug trafficking, using a local port, near the villages Bula and C6, for the landing of more than 1900 kilos of cocaine.

In order to conceal the drug trafficking operations and disguise the illicit origin of funds, the suspects set up shell companies, from which several international bank transfers made by those involved were also recorded to and from Argentina, Spain, Colombia, Senegal, Portugal and USA. Likewise, the proceeds acquired through drug trafficking were used by the defendants to purchase real estate.

After investigations, the JP was able to seize, in different locations, the said product, arrested 10 individuals in the act and, later, another four. They also seized amounts exceeding twenty million CFA, over 4 thousand euros, 7 cars and a speedboat, as well as some real estate belonging to the defendants.

At the Regional Court, there were numerous convictions for the defendants involved in this case, for example: one defendant was sentenced to 7 years and 4 months in prison for ML plus 8 years in prison for illicit drug trafficking, while another defendant was sentenced to 16 years in prison (aggregated sentencing) for ML and drug trafficking.

Table 3.10. Statistics on Investigations of ML Predicate Offences, 2017-2020

Predicate offences	<i>Number of cases detected or investigated</i>	<i>Number of cases prosecuted</i>	<i>Number of convictions (cases)</i>	<i>Number of persons convicted</i>	<i>Amount of assets seized and frozen (no ML prosecution)</i>
	JP	PPO	COURT	COURT	VALUES
Drug trafficking	162	107	36	55	1 772 254 065 XOF
Corruption	57	52	1	4	6 833 969 000 XOF
Embezzlement	26	34	5	26	17 761 573 000 XOF
Tax fraud and Tax evasion	6	20	0	0	14 102 943 000 XOF
Theft or Robbery	3012	427	70	95	3 688 874 000 XOF
Swindling	1040	648	30	28	18 685 727 000 XOF
Mismanagement	34	46	1	3	124 877 739 000 XOF
Abuse of trust	255	161	1	22	9 461 936 000 XOF

⁵⁹ Table 7.2

Falsification	34	88	11	49	38 540 000 XOF
Usurpation of property (land)	7	73	6	4	80 600 000 XOF
Issuing bad cheques	6	12	3	0	504 908 000 XOF
Counterfeit and piracy	4	8	1	0	3 227 000 XOF
Fencing Goods	0	8	1	5	11 200 000 XOF
Total	4643	1703	172	301	197 853 540 065 XOF

3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

177. Guinea-Bissau does not pursue ML investigation in line with the types of ML identified in the NRA. Also, investigations of ML are not prioritized and resources allocated in line with the ML risks. This view is consistent with Core Issue 1.4 of IO1. The country did not provide sufficient qualitative and quantitative information on the predicate offences that gave rise to the money laundering investigations. The draft NRA report of Guinea Bissau indicates that the most common predicate offences are drug trafficking, corruption, abuse of trust, embezzlement, tax evasion, theft, swindling, mismanagement, forgery, counterfeiting and piracy of goods. The NRA also revealed that drug trafficking, corruption, embezzlement and tax evasion generated the highest illicit proceeds. In general, the predicate offences that constituted the ML offences investigated are not known, as the statistics provided are not disaggregated nor detailed to ascertain this. Tax evasion which generates significant proceeds is not pursued via the criminal justice system but rather administratively. Tax Authorities stated that they had applied dissuasive penalties for non-payment of taxes but did not provide information on the sums recovered through the administrative process nor did they provide evidence to corroborate the information.
178. Despite the significant number of proceeds generating offences which pose ML threats to Guinea Bissau, only a handful are pursued in the context of ML investigations. LEAs in Guinea Bissau rarely focus on ML investigation when investigating predicate offences. Therefore, ML investigation is inconsistent with the risk profile of the country. Most of the investigative judges, and prosecutors do not focus on ML investigations. This is due to the limited capacity to conduct ML investigation and possibly, the lack of clear understanding of the LEAs roles in terms of ML investigations (there was no harmonized view among LEAs regarding their mandate on ML). The Judiciary Police also noted that on two occasions it conducted ML investigations, drawn up charges and forwarded the matter to the prosecutor's office. However, the cases did not go to trial and no justification was given. The LEAs mentioned the occurrence of numerous appeals to stall cases and, in some instances, cases were abandoned without any justifiable reason. While the seating judges generally demonstrated a relatively high level of understanding of AML issues, they aptly pointed out that they could only adjudicate on matters that were brought before them.
179. Guinea-Bissau has not yet developed specific national AML/CFT policy document based on its NRA at the time of onsite. However, the country has a National Integrated Plan to Combat Drug Trafficking and Organized Crime, which primarily emphasizing the fight against drugs, advocates a set of measures to improve Guinea-Bissau's criminal justice system, including strengthening measures to prevent and combat organized crime, including ML. The creation of a specialized Unit within the Prosecutor's office to deal with

drug trafficking, public corruption, and ML is a positive step and indicates that Guinea Bissau is focusing on some of the most prevalent ML threats in the country. However, the Unit is not systematically pursuing ML cases.

3.3.3. Types of ML cases pursued

180. Guinea Bissau did not demonstrate they prosecute and convict for a range of different types of ML, especially stand-alone, 3rd party laundering and laundering of foreign predicates. LEAs are yet to classify or distinguish between the different types of ML offences being investigated. Moreover, the statistical data provided by the country makes it impossible to determine the types of ML cases that are actually being investigated or prosecuted. At the time of the on-site visit, only one ML case had been tried by Guinea Bissau. The case appeared to be fairly complex and involved foreign elements and joint investigation with foreign counterparts. The assessors, nonetheless, gathered that LEAs seldom conduct ML investigation where the predicate offence was committed abroad. The NRA noted there are many companies that carry out commercial activities and move large sums without the knowledge of tax authorities. Thus, tax evasion by legal persons is a major threat however, the country does not typically prosecute tax matters or legal persons that commit tax crimes. It appears that LEAs have not conducted any ML investigation relating to a legal person. Similarly, there has been no third party or standalone money laundering cases. The authorities provided one example of self- laundering which is the Navara Case mentioned above. Guinea Bissau is yet to build adequate capacity among LEAs and other criminal justice officials to enable them effectively investigate and prosecute the different types of ML cases. The LEAs do not identify any component (such as facilitation) of ML as priority. Also, there is no evidence that where it is difficult to prove substantive ML, the LEAs can pursue the inchoate (rudimentary) offence of conspiracy

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

181. Guinea Bissau provided only one case where a ML conviction was secured. Therefore, it is difficult to make a comprehensive assessment on whether the sanctions applied in ML cases are effective, proportionate, and dissuasive. In the single ML case reported, the accused persons were sentenced to effective prison term ranging from 4 years three months, the minimum sentence applied to a defendant, and 16 years, the maximum sentence applied in the “Navara Case” mentioned above. Ancillary sanctions were also applied such as confiscation of goods and properties and amounts deposited in bank accounts. Under the AML/CFT law, sanctions for natural persons range from three (03) to seven (07) years imprisonment and fines equal to three times the value of the assets or funds to which the offence relates. In the case of legal persons, the fine is five times the funds to which the offence relates. The law also prescribes optional additional criminal penalties applicable to natural persons in aggravating circumstances. Guinea-Bissau's legal framework allows for aggregated sentences in cases where the predicate offence and ML is charged, which means that the penalties provided for ML are aggregated with those provided for the underlying crimes. In which case, it may be impossible to determine the specific sanction imposed for ML. Nevertheless, assessors could not determine the effectiveness, proportionality and dissuasiveness of the nature of the sanctions provided by the AML/CFT law on the basis of one conviction.

3.3.5. Use of alternative measures

182. Guinea-Bissau has not demonstrated that it applies other criminal justice measures (such as prosecuting offenders for other offences e.g. dishonesty, receiving stolen property) in cases where it is not possible, for justifiable reasons, to obtain a ML conviction after investigation. Judicial authorities or LEAs did not report any cases in which alternative measures (e.g. issuance of letter of warning) were implemented where criminal conviction was impossible. Also, the country did not demonstrate that it can pursue ML cases where the suspect has absconded (e.g. pursue confiscation of their proceeds of crime) or can handle foreign predicate offences or handle cases where conviction for substantive ML offences cannot be obtained (e.g. because the offender is a foreign national residing outside the country and cannot be located or extradited). There is no evidence that Guinea Bissau can use non-conviction based forfeiture process.

Overall conclusion on IO.7

183. In general, Guinea Bissau is making efforts to enhance ML investigations, prosecutions and convictions and this was demonstrated with the establishment of the Office for the Fight against Corruption and Economic Crimes mandated to deal with financial crimes and ML. Nevertheless, Guinea Bissau has not yet criminalized the full range of ML predicate offences which may constitute bottlenecks in the prosecution of ML cases. Criminal investigation in Guinea-Bissau focuses essentially on predicate offences and the investigation, prosecution and ML adjudication processes are not yet properly systematized among the different competent authorities. The limited number of parallel investigations is not consistent with the risk profile of the country. Institutional instability, inadequate human and financial resources, the lack of specialization and training on ML investigation etc hinder effective investigation of ML cases in the country. Statistics on the ML cases investigated, the types of predicate crimes involved, including other relevant indicators, are not sufficiently detailed and precise. The limited ML conviction and lack of concrete cases make it impossible for assessors to verify whether the sanctions are effective, proportionate and dissuasive. The country has not applied other criminal justice measures where it is not possible, for justifiable reasons, to obtain a ML conviction after investigation.

184. Guinea Bissau has achieved a low level of effectiveness for Immediate Outcome 7

3.4. Immediate Outcome 8 (Confiscation)

3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

185. Guinea-Bissau established the Asset Recovery Office (ARO), through Decree 9/2018, under the authority of the Judiciary Police. This Office has a multi-disciplinary structure and is coordinated by the Deputy National Director of the Judiciary Police.

186. The Office is mandated to identify, locate and seize property and assets related to crime at domestic and international levels in cases where the crimes are punishable with at least 3 years of imprisonment and where the estimated value of the property and assets is over XoF 5,000,000.00 (approx. US\$9,115). However, even if these cumulative conditions

are not met, the ARO may, taking account of the estimated economic, scientific, artistic or historical value of the assets to be recovered and the complexity of the case, proceed with financial and asset investigation, upon authorization from the AG.

187. In the exercise of its functions, the Decree 9/2018 empowers the ARO to access information from various competent authorities, notably the Registry and Notary Office, the Directorate General of Contributions and Taxes, the Directorate General of Customs, the National Institute of Social Security, the Business Formalization Center, commercial banks, as well as the BCEAO National office. Under the Decree, the ARO has powers to conduct criminal investigation and can, for example, during the initial stages of investigation, apply precautionary measures such as seizure of assets and confiscation, according to the national Penal Procedure Code. Measures taken can be later confirmed by the Investigative Judge. Despite being established in 2018, the ARO is yet to be operational due to the lack of technical, financial and human resources. Therefore, assessors could not ascertain the extent to which this entity is able to contribute effectively to ML investigations in operational terms, particularly with respect to identification, tracing and confiscating illicit assets
188. A positive aspect of Decree 9/2018 is the establishment of an Asset Management Office (AMO) under the authority of the Directorate General of the Justice Administration, with powers to manage, conserve and safeguard seized or recovered assets susceptible to confiscation within the scope of national proceedings or acts of international judicial cooperation. This Office is also competent to dispose of these assets or determine their allocation. The involvement of this Office is triggered by a request from ARO or the judicial authorities, provided that the value of the seized goods exceeds 2,500,000 CFA. However, the lack of operationalization of this office to date makes it impossible to assess its effectiveness, in terms of concrete results.
189. Article 99 of the AML/CFT law also lays out provisional measures which permit the freezing of funds as a precautionary and exceptional procedure pending the commencement of criminal proceedings. The Judiciary Police can submit cases to the Public Prosecutor's Office (PPO) to initiate criminal proceeding and the PPO can request the investigative Judge to order the seizure of assets under the provisions of Art. 99 of the AML/CFT Law, where the alleged offences are thought to have generated illicit proceeds. In addition, the FIU may order the freezing of funds for a period of 48 hours and submit the case to the investigating judge who may extend the measure for another 24 hours or order the provisional seizure of funds, accounts or any securities referred to in the STR (Art. 68 of the AML/CFT Law). Other LEAs, such as the National Guard, may also apply necessary and urgent precautionary measures, in the event of a crime, aimed at securing evidences, such as to immediately retain or seize the suspect's illicit assets to avoid dissipation (see IO.7). However, despite the existence of a comprehensive legal framework on provisional measures, it was noted that the use of such measures by competent authorities is quite limited. As indicated on Table 8.1, there was one case of ML related confiscations. Other statistics in the table are confiscations relating to predicate offences, such as drug trafficking. Overall, the limited ML related confiscation is due to the lack of adequate training of the criminal investigation authorities in terms of parallel financial investigations and inadequate human, technical and material resources to systematically conduct tracing of the proceeds of crimes. The AML/CFT law does not provide for non-conviction based forfeiture as confiscation is only possible after a conviction for a ML crime or the attempt to commit a ML crime (Art. 128). This can, in practice, limit the confiscation of illicit assets and proceeds, especially when analyzed in the context of Guinea-Bissau where cases of ML convictions are rare and, practically, non-existent. The

confiscation of the proceeds of tax evasion offences is handled administratively and criminal proceedings are rarely initiated. Guinea Bissau did not provide statistics on the amounts confiscated by the tax authorities under the administrative sanctions.

190. Overall, despite the efforts noted above (enactment of Decree 9/2018; establishment of ARO and AMO; and the limited confiscations) by the Guinea Bissau authorities in the area of asset confiscation, the country does not have a policy objective aimed at confiscation of proceeds, instrumentalities or property of equivalent value. Guinea Bissau does not actively pursue confiscation and the total assets confiscated is quite small and inconsistent with the country's risk profile.

3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

191. The Guinea Bissau law on confiscation covers confiscation of proceeds located abroad and proceeds derived from predicate offences committed domestically and abroad. The law also covers confiscation of assets of corresponding value. Thus, Guinea Bissau has a range of tools at its disposal to enable it identify, trace and confiscate illicit proceeds and instrumentalities. The legal framework in Guinea-Bissau allows for the application of provisional measures from the initial stage of criminal investigations. However, authorities did not provide sufficiently detailed information on the use of these measures. The Guinea Bissau authorities provided statistics for only 2019 which are not sufficiently detailed to allow understanding how the measures are applied or the types of related offences. There are no statistics on seizures or freezing. It is therefore difficult to ascertain the proportion of assets seized or frozen at the initial stage of the investigation process that culminated in forfeiture to the State. The data on the volume of funds and assets confiscated between 2017 and 2020 is indicated in the table below.

Table 3.11 Frozen or seized assets relating to predicate offenses, 2017-2020

	2017	2018	2019	2020
Cash			XoF 322.449.100 (approx. US\$577.890)	
Houses & land			08	
Businesses				
Vehicles (Boats, Cars, Trucks, etc)			22	
Telephones			24	
Permits)			04	

192. Statistics in the above table show that the sum of XoF 322,449,100 (approx. US\$577.890) was confiscated in 2019 relating to the above-mentioned NAVARA case (see IO.7). As noted earlier, this case was related to a transnational drug trafficking and money laundering offence. According to the authorities, following the successful conclusion of the NAVARA case, they confiscated not only the assets relating to the instruments of crime but also the proceeds resulting from the crime itself. However, the data provided (see table 8.1 above) are not detailed or comprehensive to enable the assessors clearly ascertain if all the assets and properties frozen or seized are instrumentalities of crime or proceeds of crime. This entails the need to improve statistical data to be more detailed and precise.

Table 3.12. Number and type of forfeited assets in the ML conviction, 2019

			2019	
Cash			XoF 322.449.100 (Aprox US\$577,890)	
Current Accounts / Securities Accounts			12	
Companies			03	
Confiscated Properties / Real Estate				
Buildings / Housing			02	
Real estate land			02	
Commercial Facilities			02	
Warehouses			02	
Total number of properties				
Vehicles and vessels confiscated				
Cars			21	
Sport utility vehicles				
Trucks			01	
Motorcycles				
Industrial vehicles, vans and tractors				
Water vehicles and personal watercraft			01	
Total number of vehicles and vessels				
Other				
Weapons (Rifles, Shotguns, etc.)				
Horses etc.				
Mobile Phones			19	
Satellite phones			03	
Telecommunication radios			02	

193. The country did not provide an annual estimated value of economic loss as a result of crimes. This coupled with the lack of comprehensive statistics makes it difficult to determine the effect of the provisional and confiscation measures undertaken in Guinea Bissau.
194. Guinea Bissau provided an example which demonstrates the application of these measures in the context of a ML investigation where the predicate offence was committed on Guinean territory (See Box 1 "Navara case"). In the said case, the Public Prosecutor's Office ordered the application of the precautionary measure to freeze several bank accounts belonging to the suspects, for example, amounts equivalent to XoF 14,505,528 (US\$ 26,577.7), XoF 43,874,296 (US\$ 80,388.6) and XoF 77,036,274 (US\$ 141,150) were frozen to avoid dissipation in the course of criminal proceedings. Also in this case, the conviction included the sentence of confiscation in favor of the State of various assets and products of the crime, namely sums of money belonging to the accused totaling XoF 13,614,279 (US\$ 24,944.7). Likewise, real estate properties and some vehicles belonging to the suspects were confiscated and turned over to the State, but their value could not be determined.
195. Authorities in Guinea Bissau do not systematically pursue confiscation or freezing of proceeds located abroad, which could only be achieved on the basis of international rogatory commission as well as other instruments for international legal cooperation. Likewise, the authorities did not demonstrate that they systematically pursue confiscation

or freezing of proceeds derived from a predicate offence committed abroad. Guinea Bissau did not request for repatriation of criminal proceeds from foreign countries, which is inconsistent with the country's main risks identified in the NRA. This is critical as one of the major crimes in Guinea Bissau is corruption whose proceeds are, more often than not, laundered abroad. The mere fact that Guinea Bissau has not traced and requested for repatriation of money suggests that there are weaknesses in the application of the country's confiscation regime. This can be attributed to a combination of factors, including delays in the judicial process, lack of confidentiality, the poor system of property and asset registration, and a lack of expertise in financial investigations and handling of ML cases. LEAs do not have specialized training on financial forensic investigative techniques. Guinea Bissau has not developed a manual of procedures for asset seizure and confiscation. Moreover, authorities do not frequently confiscate instrumentalities of crime and property of corresponding value. The low number of ML investigations directly bears on the volume of confiscated and seized assets. LEAs and other criminal justice officials are not always able to detect ML activity such as to permit effective identification and tracing of assets.

196. Overall, there are clear weaknesses in the application of the country's regime for confiscation and freezing of assets.

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

197. The Customs have the power to seize cash and bearer negotiable instruments that have either been falsely declared or not declared. The AML/CFT law requires travellers who enter or depart Guinea Bissau from or to non WAEMU States to make a declaration of cash and BNIs if the amount carried by the traveller is equal to or greater than the BCEAO threshold which is set at XoF 5 million (approx. US\$6,535.65). This system imposes the obligation to declare only on persons entering and departing the territories of non WAEMU member States, thus excluding those moving between member States (See Technical Compliance Annex R.32). Providing false declarations at the borders is liable to criminal sanctions under the Bissau-Guinean law and precautionary measures such as retention or blocking of cash and BNIs for a period of 72 hours as well as seizure and confiscation whenever they are potentially related to the ML/TF. In Guinea Bissau, the competent authority in this matter is the Customs Service which works in collaboration with the National Guard at the borders.

198. According to information obtained during the on-site, when situations of non-declaration of cash or BNIs occur at the borders, or in cases of false declarations, or even when there are suspicions of ML/TF, the cash or BNIs are seized and referred to the Customs Litigation Service at the Customs Directorate General. However, it was not clear whether the competent authorities conduct inquiries to determine to what extent the cash and BNIs retained or seized at the borders are in fact related to ML/TF offences. Authorities did not demonstrate that they implement measures to control cross-border movements of cash and BNIs through the postal system or by cargo. In addition, currency/BNI declaration regime is not uniformly enforced across borders posts particularly as many of the land borders are unmanned. Furthermore, the AML/CFT Law requires that Customs report to the FIU all cases of undeclared or false declarations of cash or BNIs at the borders or when there is suspicion of ML/TF. However, statistics provided by the country demonstrated that in practice this is not so (see Table 6.4 on I.O. 6). Nevertheless, Customs Authorities always provide information upon request from the FIU (see Table 6.1 on I.O. 6).

199. Customs Authorities informed Assessors that some seizures of undeclared cash have been made at the borders and provided some statistical data regarding seizures made in the last four years. However, this information seems to indicate that violations pertain only to falsely declared amounts and not undeclared amounts. Moreover, statistics indicate that only 11 violations were detected in Guinea-Bissau in the last 4 years, which seems to be an insignificant number considering the country's characteristics, as well as the risk profile identified by the NRA. Overall, the authorities could not demonstrate that confiscation of falsely or undeclared cross-border movement of currency/BNI is being addressed and applied as an effective, proportionate, and dissuasive sanction.

Table 3.13. Confiscations and seizures associated with cross-border declarations, 2017-2020

Year	Total Declarations	Value of Declarations	No. of sanctions imposed for Non Declarations / False Declarations	Total amount seized (\$/XoF)	Amount forfeited as penalty
2017					
At entry points					
At departure					
Total	5	17,465,790 XOF	5	17,465,790 XOF	2,566,805 XOF
2018					
At entry points					
At departure					
Total	2	55,000,000 XOF + £10,650	2	55,000,000 XOF + £10,650	5,500,000 XOF + £1,065
2019					
At entry points					
At departure					
Total	3	18,675,000 XOF + 58,400 US\$	---	18,675,000 XOF + 58,400 US\$	---
2020					
At entry points					
At departure					
Total	1	7,000,000 XOF	---	7,000,000 XOF	---

200. Generally, the most frequently seized and retained currencies at the borders are XOF, pounds and US\$. Given the predominant use of cash in the country and the vulnerabilities relating to the porosity of its borders, the aggregate amounts confiscated are extremely low. Similarly, this shows that seizure and confiscation of cash and BNIs at borders is not frequent. Discussions with the Customs and National Guard highlighted that the lack of adequately trained staff and technical resources are the main factors accounting for the low confiscations at the borders. In addition, the border control processes are still manual.

201. Considering, on the one hand, that the Bissau-Guinean economy is predominantly cash-based and, on the other hand, the porousness of its borders, the limited information and examples on seizures and confiscations of cash and BNIs at the borders is worrying, as it limits available financial information.

3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

202. Guinea-Bissau is yet to develop specific AML/CFT policies based on the risks identified in the NRA. The country has made some efforts to facilitate seizure and confiscation of crimes by establishing a specialized agency (Asset Recovery Office). However, the agency is not operational. Concerning the country's ML risk, the draft NRA report noted that the main ML threats in Guinea-Bissau include corruption, tax fraud, drug trafficking and embezzlement. The statistics provided are not sufficiently detailed to determine if the amounts confiscated are derived from some of these offences, except drug trafficking, as mentioned above. In addition, tax fraud, which is one of the prevalent offences in Guinea Bissau with potential to generate substantial amount of proceeds was not included in the statistics provided. There were no records of confiscation related to terrorism or terrorism financing, which is not consistent with the risk profile of the country as identified in the NRA. Indeed, results of confiscation, including confiscation of undeclared or falsely declared cash or BNIs do not reflect the ML and TF risk in Guinea Bissau.

Overall conclusion on IO.8

203. Guinea-Bissau has a legal framework that allows the application of provisional measures from the preliminary stage of the criminal investigation and the confiscation of assets and proceeds of crime after conviction, however, the country has not demonstrated that the confiscation of assets and proceeds of crime is a policy objective -within the criminal justice system. Law enforcement agencies generally do not conduct financial investigations to trace money when they conduct investigations on proceeds generating crimes which impacts negatively on confiscation or seizures related to ML.

204. The Asset Recovery and Asset Management Offices are not functional due to resource constraint. The total of assets confiscated are low and not consistent with the country's risk profile. The confiscation of falsely and non-declared cross border currencies and BNIs at borders is low or rarely done, investigated and prosecuted due to the lack of resources and training as well as powers for customs authorities to prosecute or conduct investigations of criminal nature.

205. **Guinea-Bissau has achieved a low level of effectiveness for IO. 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9 (TF Investigation and Prosecution)

- a) Guinea Bissau's legal framework on TF is inadequate. The country has not criminalized the financing of individual terrorists and terrorist organizations for any purpose and the financing of foreign terrorist fighters. This reduces Public Ministry and Judiciary Police ability to carry out TF investigations and negatively impacts the country's ability to prosecute TF cases.
- b) Investigation and prosecution authorities do not have adequate human, financial and technical resources to effectively carry out TF investigation. In addition, some of the authorities do not have specialized dedicated TF Units to conduct TF investigation. Consequently, TF cases are rarely identified and investigated.
- c) Guinea Bissau has no prosecutions or convictions on TF which is largely inconsistent with its risk profile. The lack of TF prosecutions and convictions makes it difficult to verify whether the penalties against natural and legal persons are effective, proportionate and dissuasive.
- d) The authorities demonstrated different levels of understanding of TF risk. Overall, the understanding is generally low.
- e) Guinea Bissau has not developed national counter-terrorism strategy. Thus, assessors could not ascertain the National authorities' plan of action against terrorist financing or gauge its policies and performance indicators.
- f) There is limited coordination and collaboration among the national authorities on TF matters.
- g) LEAs can requalify the facts when it is not possible to have a conviction for TF. However, the country could not demonstrate that it pursues alternative measures where TF conviction is not possible.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

- a) Guinea Bissau has established a legal framework that permits implementation of targeted financial sanctions (TFS). However, the country has not designated an authority that is responsible for the dissemination of the sanctions list and as such timely transmission of the lists to all reporting entities is not possible. Guinea Bissau could not demonstrate an effective implementation of TFS relating to

UNSCR Resolutions 1267 (1999) and 1373 (2001) and successor resolutions "without delay".

- b) Generally, banks are aware of their obligations to implement TFS (albeit at different levels), with some having monitoring tools use to screen customers and transactions against the UN sanctions lists and other sanctions lists. Non-bank FIs and DNFBPs are not aware of their obligations to implement TFS related to terrorism and its financing and thus, do not implement TFS. Reporting entities, especially NBFIs and DNFBPs are not being monitored for compliance with TFS obligations.
- c) Guinea Bissau has not yet identified the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. As a result, no targeted oversight is undertaken in relation to NPOs at the risk of TF abuse and authorities are not conducting any outreach on TF risks to the NPO sector
- d) Guinea Bissau has designated supervisory bodies for NPOs, although the bodies do not have powers to supervise and monitor the activities of NPOs in relation to the financial support received and the purposes thereof. In addition, they do not have powers to monitor NPOs for CFT purposes.
- e) The National Commission for Freezing the Funds and other Financial Resources of Terrorists is not operational. Guinea Bissau has not frozen funds and assets related to TF belonging to terrorists, terrorist organizations, and financiers of terrorism. Guinea Bissau has not proposed any names to the UN or designated any person or entity domestically.

Immediate Outcome 11 (Proliferation Financing – Financial Sanctions)

- a) The AML/CFT law provides a legal basis for targeted financial sanctions (TFS) related to proliferation financing (PF). However, there are no implementing texts to establish a mechanism that will facilitate the effective implementation of targeted financial sanctions related to proliferation financing.
- b) There is no properly defined mechanism for disseminating the lists of designated persons to reporting entities. Guinea Bissau does not implement TFS related to PF without delay.
- c) Supervision on implementation of TFS appears to form a part of inspections conducted in relation to banks by the BCEAO. However, limited understanding of TFS, as well as limited number and scope of supervisory actions undertaken by the BCEAO impact the effective monitoring of PF-related TFS. Supervision over the NBFIs and DNFBPs on PF matters is non-existent. No sanction has been imposed in relation to PF TFS.
- d) No assets of persons linked to relevant DPRK or Iran UNSCRs have been identified in Guinea Bissau and thus, no assets or funds associated with PF have been frozen in the country.
- e) Commercial banks showed a fair understanding of their PF-related TFS obligations with some taken steps to comply with their obligation in this regard. Non-bank FIs and DNFBPs demonstrated low understanding and do not

implement TFS relating to PF. No guidance on procedures for the implementation of the TFS has been provided to reporting institutions.

- f) The authorities in charge of import and export control have limited knowledge and understanding of PF and associated risks. In addition, collaboration between the relevant agencies on PF issues is practically non-existent

Recommended Actions

Immediate Outcome 9

- a) Criminalize the financing of an individual terrorist and a terrorist organization for any purpose, as well as the financing of foreign terrorist fighters. In addition, Guinea Bissau should extend the criminality of TF offences to any person who wilfully provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s); or (b) by a terrorist organization or by an individual terrorist (even in the absence of a link to a specific terrorist act or acts).
- b) Deepen the analysis on TF risks assessment in future national risk assessment (as recommended under IO.1), develop an Implementation Plan specific to TF investigations and set detailed TF performance indicators for relevant national authorities. Guinea Bissau should tailor investigative and prosecutorial efforts or align these with the country's TF risk profile.
- c) Consider creating an autonomous specialized unit within the PJ and MP focused on the investigation and prosecution of TF or enhance one of its existing Units with trained investigators in TF to focus on investigation and prosecution of TF.
- d) Create mechanisms and guidelines to adequately assist LEAs in the detection of the stages (raising, moving, using) of financing TF; the types of channels involved (legal persons, banks, hawalas, etc) and the methods utilized (individuals or entities) to ensure that all types of TF cases can be identified and pursued.
- e) Strengthen the operational capacities of relevant LEAs and judicial authorities to identify, investigate and prosecute TF cases. This capacity should be built with the provision of specialised TF trainings. In addition, they should be provided with adequate resources (material, technical and human resources) to effectively carry out their functions.
- f) Should establish appropriate operational coordination mechanisms to facilitate exchange of information between the relevant institutions, especially on TF related matters. In addition, the country should ensure the operationalization of the Inter-Ministerial Committee to enhance policy coordination on TF.
- g) Develop and implement a national strategy on CT that includes the integration of TF into terrorism and outlines how TF will be identified and investigated.

Immediate Outcome 10

- a) Designate an authority and establish mechanisms for the rapid dissemination of sanctions lists without delay to all reporting entities. In particular, the system of circulating the sanctions lists should be clear to avoid confusing the reporting entities in terms of reporting in case of positive match.
- b) Amend the relevant law to empower the NPO supervisory authority (General Directorate for the Coordination of Non-Governmental Aid) to monitor or supervise NPOs for CFT compliance. In addition, the authority should consider establishing a robust database for NPOs.
- c) Ensure the operationalization of the National Commission for Freezing the Funds and other Financial Resources of Terrorists (CNCFT) and provide the commission with sufficient human and financial resources to implement freezing measures. The commission should also take steps to designate targets when reasonable grounds for designation has been established.
- d) As a matter of priority, issue guidance to reporting entities on how to implement TFS requirements in practice. In addition, provide adequate awareness-raising / training to the private sector, in particular to non-bank financial institutions and DNFBPs to improve their awareness and compliance with implementation of TFS.
- e) Conduct a comprehensive risk assessment of the NPO sector in order to determine which of the NPOs might be exposed to TF risk and adopt a risk-based approach to address the identified risk. In particular, take measures to assist the NPOs which may be at high risk of being abused for TF purposes, including by carrying out targeted TF related outreach.
- f) Establish a framework for comprehensive monitoring or supervision of reporting entities to ensure compliance with the obligation to implement targeted financial sanctions and issue proportionate and dissuasive sanctions for failure to implement sanctions without delay.
- g) Establish clear mechanisms for prompt information sharing among competent authorities in order to take preventive or investigative measures in cases where an NPO is used for TF purposes

Immediate Outcome 11

- a) Establish efficient mechanisms to disseminate the sanction list. Guinea Bissau could consider designating an authority to coordinate the dissemination of the list of designated persons and entities; creating an official website to publish the sanction lists and any updates in real-time and promptly send updates to all reporting entities to facilitate the freezing of funds and other property of persons and entities involved in the financing of proliferation, without delay
- b) Strengthen regulatory and institutional frameworks to effectively monitor compliance with the obligation to implement targeted financial sanctions related to proliferation. In particular, BCEAO and other financial supervisors should include implementation of PF TFS in its supervisory activities and apply proportionate and dissuasive sanctions for non-compliance with implementation of TFS related to PF.

- c) Designate a supervisor for the DNFBPs responsible for monitoring the implementation of PF TFS by the DNFBPs ns.
- d) Carry out awareness-raising and training for competent authorities and reporting entities, particularly NBFIs and DNFBPs, in order to enhance their understanding of the obligations to implement TFS relating to PF.
- e) Provide guidance to the reporting entities. This should include information on the PF risks, indicators of PF activity, sanctions evasion and implementation of TFS related to PF without delay.

206. 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.1, 4, 5-8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40

4.2. Immediate Outcome 9 (TF investigation and prosecution)

4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk-profile

207. Guinea Bissau's legal framework on TF is inadequate, as the law does not cover the financing of an individual terrorist and a terrorist organization (for any purpose). Furthermore, the country has not criminalized the financing of foreign terrorist fighters. See analysis under R.5 for details.
208. The NRA report noted that the risk of terrorist financing in the country is medium-low, due to certain factors which expose the country to terrorism/TF. Guinea Bissau has never experienced a terrorist attack nor has there been any threat of terrorism to the country, nevertheless, its porous borders and the lack of security presence in most islands, the widespread use of cash in transactions, and the potential risks regarding suspected returning foreign terrorist fighters and radicalization of the youths increase the TF risk in the country. The limited oversight of NPO sector also represents a major vulnerability in terms of TF as this would have provided the authorities the opportunity to adequately assess and review information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of the required measures. Similarly, the low TF risk understanding of NPOs also constitute another vulnerability. In addition, the draft NRA report noted the presence of a dormant cell of AQMI based in Gabú (eastern Guinea Bissau) and highlighted instances where some citizens of Guinea Bissau were recruited by the dormant cell and trained in countries prone to terrorism (Mali, Pakistan and Nigeria).
209. The agencies responsible for investigation of TF are the Judiciary Police and Information and Security Service. In addition, the Public Ministry is charged with the responsibility for the investigation and prosecution of terrorism and terrorist financing. Guinea Bissau stated that LEAs had carried out an investigation on some FTFs, however, the public prosecutor did not file any terrorism or terrorism financing charges following the investigation. Thus, Guinea Bissau has no prosecutions or convictions on TF. Since there was limited scope on TF in the NRA it cannot be said that not having prosecutions or convictions is consistent with the country's risk-profile. The Information and Security Service appeared to have the most developed understanding of regional terrorist threats and how these threats increase the TF risk faced in the country. The Information and Security Service mentioned that the funding of terrorism could be illicitly sourced from drug trafficking, smuggling, environmental crimes and robbery but there are no actual cases and

LEAs did not demonstrate that there were any law enforcement efforts in this direction. Overall, Guinea Bissau demonstrated a low understanding of TF risk and the NRA lacks comprehensive analysis on TF and therefore, greater attention should be given to the assessment of TF in future NRA.

4.2.2. TF identification and investigation

210. The Public Ministry, Judiciary Police, and Information and Security Service are the competent authorities tasked with undertaking terrorist financing investigations. Terrorist financing investigation is given lesser priority within the functions of the Judiciary Police and Public Ministry whose main priorities are anti-corruption, drug trafficking, and organized crime. There is no special anti-terrorism financing unit tasked with investigating TF. The Judiciary Police did not provide clear evidence of intelligence gathering to launch a TF investigation but instead mentioned collecting information via open sources, typologies-based surveys, or media reporting.
211. The Prosecutor's Office leads the investigations and issues authorizations for investigative actions (including searches and arrests) and makes decisions on prosecutions. Thus, there is the need to strengthen operational cooperation between the Judiciary Police and Prosecutor's Office to ensure that the Judiciary Police's TF investigations receive adequate and timely response, including appropriate follow-up by the Prosecutors Office.
212. As noted above, there are deficiencies in the country's legal framework on TF. These legal loopholes present obstacles not only to prosecution but also to investigation. In particular, they may reduce the scope of TF investigations initiated by the Judiciary Police or Public Ministry. Even where the cases are investigated, the inadequate legal framework may result in inability to carry the investigation forward.
213. The discussion with the LEAs and other relevant authorities indicated that these authorities faced certain challenges which affect their abilities investigate TF. In particular, they face significant resource constraints as they do not have sufficient office accommodation and budget for operational activities. There is no specialized unit on TF and only a few officers have been trained on CFT. In addition, investigators do not make use of special investigative techniques which are essential for effective TF investigations, especially as they lack technical resources. Furthermore, the informal economy and cash-based system in Guinea Bissau also make the identification and detection of TF more challenging. Similarly, given the vulnerabilities occasioned by the predominance of cash and porous borders, cross-border cash declarations could be useful in identifying TF or support financial investigation into TF. However, the Customs do not communicate such information spontaneously to the FIU (see Table 6.4 under IO.6), although the FIU has requested and received a few of these currency declaration reports (see Table 6.1 under IO.6) to support their analysis.
214. The FIU is tasked with analyzing STRs and disseminating financial intelligence regarding TF to the Attorney General Office (see IO.6). However, as at the time of onsite, the FIU had not received any STRs relating to terrorism or TF which raises doubts about reporting entities' ability to adequately identify a potential TF activity. This may be due to the lack of capacity of financial institutions and DNFBPs to identify TF indicators, the low rate of bank access, the predominance of cash in the economy, and the lack of sector-specific AML/CFT guidance, especially to the DNFBPs (see IOs 4 and 6). In addition, reporting entities lack effective tools to monitor transactions, including small amounts of cash, which could easily be used for TF purposes.

215. The Information Security Service identifies and undertakes TF investigation in collaboration with respective agencies. It may share its investigation with other agencies to prevent terrorism or terrorist financing. The Information Security Service cited cases to highlight coordination between the various agencies. The authorities noted that the cases provided the authorities with an understanding of the purpose and respective roles of the individuals involved, even though the case did not result in confiscation of the funds, arrest or conviction. The case file could not be provided for confidential reasons.
216. Guinea Bissau rated its terrorist financing risk medium-low in its NRA. As noted above, only one case had been investigated at the time of onsite. Given the factors that expose the country to TF risk, including the preponderance of cash within the informal economy, there could be more terrorist financing investigation.

4.2.3. TF investigation integrated with –and supportive of- national strategies

217. At the time of the onsite, Guinea Bissau had no Counter-Terrorism Strategy or other national strategies on TF. There are no manual of procedures regarding terrorism financing at the level of the competent authorities. The Information Security Service and Judiciary Police are aware of the risks of terrorist financing in terms of the vulnerable sectors, the methods, and typologies of TF and their materiality. However, there is no dedicated platform to facilitate the exchange of information relating to TF. It is unclear if Guinea Bissau systematically focuses on investigating TF when handling cases related to terrorism. In the case of the FTFs investigated by the country, the LEAs involved the FIU and the unit was able to trace the source of funding to two countries. This case demonstrates that, there is some understanding that information, particularly financial information or intelligence should be obtained when an investigation of terrorism or terrorism activity is being carried out. It is nevertheless, critical for the country to translate its understanding of terrorist financing risks and the need for parallel investigation into comprehensive national strategies. In addition, the country should adopt measures to implement effective coordination mechanisms to combat terrorism.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

218. Guinea Bissau has not prosecuted and convicted any person of terrorism or TF. Since there has been no TF prosecutions or convictions the Assessors could not determine the effectiveness proportionality and dissuasiveness of the sanctions.

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

219. Judicial practices and techniques allow the implementation of alternative measures such as the requalification of facts relating to the TF offence where conviction is not possible.

Overall conclusions on IO.9

220. Guinea Bissau's legal framework on TF is inadequate. The country has not criminalized the financing of individual terrorists and terrorist organizations for any purpose and the financing of foreign terrorist fighters which could reduce investigators and prosecutors' inclination to conduct TF investigations. The lack of specialization of

the LEAs and prosecutors; inadequate technical, financial and material resources; the lack of TF related STRs, and lack of training on TF investigation, constitute obstacles in the identification, investigation, prosecution and convictions on the various types of TF activities. The TF risk in Guinea Bissau was assessed as medium-low due to certain factors, including its porous borders and the lack of security presence in most islands, the widespread use of cash in transactions, and the potential risks regarding suspected returning foreign terrorist fighters. Guinea Bissau has no prosecutions or convictions on TF which is largely inconsistent with its risk profile.

221. The lack of a coordination structure for the purpose of exchange of information and relevant data on TF is a weakness. Similarly, the lack of a counter-terrorism strategy also constitutes a gap. Furthermore, the lack of TF prosecutions and convictions makes it difficult to ascertain if the penalties against natural and legal persons are effective, proportionate and dissuasive.
222. **Guinea Bissau has achieved a low level of effectiveness for Immediate Outcome 9.**

4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

4.3.1. Implementation of targeted financial sanctions for TF without delay

223. The AML/CFT law provides a basis for the implementation of Targeted Financial Sanctions (TFS) related to TF. Guinea Bissau has designated a competent authority for the implementation of TFS. The country established the National Commission for the Freezing of Terrorist Financial Assets (CNCFT), under Article 1 of Decree No. 1/2014 of April 9, 2014 to implement the United Nations Security Council resolutions 1267, 1373, and successor resolutions. However, CNCFT was yet to be fully operational as the commission's members were yet to be appointed at the time of the onsite visit. In terms of the legal framework, like other UEMOA countries, the procedure for distribution of the lists is set down under the 14/2002 regulation which requires the UEMOA Council of Ministers to make biannual lists of persons, entities and organizations whose funds and assets must be frozen. The list drawn up by the Ministers is required to be distributed by the BCEAO to banks and financial institutions. Regulation 14/2002 empowers the President of the Council of Ministers, on the proposal of the Governor of the Central Bank, to modify or add to the list of designated person or entities where the designations are made between the two sessions of the Council of Ministers meeting. The list will be approved by the subsequent meeting of the council of ministers. The national BCEAO did not seem to be aware of this procedure as it noted that the national BCEAO did not have anything to do with the dissemination of the UN list. Therefore, there is a major gap in terms of dissemination of the list.
224. Guinea Bissau has not designated any other entity to receive, transmit, or regularly disseminate the list of persons subject to the UN financial sanctions. In practice, Guinea Bissau's implementation of the UNSCR 1267 mechanism is ineffective and TF-related TFS are not implemented without delay. Primarily, the sanctions list is not communicated to reporting entities when new targets are included on the list or otherwise updated.
225. Large banks affiliated to international groups demonstrated a good understanding of their TFS obligations and have generally taken some steps to comply with the obligation to implement TFS. In particular, they utilize sanctions screening software to screen and

detect designated persons and entities. However, they stated that they have not had a match relating to the names of the individuals and entities on the sanctions lists. While some of the banks conducted these checks, the extent to which these can be determined as effective is low, particularly as there is no adequate monitoring mechanism to ensure these measures are being applied as required. Other FIs exhibited limited to non-existent understanding of TFS related obligations and therefore little to none levels of implementation. DNFBPs are unaware of the UNSCR sanction lists, or how to access them and the competent authorities do not monitor DNFBPs for compliance with the obligation to implement TFS. The National BCEAO however, conducted onsite supervision of the five banks and prescribed remedial actions, including requiring the five commercial banks to procure appropriate screening software and providing technical supporting to procure same. At the time of the onsite, some of the banks had screening software which enables them to screen their customers and transactions against the list of designated persons and entities. The BCEAO did not provide any examples of sanctions that were imposed for non-compliance with TFS obligations.

226. In general, competent authorities in Guinea Bissau have not provided sector specific guidance to reporting entities to strengthen compliance with their obligations to implement TF-related TFS. The lack of understanding demonstrated by the majority of reporting entities, especially DNFBPs raises concerns and indicates a need for the provision of clear guidance on the issue.
227. Guinea Bissau has neither proposed persons or entities for designation pursuant to UNSCR 1267 nor drawn up a national list on the basis of UNSCR 1373. Guinea Bissau authorities are yet to receive any foreign requests to include a targeted person in its national list. Non-operation of the CNCFT would hinder the timely execution of future foreign requests.
228. Guinea Bissau has not: (i) identified any natural or legal persons targeted by a freezing application, (ii) identified funds or other assets of any individual or entity in the country, and (iii) frozen any funds or other assets pursuant to the UNSCRs. Although the AML/CFT law provides mechanisms for delisting, unfreezing and providing access to frozen funds, the lack of operationalization of the CNCFT limits the effectiveness of these mechanisms.

4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

229. The legal framework guiding NGO activity in Guinea Bissau is provided by Decree N° 92/23, which deals with the establishment, organization, management, financing and dissolution of NGOs. The decree provides for the establishment of SOLIDAMI (Solidariedade e Amizade) to oversee the coordination and streamline non-governmental aid and further monitor and supervise the activities of national and foreign NPOs. Currently, oversight of NPOs is being undertaken by the General Directorate for the Coordination of Non-Governmental Aid (DGCANG), a department recently created, within the Ministry of Foreign Affairs and International Cooperation, to oversee coordination of NPOs. The oversight bodies do not have powers to supervise and monitor the activities of NPOs in relation to the financial support received, including the purpose of the funds and do not have CFT supervisory powers. Consequently, the annual financial returns of NPOs are not analysed for purposes of identifying irregular transactions or which of the NPOs might be exposed to the TF risk.

230. The registration of NPOs is undertaken under the Ministry of Justice. However, NPOs can function without legal incorporation, as the right of association has been guaranteed by the country's constitution. Thus, the number of NPOs operating in Guinea Bissau cannot be ascertained. Most NPOs tend to seek legal recognition – through registration – to mobilize resources and to establish partnership. The legislation defines four distinct types of charitable organizations:
- a) **Associations** – entities created by the alliance of people, who organize themselves voluntarily with goals of social nature (art. 157 et seq. of the Civil Code);
 - b) **Foundations** – entities created by public deed or testament of social interest such as targeted allocation of free goods. The objectives of such entities must be expressly specified (art. 157 of the Civil Code);
 - c) **NGOs** – associations created with non-partisan and non-profit objectives which aim to contribute to the improvement of the living conditions of the local communities and the promotion of participation in socio-economic development (Art. 2 of Decree 23/92)
 - d) **Networks and platforms** – another kind of civil society entity identified by law.
231. Guinea Bissau has not adequately reviewed its NPO sector, including gathering of information of its size, activities, as well as the adequacy of laws and other relevant features. In addition, the country has not conducted a comprehensive assessment of the NPO sector to identify which subset fall under the FATF definition of an NPO, or which NPOs may be at a greater risk of being abused for terrorist financing purposes. Thus, the authorities are not applying a targeted risk-based approach to supervision and monitoring of NPOs. NPO operators in Guinea Bissau demonstrated a lack of understanding of TF risks, and indicated they had not received any training to sensitize them of their associated risks.
232. Oversight of Guinea Bissau's NPO sector is generally lacking. The authorities have not conducted outreach for NPOs with a view to protecting the sector from TF abuse, nor is there any systematic outreach for promoting transparency, integrity, accountability or public confidence in the sector. This could be attributed to several factors, including a lack of a comprehensive understanding of the TF risks faced by NPOs; and a lack of expertise within the competent authorities to identify and address potential cases of TF abuse. There is also a limited knowledge in relation to the UN list targeting financial sanctions against individuals and entities. Due to the weakness of state institutions, traditional and religious leaders are the de facto "authorities" in most rural areas who exert influence on activities of NPOs in their domain. Therefore, their influence weighs heavily in terms of operations of NPOs and the services and aid provided to them. Therefore, the lack of proper or formal supervision potentially increases the risk of abuse of NPOs for terrorist financing.
233. The regulatory provisions under Decree N° 92/23 require the conduct of onsite and offsite supervision of NPOs activities, during the issuance, renewal, or withdrawal of their operational licenses. NPOs are also required to publish an annual report. The law is silent on the type of reports to be produced i.e. technical or financial reports, detailed financial statements etc. None of the NPOs interviewed provided a copy of their annual report.
234. The Assessment team observed the following significant gaps regarding the TF risk posed to NPOs: i) lack of understanding of TF risk amongst NPOs; ii) lack of oversight,

supervision, and monitoring of the NPOs sector; iii) lack of training and sensitization for the NPOs on TF ; iv) lack of sectoral risk assessment; v) lack of human and financial resources for supervisory authorities to enforce the requirements under the law; and vi) lack of coordination and collaboration between supervisory authorities and the NPO sector. In addition, Guinea Bissau has not identified or assigned an appropriate focal point of contact to respond to international request for information regarding suspected NPOs suspected of TF or other forms of support.

4.3.3. Deprivation of TF assets and instrumentalities

235. Guinea Bissau has not found any assets of designated persons and has therefore not had an opportunity to apply in practice the mechanisms for freezing assets related to the UNSCRs. In addition, there have been no TF prosecutions/convictions and therefore, the country has not seized or confiscated as a result of TF cases. As noted above, large banks with affiliation to international groups are generally aware of their obligations to implement TFS when they encounter a transaction or assets belonging to a designated person or entity. However, they have not had a positive match. There is no evidence that authorities have used tracing of assets and provisional measures to complement targeting of terrorist assets. Importantly, the CNCFT which has the responsibility to order the freezing of terrorist funds is not operational. Therefore, it was not possible for the assessor to evaluate CNCFT's capacity to order the freezing of terrorist funds and assets located in Guinea Bissau. Overall, Guinea Bissau has not deprived any person or entity of assets and instrumentalities associated with TF, or belonging to terrorists, terrorist organisations, and terrorist financiers, through criminal, civil or administrative proceedings.

4.3.4. Consistency of measures with overall TF risk profile

236. Guinea Bissau assessed TF risk as medium-low in the country's NRA. Guinea Bissau does not have a strategy to combat the financing of terrorism and is yet to criminalize the financing of a terrorist organization, a terrorist individual for any purpose, and foreign terrorist fighters. The rise of terrorist groups within the Sahelian sub-region coupled with porous borders and the preponderance of cash aggravates the risk of TF in Guinea Bissau. The country does not have a mechanism to implement TFS and the CNCFT is not operational.
237. The country has established authority for the monitoring and supervision of NPOs. However, the authority lacks the requisite personnel, training, and resources to undertake its functions, and thus not operational. Guinea Bissau has not conducted a sector-wide risk assessment to determine which NPO are vulnerable to TF in order to implement a targeted risk-based supervision or monitoring of those NPOs. NPOs do not understand the TF risks they face and the supervisory authority for the sector does not carry out effective and targeted monitoring and supervision of the NPOs. In addition, the authorities have not established a risk-based policy and a mechanism to raise awareness within the NPO sector. As discussed under IO.9, apart from SIS, other LEAs have low understanding of TF risks.
238. In light of the above, the assessors are of the view that measures being taken are not consistent with the TF risk profile of Guinea Bissau.

Overall conclusions on IO.10

239. Guinea Bissau has designated the competent authority for the freezing of assets. However, the competent authority is not operational. The immediate implementation of sanctions lists pursuant to UNSC Resolutions 1267 (1999) and 1373 (2001) is not effective. There is no mechanism for the timely transmission or dissemination of the sanctioned lists to all reporting entities. Banks are aware of their obligations to implement TFS (albeit at different levels), with some having monitoring tools use to screen customers and transactions against the UN sanctions lists and other sanctions lists. Non-bank FIs and DNFBPs are not aware of their obligations to implement TFS related to terrorism and its financing and thus, do not implement TFS. Reporting entities, especially non-bank FIs and DNFBPs are not being monitored or supervised for compliance with TFS relating to TF. NPOs in Guinea Bissau are not aware of TF risks and competent authorities have not conducted outreach to the sector. Furthermore, the country has not carried out an assessment of the NPO sector to determine the subset which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing, to enable supervisors to apply risk-based measures to those NPOs.

240. **Guinea Bissau has achieved a low level of effectiveness for Immediate Outcome 10**

4.4. Immediate Outcome 11 (PF financial sanctions)

4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay

241. Guinea-Bissau is not a producer of dual-use goods and the import and export control authorities stated that they have no trade relations with North Korea or Iran.

242. The AML/CFT Law No. 03/2018 provides for the implementation of TFS related to PF. In particular, s100 of the Law prescribes the freezing of funds related to PF without delay. Consequently, reporting institutions have a legal basis to freeze targeted funds. However, as noted under IO.10, in practice, there are no mechanism for disseminating the list of designated persons and entities to the reporting entities and, there is no authority designated to coordinate the dissemination of the list of designated persons and entities. This essentially limits the effective implementation of TFS related to PF. In addition, there are no implementing texts to establish a mechanism that will facilitate the effective implementation of targeted financial sanctions related to proliferation financing or guidance documents to aid the competent authorities and reporting entities' understanding of the obligation to implement TFS in relation to the financing of proliferation.

243. Although some banks (especially the large ones belonging to international groups) have acquired sanctions monitoring/screening software that allows them to screen customers, they could not demonstrate that they have adequate measures for monitoring transaction activities (e.g. supply or sale of dual-use goods or provision of sensitive services). Other FIs and DNFBPs are not implementing TFS relating to PF. As no guidance has been provided in relation to TFS related to PF, the level of awareness on countering PF among the various sectors (other than some banks) is generally very low. In general, the implementation of targeted financial sanctions relating to proliferation financing, pursuant to Resolutions 1718 and 1737 is not being implemented without delay.

4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions

244. Large banks belonging to international groups are generally aware of the need to have measures in place to freeze any assets without delay as part of the implementation of PF TFS. The banks noted that no funds or other assets belonging to designated persons and entities have been identified with a view to freezing such assets in accordance with the relevant UNSCRs on PF. Overall, reporting entities are not effectively implementing TFS relating to PF without delay, as there has not been proper monitoring by supervisors in this regard to compel compliance.
245. As noted above, Guinea Bissau has an adequate legal framework for PF, however, there are no guidelines to facilitate identification of assets or constructive system for effectively identifying the funds or other assets of individuals and entities designated by the United Nations Security Council. Furthermore, authorities demonstrated low knowledge on sanctions evasion including the risk of using false end-users. As regards export control, it appears that there is limited inter-connection between the export control regime and the AML/CFT regime. Collaboration between the relevant agencies on PF issues is practically non-existent. No assets of persons linked to relevant DPRK or Iran UNSCRs have been identified in the country and as a result no assets or funds associated with PF have been frozen. There have been no investigations and prosecutions related to PF.

4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations

246. The banks generally demonstrated a fair understanding of their obligations regarding the financial sanctions related to proliferation financing. In particular, large banks belonging to international groups have some mechanisms and tools that could allow them to comply with this obligation. However, onsite inspection reports by the BCEAO only noted that some banks lack efficient tools capable of identifying sanctioned persons. It is therefore difficult for the assessment team to ascertain the extent of compliance as it is not clear if the BCEAO verifies the inclusion of the PF international sanctions in the internal procedures and internal regulations and looks at the application of PF checks on a sample of clients and transactions, amongst other things, during its onsite visits. The other reporting entities demonstrated low understanding and awareness of the obligations regarding targeted financial sanctions relating to proliferation financing and have not taken any steps to implement targeted financial sanctions related to PF. Reporting entities do not receive the UN sanctions list from their supervisory authorities or other competent authorities.
247. The country has not provided sufficient training to the reporting entities to enhance their knowledge or understanding and compliance with the obligations on PF issues. Some of the reporting entities indicated that financing of proliferation seemed to be a new and rather complex domain and recognized the need to enhance their knowledge and understanding in this field.

4.4.4. Competent authorities ensuring and monitoring compliance

248. Supervisory authorities have responsibility for conducting monitoring for the implementation of UN TFS relating to PF. However, reports of AML/CFT onsite examinations reviewed by the assessment team did not provide information on the extent

of compliance by banks with their TFS PF obligations. As noted above, there is no indication that the BCEAO verifies the inclusion of the PF international sanctions in the internal procedures and internal regulations and looks at the application of PF checks on a sample of clients and transactions. In addition, the BCEAO did not demonstrate that their inspections addressed specific PF-issues such as inspections of trade finance activities or methods of sanctions evasions. Furthermore, the limited number and scope of supervisory actions undertaken by the BCEAO impact the effective monitoring of PF-related TFS (see IO.3). In relation to the rest of the financial sector, none has been supervised and monitored by competent authorities for compliance with obligations relating to TFS on PF. As noted above, supervisory authorities have not provided any guidance document on proliferation financing. No sanctions for TFS breaches were imposed so far.

249. Since the DNFBPs do not have a supervisory authority, no monitoring is done to ensure compliance with their PF obligations. The country would benefit from designating the supervisory authority that will regulate and monitor the sector, and integrate monitoring of the implementation of the PFS into its mission.

Overall conclusion on IO.11

250. Guinea Bissau does not implement TFS related to PF without delay. There is lack of implementing text for effective implementation of TFS on proliferation financing, and limited understanding of the subject, including obligations relating to PF by a significant number of stakeholders.
251. There is no properly defined mechanism for disseminating the lists of designated persons to reporting entities. Some reporting entities (especially large banks belonging to international groups) have, on their own initiative, installed screening software for the purpose of identifying designated persons. But the adequacy and effectiveness of this measure has not been evaluated. FIs and DNFBPs are generally not monitored for compliance with the obligation to implement TFS relating to proliferation and so far, no funds relating PF have been identified.
- 252. Guinea Bissau has achieved a low level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

FIs & VASPs

- a) The level of understanding ML/TF risks and AML/CFT obligations varies across the various financial sectors. Banks have conducted risk assessments and have a good understanding of their risks, albeit with different levels of sophistication. Overall, the understanding is more robust among commercial banks and stronger among the large banks belonging to international financial groups. Institutional risk assessments by banks do not take into account the findings of the NRA as the exercise was recent and report yet to be finalized and disseminated. Understanding of ML/TF risks and AML/CFT obligations by non-bank FIs is mixed, but generally low.
- b) Banks demonstrated good knowledge of AML/CFT requirements and are applying risk-based approach. In general, application of mitigation measures (AML/CFT controls and processes) are more robust in large banks belonging to international groups where AML/CFT obligations are better-established. NBFIs generally have less developed measures to mitigate risks.
- c) Generally, CDD and record-keeping requirements are complied with by FIs, although stronger in the banking sector. When adequate CDD information cannot be obtained or incomplete, FIs (especially banks) refuse business. Assessors could not, however, ascertain the veracity of the claim. Overall, FIs have challenges in the implementation of effective CDD measures, including the verification of beneficial owners. Record-keeping requirements are generally well understood by the financial sector.
- d) Banks generally demonstrated a good understanding of their reporting obligations and account for all the STRs and threshold reports (CTRs) submitted to the FIU. However, the overall number of STRs filed over the evaluation period is considered low given the significance of the banking sector and the risks it faces. In general, received STRs are of good quality and have enabled the FIU to undertake its analysis, but they are not reflective of all the major proceed generating crimes. None of the STRs submitted relate to TF which does not reflect the risk profile of the country given the medium low rating for TF risk in the draft NRA. Majority of the banks do not have automated systems in place for monitoring and detecting suspicious activities which impacted adversely on their abilities to effectively report STRs. NBFIs show limited

awareness of reporting obligation and have not submitted any reports (STRs and CTRs).

- e) Application of internal controls varies amongst banks, but generally more robust in the banks belonging to international groups. Shortcomings were noted in the internal controls and procedures of some of the banks, including the lack of adequate resources (especially human resources) for AML/CFT compliance functions, independent AML/CFT reviews, and ongoing staff training. Application of internal control procedures by NBFIs varies but generally rudimentary, and in some instances, lacking.
- f) Banks (especially those which are part of international groups), demonstrated good understanding of the requirements in relation to TFS relating to TF and have deployed sanctions screening, including automated software for monitoring of individuals and entities on the UNSCRs Lists. Some banks have also subscribed to commercial databases with instant notification of changes to the Sanctions list. NBFIs showed little or no understanding in this regard.
- g) VASPs do not exist in Guinea Bissau.

DNFBPs

- a) The level of understanding of sector specific ML/TF risks and AML/CFT obligations is very low across the DNFBP sectors. DNFBPs have not undertaken institutional risk assessment which represents a significant vulnerability for ML and TF in Guinea Bissau.
- b) The application of risk mitigating measures among DNFBPs is generally weak and limited.
- c) Record-keeping systems and the application of CDD and enhanced measures by DNFBPs vary but generally weak compared to the financial sector. In addition, they do not understand their obligations and requirements regarding the identification of PEPs and beneficial ownership.
- d) DNFBPs demonstrated no understanding and application of UNSCRs targeted financial sanctions.
- e) DNFBPs demonstrated limited or no awareness of reporting obligation and have not transmitted any STR to the FIU.
- f) Internal AML/CFT control measures in the DNFBPs are generally lacking, or where they exist, are less developed.

Recommended Actions

FIs & VASPs

- a) Guinea Bissau should ensure that NBFIs conduct institutional ML/TF risk assessment in order to have proper understanding of ML/TF risks facing them. In this regard, the FIU and supervisory authorities should communicate the

findings of the NRA once finalized to enable the entities take this into account in their risk assessment. In addition, they should provide sector specific model ML/TF risk assessment guidelines and necessary technical support (e.g training), and monitor implementation in order to facilitate compliance. Higher risk sectors (including foreign exchange bureaus, and remittance service providers) should be the priority targets for such actions. In addition, commercial banks should take into account the findings of the national ML/TF risk assessment when reviewing their own ML/TF risk assessments.

- b) Authorities should ensure that commercial banks strengthen implementation of their AML/CFT programmes while NBFIs implement a risk-based approach to AML/CFT controls, especially in relation to EDD, ongoing due diligence and establishment of beneficial owners of their customers. Authorities should undertake rigorous and sustained awareness campaign amongst NBFIs especially those identified as higher risk, including foreign exchange bureaus, and monitor implementation, including application of sanctions in case of violations, to enhance compliance.
- c) Financial sector supervisors and the FIU should take necessary measures to improve the quality and quantity of STRs by banks, and ensure that NBFIs, especially those identified as high risk, detect and file STRs and CTRs to the FIU. Authorities should ensure that all banks implement robust automated system for monitoring and detection of STRs, and that their internal policies and controls enable their timely review of complex or unusual transactions, and potential STRs for reporting to the FIU. In addition, they should: (a) ensure that NBFIs put in place systems and procedures to detect and file STRs consistent with the risk profile of the products and financial services they offer, (b) enhance engagement with FIs on reporting obligation, (c) provide technical support (eg STR specific training, STR reporting typologies or indicators) to enhance the capacity of FIs to effectively identify and report STRs, including TF related STRs, and (e) provide appropriate risk indicators in the major threat areas (corruption, drug trafficking, etc) to facilitate identification of STRs in these areas. Furthermore, financial supervisors should apply effective, dissuasive and proportionate sanctions, especially monetary penalties, to promote compliance with STRs reporting obligation.
- d) Guinea Bissau should implement measures to improve identification and verification infrastructure in order to facilitate effective implementation of CDD measures, including identification of beneficial ownership by FIs. In this regard, policy makers should, amongst other things, consider: (i) establishing a centralized national identification database by consolidating existing databases on international passport, driver's license, national identity card, etc and ensuring the regular update of data and accessibility by FIs and other users; and (ii) improving the address/identification system in the country.
- e) FIs should improve or develop an understanding of UNSCRs and implement necessary procedures and transactions monitoring mechanisms to adequately implement the measures.
- f) FIU and supervisory authorities should ensure that FIs appropriately resource compliance functions, regularly undertake independent AML/CFT reviews, have AML/CFT training programmes, and provide continuous training on

AML/CFT requirements to staff for effective implementation of their AML/CFT obligations.

DNFBPs

- a) Authorities should ensure that DNFBPs conduct regular assessments of their business specific ML/TF risks for customers, products and services. The risk assessments should be appropriate to the nature and size of the business and should consider the country risks. Guinea Bissau should disseminate the results of the NRA (when finalized) to all DNFBPs and make them aware of the ML/TF risks to which they are exposed.
- b) Guinea Bissau should ensure that DNFBPs adequately apply a risk-based approach to AML/CFT controls particularly in relation to EDD, on-going due diligence, and UBO, obligations when establishing business relationships or carrying on a transaction. Authorities should undertake sustained awareness campaign and training amongst DNFBPs, particularly those identified as higher risk, (e.g lawyers), develop sector specific AML/CFT guidelines for DNFBPs to facilitate understanding of their AML/CFT obligations, and supervise/monitor implementation, including imposition of sanctions in case of breaches, to ensure compliance.
- c) Authorities should take measures, including providing sector specific guidance, red-flags and training on ways to identify and report suspicious transactions to ensure that DNFBPs are adequately aware of reporting obligations, identify and report STRs to the FIU.
- d) Ensure that DNFBPs should understand and effectively apply targeted financial sanctions.
- e) DNFBPs should establish AML/CFT functions, develop internal policies/procedures, and provide on-going training on AML/CFT requirements to staff for effective implementation of their AML/CFT requirements.

253. 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, and elements of R1, 6, 15 and 29.

5.2. Immediate Outcome 4 (Preventive Measures)

254. The AML/CFT Law no.3/2018 is the primary legislation setting out the AML/CFT obligations of reporting entities in Guinea Bissau. VASPs do not exist in Guinea Bissau. The BCEAO stated that no entity has been licensed in the country to operate as VASPs⁶⁰. Similarly, reporting entities interviewed, particularly banks, indicated that they do not have customers that are VASPs or involved in cryptocurrency exchanges.

⁶⁰Although VASPs do not officially exist in the country and no bank has customers that are VASP, a check by the team on the internet (<https://www.bitrawr.com/guinea-bissau>) indicates that there are some few cryptocurrency exchanges operating in Guinea Bissau. However, the authorities appear not to be aware of this. The team could not ascertain the reliability of the information on this site to be able to make a conclusion.

255. The AML/CFT law sets out the preventive measures reporting entities must comply with. While the law generally covers the necessary components, there are some shortcomings with Guinea Bissau's technical compliance with the FATF Standards that impact its effectiveness. These gaps, particularly in relation to CDD obligations; new technologies, MVTS, wire transfers, higher risk countries, and reporting of suspicious transactions, impact Guinea Bissau's overall effectiveness.

256. Considering the relative materiality and risk in the Guinea Bissau context, implementation issues were weighted heavily for the commercial banks, remittance service providers, and foreign exchange bureaus (bureau de change). Lawyers were weighted as moderately important. Insurance companies, other financial institutions and other DNFBPs were weighted as less important. There are no capital market operators and VASPs in Guinea Bissau. No weight was placed on these sectors as they do not exist. The rationale for this is explained in chapter 1 (under structural elements) and summarised below:

Heavily weighted

- **Banks** - Implementation of preventive measures by banks varies but generally stronger in banks link to international groups. Assessors assigned greater weighting to this sector based on the size, volumes and values of transactions processed, and interconnection to the global financial system. The assessment team found concerns, especially about low reporting of STRs which is attributed several factors, including the lack of sanctions and limited AML/CFT supervisory oversight for the sector. The banking sector was assessed as having medium risk (medium high threats and medium low vulnerabilities) in the draft NRA.
- **Foreign exchange bureaus (bureau de change)** – Assessors considered the activities of unlicensed foreign exchange operators, cash intensive nature of the business, and the low understanding of ML/TF risk and implementation of AML/CFT obligations / preventive measures which expose the sector to considerable high risk of ML. Guinea Bissau's draft NRA rated this sector as having medium risk (medium ML threats and ML vulnerabilities).
- **Remittance service providers** – Assessors considered the global ML/TF risk associated with this sector which can be classified as high. Guinea Bissau's draft NRA rated this sector as having high ML threats and medium low ML vulnerabilities.

Moderately weighted

- Lawyers and were considered as being exposed to high risk of ML in the draft NRA report of Guinea Bissau. Lawyers are involved in sales and purchase of real estate and to a limited extent in other relevant activities (eg creation, operation or management of legal persons or arrangements). ML/TF risk understanding and implementation of AML/CFT obligations by lawyers is weak. Lawyers are weighted as moderately important based on exposure to ML risks. Guinea Bissau assessed Lawyers in the draft NRA as having low threats and medium high vulnerabilities for ML.

Low weight /less important

- The insurance sector is small (2 operators) and underdeveloped with low insurance penetration, low volume of operations, and offers limited life insurance product (link to bank credit). Its contribution to GDP in 2018 was 0.5% (NRA report). Though the sector was rated as having medium risk for ML in the NRA, assessors assigned less weight to the sector for reason noted above.
- Other FIs and DNFBPs are less developed with low volumes of transactions and coupled with the fact that, so far, no evidence of ML or TF case has been linked to any of these sectors, assessors

are of the view that their risks and their impact on the AML/CFT preventive system may not be very significant and thus weighted them less important. There is no operational /active casino in Guinea Bissau.

257. Assessors' findings on IO.4 are based on interviews with private sector representatives, reviewing onsite examination findings, data and statistics from supervisory activities, discussions with supervisors, data on STRs, discussions with the FIU and information from Guinea Bissau's draft NRA report, with respect to materiality and risk of each sector.
258. The evaluation team met with a range of private sector representatives, including some representative industry bodies (eg Bar Association). The assessors interviewed officials of the five commercial banks, representatives of the two insurance companies, two mobile money service providers, two law firms, two accounting firms, 2 foreign exchange operators amongst others. These meetings are fairly representative of reporting entities. Overall, the banking sector demonstrated good awareness and appreciable implementation of preventive measures, particularly large banks belonging to international groups. However, there are concerns, especially on reporting of STRs across all the banks. Implementation of preventive measures by non-bank FIs and DNFBPs is mix but generally weak.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations

Financial Institutions and VASPs

259. The AML/CFT law sets out the requirements for reporting entities in Guinea Bissau to identify, assess and understand their ML/TF risks. Some directives / guidelines have been issued by supervisory authorities (e.g BCEAO, Banking Commission and CIMA) to assist FIs in understanding their obligation to conduct a risk assessment and implement commensurate measures. In general, the level of understanding of ML/TF risks and compliance obligations varies across the different financial sectors. The understanding is more robust in the commercial banks and stronger among large banks belonging to international financial groups. The banks that are part of international financial groups are able to leverage on the knowledge and compliance infrastructure available from their overseas parent organizations. Understanding of ML/TF risks and AML/CFT obligations by non-bank FIs is mixed but generally low.
260. Generally, banks in Guinea Bissau demonstrated a good level of understanding of sector specific ML/TF risks and respective AML/CFT obligations. They have developed and implemented internal procedures and programmes to identify, assess, and document their ML/TF risks, albeit at different levels of sophistication. Large banks belonging to international financial groups have conducted comprehensive ML/TF risk assessments of their customers, products, geographic location, transactions, payment channels, etc. These categories of banks have benefitted from their group practices whose policies require regular comprehensive group-wide risk assessments and developing mitigating measures commensurate with the risks identified. As a result, they have put in place good AML/CFT procedures to address the risks identified by relying on the AML/CFT law and group AML/CFT policies taking into consideration the peculiarities of Guinea Bissau. The other banks do not have robust risk assessment framework in place, have not undertaken comprehensive business-wide risk assessment and as a result have lower understanding of risks compared to the large banks belonging to international groups.

261. Risk assessment by banks are documented and generally reviewed annually. Some few banks, especially the large banks belonging to international groups, also review on ad hoc basis in response to specific risk events (e.g. significant changes in business, new products, etc.). BCEAO's supervisory engagement with the banking sector (onsite inspection reports) did not highlight any specific shortcomings with regard to the internally developed ML/TF risk assessment of the banks. This could imply that what they found were generally of good quality. However, as noted above and confirmed by some of the banks during the onsite, some of them are yet to conduct comprehensive institution-wide ML/TF risk assessment. Assessor believe the level of risk assessment in such banks can benefit from improvement.
262. Based on the review of the institutional risk assessment reports of banks provided to the assessors, the team found that the internal assessments covers critical areas such as risks for customers, products/services, transactions, delivery channels etc. With regards to the methodology, they assessed frequency of occurrence, impact and effectiveness, with four levels of classification for each point. For those who opted for ranking, they used scores for the different criteria established for businesses and individual clients. Generally, assessors found the risk assessment reports of large banks belonging to financial groups more robust.
263. Assessors noted consistency across the banking sector regarding client types, services, etc that are identified as potential areas of high risk on which enhanced due diligence measures are applied. For instance, based on discussions with the banks, they generally regard products and services (e.g cross border wire transfers, and private banking), customers (PEPs), and transactions involving cross-border wire transfers and PEPs as high-risks. Similarly, the use of cash was considered as high risk by all the banks. There was no evidence that the banks have either terminated or restricted business relations and transaction with some high-risk customers, sectors or regions.
264. **Mobile Money Service providers** interviewed during the onsite demonstrated a general understanding of their ML/TF risks on account of their affiliation to their group but exhibited no awareness of the findings in the draft NRA report relating to their sector (because they did not participate in the NRA process and the report has not been finalized and disseminated). They demonstrated relatively good understanding of their AML/CFT obligations and have implemented some policies and procedures, including KYC, transaction limit, and record keeping. For instance, before transactions/transfers are processed, they require information on identification, address, etc. The application of AML/CFT control measures, enhances their understanding of AML/CFT obligations.
265. **Foreign Exchange Bureaus** demonstrated low understanding of ML/TF risks and their compliance obligations relating to the application of mitigating control. They do not have mechanisms in place to conduct internal risk assessments and as a result, have little understanding of the risk facing them. Supervisory activities (onsite inspections) carried out by the BCEAO and MEF in this sector found gross non-compliance with AML/CFT requirements, which may largely be due to the low or lack of understanding of ML/TF risk and AML/CFT obligations. Although some of them participated in the NRA, they exhibited limited knowledge of the risks facing the sector as contained in the draft NRA.
266. The **remittance service sector** comprised of both local and international players. The service providers interviewed by the assessment team, especially those with affiliation to international remittance companies, demonstrated a better understanding of ML/TF risks associated with their business. One of the providers interviewed indicated it has carried out specific risk assessment associated with its business (although the report was not provided

to the team to verify and/or ascertain its adequacy), while two others indicated that they are at various stages of completing the assessment of risk associated with their business. The service providers met by the assessment team participated in the NRA and are aware of the findings in the draft NRA report relating to their sector. However, they were unanimous that based on the controls and mitigation measures they implement, the risk of the sector should be low and do not think the risk level (high ML threats and medium low ML vulnerabilities) attributed to the sector in the draft NRA report is justifiable. Overall, service providers met by the assessors have reasonably good understanding of their AML/CFT obligations and have implemented some policies and procedures which include procedures for KYC, record keeping, etc. Before remittances are processed, they require information on identification, address, etc and for cross border transfers above 500,000 XoF (approx. US\$895), information is sought on the source of funds. Due to the affiliation of all remittance service providers to banks, the banks require them to apply necessary AML/CFT control measures, which contributes to enhancing their understanding of AML/CFT obligations.

267. Other FIs, such as insurance companies and microfinance institutions do not have any formal process for assessing their institutional ML/TF risks, and as a result, have little understanding of the risk facing them. Representatives of these entities interviewed were unable to clearly articulate how ML or TF might occur within their institutions or sectors, as well as demonstrated a lack of systematic understanding of AML/CFT obligations. Overall, they demonstrated low understanding of their ML/TF risk and AML/CFT obligations, although they have established some basic control measures such as KYC and record keeping in place. One of the two insurance companies participated in the NRA process, but exhibited limited understanding of the risks facing the insurance sector as contained in the draft NRA
268. The participation of some of the FIs in the Working Groups for the NRA contributed to some level of understanding of risks and AML/CFT obligations. Although the NRA report had not yet been finalised by the authorities as at on-site visit, some of the FIs which participated in the NRA process, especially the banks, demonstrated good knowledge and understanding of risks highlighted in the draft NRA that relate to their sector. Others exhibited limited awareness of the findings of the NRA, which may largely be attributed to the non-dissemination of the report. In addition, the relevant findings of the NRA were yet to be incorporated into FIs own compliance programmes where necessary, including updating institutional and customer ML/TF risk profiles.
269. Overall, Guinea Bissau's engagement with some of the FIs and industry associations, especially the compliance officers association of banks, trainings provided, as well as issuance of directives or guidelines contribute to some awareness and enable FIs to understand their AML/CFT obligations. As noted under IO.3, the directives/guidelines issued by supervisory authorities have enabled some of FIs to develop their internal procedures, which provided some understanding of their AML/CFT compliance obligations.

DNFBPs

270. In general, the level of understanding of sector specific ML/TF risks and AML/CFT obligations is very low across the DNFBP sectors. This may be attributed to several factors, including the lack of assessment of risks by the entities, the lack of sector specific AML/CFT guidelines to facilitate understanding of their obligations, and the lack of AML/CFT monitoring by the relevant supervisors. For instance, the evaluation team noted that all DNFBPs have not had any AML/CFT compliance inspection from the supervisory

authorities during the review period. The assessors are of the view that the lack of institutional ML/TF risk assessments in the DNFBP sectors and absence of compliance monitoring programmes represent significant gaps /ML vulnerabilities.

271. Although a few of the DNFBPs interviewed by the assessment team during the on-site visit participated in the NRA process, they exhibited limited knowledge of risks specific to their sectors in the draft NRA, while others were not aware of the relevant findings of the draft NRA. On the whole, DNFBPs have limited or lack proper appreciation of the existence and extent of ML/TF risks in Guinea Bissau, which is largely due to the non-finalization and dissemination of the NRA report or its findings to reporting entities and other stakeholders. Assessors believe, this could impede the development and application of appropriate mitigation measures because customers may be businesses performing medium or high risk activities.
272. The lawyers in Guinea Bissau provide a number of services, including the purchase and sales of properties. Lawyers met by the assessment team indicated that they are rarely involved in the formation of companies (as this role is largely played by the Centre for the Formalization of companies – Company registrar) and also do not have pooled accounts in banks. However, they generally demonstrated low understanding of their ML/TF risks and their compliance obligations under the AML/CFT law. Based on discussions with the lawyers, assessors noted that they have some basic control measures and, as a matter of practice, require basic information from their clients, such as their name, address, place of work and identity documents, but AML/CFT is not the focus in this process. The FIU and Bar Association have not provided sector specific AML/CFT guidelines for lawyers and the legal profession which may have contributed to the low level of understanding of their AML/CFT obligation.
273. Accountants/auditors interviewed during the onsite demonstrated low understanding of their AML/CFT obligations and the ML/TF risks. They do not have mechanisms in place to conduct internal risk assessments and as a result, have little understanding of the risk facing them. The evaluation team noted that there was little or no consideration for AML/CFT issues, such as suspicious transactions reporting when accountants/ auditors are providing services to clients. The National Order of Chartered Accountants-Guinea Bissau-ORNATOC-GB and the FIU have not issued AML/CFT guidelines for the accountancy and audit sector to facilitate understanding of their risks and AML/CFT obligations.
274. The team could not meet with any dealers in precious metals and stones, despite request to meet with them (although the country indicated there is a negligible number of these entities in the country). There was no operational casino in Guinea Bissau as at the time of onsite visit.
275. Generally, there was little or lack of awareness raising initiatives tailored to specific sectors, and a lack of visible supervisory actions that could foster awareness of DNFBPs. These gaps significantly hinder adequate ML/TF risk understandings and compliance with the AML/CFT obligations among the DNFBP sectors.

5.2.2. Application of risk mitigating measures

276. The AML/CFT framework in Guinea Bissau obliges FIs and DNFBPs to apply AML/CFT measures on the basis of identified ML/TF risks. Assessors observed that there is significant variance in the practical application of mitigating measures between various FIs and DNFBPs in Guinea Bissau. In particular, the large banks belonging to international

groups applied more rigorous mitigating measures (such as several levels of senior management approvals and on-going monitoring) on customers, transactions, services etc considered high risk. These include PEPs, private banking, and cross-border wire transfers. From discussions with the banks, the assessment team noted that there is more rigour on these clients, products, and service than on those considered posing lesser ML/TF risks. In this regard, FIs with institutional ML/TF risk assessments, particularly banks have different mitigating controls for each type of risk identified consistent with the customer or transaction.

277. NBFIs and DNFBP interviewed by the assessment team demonstrated a limited or complete lack of application of the appropriate mitigating controls such as suspicious transaction reporting, screening of customers or transactions prior to approval, including using commercial databases for screening of customers and transactions against UNSCRs targeted financial sanctions List. Overall, AML/CFT mitigation measures applied by these entities are weak or inadequate.

Financial Institutions and VASPs

278. Banks implement policies and controls commensurate with the level of risks identified through their individual risk assessments. The measures applied by the large banks belonging to international groups were the most mature. They have developed more sophisticated AML/CFT systems and controls. They implement mitigating measures which include sound procedures and practices in the assignment of risk rating to each customer at the time of on-boarding. They generally consider relevant factors in determining customer risk categories and apply differentiated mitigating measures: for high risk customers more scrutiny is applied, such as obtaining and analyzing additional information; obtaining senior management approval (eg in case of PEPs), and closer on-going monitoring. They have software tools that allow them to identify inconsistencies with parameters of a customer profile, monitor transactions of their customers and flag unusual transaction, and to check for sanction persons and entities (sanctions screening). This practice strengthens ongoing monitoring, contributing to a sound implementation of risk mitigation measures. Whilst the other banks still assess customer risk and develop profiles, in general these assessments and ML/TF risk mitigating measures in place are less sophisticated. For example, they have relatively weaker transaction monitoring and internal control procedures. Some of them lack or have less developed automated transaction monitoring system. This implies that transaction monitoring is being performed manually. Given the number of their customers, this could prove challenging and less effective.
279. Generally, the practice of risk categorization by banks at the time of on-boarding, assessment of their customers' ML/TF risks levels, assessment of new products, etc contribute to the appropriate application of mitigating measures. However, the lack of robustness in the internal risk assessment in some of the banks impact adversely on the adequacy or extent of mitigation measures applied by them.
280. From discussions with the banks, there was no case of derisking. This could be an indication that the banks are mitigating ML/TF risks and, consequently, do not resort to termination of business relationships or refuse to conduct transactions due to ML/TF concerns.
281. To ensure a balanced approach was taken towards understanding the extent to which banks implement mitigation measures, Assessors reviewed the AML/CFT inspection reports conducted by BCEAO on banks. Common deficiencies (relating to almost all the banks) highlighted in the examination reports (by the BCEAO) include the

lack of effective tools to detect unusual transactions, PEPs and sanctioned persons in real time; weakness in the application of CDD measures (lack of rigour in collecting CDD information); insufficient training of staff on AML/CFT; and low or lack of reporting of STRs to the FIU. These deficiencies highlight the need for developments required by banks to improve their application of risk mitigating measure.

282. Implementation of AML/CFT systems and controls commensurate with risk in the **Foreign Exchange Bureau sector** is generally weak. Existing measures across the foreign exchange bureaus interviewed are inadequate to deal with the specific risks of the sector, such as the cash intensive nature of the business, activities of unlicensed operators, and the high rates of informal economy acknowledged in the draft NRA, which considerably expose the sector to the risk of ML/TF. From discussions with the foreign exchange bureaus, Assessors noted that the application of mitigation measures by these entities is largely restricted to basic KYC. They have not established internal policy to mitigate the risk of ML/TF. Most of the customers for foreign exchange bureaus are walk-in customers, who, in most instances do not present identification documents or even where they present identity documents, these documents are not authenticated. Assessors noted gross deficiencies in the application of the KYC/CDD and lack of application of other mitigation measures in the sector. The findings of the Assessors are consistent with the outcomes of inspections conducted by BCEAO and MEF on foreign exchange bureaus which noted non-compliance with AML/CFT requirements.

283. **Remittance and Mobile money service providers** generally have established mitigation measures which are largely commensurate with the level of the risks they face. Some of the Service Providers interviewed are affiliate of international groups and apply, to the extent possible, the policies and procedures of the parent companies. Representatives of mobile money service providers interviewed demonstrated a reasonably good understanding of the mitigation measures they are applying. For example, they require registration and photograph during onboarding of customers, which are used to monitor customers' transactions as well as risk classification of customers. Additionally, they have transaction limits, and do not make transfers to countries identified as high risk. As affiliates of banks, remittance service providers are required by banks to implement appropriate mitigation measures, including conducting enhanced CDD for higher risk transactions and customers such as PEPs. In general, the wider implementation of a RBA across the remittance service providers sector, is stronger amongst providers belonging to international remittance businesses.

284. The mitigate measures applied by insurance companies appear commensurate with the level of risk of the sector. The sector is not well-developed and offers limited life insurance product (link to bank credit). Insurance companies interviewed generally apply basic customer identification measures (i.e. identification by presentation of an identity document without verifying identity of customers), have designated officers with AML/CFT as part of their responsibilities, and maintain records. Customer risk categorization is rarely done due to lack of capacity and risk assessment framework, while there is little or no ongoing monitoring of their clients

285. **Other FIs**, including MFIs have generally less developed AML/CFT systems and controls to adequately mitigate ML/TF risks associated with their businesses. They approach their risk mitigating measures in a rules-based manner and primarily focus on obtaining basic CDD information. Overall, the level and quality of risk mitigating measures applied by these entities is weak, which may be attributed to their smaller business size and limited resources.

DNFBPs

286. The application of risk mitigating measures among DNFBPs is generally weak and limited. The assessment team observed that these entities have not conducted and understood their risks to inform application of appropriate mitigation measures. They do not have internal policies or AML/CFT programmes, are not filings STRs, not training staff for AML/CFT, and are not applying a risk based approach in customer classification, profiling and monitoring of their customers, which are indications that they are not adequately applying mitigation measures.
287. Lawyers and accountants interviewed during the onsite demonstrated limited implementation of AML/CFT mitigation measures. For instance, while lawyers require some basic information from their clients, such as their name, address, place of work and identity documents, AML/CFT is not the focus in this process. In addition, where they are involved in real estate transactions, they do not pay attention to ascertaining the origin of the source of funds of their clients, as well as the identity of buyer / beneficial owners. The accounting/auditing firms met during the onsite (local firms) exhibited low knowledge and implementation of AML/CFT measures.
288. Overall, the weak implementation of mitigation measures by DNFBPs may be due to the lack of a risk assessment, a limited understanding of their obligations, the absence of comprehensive sector specific guidelines, and AML/CFT monitoring. This is a major concern as some of the DNFBPs are vulnerable to ML activities.

5.2.3. Application of CDD and record-keeping requirements

289. Interviews with private sector representatives indicate that FIs and DNFBPs generally have CDD and record-keeping measures in place, albeit at varying degrees.

Financial Institutions and VASPs

290. Banks in Guinea Bissau, particularly the large ones belonging to international group, demonstrated good knowledge of the applicable requirements related to CDD and apply more comprehensive CDD measures, including ongoing monitoring, and adopting a risk-based approach. They identify the clients and, where applicable, the beneficial owner, and then establish for each client a profile based on the customer knowledge information received during the establishment of the business relationship. The other banks demonstrated a less sophisticated implementation of CDD requirements, including ongoing monitoring, and do not fully apply a risk-based approach taking account of inherent risks arising from their own customers, products, services and distribution channels.
291. Majority of the banks have established Customers Acceptance Policy, which amongst other things, highlights identification and verification procedures for customers. For identification purposes, customers are required to present their IDs, complete Account Opening Form describing the nature of their business, source of funds and wealth, and provide relevant KYC documents, contracts, information related to the management and ownership structure of the company. This information helps the banks to understand the purpose and intended nature of business relations and is generally used to establish a profile of the customers against which their on-going activities will be monitored. In particular, in the case of a natural person, the information collected at the account opening stage includes full names, date of birth, country of origin, permanent residential address, proof of national

identity (passport, or driver's license), residence permit (in case foreign nationals) etc. For legal persons or arrangement, they seek and obtain CDD information such as articles of association, memorandum of association, certificate of incorporation, identity of beneficial owners, principal shareholders and physical addresses, and any other person authorized to act on behalf of the legal person or arrangement. Although the banks are aware of the requirement to conduct further CDD measures by identifying and verifying the customers where there is suspicion of ML/TF or where they have doubts about the veracity of the previously obtained customer identification data, it is not clear, if this is done in practice. The banks informed the assessors that if they are unable to obtain the necessary or missing information from the customer they refuse to establish business relations or carry out operations. The Evaluators could not, however, ascertain the veracity of the claim in the absence of supporting documents, such as statistics of relationships or transactions declined or rejected.

292. The identification and verification procedures for customers that are legal persons are applied to directors and other legal representative of legal persons. The various forms of identification documents for a natural person include national ID card, drivers' license, and passport, which are obtained at the point of on-boarding of the customer. Where the customer is a legal person or legal arrangement, Certificate of Incorporation, Memorandum and Articles of Association, Board resolution, etc are required. Discussions with majority of the banks indicate that identification and verification of identity documents present some challenges, reinforcing findings in the AML/CFT inspection reports of the BCEAO on banks.
293. Banks are generally aware of beneficial ownership information requirements. However, the understanding and application of BO verification measures varies across banks but generally stronger in large banks belonging to international groups. Majority of the banks determine the BOs primarily based on legal ownership, self-declarations (information on the account opening forms), and information on documentation such as articles of association, and minutes from meetings of shareholders in order to satisfy themselves that they have found out the real beneficial owner of a legal person or legal arrangement. One of the banks indicated that it also analyses patterns in transactions to assist it identify BO. Banks generally undertake verification of BOs for shareholders with 10% and above shareholding interests. The banks do not usually contact the CFE to verify BO information, especially on customers that are legal entities. No reason was given for this. Generally, banks indicate that they will decline the business relationship where they cannot establish the BO and the risk is very high, but where the risk is tolerable, they can accept the business relation but apply enhanced controls to mitigate and manage the risk. However, no specific statistics were provided to the team on the number of relationships declined. Discussions with the banks indicate that they still have some challenges with the verification of beneficial owners.
294. In relation to non-face-to-face business relationships, while banks generally considered this service as high-risk requiring enhanced due diligence measures, none of them provide this service at the time of the onsite. The indicated that account opening is always face-to-face and must comply with all the CDD requirements.
295. The remittance service providers appear to have a good understanding and application of CDD requirements. Beyond collection of identification documents, they also require information on source of funds where a cross border transfer exceeds 500,000 XoF (approx. US\$895). All the service providers interviewed indicated that they have customer acceptance policy. Mobile money service providers also implement a fairly good CDD

process compare to the remaining Non-bank FIs. However, they do not identify source of funds and rarely go beyond collection of identification documents. The other non-bank FIs, including insurance companies and foreign exchange bureaus have varying levels but generally low compliance with CDD requirements compare with the remittance service providers and the banks. The two insurance companies in the country indicated that they collect basic KYC information from customers during on-boarding or underwriting of insurance policy. However, verification of such documents is rarely done. There was no evidence that insurance companies do refuse customers or business on account of incomplete CDD. Foreign exchange bureaus Operators interviewed do not have internal KYC/CDD policy and procedures. Customer identification by these entities is weak, and where CDD information is provided by customers, they rely on the information provided and do not conduct further verifications and analysis.

296. Ongoing monitoring mechanisms vary across the FIs. Banks, especially the large ones belonging to international group use IT systems that employ built-in scenarios to identify unusual activities or connections, while most non-bank FIs that do monitor customers' transactions do so manually. FIs, especially large banks belonging to international group update CDD data regularly and high-risk customers are subject to more frequent updates. Such updates include examining whether transactions carried out are consistent with customer profiles or expectations about the intended nature of business relations.

297. While the level of understanding of and compliance with CDD requirements among commercial banks is generally appreciable, the BCEAO raised concerns in its inspection reports on the lack of rigour in the collection of information from customers in four of the five banks in the country (see IO.3). The BCEAO's AML/CFT inspection reports did not highlight the specific deficiencies concerning CDD (eg purpose of business not clearly being defined for clients; inadequate evidence of source of funds; and incomplete KYC information). Consequently, it is not clear what specific impact the lack of rigour has on the implementation of CDD measures by the banks. Similarly, non-compliance with CDD obligation was noted by BCEAO and the MEF in their supervision reports on the foreign exchange bureaus (see IO.3). Although authorities have not conducted AML/CFT inspections in the remaining FIs to ascertain their level of compliance with CDD measures, the general challenges associated with implementation of CDD measures will also apply in their cases. CDD deficiencies are important gaps as they relate to the essential preventive measures expected to be in place at FIs. Shortcomings in this area poses the risk that FIs may not fully know who they are entering into a business relationship with to provide financial services.

298. All FIs are well aware of their record-keeping obligations. They are required under the AML/CFT law to keep records obtained through CDD/EDD measures, on transactions executed and other relevant correspondence. All the FIs that met with the assessment team during the onsite indicated that they have record keeping policies and that documents are kept for 10 years. One FI informed the team that it conserves the documents for 5 years and sends them to the headquarters, which will keep them for another 5 years. However, given the deficiencies noted with respect to CDD by the BCEAO and MEF in the FIs that have been supervised, and indeed the weak application of CDD measures noted by the team in some of the FIs met during the onsite, concerns exist regarding the comprehensiveness of the information maintained by most FIs.

299. Overall, the robustness and manner in which records are maintained in FIs vary but stronger in the banks. Two thirds of the FIs present stated that the documents are kept on

paper and electronically, that records allow the reconstruction of transactions, that evaluation visits are made to the archives every year, and one third also stated that they have entrance control and fire safety. Some of the FIs which have received requests from competent authorities, especially the FIU, informed the assessment team that it takes them 48 hours (on the average) to respond to the requests. This was confirmed by documentary evidence provided to the team.

DNFBPs

300. Application of CDD and record-keeping measures varies among DNFBPs, but is generally much less comprehensive compared to the financial sector.
301. Lawyers and accountants make some efforts to identify their clients, but they do not have specific identification procedures and do not undertake verification. The basic identification data obtain by these entities (e.g name of the client, in some cases asking for the ID to confirm the person's identity) is mostly due to their professional profile and type of services provided, rather than for AML/CFT purposes. They are unfamiliar with the requirement of conducting ongoing due diligence of their customers and do not implement BO requirements.
302. The weak application of CDD measures by DNFBPs is largely the direct result of their insufficient knowledge in the area of AML/CFT as well as the direct consequence of the absence of appropriate AML/CFT supervision in the sector.
303. Overall, record keeping obligations are generally observed among all DNFBPs, albeit at different levels of robustness.

5.2.4. Application of EDD measures

304. Assessors noted that the implementation of EDD measures varies among reporting entities. The variations in the approach followed by the different sectors to the application of enhanced measures commensurate with the specific ML/TF risks per sector is as a result of the gap in sector specific understanding of risks. In general, the evaluation team noted that banks, especially large ones belonging to international groups displayed more developed AML/CFT framework and have invested in name screening tools to identify PEPs and persons designated under TFS. Other banks have limited resource, lack robust automated systems and rely largely on manual checks to apply enhanced measures. Some of the reporting entities, especially banks are aware of the requirements with respect to dealing with customers from higher risk jurisdictions and implemented some controls to comply with such requirements.
305. BCEAO and other supervisors have not conducted AML/CFT inspections in most reporting entities (except banks and foreign exchange bureaus). Therefore, a view on the extent of compliance by the unsupervised entities could not be clearly determined. This highlights a gap in supervisory oversight to demonstrate how well most of the sectors apply EDD measures commensurate with their risks.

Financial Institutions and VASPs

Politically Exposed Persons (PEPs)

306. Interviews with FIs highlighted that the application of the PEP requirements varies depending on the size and international exposure. Generally, banks have a good understanding of the enhanced measures required in relation to PEPs, and have measures in place to determine whether the customer and the beneficial owner are PEPs. However,

this is stronger in larger banks with affiliation to international groups which most often leverage on group-wide resources and infrastructure. The banks use different sources of information, including media reports, and commercial databases (e.g World-check) to identify and monitor clients who are PEPs. Some of the banks mentioned that they have developed internal PEPs list. Banks referred to senior management approval, establishment of the sources of wealth and funds and enhanced on-going monitoring as a part of the usual business practice in relationships with PEPs. They also take reasonable steps to identify and verify a PEP until they are satisfied that a PEP has been identified or that the risk exposure can be mitigated. Where they cannot manage the risk, they do not accept the proposed relationship or terminate an existing relationship. Generally, banks indicated that they found it challenging sometimes to determine close associates of PEPs and admitted experiencing practical difficulties in identifying them. As a matter of practice, banks retain PEPs' high-risk status even when a customer is no longer a PEP because of the likelihood of the PEPs maintaining influence post political life.

307. The non-bank FIs met on-site have a very basic understanding of PEP-related requirements, except the remittance services providers, especially those affiliated to international remittance businesses that exhibited a more developed understanding of the requirements for EDD where a PEP is identified, along with the requirements to seek senior management approval and conduct ongoing monitoring. This category of remittance service providers stated that they have subscribed to commercial databases for PEP screening. Other NBFIs do not use automated screening programmes to identify PEPs. The application of enhanced CDD measures relating to PEPs appears challenging to them as they could not convincingly demonstrate that enhanced due diligence is carried out for PEPs e.g. source of wealth, source of funds checks.

308. AML/CFT examinations undertaken by the BCEAO on banks found that three of the five banks lacked effective tools to detect PEPs in real time, while four of banks lacked rigour in collecting information from clients during on-boarding. These are important gaps that impact adversely on the ability of most of the banks to effectively identify PEPs.

Correspondent Banking

309. Banks in Guinea Bissau are all respondent banks and as such, are subjected to stringent ongoing due diligence by correspondent banks in other jurisdictions. Assessors noted that, because of their respondent status, the banks generally appear to follow a careful approach to ensure EDD and AML/CFT obligations were broadly adhered to in order to avoid the risk of losing their international correspondent banking relationships. Banks have defined policies and procedures, including the requirement to obtain senior management approval before establishing a new correspondent banking relationship. There have been no cases reported of correspondent banking relationships with shell bank.

310. There does not appear to be similar correspondent-type relationships outside of banks.

New Technologies

311. Commercial banks are aware of the requirement to assess the ML/FT risks related to the implementation of new services and products, and the use of new (developing) technologies in business. The controls described by the banks appear to be adequate and positive. Mobile money service providers have reasonable measures to detect and mitigate the risks posed by the nature of the business relationship transaction and payment method. For instance, they have put in place control measures, such as threshold limits on transactions to manage ML/TF risks associated with the technological advancement. There

was no evidence that FIs outside of the commercial banks and mobile money service providers are taking reasonable measures to detect and mitigate the risks posed by the nature of the business relationship transaction and payment method.

Wire Transfers

312. Wire transfer services (both domestic and cross-border transactions) are mainly provided by banks, remittance service providers and mobile money service providers. Despite legislation not fully in line with the standards (see R. 16), the meetings with banks suggest that the technical compliance gaps do not affect the application of wire transfer rules, which are adequately applied. The banks indicated that they use SWIFT for conducting cross border wire transfers and are generally complying with the SWIFT messaging standards. They have measures in place to monitor on continuous basis wire transfer transactions in order to verify whether they contain detailed information relating to originator and beneficiary such as names, address, amount, unique reference, and date, among others. Where such information is incomplete, they indicated that they do not execute the wire transfer and where the transaction is suspicious they report it to the FIU. Overall, banks interviewed demonstrated a good level of understanding of the ML/TF risks associated with wire transfers. They indicated that wire transfer transactions are usually classified as high-risk and are subject to enhanced measures, including real time screening. The mobile money service providers interviewed indicated that they have transaction limits in place for which an individual can be allowed to send above the limit but enhanced CDD measures will generally be applied. The measures put in place by these entities, include the collection of relevant customer identification information at the initiation of a transaction and at the point of pay-out. Remittance service providers are all affiliated to banks (with some belonging to internationally recognized money transfer businesses) and apply the standards of the banks in relation to cross border wire transfer obligations. They obtain the required information including originator and beneficiary information such as names, address, amount, unique reference and date when processing transactions. Where the information is incomplete, the transaction will be rejected or not be processed.

313. The 2018 annual report of the FIU indicate that some of the banks have submitted STRs concerning cross border wire transfers, which could be an indication that they are actively monitoring wire transfers. In addition, the BCEAO did not raise any deficiencies during its inspections of banks in relation to the application of enhanced measures for wire transfers. However, considering the lack of AML/CFT supervision for mobile money service providers, no conclusions can be reached as to the level or adequacy of compliance with these obligations.

Targeted Financial Sanctions

314. The level of awareness regarding implementation of TFS varies across different financial sectors. Banks (especially those which are part of international groups) have good understanding of their requirements in relation to TFS relating to TF, and have automated sanctions screening software which flags possible matches of individuals and entities on the UNSCRs Lists. They indicated that customers are screened before the establishment of a business relationship and during that relationship (where there are transactions) for potential hits. Some of the banks also subscribed to some commercial databases with instant notification of changes to the Sanctions lists. Most of the remittance service providers interviewed, especially those with affiliation to internationally recognized remittance providers, indicated that they have platforms (commercial databases they have subscribed to) and are implementing automated TFS screening. Like the banks, they have automated sanctions screening software to screen and identify designated individuals and entities. The

other non-bank FIs demonstrated limited to non-existent understanding of TFS related obligations. They are unaware of the UNSCRs (and relevant successor resolutions) as well as relevant sanction lists and are not implementing any measure to identify among their clients the persons and entities whose assets should be frozen. The FIs interviewed indicated that they had not had a match relating to the names of the individuals and entities on the sanctions lists.

315. From discussions with national authorities during the onsite, it appears there was no clear established mechanism to communicate the designations to reporting entities for implementation. There was no evidence that the authorities were disseminating the sanctions list to reporting institutions. Interviews with the FIs did not indicate that they receive the lists from the authorities. The banks and remittance service providers access the lists from the commercial databases they subscribed to.
316. Detailed analysis about implementation of TFS sanctions is under chapter 4.
317. The BCEAO inspections reports reviewed by the assessors only indicated that some of the banks lack efficient tools to identify sanctioned persons without details on the level of compliance on issues relating to TFS. Thus, while some of the banks conducted these checks, the extent to which these can be determined as effective is low, particularly as there is no adequate monitoring mechanism to ensure these measures are being applied as required.

High Risk Countries

318. Commercial banks, especially those that are part of international groups exhibited a better understanding of countries which have been identified as posing a higher risk for ML/TF compare to other FIs. Generally, banks indicated that enhanced measures, such as scrutinizing transactions coming from or going to such countries would be applied when dealing with higher risk countries identified by the FATF. It was not clear if the automated internal screening tools used by some of the banks include consideration of higher risk countries. Non-bank FIs demonstrated limited understanding in this regard.
319. From discussions with some of the FIs, it appears no information was proactively communicated by the authorities about updates/changes to higher risk countries identified by the FATF, including advice on the counter measures FIs are expected to consider. In addition, BCEAO's inspection reports on banks reviewed by the assessor did not cover this aspect. Thus, no conclusions can be reached as to the level or adequacy of compliance with this requirement.

Application of EDD measures by DNFBPs

320. Assessors noted little to no understanding and application of EDD measures for PEPs, TFS related to TF and higher risk countries identified by FATF, by entities in the DNFBP sectors. This could be attributed to a low understanding of risk-based approach to application of CDD measures mainly as a result of limited supervision and monitoring of the sector

5.2.5. Reporting obligations and tipping off

Reporting Generally

321. Reporting entities in Guinea Bissau are subject to reporting obligations under the AML/CFT law. The country's AML/CFT reporting regime is divided into two: (a) suspicious transaction reports (STRs), and (b) currency transaction reports (CTRs) – a

threshold based report (transactions above XoF15 million). Although all FIs and DNFBPs are subject to the same reporting obligation, in practice, only the commercial banks are fulfilling the reporting requirements.

322. Banks generally demonstrated a good understanding of their reporting obligations. The internal process and procedures for filing reports are incorporated within the AML/CFT policies and procedures of the banks. A few of them have automated systems in place for monitoring and detecting suspicious activities. The automation is based on pre-defined parameters. Reports to the FIU are filed manually (hard copies or electronic devices such as CDs), until November/December 2020 when the FIU set up an online reporting portal. The effectiveness of this system could not be ascertained, as implementation has barely started. With exception of one bank which indicated that STRs are submitted to management for approval before being filed to the FIU, other Compliance Officers informed the assessors that they have sufficient independence to file STRs, without the permission or review of the Board of Directors or head office (where applicable). Statistics provided by the country indicate that, of the five banks, one did not file STRs during the review period. Overall, the assessment team considers the existing level of reporting, especially filing of suspicious transactions to the FIU to be low amongst the banks, considering the nature of the sector's business and the ML/TF risks associated with it. In general, the FIU is expressed satisfaction on the quality of STRs submitted to it.

323. Non-bank FIs, including insurance companies, mobile money service providers and foreign exchange bureaus, as well as DNFBPs demonstrated limited understanding of the process of identifying and reporting suspicious transactions. None of these entities have filed STRs or CTRs to the FIU in the period under consideration.

324. The statistics of STRs and CTRs filed by reporting entities to the FIU from 2017 to 2020 is presented in the Table below.

Table 5.1. STR and CTRs filed to the FIU by reporting entities, 2017-2020

SECTOR	2017		2018		2019		2020	
	STR	CTR	STR	CTR	STR	CTR	STR	CTR
Commercial Banks	7	0	13	3	8	30	5	51
NBFIs	0	0	0	0	0	0	0	0
DNFBPs	0	0	0	0	0	0	0	0
Total	7	0	13	3	8	30	5	51

325. As highlighted in the table above, 100% of the STRs submitted to the FIU between 2017 and 2020 was filed by commercial banks. Although this may seem consistent with the materiality and risk profile of the banking sector in Guinea Bissau based on the volumes and values of transactions processed, given the significance of the sector and the risks it faces, the overall number of STRs filed by the sector is low. Assessors were informed by the authorities that most banks do not want to file STRs for fear of repression. One bank indicated that its front staff are reluctant to report STRs, as this is seen as reporting customers. In addition, the lack of sophisticated automated process for monitoring transactions in most of the banks (as noted by BCEAO in its inspection reports, and acknowledged by some of the banks during meeting with them), implies that the banks do not have an effective surveillance of suspicious transactions, which in the views of the assessors, adversely impact on their capacity to effectively identify and report STRs.

326. The suspected underlying predicate offences relating to the STRs filed to the FIU are tax fraud and corruption, which reflect only few of the major proceed generating offences identified in the draft NRA report. In addition, the 2018 annual report of the FIU noted that some of the STRs were filed on grounds of suspicious cash deposits (which is consistent with the cash-based nature of the Guinea Bissau's economy), and bank/wire transfers. This could be indication that some of the banks are monitoring cash related transactions and wire transfers and making reports where there is suspicion.
327. STRs filed to the rose by 54% from 2017 to 2018 and show a steady decline from 2019 to 2020. The country attributed the rise in 2018 to the sensitization and trainings provided by the FIU, and the decline in 2019 to the political tension arising from the 2019 legislative and presidential elections. No explanation was provided for the decline in the number of STRs received in 2020. However, the declining total number of STRs filed between 2019 and 2020 is an indication that authorities need to take concrete steps (as noted above) to improve the quantum of STRs submitted to the FIU. CTR volumes have been on the steady increase, rising from three in 2018 to fifty-one in 2020. This appears a positive step, however, given the cash nature of the country's economy, this could be significantly improved. None of the STRs relate to TF. This does not reflect the risk profile of the country given the medium low rating for TF risk in the NRA (see IO.1). The lack of TF related STRs could be attributed to lack of training to build the necessary capacity to detect TF related STRs and sound automated monitoring system in most of the banks.
328. The FIU provides limited feedback, including acknowledging receipt to reporting entities on STRs filed. Generally, there is need for a more robust, structured and systematic feedback to reporting entities.
329. As noted earlier, non-bank FIs and DNFBPs did file report to the FIU during the period under consideration. This could be attributed to limited or lack of awareness of risk and AML/CFT obligations; lack of or limited supervision and monitoring of the sectors; the non-application of proportionate and dissuasive sanctions and enforcement actions by supervisors for non-compliance with AML/CFT obligations, inadequate or lack of training on AML/CFT issues; as well as lack of sector-specific AML/CFT guidance, especially to the DNFBPs (see IO.3 for details). Overall, the non-reporting of STRs by these entities is a major concern as some of them (e.g foreign exchange bureaus, and lawyers) are considered to have medium to high risks in the draft NRA.

Tipping Off

330. Banks generally have a good understanding of tipping-off obligations included in their AML/CFT policies and procedures, and the consequences of committing this offence. Some of the banks have also introduced additional measures by including tipping-off as a topic in their internal training to their employees to ensure that tipping-off does not occur when an STR has been filed with the FIU. For the non-bank FIs and DNFBP sectors which have not filed STRs, assessors are unable to draw conclusions as to whether tipping off measures exist or any available tipping-off preventive measures are effective. Overall, as at the time of onsite visit, there has been no reported case of breaches or concerns in relation to tipping off.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

Financial Institutions and VASPs

331. FIs, particularly banks have a good understanding of the internal controls and procedures needed to support compliance with AML/CFT requirements. Banks which are part of international groups have robust group-wide internal controls and procedural programmes that are well documented and reviewed. They demonstrated good understanding of risk, compliance and management programmes. These include having three levels of risk management – first line of defence - the customer facing staff, who reports the suspicions and high risk indicators to the AML/CFT compliance staff, second line of defence - the AML/CFT compliance staff, who is responsible for monitoring, analyzing and reporting the transactions, assessing ML/TF risks of the institution, etc., and the third line of defence - the internal audit. Assessors were informed that that the reports of the internal audit are presented to the Board of Directors for review and to ensure compliance. These banks have also established AML/CFT policies and their internal controls also include automatic systems for transaction monitoring, and periodic reporting to the management. These are less developed for the other banks, with some not having done audit or independent AML/CFT reviews.
332. The majority of the FIs, particularly banks have established *compliance* function, and appointed compliance officers with requisite skills. In some cases, the compliance functions are located within internal control or legal departments (draft NRA). Consequently, some of the compliance officers have other additional functions within their institutions. It is the view of the assessors that the location of compliance functions in other departments could adversely impact on the independence of the compliance officers. From discussions with the banks, assessors noted that compliance functions appear not to be sufficiently well resourced or staff in most of the banks, while it is not clear if they have screening programmes for staff on recruitment. Most of them have conducted little to no training for their staff. It does appear that they rely on the FIU and the BCEAO to train their employees. Statistics by the country indicated these authorities have only provided few training to FIs.
333. Implementation of internal control procedures by non-bank FIs varies but generally rudimentary, and in some instances, lacking. Majority do not have AML/CFT compliance functions, and where they exist, they are not well-structured, not adequately resource and rarely subject to internal audits. In addition, staff are rarely trained on AML/CFT, except for the limited trainings provided by the FIU.
334. The BCEAO in its onsite inspections of banks, identified some shortcomings in the automated monitoring processes in three of the five banks due to lack of efficient tools, and inadequate staff training on AML/CFT issues in four of the five banks (see IO.3). These are significant shortcomings, since robust and effective preventive measures can only be applied by reporting entities if their staff have proper training and while automated monitoring process is essential to facilitate identification and reporting of suspicious transactions.
335. There are no legal or regulatory requirements, which impede the implementation of internal controls and procedures to ensure compliance with AML/CFT requirement.

DNFBPs

336. Internal AML/CFT control measures in the DNFBPs are generally lacking, or where they exist, are less developed. They do not have structured compliance function, no designated AML/CFT compliance officer to oversee the implementation of their AML/CFT controls, and rarely provide training to staff on AML/CFT issues.

Overall conclusions on IO.4

337. There is a marked variance in the awareness and application of AML/CFT preventative requirements in the FIs and the DNFBPs. Overall, the application of the preventative measures is stronger in the banking sector, and particularly in banks affiliated to international financial groups. Application of preventive measures by NBFIs and DNFBPs is weak or at best, still in the early stages of implementation.
338. The level of understanding ML/TF risks and AML/CFT obligations varies across the various financial sectors, with the large banks belonging to international financial groups ahead of the rest. Banks have conducted risk assessments (albeit at different levels of sophistication) in relation to transactions, customers and products applicable to their business operations. As a result, they generally demonstrated a good understanding of ML/TF risks that apply to them and have put in place mitigating controls which have improved their compliance levels with AML/CFT requirements. However, deficiencies in the application of CDD measures including verification of BO, the conduct of internal audits, and the conduct of appropriate training impact their abilities to aptly mitigate these risks. Understanding of ML/TF risks and AML/CFT obligations by NBFIs is mixed but generally low.
339. DNFBPs have not undertaken any ML/TF risk assessments and therefore do not understand ML/TF risks that apply to them. As a consequence, they have not applied AML/CFT requirements consistent with their risk profiles and thus demonstrated a low level of compliance with AML/CFT requirements.
340. The low level of suspicious transaction reporting by banks and none-reporting by NBFIs and DNFBPs indicated a lack of effectiveness of the suspicious transaction reporting regime.
341. In general, the absence of proper guidance, especially for DNFBPs, and the lack of or limited monitoring/supervision of reporting entities for compliance with AML/CFT requirements affected the level of effectiveness.
342. **Guinea Bissau has achieved a low level of effectiveness for IO 4.**

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions and VASPs

- a) The legislative and regulatory measures in place to prevent criminals and their associates from participating in the ownership, control or management of FIs, are generally sound. At market entry stage, relevant information is required and where an applicant is not from the UEMOA, additional information is requested from relevant home supervisory authorities. The control measures apply to all officers, directors, shareholders and beneficial owners.
- b) BCEAO demonstrated a reasonably good understanding of ML/TF risks in the banking sector. They have developed questionnaire which enable them obtain information on risks management from banks, in addition to the risk rating system (prudential) established by Banking Commission. However, they have no classification of the institutions subject to their ML/TF risk profile. Nonetheless, the current practice provided some limited basis for risk based supervision. Supervisory authorities for insurance companies and other FIs have poor knowledge and understanding of the ML/TF risks facing reporting entities in their various sectors. They lack the necessary supervisory methodologies that can provide them information on the nature of ML/TF risks at the level of individual institutions and consequently, are yet to adopt a risk-based approach to AML/CFT compliance supervision.
- c) While AML/CFT supervision is being carried out in the banking sector, some improvements are required, including the depth of analysis on issues covered during onsite visit, frequency of onsite visits, and follow up actions on recommendations from previous onsite examinations. AML/CFT component in the supervision of foreign exchange bureaus is grossly limited. No AML/CFT inspections have been carried out in the other FIs. This makes the determination of the extent to which FIs in these sectors are effectively implementing AML/CFT preventive measures difficult. Generally, supervisors (except the BCEAO) lack adequate resources to undertake their supervisory roles.
- d) The AML/CFT legal and regulatory frameworks provide a wide range of sanctions for non-compliance with AML/CFT requirements by FIs. However, these sanctions, with the exception of few remedial actions, are not being applied in practice despite significant violations noted during AML/CFT supervision. The remedial actions are not proportionate, dissuasive and effective.

- e) Financial supervisors have issued some AML/CFT directives to promote the understanding and implementation of AML/CFT obligations by FIs. In addition, the FIU has undertaken independently or jointly, some outreach and training/awareness-raising initiatives, and also participated in the meetings of the Forum of Chief Compliance Officers of banks to discuss common challenges and assist them to improve their compliance culture and practices. Overall, the impact of the initiatives by the supervisors and the FIU has been very limited in respect of the NBFIs.

DNFBPs

- a) Licensing or registration procedures of DNFBPs are undertaken by prudential regulatory authorities and self-regulatory bodies, including the Ministry of Tourism, the Bar Association, and National Order of Chartered Accountants-Guinea Bissau (ORNATOC-GB). However, the AML/CFT component is generally not taken into account. In addition, the existing procedures are not adequate to sufficiently prevent criminals and their associates from holding a significant or controlling interest, or holding a management function in a DNFBP.
- b) Guinea Bissau has not designated AML/CFT oversight authorities for DNFBPs. Existing prudential supervisors and SRBs, especially the Ministry of Tourism, the Bar Association, and ORNATOC-GB exhibited very little knowledge and understanding of ML/TF risks present in their respective sectors, do not have tools/methodologies that can enable them understand the nature of ML/TF risks at the level of individual institutions, and have not adopted a risk based approach to AML/CFT compliance supervision.
- c) No AML/CFT supervision has been undertaken in the DNFBP sectors. Thus, no sanction has been applied to DNFBPs for non-compliance with AML/CFT obligations.
- d) No AML/CFT sector specific guidelines have been provided to the DNFBPs. Similar technical support (eg training) to the DNFBPs by the FIU on AML/CFT is limited and still evolving, with little impact on compliance.

Recommended Actions

Financial Institutions and VASPs

- a) Risk-based AML/CFT supervision should be enhanced for banks and introduced for NBFIs. In Particular, the Banking Commission should incorporate AML/CFT risk criteria/elements into its current risks rating system for banks in order to further provide a sound basis for AML/CFT risk based supervision. BCEAO and Banking Commission should: (i) establish a classification of credit institutions according to their ML /TF risk profile, (ii) deepen the depth of analysis of onsite reports, (iii) broaden the scope of their AML/CFT inspections to cover all AML/CFT requirements, and (iv) increase the frequency of their

AML/CFT on-site inspections on FIs. Other financial supervisors should: (a) adopt robust risk assessment methodology, including risk classification/mapping and take appropriate steps to fully understand the ML/TF risks of the FIs they supervise so that their supervisory programmes, including on-site and off-site inspection, general monitoring, follow-up measures are guided by risk considerations, (b) develop appropriate risk based supervisory framework to guide their supervisory activities, (c) build technical capacity to adequately supervise and enforce compliance with AML/CFT requirements, and (d) commence risk based supervision for AML/CFT for entities under their purview.

- b) Supervisory authorities should ensure that their internal risk assessment procedures or systems and AML/CFT supervisory activities in FIs should take into account the outcomes of the NRA.
- c) Supervisory authorities should ensure application of a wide range of sanctions, especially monetary penalties, and enforcement actions, which are dissuasive, proportionate and effective on FIs that do not comply with AML/CFT requirements in order to improve the sector's overall level of compliance. In particular, supervisors should strengthen political will aimed at ensuring effective implementation of administrative sanctioning regime, especially monetary penalties. In addition, sanctioned institutions should be compelled to publish in their annual reports the sanctions imposed on them to serve as deterrence.
- d) Supervisory authorities should follow up on AML/CFT compliance deficiencies observed during inspections (onsite or offsite) to ensure that they have been rectified and pursue sanctions where compliance deficiencies have not been rectified.
- e) Guinea Bissau should provide adequate resources (material, human and technical) to the supervisors, especially the General Directorate for the Supervision of Financial Activities and Insurance, and the supervisory agency for savings and microfinance activities (ASAPM) under the Ministry of Finance and Economy in order for them to be sufficiently equipped to undertake effective risk-based supervision and monitoring of FIs for AML/CFT compliance.
- f) Supervisory authorities and the FIU should enhance collaboration in outreach, training, and feedback to FIs identified as higher risk, especially banks, foreign exchange bureaus, and remittance service providers in order to promote adequate understanding of the ML/TF risks facing them and proper implementation of mitigating controls on a risk-sensitive basis.
- g) Guinea Bissau should consider regulating VASPs, even though these entities do not currently exist in the country. In this regard, regulatory authorities should, amongst other things, consider developing appropriate licensing /registration procedures for VASPs
- h) Together with other WAEMU countries and with the support of GIABA Secretariat, engage the Community supervisory authorities particularly the Banking Commission, and the Regional Commission for Insurance Control (CRCA) about AML/CFT and encourage them to make these issues a leading

component of their work, in particular when developing supervisory control strategies, plans and tools.

DNFBPs

- a) Guinea Bissau should designate appropriate competent authority(ies) or SRBs with responsibility for monitoring or supervising DNFBPs for AML/CFT compliance. The authority(ies) or SRBs should be vested with adequate powers and be provided with adequate technical, human and material resources to conduct inspections and apply sanctions for non-compliance with AML/CFT requirements.
- b) The Ministry of Tourism, SRBs and other prudential regulatory authorities should strengthen licensing/registration regimes for entities under their purview, especially higher-risk sectors (eg lawyers), which have lax entry controls and ensure that there are consistent controls to prevent criminals owning, controlling or operating businesses in these sectors.
- c) Guinea Bissau should commence the monitoring or supervision of DNFBPs for AML/CFT compliance. In this regard, supervisory authorities should develop and implement robust risk assessment methodology, including risk classification/mapping to better understand the ML/TF risks of the entities they supervise; develop appropriate risk based supervisory framework to guide their supervisory activities; and build necessary technical capacity to adequately supervise and enforce compliance with AML/CFT requirements. Supervisors should take into account the outcomes of the NRA in their AML/CFT supervisory activities. Overall, Guinea Bissau should prioritize the monitoring or supervision of higher-risk DNFBPs as identified in NRA, especially lawyers.
- d) The FIU in collaboration with DNFBPs supervisors and SRBs should undertake systematic outreach, training, and feedback to DNFBPs, especially those identified as higher risk in order to promote adequate understanding of the ML/TF risks facing them and proper implementation of mitigating controls on a risk-sensitive basis. In addition, the FIU in collaboration with SRBs should develop and issue well structured, practical and sector-specific AML/CFT guidance to DNFBPs to further promote understanding of their AML/CFT obligations.

343. The relevant Immediate Result examined and evaluated in this chapter is IO. 3. The relevant Recommendations for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

6.2. Immediate Outcome 3 (Supervision)

344. The Ministry of Economy and Finance (MEF)⁶¹ and sectoral supervisors (BCEAO⁶², Banking Commission, and CIMA) are assigned shared responsibility for supervising AML/CFT compliance of FIs in Guinea Bissau. The securities sector in Guinea Bissau is not developed and there is no capital market activities and thus, CREPMF is not

⁶¹ General Directorate for the Supervision of Financial Activities and Insurance under the MEF

⁶² Reference to BCEAO all through this chapter (supervision) and other parts of the report refers to the national BCEAO in Guinea Bissau.

operational in the country. DNFBPs are supervised by various relevant competent authorities (prudential), including the Ministry of Tourism (casinos), Bar Association (lawyers), and the National Order of Chartered Accountants-Guinea Bissau-ORNATOC-GB (Accountants/auditors). The various supervisory authorities have established licensing/registration arrangements in respect of the entities under their purview. However, the application of licensing requirements is more robust in the financial sector. AML/CFT supervision in the financial sector requires significant improvements in depth and scope while AML/CFT supervision is yet to commence for DNFBPs. The limited and/or lack of onsite inspections of the reporting entities largely inhibited Guinea Bissau's ability to demonstrate that it promptly identifies, remedies and sanctions, where appropriate, violations of AML/CFT requirements.

345. The conclusions in IO.3 are based on statistics and examples of supervisory actions provided by Guinea Bissau; guidance issued by the competent authorities; discussions with supervisors and other relevant authorities; and representatives of reporting entities. Overall, positive and negative aspects of supervision were weighted heavily for the banking sector, remittance service providers and foreign exchange bureaus (bureau de change), moderately heavy for lawyers, and less heavily for less important sectors (insurance sector, MFIs, casinos, accountants, DPMS etc). This weighting is based on the relative importance of each sector and Guinea Bissau's risks, context and materiality. See Chapter 1 for more details on the weighting or the ranking of each sector in terms of Guinea Bissau's risks, context and materiality.

6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market

Financial Institutions and VASPs

346. Guinea Bissau has frameworks⁶³ in place governing the licensing and registration of financial institutions to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in financial institutions. There are a number of regulatory authorities with responsibilities for overseeing market entry within the financial sector in Guinea Bissau. The BCEAO, Banking Commission and MEF⁶⁴ licenses credit institutions [banks, foreign exchange bureaus, Microfinance institutions/decentralized financial systems, and electronic money issuers (EMIs)], while CIMA and the MEF⁶⁵ license insurance companies. The Laws establishing the Community authorities and the Decrees setting up the Departments at national level confer broad powers on these authorities to take necessary measures to prevent criminals and their associates from holding a significant share or occupying a managerial position in financial institutions under their supervision. These powers are further reinforced by the AML/CFT legislation.
347. The licensing process for financial institutions (with exception of securities companies which do not exist in Guinea Bissau) is comprehensive and involves assessment

⁶³These include the Banking Law, Instruction n° 005-06-2010 of June 14, 2010 of the BCEAO, Instruction n° 017-04/2011, Instruction n° 008-05-2015 of May 21, 2015, and the CIMA Code

⁶⁴ This role is performed by the Directorate for the Supervision of Financial Activities under the General Directorate for the Supervision of Financial Activities and Insurance in the MEF

⁶⁵ This role is performed by the Directorate for the Supervision of Insurance under the General Directorate for the Supervision of Financial Activities and Insurance in the MEF

of fitness and propriety of proposed significant shareholders, beneficial owners, directors and senior management of the applicant, as well as proof of the origin of the funds at the point of market entry. The Banking Act⁶⁶ and Directive N° 017-04/2011 set out the list of documents and information needed for the issuance of a license or for the licensing of credit institutions. The documents include articles of association, certificates of incorporation /registration number, academic and professional certificates and identification documents. With regard to banks, shareholders having at least 5% of the voting rights or share capital are required to provide, for natural persons, a notarized report on the status of their assets, the source of the funds used to subscribe to the company's capital and a legally certified statement on the legality of the funds, by any authorized representative of each legal entity. The implementation of the measure on the source of funds helps in preventing illicit funds entering the financial market. For Management staff and Directors, the approval process involves fit and proper test. This includes criminal background checks and evaluation of the integrity and reputation of the applicants. Applicants are required to provide certified copies of their identities, and copies of their curriculum vitae, outlining in particular, academic background and professional experience (for assessment of applicant's competence and capability). In respect of the fitness and propriety of a foreign applicant (where the applicant is from a jurisdiction outside the UEMOA zone), information is requested from the counterpart supervisory authority regarding the integrity and competence of the applicant before approval is granted.

348. With respect to insurance, the licensing requirements and procedures are set out in the CIMA Code and the implementing text or regulations. These frameworks provide for the process of the licensing of insurance companies and brokers, as well as their managers and directors. The process includes fit and proper test and a background check to determine the suitability of the applicants. In line with the provisions of Articles 20.1 and 315.2 et seq. of the CIMA Code, the granting of licenses by MEF is subject to approval by the regional Insurance Supervisory Commission (CIMA). The decisions and opinions of the CIMA are enforceable and may only be repealed by the CIMA Council of Ministers and within 2 months of their notification. Shareholders having at least 20% of the voting rights or share capital are required to provide, for natural persons, a notarized report on the status of their assets, the source of the funds used to subscribe to the company's capital and a legally certified statement on the legality of the funds, by any authorized representative of each legal entity. As noted earlier, the implementation of the measure on the source of funds helps in preventing illicit funds entering the financial market.

349. In relation to the Micro financial institutions/ Decentralized Financial System (DFS), the license for operation is granted by the MEF (ASAPM - supervisory agency for savings and microfinance activities) after approval of the Banking Commission. BCEAO Instruction No. 005-06-2010 of 14 June 2010 sets out the licensing procedures and requirements of DFS in the UEMOA Member States subject to control of the BCEAO. Requirements for approval or authorization to carry out activities of issuing electronic currencies are governed by Instruction No. 008-052015. As part of the licensing requirements by the BCEAO, the applicant must provide amongst other things detailed information on shareholders, managers and partners (certified copies of identity documents, dated and signed curriculum vitae, criminal records or any other equivalent document dating less than three (3) months); certification of registration; the articles of association; approval by Ministry of Finance and Economy, financial documents and information; and

⁶⁶ Articles 13-15, 18

a copy of the contracts and protocols concluded with the technical partners as part of the activity of electronic money.

350. In general, the fit and proper checks for shareholders and senior management of FIs are carried out at both entry stage and when there is significant changes following entry, including post-license acquisition of a significant interest in the entity. FIs under the supervisory purview of BCEAO, Banking Commission and MEF are required to communicate any changes in ownership or management function to them (supervisors) for approval upon Fit and Proper test. However, it is not clear what measures supervisors have adopted to check or identify possible non-reported changes as onsite inspection reports reviewed by the team did not cover this aspect. As part of the approval process, supervisors also make an on-site visit to certify the address and suitability of the premises as a mechanism to prevent shell banking.
351. The BCEAO indicated that where there are missing information in the application requirements, applicants are giving time to provide such information. The BCEAO and other supervisory authorities demonstrated that where there is doubt about the trustworthiness of the information provided during the licensing or market entry process, they are able to seek additional information to verify the accuracy of the information. They highlighted some cases⁶⁷ where approval process was delayed until the information provided has been satisfactorily verified. However, the authorities did not provide any evidence to support their claim that they screen applicants against the sanctioned lists.
352. Guinea Bissau did not demonstrate that the entry supervision/monitoring process have prevented criminals from controlling regulated institutions. There was no statistics or case examples on applications received, processed and refused by supervisors in the period under review. These (statistics and case examples) would have been helpful in demonstrating effective implementation of licensing controls, including declining applications on the basis that the directors of the applicant failed the fit and proper tests. The BCEAO indicated that no new application was processed for banks during the period under consideration. It is not clear if this applies to other FIs under its supervision. Representatives of the other supervisors interviewed indicated that there were no situations that would warrant rejection of applications (however, no statistics of new applications processed were provided). It does appear that the supervisors did not authorise any new FI to operate in Guinea Bissau during the period of review, therefore there was no opportunity to identify breaches in their licensing requirements at the market entry stage. Additionally, there is no evidence that supervisors have ever rejected application because of existence of a confirmed STR linked to promoters of the application. Discussion with the authorities did not indicate that they have other means to reject applications, for example, through early engagements with other supervisors or implemented measures to detect unauthorised or unlicensed business activities in the period under consideration. Although no reason was provided for their inability to detect unauthorised or unlicensed business activities, it is the view of the assessors that this may be due to the lack of resources and technical capacity in some of the supervisory authorities. This may lead to some breaches of licensing requirement going undetected and could present problems to the system.
353. As noted earlier, VASPs do not exist in Guinea Bissau. However, there is the need for the country to recognize this emerging sector and likely ML/TF risk it could pose, and begin to consider developing appropriate licensing/registration procedures.

⁶⁷ BCEAO provided supporting documents for the cases

DNFBPs

354. There are some competent authorities and self-regulatory bodies, including the Ministry of Tourism, the Bar Association, and National Order of Chartered Accountants-Guinea Bissau (ORNATOC-GB) responsible for licensing or registering some DNFBPs and to implement procedures and processes for market entry requirements in their respective sectors. The application of measures to prevent criminals and their associates from holding or being the beneficial owner of controlling interests or holding senior management positions in respective DNFBPs usually happens during the licensing or professional certification process. However, existing measures are primarily for prudential purposes. The Ministry of Tourism is the licensing authority for casinos, while the ORNATOC-GB and Bar Association are the self-regulatory bodies of Chartered Accountants and lawyers, respectively.
355. In relation to casinos, before being granted license, applicants for casino business must be a registered company. As part of the approval process, the Ministry of Tourism undertakes assessment of the premises and machines. Overall, the measures in place are weak and do not include AML/CFT components. The Ministry could not demonstrate that it undertakes adequate fit and proper test, and conduct background check to determine the suitability of the applicants. It is also not clear if any checks are being conducted after issuing the license. Given that casinos are less important in the context of Guinea Bissau, this shortcoming is given less weight.
356. Regarding lawyers, notaries and accountants, entry into these professions is guided by Community Regulations⁶⁸ which set out the requirements, including educational qualification and sound reputation of the various professionals. In general, the Bar Association and ORNATOC-GB have registration procedures for membership which are akin to fit and proper requirements. For instance, the Bar Association requires new members to obtain a reference letter and statement of sponsor from a senior lawyer with 10 years in practice. It also conducts criminal record checks. Bar Association and ORNATOC-GB undertake on-going reviews of the professional conduct of their members. Though this process is yet to integrate AML/CFT elements, it however, provides some controls that help to prevent criminals or their associates from operating within the sector. In case of breaches of ethical and integrity standards, they can apply disciplinary actions, such as suspension and withdrawal of licenses but no such actions have been taken in the context of AML/CFT; and statistics on any other actions taken were not provided to the assessors. The Bar Association indicated that it has rejected some applications on the basis of academic qualifications.
357. Regarding other DNFBPs, the assessment team was not provided with the registration, licensing and other controls implemented by supervisors or other authorities to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in the DNFBPs. Although some of DNFBPs are registered as companies with the Business Formalization Center (CFE), there are capacity and resource constraints at the CFE to carry out proper background checks, including on the directors, senior management of the DNFBPs. In addition, there are no measures to ensure that criminals and their associates are prevented from being the beneficial owners of DNFBPs. These create gaps for possible infiltration of criminals and their associates within the DNFBP sector.

⁶⁸ For lawyers, Articles 14, 15 and 39 of Law No. 94-042 / AN-RM of 13 October 1994; Notarie - Ordinance No. 2013-027 / P-RM of December 31, 2013; and Law No. 08-015 of June 4, 2008, in the case of accountants

6.2.2. Supervisors' understanding and identification of ML/TF risks

Financial Institutions and VASPs

358. The BCEAO demonstrates a reasonably good understanding of the ML/TF risks of the sectors it supervises, especially the banking sector. The understanding drives largely from its operational activities (onsite and offsite supervision) and its participation in the NRA. The scope of the NRA included assessment and identification of ML/TF threats and vulnerabilities in Guinea Bissau which provided some useful source of information that contributes to BCEAO's understanding of ML/TF risks in the country.
359. Although the team did not meet with the Banking Commission, general information provided by the BCEAO and supporting documents provided by the country indicate that the Banking Commission through Circular No 04-2017-CB-C, established a risk management system for credit institutions and financial companies. The system sets out the methodology for the analysis and mitigation of all risks, including risks inherent in products, services, customers, distribution channels and geographic locations. However, the risk management system is more of a prudential risk model with little or no ML/TF factors or criteria to adequately determine the level of ML/TF risk and the necessary mitigating controls. Nevertheless, the methodology includes a half-yearly report based on a questionnaire prepared for credit institutions and a requirement for the institutions to submit an annual report on risk management to the Banking Commission. Analysis of the information obtain through the questionnaire (an off-site supervisory tool) and the annual reports assist to promote understanding of risks by BCEAO and Banking Commission. However, authorities met could not demonstrate that they are able to classify institutions according to their risk profiles on the basis of this mechanism.
360. Information from the BCEAO and supporting documents also indicate that the Banking Commission has also established a UMOA Credit Rating System (SNEC-UMOA) which is a rating tool for financial institutions based on a set of ten (10) criteria, including seven (7) core and three (3) complementary. The core criteria include capital, corporate governance, information and reporting system, internal control, financial structure, risk management and financial performance. They are used to position credit institutions on a risk scale. The three (3) additional criteria relating to the environment, shareholding and development prospects are used to refine the first rating based on the so called core criteria and to establish a segmentation of the levels of risk. The SNEC-UMOA includes a list of one hundred (100) sub-criteria for risk assessment, each broken down into ten (10) sub-criteria whose ratings are summarized through a simple arithmetic average. The implementation of this Credit Rating System provided some understanding of risk for the supervisors. Whilst this is a positive step, the risk understanding that derives from knowing the institutions credit score and market presence is not necessarily relevant to AML/CFT.
361. Supervisory authorities of credit institutions have not carried out any formal sectoral ML/TF risk assessment in order to develop an integrated understanding of the ML/TF risks within the sectors, individual entities, products and delivery channels. Discussions with the authorities, especially BCEAO, during the onsite indicate that they have a general understanding of ML/TF risks but there was no documented evidence of a common understanding of the risks and the understanding of ML/TF risks across or within sub-sectors of the financial sector. However, BCEAO's understanding of risk may be limited by the lack of implementation of a robust ML/TF risk assessment methodology and

shortcomings identified under IO.1 regarding identification of some threats and vulnerabilities, and consideration of some contextual factors at national level.

362. Other financial sector supervisors, especially the General Direction of Supervision of Financial Activities and Insurance (DGSAFs), and Supervisory Agency for Savings and Micro-Finance Activities (ASAPM) have limited understanding of ML/TF risks in their respective sectors. They have not identified the ML/TF risks facing the entities which fall under their supervision and therefore have limited understanding of ML/TF risks. This may be attributed to the lack of internal ML/TF risk assessment tools or risk assessment methodology necessary to build a solid understanding of ML/TF risks inherent in their sectors. They had not also carried out any sectoral ML/TF risk assessments in order to develop an integrated understanding of the ML/TF risks within their sectors. They demonstrated low understanding of sector level risk or understanding of the risk associated with the institutions under their supervision. DGSAF and ASAPM participated in the NRA, however, they demonstrated limited level of understanding of risk relating to their sectors, which may be attributed to the fact that the NRA report is yet to be finalized and disseminated.
363. Discussions with the BCEAO, DGSAF and ASAPM during the onsite indicate that, except for the NRA exercise, the various supervisors do not, as a matter of course, collaborate to routinely share information to inform each other's understanding of financial sector risks including ML/TF risks. A stronger collaborative and co-operative framework amongst all supervisors is encouraged to safeguard against the ML/TF risks to which Guinea Bissau is exposed.

DNFBPs

364. In relation to the DNFBPs, existing prudential supervisors and SRBs, especially the Ministry of Tourism, the Bar Association, and ORNATOC-GB exhibited very little knowledge and understanding of ML/TF risks present in their respective sectors. Assessors observed that the DNFBPs supervisors were only lately coming to grips with the requirements of the AML/CFT regime and are yet to establish the necessary risk assessment tools. Consequently, they have not identified the ML/TF risks facing the entities which fall under their supervision and therefore have little or no understanding of the relevant ML/TF risks. Although some of them participated in the NRA process, the demonstrated limited understanding of the findings of the NRA relating to their sectors. This may partly be attributed to the fact that the NRA report has not yet being finalized and disseminated at the time of the onsite. In addition, the limited or non-coverage of some of the DNFBPs in the NRA limits the general understanding of risks in the sector.

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

Financial Institutions and VASPs

365. The application of risk-based approach to AML/CFT supervision by BCEAO is at rudimentary stage and can benefit from significant improvement. Credit institutions are required to perform their internal risk assessment and forward the reports together with the identified risk and mitigation measures to the relevant authorities (BCEAO and Banking Commission). These are analysed and the results provide the basis for BCEAO to monitor and supervised the institutions, including for AML/CFT on risk sensitive basis. As noted earlier, the implementation of the UMOA Credit Rating System (SNEC-UMOA) provide further basis for the implementation of risk based approach to supervision. Although the BCEAO did not provide any evidence of standard risk mapping of the credit institutions

during the onsite, the current practice provides a limited basis for risk-based supervision. The BCEAO indicated that it has a Risk-Based Supervisory Framework which guides its supervision on a risk sensitive basis, however, a copy was not provided to the team. In addition, it is not clear if the Bank has developed an AML/CFT Examination Manual to serve as a guide to BCEAO's staff to further strengthen AML/CFT inspection in the banking and other relevant sectors.

366. The BCEAO has conducted some AML/CFT onsite inspections on commercial banks on its own and jointly with the MEF for foreign exchange bureaus but yet to begin AML/CFT supervision on other institutions under its purview. BCEAO's and MEF's on-site examination methodology for foreign exchange bureaus incorporates AML/CFT inspection as a component of the prudential examination. Thus, even though there is no AML/CFT-specific onsite examination, the on-site prudential visits have AML / CFT components. In relation to the banking sector, the BCEAO carries out AML/CFT onsite inspection distinct from prudential examination.
367. A review of the onsite examination reports on banks conducted by BCEAO in 2019 revealed a lack of comprehensiveness or low depth of coverage of AML/CFT issues. The examinations covered the reviews of governance, client identification/CDD, identification of suspicious transactions, AML/CFT policy and procedures, risk assessment and management, as well as relationship with supervisory authorities. The onsite examinations did not cover certain AML/CFT requirements such as record keeping, and independent audit review, as no information was found in the inspection reports in these areas. BCEAO issued a report to the banks highlighting the deficiencies noted during the examination and also making recommendations.
368. In general, the findings of the onsite examinations by BCEAO indicated significant deficiencies across all the banks (except one). The main shortcomings noted by the BCEAO across the banks include, deficiencies in CDD, lack of effective tools to detect suspicious transactions and sanctioned persons in real time, low reporting of STRs to FIU, and inadequate AML/CFT training for staff. The letters transmitting the findings of the BCEAO to the examined entities only urged the banks to take necessary steps to address the observed shortcoming and inform the BCEAO of any development in this regard, without providing any specific timeframes within which they should remedy the deficiencies and provide feedback.
369. In 2020, the BCEAO undertook an online verification survey on the implementation of the recommendations by banks of the 2019 AML/CFT onsite examinations. The survey found that most of the shortcomings identified have not been addressed. In particular, the report of the survey noted that the banks need to be more committed to minimizing their ML/TF risk and should implement the BCEAO's recommendations as soon as possible. Although the BCEAO informed the assessment team that it provides some technical support to the banks to address observed deficiencies, the outcomes of the survey suggest that the support is inadequate as it has not translated into effective compliance by the banks.
370. From discussions with BCEAO, it does not appear that the frequency of AML/CFT examinations of banks is determined by nature and level of ML/TF risks but the programme of regular examinations. This is more so as the AML/CFT inspections were carried out same period /dates across all the banks. However, in terms of determining the scope of AML/CFT examination, BCEAO conducts some risk scoping exercise prior to an on-site examination and reviews the extent of compliance during the examinations with respect to the requirements imposed under AML/CFT law.

371. The BCEAO could not demonstrate that, regardless of its supervisory plan, should specific events take place in the course of a year, it is able to pro-actively undertake ad-hoc inspections of individual institutions or horizontal reviews of specific sectors with regard to identified issues. Information was not provided to the evaluation team on the number of cases where the BCEAO initiated ad-hoc inspections based on information it received either from its own activities or following a notification from other competent authorities.
372. In terms of resources available for supervisory activities, the national BCEAO indicated that it has adequate financial resources to perform its supervisory functions. Statistics provided indicate that the BCEAO has only four (4) inspectors specialized in AML/CFT. The four (4) officials are responsible for the AML/CFT component of the BCEAO's inspections. As at the time of onsite, the national BCEAO does not have a dedicated AML/CFT Unit. They indicated that this was not necessary as the Banking Commission which is part of the broader BCEAO structure has specific responsibility for supervision, including AML/CFT⁶⁹. The evaluation team believes that the national BCEAO can benefit from increasing the number of staff dedicated to AML/CFT supervision given the number of sectors and entities (banks, foreign exchange bureaus, etc) under the supervision of the BCEAO as this will reduce the workload of existing staff and enhance effectiveness.
373. The BCEAO and the General Directorate for the Supervision of Financial Activities of the MEF jointly undertook two onsite visits to foreign exchange bureaus (bureau de change) in August and October 2020. The onsite visits were largely prudential with limited AML/CFT component. Reports of the onsite visits indicate that, only the application of CDD by the foreign exchange bureaus was reviewed by the team in relation to AML/CFT measures. Thus, the inspections did not comprehensively cover AML/CFT issues, including reporting of suspicious transactions. Overall, the reports of the two onsite examinations noted general non-compliance by the foreign exchange dealers with AML/CFT requirements. There was no evidence that the findings of the onsite visits were shared with the foreign exchange dealers and no information was provided by the BCEAO and the MEF on what actions they have taken to ensure these entities address the observed deficiencies.
374. Assessors did not meet with the Banking Commission during the onsite as officials of the Commission were not available. Similarly, no information on the supervisory activities of the Commission in Guinea Bissau was provided to the assessors. Thus, it was impossible to make a determination of the effectiveness of the Commission's supervisory activities in the country.
375. The table below provides an overview of the number of on-site inspections undertaken by financial sector supervisors during the review period. Between 2017 and 2020, the authorities conducted AML/CFT onsite inspections on banks only in 2019 and foreign exchange bureaus only in 2020. No inspection was undertaken between 2017 and 2018, and 2020 for the banking sector, and 2017-2019 for the foreign exchange bureaus. Overall, the evaluation team believes the insignificant number of onsite inspections during the review period may be due to inadequacy of human, material and technical capacity within the authorities.

⁶⁹ Information regarding resource availability for AML/CFT supervision, including the number of officials dedicated for this purpose, at the Banking Commission was not provided to the team.

Table 6.1. Number of AML/CFT onsite inspections by financial sector Supervisors, 2017-2020

Type of FI	2017	2018	2019	2020
Banks ⁷⁰	0	0	5	0
Foreign Exchange Bureaus ⁷¹	0	0	0	2
Others	0	0	0	0

376. On the basis of statistics in the above table, it is apparent that the frequency, intensity, quality and scope of financial sector supervisors' on-site examinations is grossly inadequate considering the size and materiality of the sectors under their supervision. Given the significance of the banks in the financial sector, BCEAO should scale-up the frequency and quality of its supervisory oversight of banks on risk basis. Similarly, the supervision of foreign exchange bureaus should be scaled up given that the sector was assessed as having high exposure to ML risk in the draft NRA.

377. The MEF, especially the Directorate for the Supervision of Insurance⁷² and ASAPM⁷³ do not have risk assessment framework or methodology in place to undertake risk assessments as the basis for a risk-based approach to AML/CFT supervision. Similarly, they are yet to develop appropriate framework for AML/CFT supervision, including AML/CFT examination manual. As at the time of onsite visit, they have not conducted any AML/CFT examination of the institutions under their supervisory purview (insurance companies, savings and microfinance institutions).

378. Overall, the lack of AML/CFT supervision for the insurance sector and other FIs makes it difficult for the evaluation team to ascertain their level of compliance with AML/CFT obligations. The evaluation team believes the General Directorate for the Supervision of Financial Activities and Insurance, and ASAPM require significant technical, financial and human resources to be able to adequately undertake their AML/CFT supervisory role.

DNFBPs

379. DNFBPs in Guinea Bissau are yet to be supervised or monitored for compliance with AML/CFT obligations as at time of onsite. Interviews with the Ministry of Tourism, the Bar Association, and ORNATOC-GB revealed that their understanding of AML/CFT issues and responsibilities is low. Assessors also noted that they do not have the necessary framework and the resources to conduct AML/CFT supervision. Some limited monitoring activities have been undertaken by the Bar Association but these are prudential in nature and do not cover AML/CFT compliance issues. In general, the lack of supervision of DNFBPs for AML/CFT has adverse impact on the monitoring of the implementation of AML/CFT measures by DNFBPs. Overall, the vulnerability of the DNFBPs to ML/TF, the weak implementation of AML/CFT measures across the various sub-sectors, and the lack of AML/CFT supervision/monitoring, are serious gaps that present DNFBPs as a weak link in the overall AML/CFT supervisory regime of Guinea Bissau.

⁷⁰ The onsite examination by the BCEAO in 2019 took place the same dates (October 8-11, 2019) across all the 5 commercial banks in Guinea Bissau.

⁷¹ The 2 onsite inspections were jointly undertaken by BCEAO and the General Directorate for the Supervision of Financial Activities in 2020 and covered all foreign exchange dealers that were operational at the time of the onsite visits.

⁷² This is a sub-directorate of the General Directorate for the Supervision of Financial Activities and Insurance within the MEF

⁷³ ASAPM is supervisory agency for savings and microfinance activities

6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions

Financial Institutions, VASPs and DNFBPs

380. Relevant legal frameworks, including the AML/CFT law and other specific texts provide a range of criminal, civil and administrative sanctions applicable to natural and legal persons and empower supervisory authorities to sanction their respective reporting entities in the event of a breach of the provisions of these laws and texts. Broadly, the range of sanctions include warnings, banning of officials from employment, monetary penalties; suspension of operations; remedial actions, revocation / withdrawal of license and others (e.g recommendations). However, sanctions are rarely applied by supervisory authorities notwithstanding cases of non-compliance with AML/CFT obligations identified during inspections.
381. BCEAO's identification of AML/CFT breaches largely occur during the conduct of an onsite inspection. At the end of onsite inspections, a formal letter and findings of the BCEAO are sent to the inspected entities, outlining deficiencies noted during the onsite examination that should be addressed. Thus, the use of remedial measures (especially recommendations directing the FIs to implement actions to rectify the observed deficiencies) has been the predominant focus of the BCEAO in dealing with non-compliance. This measure is never accompanied with monetary sanctions, which in the views of the assessors, is a more effective way of compelling compliance. This is particularly important given the persistent concerns on non-compliance by reporting entities, especially the low or lack of reporting of suspicious transactions. From discussions with BCEAO, it appears the Bank justifies its approach with the fact that the orders made to the reporting entities are generally followed eventually in the context of the recommendations and actions taken for their implementation. However, as noted earlier, the survey conducted by the BCEAO in 2020 found that its recommendations following onsite examinations have not been broadly implemented. Since the survey, there is no evidence of follow-up actions by BCEAO, and no information was provided on specific actions taken by BCEAO to compel implementation of its recommendations.
382. No sanctions were applied for the AML/CFT deficiencies identified by the BCEAO and MEF on banks and foreign exchange bureaus. In the absence of AML/CFT-related sanctions, assessors could not assess their effectiveness, proportionality and dissuasiveness.

DNFBPs

383. Given that all the DNFBP regulators have not yet started AML/CFT supervisory activities and no mechanisms in place for monitoring compliance, statistics on sanctions which could have provided a basis for assessing their effectiveness were not available. No breaches against the AML/CFT laws and regulations were noted and therefore no enforcement actions were taken.

6.2.5. Impact of supervisory actions on compliance

384. The overall impact of supervision on compliance by the financial sector is limited in some FIs (banks and foreign exchange bureaus) and lacking in other FIs. This conclusion is based on several factors, including: (i) the limited number of onsite inspections; (ii) the limited or non-implementation of BCEAO's onsite inspection recommendations; (iii) inability of supervisors to apply AML/CFT sanctions/lack of enforcement actions, and (iv) the low to moderate level of ML/TF risk understanding demonstrated by FIs during the on-site visit (see IO.4). In addition, the limited inspections undertaken as at the time of onsite

focused on commercial banks and foreign exchange bureaus while other sectors are left unsupervised. The results are that the unsupervised entities are vulnerable to ML/TF risks, as they demonstrated inadequate appreciation of ML/TF risks and application of AML/CFT obligations.

385. Beyond the requirement for inspected entities (especially banks) to correct the breaches identified in the course of the BCEAO's inspections, supervisors did not provide other specific actions undertaken to enhance compliance of FIs, nor did they demonstrate how their actions have improved compliance. Although it can be perceived that the remedial measures by BCEAO impact compliance to a little extent, assessors were not provided information that demonstrates the extent of this impact. The evaluation team observed that despite the use of remedial measures over the years, the overall levels of compliance behaviour by FIs have not changed significantly. For example, there has been a steady decline in the number of STRs reported by banks, from 13 in 2018 to 5 in 2020 (see IO.4), and none reporting of STRs by other sectors, especially foreign exchange bureaus. This suggests that the impact of BCEAO's remedial measures over the years have not achieved the desired positive results. Assessors' position is reinforced by the finding of the BCEAO's verification survey which indicate that BCEAO's onsite inspection recommendations are significantly not being implemented. This is an indication that BCEAO's approach to monitoring the implementation of remedial actions to address AML/CFT deficiencies may be inadequate and that the desired impact on compliance is not well achieved. Overall, this results in situations where deficiencies are not being remediated in a timely manner, creating ongoing deficiencies in mitigating ML/TF risks. It is important that BCEAO steps up follow up inspections and ensure that where remedial actions remain outstanding after the required timeframe, it should consider taking enforcement actions.
386. With regards to DNFBP, supervisory authorities have not yet started carrying out supervisory activities, and therefore the level of AML/CFT compliance monitoring and supervision is virtually nonexistent. Consequently, the impact of supervision on compliance by DNFBPs is very low.
387. In general, supervisory authorities should implement actions and initiatives that can positively impact on compliance by reporting entities. In addition, they should consider maintaining relevant information and statistics about their supervisory initiatives. This will assist them in demonstrating what action they are taking, including how FIs and DNFBPs respond to supervisory actions, in order to show over time, that supervision and monitoring can improve the level of AML/CFT compliance within the private sector.

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

388. The sectoral directives on AML/CFT and internal control system established by the regulatory authorities of credit institutions, and insurance companies have, in general, contributed to a good understanding by FIs of their AML/CFT obligations. For instance, the directives / guidelines have enabled some of these institutions to develop their internal procedures. However, given the recent revisions to the FATF standards, some of the directives/guidelines should be updated accordingly to be in line with the international AML/CFT standards.
389. Financial sector supervisory authorities, especially the BCEAO, together with the FIU have provided some training on AML/CFT to some FIs with a view to promoting their understanding of ML/TF risk and AML/CFT obligations. In addition, inspected entities, especially banks receive feedback from the BCEAO on the outcomes of the on-site

inspection on AML/CFT and remedial measures required to address observed shortcomings which contributes to these entities understanding. Furthermore, the FIU provides feedback (although limited) to reporting entities aimed at enhancing reporting entities' understanding of reporting obligations (especially STRs). The evaluation team observed a differential impact of these initiatives on reporting entities. For instance, banks demonstrated a good understanding of their obligations and generally have reasonably good AML/CFT internal control programmes. On the other hand, understanding of AML/CFT obligations as well as ML/TF risks among non-bank FIs is mixed but generally low or evolving.

390. A general check on the internet indicates that the FIU does not have a functional website and that its annual reports are also not publicly available. Assessor believe this would have been additional source of information and awareness for reporting entities. The FIU should therefore, ensure its website is operational, make its annual reports available, increase its training and awareness-raising activities for reporting entities (on risk sensitive basis), improve on feedback and engagements with reporting entities, and develop and issue strategic products in order to promote understanding of ML/TF risk and AML/CFT obligations by reporting entities.
391. Supervisors of DNFBPs have not made independent efforts to promote the understanding of AML/CFT risks and obligations on the part of entities subject to their regulatory authority. Thus, DNFBPs generally have low understanding of ML/TF risks or their AML/CFT obligations. This may be partly attributed to the limited or lack of resources amongst the DNFBPs supervisors. DNFBP supervisor should therefore be adequately resourced, in order to be able to effectively undertake activities that can promote understanding of entities under their supervisory purview.
392. The assessment team observed during the onsite that cooperation between the FIU and DNFBPs supervisory authorities, particularly in the context of promoting the understanding of AML/CFT obligations and risks is generally weak and does not meet the level that allows to overcome the AML/CFT challenges within the DNFBP sectors in Guinea Bissau.
393. The NRA report has not yet been finalized and thus, not disseminated to reporting entities at the time of onsite. The dissemination of the findings of the NRA/NRA report will enhance understanding of ML/TF risks by reporting entities, especially as it relates to their particular sectors. Guinea Bissau should therefore take necessary steps to finalize the report and ensure the wide dissemination of its findings in order to promote understanding of the risks identified.

Overall conclusion on IO.3

394. ML/TF risks have been assessed and identified in Guinea Bissau through the NRA. However, at the time of the on-site visit the report of the NRA has not been finalized and therefore, had not been used to inform the supervisory processes and actions. The Banking Commission has developed questionnaire and a risk rating system (risk assessment methodologies) which enable it and the BCEAO to assess and understand the risk of institutions within the banking sector. However, the risk rating system has little or no ML/TF factors to determine the level of risk and the necessary mitigating controls. In addition, no information is available on the classification of ML / TF

risks of FIs, especially banks by the supervisory authorities. Thus, the AML/CFT risk-based approach of the Banking Commission/ BCEAO is not well developed or still in the early stages of development. Other sectoral regulators have not developed and implemented risk assessment methodologies, have low understanding of risks of the institutions that they supervise, and yet to establish AML/CFT risk based approach.

395. The BCEAO had undertaken on-site inspections on its own and jointly with the Ministry of Finance and Economy (MEF) to determine the level of compliance with AML/CFT obligations in the banking and foreign exchange sectors, respectively. However, the overall supervisory regime appears weak with the number of inspections remaining very low, and the depth and scope of on-site visit coverage in the financial sector remains a significant challenge, as no AML / CFT on-site visits were carried out in the other financial sectors.
396. There is a wide range of sanctions available for the authorities to address violations of AML/CFT obligations, however, no sanctions have been issued, even in cases where serious breaches were identified, although the BCEAO require FIs to remediate observed deficiencies. The remedial actions taken in cases of non-compliance were addressed by the issuing of letters (i.e corrective orders) by the BCEAO to banks, however these corrective actions were not substantively rectified. In the absence of statistics, their effectiveness, proportionality, and dissuasiveness could not be verified.
397. Guinea Bissau has not designated AML/CFT oversight authorities for DNFBPs. Existing prudential supervisors and SRBs, especially the Ministry of Tourism, the Bar Association, and ORNATOC-GB exhibited a low knowledge and understanding of ML/TF risks present in their respective sectors, do not have tools/methodologies that can enable them understand the nature of ML/TF risks at the level of individual institutions, and have not adopted a risk based approach to AML/CFT compliance supervision. No AML/CFT inspection has been undertaken in the DNFBP sectors. The lack of supervision of DNFBPs for AML/CFT remains a major concern and a weak link in the supervisory regime in Guinea Bissau. Similarly, the non-engagement of DNFBPs has contributed to the lack of understanding of ML/TF risks by the entities, and weak implementation of their obligations, including none-reporting of STRs, which could potential heighten ML/TF risks.
398. **Guinea Bissau has achieved a low level of effectiveness for IO. 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

- a) Guinea-Bissau maintains information on the creation and types of legal persons. This information is publicly available at the CFE and at the Registry and Notary Services. It is also accessible online on the CFE platform.
- b) The NRA did not cover the assessment of the ML/TF risks associated with the different types of legal persons in Guinea-Bissau. Thus, relevant competent authorities have low understanding of the risk associated with these entities, and the extent to which legal persons (both foreign and domestic), can be or have been misused for ML/FT purposes.
- c) Basic information on legal entities can be accessed at the CFE and registry office. However, there is no verification mechanism in place to ensure that the information held by these authorities is accurate and up-to-date. In addition, due to the non-computerization of the CFE and registry office, records are maintained manually which could make the search for information and timely execution of request slow.
- d) Legal entities are governed by OHADA Uniform Act in Guinea Bissau. The Act provides general obligations, such as mandatory registration, and maintenance of basic information, including a shareholders' register, which protect legal entities from misuse. There are however, no sanctions to enforce compliance with the obligations stipulated under the OHADA Uniform Act, including failure to maintain and update basic information or for intentionally providing incorrect information.
- e) Adequate, accurate and updated beneficial ownership information is not yet consistently available on legal persons in a timely manner. There is no obligation to maintain beneficial owner information at the CFE and Registry. As part of implementation of CDD measures, reporting entities are required to obtain information on the beneficial owners of their customers that are legal entities. In practice, reporting entities have challenges effectively complying with CDD/BO obligations. Overall, this data is not systematically collected, not updated and not all companies present in Guinea Bissau necessarily have a business relationship with an FI or DNFPB.
- f) There are no mechanisms to ensure that bearer shares are not misused in private companies and nominee shareholders and directors are not misused by legal entities.

- g) Guinea Bissau laws do not recognise trusts and foreign trusts are also not allowed to operate or be managed in Guinea Bissau.

Recommended Actions

- a) Conduct a comprehensive assessment of the ML/FT risks associated with all types of legal persons created in the country and disseminate the findings to all stakeholders, especially LEAs, supervisors and reporting entities. The country should also implement measures to mitigate the identified risks.
- b) Ensure that the basic information maintained in the Registry and Notary Services and the CFE is accurate and up-to-date. Guinea-Bissau is encouraged to finalize the development of an electronic platform to improve access to this information.
- c) Implement measures to identify the beneficial owners of legal persons and ensuring the BO information provided is accurate. In this regard, the country should consider: (a) establishing a register of information on beneficial owners of legal persons, (b) requiring CFE and DGICRN to obtain and hold up-to-date information on the companies' BO.
- d) The authorities should enact or review necessary legal framework to: (i) require legal persons to register at the CFE and the Registry and Notary any changes to a company's legal form or structure, including ownership, (ii) require companies to obtain and maintain information on BO, and (iii) ensure sanctions are available against both legal persons and natural persons who fail to meet the relevant obligations in order to promote transparency of legal persons. In addition, Guinea Bissau should impose effective, proportionate and dissuasive sanctions for violations of obligations related to the transparency of legal persons, and maintain statistics on sanctions imposed on legal persons, especially for violation of their AML/CFT obligations, as well as obligations on transparency of legal persons.
- e) Implement measures to mitigate the misuse of bearer shares or nominee shareholders and directors. This could include requirements on nominees to disclose their status and the identity of the nominator to appropriate authority and when dealing with reporting entities.
- f) Ensure that reporting entities effectively implement CDD obligations and support more comprehensive implementation of AML/CFT requirements on customers who are legal persons to ensure that information on BO is available promptly. In particular, Guinea Bissau should facilitate the verification of information, including through enhancing the supervision of reporting entities with the beneficial ownership obligations (particularly the requirement to conduct ongoing CDD, which should be used to determine changes in beneficial ownership).

399. 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, and elements of R.1, 10, 37 and 40.

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

7.2.1. Public availability of information on the creation and types of legal persons and arrangements

400. The creation of various types of legal persons in Guinea Bissau is governed by the OHADA Uniform Act on Commercial Companies and Economic Interest Groups of the 30th of January, 2014. Legal persons created on the basis of the Uniform Act are either commercial companies or economic interest groups (EIGs). These include public limited companies, joint stock companies (SA), limited liability companies (SC), limited liability partnerships (SARL), which can also be sole proprietorships (SURL), simplified joint stock companies (SAS), variable capital companies, civil partnership, and cooperatives. These can also include non-profit organizations (NPOs), such as foundations, non-governmental associations, and NGOs.
401. Guinea-Bissau established the Center for Formalization of Enterprises (CFE) under the Ministry of Economy and National Planning in May 2011 for the efficient registration of companies and licensing of economic activities. The CFE includes representatives from various institutions, such as the Registry and Notary Service, the Ministry of Commerce, Immigration and Border Services, Tourism Agency, and the Tax Directorate. The CFE is set up to allow promoters and investors to obtain a license to invest in Guinea-Bissau in the shortest possible time, possibly within 24 hours. Information on the various types of legal entities existing in Guinea-Bissau, as well as the procedures for incorporating such entities and the documents and forms to be filled out are available at the CFE. Information on the formation of legal persons is also available on the CFE platform (<https://guineebissau.eregulations.org/>) and accessible to the public.
402. Non-profit organizations, such as associations and foundations, are registered at the Registry and Notary Services. Information for the creation of non-profit organizations is available at the Conservatory.
403. The applicable legislation on the incorporation and maintenance of companies, partnerships, associations, and foundations also contains the necessary information on the formation of these legal entities, and these legal texts⁷⁴ are also available to the public.
404. Guinea-Bissau law does not recognize trusts (fiduciaries) and the assessors are not aware of any law that recognizes other types of legal arrangements in the country.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

405. Guinea-Bissau has not identified, assessed and understood the ML/FT risks associated with all types of legal entities created in the country. This makes it extremely difficult to determine the appropriate level and types of risk associated with the different forms of legal entities in the country. Guinea-Bissau concluded its NRA in 2020. The NRA did not specifically cover legal entities, although the assessment did highlight

⁷⁴ Decree No. 18/2010 of 30 September - published in Official Bulletin No. 39/2010 and the Uniform Act (of the OHADA) on Commercial Company Law and the Grouping of Economic Interest

vulnerabilities associated with keeping accurate information about legal persons on the registry⁷⁵ and noted that some companies operating in the cashew sector are fictitious⁷⁶. In addition, there was no comprehensive assessment of the risk posed to companies or other types of legal persons, such as foundations, associations and cooperative societies.

406. The registry staff and the CFE, who are the custodians of the registration process, are aware of the AML/CFT Law 3/2018, but are not fully familiar with its relevant provisions. They demonstrated limited understanding of the risks associated with legal persons, and do not undertake adequate due diligence to ensure the reliability of the documents presented by the applicants for registration. In general, relevant competent authorities, including the LEAs, the tax authority and the CFE have limited knowledge about AML/CFT, as well as limited understanding of risks associated with legal entities. They have no means of detecting how legal persons, (newly created or existing), are being misused for ML/FT purposes and exhibited limited knowledge and experience about how foreign and domestic legal persons can be or are being misused for ML/FT purposes.
407. Guinea-Bissau has not considered the relevant legal and regulatory contextual issues specific to the country. The OHADA law is applicable in Guinea-Bissau. The law covers a wide range of business legal entities. In particular, the legal framework allows changing the legal form of an entity by decision of its members. This change, however, does not result in the creation of a new legal entity.⁷⁷ Thus, the different legal forms under the Uniform Law, which have their own particularities, should be identified with a view to understanding and assessing the risk associated with each type of legal entity. Similarly, the risk associated with changing the structure of a legal entity should be assessed. For example, in the case of a limited partnership, there is no legal obligation for the general partners to disclose the identity of the limited partner(s) upon registration. This situation favors the concealment of the beneficial owners of the legal entity and does not allow for an accurate identification of all economic agents.

7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements

408. The OHADA legal text incorporates some measures that can prevent and mitigate the misuse of legal entities. First, registration is mandatory for every type of legal entity in Guinea-Bissau. The OHADA Uniform Law requires companies to maintain basic information, including a shareholders' register. Basic information is also kept at the Registration Office. The information required by law regarding those persons who may have an economic interest in the company is relatively extensive. They include (i) the identity of those who have made contributions in cash and the amount of their contribution (ii) the identity of those who have made contributions in kind or services and the nature and valuation of the contribution made by each and (iii) the identity of recipients of special benefits and their nature. However, this falls short of the obligation to obtain information about the actual beneficiaries. The obligation for legal entities and legal arrangements to undergo CDD process when entering into a business relationship with a FI or DNFBP also helps mitigate the misuse of legal entities and legal arrangements. However, there are challenges related to FIs and DNFBPs obtaining information about BO (see IO.4). The OHADA Uniform Act requires bearer shares to be dematerialized in the case of public

⁷⁵ Draft NRA report

⁷⁶ Draft NRA report

⁷⁷ Article 181 of the Uniform Law

companies. However, this requirement does not extend to private companies. It is worth noting that the OHADA Uniform Act is silent on the use of nominee shareholders and directors and there are no mitigating measures to ensure that nominees are not misused for money laundering or terrorist financing purposes.

409. Some of the deficiencies mentioned above, limit the effectiveness of these mitigation measures. In addition to these weaknesses, Guinea-Bissau has not conducted an assessment of the ML/FT risks posed by the different types of legal entities, and therefore it may be problematic to implement appropriate measures to mitigate the risk posed by these legal entities. Currently, the CFE does not have a ML/FT prevention policy and only applies general administrative measures, such as company name verification.
410. With respect to legal arrangements, although Guinea-Bissau does not allow the establishment of a trust under its law, nothing prevents the activities of the trust created in other countries from being carried out in Guinea-Bissau. The AML/CFT law requires FIs and DNFBPs to obtain information about some of the parties to a trust when the client is a trustee. These provisions will improve transparency to some extent. On the other hand, private sector and competent authorities have indicated that fiduciary structures are rare. Nonetheless, a thorough assessment of the existence (or not) of legal arrangements, as well as the risk they pose, will be beneficial.

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

411. Guinea-Bissau indicated that authorities can access basic information and/or BO information on legal persons in three ways: from financial institutions, from registries or from the CFE or the tax authority. However, there are concerns in terms of how adequate, accurate and current this information is.
412. Financial institutions and DNFBPs are required by law to obtain accurate and up-to-date BO and basic information from their customers by conducting CDD. The FIU is able to access information held by FIs and other DNFBPs on legal persons which they obtained at the time of onboarding and during their business relationship with legal persons under the AML/CFT Law. As highlighted in IO4, FIs and DNFBPs still face challenges effectively implementing their CDD obligations and, particularly, to obtain BO information. In particular, financial institutions noted that collecting this information was fraught with difficulties, the DNFBPs rarely apply CDD. In fact, one of the main vulnerabilities identified in the NRA of Guinea-Bissau concerns the great difficulty in identifying the beneficial owner of legal persons. Moreover, while information held by FIs can be readily accessed through a request made by LEAs through the FIU, information can only be obtained from DNFBPs where it is established that a particular DNFBP has a relationship with the legal person. However, the Assessors were not provided any instances where the FIU requested specifically BO information from reporting entities. Additionally, given the weak supervision as highlighted in IO3, the extent to which BO information is collected and accurately maintained cannot be confirmed.
413. When conducting investigations, the LEAs can also obtain the information from reporting entities through a court order. No specific timeframe within which Court Orders can be obtained was provided. However, the usefulness of obtaining information through this method depends only on whether the legal person has an account with a financial institution or has a relationship with a DNFBP and there is no rule requiring that a legal person must have an account in Guinea-Bissau.

414. The second source of information comes through the competent authorities: the registry at the Registry Office of the General Directorate of Civil Identification, Registries and Notary (DGICRN) and the registries at the CFE that contain the basic information on legal persons. The NRA assessed a variable related to access to beneficial ownership information and concluded that there is no platform or mechanism to facilitate access to beneficial ownership information. The CFE reform extended the possibility of obtaining information on the legal owners of legal persons incorporated in Guinea-Bissau without, however, addressing the need for a relevant mechanism to identify the beneficial owners of these legal persons.
415. Although basic information is available at the CFE and the Registry Office, the accuracy of the information cannot be verified. During the incorporation at the CFE, an interview is held, the prescribed form is filled out, and copies of identification documents are required from nationals and foreigners. In case of representation, the mandated person must present a power of attorney, in case of a natural person, and minutes of the general meeting, in case of a legal entity. The CFE representative informed the Assessors that the identification is made at the Notary's Office at the moment of preparation and issuance of the deed certificate, which is the basis for the CFE registration. There is no verification of the documents either at the CFE or at the Notary Office.
416. Similarly, in terms of having up-to-date basic information, the OHADA law requires that changes occurring at the level of the legal person be reported to the registry. The CFE also requires legal persons to update any changes that have occurred. Specifically, any changes that occur throughout the legal life of the company must be notarized and the notarial deeds filed and deposited with the CFE. However, regular updating of the information kept with the CFE is not effective. Some legal persons have ceased to exist or may have undergone transformations without these events being registered with the CFE. In addition, the information provided, both at the time of registration and at the time the changes occurred, is not verified for accuracy. The OHADA Uniform Act requires all members to implement a penalty regime for violations of the provisions of the Act, including failure to notify the Registrar when changes are made in relation to basic information. However, Guinea-Bissau has not implemented any sanctions and this has undoubtedly resulted in legal persons not bothering to update their records.
417. The competent authorities can obtain basic information on all companies established in Guinea-Bissau. Investigative authorities can request information from the CFE in the context of their various investigations. In the absence of computerization and a direct access platform, requests are made through requisitions by LEAs and the FIU. The FIU frequently requests information from the CFE and the Registry. On average, the CFE takes two days to provide the information, while the Registry takes an average of one week to provide the information. Work is underway at the CFE, with WB support, to provide access to information via an electronic platform.
418. It is important to note that the Uniform Act on General Commercial Law (AUDCG), in each OHADA member country, provides for the maintenance of a national registry (which includes all information regarding business legal entities created in the country) to feed the national registry to be kept at the registry of the OHADA Common Court of Justice and Arbitration (CCJA), based in Abidjan. Guinea-Bissau has no such national registry.
419. The third source of information is the tax authorities. The authorities also explained that the tax authorities can provide information pointing to the beneficial owners of legal persons by consulting the company's tax information.

420. Overall, other than limited information requests made by the FIU to CFE and reporting entities (See tables 6.1 and 6.2 under IO.6), no information was provided to the assessors as to the number of times competent authorities requested information from reporting entities, CFE, the Registrar, or tax authority; the type of information, and whether the information was provided and, if so, the time taken for the information to be provided.
421. On the whole, there are inadequate measures to determine the beneficial ownership of a legal person in Guinea Bissau. There are deficiencies in the process of identification of beneficial ownership by reporting entities. Moreover, the absence of a legislative framework or mechanisms to ensure that information on a company's beneficial ownership is maintained by that company or at the CFE or at the Registration Office, constitute considerable vulnerabilities that expose legal entities to misuse for ML/FT purposes. In addition, the issue of beneficial ownership is not properly addressed in CFE procedures and the information contained therein is only accessible to a proxy/representative with a power of attorney, through a court order and CENTIF, and is not accessible to the general public.

7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

422. Competent authorities and the private sector in Guinea-Bissau indicated that they are unaware of the existence of legal arrangements. Private sector institutions indicated that they did not find fiduciaries in the information collected during the CDD. This estimate may represent reality in the country context; however, it cannot serve as a basis for an unequivocal conclusion that there are no *fiduciaries* in the country. The AML/CFT law requires lawyers, notaries, bailiffs, and other members of independent legal professions, especially court administrators, legal representatives, and auctioneers to conduct CDD (includes information about their client, which should normally be the settlor and beneficiaries) when acting as trustees/trustees.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

423. The Uniform Act on Commercial Company Law and the Economic Interest (AUSCGIA) sets out the legal obligations governing the formation, operation and dissolution of a legal person. The Uniform Law leaves it to member states to establish the appropriate criminal sanctions. Guinea Bissau is yet to enact legislation that will establish an effective, proportionate and dissuasive sanctions regime for this purpose. Thus, there is no penalty for non-registration within the prescribed time limits for natural or legal persons; there is no penalty imposed where a legal person fraudulently executes any of the formalities prescribed by the OHADA Uniform Act; and there is no sanction in case of failure to update basic information maintained in the CFE or the Registrar. The CFE and the Registrar's Office noted that 6,200 companies have been created, but only 30% are operating. This shows that there is minimal regulation and no enforcement action. As regards basic and beneficial ownership information that is maintained by reporting entities, sanctions for failure to maintain the information are prescribed in Articles 112 and 116 of the AML /CFT Law. However, no sanction has been imposed on reporting entities for failure to maintain basic information or identify the BO of the customer.

Overall conclusion on IO.5

424. Basic information on the establishment of all types of legal persons is publicly available and accessible by LEAs in a timely manner, although this information cannot be considered adequate, accurate or current. In addition, information about the beneficial owners of legal persons are not readily available and timely accessible. Guinea-Bissau has not assessed the ML/TF risks associated with the different types of legal persons established in the country and thus lack good understanding of the risk associated with legal persons and how they can be misused by criminals. Measures to mitigate the misuse of bearer bonds in private companies and nominee directors and shareholders in both public and private companies have not yet been implemented. Guinea Bissau is yet to enact legislation that will establish an effective, proportionate and dissuasive sanctions regime and no sanction has been applied in case of failure to update basic information or obtain beneficial information.
425. **Guinea-Bissau has achieved a low level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

- a) Requests for MLA to and from Guinea-Bissau are made through the diplomatic channels via the Ministry of Foreign Affairs. This process is slow due to the time it takes for requests to reach the AG's Office. In addition, the AG's office does not have a case management system to manage and prioritize processing of MLA requests and therefore it was difficult to the assessors to make a determination on how timely the authorities have been able to provide MLA. The information provided also made it difficult to determine whether in certain requests which were still pending at the time of the on-site any follow-up had been made and the exact nature of the status of the request.
- b) The numbers of incoming and outgoing MLA and extradition requests are low. The low number of requests by Guinea Bissau indicates that the country does not make proactive and effective use of international cooperation through MLA. This limits the country's chances to pursue and investigate transnational criminals and their assets. The limited number of requests by Guinea Bissau is inconsistent with the ML/TF risk profile of the country.
- c) Competent authorities, including the FIU, JP, and BCEAO National Office exchange information with foreign counterparts. The country also uses informal networks for this purpose. However, the non-Egmont membership of the FIU limits the exchange of information and no information or data were provided to allow assessors ascertain the effectiveness of information exchanges between other competent authorities, including JP and BCEAO National Office with their foreign counterparts.
- d) The shortcomings identified under IO.5 mean that beneficial ownership information may not always be readily available. This could potentially affect the authorities' ability to exchange BO information.
- e) Guinea Bissau does not maintain comprehensive statistics which will better allow the authorities to appraise the country's performance as regards engagement in international cooperation.

Recommended Actions

- a) Establish a case management system in the Attorney-General's office for the collection and dissemination of MLA and extradition information, including requests made, requests received, actions taken and quality of the information obtained as well as the duration of the response. In addition, the country should consider developing a standard operating procedures which will provide guidance on prioritization, confidentiality and timelines for processing requests.
- b) LEAs and prosecutors should take a more proactive approach in seeking MLA and other forms of cooperation where cases have transnational elements. In this regard, Guinea Bissau should enhance the (a) use of MLA requests and develop policies in line with the country's risk profile, especially in respect to TF, (b) capacity of relevant LEAs and prosecutors by providing amongst other things, trainings and guidance, to engender willingness to pursue cross-border evidence gathering when conducting transnational criminal investigation.
- c) Expedite actions on the planned establishment of a central authority within the Attorney General's Office dedicated to processing requests for international cooperation. The central authority should have a coordinating role and access to relevant competent authorities and should be provided sufficient human and material resources to perform its functions.
- d) Consider joining Egmont Group to enable its FIU to access more information on cross-border crimes. Meanwhile, the FIU should improve spontaneous dissemination of information to counterparts and continue signing MOUs with foreign counterpart of strategic interest to promote wider information exchange.
- e) Financial supervisory authorities, especially BCEAO and BC should strengthen international cooperation with counterparts, as well as maintain detailed statistics relating to this cooperation
- f) Ensure maintenance of comprehensive data and information on international cooperation (MLA and extradition requests). Similarly, LEAs and supervisory authorities should maintain robust statistics on information exchange, or maintain information on case studies, and feedback on informal information exchange.
- g) Strengthen mechanisms to obtain and exchange information on the beneficial owners of legal persons. In this regard, the country should ensure that competent authorities are able to provide and respond to foreign requests for co-operation in identifying and exchanging beneficial ownership information of legal persons in a timely manner.

426. 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 and elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

427. Guinea Bissau has a geographical landscape consisting of over eight dozen islands which are not adequately monitored. This makes the country an attractive transit route for illicit goods and drugs, especially cocaine. Drug trafficking is one of the major predicate offences in the country and, given the foreign element, international cooperation is essential in the context of Guinea Bissau. International cooperation is also important for Guinea Bissau given concerns about corruption and other crimes that have international links. Guinea-Bissau does not have specific laws on mutual legal assistance and extradition and, therefore, relies on the general provisions of the Criminal Procedure Code and the AML/CFT Law for the purpose. Information is also exchanged on the basis of bilateral and multilateral agreements in accordance with the principle of reciprocity. Guinea Bissau would benefit from specific operational procedures on MLA and others forms of international cooperation.

8.2.1. Providing constructive and timely MLA and extradition

Mutual Legal Assistance

428. MLA requests are processed via diplomatic channels through the Ministry of Foreign Affairs. The Ministry of Foreign Affairs forwards the requests to the Attorney General's (AG) Office, which facilitates processing of the MLA. The requests are processed in collaboration with the different relevant national authorities. The authorities stated that the process was slow because of the time taken to forward the request to the AG's office which, in many cases, could take many months. Consequently, Guinea Bissau is planning to establish a central authority at the AG's office to handle the issue.

429. The authorities did not specify the exact amount of time it takes to execute a request, therefore, it is not possible to determine the processing time of requests, as there are many factors that can contribute to making the process slow or lengthy. However, they underscored that the current structure had shortcomings that made it difficult to provide timely responses to MLA. There was no case management or prioritization of MLA and there are no designated staff to follow up on requests. In addition, there has been no specific training on MLA for staff and there are no guidelines or manual of procedures to assist staff that process MLA. The authorities also indicated that there were concerns about confidentiality because delivery of information was sometimes through the general email. The planned reorganization which intends to establish the central authority at the AG's Office that will have a coordinating role and direct access to competent authorities is expected to improve case management, monitoring and prioritization of requests as well as confidentiality of the process.

430. Guinea Bissau can also provide assistance in asset recovery cases, including identifying tracing seizure and confiscation of assets. In this regard, the country received one request in 2019 as indicated in the table below.

Table 8.1. MLA requests received for ML /TF/ Predicate Offence, 2017-2020

	2017	2018	2019	2020
Total MLA requests received from other countries	0	0	0	0
Total MLA requests executed	0	0	0	0

Total MLA requests refused	0	0	0	0
Requests received from other countries on ML	0	0	0	1
Requests related to ML executed	0	0	0	0
MLA requests received on Predicate Offences	0	0	0	0
Requests received from other countries on TF	0	0	0	0
MLA request received for Asset tracing (with an associated freeze/counterfeiting request)	0	0	1	0

431. As indicated in the table above, Guinea Bissau has only received two requests for MLA in the last 4 years. Statistics regarding MLA requests are not disaggregated and detailed making it difficult to determine the offences on which such requests were based. Out of the two requests for MLA, one relates to tracing of assets (2019) and the other to a ML offence (2020). None relates to terrorism or terrorist financing. Among the requests received, Guinea-Bissau has responded to the one (1) request in 2019 relating to asset tracing. No information was provided on the status of the request received in 2020.

432. Although the number of requests received is low and manageable, Guinea-Bissau does not appear to process them promptly and systematically. The country does not focus sufficiently on responding timely to MLA requests due to a number of factors, including the lack of sufficient human resources, adequate training of personnel dealing with the matter and the lack of clear guidelines on the processing of MLA which lead to lengthy processes.

Extradition

433. Extradition requests are also processed through diplomatic channels and handled by the Court of Appeals once it has been disseminated by the AG’s Office who, in turn, forwards them to the various competent authorities. Simplified extradition is not possible in Guinea Bissau. The Constitution of Guinea-Bissau does not allow the extradition of its nationals or citizens. Where extradition is refused on the basis of citizenship, the case is referred to the competent national court, so that the concerned person may be prosecuted for the offense for which the request was made. However, no cases, examples or precise data were provided to illustrate this situation. Table 8.2 below indicates that Guinea-Bissau received and responded to three (3) extradition requests between 2017 and 2020. Guinea-Bissau has not refused any extradition requests and there are currently no pending extradition requests, according to information provided by the authorities.

Table 8.2. Extradition requests received for ML /TF/ Predicate Offences

	2017	2018	2019	2020
Total – Extradition requests received from other countries	1	1	1	0
Total - Extradition requests executed	1	1	1	0
Requests received from other countries on ML/TF	0	0	0	0
* Requests accepted	0	0	0	0
* Requests denied	0	0	0	0
* Pending requests	0	0	0	0

434. The responses to or execution of extradition requests appear to be fairly timely. This is due to a relatively good understanding of extradition requests by the authorities. According to Table 8.3 below, the average timeframe in which an extradition is processed is between 3-4 months, even though it took seven months in one case.

Table 8.3. Requesting State and Entry and Decision Date for Extradition

Order no.	No. of Proc	Nature	Applicants	Date of Entry	Date of Decision
1	06/2017	Portuguese Citizen Extradition Request	Public Prosecutor, Representing the Portuguese Judiciary Police in Guinea-Bissau	18/05/2017	Ended by Judgment No. 03/2017 of 07/08/2017
2	7/2018	Request for Extradition of a Brazilian Citizen	Public Ministry, representing the Brazilian State	20/07/2018	Ended by Judgment No. 04/2018 of 05/10/2018
3	04/2019	Extradition Request for Cote d'Ivoire national (ABIDJAN)	Public Prosecutor, representing the State of Côte d'Ivoire	19/03/2019	Ended by Judgment No. 03/12/2019

8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

435. Generally, the Attorney General's Office, when handling a case, decides on the MLA request. MLA requests sent by Guinea-Bissau to other jurisdictions are processed through diplomatic channels (that is, through the Ministry of Foreign Affairs), as mentioned above. The data below demonstrates that investigative and prosecution authorities rarely seek international assistance through MLA, despite the prevalence of certain proceeds generating offenses with transnational elements. Between 2017 and 2020, Guinea-Bissau requested MLA only on one case. This was related to a ML case in 2019 regarding the "Navara" case (see IO.7). The MLA request by Guinea Bissau was made to Portugal, Columbia and Senegal. The mutual legal assistance request made by Guinea-Bissau in respect of the Navara case led to convictions and confiscation of assets in a ML investigation where the predicate offence was transnational drug trafficking (See Table 1 "Operation Navara"). No request was made relating to TF in the review period.
436. The absence of MLA requests related to TF and the low number of MLA requests related to ML and other predicate offences do not reflect the country's risk profile. This strongly suggests that Guinea-Bissau does not proactively seek out MLA to pursue criminals and their property.

Table 8.4. MLA requests for ML /TF/ Predicate Offences made by Guinea Bissau

	2017	2018	2019	2020
Requests made by Guinea-Bissau to other countries related to ML	0	0	1	0
ML-related requests that were responded to.	0	0	1	0
Requests made by Guinea-Bissau regarding TF	0	0	0	0

437. Guinea Bissau did not request for extradition between 2017-2020. This seems to suggest that the country does not seek assistance for the extradition of criminals that may have fled the country.
438. Guinea Bissau has not equipped prosecutors and investigative authorities with guidance documents or manual of procedures on MLA, extradition and asset recovery. Authorities have not conducted training or workshops to increase awareness among prosecutors and investigators and strengthen their skills on processing formal requests.

8.2.3. Seeking other forms of international cooperation for AML/CFT purposes

439. Guinea Bissau's legal framework as well as bilateral and multilateral agreements with foreign counterparts allow the country to engage in both formal and informal international cooperation. Guinea Bissau is a signatory to the Judicial Police Cooperation Agreement between the countries of the Economic Community of West African States (ECOWAS) and this cooperation is ensured through the national office of INTERPOL and other sub-regional bodies that bring together the Judiciary Police. The country is also a member of the WCO (World Customs Organization), West African Central Authorities and Prosecutors against Organized Crime (WACAP), Asset Recovery Inter-Agency Network for West Africa (ARINWA), and Forum of FIUs of GIABA member States. These provide a good basis for international cooperation for AML/CFT purposes in the field of law enforcement, financial intelligence, and customs.

Law Enforcement Authorities

440. LEAs have the necessary mechanisms and legal basis to engage in international cooperation. Cooperation between LEAs is mainly through the INTERPOL platform (the I 24/7 channel). Requests for information are forwarded to national agencies for processing including, the PPO, Judiciary Police, and other relevant agencies. Requests for information made by LEAs may also be made through the Ministry of Foreign Affairs. According to the authorities, the channel most used for information exchange is the INTERPOL platform. Authorities noted that the I 24/7 channels used for information sharing ensures confidentiality and data protection. Authorities did not indicate if requests made to the country were responded to in a timely manner. Despite several requests, the country did not provide data and information, including case studies on requests processed through the INTERPOL channel for the team to make a determination of the effectiveness of information exchange through this channel.
441. The paucity of data on international cooperation requests could mean that LEAs do not engage enough in information exchange or that statistics on international cooperation among LEAs are not maintained in a systematic manner. The deficiency in the collection and maintenance of statistics on international cooperation in Guinea-Bissau will not allow the authorities to monitor how effective international cooperation is and, thus take necessary steps to improve the system.

FIU

442. The FIU engages in international co-operation with counterparts to support its analytical and operational work. Although, Guinea Bissau is not yet a member of the Egmont Group, the country indicated that the FIU has entered into agreement with some

counterpart FIUs⁷⁸ to facilitate international cooperation, especially information exchange. The FIU does not need an international agreement to cooperate with other UEMOA member countries. The FIU is a member of the Forum of Financial Intelligence Units of GIABA Member States. The Forum aims to strengthen cooperation amongst members in exchanging relevant information on ML/TF matters or performing joint actions such as typologies studies. Between 2017 and 2020 the FIU made sixteen (16) requests to counterpart FIUs (see Table 8.5). Authorities informed the Assessment Team that the requests made by the FIU to its counterparts were related to ML. However, there are no other analytical data or documents to corroborate this information. In the same vein, there are no details on feedbacks received on the quality of information provided. Responses to requests made and received are very disproportionate with all requests made by the FIU pending. No specific reason was provided for this. The FIU received three requests during the review period and responded to all of them. The Unit did not indicate details on the feedback from the requesting authorities as to the adequacy and quality of information provided or if the information served the purpose for which it was requested. The FIU does not have an effective case management system in place and, therefore, the Assessment Team was not able to determine if there are clear criteria to prioritize requests, for example, when they relate to terrorism and terrorism financing. Nevertheless, the number of requests received are few and appear to have been well managed. The FIU stated that the response time is about two (2) months. The Unit recently established a new secure portal/domain through which it has commenced to receive and respond to requests directly. As the usage of the new portal just commenced, the team could not ascertain its effectiveness. During the period under review, there were no reports of any deficiencies relating to the protection and confidentiality of information exchanged, suggesting that the means utilized are secured. Based on the data provided for the period under consideration, the FIU did not make any spontaneous dissemination of information to its foreign counterparts and also did not receive any from its foreign counterparts. Spontaneous dissemination of information by the FIU to counterparts could further enhance its international cooperation. As indicated in the table below, the FIU has exchanged information with foreign counterparts, including Senegal and Portugal.

Table 8.5. Exchange of information between FIU Guinea-Bissau and counterparts

Country/UIF	Number of Information exchanged between the FIU and other FIUs							
	2017		2018		2019		2020	
	Outgoing requests	Incoming requests	Outgoing requests	Incoming requests	Outgoing requests	Incoming requests	Outgoing requests	Incoming requests
Senegal				1	1	1	1	1
Portugal			1		1			
Ivory Coast			1				1	
Angola			1					

⁷⁸ The FIU has signed 10 MoUs with foreign counterparts (Angola, Portugal, Brazil, Ghana, Cabo Verde, Sao Tome & Principe, The Gambia, Nigeria, Liberia and Sierra Leone. The FIU does not need MoU with FIUs of the WAEMU countries to exchange information.

Niger			2					
Mali					1		1	
Guinea					1		1	
Benin							1	
Nigeria							1	
Ghana							1	
Total Information exchanged			5	1	4	1	7	
Total Responses to Requests Sent or Received by the FIU				1		1		1

Spontaneous exchange of information				
	2017	2018	2019	2020
Information spontaneously received from other FIUs	0	0	0	0
Information spontaneously sent to other FIUs	0	0	0	0

Supervisors

443. Supervisory authorities also have a legal basis to cooperate with foreign counterparts (See R.40). In preventing and combating ML/FT, supervisors can make use of the provisions of these legal instruments to request financial, supervisory or other relevant information. In practice, all requests made to the national BCEAO are directed to the head office in Dakar, Senegal. However, the BCEAO indicated that there was no request for information from counterparts in the past four years and as such there is no concrete data to share or demonstrate the extent and effectiveness of information exchange by the supervisory authorities, especially the BCEAO. In the absence of information exchange, it was not possible to determine the effectiveness of cooperation between the national BCEAO and its foreign counterparts. The Banking Commission collaborates with Central Banks within and outside the sub-region, particularly home country supervisors when supervising financial institutions, especially banks in Guinea Bissau. The Commission did not provide statistical data or information that demonstrate the effectiveness of the cooperation. In general, there are 5 banks with 32 branches in Guinea Bissau. Four of the five banks are either subsidiaries or branches of foreign/ international banks, which makes supervisory cooperation very important. There was no information on cooperation by CIMA. In practice, it does appear supervisory cooperation is low which is inconsistent with Guinea Bissau’s profile.

Customs

444. Guinea-Bissau is a member of the World Customs Organization. The country has also signed agreements with Senegal on customs control and is also part of a cooperation agreement signed by Lusophone countries. Guinea Bissau did not provide any statistics on information exchange, or case studies relating to cross-border currency declarations and BNI. Given the risk posed by extensive and porous borders and weak oversight of some of the islands, Customs should enhance cooperation with foreign counterparts to combat identified cross-border crime.

Tax

445. Regarding information exchange between the Guinea Bissau tax authority and its foreign counterparts, the country has not demonstrated that there has been any information sharing for AML/CFT purposes neither did they provide case studies or evidence of information exchange exclusively for tax purposes. Guinea Bissau is not a member of the OECD Global Forum for Transparency and Exchange of Information for Tax Purposes. The country would benefit from increased engagement with the counterpart tax authorities given the high incidence of tax-related offences as noted in the draft NRA report.

8.2.4. International exchange of basic and beneficial ownership information of legal persons and arrangements

446. In Guinea-Bissau, basic information on the establishment of all types of legal persons is maintained at the Centre for Formalization of Companies and Directorate of Registry and Notary and is publicly available. These authorities can exchange this information with foreign counterparts. Similarly, other authorities, including the LEAs can access and share basic information on legal persons with foreign counterparts. As noted under IO.5, there are concerns about the adequacy, accuracy or currency of this information which could impede timely information exchange. In addition, the registration of companies is not yet done electronically at the Centre for Formalization of Companies and Directorate of Registry and Notary and records are maintained manually which could make the search for information and the timely execution of requests slow or difficult.

447. Beneficial ownership information on legal persons may be obtained from financial institutions, the Center for Formalization of Companies, the Directorate of Registry and Notary as well as the Tax Authority (IO.5). However, given the limitations noted under IO.5, including the lack of mechanisms to ensure that information on a company's beneficial ownership is maintained by that company or at the CFE or at the Registration Office, and the shortcomings under IO4 that reporting entities still face challenges effectively implementing their CDD obligations and, particularly, to obtain BO information, there are concerns regarding the adequacy, accuracy and currency of BO information in Guinea Bissau. Thus, it is likely that the information will not be easily accessible or that BO information might not always be available for purposes of international cooperation. Overall, existing limitations could impede the country's ability to easily access and exchange BO information in a timely manner. Trust funds are not recognised by the Bissau-Guinean law and no evidence of requests for information sharing had been raised by other foreign authorities in this regard.

448. The Guinean authorities did not provide any case studies, information or statistical data on requests by foreign jurisdictions regarding basic and beneficial ownership information of legal persons and unincorporated legal entities or on exchange of such information through MLA or other forms of international cooperation. Although the FIU made limited information requests to CFE (See IO.6), it appears the information was used to support its analysis as the Unit did not indicate they were shared with foreign authorities. In the absence of information, the team could not ascertain the effectiveness of international exchange of basic and BO information with respect to legal persons and arrangement.

Overall conclusions on IO.2

449. Guinea-Bissau's legal framework provides a wide range of international cooperation that allow for international cooperation in criminal matters. However, the country has inadequate institutional capacity to implement the measures for purposes of requesting or providing MLA, extradition and other forms of cooperation regarding ML, TF and associated predicate crimes. There is no case management system to enable a determination to be made on how timely the authorities have been able to provide MLA and extradition and the quality of the assistance. Guinea Bissau does not make proactive and effective use of international cooperation through MLA and extradition requests. At the time of onsite, the country has made or received very few MLA on ML and none relating to TF. LEAs participate in informal co-operation directly or via Interpol and other co-operation platforms. However, there are little or no statistics or case studies to enable the assessors make a determination of the effectiveness of information exchange by LEAs. The FIU's cooperation with foreign counterparts is limited, while co-operation between supervisors, Customs and tax authorities and their foreign counterparts is low or lacking. The mechanisms for international exchange of basic and BO information of legal persons and other arrangements are weak. Overall, Guinea Bissau's engagement as regards international cooperation is not consistent with the country's risk profile. Given the context of Guinea Bissau, fundamental improvements are required in the use of both formal and informal cooperation channels for information exchange.

450. **Guinea-Bissau has achieved a low level of effectiveness for IO.2.**

ANNEX A - TECHNICAL COMPLIANCE

1. This annex provides a detailed analysis of Guinea Bissau's compliance with the 40 FATF Recommendations. It does not include any descriptive text on the country's situation or risks, but focuses on the analysis of the technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

2. Where both the FATF's requirements and domestic laws or regulations remain unchanged, this report refers to the analysis conducted as part of the previous 2009 mutual evaluation which is available at the following address: www.giaba.org

Recommendation 1 – Assessing risks and applying a risk-based approach

Criterion 1.1 – (*Mostly met*)

Article 10 of the AML/CFT Law No. 3/2018 requires authorities to conduct a national risk assessment (NRA) of ML/TF risk in the country. Guinea Bissau concluded its NRA in May 2020. However, as at the time of the onsite (January 2021), the final draft NRA report was being reviewed by the country. The NRA was coordinated by the National Risk Assessment Working Group (GTANR), created by order of the Minister of Economy and Finance (Order no. 116/GMEEF/2017). The FIU led the NRA process with participation and inputs from relevant competent authorities⁷⁹ and private sector representatives⁸⁰. Guinea Bissau used the World Bank Methodology as the basis for its assessments. The NRA covers assessment of national ML/TF threats and vulnerabilities of relevant sectors, as well as assessment of the financial inclusion-related risks facing the country. The NRA identified corruption, drug trafficking, tax fraud and embezzlement as the primary predicate offences generating the highest level of illicit proceeds. The NRA also identified the banking sector, auditors and accountants, and remittance service providers as medium high risk sectors; foreign exchange bureaus and lawyers as medium risk sectors (Tables 7 and 23 in the draft NRA report), while insurance companies were identified as low risk (Tables 7 and 23 in the draft NRA report). The NRA is generally of good quality, notwithstanding some challenges encountered in obtaining data and validating information. However, certain shortcomings were noted. For instance, while the assessment was comprehensive in certain areas, it lacked indepth analysis of certain areas, including the TF risks emanating from NPOs while legal persons and legal arrangements as well as certain

⁷⁹ These include the General Directorate of Customs; FIU, BCEAO; DGCI, Directorate-General for the Supervision of Insurance and Financial Activities; Public Prosecution Office; Judiciary Police; and Jean-Piaget University

⁸⁰ These include representatives of all the commercial banks, insurance companies, and key DNFBPs including Portugues Bar Association (OA), and ORNATOC-GB

sectors such as the real estate sector which could be vulnerable to ML/TF risk, were not covered in the NRA.

Criterion 1.2 – (Met)

The GTANR is the designated authority for the coordination of the NRA process. Article 10 (2) of the AML/CFT Law No. 3/2018 provides for designation of an authority to coordinate the NRA process in the country.

Criterion 1.3 (Partly Met) - The NRA is the first AML/CFT risk assessment conducted by Guinea Bissau. It was completed in May 2020. Thus, no update has yet been undertaken. Article 10 (1) of the AML/CFT Law No. 3/2018 stipulates that the designated authority should keep the NRA up-to-date.

Criterion 1.4 (Not met) - The NRA report was yet to be finalized as at the time of the TC analysis and therefore, no dissemination of its findings has been made to relevant competent authorities, self-regulatory bodies (SRBs), and reporting institutions. Moreover, Guinea Bissau did not demonstrate that it has mechanism(s) in place to share the results of the NRA with relevant stakeholders.

Criterion 1.5 (Not met) - Article 10 (1) of the AML/CFT Law No. 3/2018 provides that the designated competent authority should take appropriate measures to identify, assess, understand and mitigate ML/TF risks. However, this provision does not specify that the country should adopt a risk-based approach (RBA) to allocating resources and implementing measures to mitigate ML/TF. Guinea Bissau is also yet to develop an Action Plan, drawing on the findings of the NRA. This could have provided a basis that significantly allows for a risk based approach in the allocation of resources and implementation of measures to mitigate ML/TF.

Criterion 1.6 (Mostly Met) - (a) and (b) Guinea Bissau applies all the FATF Recommendations requiring reporting institutions to implement AML/CFT measures. Although, Article 47 of the AML/CFT Law No. 3/2018 allows for exemptions from CDD for some limited type of products, including consumer credit operations, and the financing of physical assets whose property is not transferred to the client, this is subject to the fact that there is no suspicion of ML/TF. Overall, reporting entities must demonstrate that there is a proven low risk of ML/TF to apply this exemption.

Criterion 1.7 (Met) –

(a) (Met) Articles 51, 53, and 54 of the AML/CFT Law No. 3/2018 provides for the application of EDD measures by reporting institutions where higher risks are identified. They are also required to implement enhanced measures with regard to Politically Exposed Persons (Article 54). Article 11 (3) of the AML/CFT Law also requires reporting entities to take measures to effectively mitigate and manage the ML/TF.

Criterion 1.8 (Partly met) - Articles 46, 47 and 48 of the AML/CFT Law No. 3/2018 allow reporting institutions to take simplified measures when they have identified low risk of ML and TF, and there is no suspicion of ML or TF. However, there is no requirement that this should be consistent with the risks identified in the country's assessment.

Criterion 1.9 (Partly met) - Supervisory authorities have obligations to ensure that FIs and DNFBPs are implementing their AML/CFT obligations, including the requirement under R1 (Article 1(7) of the AML/CFT Law No. 3/2018). However, the deficiencies under R.26 and R.28, including the fact that AML/CFT supervision by financial sector supervisors is rarely undertaken or not fully risk based (where it is done); and the lack of

supervision or monitoring of DNFBPs to ensure that they are implementing their obligations under R.1, have impact on this criterion (See analysis of R. 26 and R. 28).

Criterion 1.10 (Mostly met) - Article 11 of the AML/CFT Law No. 3/2018 requires reporting institutions to take appropriate measures to identify and assess ML/TF risks.

- (a) **(Met)** Article 11 (2) of the AML/CFT Law No. 3/2018 requires reporting entities to document their risk assessments.;
- (b) **(Mostly Met)** Under Article 11 (1) of the AML/CFT Law No. 3/2018, reporting institutions are required to take into account risk factors, such as customers, countries, geographical areas, products, services, transactions, and distribution channels. However, this provision does not expressly state that all relevant risk factors should be considered before determining the overall risk level and the type of appropriate measures to be applied in order to mitigate such risks;
- (c) **(c) and (d) (Met)** Article 11 (2) of the AML/CFT Law No. 3/2018 requires FIs and DNFBPs to keep the risk assessments up-to-date; and make them available to the competent authorities and the SROs.

Criterion 1.11. (Met) -

(a) **(Met)** Article 11 (3)(5) of the AML/CFT Law No. 3/2018 requires FIs and DNFBPs to establish policies, procedures and controls to mitigate and effectively manage the risk of ML/TF identified by them (reporting entities), at the national level and within the UEMOA region. The policies, procedures and controls must be approved by a higher level of their hierarchy. This is understood to be senior management.

(b) **(Met)** Under Article 11 (4) of the AML/CFT Law No. 3/2018, reporting entities are required to have independent audit arrangements to review and verify compliance with and effectiveness of the measures taken in compliance with the AML/CFT law. This implies monitoring the implementation of their internal procedures.

(c) **(Met)** Articles 51, 53, and 54 of the AML/CFT Law No. 3/2018 require FIs and DNFBPs to apply enhanced due diligence measures in the situation of higher risk. In particular, Article 51 of the law provides that where the risk of ML/TF presented by a customer, a product or a transaction appears high, reporting entities should apply enhanced due diligence measures.

Criterion 1.12 (Met) - Guinea Bissau allows simplified due diligence measures where low ML/TF risk has been identified by reporting entities. In particular, Article 46 of the AML/CFT Law No. 3/2018 provides that, where ML/TF risks are low, reporting entities can apply simplified due diligence measures. However, simplified measures is not allowed where there is suspicion of ML or TF.

Weighting and Conclusion

Guinea Bissau has conducted ML/TF risk assessment through the NRA. The draft report generally appears to reflect the main ML/TF risks to which the country is exposed. The risk assessment identified certain limitations with regard to the availability of some statistics. In addition, since the NRA report has not been finalized at the time of the onsite visit, the country had not yet disseminated the results of the NRA to competent authorities, SROs and reporting entities. Guinea Bissau was yet to apply a risk-based approach to allocation of resources while implementation of measures to mitigate ML/TF is not risk based. Furthermore, supervision to ensure

reporting entities are implementing their obligation under R1 is not risk based for FIs (AML/CFT risk based supervision of commercial banks is at rudimentary stage), and not undertaken in the DNFBP sector. **Guinea Bissau is rated Partly Compliant with Recommendation 1.**

Recommendation 2 - National Cooperation and Coordination

Guinea Bissau was rated non-compliant with former R.31 in its first MER due to the following deficiencies: cooperation and internal coordination among the various competent authorities was limited, and there was no cooperation and coordination in the area of terrorist financing since Directive No. 4/2007 CM / UEMOA on TF had not yet been transposed into national legislation.

Criterion 2.1 (Partly met) - Guinea Bissau is yet to develop a national AML/CFT policy informed by the risks identified in the NRA. Nonetheless, the country has developed a National Integrated Plan (NIP) to Combat Drugs, Organized Crime and Risk Reduction (2021-2027). The NIP addresses some of the main ML/TF risks identified in the country, such as drug trafficking and corruption, with some little component of AML/CFT measures. In particular, the NIP emphasizes the issue of national coordination at the operational level amongst competent authorities dealing with the implementation of measures against transnational crimes (which includes ML/TF). It also covers international cooperation, with particular emphasis on the need to increase internal capacity to provide and request, mutual legal assistance, financial information (intelligence), and the need to create a central authority to coordinate the efficient transmission and execution of requests for judicial cooperation.

Criterion 2.2 (Met) - The Inter-Ministerial Committee (IMC) is the authority designated for implementing and coordinating national AML/CFT policies in Guinea Bissau. The Committee was established in 2003 by order of the Minister of Economy and Finance, Order No. 54/GMEF/2003 of 27 October.

Criterion 2.3 (Partly met) - The IMC was established as mechanism through which policy makers and competent authorities can cooperate, and coordinate domestically on AML/CFT matters. The Committee consists of relevant national authorities involved in AML/CFT implementation⁸¹. However, the Committee is not operational. Thus, cooperation and coordination in the development and implementation of AML/CFT policies and activities by the Committee is lacking or at best, limited. Article 74 of the AML/CFT Law No. 3/2018 provides for national coordination. In particular, it requires the FIU, supervisory authorities, national professional bodies and national representative bodies to cooperate and coordinate their actions at national level in the development and implementation of policies aimed at combating ML/TF. At the operational level, Article 75 of the AML/CFT Law No. 3/2018 provides for the implementation of information exchange between and among the FIU, supervisory authorities, professional associations and representative of national bodies. In addition, operational coordination mechanisms

⁸¹ Representative of the Ministry of Economy and Finance, the General Directorate of Customs, the Ministry of Justice, the Ministry of interior, the Ministry of Foreign Affairs, International Cooperation and Communities, the Ministry of National Defence, the Association of Professional Banks and Financial Establishments, the National Directorate of BCEAO, the National Financial Information Processing Cell, Civil Society, the General Directorate of Taxes and Contributions, the Higher Inspection of the Fight against Corruption, the Center for the Formalization of Enterprises.

aimed at strengthening cooperation in informational exchange also exist, including the Joint Airport Interdiction Task Force (JAITF - AIRCOP).

Criterion 2.4 (Not met) - The mandate of the IMC does not cover financing the proliferation of weapons of mass destruction. Thus, Guinea Bissau does not have any coordination mechanism to combat the financing of proliferation of weapons of mass destruction.

Criterion 2.5 [Partly Met] - Articles 78(1); 89 and 90(2) of the AML/CFT Law No. 3/2018 extends data protection and privacy policy to AML/CFT matters. In general, the provision of the AML/CFT law ensures that AML/CFT objectives are not restricted by data protection laws. However, cooperation and coordination between competent authorities in Guinea Bissau are not subject to any data protection law. In particular, Guinea Bissau has no data protection law and no cooperation and coordination mechanisms in place to ensure AML/CFT requirements comply with data protection and privacy rules.

Weighting and Conclusion

Guinea Bissau has established an Inter-Ministerial Committee to promote cooperation and coordination in development and implementation of AML/CFT policies. However, the Committee is not functional. In addition, Guinea Bissau does not have: (i) national AML / CFT policies that is informed by the identified risks; and (ii) a coordination mechanism to combat the financing of proliferation of weapons of mass destruction. **Guinea Bissau is rated Partially Compliant with Recommendation 2.**

Recommendation 3 - Money laundering offence

In its first MER, Guinea-Bissau was rated partially compliant with the requirements of Recommendation 1. The main deficiencies identified were that: not all categories of predicate offences referred to in the FATF norms were criminalized; the AML law did not apply to proceeds indirectly derived from ML offenses; self-laundering was not provided for under the AML law; the AML law was not properly implemented and applied within Guinea-Bissau's legal system; and there were no investigations, prosecutions, or convictions for ML offences.

Criterion 3.1 (Mostly met) - The provisions of Article 7 of the AML/CFT law criminalize ML largely in the manner provided for under the Vienna and Palermo Conventions. The law prohibits the conversion, transfer, acquisition, possession or use by any person, of property that is derived from a crime or offence. The law also prohibits participation in, association with, instigation of or assistance in the practicing of such acts. However, with regard to the concealment of nature, origin, place, disposition, movement or their real ownership of property, Article 7 (1) (b) refers only to immovable property, thus inducing the inference that the application of this legal precept is limited to property of this nature.

Criterion 3.2 (Met) – Guinea Bissau uses a combined approach and defines predicate offences to ML by referring to all offences and to a list of categories of predicate offences under Article 1(16) of the AML/CFT law. The list of predicate offences mirror the list of FATF designated categories of offences.

Criterion 3.3 (Met) – Guinea Bissau has adopted an all crimes approach. Article 1 (16) lists all twenty-one categories of predicate offences and *also includes any other crime or offence.*

Criterion 3.4 (Met) – Article 1 (14) of the AML/CFT law No. 3/2018 indicates that the ML offence applies to all types of property. In particular, this article defines assets to include all assets of every kind. Article 1 Paragraph 45 also states that all funds and property derived directly or indirectly from a criminal activity are crime proceeds.

Criterion 3.5 (Not met) –The AML/CFT law does not state that when proving that property is the proceed of crime, it should not be necessary that person be convicted of a predicate offence.

Criterion 3.6 (Met) – The money laundering offence applies to predicate offences committed in the territory of another Member State or of a third State and which would have constituted an offence in Guinea Bissau if it had occurred there (Article 7 (3) of the AML/CFT law).

Criterion 3.7 (Met) – The ML offence covers self-laundering. It applies to any person including those who commit the predicate offence. Article 7 (2) of the AML/CFT law.

Criterion 3.8 (Met) - Article 7 (4) of the AML/CFT law stipulates that knowledge or intention, so long as it is concerned with the ML activities, can be inferred from objective factual circumstances.

Criterion 3.9 (Met) – Article 113 of the AML/CFT law states that a person found guilty of ML should be sentenced to three to seven years imprisonment and fined a sum equal to three times the value of the property or funds in respect of which the laundering operations were based. Similarly, Article 115 of the AML/CFT law provides a set of aggravating circumstances in which, the penalty applicable under Article 113 could be doubled.⁸² In addition, Article 117 of the law provides for the possibility of applying ancillary penalties, such as, the partial or total confiscation of the property of illicit origin. It should also be noted that Article 118 of the AML/CFT law excludes the benefit of a suspended sentence in case of conviction for ML crimes. These sanctions appear to be proportionate and dissuasive.

Criterion 3.10 (Met) – In the light of Article 124 (1) of the AML/CFT law, legal persons (except the State) that commit a money laundering offence or other crimes provided for under the AML/CFT law will be punished with a fine equal to five times the value applicable to natural persons as provided for under Article 113. It could also be inferred that this sanction applies, without prejudice, to natural persons convicted as principal actors or accomplices of the offence. Article 124 (2) establishes a set of ancillary penalties applicable to legal persons. The law does not preclude parallel proceedings. The range of sanctions appear to be proportionate and dissuasive.⁸³

Criterion 3.11 (Met) – Article 7 (1) (d) of the AML/CFT law also punishes participation, association or conspiracy to commit the offence of ML as well as facilitating its commission and participation in one of the acts referred to in paragraph (a), (b) and (c) of same article. The fact of associating to commit, attempting to commit, aiding or abetting a person to commit or counselling the person to do commit ML or facilitating the commission of such an act is also covered under the same article. In addition, Article 114 of the same law lays down criminal sanctions for conspiracy, association and complicity in the ML.

⁸² For example, when a ML offense is committed by an organized group.

⁸³ For example, confiscation of assets that were used or were intended to be used to commit the offense or the asset that is proceed of the offense, or even dissolution when the legal person was created with the intention of carrying out illegal activities, may be applied as accessory penalties.

Weighting and Conclusion

Guinea Bissau law criminalizes ML, since it considers any criminal activity liable to generate illicit proceeds as a predicate offense. However, the AML/CFT law only covers the concealment or disguise of the nature, origin, place, disposition, movement or real ownership of *immovable property*, thus, other types of assets are not covered. The major deficiency relates to the fact that the AML/CFT law does not state that when proving that property is the proceed of crime, it should not be necessary that person be convicted of a predicate offence as this will not allow the authorities to effectively deprive criminals of proceeds of crime. **Guinea-Bissau is rated Partially Compliant with Recommendation 3.**

Recommendation 4 - Confiscation and provisional measures

Under the first round of the mutual evaluation, Guinea-Bissau was rated partially compliant with the requirements set out in this Recommendation. The main technical deficiencies were that the mechanisms and tools for freezing, seizures and confiscation of assets were not being applied; statistical data was not maintained; the rights of bona fide third parties were not guaranteed in all situations that involve the commission of a crime; and the application of these measures was not possible in the context of terrorism and its financing, since TF was not criminalized under Guinea-Bissauan law. Since then, the country has established a more robust legal framework for preventing and combating money laundering and the financing of terrorism through, namely, the adoption of Law 3/2018 on AML/CFT.

Criterion 4.1 (Mostly met) –

- (a) **(Met)** Article 128 of Law 3/2018 on AML/CFT law provides for confiscation in favor of the State, following a conviction, of assets that were used or intended for use in the commission of a ML offense, which includes, according to the definition provided for in Article 1 (14) of the same law, assets of any nature or related rights together with the interest on said assets, as well as the income and other benefits arising from such a crime.
- (b) **(Met)** The proceeds of a ML offence, including movable or immovable property into which these proceeds have been transformed or converted, are subject to confiscation under the terms of Article 128 of Law 3/2018. Under the same Article, the Guinea-Bissau authorities have powers to confiscate proceeds of crime, including income or other benefits derived from, or instrumentalities used or intended for use in, ML or predicate offences. The authorities provided an example of a case where proceeds of drug trafficking were seized (see IO.8).
- (c) **(Partly Met)** Article 129 of the AML/CFT law provides for mandatory confiscation of funds, in case of conviction, of financial resources and assets related to the financing of terrorism, including any assets that were destined or used to commit the aforementioned crime. However, these measure do not apply to individual terrorists, terrorist organizations and foreign terrorist fighters as they are not criminalized under Guinean law.
- (d) **(Met)** Article 128 of the AML/CFT law, as well as Article 17 of the Decree on Combating Drugs cover the confiscation of assets of corresponding value.

Criterion 4.2 [Mostly met]

- (a) **(Met)** Pursuant to Article 93 of the AML/CFT law on investigation techniques, in order to obtain evidence of ML and TF or to locate the proceeds of crime, the investigating judge may order a set of actions, including surveillance on bank accounts; access to systems, networks and IT servers; seizure of relevant documents; and interception of communications to identify and locate them.
- (b) **(Met)** Article 99 (1) of the AML/CFT Law 3/2018 allows the investigating judge to order precautionary measures, including the seizure and confiscation of funds and assets related to the ML /FT offence under investigation and also freezing the sums of money and financial transactions related to those assets. The competent authorities may order precautionary measures on the funds and assets related to the offence of ML its underlying crimes and FT without prior notice to the respective owner. Confiscation/precautionary measures also apply to international cases (Article 37 of the AML/CFT Law).

The FIU may issue directives to freeze bank accounts for up to 2 working days if there are reasonable grounds to link a transaction or proposed transaction to ML or TF related activities without prior notice (Article 68 of the AML/CFT Law). Under the same Article, the investigative judge can extend the directive issue by the FIU for another 24 hours, if required by the Unit.

- (c) **(Partly Met)** Guinea Bissau stated that the courts have the legal authority to prevent actions taken to prejudice the ability to freeze or recover property that is subject to such decisions. However, Guinéa-Bissau's authorities did not provide any legal provision or case studies to demonstrate that the courts are able to reverse those measures.
- (d) **(Met)** The Attorney General (AG) and any investigating judge, may adopt appropriate investigative measures in relation to laundered assets, proceeds and instrumentalities of ML/TF crime and the underlying crimes. These criminal justice officers have a range of mechanisms for this purpose, in accordance with the combined provisions of Articles 93 and 94 of the AML/CFT law, Articles 28-31 of Decree-Law no. 2.B.93 (Law on Drugs), and the provisions in the Criminal Procedure Code, (Articles 58 and 141 of the CPC).⁸⁴ Moreover, pursuant to Articles 138 et seq. of the AML/CFT Law, these measures may also be adopted in international cases with cross-border elements. Overall, Law enforcement authorities' powers to search or investigate property subject to confiscation and take compulsory statements from witnesses enable them to take any appropriate investigative measures.

Criterion 4.3 – (Met) The rights of bona fide third parties are protected by law, through AML/CFT Articles 128, 129 and Article 16 (2) of Decree-Law on combating drugs. Similarly, Article 148(3) of the AML/CFT Act protects the rights of bona fide third parties in connection with confiscation requests from foreign jurisdictions.

Criterion 4.4 – (Met) Decree 9/2018, which establishes the Asset Management Office (AMO), provides that the administration of assets seized or recovered, within the scope of national proceedings or acts of international judicial cooperation, be ensured by the AMO which is under the authority of the Directorate-General for the Administration of Justice of the Ministry of Justice. This Office is also competent to dispose of these assets.

⁸⁴ These legal provisions allow for the seizure of assets related to ML and TF, thus ensuring their preservation pending criminal proceedings.

Weighting and Conclusion

The changes to the AML/CFT legal framework allowed Guinea-Bissau to address the most significant deficiencies previously identified. However, the country has not demonstrated that there are internal mechanisms that allow competent authorities to annul the actions already taken which prejudice the country's ability to freeze or seize or recover assets subject to confiscation.. **Guinea-Bissau is rated Largely Compliant with Recommendation 4.**

Recommendation 5 - Terrorist financing offence

In the first MER Guinea Bissau was rated non-compliant with the requirements of this Recommendation due to non-criminalization of: terrorism financing: attempted financing of terrorism and terrorist acts: and financing of terrorist groups, organizations and individual terrorist. Guinea Bissau has transposed the 2015 WAEMU Uniform Law by enacting Law N° 3/2018 of August 7, 2018.

Criterion 5.1 (Met) – TF offences is criminalized under Article 8 of Law N° 3/2018 of August 7, 2018 in accordance with Article 2 of the UN Convention for the Suppression of Terrorism Financing. Article 8 defines the financing of terrorism as "...any act performed by a natural or legal person, who by any means, directly or indirectly, has deliberately provided or raised assets, funds or other financial resources with the intention of using them or knowing that they will be used in whole or part to commit terrorist acts by a terrorist, group of terrorist, or terrorist organization."

Criterion 5.2 (Partly Met) – Under Article 8 of the Law N° 3/2018 of August 7, 2018, the TF offence only covers the financing of terrorist acts whether by a terrorist, group of terrorists or terrorist organization. The provision does not cover the financing of a terrorist organization or an individual terrorist where a specific act of terrorism is not involved. TF should extend to the financing of terrorism for any purpose. In addition, the provisions do not explicitly state that the TF offence will be established even in the absence of a link to one or more specific terrorist acts.

Criterion 5.2^{bis} (Not Met) – The TF offence does not criminalize the financing of individuals who travel to a State other than their State of residence or nationality for the purpose of perpetration, planning, preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

Criterion 5.3 (Met) – TF offence covers funds or other assets whether from legitimate or illegitimate sources. The term "funds" in the AML/CFT Law also encompass all the types of funds defined in the FATF Glossary.

Criterion 5.4 (Met) – Article 8 (4) states that a TF offence is committed whether or not the act takes place, or the funds have been used or not to perform a terrorist act.

Criterion 5.5 (Met) – Article 8 (5) states that knowledge or intention pertaining to TF offence can be derived from objective factual circumstances.

Criterion 5.6 (Met) – Article 119 of the law N° 3/2018 of August 7, 2018 punishes TF offences by a minimum term of ten years imprisonment and a fine of at least five times the value of the property or funds related to the terrorist financing operations. The same provision applies to an attempt of TF. Aggravating circumstances arise when the terrorist financing offence is committed habitually or by using facilities provided for the purpose of

a professional activity or the perpetrator is in a state of recidivism (convictions secured abroad are taken into account to establish recidivism) or when the offence of financing terrorism is committed by an organized group. Under Article 122 there are additional criminal penalties for natural persons are as follows: (i) the definitive exclusion of residence in the national territory or ban for a duration of three to seven years, pronounced against any foreigner that has been convicted, (ii) the definitive prohibition or temporary prohibition for a period of five to ten years from practicing the profession or activity in respect of which the offence was committed and the prohibition from the exercise of a public office, (iii) the forfeiture of the property or the item that was used or intended to be used in the commission of the offence or the object that is the product of the offence, except for property subject to restitution. Finally, Article 123 provides that no suspended sentences should be applied for terrorist financing offences. These punishments appear to be proportionate and dissuasive.

Criterion 5.7 (Met) – Criminal liability and sanctions are provided for under Article 125 of the AML/CFT law. Legal persons other than the State could be subject to one or more of the following punishments (i) ban from participation in public tenders for a period of ten years or more; (ii) the confiscation of the property that was used or was intended to be used in the commission of the offence or the property that is the product of the offence; (iii) placement under judicial supervision for a period of five years or more; (iv) the prohibition, to carry on directly or indirectly one or more professional or social activities in connection with which the offence was committed for a period of ten years or more; (v) the definitive closure or a closure for a period of ten years of one or more of the establishments of the enterprise used to commit the criminal acts, (vi) the dissolution, where such establishments were created to commit the criminal acts, (vii) the display of the decision pronounced or dissemination thereof, by the written press or by any means of audio-visual communication, at the expense of the convicted legal person. The supervisory authority with disciplinary power may also issue dissuasive disciplinary sanctions according with the specific laws and regulations.

Criterion 5.8 (Mostly met) – Under the AML/CFT Law No. 3/2018 Article 8 (3) and (4) it is an offence to:

- a) **(Met)** attempt to commit the TF offence (No. 3/2018, Article 8 (3));
- b) **(Met)** participate in a TF offence or attempted offence (No. 3/2018, Article 8 (3));
- c) **(Met)** organize or direct others to commit a TF offence or attempted offence (No. 3/2018, Article.8 (4)), and
- d) **(Not Met)** With regards to, contribution to the commission of one of more TF offence(s) or attempted offence(s) by a group of persons with a common purpose, the law does not cover this aspect.

Criterion 5.9 (Met) – The AML/CFT Law No. 3/2018 (Article 1 (16) and (33)) designates TF offence as a ML predicate offence.

Criterion 5.10 (Met) – The AML/CFT Law No. 3/2018 (Article 4 and Article 120 (1)(b)) applies to any individual or legal person or any organization subject to the jurisdiction of Guinea Bissau, regardless of the place where the act was carried out.

Weighting and Conclusion

Guinea Bissau has criminalized TF, but there are some deficiencies remaining. The country's AML/CFT legislation does not clearly indicate that the TF offence will

be established even in the absence of a link to one or more specific terrorist acts. The legislation does not cover the financing of an individual terrorist or terrorist organizations for any purpose and the financing of persons who travel to a state other than their States of residence or nationality for the purpose of perpetration, planning, preparation of, or participation in, terrorist acts or for the purpose of providing or receiving of terrorist training, in accordance with the UN resolutions 2178 (2014) and 2253 (2015). Moreover, the Guinea Bissau AML/CFT Law No. 3/2018 does not cover contribution to the commission of TF by a group of people or persons with a common purpose. Given Guinea Bissau's geographical risk and context more weight is given to Criterion 5.2bis and 5.8(d). **Guinea Bissau is rated Partially Compliant with Recommendation 5.**

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

In the first MER of Guinea Bissau, the country was rated non-compliant with the requirements of this Recommendation. This was due to the fact that Regulation n°14/2002/CM/UEMOA was inadequate in terms of designations pursuant to the United Nations Security Council Resolutions 1267/1989 and 1373 sanctions regimes. There were also no measures or mechanism to deal with assets held by DNFBPs, or persons acting on behalf of or at the direction of designated persons or entities or those controlling directly or indirectly certain assets. There was no publicly known procedure for considering unfreezing of assets, where assets have been inadvertently frozen.; there were no mechanisms to provide access to frozen funds for payment of certain expenses or to allow a person whose assets have been frozen to challenge such a decision in court. In addition, there were no clear procedures for examining and give effect to the actions initiated by other countries under Resolution 1373 (2001). There was no protection for bona fide third-party rights and no clear procedures for prompt communication of lists to all national institutions and authorities, with the view to taking freezing action, without delay. There were also no statistical data on freezing decisions, frozen assets and the respective amounts involved. Guinea Bissau has since adopted AML/CFT Law No. 3/2018 of August 7, 2018 to address some of the highlighted deficiencies.

Criterion 6.1 (Not Met)- For designations under UNSCRs 1267/1989 and 1988 (UN “sanctions regime”):

- a) **(Not met)** – Guinea Bissau has not identified a competent authority or a court as having responsibility for proposing persons or entities to the 1267/1989 and 1988 Committees for designations;
- b) **(Not met)** – Guinea Bissau does not have a mechanism for identifying targets for designation;
- c) **(Not met)** – Guinea Bissau does not have a mechanism in place to apply an evidentiary standard of proof of ‘reasonable grounds’ or ‘reasonable basis’ when deciding whether or not to make a proposal for designation;
- d) **(Not met)** – Guinea Bissau does not have any procedure in place or standard forms for listing, as adopted by Committee 1267/1989 and 1988 (UN “sanctions regime”);

- e) **(Not met)** – Guinea Bissau does not have any mechanism or procedure or competent authority to enable it to provide as much relevant information as possible on the proposed name, including a statement of case with all available detail.

Criterion 6.2 (Partly Met) – Guinea Bissau implements UNSCR 1373 according to its AML/CFT Law N° 3/2018 of August 7, 2018:

- a) **(Mostly met)** – Article 1 of Decree No. 1/2014 of April 9, 2014 establishes a Commission for National Freezing of movable and immovable property and other financial resources of terrorists (CNCFT). The authority is responsible for analyzing information and deciding on adoption of freezing measures. The decree does not expressly cover designations put forward by another country.
- b) **(Not met)** – Guinea Bissau does not have a mechanism for identifying targets for designation based on the UNSCR 1373 criteria.
- c) **(Not met)** – Guinea Bissau does not have measures in place to adequately respond to a request, or to make a prompt determination of whether the request is satisfied or supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designations meets the criteria for designation under UNSCR 1373.
- d) **(Partly met)** –The CNCFT carries out administrative freezing as such the proposal for designations are not made upon the existence of a criminal proceedings. However, Guinea Bissau has not demonstrated that the country applies an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a designation.
- e) **(Not met)** – Guinea Bissau does not have any provision/mechanism in place to receive or request another country to implement the actions initiated under the freezing mechanism, to give the maximum identification information and specific information supporting the designation.

Criterion 6.3 (Not Met) –

- a) **(Not met)** - Guinea Bissau AML/CFT Law N° 3/2018 of August 7, 2018 does not specify any procedure or mechanism to collect or solicit information to identify persons and entities that meet the criteria for the designation; and
- b) **(Not Met)** - There is no procedure or mechanism to operate ex-parte against a person or entity identified and whose proposal for designation is under consideration.

Freezing

Criterion 6.4 (Not met) There are no legal provisions under the AML/CFT Law N° 3/2018 of August 7, 2018 that permit the country to apply Targeted Financial Sanctions without delay.”

Criterion 6.5 ((Partly met) –

- a) **(Met)** Article 100 (5) requires all natural and legal persons or entities holding assets, funds or other financial resources of designated persons and entities in the country to freeze them immediately and without prior notice.
- b) **(Partly met)** – In terms of the scope of funds covered under the AML/CFT law, Article 1 (30 and 31) and Article 100 (4) cover all funds, property and other proceeds of the property that are owned or controlled by the designated person or entity. However, this provision does not cover the funds or other assets of persons and entities acting on behalf of, or at

the direction of designated persons or entities. (Article 1, paragraph 30 and 31 (b) and Article 100 (4) of the AML/CFT law)

- c) **(Partly met)** – Article 5 (q) and Article 100 (7) of the AML/CFT law prohibit natural or legal persons, bodies or entities from making funds or other goods, economic or financial resources or related services, directly or indirectly, totally or jointly, available to the designated persons or entities. However, it is not clear whether this provision applies to all citizens. The law also prohibits reporting entities from continuing to provide services to designated persons and entities – (Article 100 (8) and (9) of the AML/CFT Law). However, these provisions do not expressly cover persons or entities acting on behalf of or under the direction of designated persons or entities.
- d) **(Not met)** – There is a comprehensive communication mechanism for the publication of freezing decisions as well as procedures for release of funds under Article 101 of Law N° 3/2018. The law does not however, specifically address the financial sector and the DNFBPs and no information is provided to demonstrate that the communication contains clear guidelines addressed to these entities or the steps to be taken by these entities.
- e) **(Mostly met)** – Pursuant to Article 100 (5) and (6) of the AML/CFT law, FIs, and any person or entity holding assets are required to report to competent authorities of assets frozen pursuant to the requirements of relevant UNSCRs. The requirements do not include attempted transactions.
- f) **(Met)** – Bona fide third parties acting in good faith are protected under Article 105 of the AML/CFT Law.

De-listing, unfreezing and providing access to frozen funds or other assets

Criterion 6.6 (Partly met) – Article 107 of the AML/CFT law mentions the right to appeal but does not provide a step by step procedure on how to appeal. It states that an aggrieved person may “...appeal against that decision within a month of the date of publication in the Official Journal or in a legal journal.”

- a) **(Not Met)** – There is no procedure for the submission of de-listing requests in accordance with procedures adopted by the 1267/1989 Committee or the 1988 Committee;
- b) **(Met)** – Decree No. 1/2014 (Article 1 (1) designates the Commission for National Freezing of movable and immovable property and other financial resources of terrorists as the legal authority for administrative freezing. Article 2(e) and (k) of the Decree No. 1/2014 provides for the review and update of the list of designated persons and entities.
- c) **(Met)** – The confirmation of a decision of a freezing measure is subject to judicial review by the competent court (Article 5(3) Law 1/2014).
- d) **(Not met)** - There are no clear procedures to facilitate review by the 1988 Committee, in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including focal point mechanism established under UNSCR 1730.
- e) **(Not met)** – With regards to designations on the Al-Qaida Sanctions list, the procedures for informing designated persons and entities and including the availability of the United Nations Ombudsperson Office pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions are not indicated in the AML/CFT law;
- f) **(Met)** – Article 107 (1) provides for the right to appeal against the where a person is inadvertently affected by a freezing mechanism.

- g) **(Not met)** – Article 101 (1 and 2) provides the mechanism for communication for de-listing and unfreezing but not specific to the FIs or DNFBPs.

Criterion 6.7 (Met) – The provisions of Article 103 of the AML/CFT Law allow access to funds and other frozen assets. Thus, when an administrative freezing of funds or other assets is taken, the Minister of Finance may authorize, under the conditions he deems appropriate, the affected person or entity, on request, to have a sum of money on a monthly basis, intended to cover, subject to availability, for a natural person, current family expenditure or, for a legal person, expenses related to an activity compatible with the requirements of public order. The sum may also cover legal assistance fees or exceptional charges. All expenses must be justified in advance.

Weighting and Conclusion

Guinea Bissau’s regime for implementing TFS have major shortcomings. There is no designated competent authority or a court with the responsibility to propose persons or entities to the 1267/1989 Committee and the 1988 Committee. There is a lack of mechanism for identifying targets for designation, the law does not prescribe the application of the evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when considering a proposal for designation. Guinea Bissau does not have a mechanism for identifying targets for designation based on the UNSCR 1373 criteria; measures to adequately respond to a request by another country, or to make a prompt determination as to whether a proposed designation meets the criteria for designation under UNSCR 1373; and a procedure or mechanism to collect or solicit information to identify persons and entities that meet the criteria for the designation. In addition, there is an absence of the requisite legal provision to apply Targeted Financial Sanctions “without delay. The law does not cover the funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. There are no clear guidelines to reporting entities. There is no procedure for the submission of de-listing requests in accordance with procedures adopted by the 1267/1989 Committee or the 1988 Committee and there are no clear procedures to facilitate review by UN Committees, in accordance with any applicable guidelines. **Guinea Bissau is rated Partially Compliant with Recommendation 6.**

Recommendation 7 – Targeted financial sanctions related to proliferation

This Recommendation was added to the revised FATF Recommendations in 2012, so it was not assessed during the first round of the Guinea Bissau Mutual Evaluation in May 2009.

Criterion 7.1 (Met) The provisions of Article 100 (4) of Law 3/2018 on Combating Money Laundering and Financing of Terrorism (AML/CFT) in Guinea Bissau provides that the competent authority shall order, by competent decision, the freezing of assets, funds and other financial resources of persons or entities designated by the United Nations Security Council (UNSC), under Resolutions on combating the financing of the proliferation (FP) of weapons of mass destruction (WMD).

Criterion 7.2 (Partly met)

- a) **(Met)** Article 100 (5) of the AML/CFT law states that “financial institutions and any person or entity that hold assets, funds or other financial resources referred to in paragraphs (1), (3) and (4), shall immediately freeze, without prior notice to the holders, provided that notification is given of said decision, until the UNSC decides otherwise or another decision is taken, according to the same procedure.”
- b) **(Partly met)** - The AML / CFT law compels the freezing of funds and other assets of designees. However, the law does not specifically cover funds or other assets that are jointly owned or controlled, directly or indirectly by designees or the funds and other property of persons and entities acting on behalf of or at the direction of designated persons or entities are not covered.
- c) **(Mostly met)** Article 100 (5) and (4) of the AML/CFT Law 3/2018 provides that “It is strictly forbidden for persons referred to in Articles 5 and 6 of this Law, to direct or indirectly make funds subject to freezing procedure available to natural or legal persons, entities or bodies designated ... or to use them for their benefit”. However, other nationals are not expressly prohibited from making funds available to designated persons and entities.
- d) **(Not met)** Guinea Bissau does not have mechanisms for communicating designations to financial institutions and DNFBPs immediately upon taking such action, or clear guidance to financial institutions and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets on their obligations in taking action under freezing mechanisms.
- e) **(Met)** FIs and DNFBPs are required to report any assets frozen or actions taken in related to designed persons or entities. (Article 100 (6) the AML/CFT law).
- f) **(Met) There are measures to protect bona fide third parties (Article 102 and 105 of the AML/CFT law).**

Criterion 7.3 - (Mostly met) – The AML/CFT law requires financial institutions and other reporting entities to disclose all frozen assets to the competent authority (Article 100 paragraph 5 and 6, of the AML/CFT law. Non-compliance by financial institutions and other reporting entities with the provisions of Recommendation 7 will lead to administrative and disciplinary sanctions by the control authority and by courts (Article 112 (1) and (2) and Article 125). Article 11 of the Instruction N° 007-09-2017 on the Modalities of Application by Financial Institutions of the Uniform Act on the Fight Against ML/TF in the Member States of WAEMU empowers financial supervisors to conduct inspection on FIs to ensure compliance with AML/CFT preventive measures set forth in the AML/CFT Law, including obligations related to counter PF measures. However, DNFBPs do not have AML/CFT monitoring and control authority.

Criterion 7.4 (Partly met)

- a) **(Partly met)** The provisions of Article 107 specify that any challenge of a freezing action ordered pursuant to a UN resolution must comply with the appropriate procedure provided for by that resolution without expressly specifying recourse to the focal point.
- b) **(Met)** Article 107(1) of the AML/CFT law states that any natural or legal person whose funds or other financial resources have been frozen, and who considers that the decision to freeze is the result of an error, may appeal against that decision within one month, with effect from the date of publication in the Official Gazette or in a newspaper authorized to carry legal advertisements. The appeal shall be lodged with the competent authority which ordered the freezing, indicating all the elements that can demonstrate the error.

- c) **(Met)** The provisions of Articles 103 and 105 of the AML/CFT law authorizes access to funds or other assets, where it has been determined that the circumstances meet the exemption conditions set out in the UN resolutions.
- d) **(Partly met)** There is a general provision covering mechanisms to communication de-listings and unfreezing. However, the procedures are not specifically directed at the financial sector and DNFBPs and there are no guidance provided to these entities.

Criterion 7.5 (Mostly Met)

- a) **(Met)** Article 102 of the AML/CFT Law 3/2018 states that “funds or other financial resources due under contracts, agreements or obligations concluded or acquired prior to the entry into force of the fund freezing decision are withdrawn from the frozen accounts. The earning generated by the funds, instruments and resources mentioned above, as well as the accrued interest, are deposited in said accounts”.
- b) **(Mostly met)** Payment due under a contract entered into prior to the listing of a person are authorized pursuant to Article 105 of the AML/CFT Law 3/2018. However, the law is silent on the requirements for the exemptions set by Resolution 2231.

Weighting and Conclusion

The AML/CFT Law 3/2018 does not take account of the funds or other assets that are jointly owned or controlled, directly or indirectly by designees or by persons or entities acting on behalf of or at the direction of the persons or entities that are designated. Also, not all nationals are prohibited from providing or continuing to provide services to or for the benefit of designated persons or entities as only reporting entities are prohibited. There are no clear guidelines for financial institutions and DNFBPs. It is important to note that the current mechanism for applying targeted financial sanctions targets only TF and not the PF. Guinea Bissau should enact a decree to implement the provisions of the law. In addition, the measures in place are silent on the conditions for derogation set by Resolution 2231.

Guinea Bissau is rated Partially Compliant with Recommendation 7.

Recommendation 8 – Non-profit organisations

Guinea Bissau was rated non-compliant with the requirements of these Recommendation in its first MER. The deficiencies highlighted include a lack of sensitization and awareness to operators in the sector, lack of on-site and off-site inspection, lack of clear registration procedures, lack of statistics on the exact number of operational NGOs, lack of an evaluation of the risks of using NGOs for purposes of financing of terrorism and the absence of sanctions against violators. With the passage of AML/CFT Law N° 3/2018 of August 7, 2018, the country has adopted legal provisions to strengthen the legal framework to regulate the sector.

Taking a risk-based approach

Criterion 8.1- (Not met) -

- (a) **(Partly met)** – Article 41 of the AML/CFT Law N° 3/2018 of August 7, 2018 defines NPO as “any non-profit making body which collects, receives, gives or transfers funds as part of its philanthropic activity. This definition identifies which subset of organizations that

fall within the FATF definition of NPOs. However, the country has not used relevant sources of information, to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse.

- (b) **(Not Met)** – Guinea Bissau’s draft NRA report identifies several threats and vulnerabilities to the sector including the lack of central registration, emergence of different religious and cultural NPOs, lack of control of aid donations. However, the identified threats and vulnerability are very general with no focus on identification of the specific NPOs at risk for terrorist abuse or how terrorist intend to abuse the sector based on the services offered.
- (c) **(Not Met)** – Guinea Bissau has not undertaken any review of measures, including laws and regulations, which relate to the subset of the NPO sector that may be abused for terrorist financing for the purpose of ascertaining the appropriate or proportionate actions to address the identified risks.
- (d) **(Not Met)** – There has been no periodic review of new information on potential vulnerabilities to terrorist activities and necessary implementation of measures with regards to the NPO sector in Guinea Bissau.

Sustained outreach concerning terrorist financing issues

Criterion 8.2 – (Partly met)

- a) **(Partly Met)** – Articles 42 and 43 of the AML/CFT Law N° 3/2018 provide for policies to promote responsibility, integrity and trust in the administration and management of NPOs. However, there is no general guiding procedures or guidelines on how NPOs are to operate. This is a gap specifically as NPOs are considered high-risk for terrorist financing in the NRA.
- b) **(Not Met)** – Guinea Bissau draft NRA report identified lack of awareness raising and sensitization, poor understanding of the AML/CFT risks and of AML/CFT law as areas needing immediate attention. The country has provided training to NPOs but these training are not targeted towards identified high-risk NPOs or to the donor community.
- c) **(Not Met)** –The CENTIF is charged with keeping the register of NPOs beneficial owners, board of directors, and staff and also financial transactions (donations received). The CENTIF has no supervisory role. The Lack of a competent authority with powers to monitor NPOs in relation to TF highlights the fact that no work has been done with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities to protect high-risk NPOs.
- d) **(Met)** – Article 43(6) stipulates that NPOs are to “comply with the obligation to keep accounts in accordance with the standards in force and shall send their annual financial statements for the preceding year to the supervisory authority within six months at the end of the financial year.” NPOs are also to “deposit in a bank account of a financial institution or an authorized decentralized institution all sums of money donated.”

Targeted risk-based supervision or monitoring of NPOs

Criterion 8.3 (Not Met) Guinea Bissau lack of conduct of a risk-based approach in the identification of high-risk NPOs prevents the promotion of effective supervision or monitoring of these NPOs. The country does not demonstrate that risk-based measures apply to NPOs at risk of terrorist financing abuse.

Criterion 8.4 – (Not met)

- a) **(Not Met)** – Guinea Bissau has not completed a comprehensive risk assessment of the features and types of NPOs that may be vulnerable to TF abuse and, therefore, has not taken steps to promote a risk-based approach to supervision or monitoring of NPOs that may be at risk of TF abuse.
- b) **(Not Met)** – The AML/CFT Law N° 3/2018 of August 7, 2018 does not indicate sanctions awarded specifically to NPOs or persons acting on behalf of these NPOs. Additionally, there is no designated competent authority, authorized to apply effective, proportionate and dissuasive sanctions for violations.

Criterion 8.5 – (Partly met)

- a) **(Not Met)** – The country has not demonstrated inter-agency cooperation, coordination, and comprehensive exchanges of relevant information between institutions regarding NPOs.
- b) **(Not Met)** – Guinea Bissau lacks the requisite instrument to coordinate an investigation to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organizations. The lack of a designated competent authority and appropriate risk-based approach in the identification of high-risk NPOs, hinders progress.
- c) **(Met)** - The Public Ministry, as the competent authority for criminal proceedings [Articles 125, (1) of the Constitution of the Republic, Articles 47 to 50 of the CPC, Article 3 (1) e) and j) of the Organic Law for Public Prosecution in conjunction with Article 27 of the AML/CFT law and Article 2 of the Criminal Investigation Organization Law], is competent to open inquiry and order the investigation any and all crimes, including terrorism and its financing, whenever there are suspicions of TF raised or related to an NPO. For this purpose, the Public Prosecution Service may be assisted by Criminal Police bodies, in particular, by the Judicial Police (Articles 195 and 196 PPC). In the context of TF investigations, the Public Prosecutor's Office (AGO) has legally authorized powers to request information from any entity, public or private, including NPOs. In addition, Article 43 (3) of Law No. 3/2018 stipulates that NPOs must keep all records of their transactions for ten years and make them available to criminal investigation authorities, who have access to information on NPO administration and management (including financial and programmatic information) during an investigation.
- d) **(Partly met)** – Article 43 of the AML/CFT Law N° 3 of August 7, 2018 specifically states funds collected, received or transferred should be entered into a register including necessary due diligence information. Donations amounts equaling 500,000 XOF (US \$825) or more shall be entered into the register with the full details of the donor, the date, nature and purpose of the donation. Donations amounts equaling 1,000,000 XOF (\$1,651) or more shall automatically be declared to the FIU. The FIU is responsible for keeping the register of NPOs beneficial owners, board of directors, directors, and staff. When there is suspicion of TF or from a listed terrorist company the NPO is to file an STR regardless of the sum received. The law is not clear on specifically clear who holds the registry. Article 43 (3) highlights the mechanism for a registry to be consulted by all competent authorities, including law enforcement agencies. The law does not provide guidelines on how the information would be shared promptly to take preventive or investigative action.

Effective capacity to respond to international requests for information about an NPO of concern

Criterion 8.6 (Not Met) – The country has not identified or assigned an appropriate focal point of contact and guidelines to respond to international request for information regarding suspected NPOs suspected of TF or other forms of support.

Weighting and Conclusion

Guinea Bissau's legal framework takes covers the NPOs sector, however there are significant deficiencies. The lack of a designated competent authority to conduct risk-based supervision/oversight measures and monitor the activities of the NPOs sector. There has been no comprehensive assessment to ascertain which NPOs are high-risk of terrorist abuse and the nature of threats posed by terrorist organizations to those NPOs. There is no mechanism to respond to international requests for information on NPOs suspected of TF or supporting terrorism in any other way. Furthermore, Guinea Bissau has not conducted appropriate awareness raising or sensitization to targeted TF high-risk NPOs, neither is there coordination and cooperation between relevant authorities in collaboration with NPOs to develop best practices procedures in dealing with TF risks. **Guinea Bissau is Non-Compliant with Recommendation 8**

Recommendation 9 – Financial institution secrecy laws

Guinea Bissau was rated LC with former Recommendation 4 in its first Mutual Evaluation Report. The main deficiency identified in the report was the lack of provision to ensure that professional secrecy does not prevent information exchange between financial institutions.

In an effort to remedy the deficiency and comply with the criteria of the Recommendation, Guinea Bissau enacted the AML/CFT Law No. 3/2018 of 7 August.

Criterion 9 - [Met] Article 93 (1) of the AML/CFT law provides that in order to obtain money laundering and terrorist financing evidence, as well as of the criminal proceeds location, the investigating judge may order for a specified period of time, without the enforcement of professional secrecy, several actions, including the surveillance of bank accounts and accounts assimilated to bank accounts, when there are serious indications that they are used or may be used, for transactions related to the original infraction or infractions under this law; and those stated in paragraphs b-f.. In the same law, article 96 stipulates that "Notwithstanding any other legislative or regulatory provisions, professional secrecy may not be invoked by the persons referred to in articles 5 and 6 (reporting institutions) as reason for refusal to provide information to the supervisory authorities and FIU or to make the report provided for in this law. The same shall apply with regard to information required as part of a money laundering and terrorist financing investigation ordered by the judicial authority or under his control, and by the agents of the State responsible for the detection and punishment of such offences". While Article 97 provides liability exemption for confidentiality violation, providing that "No action may be taken against the persons referred to in Articles 5 and 6 or their directors, officers or employees who, in good faith, give information or make suspicious transaction reports provided for in Article 79 of this law ...".In addition, under the terms of the law that regulates the banking sector at the level of the UMOA, professional secrecy may not be invoked when the Banking Commission, the Central Bank or Judiciary Authorities are acting in criminal proceedings, article 53 (3). Article 54 of the same law establishes that the provisions of article 53 are applied to decentralized financial institutions and to the National Post Corporation with regards to financial service transactions and postal checks

Articles 75; 76; 78; and 86 (2)(d)(h) of the AML/CFT Law provide for the sharing of information between competent authorities at domestic and international levels. Generally, there are no laws or regulations prohibiting sharing of information between financial institutions in the context of R.13, 16 or 17.

Weighting and Conclusion

Guinea Bissau has met all the requirements under Recommendation 9. **Guinea Bissau is rated compliant with Recommendation 9.**

Recommendation 10 – Customer due diligence

Guinea Bissau was rated NC with former R.5 its first Mutual Evaluation Report. The main deficiencies identified were: limited identification requirements, particularly for beneficial owners; lack of the duty to obtain information regarding the purpose and nature of the business relationship; no requirement for continuous diligence; lack of obligations regarding existing customers;- absence of measures to understand the ownership and control structure of the client and to determine the beneficial owners; no requirements that prevent anonymous accounts or accounts under fictitious names; and the lack of provisions preventing the opening of an account, the initiation of a business relationship or the carrying out of a transaction, whenever the requirements to identify customers or beneficial owners are not met. Other shortcomings included limited practical application of CDD in the banking sector and no application in other financial sectors; lack of the due diligence requirement with regard to occasional transactions; absence of verification requirement through a credible and independent source; absence of the obligation to identify persons acting on behalf of entities without legal personality; and the fact that there were no provisions for financial institutions to be allowed to apply simplified or reduced identification measures for customers resident in another country; Guinea Bissau has taken some measures, including the enactment of the AML/CFT Law No. 3/2018 to remedy some of the deficiencies identified in the MER in relation to this Recommendation.

Criterion 10.1 - [Met] Financial institutions (as part of reporting entities under Articles 5 and 6) are prevented from opening anonymous accounts or accounts under fictitious names (Article 20(2) of the AML/CFT Law No. 3/2018).

Criterion 10.2 [Met]

(a) (Met) Article 18 of the AML/CFT Law No. 3/2018 requires FIs to exercise due diligence before establishing a business relationship.

(b) (Met) Financial institutions are required to identify their occasional client and, where applicable, the beneficial owner of the transaction and to verify the elements of their identification in the following cases: (a) whenever the transaction amount or related transactions exceeds ten million francs CFA (approximately US\$16,805) for persons, except those authorized to carry out manual exchange transactions or the legal representatives and directors of gambling operators; (b) whenever the transaction amount or related transactions exceeds five million francs CFA (approximately US\$8,402) for authorized persons to carry out manual exchange transactions; (c) where the transaction amount or related transactions exceeds one million francs CFA (approximately US\$1,680) for the legal representatives and directors of gambling operators (Article 29 of the AML/CFT Law no. 3/2018) . Identification must also be carried out in the case of several cash transactions, whether in domestic or foreign currency where they exceed in total, the authorized amount and are carried out by and on behalf of the same person within one day,

or in an unusual frequency. Such multiple transactions shall then be considered as a single transaction by an occasional customer (Article 26(2) of the AML/CFT Law no. 3/2018).

(c) (Met) Financial institutions are obliged under Article 26(1) of the AML/CFT Law No. 3/2018 to identify their clients and, where appropriate, the identity and powers of persons acting on their behalf, through documents, sources, data or information that are independent and reliable in particular when carrying out occasional transactions under the conditions laid down in Article 29 of the same law. Under Article 29 (2), CDD is required regardless of the amount when the transaction involves wire transfer

(d) Article 18(1)(2) of the AML/CFT Law No.3/2018 requires financial institutions to identify their occasional customers and, where appropriate, the beneficial owner of the business relationship, if they suspect that the transaction might be related to money laundering or terrorist financing or, (under the conditions provided for by the relevant rules), when the transactions are of a certain nature or exceed a certain amount. In addition, under Article 26 (1)(g)(h) financial institutions are required to identify their customers through documents, sources, data or information which are independent and reliable where there is suspicion of ML/TF. Article 5 (7) (8) of BCEAO Instruction n° 007-09-2017 on AML/CFT also has similar provisions.

(e) (Met) Financial institutions are required as per Article 31 of the AML/CFT Law to re-identify the client, when they have good reasons to believe that the previously obtained client's identity and identification details, are not accurate or relevant.

CDD measurements required for all customers

Criterion 10.3 - [Mostly Met] FIs are required to identify the customer (including whether permanent or occasional, and whether a natural or legal person), and verify the customer's identity using documents, data or information or any other identification information from a reliable and independent source or any other identification information (Articles 18, 19, 26, 27, 28 and 29 of the AML/CFT Law no. 3/2018). There is no provision for legal arrangements. Legal arrangements are not significant in the context of Guinea Bissau.

Criterion 10.4 - [Met] FIs are required to verify that any person purporting to act on behalf of the customer is so authorised. FIs are also required to verify the identity of that person using document, data or information that is independent and reliable (Articles 26(1) and 28(1) of the AML/CFT Law no. 3/2018).

Criterion 10.5 - [Partly Met] Articles 18 and 29 of the AML/CFT Law No. 3/2018 stipulates that before entering into a business relationship with a customer or assisting a customer with a transaction, reporting entities must identify the customer and, where applicable, the beneficial owner⁸⁵ of the business relationship by appropriate means and must also verify their identity through presentation of any written and reliable document. Reporting entities are also required to identify the occasional customer and, where applicable, the beneficial owner of the transaction and verify these identification elements on the presentation of any reliable written document. Where it is not certain whether the customer is acting on his own account, the financial institution shall inquire by any means as to the identity of the true "principal" (Article 30). The requirement to identify the beneficial owner, "*where applicable*" is not consistent with the standards.

⁸⁵ Article 1 (12) of the AML/CFT Law No. 3/2 defines a beneficial owner as the natural person or persons who ultimately own or control a customer and/or the natural person on whose behalf a transaction is carried out. This definition also includes persons who ultimately exercise effective control over a legal person or legal arrangement as defined in point 21 of the law.

Criterion 10.6 - [Met] Financial institutions are required to conduct CDD (Article 18 of the AML/CFT Law No. 3/2018) which includes identifying the purpose of the business relationship. Article 19(1) of the AML/CFT Law No. 3/2018 requires reporting entities to collect and analyze the information from a compiled list by the supervisory authority, in order to know their client and the purpose and nature of the business relationship, which will lead to assessing the money laundering and terrorist financing risk. Article 20(1) of the same law requires reporting entities to exercise due diligence over all business relationships and carefully examine the transactions carried out to ensure that the transaction is consistent with their knowledge of their customers, their business activities, their risk profile and, where necessary, the source of their funds.

Criterion 10.7 - [Mostly Met]

(a) (Met) Article 20 (1) of the AML/CFT Law No.3/2018 requires financial institutions to exercise permanent vigilance (conduct on-going due diligence) over all business relationships and carefully examine the operations carried out to ensure that they are in conformity with what they know of their clients, their business activities, their risk profile and, if necessary, the provenance of their funds.

(b) (Mostly Met) This requirement is covered under Article 19, 20, 21, and 35 of the AML/CFT Law No. 3/2018. In particular, Article 19 (2) provides that throughout the duration of the business relationship with the client, reporting entities shall collect, update and analyze information from the list compiled by the competent authority for this purpose, in order to promote the adequate knowledge of their client. Also, Article 19(3) states that the collection and retention of the information should be done in line with the objectives of mitigating the risks of money laundering and terrorist financing and appropriate surveillance of such a risk. However, Article 19(2) refers to information from the list compiled by the competent authority and not information collected under the CDD process.

Specified CDD measures required for legal persons and legal arrangements

Criterion 10.8 - [Partly met] Article 19(1) of the AML/CFT Law No. 3/2018 broadly requires FIs to understand the nature of the business relationship. This does not explicitly require FIs to understand the ownership and control structure of customers who are legal persons or legal arrangements. However, Article 20 of the AML/CFT law states that reporting entities must know their customers (both legal and natural) including their business activities. Article 28 states that for legal persons they should identify the identity and powers of partners and executives. Again, although there is no direct obligation for FIs to identify and take reasonable measures to verify the identity of beneficial owners for customers that are legal arrangements, Article 79 states that any transaction for which the identity of the principal or beneficial owner, or that of the settlor of a trust fund or any other assets allocation management instrument remains doubtful despite due diligence, should be reported to the FIU.

Criterion 10.9 - [Partly Met] Article 28 (1) of the AML/CFT Law No. 3/2018 provides that the identification of a legal person, a branch or a representative office implies obtaining and verifying information on the company name and address, the identity and powers of the associates and management mentioned in the relevant Uniform Act or their equivalent in foreign law, the proof of their legal constitution, namely, the original or the certified copy of any act or extract from the commercial and property credit registry dated less than three months, attesting its legal form. There is no express provision for the obligation to gather information on one of the main places of activity of legal persons. In addition, there is no provision requiring FIs to identify and verify the identity of legal arrangements.

Criterion 10.10 - [Mostly Met] The specific identification of a legal person is provided for in Article 28 (1) of the AML/CFT Law No.3/2018. Article 30 of the same law provides that where it is not certain whether the customer is acting on his/her own account, the financial institution shall use every means to obtain information on the identity of the beneficial owner and carry out verification. Article 1(12) of the law defines beneficial owner as the natural person(s) who ultimately owns or controls a client and/or the natural person on behalf of whom an operation is carried out. The definition also includes persons who ultimately exercise effective control over a legal person or entity without legal personality, as defined in paragraph 21: (a) where the client of a financial institution is a national, the beneficial owner of the operation shall be the natural person or persons who, directly or indirectly, hold more than 25 % of the capital or company voting powers or who, in any other way, exercises a supervisory power within the management body, administrative or management board of the company or of the general assembly of its members; and in case of doubt Article 30 shall apply. Impliedly, FIs are to take measures to identify persons who own, control or exercise effective control over the customer. However, there is no explicit requirement for FIs to identify the senior managing official, where no natural person is identified under elements (a) or (b) as required under c10.10 (c).

Criterion 10.11 - [Partly Met] There is no explicit provision in the AML/CFT Law requiring financial institutions to identify and take reasonable measures to verify the identity of beneficial owners for customers that are legal arrangements as indicated under criterion 10.11 (a)-(b). However, specific measures exist in the CIMA Regulations for insurance companies in respect of foreign trusts and foundations. For trust, insurance companies are required to identify the settlor and determine the powers of the trustee to take out an insurance contract (Article 8.3(3)). The information required is not enough to identify the trustee. For beneficial owners, identification must occur when a transaction appears to be conducted on behalf of a third party (Article 8.4). For other types of legal arrangements, the CIMA Regulations require, in relation to a foundation, the founder and trustee (Article 8.3(4)). In both cases, insurance companies are not required to take reasonable measures to verify the identity of beneficial owners through the specified means.

CDD for life insurance policy beneficiaries

Criterion 10.12 - [Met] FIs, including insurance companies, brokers and agents are required to conduct CDD on both the customer and the beneficiaries of a transaction (Article 18 of the AML/CFT Law no. 3/2018, and Article 8, CIMA Regulations) and at the time of pay-out. The specific obligations of insurance companies are found in Article 39 of the AML/CFT Law, which stipulates that identification and verification of customer identity must be carried out by insurance companies, agents and brokers carrying on life and non-life insurance activities in accordance with Article 27 of the law and Article 8 of Regulation N° 0004 /CIMA/PCMA/PCE/SG/08 Defining the Procedures Applicable by Insurance Bodies in CIMA member States in the Fight against Money Laundering and Terrorism Financing (CIMA Regulations). For beneficiaries listed by characteristics or by class or other means, FIs must obtain sufficient information to satisfy the FI that it will be able to establish the identity at the time of pay-out. In this regard, FIs are required to establish and keep up to date a register of the identity of subscribers of anonymous capitalisation bonds and systematically record the identity of the co-contracting parties (subscriber, insured, principal, accepting beneficiary). Details of information to be obtained from all types of beneficiaries for purposes of verification include the surname, first names, date and place of birth, nationality, address, source and destination of funds, etc. These enable the FIs to obtain sufficient information to ensure that they will be able to establish

the identity of the beneficiary at the time of the pay-out. For both situations, the verification of the identity of the beneficiary must occur at the time of pay-out.

Criterion 10.13 - [Not met] There is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable.

Verification moment

Criterion 10.14 - [Met] Financial institutions are required to identify and verify the identity of the customer and beneficial owner before or during the establishment of a business relationship with a customer or when assisting the customer in preparing or carrying out any transaction and in the same vein *identify* occasional customers. However, where the risk of ML/TF seems low, the verification of the customer's identity, and where necessary, the beneficial owner, should only be done during the establishment of the business relationship. (Articles 18; 19(2) and 29 of the AML/CFT Law No. 3/2018.

Criterion 10.15 - [Not Applicable] In Guinea Bissau, FIs are not allowed to establish the business relationship prior to verification of the identity of the customer. This criterion is therefore not applicable.

Existing customers

Criterion 10.16 - [Met] The provisions of Articles 18, 19, 20 and 31 of the AML/CFT Law No.3/2018 address the requirements of this criterion. Reporting institutions are required to identify their clients in line with the provisions of these Articles. They are also to exercise constant due diligence on every business relationship and carefully examine the transactions carried out to ensure that they are in line with their knowledge of the customers, their business activities, their risk profile and, where necessary, the source of their funds. In addition, reporting institutions are required to re-identify existing customers if they have good reason to believe that the identity of their client and the identification elements previously obtained are no longer accurate or relevant.

Risk Based Approach

Criterion 10.17 - [Met] Articles 32, 40, 50 and 51 of the AML/CFT Law No. 3/2018 require the implementation of enhanced due diligence measures where the ML/TF risks are higher. Additionally, FIs are required to identify and assess the risks of money laundering and terrorist financing to which they are exposed and apply appropriate measures to mitigate the risks (Article 11 of the AML/CFT Law No. 3/2018). This implies that they should apply enhanced measures if higher risks for ML/TF have been assessed.

Criterion 10.18 - [Met] Article 46 of the AML/CFT Law no. 3/2018, states that where the money laundering risk and financing of terrorism is low, FIs may reduce the intensity (apply simplified CDD) of the measures provided for in Article 19. In this case, they shall justify to the supervisory authority that the extent of the measures is appropriate to those risks. In addition, after identifying and assessing risks, as well as taking into account the ML/TF risks at the Union and member States levels, FIs are required to take proportionate measures to mitigate the risks (Article 11 of the AML/CFT Law). This implies that FIs can apply simplified CDD measures to manage identified low risks.

Inability to satisfactorily conclude the CDD

Criterion 10.19 - [Partly Met] Article 30(2) of the AML/CFT Law No. 3/2018 provides that after verification, if there are still doubts as to the identity of the beneficial owner, the transaction shall be terminated, without prejudice to the obligation in Article 79 to report

suspicious transaction to the FIU in the manner laid down under the conditions provided for under Article 81 of the Act. These requirements are however, only applicable in the context of identification of the beneficial owner.

CDD and alerts (tipping-off)

Criterion 10.20 - [Not-met] There are no specific obligation for FIs, where they reasonably believe that performing the CDD process will tip-off the customer, not to pursue the CDD process but instead file an STR.

Weighting and Conclusion

Key deficiencies in relation to Recommendation 10, include the lack of express provision for FIs to understand the nature of customer that is a legal person or arrangement's business or ownership and control structure; and the lack of requirement for FIs to identify and take reasonable measures to verify the identity of beneficial owners for customers that are legal arrangements as indicated under criterion 10.11. In addition, the requirement to identify the beneficial owner, "where appropriate" is not in keeping with the standards; there is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable; and there is no explicit requirement for FIs to identify the senior managing official, where no natural person is identified under elements (a) or (b) as required under c10.10 (c); there is limited obligation regarding failure to satisfactorily complete CDD; and the lack of requirement not to pursue CDD process that may tip-off a customer and instead file an STR. The gaps in c10.3 and c10.11 relating to legal arrangement and the insurance sectors are given less weight as these entities are not significant in the context of Guinea Bissau. **Guinea Bissau is rated Partially Compliant with Recommendation 10.**

Recommendation 11 – Record-keeping

Guinea Bissau was rated LC with former Recommendation 10 in its first Mutual Evaluation Report. The main shortcomings identified were the: "lack of clear provisions on customer and transaction documents and information to be made available in good time to the competent national authorities; and - lack of supervision with regard to anti-money laundering obligations, where the content is mostly unknown".

Criterion 11.1 - [Met] The obligation regarding the maintenance of all necessary records on transactions (both domestic and international) is set out in Article 35 of the AML/CFT Law No. 3/2018. The Article provides that without prejudice to the provisions prescribing the most restrictive obligations, financial institutions shall keep, for a period of ten years from the closure of their accounts or from the termination of their relationship with their usual or occasional customers, the records and documents relating to their identity. They shall also keep records and documents relating to transactions they have carried out, including account books and business correspondence, for a period of ten years after the execution of the transaction. In addition, Article 5 of BCEAO Instruction No. 007-9-2017 on the application of the Uniform Law on AML/CFT by financial institutions and Article 13 of Regulation No. 0004 CIMA/PCMA/PCE/SG8 also cover these obligations.

Criterion 11.2 - [Mostly Met] Article 35 of the AML/CFT Law No. 3/2018 requires FIs to keep all information obtained from customers and transactions. The Article provides that without prejudice to provisions prescribing more stringent obligations, financial institutions shall retain for a period of ten years, from the closure of their accounts or from the termination of their relations with their usual or occasional clients, all documents relating to customer identity. They shall also keep documents and records relating to the transactions they have carried out, including books of account and business correspondence, for 10 years after the transaction has been carried out. However, there is no clear provision for FIs to keep records of results of any analysis carried out

Criterion 11.3 - [Partly Met] The requirement for FIs to keep transaction records is provided for in Article 35 of the AML/CFT Law No. 3/2018. However, there is no provision that stipulates that the transaction records should be sufficient to allow the reconstruction of individual transactions to provide evidence, if necessary, in the prosecution of a criminal activity.

Criterion 11.4 - [Mostly Met] Article 36 of the AML/CFT Law No. 3/2018, states that "The records and documents relating to the identification requirements provided for in Articles 19, 26 to 32 (that is, all documents required under the permanent surveillance requirement of the business relationship; Identification of customers; Identification of a natural person; Identification of a legal person; Identification of the occasional customer; Identification of the beneficial owner; New customers identification and Particular surveillance of certain transactions), the conservation of which is referred to in Article 35, shall be communicated, at their request, by reporting entities to the judicial authorities, the State agents responsible for the detection of money laundering and terrorist financing crimes, acting within the scope of a judicial mandate, the supervisory authorities and the CENTIF. This provision is limited to CDD information. There is no clear provision requiring transaction records to be made available to domestic competent authorities upon appropriate authority.

Weighting and Conclusion

There is no express provision that states that transaction records should be sufficient to permit reconstruction of individual transactions. In addition, there is no clear provision requiring transaction records to be made available to domestic competent authorities upon appropriate authority. **Guinea Bissau is rated Largely Compliant with Recommendation 11.**

Recommendation 12 – Politically exposed persons

Guinea Bissau was rated NC with former R.6 in first mutual evaluation report. The main deficiency was the "non-existence of a legislative framework for dealing with the risk posed by politically exposed persons".

Criterion 12.1 [Partly Met]

The definition of PEPs is provided by Article 1(44) (1), (2), (3) and (4), of the AML/CFT Law No. 3/2018. However, this is not in full compliance with the FATF standards.

(a) (Partly Met) Article 1(44)(1), (2), (3) and (4), of the AML/CFT Law No. 3/2018 provide the definition of politically exposed persons (PEP)⁸⁶ covering foreign, domestic and PEPs relating to international organizations. Article 22 of the same law requires reporting entities to have an appropriate risk management system to determine whether the customer is a PEP and, if necessary, to apply the specific measures in Article 54. Article 54(1)(a) provides that financial institutions shall implement appropriate and risk adjusted procedures to determine whether the client or beneficial owner is a PEP client. However, the use of “namely” in the definition of Foreign PEPs under Article 1(44) is restrictive and not indicative of the categories of persons entrusted with prominent public functions. It does not afford FIs the flexibility to identify other natural and legal persons that may fall within the categories of foreign PEPs.

(b) (Mostly met) Article 54 (1)(b) of the AML/CFT Law No. 3/2018 provides that without prejudice to the obligations established in Articles 18 to 20, 26 and 27 of this Act, financial institutions shall take specific measures when establishing business relations or carrying out transactions with or on behalf of foreign PEP, under the terms of point 44, paragraph 1 of Article 1 of this Act. In particular, Article 54 (1)(b) requires FIs to obtain authorization at the appropriate hierarchical level before establishing a business relationship with such customers. This is understood to be senior management approval. However, this provision does not cover the requirement for FIs to obtain senior management approval to continue business relationship with existing customer.

(c) (Partly Met) Article 54(1)(c) of the AML/CFT Law No. 3/2018 requires FIs to take all appropriate measures, depending on the risk, to establish the origin of the assets and the source of the funds involved in the business relations or transactions. The requirement for FIs to establish the source of wealth and the source of the funds involved in the business relationship or transaction with foreign PEPs depends on risk. This is inconsistent with the FATF standards which requires FIs to take reasonable measures to establish the source of wealth and the source of funds. Given the unascertainable number of foreign PEPs, it will be impracticable for FIs to determine their risk levels and take any reasonable steps to ascertain their sources of wealth and sources of funds.

(d) (Met) Article 54(1)(d) of the AML/CFT Law No. 3/2018 requires FIs to ensure a continuous enhanced surveillance of business relationships.

Criterion 12.2 - [Met]

(a) (Met) Article 54(2) provides that without prejudice to the obligations in Articles 18 to 20, 26 and 27 of this Act, financial institutions shall take specific measures when establishing business relations or carrying out transactions with or on behalf of national or international organizations' PEPs. In particular, Article 54(2)(a) requires FIs to implement

⁸⁶ Foreign PEPs as natural persons who are or have exercised important public functions in another Member State or in a third country, namely: (a) Heads of State and Government, ministers, ministers delegates and secretaries of Estado; (b) The members of royal families; (c) The directors-general of ministries; (d) The MPs; (e) The members of the highest courts, constitutional courts or other high courts whose decisions are not subject to appeal, save in exceptional circumstances; (f) The members of the courts of auditors or of the executive boards or committees of the central banks; (g) The ambassadors, in charge of business and the superior officials of the armed forces; (h) The members of the administrative, management or supervisory bodies of public undertakings; (i) The senior officials of political parties; (j) The family members of an EPP, in this case: Spouse; Any partner equated with a spouse; Children and their spouses or partners; Other relatives; (k) People who are known to be closely connected to an EPP; and (l) Any other person designated by the competent authority

Domestic or National PEP: natural persons who are or have been exercising significant public functions in the Republic of Guinea-Bissau, and in particular the natural persons referred to in points (a) to (i) above.

PEP of international organisations: persons who hold or have held important positions within or on behalf of an international organisation, in particular senior management, in particular directors, deputy directors and members of the Board of Directors, and any persons who hold similar positions

appropriate and risk-based procedures to determine whether the client or beneficial owner is a PEP customer.

(b) (Met) Article 54(2)(b) requires FIs to apply, in the event of higher risk business relationships with such persons (PEPs), the measures referred to in Article 54(1)(b), (d) and (c). Article 54(1)(b), (d) and (c) meet the requirements in c12.1(b) to (d).

Criterion 12.3 - [Partly Met] FIs are not required to apply the relevant measures of criteria 12.1 and 12.2 to family members or close associates of national PEPs and PEPs of international organisations. This is because the scope of Article 1(44) of the AML/CFT Act does not cover these categories of persons.

Criterion 12.4 - [Partly met] Under Article 39 of the AML/CFT Law No. 3/2018 insurance companies, agents and brokers carrying on life and non-life insurance activities are required to identify their customers and verify their identity in line with the provisions of Article 27 of the law, when the premium amounts reach a limit or premium payments are made under certain conditions. The threshold amount and the terms of payment of premiums are set by a CIMA regulation. There is however, no express provision requiring that financial institutions should take reasonable measures to determine whether the beneficiaries or the beneficial owner of the beneficiary of a life insurance policy, are PEPs. In addition, there is no specific provision requiring FIs to consider making a suspicious transaction report where higher risks are identified.

Weighting and Conclusion

The definition of Foreign PEP is restrictive and there is no requirement for FIs to obtain senior management approval to continue business relationship with existing customer. In addition, the requirement for FIs to establish the source of wealth and the source of the funds involved in the business relationship or transaction with foreign PEPs on the basis of risk is inconsistent with the FATF standards. Furthermore, FIs are not required to apply the relevant measures of criteria 12.1 and 12.2 to family members or close associates of national PEPs and PEPs of international organisations, there is no express provision requiring FIs to take reasonable measures to determine whether the beneficiaries or the beneficial owner of the beneficiary of a life insurance policy, are PEPs, and there is no specific provision requiring FIs to consider making a suspicious transaction report where higher risks are identified. **Guinea Bissau is rated Partially Compliant with Recommendation 12.**

Recommendation 13 – Correspondent banking

Guinea Bissau was rated NC with former Recommendation 7 in its first Mutual Evaluation Report. The main shortcoming identified was the absence of a legislative framework for the treatment of the risk posed by cross-border correspondent banking relationships.

Criterion 13.1 - [Mostly Met]

(a) (Mostly Met) Article 38(1)(a), (b) and (c) of the AML/CFT Law No. 3/2018 provides that in addition to the normal customer-related supervisory measures, financial institutions shall, in respect of cross-border correspondent banking relationships and other similar relationships: (a) identify and verify the identification of the client institution with which

they have correspondent banking relationships; (b) collect information on the nature of the client institution's activities; and (c) assess the reputation of the customer institution and the degree of supervision to which it is subject, on the basis of publicly available information. Similarly, Article 53 of the same law requires FIs (when entering into a contract to provide banking correspondence services) to collect sufficient information on the contracting institution to know the nature of its activities and to assess on the basis of publicly available and exploitable information, its reputation and the quality of the supervision to which it is subject (Article 53(a)). In addition, Article 5 (2) (6) of BCEAO Instruction n. 007-09-2017 establishes procedures that require FIs to gather a series of information (based on the information collection model attached to the Instruction), about a respondent institution prior to establishing a correspondent banking relationship. However, the provision in the law does not specifically state that exploitable information should include whether the FI has been subject to an ML/TF investigation or regulatory action.

(b) (Met) Article 38(1)(d) of the AML/CFT Law No. 3/2018 requires FIs to evaluate the controls put in place by the client institution to combat money laundering and terrorist financing. This requirement is also covered under Article 5 (6) of the BCEAO Instruction 07-09-2017 and the information collection framework annexed to the Instruction (Instruction 07-09-2017).

(c) (Met) Article 38(2) of the AML/CFT Law No. 3/2018 provides that the competent responsible persons in financial institutions shall first authorize the conclusion of a bank correspondence. In addition, Article 53(c) requires FIs to ensure that the decision to enter into a business relationship with the contracting institution is taken by a member of the executive body or any other person empowered to do so by the executive body. This requirement is also addressed under Article 5 (6) of the BCEAO Instruction 07-09-2017 and the information collection framework annexed to the Instruction (Instruction 07-09-2017).

(d) (Mostly Met) Article 53(1)(b) of the AML/CFT Law No. 3/2018 provides that when entering into a contract to provide banking correspondence services, for check clearing or establishing business relations for the distribution of financial instruments with the financial institutions referred to in Article 38 of this law, the reporting entities should evaluate the anti-money laundering and anti-terrorist financing mechanism established by the co-contracting establishment. Although there is a requirement to evaluate the AML/CFT mechanism, there is no express requirement for the respondent and the correspondent bank to clearly understand the respective AML/CFT responsibilities of each institution.

Criterion 13.2 - [Met]

(a) (Met) Article 53(1)(e) of the AML/CFT Law No. 3/2018 requires FIs to ensure that, when receiving, within the framework of banking correspondence services, correspondence accounts which are used directly by independent third parties for the execution of transactions for their own account, that the co-contracting credit establishment has verified the identity of the customers with direct access to such correspondence accounts and has implemented, in relation to such customers, surveillance measures according to those provided for in articles 18 and 19 of this law.

(b) (Met) Under Article 53(1)(d) of the AML/CFT Law No. 3/2018 FIs are able to transmit information, including CDD information upon request to the correspondent bank.

Criterion 13.3 - [Met] - Article 52 of the AML/CFT Law No. 3/2018 prohibits relationship with shell banks⁸⁷. In particular, Article 52(1) prohibits FIs from establishing or maintaining a correspondent banking relationship with a credit institution or a company carrying out equivalent activities incorporated in a State where such an establishment has no effective physical presence enabling it to carry out management and administrative activities, if it is not linked to an establishment or to a legal group. Financial institutions are also required to take appropriate measures to ensure that they do not establish or maintain a correspondent banking relationship with institutions that allow shell banks to use their accounts (Article 52(2)).

Weighting and Conclusion

There is no provision that explicitly requires FIs to gather information on whether the FI has been subject to an ML/TF investigation or regulatory action. In addition, there is no express provision requiring the respondent and the correspondent bank to clearly understand the respective AML/CFT responsibilities of each institution. **Guinea Bissau is rated Largely Compliant with Recommendation 13.**

Recommendation 14 – Money or value transfer services

Guinea Bissau was rated NC with former Special Recommendation (SR) VI during its first Mutual Evaluation Report. The main deficiencies identified were the lack of requirement for the authorization or licensing for Money or Value Transfer Services; the absence of control and supervision of the activities of money and value transfer services companies; the lack of implementation of the requirements of SRVI by money and transfer services; and the lack of penalties for failure to implement the ML and FT prevention provisions.

Criterion 14.1 - [Mostly Met] Under Article 87 of the AML/CFT Law No. 3/2018 no one may engage in the professional activity of money and value transfer services and manual exchange if that person has not obtained the authorization from the competent authority (BCEAO). The competent authority shall lay down the minimum conditions of operations, in particular as regards the regular inspection of money or value transfer services and the penalties for non-compliance with the rules in force. In addition, under Article 3 of the BCEAO Directives n. 013-11-2015, licensed intermediaries and decentralized financial systems are required to sign a contract with each natural or legal person that carry out rapid money transfer activities on their behalf or under their exclusive responsibility. The contract specifies, particularly, the transactions the sub-agent is authorized to carry out on behalf of the principal, as well as the responsibilities of the parties involved, within the scope of the execution of these transactions. However, transfer services have no license but are authorized as soon as the service company concludes a contractual agreement with an approved intermediary. Also, under Article 7, within thirty days after the end of each calendar year, the approved intermediaries and the decentralized financial systems shall provide the Ministry of Finances, the UMOA Banking Commission and the BCEAO with the list of natural and legal persons mandated to act as sub-agents.

Criterion 14.2 - [Not Met] It is illegal to operate an MVTs without a license in Guinea Bissau. The competent authorities which supervise MVTs, including BCEAO and Ministry of Economy and Finance have powers to sanction any MVTs for failure to comply with the rules in force (Article 87(2) of the AML/CFT Law No. 3/2018). However, there is

⁸⁷ The definition of a shell bank under the AML/CFT law is consistent with the FATF definition.

no evidence that Guinea Bissau has taken any specific actions with a view to identifying natural or legal persons that operate MVTS without licences or that the country is applying proportionate and dissuasive sanctions to those persons.

Criterion 14.3 - [Met] Money or value transfer service providers are considered as reporting entities under Article 5(1) of the AML/CFT Law No 3/2018 and subject to AML/CFT supervision by the supervisory authorities, including BCEAO and the Ministry of Economy and Finance. They are required to comply with AML/CFT laws, instructions, guidelines and subject to sanctions for non-compliance. Article 14 of BCEAO Instruction No. 006-07-2011-RFE, concerning the conditions for carrying out manual foreign exchange activity, Article 37 of Instruction No. 008-05-2015, governing the terms and conditions for conducting the business of electronic money issuers in the UEMOA zone and Articles 9 and 10 of Instruction No. 013-11-2015, on the modalities for carrying out the activity of rapid money transfer as sub-agent within UMOA address requirements under this criterion. Instruction No. 013-11-2015 requires natural or legal persons providing money transfer services to sign contracts with approved intermediaries or decentralized financial systems that give them the mandate to carry out rapid money transfer services, on their behalf and under their full responsibility. In this regard, the AML/CFT requirements applicable to approved intermediaries and SFD also apply to them. Under Article 8 of the same instruction, approved intermediaries and SFDs must provide monthly information on the transfer operations carried out by their subagents. In addition, under the BCEAO Instruction 013-11-2015, the WAEMU Banking Commission, the BCEAO and the Ministry of Finance, within the ambit of their respective powers to supervise approved intermediaries and MTVS, can monitor the sub-agents providing money transfer activities in order to ensure compliance with the relevant provisions relating to the exercise of the activity of rapid money transfer services. Article 87 (2) of the AML/CFT Law No 3/2018 provides that the competent authority shall lay down the minimum operating conditions, in particular as regards the regular inspection of money or value transfer services and the penalties resulting from non-compliance with the provisions in force.

Criterion 14.4 - [Met] Under Articles 3 and 7 of the BCEAO Directive No. 13-11-2015, MVTS providers are required to maintain a list of their sub-agents and communicate them to the Ministry of Economy and Finance, the BCEAO and the Banking Commission. In particular, Article 7 provides that, within thirty days after the end of each calendar year, the approved intermediaries and the decentralized financial systems shall provide the Ministry of Economy and Finances, the UMOA Banking Commission and the BCEAO with the list of their sub-agents that carry out rapid money transfer activities on their behalf.

Criterion 14.5 - [Not Met] Banks, DFS and other authorized intermediaries that provide MVTS have responsibility to monitor subagents and the operations they undertake, which are bound by the same AML/CFT requirements. However, there is no obligation for remittance service providers using agents to incorporate them into their AML/CFT programmes and monitor them for compliance with these programmes.

Weighting and Conclusion

Guinea Bissau has not taken any steps to sanction natural and legal persons who provide money and value transfer services without being authorised or registered; and there is no obligation for remittance service providers using agents to incorporate them into their AML/CFT programmes and monitor them for compliance with these programmes. In addition, Sub-agents of Money transfer services are not approved by a competent authority.

In the context of Guinea Bissau, greater weight is placed on c14.2 and c14.5. **Guinea Bissau is rated Partially Compliant with Recommendation 14.**

Recommendation 15 – New technologies

Guinea Bissau was rated NC with R.8 in its first Mutual Evaluation Report (1st MER). The main deficiencies identified were that there was no requirement for institutions to adopt policies or take measures to prevent the illegitimate use of new technologies for money laundering or terrorist financing purposes; and the absence of an appropriate framework in cases where institutions were allowed to accept verification of identity provided by a foreign financial institution.

Criterion 15.1 - [Met] The requirement for this criterion is covered under Article 37(1)(a) and (b) of the AML/CFT Law No 3/2018. This provision requires FIs to identify and assess the money laundering or terrorist financing risk which may result from: (a) the development of new products and new business practices, including new distribution arrangements; (b) the use of new or developing technologies related to new or existing products. Article 10 (1) of the same law requires relevant competent authority in Guinea Bissau to take appropriate measures to identify, assess, understand and mitigate the risks of money laundering and terrorist financing to which the country is exposed. This is broad and covers the requirement for the country under c15.1. Guinea Bissau has assessed the ML/TF risks it faces. This assessment takes into account the risks that may result from the use of new financial inclusion products such as mobile money and prepaid cards.

Criterion 15.2 - [Met]

(a) [Met] -This sub-criterion's requirement is addressed under Article 37(1)(2) of the AML/CFT Law No 3/2018. This provision requires financial institutions to identify and assess the risks of money laundering and terrorist financing that may result from the use of new or emerging technologies related to new pre-existing products. The risk assessment referred to in Article 37(1) must take place before the launch of new products or new business practices or before the use of new or emerging technologies.

(b) [Met] - The requirement of this criterion is covered under Article 37(2) of the AML/CFT Law No 3/2018 which provides that FIs should carry out before the launch of new products or new commercial practices or before the use of new or developing technologies, and take appropriate measures to manage and mitigate such risks.

Criterion 15.3 [Not Met]

- (a) Not Met** – Based on the draft NRA report provided, Guinea Bissau has not identified or assessed the ML/TF risks arising from virtual asset activities and the activities or transactions of virtual asset service providers (VASPs).
- (b) Not Met** – Guinea Bissau did not identify or assess the ML/TF risks arising from virtual asset activities or the activities and transactions of virtual asset service providers and, as such, cannot understand this risk and apply an approach based on the understanding of this risk.
- (c) Not Met** – There is no legal provision requiring virtual asset service providers to identify, assess, manage and mitigate their money laundering and terrorist financing risks, as required by criteria 1.10 and 1.11.

Criterion 15.4 (Not Met) There is no legal provision requiring virtual asset service providers to be licensed or registered. In addition, competent authorities have not taken any legal or regulatory measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP

Criterion 15.5 (Not Met) Guinea Bissau has not taken any action to identify if there are natural or legal persons that carry out VASP activities. No sanction has also been applied in this regard.

Criterion 15.6 (Not Met) There are no provisions that meet the requirements of this criterion.

Criterion 15.7 (Not Met) No guideline has been established and no evidence of feedback provided to VASPs by the country.

Criterion 15.8 (Not Met) There is no legal provision prohibiting virtual asset service providers, and there is no legal provision recognizing and regulating virtual asset service providers.

Criterion 15.9 (Not Met) VASPs are not covered under the current AML/CFT Law No 3/2018, and therefore, there are no provisions requiring VASPs to comply with the requirements set out in Recommendations 10 to 21.

Criterion 15.10 (Not Met) There is no provisions or measures that meet the requirements of this criterion.

Criterion 15.11 (Not Met) There is no provisions that meet the requirements of this criterion. Also, there is no evidence of any international cooperation or information exchange that has taken place in this regard.

Weighting and Conclusion

Guinea Bissau met the requirements of c15.1 and c.15.2. The deficiencies relating to c15.3-c15.11, including the absence of a risk assessment of VASPs and the lack of framework for the prohibition or regulation/supervision of VASPs are important gaps that are weighted significantly under R.15. **Guinea Bissau is rated Non-Compliant with Recommendation 15.**

Recommendation 16 – Wire transfers

Guinea Bissau was rated NC with former SR VII in its first Mutual Evaluation Report. The main deficiencies identified in the MER included the lack of obligations regarding electronic transfers; absence of obligation for the sending financial institutions to obtain and retain information on the originator of the wire transfer; and the lack of provisions requiring the beneficiary financial institutions and intermediaries in the payment chain to ensure that all payer information accompanying the electronic transfer is transmitted alongside the transfer. In addition, there were no provisions requiring beneficiary financial institutions to adopt effective risk-based procedures for identifying and making wire transfers that are not accompanied by complete payer information; and the lack of penalty provision for failure to comply with the obligations arising from this FATF Recommendation.

Ordering financial institutions

Criterion 16.1 - [Met] The requirements of this criterion are covered under Article 33 of the AML/CFT Law no. 3/2018. In particular, Article 33(1)(2) of the AML/CFT Law No 3/2018 provide that financial institutions making electronic transfers shall be required to obtain and verify the sender's full name, account number where account is used to carry out the transfer of funds, address or, in the absence of an address, the national identification number or place and date of birth and, where appropriate, the name of his or her financial institution. Financial institution of the payer should also require the name of the beneficiary and his account number when the said account is used to carry out the funds transfer. The information referred to in paragraphs 1 and 2 shall be contained in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer permitting traceability of the transaction (Article 33(3) of the AML/CFT law).

Criterion 16.2 - [Met] The provision of Article 33 (2)(3) of the AML/CFT law No 3/2018 address the requirements of this criteria. This Article provides that the financial institution of the originator also requires the name of the beneficiary and the account number of the beneficiary, when such an account is used to transfer funds. Financial institutions are required to include the requisite information in the message and payment form accompanying the transfer. If there is no account number, a unique reference number must accompany the transfer, permitting traceability of the transaction. This provision covers both individual transfers and those made in batches by the same originator in practice.

Criterion 16.3 - [Not Applicable] Guinea Bissau does not apply a threshold. Article 33 of the AML/CFT law No 3/2018 is applicable to all wire transfers.

Criterion 16.4 - [Met] A *de minimis* threshold is not applied for wire transfers in Guinea Bissau. However, in general, Article 18 of the AML/CFT Law No. 3/2018 requires reporting entities to identify and verify customer's identity before conclusion of a transaction. Although not expressly link to wire transfers, the word "transaction" is broad and could include wire transfers. In addition, the AML/CFT law requires financial institutions to identify the information pertaining to their customer where there is a (i) transfer of funds at national and international levels, and (ii) suspicion of ML/TF (Article 26 (1)(c)(g)(h) of the AML/CFT Law No. 3/2018).

Criterion 16.5 - [Met] Article 33 of the AML/CFT law apply to both domestic and cross-border wire transfers. Thus, Ordering FIs are required to ensure that domestic wire transfers are accompanied by originator information as indicated for cross-border wire transfers. In particular, Article 33(3) provides that the originator information referred to in paragraph 1 (such as name, address, date and place of birth) shall be contained in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer. In addition, Article 35 of the same law requires financial institutions to maintain records relating to the transactions (these include wire transfers) they executed, including account books and business correspondences, for a period of ten years, after executing the transaction. Reporting entities have obligation to communicate information they maintain to relevant competent authorities, including the judicial authorities, State agents responsible for detecting offences of money laundering and terrorist financing, acting within the framework of a court mandate, the supervisory authorities and the FIU (Article 36 of the AML/CFT law).

Criterion 16.6 - [Partly Met] Under Article 33 (3) of the AML/CFT law no 3/2018, FIs are required to include the information required in Article 33 (1)(2) in the message or the payment form accompanying the transfer. In the absence of an account number, a unique reference number must be attached to the transfer document. However, the financial

institution of the originator is not required to forward the information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities upon request from either the beneficiary's financial institution or the appropriate competent authorities within 03 working days of receiving the request from either the beneficiary's financial institution or the appropriate competent authorities. Under Article 36 of AML/CFT Law, law enforcement authorities have the power to compel immediate production of information as required in c16.6.

Criterion 16.7 - [Mostly Met] The requirements of this criterion are covered under Article 35 of the AML/CFT Law No. 3/2018. The Article provides that without prejudice to the provisions prescribing the most restrictive obligations, financial institutions shall keep, for a period of ten years from the closure of their accounts or from the termination of their relationship with their usual or occasional customers, the records and documents relating to their identity. They shall also keep records and documents relating to transactions which they have carried out, including account books and business correspondence, for a period of ten years after the execution of the transaction. However, there is no explicit requirement for FIs to provide the information to the relevant national authorities swiftly, upon appropriate authority/request, in accordance with R.11.

Criterion 16.8 - [Not Met] Article 34 of the AML/CFT Law No. 3/2018 provides that where financial institutions receive wire transfers not containing complete payer information, they shall take the necessary steps to obtain the missing information from the beneficiary or issuing institution, and verify it. If they do not obtain this information, they shall refrain from carrying out the transfer and inform FIU. However, this requirement does not cover the ordering FIs. Thus, there is no provision prohibiting Ordering FIs from executing a wire transfer if it does not comply with the requirements specified above at c.16.1-16.7.

Financial intermediaries

Criterion 16.9 - [Met] Article 33(3) of the AML/CFT Law No. 3/2018 stipulates that the information referred to in Article 33 (1)(2) (originator and beneficiary information) shall be contained in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer. Thus, intermediate FIs have obligation to ensure that all originator and beneficiary information is retained with the wire transfer as required by c16.9.

Criterion 16.10 - [Partly Met] There is no specific provision requiring Intermediary FIs to keep a record of originator and beneficiary information received with a wire transfer where technical limitations prevent the required originator information or beneficiary information accompanying a cross-border wire transfer. However, the general requirement for FIs to maintain records of transactions for a period of ten years is broad, and could apply to the intermediary FIs under this circumstance.

Criterion 16.11 - [Mostly Met] Article 34 of the AML/CFT Law No. 3/2018, requires financial institutions receiving wire transfers not containing complete originator/payer information, to take the necessary steps to obtain the missing information from the beneficiary or issuing institution, to complete and verify it. If they do not obtain this information, they must refrain from carrying out the transfer and inform the FIU. However, the provision of Article 34 only referenced originator information and therefore, does not cover incomplete information on the beneficiary.

Criterion 16.12 - [Met] Article 11(3), and Article 25(1)(a) of the AML/CFT law have provisions requiring financial institutions to have risk based policies and procedures.

Although not specifically linked to wire transfers, these provisions are broad and could apply in determining when to execute, reject, or suspend a wire transfer. Article 34 of the same law requires FIs that do not obtain the required originator information or the required beneficiary there is no specific obligation on the intermediary FIs to take reasonable measures (such as monitoring) to identify cross border wire transfers that lack required originator or beneficiary information. information to refrain from executing the transfer and inform the FIU.

Beneficiary financial institutions

Criterion 16.13 - [Not Met] There is no specific provision requiring beneficiary FIs to take reasonable measures, including post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator or beneficiary information.

Criterion 16.14 - [Not Met] There is no specific provision that meets this requirement.

Criterion 16.15 - [Met] Analysis under c16.12 applies to beneficiary institutions.

Money or value transfer service operators

Criterion 16.16 - [Met] MVTS are reporting institutions (Article 5 of the AML/CFT Law No. 3/2018) and therefore subject to the requirements in the AML/CFT law, including all of the relevant requirements of R.16. Under Article 87(1) of the same law, no one may engage in the professional activity of transferring money or values without the proper authorization from the competent authority. In addition, under Article 5 of the BCEAO Instruction No. 013-11-2015, sub-agents providing money and securities transfer services are required to comply with the obligations of Recommendation 16.

Criterion 16.17 - [Partly Met] While there is a general requirement for reporting entities, including MVTS to file suspicious transactions (Article 79 of the AML/CFT Law No. 3/2018), and financial institutions, including MVTS providers, that receive wire transfers with incomplete information but are unable to obtain this information to inform the FIU (Article 34 of the AML/CFT Law No. 3/2018), there is no specific obligation for MVTS providers to take into account all the information from both the ordering and beneficiary side of a wire transfer in order to determine whether an STR has to be filed, and file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the FIU.

Implementation of Targeted Financial Sanctions

Criterion 16.18 - [Met] FIs are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities when conducting wire transfers. In particular, Article 104 of the AML/CFT Law No. 3/2018 requires financial institutions that receive orders from clients, other than a financial institution, to execute on their behalf a transfer of funds or financial instruments outside of Guinea Bissau for the benefit of a person, an organization or an entity subject to a freezing measure, shall suspend the execution of that order and immediately inform the competent authority. In addition, financial institutions receiving from abroad, an order to transfer funds or financial instruments from a person, organization or entity subject to a freezing order, for the benefit of a customer, other than a financial institution, must suspend the execution of the order and inform the competent authority without delay. Funds or instruments for which the transfer order has been suspended shall be frozen unless the competent authority authorizes the transfer.

Weighting and Conclusion

The provisions of the AML/CFT Law no. 3/2018 met some of the requirements of Recommendation 16. However, significant deficiencies still exist, including the lack of provision requiring beneficiary FIs to take reasonable measures, including post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator or beneficiary information; and the absences of requirement for beneficiary financial institution to verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with Recommendation 11. In addition, there is no express provision prohibiting Ordering FIs from executing a wire transfer if it does not comply with the requirements specified under c.16.1-16.7; there is no specific obligation on the intermediary FIs to take reasonable measures (such as monitoring) to identify cross border wire transfers that lack required originator or beneficiary information; and there is no specific obligation for MVTS providers to take into account all the information from both the ordering and beneficiary side of a wire transfer in order to determine whether an STR has to be filed, and file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the FIU. **Guinea Bissau is rated Partially Compliant with Recommendation 16.**

Recommendation 17 – Reliance on third parties

Guinea Bissau was rated NC with former R.9 in its first Mutual Evaluation Report. The main weakness identified was the fact that there was no provision defining criteria for financial institutions resorting to third parties or business introducers.

Criterion 17.1- [Met] Reliance on third-party (reporting entities) by FIs for the performance of elements (a)-(c) of the CDD measures set out in R.10 is provided for in Articles 57 and 58 of the AML/CFT Law no. 3/2018. In particular, Article 56 provides that FIs can resort to third parties to carry out the CDD obligations under Articles 18 to 20 of this law while the ultimate responsibility for the fulfilment of these obligations remains with the FI relying on the third party. Under Article 58, the third party who conducts the CDD requirements set out in Articles 18 and 19 of this law shall immediately provide the financial institutions, with information concerning the identity of the customer and, where applicable, of the beneficial owner as well as information concerning the purpose and nature of the business relationship. The third party is also required to forward to the FIs, as soon as possible upon request, copies of the customer's identification and where applicable, of the beneficial owner and any relevant document to ensure that these steps are taken. Under Article 57(1)(a), FIs relying on third-parties are required to ensure that the recipient third-party is in a country which imposes equivalent obligations in relation to the fight against ML/TF and which appears on the list provided for in Article 46(2) of this Law.

Criterion 17.2 [Mostly Met] Article 57 (1)(a) of the AML/CFT law provides that third-party should be located in a country imposing equivalent obligations in relation to the fight against ML/TF. However, there is no specific requirement for FIs to have regard for a country's level of risk, where the third party or intermediary is located in another country.

Criterion 17.3 Criterion 17.3 (a, b and c) [Not Applicable]

The use of a Third Party FI within the same group is not provided for in Guinea Bissau. Criterion 17.3 is not applicable in Guinea Bissau.

Weighting and Conclusion

The AML/CFT Law No. 3/2018 permits financial institutions to rely on third parties to carry out customer due diligence measures in accordance with Articles 57, 58, 89 and 91, of the AML/CFT Law. However, the requirement that countries should take into account available information on the risk level associated with these countries when determining the countries in which third parties may be established, is not covered. **Guinea Bissau is rated Largely Compliant with Recommendation 17.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In the first round Mutual Evaluation, Guinea Bissau was rated NC on R.15 (internal controls) and NC on R.22 (foreign branches and subsidiaries). The main shortcomings identified were the lack of a sectoral arrangement outside the banking system, notably in the insurance and micro-finance sector; and the absence of effective implementation of internal control requirements in the fight against money laundering and terrorist financing. In addition, the provisions in force do not apply to foreign branches and subsidiaries of financial institutions in Guinea-Bissau.

Criterion 18.1 - [Mostly Met] FIs are required to develop and implement programmes for the prevention of ML/TF (Articles 11(3) and 24 of the AML/CFT law). Such programmes should take into account risk factors and the size of the business (Article 11 (1) of the AML/CFT law) and should include the following:

- (a). (Met) Article 24 (1)(b) of the AML/CFT Law No. 3/2018 requires FIs to appoint a compliance officer at the Management level responsible for the implementation of the anti-money laundering and anti-terrorist financing mechanism.
- (b). (Partly Met) Article 25 (1)(e) of the AML/CFT Law No. 3/2018 stipulates that in applying the provisions of Articles 22 and 24, financial institutions should take into account the risks related to the fight against money laundering and terrorist financing, when recruiting staff depending on the level of responsibility to be exercised. However, this does not explicitly require FIs to have screening procedures to ensure high standards when hiring employees.
- (c) (Met) Article 24 (1)(c) of the AML/CFT Law No. 3/2018 requires FIs to implement continued training to staff to help them detect transactions and behaviors that may be linked to money laundering and terrorist financing".
- (d) (Met) Article 24 (1)(d) of the AML/CFT Law No. 3/2018 requires FIs to implement an internal control system to verify compliance with, and the effectiveness of, the measures adopted to implement this law. Similarly, Article 11(4) of the same law requires FIs to commission an independent audit to assess its policies, procedures and control.

Criterion 18.2 - [Mostly Met]

(a) (Met) Article 89 of the AML/CFT Law No. 3/2018 provides that FIs constituting a group shall implement collective policies and procedures, including data protection policies and the policies and procedures for sharing information within the group to combat money laundering and terrorist financing. These policies and procedures are effectively applied in branches and subsidiaries located in member States and third States.

(b). (Partly met) Articles 89 and 91 of the AML/CFT law require FIs to share information for AML/CFT purposes with the Group's compliance, audit and AML/CFT functions, but the reverse is not explicitly provided for under the above articles.

(c) (Met) Financial groups are required to implement adequate data protection measures (Articles 57 (2)(b), (89 (1)(2), 90(2) of the AML/CFT Law No. 3/2018)

Criterion 18.3 - [Met] This requirement is addressed under Articles 89 and 91 of the AML/CFT Law No. 3/2018. Article 89(2)(4)(5) stipulate that where a financial institution has representative offices, branches or subsidiaries in third States, where the minimum AML/CFT obligations are less stringent than in the territory in which it is established, such representative offices, branches and subsidiaries shall apply the obligations in force in their territory, including those relating to data protection, to the extent permitted by the laws and regulations of third States. Where the legislation of the third State does not allow application of the measures required under paragraph 1, financial institutions shall take additional measures to effectively manage the money laundering or terrorist financing risk and shall make them known to their home State control authorities. If those additional measures are insufficient, the competent authorities of the home State shall provide for additional supervisory measures, including, where necessary, requiring the financial group to cease its activities in the host State. Under Article 91 of the same law, FIs are required to apply measures at least equivalent to those set out in Chapter III of Title II of this law with respect to customer due diligence and the keeping of information at their branches located abroad.

Weighting and Conclusion

There is no explicit provision requiring FIs to have screening procedures to ensure high standards when hiring employees. In addition, there is no obligation for the Group's compliance, audit and AML/CFT functions to share in return information on due diligence and AML/CFT data with financial institutions even if in practice, some groups do so. **Guinea Bissau is rated Largely Compliant with Recommendation 18.**

Recommendation 19 – Higher-risk countries

In its first MER, Guinea Bissau was rated NC with former R.21. The main deficiency identified in the report was the "lack of provisions for countries not implementing or insufficiently implementing the FATF Recommendations".

Criterion 19.1 - [Mostly met] Under Article 50 of the AML/CFT Law No. 3/2018, a financial institution that has a cross-border correspondent banking relationship or a relationship for distribution of financial instruments with a financial institution located in a third State, the financial institution established in Guinea Bissau is required to exercise over the foreign financial institution with which it maintains a relationship, enhanced due diligence measures in addition to the measures provided for in Articles 19 and 20 as defined in Article 53. Specifically, Article 51 of the AML/CFT Law No. 3/2018 provides that when the risk of money laundering and terrorist financing presented by a client, a product or a transaction appears to be high, reporting entities shall intensify the measures provided for in Articles 19 and 20 of this law. However, there is no specific reference to a situation where the application of enhanced due diligence is called for by the FATF.

Criterion 19.2 - [Partly met] (a) There is no provision that requires the country to apply countermeasures proportionate to the risks when called upon to do so by the FATF. (b) Under Article 51(1) of the AML/CFT Law No. 3/2018, financial institutions are required

to apply enhanced measures where the risk of money laundering and terrorist financing presented by a customer, a product, or a transaction is high independently of any call by the FATF to do so.

Criterion 19.3 - [Not-Met] There are no measures in Guinea Bissau to inform financial institutions of concerns about weaknesses in the AML/CFT systems of other countries. It is unclear if the BCEAO or Banking Commission has such measures in place.

Weighting and Conclusion

There is no specific provision that requires the country to apply countermeasures proportionate to the risks, when called upon to do so by the FATF. In addition, there is no provision that explicitly covers the requirement to have measures that advise FIs on the weaknesses in other AML/CFT systems. **Guinea Bissau is rated Partially Compliant with Recommendation 19.**

Recommendation 20 – Reporting of suspicious transaction

Guinea Bissau was rated NC with former R 13 and SR IV in its first Mutual Evaluation Report. The main deficiencies identified were: the obligation to report suspicious transactions was not precise and not known to all persons and reporting entities subject to AML; lack of practical application of the duty to report suspicious transactions; and there was no obligation to report terrorist financing suspected transactions.

Criterion 20.1 - [Partly Met] Article 79 of the AML/CFT Law No. 3/2018 provides for the obligation to report suspicious transactions. In particular, Article 79 (1) of the law provides that the persons referred to in articles 5 and 6 (reporting institutions) are required to report to FIU, under the conditions established by this law and according with a model declaration established by dispatch of the Minister of Finance, the amounts registered in their books or the operations related to amounts which they suspect or have reasonable grounds to suspect that such amounts are derived from a money laundering or terrorist financing. However, Article 79 (5) stipulates that any information able to refute, confirm or modify the elements contained in the suspicious transaction declaration must be made known to the FIU without delay. Article 79(5) deals exclusively with other relevant information after the submission of an STR. Also, Article 5 of Instruction n. 007-09-2017, which prescribes the procedures to be carried out and the rules to be observed in ML/TF prevention matters, also says that financial institutions must detect and analyze transactions that could be the object of a suspicious transaction report to the FIU. A provision in the same vein is contained in Instruction n. 01/2007/RB, and, directed at insurance companies. Article 4 (4) of Regulation n. 004/CIMA/PCMA/SG/08, outlines the rules and procedures related to suspicious transaction reports to the FIU. However, neither the AML/CFT law nor the BCEAO or CIMA instructions expressly indicate that suspicious transactions must be reported promptly to the FIU. However, the country has not criminalized the financing of individual terrorists and terrorist organizations for any purpose and the financing of foreign terrorist fighters which could impact on the range of offences STRs could be reported on.

Criterion 20.2 - [Partly met] The obligation under article 79 of the AML/CFT Act to report suspicious transactions is not based on threshold and is related to all suspicious transactions. However, there is no explicit requirement in the AML/CFT law for FIs to report suspicious transactions in the case of attempted transactions

Weighting and Conclusion

There is no express provision requiring financial institutions to report STR promptly to the FIU. In addition, the non-criminalization of the financing of individual terrorists and terrorist organizations for any purpose and the financing of foreign terrorist fighters could impact on the range of offences STRs could be reported on; and there is no explicit requirement in the AML/CFT law for FIs to report suspicious transactions in the case of attempted transactions. **Guinea Bissau is rated Partially Compliant with Recommendation 20.**

Recommendation 21 – Tipping-off and confidentiality

Guinea Bissau was rated NC with former Recommendation 14 in its first Mutual Evaluation Report. The main deficiency identified was the restrictive protection regarding the confidentiality of information communicated to the FIU.

Criterion 21.1 - [Met] There is protection for FIs and their directors, officers and employees if they make their disclosure or report their suspicions in good faith to the FIU (Article 83 of the AML/CFT Law No. 3/2018). In particular, Article 83(1) States that the persons or employees and agents of the persons mentioned in articles 5 and 6 (reporting institutions) who, in good faith, provide information or make any report according with the provisions of this law, are exempt from all sanctions for breach of professional secrecy. Article 83(2) provides that no civil or criminal liability suits may be filed, nor any disciplinary sanction pronounced, against persons or officers, agents and employees referred to in Articles 5 and 6 of this law, who act under the same conditions as those provided for in the preceding paragraph, even if judicial decisions based on the statements referred to in that paragraph have not resulted in any conviction. In addition, Article 83(3) states that no civil or criminal liability action may be brought against the persons referred to in the preceding paragraph because of material or non-material damage resulting from the blocking of an operation in accordance with Article 68 of this law. Article 83 (4) stipulates that the provisions of this article shall be fully applied, even if proof of the criminal character of the facts at the origin of the suspicious transaction reporting has not been demonstrated or if the facts are amnestied or lead to a dismissal decision, discharge or acquittal. Similarly, Article 84 of the same law states that where a suspicious transaction has been executed, and except in the case of fraudulent collusion with the perpetrator(s) of money laundering or terrorist financing, the persons referred to in Articles 5 and 6 and their respective directors, agents or employees shall be exempted from any liability and no criminal proceedings may be brought against them by the perpetrator (s) of the crime of ML or TF, if the declaration of suspicion was made in accordance with the provisions of the law. The provision also applies when reporting entities carry out an operation at the request of the investigation services acting in line with the provisions of the law.

Criterion 21.2 - [Met] Article 82 of the AML/CFT Law No. 3/2018 provides that the persons referred to in Articles 5 and 6 shall be prevented, subject to penalties provided for in this Act, from bringing to the attention of the owner of the sums or

of the author of the transaction that led to a suspicious transaction report or to third parties, except control authorities, professional bodies and national representative bodies, the existence and contents of a report made to FIU and from providing information on the follow-up to that report.

Weighting and Conclusion

Guinea Bissau has met all the requirements of this Recommendation. **Guinea Bissau is rated Compliant with Recommendation 21.**

Recommendation 22 – DNFBPs: Customer due diligence

Guinea Bissau was rated NC with former R.12 in its first Mutual Evaluation Report. The main deficiencies identified in the report included the following the legal provisions in force do not apply to TF but only to ML; the authorities responsible for monitoring or supervising compliance with AML obligations had not issued any guidelines or regulations intended to facilitate the implementation of the legal document; absence of due diligence mechanisms to identify PEPs and the beneficial owners; lack of control and supervision of the activities of traders of high value goods, nor were they subject to any limits above which transactions cannot be made using cash, as provided in the FATF Recommendations; absence of necessary measures to prevent the misuse of new technologies for ML/TF purposes; and the shortcomings noted in Recommendation 5 are applicable to the DNFBPs within the framework of this Recommendation.

DNFBPs are parts of the reporting entities required to comply with provisions of the AML/CFT law (Articles 1(24), 5, and 6 of the AML/CFT Law No. 3/2018). All categories of DNFBPs as required by the standard are covered in the AML/CFT law.

Criterion 22.1 - [Mostly met] DNFBPs are required to comply with the CDD requirements for AML/CFT purposes in the following situations:

(a). *Casinos* –Article 18 of the AML/CFT Law No. 3/2018 states that before entering into a business relationship with a client or assisting the client with a transaction, reporting entities, including casinos are to identify the client and, where applicable, the beneficial owner of the business relationship by appropriate means and verify the identification elements on presentation of any reliable written document. Article 29 (1)(c) of the AML/CFT law requires reporting entities, including casinos to identify their occasional customers and, where applicable, the beneficial owner of the transaction and to verify the elements of their identification when the amount of the transaction or related operations exceeds one million (1,000,000) CFA francs (approximately US\$ 1,597) for persons, except those authorized to carry out manual foreign exchange transactions or the legal representatives and directors responsible for gaming operators. Article 44(1)(b) of the same law requires Casinos and gaming establishments to verify the identity of players who buy, bring or exchange tokens or plates for a sum greater than that set out in Article 29 (1) based on the presentation of a valid original official document. Casinos in Guinea Bissau were not operational as at the time of onsite.

(b). *Real estate agents* - The provisions in Article 18 of the AML/CFT law requiring reporting entities to conduct CDD also covers real estate agents. In addition, **Article 45** of the AML/CFT law stipulates that persons carrying out, controlling or advising on real estate transactions are required to identify the parties following Articles 27 and 28 of this Act,

when intervening in the purchase or sale of real estate. As noted under IO.4, real estate agents do not exist or operate in Guinea Bissau.

(c). *Dealers in precious metals and dealers in precious stones* are part of reporting entities subject to CDD obligation under Article 18 of the AML/CFT law. See also Articles 19 and 20 of the AML/CFT Law. In addition, under Article 5(1)(f) of the AML/CFT law, other natural or legal persons trading in goods (this could include precious stones and metals), strictly to the extent that payments are made or received in cash in an amount not less than five million CFA francs (approximately US\$ 7,987), and that the transaction be carried out in one lump sum or in the form of apparently linked fractional transactions are subject to AML/CFT requirements, including CDD obligation.

(d). Lawyers, notaries, other independent legal professionals and accountants are parts of reporting entities (Articles 1(24), and 6) with CDD obligations under Article 18 of the AML/CFT Law No. 3/2018. See also Articles 19 and 20 of the AML/CFT Law.

(e). *Trust and company Service providers* are reporting entities subject to Article 5(1)(d), and as such are required to comply with the requirements set out in the AML/CFT Law No.3/2018 which includes customer due diligence under Articles 18, 19, 20 and 29.

Overall, the deficiencies under c10 also impact on this criterion.

Criterion 22.2 - [Partially Met] Article 44(1)(a) of the AML/CFT law imposes obligation on casinos and gambling establishments to keep documents for 10 years. With regards to the OHADA Uniform Law, companies are mandated to keep records for a period of 10 years. However, there is no provisions requiring record keeping for the other DNFBPs. The shortcomings in R.11, including the lack of express provision that states that transaction records should be sufficient to permit reconstruction of individual transactions also impact on this criterion.

Criterion 22.3 - [Mostly Met] Under Articles 22 and 54 of the AML/CFT Law, DNFBPs in Guinea Bissau are required to comply with the same requirements regarding PEPs as FIs under the AML/CFT law. Article 22 of the law requires reporting entities to have adequate risk management systems to determine whether the client is a politically exposed person and, if necessary, apply the specific measures referred to in Article 54. The deficiencies in R12, including the absences of requirement for FIs to obtain senior management approval to continue business relationship with existing customer also have impact on this criterion.

Criterion 22.4 - [Not met] There is no specific provision requiring DNFBPs to implement due diligence requirements for new technologies.

Criterion 22.5 - [Not-met] There is no provision requiring DNFBPs to comply with the reliance on third-party requirements set out in Recommendation 17.

Weighting and Conclusion

The AML/CFT Law no. 3/2018 does not require DNFBPs to implement due diligence requirements for new technologies set out in R.15. In addition, there is no provision requiring DNFBPs to comply with the reliance on third-party requirements set out in Recommendation 17; other than casinos and companies, there is no provisions requiring other DNFBPs such as dealers in precious stones and metals to keep records. Deficiencies relating to Recommendations 11 and 12 also have impact on this Recommendation. **Guinea Bissau is rated Partially Compliant with Recommendation 22.**

Recommendation 23 – DNFBPs: Other measures

Guinea Bissau was rated NC with former R.16 in its first mutual evaluation report. The main deficiencies identified included the following: the legal provisions in force do not apply to TF but only to ML no guidelines or regulations aimed at facilitating the application of the legal document had been issued; limited scope of CDD measures, monitoring and suspicious transaction reporting duty; absence of internal controls to prevent ML suspicious transaction reporting requirement was imprecise and not known to all persons and entities subject to AML; and the lack of practical application of the obligation to report suspicious transactions.

Criterion 23.1 [Partly Met] The reporting obligations set out under the AML/CFT law apply to all reporting entities, including DNFBPs.

(a) Provided for in Article 79 of the AML/CFT law. This Article requires reporting entities, including lawyers, notaries, other independent legal professionals and accountants to report suspicious transactions in relation to ML or TF to the FIU. Under Article 80 of the same law, official accountants, notaries, bailiffs, lawyers, when acting as trustees and auctioneers, shall be individually responsible, irrespective of the terms of their professional exercise, to respond to any request from the FIU and to receive the acknowledgement of the suspicious transaction reports made under the provisions of Article 79 of this Law.

(b). Dealers in precious metals or precious stones are reporting entities under Article 5(k), and thus, are bound by the obligation to report suspicious transactions pursuant to Article 79 of the AML/CFT Law.

(c). Company and trust service providers are reporting entities under Article 5(d), and are bound by the obligation to report suspicious transactions as required by Article 79 of the AML/CFT law.

In general, the shortcomings noted under R.20, including the non-coverage of attempted transactions and the lack of requirement for STRs to be filed to the FIU “promptly” also apply to c23.1.

Criterion 23.2 - [Mostly Met] Articles 25 of the AML/CFT Law No. 3/2018 requires DNFBPs to implement internal control compatible with their status, their missions and their level of activities. The shortcomings noted under R18 also apply here.

Criterion 23.3 - [Not-met] The provisions under Article 50 of the AML/CFT Law No. 3/2018 only relates to financial institutions. Therefore, there are no provisions that meet the requirements of c23.3. The deficiencies noted under R.19 are also relevant here.

Criterion 23.4 - [Met] DNFBPs are subject to the same requirements as FIs regarding tipping-off and confidentiality (see analysis in R.21).

Weighting and Conclusion

There is no provision requiring DNFBPs to comply with the higher-risk countries requirements set out in Recommendation 19. The deficiencies noted under R.20, including the non-coverage of attempted transactions and the lack of requirement for STRs to be filed to the FIU “promptly” also apply to c23.1. In addition, the shortcomings noted under R18 also applies to c23.2. **Guinea Bissau is rated Partially Compliant with Recommendation 23.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

Guinea Bissau was rated as non-compliant (NC) with the requirements of this recommendation in the country's first mutual evaluation. The main deficiencies identified were that the legislation in force did not permit access to timely information on beneficial owners or allow adequate transparency regarding beneficial owners and the control of public limited companies with bearer shares and the OHADA registration system and legal instruments did not meet the concerns regarding the use of legal persons for money laundering.

Criterion 24.1 - [Mostly met] The mechanisms that identify and describe the different types of legal persons established in Guinea Bissau are outlined in the OHADA Uniform Act relating to Commercial Companies and Economic Interest Groups (OHADA Uniform Act). The different types of legal entities (public limited companies, limited liability companies, limited partnerships, GIEs), their forms and characteristics are described by the OHADA Uniform Act. The procedures for setting up companies are also described in the text. Basic information is obtained at the time of incorporation and kept by the chief clerks of the Commercial Courts or in the clerks' offices in the district courts where there is no Commercial Court. Business creation is also facilitated by the establishment of the Business Formalization Center (CFE) and at the Directorate General of Civil Identification, Registry and Notary (DGICRN). This information is made available to the public pursuant to the provisions of the Uniform Law. However, information on the beneficial owners of legal persons is not always available in the CFE and DGICRN. In addition, the mechanisms for gathering BO information of these various legal persons, as well as the methods for publishing this information, are not specified.

Criterion 24.2 - [Not met] Guinea Bissau has not assessed the ML/TF risks associated with all types of legal person created in the country.

Criterion 24.3 - [Met] The provisions of the OHADA Uniform Act relating to Commercial Companies and Economic Interest Groups established the Trade and Personal Property Rights Registry (RCCM). The RCCM maintains basic information on legal persons. These include information on the company name, legal form, address, registered office, capital, the list of corporate officers and members of the board of directors, etc. This information is accessible to the public.

Criterion 24.4 - [Partly Met] Pursuant to Article 11 of the revised OHADA Uniform Act on Business Companies and economic interest group law, companies are required to keep all this information with them, including keeping a register of shareholders or members. However, they are under no obligation to indicate to the structure hosting the RCCM, the exact location where this information is kept within the company.

Criterion 24.5 - [Partly met] The Uniform Act (Articles 45 to 52 and 66), describes the mechanisms for the timely updating of the information contained in the RCCM in case there is a change in the existence of a company, specifying its own obligations. They require the Chief Registrar to check the accuracy of the information provided, as well as its updating. In line with Article 52, updates must be made within 30 days of any change in the situation. However, there is no mechanism or criminal sanctions for failure to update the basic information.

Criterion 24.6 a, b and c - [Partly met] The records contained in the RCCM relate to basic information. The RCCM does not maintain beneficial ownership information and does not meet the beneficial ownership information updating requirements. Although, Article 18 of

the AML/CFT law requires financial institutions and DNFBPs to collect beneficial ownership information when conducting CDD, some gaps exist (e.g see analyses in c10.3, c10.5, c10.8, c10.9, etc). Furthermore, it is not mandatory for legal persons to have a bank account with an FI. Thus, this mechanism (allowed under c24.6(c)) may not be wholly adequate to allow timely determination of BO by competent authorities.

Criterion 24.7 - [Partly met] The AML/CFT law requires FIs and DNFBPs to exercise due diligence and ensure that all records, data and CDD information, including BO information collected are up to date in accordance with Article 19, paragraph 2 of the AML/CFT law. However, considering the analysis under c24.6, the mechanism for determining and timely updating beneficial ownership by reporting entities (FIs & DNFBPs), requires enhancement.

Criterion 24.8 - [Not met] There are no definite mechanisms in place to ensure that companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner.

Criterion 24.9 - [Partly met] Article 35 of AML/CFT law obliges financial institutions and DNFBPs to keep the documents of their clients, including and identification documents and those relating to transactions carried out by them for ten (10) years. Under Article 24, the OHADA Uniform Act on accounting law and financial reporting, requires companies to keep their accounting documents for a period of ten (10) years. Similarly, Article 28 of the OHADA Uniform Act on Business Company law requires that all the information entered into the Trade and Personal Property Rights Registry (RCCM) must be kept by the Registry of the court and centralized in a National Register, which is typically is a permanent archive. However, there is no requirement for company itself to maintain such information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist.

Criterion 24.10 - [Met] Pursuant to Article 36, the records and documents relating to identification obligations, the conservation of which is referred to in Article 35, **shall be communicated, upon their request, by the persons referred to in Articles 5 and 6 of this Law, to the judicial authorities**, the State agents responsible for the detection of money laundering and terrorist financing crimes, acting within the framework of a judicial mandate, the supervisory authorities and the FIU. Article 93 of the same law gives the investigating judge the power to order disclosure or seizure of authentic documents or private documents of banking, financial and commercial documents. These powers generally guarantee timely access to basic and BO information.

Criterion 24.11 - [Met] – Companies in Guinea Bissau can issue bearer shares pursuant to Article 744 of the OHADA Uniform Act. Article of the same laws require the registration of securities of whatever form in title accounts in the name of their owner. Each company is required to have a registered or bearer share register. Where the bearer security is issued on the financial market, the owner must convert it into a registered share under the provisions of Article 746 of the OHADA Business Act.

Criterion 24.12 – [Not met] There are no legal or regulatory provisions to ensure that nominee shares and nominee directors are not misused for ML/TF purposes.

Criterion 24.13 - [Partly met] There are no sanctions in place to punish legal or natural persons that fail to provide basic information and beneficial ownership information. Additionally, there are no sanctions for failure to update basic information and beneficial ownership information. Nonetheless, Articles 19, 20, 28 of the AML/CFT Law No.3/2018 provided for obligation for reporting institutions to conduct CDD, including identifying

beneficial owners of their customers (see R10 and R22 – c22.1 (d)). Failure to comply with the requirements attract sanctions (Article 116 of the AML/CFT Act). See R.35.

Criterion 24.14 - [Mostly met] Articles 76, 78 and 138 of the AML/CFT Law provides a legal framework for international cooperation that will permit Guinea Bissau to exchange basic and beneficial ownership information in accordance with Recommendations 37 and 40. However the deficiencies noted in these Recommendations impact on this criterion.

Criterion 24.15 - [Not met] There is no legal or regulatory provision that requires Guinea Bissau to monitor the quality of assistance that it receives from other countries, in response to requests for basic or beneficial owner's information or requests for assistance in locating beneficial owners residing abroad. Guinea Bissau has not demonstrated that it monitors the quality of assistance received from other countries.

Weighting and Conclusion

Guinea Bissau has not assessed the risks of ML / FT associated with the different types of legal persons; there are no mechanisms to ensure that information on the beneficial ownership of a company is obtained by that company or can be otherwise determined in a timely manner by a competent authority; there is no legal provision that requires the country to monitor the quality of assistance that it receives from other countries he country; there is no express obligation to update information on beneficial owners; there are no definite mechanisms in place to ensure that companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner; there is no express provision requiring companies and liquidators to maintain records for five years after dissolution. Guinea Bissau has not adopted a sanction regime to enforce obligations relating to transparency of legal persons. As regards nominee shareholding and directors, there is no mechanism to ensure that legal persons are not abused. **Guinea Bissau is rated Partially Compliant with Recommendation 24.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

Guinea Bissau was rated as not applicable (NA) with the requirements of this recommendation according to the first Mutual Evaluation Report (1st MER) of its AML/CFT system, May 2009. The justification was that "express trusts and entities without similar legal arrangements are not provided for or recognized in Guinea-Bissau's internal legal system".

Criterion 25.1 - [Partly met]

(a) – Not applicable

(b) - Not applicable

(c) [**Partly Met**] - Lawyers, and other members of the independent legal professionals acting as professional trustees are required to identify and verify information on the identity of some of the parties to the trusts; namely the client (who may or may not be the settlor) and the beneficial owner of business relationship and maintain these records for at least 10 years after the end of the business relationship (see R.11). There is no requirement to maintain information on the trustee, the protector, the beneficiary or category of beneficiary and other agents providing services to the trust (Article 5, 6, 18, 19, 29 and 36 of AML/CFT law).

Criterion 25.2 - [Partly met] Articles 19 and 20 of the AML/CFT Law, require reporting entities including professional trustees, to keep information obtained from their client updated. The limitation in c25.1 (c) above, impacts on this criterion.

Criterion 25.3 - [Partly met] There are no statutory or regulatory provisions that expressly require trustees to declare their status to financial institutions and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. Notwithstanding, reporting entities are required to identify any person acting on behalf of a customer, in accordance with the CDD requirements.

Criterion 25.4 - [Met] There is no legal or regulatory provision that prevents legal arrangements from providing the competent authorities with any information or providing FIs or DNFBPs with information on beneficial owners and assets held or managed as part of the business relationship.

Criterion 25.5 - [Met] The investigating judge and other LEAs have the necessary powers to access information held by legal entities, FIs and DNFBPs (Articles 36 and 93 of the AML/CFT law).

Criterion 25.6 - [Mostly met] Articles 76, 78 and 138 of the AML/CFT Law provides a legal framework for international cooperation that will permit Guinea Bissau to exchange basic and beneficial ownership information in accordance with Recommendations 37 and 40. However the deficiencies noted in these recommendations impact on this criterion.

Criterion 25.7 - [Not met] There is no legislation in force in Bissau that ensures that (a) trustees can either be held legally responsible for any breach of their obligations; and (b) proportionate and dissuasive sanctions, whether criminal, civil or administrative, are applicable in the event of non-compliance with their obligations.

Criterion 25.8 - [Not met] There are no legal or regulatory provisions in force to ensure that proportionate and dissuasive sanctions, whether criminal, civil or administrative, are applicable in the event of non-compliance with the obligation to make information on legal arrangements available to competent authorities in a timely manner.

Weighting and Conclusion

There are no statutory or regulatory provisions that expressly require trustees to declare their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. . In addition, there is no legislation in force in Guinea Bissau that ensures that trustees can be held legally responsible for any breach of their obligations; and there are no measures to ensure that proportionate and dissuasive sanctions, applicable in the event of non-compliance with their obligations. **Guinea Bissau is rated Partially Compliant with Recommendation 25.**

Recommendation 26 – Regulation and supervision of financial institutions

Guinea Bissau, in its first ME, was rated non-compliant with the old Recommendation 23. The deficiencies included the following: rules regarding fit and proper criteria for directors and managers of insurance companies were not established; inexistence of specific procedures related to controlling the legal origin of capital for the creation of a bank or any other financial institution such as a microfinance institution; absence of procedures to verify who the beneficial owners were; due diligence measures regarding ML applicable to the banking, micro-finance and insurance sectors were insufficient, or even non-existent; and remittance or money transfer companies were not subject to licensing or registration.

Since the adoption of its first MER, Guinea Bissau has taken steps to address some of the observed deficiencies, including the enactment of the AML/CFT Law No 3/2018. In addition, supervisory authorities have taken some steps, including the revision of the UMOA Banking Commission Convention, a new banking law, as well as several Instructions issued by the BCEAO, CIMA or CREPMF which have also addressed some of the shortcomings. It should be noted that the new Recommendation 26 reinforces the principle of monitoring and supervision using the risk-based approach.

Criterion 26.1 – (Met) – There are several supervisory authorities with responsibilities for ensuring AML/CFT compliance by financial institutions in Guinea Bissau. Article 86 of the AML/CFT Law No. 3/2018 provides for the AML/CFT responsibilities of the supervisory authorities. These authorities are UMOA Banking Commission, the Central Bank of West African States (BCEAO), and Ministry of Economy and Finance (MEF)⁸⁸ which are responsible for the supervision of banks and some financial institutions such as the Authorized Foreign Exchange Dealers; CIMA responsible for the supervision of insurance companies; and CREPMF for the securities or stock market operators. In particular, Article 1 of the Convention Governing the Banking Commission of the West African Monetary Union empowers the Commission to supervise, in particular, the organization and control of credit institutions, as defined in the law regulating banking. Article 2 provides that "the Banking Commission is responsible for ensuring the soundness and security of the UMOA's banking system through, inter alia, the supervision of the institutions subject to it and the resolution of banking crises. Article 21 also states that "The Banking Commission shall carry out or cause to be carried out, in particular by the Central Bank, documentary controls and on-site inspections, on a corporate or consolidated basis, with the reporting institutions in order to ensure compliance with the applicable provisions. For the BCEAO, it is the instruction n ° 07 of the Governor of the BCEAO, dated September 25, 2017. In relation to CIMA, Articles 16 and 17 of the CIMA Treaty confer on the Commission the powers to regulate and supervise the Insurance and Reinsurance Companies, and Insurance and Reinsurance Brokers. It has responsibility for the control of the insurance companies, and to ensure the general supervision and contribute to the organization of the national insurance markets. Under Articles 43 and 44 of Act No. 023-2009/AN of May 14, 2009, CREPMF is empowered to supervise the regional capital market.

Criterion 26.2 – (Mostly Met) Article 13 of the Banking Regulation Act, and Articles 20.1 and 315.2 of the CIMA Code stipulate respectively that financial institutions covered by these texts (banks and insurance companies) and that are subject to the fundamental principles must obtain a license or authorization before conducting their activities. For instance, Article 13 of the Banking Regulation Act provides that "no person may carry out the activity defined in Article 2 without having been previously approved and registered on the list of banks or on that of banking financial institutions". It is important to state that beginning from January 1999, any credit institution that has been authorized in a Member State of the UEMOA can provide free banking or financial services throughout the Union

⁸⁸ Within the MEF, there is the *Micro-Finance and Savings Activities Supervisory Agency* which supervised the Microfinance institutions, and savings and credit cooperatives; and the *Directorate-General for the Supervision of Insurance and Financial Activities* which supervises the insurance and money exchange market and ensures compliance with regulations in force. The *Directorate-General for the Supervision of Insurance and Financial Activities* works with CIMA to regulate and control Insurance and Reinsurance Companies, Insurance and Reinsurance Intermediaries, as well as BCEAO for the supervision of authorized foreign exchange bureaus

or freely get established in accordance with the modalities defined by any Instruction issued by the Governor of the BCEAO.

Under the provision of Article 87 of AML/CFT Law No 3/2018, no one (natural or legal persons, excluding banks), can provide money or value transfer services, and manual money exchanges, unless the person first obtain the authorization/operating license from the Competent Authority (Minister of Economy and Finance), in accordance with the requirements provided for by the specific regulations in force.

The licensing procedures or authorizations do not allow the establishment or continuation of the activities of shell banks. In addition, Article 52 of the AML/CFT Law No.3/2018 prohibits financial institutions from establishing or maintaining correspondent banking relationships with shell banks or institution that carries out equivalent activities. Natural or legal persons, other than banks that provide money or value transfer services (Western Union, Money gram, Wari) are not licensed or registered, but they must always have established a partnership with an accredited FI that is subjected to due diligence obligations.

Criterion 26.3 – (Mostly met) – Article 86 (2)(a) of the AML/FT Act requires supervisory authorities of FIs to take the necessary measures to define the appropriate criteria for ownership, control or direct or indirect participation in the direction, management or operation of a reporting entity (FI or DNFBP). In addition, Article 7 of the OHADA Uniform Act on Commercial Companies of 30 January 2014, and Articles 3, 11, 12, 13 and 14 of the Circular 02-2017-CB relating to the conditions for the performance of the functions of managers and officers of UEMOA credit institutions addresses this requirement. Specific texts relating in particular to banks, financial market operators, insurance companies, etc have minimum requirements for issuance of license and authorization. These include requirements for information about shareholders and officers of these institutions. For banks and other financial institutions, these requirements are stipulated in Instruction n° 017-04-2011 establishing the list of documents and information for a credit institution license application. In addition, the UMOA Commission Circular 002-2011 / CB / C specifies the conditions for the performance of the functions of managers and officers of UEMOA credit institutions. For Managers and Directors, the issue of licenses to practice is subject to the production of criminal records following fit-and-proper checks. The measures are likely to prevent criminals or their accomplices from holding or becoming beneficiaries of any financial institution or from or controlling it or occupying a management position therein. Regulation n° 09/2010/CM/UEMOA, concerning the External Financial Relations of UEMOA Member States and the Instruction n° 06/07/2011/RFE, relative to the conditions for carrying out authorized manual exchange activities, contains legal provisions on the requirements for the licensing of foreign exchange bureaus.

Criterion 26.4 – (Partly met)

(a) [Partly Met] The UEMOA Banking Commission has developed a prudential regime which incorporates Consolidated Supervision. It is implemented for banks and financial institutions through Decision No. 014/24/06 /CB/UEMOA dated June 24, 2016. This decision is in line with Principle 12 of the Fundamental Principles. In addition, the UEMOA Banking Commission has set up the UEMOA Credit Rating System (SNEC-UEMOA) which is a rating tool for financial institutions based on a set of ten (10) Criterion, including seven (7) fundamental, and three (3) complementary. The fundamental Criterion include Equity capital, corporate governance, information and reporting system, internal control, financial structure, risk management and financial performance. They serve to position credit institutions on a scale of risks. However, AML/CFT is not specifically targeted.

CIMA also has consolidated framework for the insurance sector. Overall, there is little evidence that AML / CFT-based risk-based supervision is in place, even though current regulatory reforms incorporate this aspect.

(b) [Not met] Other financial institutions are subject to regulation and control or supervision, however, the supervision is essentially prudential and not risk-based and is therefore done without regard to the ML/TF risk in the sector.

Criterion 26.5 (a, b, c) (Not Met) There is no requirement that the frequency and extent of on-site and off-site AML/CFT supervision on financial institutions or financial groups are determined on the basis of (a) ML/TF risks and the institution or group's internal policies, controls and procedures as identified in the risk profile assessment of the institution or group carried by the supervisory authority, (b) the ML/TF risks present in the country, and (c) the characteristics of financial institutions and financial groups, including the diversity and number of institutions as well as the degree of secrecy they are permitted to observe under the risk-based approach. In general, supervision is not risk based.

Criterion 26.6 (Not Met) There is no provision that meets the requirements of this criterion. In addition, there is no indication that supervisor do review the assessment of the ML/TF risk profile of a financial institution or group periodically and when there are major events or developments in the management and operations of FIs or group.

Weighting and Conclusion

There are designated authorities for the supervision for FIs and FIs are subject to specific licensing or authorization process. Although the recent revision of the regulatory framework incorporates the risk-based approach in general and AML/CFT in particular, this approach is yet to be implemented. In addition, there is no provision that requires that the frequency and intensity of on-site and off-site AML/CFT supervision of financial institutions or groups should be determined on the basis of: ML/TF risks and the policies, internal controls and procedures, group's risk profile or characteristics of the FI. Also, there are no provisions under the AML/CFT Law that requires a supervisor to review the assessment of the ML/TF risk profile of a financial institution or group (i) periodically and (ii) where major events or developments have occurred in the management and operations of the financial institution or group. **Guinea Bissau is rated Partially Compliant with Recommendation 26.**

Recommendation 27 – Powers of supervisors

In the first round of its ME, Guinea-Bissau was rated NC with the former Recommendation 29 for the following reasons: AML controls exercised by the Banking Commission over banks are insufficient, showing lack of rigor; the supervision exercised in the decentralized financial system and insurance companies show several deficiencies and does not cover matters related to ML and TF; and the absence of effective enforcement of sanctions within the framework of BCEAO supervision does not allow assessing the effectiveness of this supervision.

Since the adoption of its first MER, Guinea Bissau has enacted legislation and amended certain texts to address the shortcomings. In particular, the instruments relating to the AML/CFT Law, the Banking Act, the CIMA Regulation, etc give the supervisory authorities the powers to conduct offsite and on-site inspections and impose sanctions for non-compliance.

Criterion 27.1 (Met) Article 86 of the AML/CFT Law No.3/2018 provides that “supervisory authorities (BCEAO, UEMOA Banking Commission, MEF, CIMA, and CREPMF) ensure compliance by financial institutions with the requirements set forth in Chapter II of this Law” (This chapter specifies AML/CFT obligations for reporting entities). This entails supervising or monitoring institutions that fall within their supervisory purview and ensuring their compliance with the AML / CFT requirements.

Criterion 27.2 (Met) BCEAO, UEMOA Banking Commission, MEF, CIMA, and CREPMF have powers to conduct inspections of reporting entities under their purview. Articles 24 (2) and 86 (2) of the AML/CFT Law No 3/2018 provides for the specific roles of supervisory authorities including on-site supervision. These inspections may be conducted either during a general inspection mission or during AML/CFT thematic missions.

Criterion 27.3 (Met) Supervisory Authorities have powers under Article 96 of AML/CFT Law No 3/2018 to access information held by financial institutions and to require the submission of documents for investigation and off-site inspections concerning the accounts and activities of reporting entities. See also Article 53 of the Banking Act.

Criterion 27.4 (Met) Under Article 112 of the AML/CFT Law, supervisory authorities can impose sanctions for non-compliance with the AML/CFT provisions. This Article states that “When, as a consequence either of a serious lack of surveillance or of a deficiency in the organization of its internal control procedures, the persons referred to in Articles 5 and 6 (reporting institutions) has ignored the obligations provided for in Chapters II and III of this Law, the supervisory authority with disciplinary powers may act on its own motion, under the terms provided for in specific legislative and regulatory texts in force”. Article 14 of Instruction 007-09-2017 provides for the application of sanction for non-compliance with AML/CFT measures by financial institutions in line with the provisions of the uniform law on the fight against ML/TF and relevant regulations governing financial institutions. Similarly, the Banking Commission can impose disciplinary sanctions in case of breach of banking regulations or other legislation applicable to credit institutions, including in the case of AML/CFT (Article 66 of the Banking Act). The Banking Commission may also impose financial penalties / pecuniary sanctions under Article 31 of the Convention Governing the Banking Commission. Similar provisions are in the CIMA Code.

In general, Criminal, civil and administrative sanctions for AML/CFT breaches are provided in the AML/CFT law. The sanctions are applicable to natural and legal persons.

Weighting and Conclusion

Guinea Bissau is rated Compliant with Recommendation 27.

Recommendation 28 – Regulation and supervision of DNFBPs

Guinea Bissau was rated NC with the requirements of this Recommendation. The deficiencies identified in the MER relate to the following: absence of regulations aimed at facilitating the enforcement of the obligations that DNFBPs are bound to by the AML; the legislation in force only applies to ML prevention and not TF; absence of any inspection or monitoring of DNFBs; in relation to some DNFBPs, the authority responsible for verifying compliance with ML prevention obligations is not defined; the sanctions regime in force does not apply to the violation of obligations to prevent financing of terrorism; and the sanctions applicable to natural and legal persons are foreseen in the AML Law, but the

absence of an effective imposition of these sanctions does not allow assessing their effectiveness.

Casinos

Criterion 28.1- (Partly Met)

- (a) **(Met)** Casinos are required to be licensed by the Ministry of Tourism before commencing operations in Guinea Bissau.
- (b) **(Partly Met)** The available regulatory measures, do not include ‘fit and proper’ tests and are not broad enough to sufficiently prevent criminals or their associates from holding a significant or controlling interest, or holding a management function, or being an operator of a casino
- (c) **(Not Met)** Casinos are designated as reporting entities in Guinea Bissau (Articles 1(24)(1); 5 (i) of the AML/CFT law), with specific AML/CFT responsibilities (Article 44 of the AML/CFT law), and are therefore subject to supervision for compliance with AML/CFT requirements. The Ministry of Tourism is not designated as a supervisor under the AML/CFT Act and therefore does not have powers to supervise casinos for AML/CFT compliance. There are very few Casinos licenced Guinea Bissau but as at the time of the onsite, none of them was operational.

DNFBPs, except casinos

Criterion 28.2 (Not met) Articles 1 (24); 5 and 6 of the AML/CFT Law provide a list of all the DNFBPs stated in the FATF Glossary as part of reporting entities subject to obligations under the AML/CFT law. Although there is no single supervisor for DNFBPs, some sectors have prudential supervisory authorities or a Self-Regulatory Body (SRB). The Ministry of Economy and Finance is responsible for regulating and supervising accountants’ activities. In the case of lawyers /legal profession, the Bar Association, based on its Articles of Association, is responsible for ensuring compliance with the duties to which the professionals are subject to. For dealers in precious metals and stones, the Ministry of Trade, Industry and Crafts is responsible for regulation and supervision. Article 86 (1) of the AML/ CFT law, provides that the supervisory authorities shall ensure that reporting entities, including DNFBPs comply with the requirements set out in Title II of the AML/CFT law. However, the supervisory authorities for DNFBPs have not been specified and designated. Thus, no authority or SRBs has yet been designated to supervise DNFBPs and ensure their compliance with AML/CFT requirements. .

Criterion 28.3 (Not met) Article 86 (1) of the AML/CFT law provides that supervisory authorities should ensure that reporting entities, including DNFBPs comply with their AML/CFT obligations. However, since no supervisory authority has been designated for AML/CFT compliance by DNFBPs, it is impossible to monitor compliance with AML/CFT requirements.

Criterion 28.4 (Partly met)

- a) **(Partly Met)** In general, supervisory authorities are empowered by Article 86 (1) of the AML/CT law to ensure compliance in relation to the AML/CFT obligations under the law. Article 86 is broad and could include DNFBP supervisors. Under Article 86(2)(b), the supervisors have powers to regulate and supervise DNFBPs for compliance, including conducting on-site inspection. In addition, under Article 112 (1) of the AML/CFT law, supervisors can penalize non-compliance in relation to the AML/CFT obligations under the law. Furthermore, supervisory authorities, including DNFBPs supervisors, have

powers under Article 96 of AML/CFT law to access information held by DNFBPs. Since no supervisory authority has been designated, it is impossible to monitor compliance with AML/CFT.

- b) (*Not met*) DNFBP supervisors have not taken any necessary measures to prevent criminals and 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 a DNFBP.
- c) (*Partly met*) Under Article 112 of the AML/CFT Law No. 3/2018, supervisory authorities, including DNFBPs supervisors can impose sanctions for non-compliance with the AML/CFT provisions. Also, SRBs such as the Bar Association and Institute of Chartered Accountants can implement disciplinary measures against their erring members. However, these disciplinary measures do not directly relate to AML/CFT issues or deal with the failure to comply with AML/CFT requirements.

All DNFBPs

Criterion 28.5 (a, b) (Not met) There is no requirement for DNFBP supervisors to review the ML/TF risk profiles and risk assessments prepared by DNFBPs and take the result of the review into consideration and develop and implement a risk-based approach to supervision. No risk based supervisory frameworks have been developed and AML/CFT supervision of DNFBPs has not taken place to date.

Weighting and Conclusion

There are no authorities designated to supervise and monitor DNFBPs for AML/CFT compliance. DNFBPs are not subject to any systems for monitoring compliance with AML/CFT requirements. In addition, no measures have been taken to prevent criminals and 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 a DNFBP; and there is no requirement for DNFBP supervisors to review the ML/TF risk profiles and risk assessments prepared by DNFBPs and take the result of the review into consideration and develop and implement a risk-based approach to supervision. **Guinea Bissau is rated Non -Compliant with Recommendation 28.**

Recommendation 29 - Financial intelligence units

Guinea Bissau was rated NC with former R.26 in its first MER. The main deficiencies were that the FIU: was not operational and its members had not been appointed; do not have approved internal rules of procedure and financial resources required to perform its functions; had no staff and technical equipment; had no competence for the processing and analysis of STRs related to the financing of terrorism; and had not defined any uniform STR template and guidance for reporting entities.

Criterion 29.1 [Met] Article 59 of the AML/CFT law establishes the FIU as an administrative authority with financial autonomy and an independent power of decision in matters within its competence. Under Articles 60, 67 and 69 of the AML/CFT law, the Unit is empowered to receive and analyse STRs and other relevant information, and make disseminations to the public Prosecutor.

Criterion 29.2 [Met] The FIU has powers to receive the following disclosures:

(a) **STRs** – Articles 60 and 79 of the AML/CFT law empowers the FIU to receive STRs filed by reporting entities as required by the AML/CFT law. The same provision also empowers the FIU to receive other useful information necessary for the performance of its function, “in particular those provided by the supervisory authorities and judicial police officers, which it shall treat, if necessary, as a declaration of a suspicious operation”.

(b). Other disclosures – The FIU also receives cash transaction reports of an amount above the applicable designated limit set by the BCEAO, from reporting entities, whether as a single transaction or several transactions that appear to be linked (Articles 15, 79(7) of the AML/CFT law). In this regard, reporting entities are required to report transactions above XoF 15 million (approx. US\$27,347) (threshold set by the BCEAO⁸⁹) to the FIU. Under Article 111 of the same AML/CFT law, the FIU has powers to receive reports of declarations on cash and bearer negotiable instruments seized by the Customs.

Criterion 29.3 [Met]

(a) Article 60 (1)(c) of the AML/CFT law empowers the FIU to obtain and use additional information from reporting entities as well as from any natural or legal person, to perform its analysis properly.

(b). The FIU is competent to request and receive information from reporting entities, foreign Financial Intelligence Units (based on MoUs), and any public and/or control authority to help it undertake its functions (Articles 67(1) and 70 of the AML/CFT law). Thus, the FIU has access to a wide range of information to assist it properly perform its functions.

Criterion 29.4 [Mostly Met] -

(a). Under Article 60 (1), the FIU has responsibility to collect, analyse, and enrich any information necessary to establish the origin or destination of the funds or the nature of the transactions that have led to the filing of a report. If on the basis of its analysis it has reasonable grounds to suspect an underlying crime, it forwards a detailed report to the public prosecutor (Article 67 (2) of the AML/CFT law).

(b). Article 60(1)(d)(f) of the AML/CFT law requires the FIU to carry out or commission periodic studies on the development of techniques used for ML/TF in the country, and participate in the study or analysis of measures to be implemented to combat clandestine financial circuits, ML and TF. However, the FIU has not conducted any strategic analysis.

Criterion 29.5 [Mostly Met] The power of the FIU to disseminate information spontaneously is provided in Article 67 (2) of the AML/CFT law. Under this provision, where the analysis of the FIU reveal facts that could highlight laundering of the proceeds of any criminal activity or terrorist financing, the FIU is required to forward the report to the public Prosecutor. Article 66 (2)(3)(4)(5) of the same law require the FIU to disclose information it holds (this could be spontaneous or upon request) to the Customs administration, Treasury, judicial police, specialized intelligence services, and State departments in charge of preparing and implementing freezing orders to assist them perform their duties. Under Article 75 (1), the FIU is required to ‘share with the national authorities, professional bodies and representative bodies any information relevant to the exercise of their functions. However, the law does not explicitly specify that such information should be transmitted through specific, secure and protected channels. Nevertheless, intelligence reports are delivered in hard copy, in a sealed envelope, by a

⁸⁹ Art. 1, BCEAO Instruction No. 10.

dedicated FIU staff, thus ensuring, that unauthorised access or tampering is prevented. No cases of compromise were noted.

Criterion 29.6 [Partly Met]

(a) **Mostly Met** - Article 65 of the AML/CFT law provides for confidentiality measures aimed at securing information maintain by the FIU. In particular, Article 65(1) requires members of the FIU and their correspondents⁹⁰ to take an oath before a competent court prior to assuming office. Article 65 (2) requires members of the FIU, their correspondents as well as personnel of FIU to respect the confidentiality of the information received, and utilized same only for the purpose provided for in the law. Although the FIU has an IT expert that oversees the handling, storage, dissemination, and protection of, and access to information, the Unit does not have an ICT security policy which governs the security and confidentiality of information, including the level of access and responsibility of staff. This could limit the level of awareness of non-ICT staff of their responsibility with regard to security of information.

(b) **Partly Met** - There is no provision or measures requiring staff of the FIU to have necessary security clearance level either as part of the recruitment process or selection criteria prior to employment or while on the job. The FIU has limited measures in place to ensure that its staff understand their responsibilities in handling and disseminating sensitive and confidential information.

(c) **Mostly Met** - Access to the information and facilities of the FIU is limited. There are security guards in charge of physical access to the facilities of the Unit. In addition, there are surveillance cameras to reinforce physical security. However, there is no internal ICT policy which details the rights and obligations of employees in relation to the management of confidential information.

Criterion 29.7 [Met]

(a) **(Met)** – Article 59 of the AML/CFT law establishes the FIU as an administrative body with specific functions provided for in Article 60. Article 59 further grants the FIU financial autonomy and independent decision-making power over matters falling within its purview. Although the FIU is under the supervision of the Minister of Finance (Article 59), the Minister does not have a direct role in relation to the operational activities of the FIU. The FIU autonomously takes the decision to analyse, request and disseminate information.

(b). **(Met)** -The FIU exchanges information with relevant domestic competent authorities. Under Article 76 (1) of the AML/CFT Law, the FIU is expected to provide, upon request, all information and data concerning investigations to other FIUs within WAEMU. It also has powers to share information with counterparts outside the UEOMA subject to reciprocity and under certain conditions, including: (i) the counterpart FIU is subject to the same level of confidentiality and (ii) the information to be communicated is treated with sufficient protection (Article 78(1) of the AML/CFT law). The Unit has signed some MoUs with foreign counterparts, including Portugal to facilitate information exchange. Article 8(2) places restrictions on exchange of information, particularly in the case of an ongoing penal procedure and if the communication of information threatens the sovereignty of the State, national interests as well as security and public order

⁹⁰ Article 63 of the AML/CFT law requires the FIU to have correspondents within the Judicial Police, National Guard, Customs, Treasury, Tax, Judiciary and any other service whose contribution is deemed necessary in the framework of the fight against money laundering and terrorist financing

(c). **(Met)** - The FIU is under the supervision of the Minister of Economy and Finance (Article 59), but it has specific functions distinct from those of the Ministry of the Economy and Finance (Article 60 of the AML/CFT Act).

(d) **(Met)** - The FIU has financial autonomy (Article 59 of the AML/CFT law). The FIU resources come from the state budget as well as contributions from UEMOA institutions and development partners (Article 73 of the AML/CFT law). The President of the FIU is accountable for the budgetary expenditure and is able to deploy both human and financial resources as the chief executive officer of the institution.

Criterion 29.8 (Partly Met). The FIU is not a member of the Egmont Group, however, it has taken preliminary steps in this regard. The Unit has approached the FIU of Portugal to sponsor its membership to the Egmont Group. No formal application for Egmont membership has been made.

Weighting and Conclusion

Guinea Bissau has met majority of the criteria under this Recommendation. However, minor deficiencies exist. These include the lack of ICT security policy by the FIU; and the absence of provision or measures requiring staff of the FIU to have necessary security clearance level either as part of the recruitment process or selection criteria prior to employment or while on the job. In addition, its Egmont membership application process is still at preliminary stages. **Guinea Bissau is rated Largely Compliant with Recommendation 29.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

Guinea Bissau was rated non-compliant (NC) with the requirements of this Recommendation in its first MER. The NC rating stems from the lack of enforcement of the AML/CFT legislation; an absence of a provision for postponing or waiving the arrest of suspected persons; an absence of a provision for the seizure of assets for the purpose of identifying ML or TF suspects or evidence gathering; and the limited possibility of using special investigative techniques in the conduct of ML and TF investigations.

Criterion 30.1 (Met) – Under the terms of: Article 125 (1) of the Constitution of the Republic of Guinea-Bissau (Constitutional Law 1/96, of 16 December); Article 3 (1) (e) and (j) of the Organic Law of the Public Ministry (Law 7/95, July 28) together with the provisions of Law 8/2011, of May 4 (Law on Criminal Organization and Investigation - COIL); Article 47 (1) to Article 50 of the Criminal Procedure Law (Decree-Law 5/93, of 11 November, amended by Law 15/2011, of 15 October) and Article 2 of the COIL, the Public Ministry is the sole authority with legitimate powers to institute any criminal proceedings, while observing all legal principles. It has the power to open investigations and order the investigation of any offence, including money laundering, terrorist financing, and is assisted by Criminal Police Organs (CPO), with investigative capacity, namely the Judicial Police (JP) and the Public Order Police (POP) (Article 2 (3) of the COIL).

The Judiciary Police has the competence to investigate money laundering offenses, associated predicate offenses and terrorist financing, pursuant to Article 9 (1) of the COIL and Article of Decree-Law no. 14 / 2010, of November 15, that is, the Organic Law of the PJ (PJOL)..

Criterion 30.2 (Met) – In accordance with the Criminal Procedure Code (CPP) and the Criminal Organization and Investigation Law (COIL), the Public Ministry is empowered to investigate crimes of terrorism, terrorist acts, terrorist financing and money laundering. The Public Ministry can also delegate powers to the JP in order to continue the investigation of any ML/TF offense in a parallel investigation (Articles 59 and 196 CPC) or refer the case to another agency to pursue these investigations, regardless of where the predicate offense occurred.

Criterion 30.3 (Met) – The Public Ministry has the competence to identify, track, seize, and freeze assets subject to confiscation, and may delegate these powers to the JP (Articles 125, paragraph 2, point b) and Article 129 of the AML / CFT law.

Criterion 30.4 (Met) – The General Directorate of Customs, and the FIU are not law enforcement authorities per se, but have the responsibility to conduct financial investigations of predicate offenses. The analysis and enhancement of the information submitted to the FIU forms part of the financial investigation (Articles 60 of the AML/CFT Law). During its investigations, the FIU can order the freeze of the funds link to ML, associated predicate offences and TF for 48 hours but cannot extend this timeframe without the involvement of an examining judge (Article 68 of the AML/CFT Law). Similarly, the Customs code empower sworn officials to collect evidence for the prosecution of predicate offences. Tax authorities also conduct financial investigations to find evidence of tax offences.

Criterion 30.5 (Met) – The Public Ministry (AGO) has powers to investigate ML/FT resulting from or related to corruption, and also has sufficient powers to identify, track and initiate the freezing and confiscation of assets.

Weighting and Conclusion

Guinea-Bissau is rated Compliant with Recommendation 30

Recommendation 31 - Powers of law enforcement and investigative authorities

In its previous mutual evaluation, Guinea-Bissau was rated Compliant with the requirements of this Recommendation. The Criminal Procedure Code applies to all crimes provided for under the criminal law and under special laws of Guinea-Bissau, including crimes relating to ML/TF provided for in Law No. 3/2018 of August 7, 2018.

Criterion 31.1 (Met) – The Public Ministry (AGO) (Articles 47 to 50 of the CPP), the Judiciary Police (with powers delegated by the AGO) have the competence to carry out ML investigations, as well as investigations relating to associated predicate offenses and TF and have access to all documents and information necessary for use in these investigations (Article 36 of the AML/CFT Law) and in prosecution and related actions, which includes powers to use compulsory measures to:

- a) Produce records held by FIs, DNFBPs and other natural or legal persons - Article 93 of the AML/CFT; Articles 27 and 30 of Decree-Law no. 2B/93, of 28 October (Law on Drugs);

- b) Search people and facilities - Articles 49 a), 138 (1), 139 and 140 of the CPP; Articles 27 and 29 of the Law on Drugs; Articles 108, 109, and 110 of AML/CFT Law;
- c) Take statements from witnesses – Art. 118, 119, 122 (CPP); Article 109 a) of the AML/FT; and
- d) Apprehend and obtain evidence - Articles 49 b), 112, 113, 141 (1), Art.143, 133, 134, 130, 128, 129 (CPP); Art. 27 and 28 of the Drug Law; Article 111 of AML/CFT Law.

Criterion 31.2 (Met) - Competent investigative authorities, the Public Ministry through application to the Court (Article 195 of the CPP), the Judiciary Police (Article 196 of the CPP), Customs Officials (Article 108 of the AML/FT), the Directorate-General for Customs (Article 3 (q) of Decree No. 6/2014, of 3 June), have a wide range of investigative techniques to investigate ML, associated predicate offenses and TF, including:

- a) Covert operations - Article 94 of the AML/CFT;
- b) Communications interception - Article 93 (1) e) and f) of AML/CFT;
- c) Access to computer systems - Article 93 (1) b) of the AML / FT; and
- d) Controlled delivery - Article 94 of the AML/CFT, Articles 27 and 31 of Decree-Law no. 2B / 93, of 28 October (Drug Law).

Criterion 31.3 (Met) – Under the provisions of Articles 66 and 70 of the AML/CFT law, the FIU may request banking financial institutions to identify, in a timely manner, whether natural or legal persons have or control accounts and report them to the JP. Also, the Public Prosecutor or the Judge, depending on the stage of the case, can request this information directly from the bank, without breaching bank secrecy rules - Article 93 (1) (a) and (c) of the AML/CFT law. Guinea-Bissau ensures that competent authorities have in place a process to identify assets without previously notifying the owner, as provided for in Article 100 (7) of AML/CFT law.

Criterion 31.4 (Met) – Authorities with powers to conduct investigations of ML, predicate offences and TF are able to request all relevant information held by the FIU (Articles 66 and 67 (2) of the AML/CFT law).

Weighting and Conclusion

Guinea-Bissau is rated Compliant with Recommendation 31.

Recommendation 32 – Cash Couriers

In its first MER, Guinea-Bissau was rated as non-compliant with the requirements of this Recommendation, with the main technical deficiencies indicated being the lack of a system for declaring or communicating information on cross-border movement of cash; inexistence of a form for declaring cash values or bearer negotiable instruments; lack of communication and coordination between competent authorities and FIU; lack of mechanisms for exchanging information with other countries regarding unusual transportation of gold or precious stones; and the lack of a computerized system for

conservation of information related to physical cross-border movements of money or negotiable bear instruments.

Criterion 32.1 [Partly met] – Article 12 of the AML/CFT Law provides that anyone from a third State (non-WAEMU member states) who enters or leaves Guinea-Bissau with sums of money or bearer negotiable instruments in an amount equal or higher in value than the limit stipulated by the BCEAO⁹¹ must complete a declaration form. Likewise, Article 29 of Regulation No.09/2010/CM/WAEMU provides for the obligation to obtain prior authorization from the Directorate of External Finance for the transportation of cash and other payment instruments by mail or other means. Thus, the declaration requirements in place apply to mail and cargo. Sending and receiving banknotes issued by the BCEAO between any other resident natural or legal person, other than the BCEAO, and its banking or commercial correspondents located outside the WAEMU Member States is prohibited (art. 29, para. 2 of R09/2010). However, persons coming from or leaving a WAEMU member states are not required to declare cash or bearer negotiable instruments (denominated in XoF) in their possession.

Criterion 32.2 [Partly met] – Article 12 of the AML/CFT states that any person coming from a third State (a non-member of the WAEMU) must when entering and leaving Bissau-Guinean territory for a third State make a declaration of cash and bearer negotiable instruments when amounts are equal or greater than the threshold set by the BCEAO. The threshold set in Article 2 of Instruction No. 008-09-2017/BCEAO is XoF 5,000,000 (approx.. US\$8,845) which equivalent is less than the minimum limit established by the FATF standards. There is no threshold for cargo and mail transportation of cash or BNIs.

Criterion 32.3 – Not Applicable, since Guinea-Bissau opted for a written declaration system for all travellers carrying amounts above a threshold.

Criterion 32.4 [Met] – Article 12 of the AML/CFT law empowers competent authorities to require and obtain, from the traveller, additional information regarding the money or bearer negotiable instruments that is being transported, including information relating to their origin and destination, in case of discovery of a false declaration/disclosure of cash or BNIs or in case of lack of such declaration or disclosure.

Criterion 32.5 [Met] – False declarations, non-declaration and under declarations are prohibited under the AML/CFT law. In case of violation, cash and bearer instruments linked to ML or terrorist financing shall be seized or blocked for a period not exceeding 72 hours [Art. 12(5) of the AML/CFT Law]. Also, in case of non-declaration, false declaration or incomplete declaration, or even if there are suspicions of ML or TF, the Customs administration shall seize all the cash or negotiable bear instruments found (Arts. 12(6) and 111(1) of AML/CFT Law). Art.17 of the AML/CFT Law provides that violators of Art.12 shall be subject to penalties in this law. These penalties include criminal sanctions. Similarly, the Customs code also provides for fines. These sanctions seem to be proportionate and dissuasive.

Criterion 32.6 [Met] – Article 111 of the AML/CFT Law provides that in case of non-declaration, false declaration or incomplete declaration, or where there is suspicion of money laundering and financing of terrorism, Customs is authorized to seize all the cash found and prepare a report. The seized cash and a copy of the seizure report are sent directly to the treasury, the deposit and consignment office or to the agency in lieu thereof. Customs

⁹¹ The threshold set by BCEAO for declaration is XoF5, 000,000, (approx.. US\$ 8,845) [Art. 1 of BCEAO instruction NO.008-09-2017].

is required to submit the transaction file to the FIU within eight days (Art.111 (2) of the AML/CFT Act). Thus, the FIU is required by law to be notified about suspicious cross-border transportation incidents.

Criterion 32.7 [Mostly Met] –

Article 3 of Joint Order No. 05 / MEF / MAI / MJ / 2014 provides for cooperation and collaboration between the competent authorities (the General Directorate of Customs, APGB, National Aeronautical Activities of Guinea-Bissau, the National Guard, the Judiciary Police, the General Directorate of Migration and Borders, and the Information and Security Service) in matters relating to cross-border transportation of cash and bearer negotiable instruments within the national territory. The cooperation between the different competent authorities is materialized mainly by maintaining institutional dialogues and consultations, mutual assistance in investigations, holding regular meetings of experts on operational issues, etc. However, no case examples or evidence was provided to show that the competent authorities effectively cooperate in this area.

Criterion 32.8 [Met] – Competent authorities may, under Article 12 (5) of the AML/CFT law, block or retain for the maximum period of 72 hours money or negotiable bear instruments that may be linked to ML or TF.

Criterion 32.9 [Not Met] –The country has not demonstrated that information relating to either a declaration which exceeds the prescribed threshold, a false declaration or a suspicion of ML/TF, are retained by customs to facilitate international cooperation.

Criterion 32.10 [Met] – The information collected through the declaration system by Customs and shared with the FIU is only intended for the purposes of investigations/analysis (Arts. 111 (2), and 65(2) of the AML/CFT Law). The information collected by Customs is covered by confidentiality. The same confidentiality is observed by the FIU when it receives this information from Customs (Art. 65 of the AML/CFT Law). Both agencies have security to protect their physical and electronic information and to prevent inadvertent or unauthorised dissemination. Non-resident travellers may freely import franc zone banknotes or means of payment denominated in foreign currency. However, Article 1 of Instruction 008-09-2017 establishes an obligation to declare or disclose cash or bearer instruments for amounts equal to or greater than XoF5,000,000 (approx.. US\$ 8, 845). While the principle is the free movement of capital, the law nevertheless provides, through the declaration or disclosure requirement, for traceability of cash or bearer instruments where the threshold is higher than or equal to five million XoF5,000,000 (approx.. US\$ 8,845).

Criterion 32.11 [Met] – Under Article 12 of the AML/CFT law, cash or bearer instruments may be entirely seized in the event of non-declaration or misrepresentation. Similarly, where cash or bearer instruments are likely to be linked to money laundering or terrorist financing, they may be held by the competent authority for a period not exceeding 72 hours. Furthermore, the respondent may be sentenced to 10 years' imprisonment and fined a sum equal to five times the value of the funds, applicable to cases related to the FT (Article 119 of the AML / CFT law), and a penalty of three to seven years in prison and a fine equal to three times the value of the assets or funds in the case of the ML (Article 113 of the AML / CFT Law). Finally, the judge may order the confiscation of funds or other financial resources in favor of the State treasury (Articles 111 of the AML/CFT law).

Weighting and Conclusion

The scope of application of the system of declaration of cash and BNI in Guinea-Bissau is limited to people entering and leaving the WAEMU territory, thus excluding those who move between member countries. There is no coordination mechanisms between the different domestic competent authorities on matters related to Recommendation 32. Information relating to: a declaration which exceeds the prescribed threshold, a false declaration or a suspicion of ML/TF are not retained by customs in order to facilitate international cooperation. **Guinea-Bissau is rated Partially Compliant with Recommendation 32.**

Recommendation 33 – Statistics

During the first round of Mutual Evaluation, Guinea Bissau was rated as non-compliant with the former Recommendation 32 for lack of records and statistical data on: MLA requests received or sent; active and executed extradition requests; ML/TF cases, investigations, prosecutions and convictions; frozen, seized and confiscated assets and respective amounts; sanctions applied and penalty measures; ML/TF related STRs; STRs or CTRs at the borders and sanctions applied; and supervisory or inspections actions carried out together with the sanctions applied.

Criterion 33.1 (Partly met) Guinea Bissau maintains the following statistics on matters relevant to the effectiveness and efficiency of its AML/CFT systems:

(a) (Met) STRs - Under Articles 60 (1)(e), of the AML/CFT law, the FIU has a statutory responsibility to keep statistical data on STRs received and disseminated. The data on STRs received by the FIU is maintained with a breakdown by type of reporting entity that filed the STRs, number of STRs analysed, number of intelligences disseminated to competent authorities. There is also a breakdown of STRs received and intelligence disseminated per predicate offence.

(b) (Partly Met) statistics on ML/TF investigations, prosecutions and convictions are maintained independently by the relevant competent authorities. Some statistics were provided to Assessors during onsite however, they are not comprehensive.

(c) (Partly Met) Property frozen; seized and confiscated: Paragraph 1 of Article 12 of Decree 9/2018 establishes the Asset Recovery Office for the management of assets seized or recovered. Notwithstanding, it still appears relevant competent authorities maintain statistics in relation to property frozen, seized and confiscated. Some statistics were provided to the assessment team in this regard. However, the statistics were not comprehensive, and there is no standardized approach or mechanism for maintaining the statistics across the various authorities; and

(d) (Partly Met) Guinea Bissau provided some statistics on mutual legal assistance or other international requests for co-operation made and received. However, the statistics appears incomplete, not systematically collated and maintained.

Weighting and Conclusion

Guinea Bissau maintains some statistics on matters relevant to the effectiveness and efficiency of the AML/CFT system. However, other than the FIU there is no standardized approach or mechanism for maintaining the relevant statistics across various relevant authorities. In general, the statistical system is undeveloped. Statistics provided are not systematically collated and comprehensively maintained. On the whole the country does

not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems. **Guinea Bissau is rated Partially Compliant with Recommendation 33.**

Recommendation 34 – Guidance and feedback

Guinea Bissau was rated non-compliant with the requirements of this Recommendation for the following reasons: there were no regulations designed to facilitate the implementation of AML/CFT obligations by DNFBPs; and the fact that the FIU was not operational led to failure in providing feedback to DNFBPs that submit STRs.

Criterion 34.1 (Partly met) Article 86 (2) (c) of the AML/CFT Law stipulates that “the supervisory authorities, in accordance with the legislation in effect ... issues instructions, guidelines or recommendations aimed at assisting financial institutions and DNFBPs to comply with their obligations under Chapters II and III of this Law”. Article 92 of the AML/CFT law allows the FIU to provide information on ML/TF mechanisms to reporting entities. This provision is broad and may include feedback that could help reporting institutions in the implementation of AML/ CFT measures.

Guidelines issued by competent authorities include Instruction No 007-09-2017 on modalities for the implementation of the Uniform AML/CFT Law in FIs; Circular No. 03-2017-CB-C on Internal Controls; Circular No 04-2017-CB-C on Risk Management for FIs; and Regulation No. 0004/CIMA/PCMA/PCE/SG/08 for the insurance sector. These documents elaborated on the obligations of the FIs under the AML/CFT regime and how they can comply with the AML/CFT Law. The FIU provides some limited feedback to reporting entities on the quality and use of STRs submitted. The LEAs rarely provide feedback to the FIU on use of the Unit’s intelligence. The FIU has provided some training to reporting entities on AML/CFT over the years. Generally, these are aimed at assisting reporting entities in effectively implementing AML/CFT measures, including detecting and reporting suspicious transactions. However, no AML/CFT guidelines or regulation has been issued for the DNFBP sector. The lack of supervision of the DNFBPs for AML/CFT means that there will be little or no feedback to the sector. In addition, given resource constraints, the diversity and proliferation of DNFBPs in Guinea Bissau, it is doubtful if the training provided on AML/CFT covered all the key reporting entities, especially the DNFBPs which the NRA identifies as posing higher risk

Weighting and Conclusion

There is legal obligation for competent authorities, especially supervisors and the FIU to provide guidelines and feedback to reporting entities. Some guidelines have been issued and limited feedback provided. However, no AML/CFT guidelines or regulation has been issued for the DNFBP sector. Given that DNFBPs are identified as having medium to high risks, this gap is weighted heavily in the overall rating of R.34. In addition, there is limited feedback and AML/CFT training to the DNFBPs. **Guinea is rated Partially Compliant with Recommendation 34.**

Recommendation 35 – Sanctions

Guinea Bissau was rated Partially Compliant with the requirements of this Recommendation because the sanctions regime provided for in the various legal instruments in force was not harmonized such as to facilitate its application. In addition, the sanctioning regime in force did not apply to financing of terrorism. With the adoption

of the AML/CFT law 03/2018, there was a marked improvement as the country introduced the sanctioning regime in relation to natural and legal persons who incur a criminal offense in the financing of terrorism.

Criterion 35.1 [Mostly met]: The provisions of Articles 112 to 117, 119, 121, 124 and 125 of the AML/CFT law provide for administrative, disciplinary and criminal sanctions applicable to natural and legal persons who do not comply with the AML/CFT requirements. Article 112 states that “where, as a result of either a serious lack of due diligence or a deficiency in the internal procedures and control of the organization, the person referred to in Articles 5 and 6 has not fulfilled the obligations imposed on it by Titles II and III of the law, the supervisory authority having disciplinary power may act ex officio under the specific conditions in force.”

Under Article 116 of the AML/CFT Act, violations relating to disclosure of records to persons other than specified competent authorities; failure to submit STRs as required by Article 79 of the AML/CFT Act where the circumstances led to infer that the sums of money could originate from ML; failure to implement preventive measures as specified in Article 18-40 and 79 of the AML/CFT Act (CDD, record-keeping, internal controls, suspicious transaction reporting); and tipping off concerning STRs and investigations, when committed intentionally or unintentionally by reporting entities, attract a punishment of six months to two years imprisonment or a fine of one hundred thousand CFA Francs to one million five hundred thousand CFA Francs (approx. US\$ 180 to US\$2,700) or both, applicable to natural and legal persons, including their officers or agents in relation to AML obligations:

Similar violations in relation to CFT obligations attracts a term of twelve months to four years imprisonment or a fine of two hundred thousand CFA Francs (XoF 200,000) to three million CFA Francs (XoF 3,000,000) or both (Article 121, AML/CFT Act). Under this same provision, officers and managers of reporting entities are also liable to a fine of one hundred thousand CFA Francs to one million five hundred thousand CFA Francs for failure of a reporting entity to conduct CDD or file an STR.

Article 66 of the Law on Banking Regulations provide for the application of sanctions for breach of banking regulations or any other legislation applicable to credit institutions including the AML / CFT law. The same obtains under Article 14 of Instruction No. 007-09-2017 establishing the modalities for implementation of the AML/CFT law by FIs.

Article 31 of the Annex to the Convention governing Banking Commission, provides (in relation to FIs under the supervision of Banking Commission, such as credit institutions, Decentralized Financial Systems, and Electronic Money Issuers) for the following gradual disciplinary sanctions depending on the seriousness of the breach: (i) warning, (ii) reprimand, (iii) suspension or prohibition of all or part of the operations, (iv) any other limitations in the exercise of the profession, (v) the suspension or the automatic resignation of the responsible officers, (vi) the prohibition for persons responsible, directing, administering or managing an establishment subject to its control or one of its agencies on a permanent or limited basis, (vii) withdrawal of approval or installation authorization. Article 31 also provides for financial penalties, the amounts of which are set in instructions by the Banking Commission. As noted above, the disciplinary sanctions range from warning to withdrawal of approval. The pecuniary penalties vary from XoF 5 million (approx. US\$8904) to a maximum of XoF 300 million (US\$534, 283). Overall, the disciplinary and pecuniary sanctions appear proportionate and dissuasive.

The administrative sanctions provided under Article 31 of the Annex to the Convention governing Banking Commission are also applicable where a financial institution fails to report property associated with terrorist and related activities and financial sanctions pursuant to UNSCRs. In particular, the Article provides that where the Commission finds any infringement of banking regulations and any other legislation applicable to credit institutions, including the AML/CFT Law, it shall, without prejudice to any criminal or other penalties incurred, impose one or more of the disciplinary penalties listed above. In addition, failure to report property associated with terrorist and related activities and financial sanctions pursuant to UNSCRs is an offense and the penalty is a fine ranging from XoF 2.000.000 to XoF 3.000.000 when the infringement is intentional, and between XoF 100.000,00 and XOF-1.500.000,00 when the infringement is non-intentional or a sentence not exceeding four (4) years, or both (Article 121(1)(g) of the AML/CFT Law).

There are no applicable sanctions for NPOs (see c.8.4(b))

Criterion 35.2 [Mostly Met]: The provisions of Articles 112 to 117 of the AML/CFT law provide for sanctions applicable not only to FIs and DNFBPs, but also to the officers and staff of such institutions. In addition, the specific instruments relating to banking regulations⁹² provide for sanctions applicable to managers and directors. However, the DNFBPs do not have AML/CFT supervisory authority(ies) that could impose sanctions in the event of non-compliance with the AML/CFT obligations.

Weighting and Conclusion

The AML/CFT law and the specific instruments pertaining to FIs in particular, include sanctions applicable to FIs and DNFBPs as well as to their Managers and Directors. However, there are no applicable sanctions for NPOs.; and DNFBPS do not have AML/CFT supervisory authorities that could impose sanctions in the event of non-compliance with AML/CFT obligations. **Guinea Bissau is rated Largely Compliant on Recommendation 35**

Recommendation 36 – International instruments

In its first MER, Guinea-Bissau was rated as partially compliant with the requirements of this Recommendation and the main technical deficiencies indicated were: that the provisions of the Vienna and Palermo Conventions were not fully domesticated; although the TF Convention was ratified, the instrument of ratification had not been deposited with the UN Secretary-General and its provisions had not been implemented by Guinea-Bissau.

Criterion 36.1 [Met] – Guinea-Bissau ratified the Palermo Convention (02/09/2004), the Merida Convention (12/22/2006), and approved these texts through the Resolutions passed by the National People's Assembly. Guinea Bissau acceded to the Vienna Convention on Narcotic Drugs and Psychotropic substances on 27/10/95. Guinea Bissau ratified the Convention for the Suppression of the Financing of Terrorism on 19/9/2008.

Criterion 36.2 [Mostly met] – Guinea-Bissau transposed the relevant provisions of the Mérida (on Combating Corruption) and Palermo (on Combating Transnational Organized Crime) Conventions through Resolutions of the National People's Assembly on 10/2006 and 10/2004, respectively. Although the provisions of these four conventions have largely

⁹² Article 26 of the Banking Regulation

been incorporated into the country's AML/CFT and other relevant laws, Bissau has not implemented the provisions of the conventions completely⁹³.

Weighting and Conclusion

Although provisions of the conventions have been transposed into Guinea Bissau's national law, however, not all relevant provisions have been transposed. **Guinea-Bissau is rated Largely Compliant with Recommendation 36.**

Recommendation 37 - Mutual legal assistance

In its first MER, Guinea-Bissau was rated partially compliant with the requirements of this Recommendation. The main technical deficiencies were that: the failure to transpose Directive No. 04/2007/EC/UEMOA was a limiting factor for legal cooperation in criminal matters in the area of terrorist financing and the AML Act did not define mechanisms that will make it possible to resolve conflicts of jurisdiction between States.

Criterion 37.1 [Mostly Met] – Guinea-Bissau does not have a specific law on mutual legal assistance. Nevertheless, Articles 138 to 155 of the AML/CFT law provide for mutual legal assistance in issues related to ML/TF and predicate offences. In addition, Articles 86.^o-102.^o of the Code of Criminal Procedure also has relevant provisions on the granting of mutual legal assistance. Guinea Bissau is a party to several multilateral conventions, such as Convention A/P1/7/92 on Mutual Assistance in Criminal Matters (Dakar, 29th July 1992); and Protocol on the Establishment of the ECOWAS Intelligence and Criminal Investigations Office adopted in Niamey on 12th January 2006, which also serve as the basis for providing mutual legal assistance. These frameworks allow Guinea Bissau to provide promptly the widest possible range of mutual legal assistance for investigations, prosecutions and related proceedings concerning money laundering, predicate offences and terrorism financing. However, Guinea-Bissau has not criminalized all the underlying offence categories as set out by the FATF standards, which may limit the provision of MLA in some cases.

Criterion 37.2 [Partly Met] – There is no formal or institutionalised central authority dealing with the transmission of execution of requests. Nevertheless, there is a mechanism in place. Requests for MLA to and from Guinea-Bissau are made through the diplomatic channels via the Ministry of Foreign Affairs. In general, the Ministry of Foreign Affairs acts as the focal point on MLA requests. The country did not demonstrate that there are clear processes for the timely prioritization and execution of mutual legal assistance requests even though Article 139 (h) of the AML/CFT Law stipulates that the requesting state should indicate the timeframe, in which it wishes the application to be executed. An application for MLA must include a detailed report of all procedures or specific demands that the requesting state expects to be followed and the timelines for execution (Article 139 (g) of the AML/CFT Law. As at the time of onsite, no formal case management system has been put in place to monitor progress on request.

⁹³ For example, as regards the Merida Convention, the offering of a bribe is not criminalized; indirect giving and receiving of bribe is not properly criminalized; abuse of functions is criminalized only if committed by holders of "political functions," and abuse of functions by any other public official is not criminalized; giving a bribe to foreign public officials and officials of public international organizations is not criminalized (*IMF Country Report No. 20/214-Guinea-Bissau Technical Assistance Report—Enhancing Governance and the Anti-Corruption Framework—Next Steps June 2020*)

Criterion 37.3 [Met] – Bissau-Guinean law does not impose unreasonable or restrictive conditions on the provision of mutual legal assistance, since Article 140 of the AML/CFT law only allows the refusal of a request in very specific and limited cases which, for example, does not include sovereignty⁹⁴.

Criterion 37.4 [Met] –

- a) The fact that the request is related to tax matters does not constitute an obstacle to its consent and subsequent execution. In fact, among the grounds for refusal listed in Article 140 of the AML/CFT law, there is no aspect related to tax matters;
- b) Secrecy obligations cannot be invoked as a reason for refusing to provide mutual legal assistance under Bissau-Guinean law (Article 140 (2) of the AML/CFT law).

Criterion 37.5 [Met] – The confidentiality of requests for mutual legal assistance is safeguarded in Article 141 (1) of the AML/CFT law. The provision requires the competent authority to respect the secrecy of the request for mutual legal assistance, including the secrecy of the legal proceedings, the content of the request, the documents produced and the fact of mutual legal assistance.

Criterion 37.6 [Not Met] – On the basis of Article 140 of the AML/CFT law, it appears that dual criminality is a condition for rendering assistance. There is no provision that expressly states that dual criminality is not a requirement for rendering assistance in cases where mutual legal assistance requests do not involve coercive actions.

Criterion 37.7 [Partly Met] – There is no express provision stating that dual criminality is deemed to be satisfied regardless of whether Guinea Bissau and the requesting country place the offence within the same category of offences, provided that both countries criminalize the conduct underlying the offence. Nevertheless, in practice, the authorities stated that, as long as both countries criminalise the underlying conduct, Guinea Bissau will not focus on whether or not an offence is classified in the same category of offences or whether or not it is designated by the same terminology in both Guinea Bissau and the requesting country.

Criterion 37.8 [Met] –

- a) Articles 86, and subsequent articles of the Guinea-Bissau Code of Criminal Procedure (CCP) , in conjunction with the provisions in AML/CFT law, namely, Articles 142 to 150, allow application of investigative powers and techniques made available to competent national authorities in the field of mutual legal assistance⁹⁵;

Special investigative techniques applicable to ML and TF offenses under the terms of Articles 93 and 94 of the AML/CFT law can likewise be applied in cases of mutual legal assistance, in accordance with the provisions of Article 142(1) of the same law, which provides that inquiry and investigative measures are carried out in accordance with the

⁹⁴ Among the reasons for refusal is the fact that the execution of the request constitutes an assault on public order, sovereignty, security or the fundamental principles of law.

⁹⁵ For example: the request for search and seizure under MLA, according to Article 147 of the AML/CFT law, or the application of precautionary measures for the purpose of confiscation in accordance with Article 149.

legislation in force, unless otherwise requested by the requesting State and provided that it is compatible with the Bissau-Guinean law.

Weighting and Conclusion

Guinea-Bissau does not have a specific law on mutual legal assistance, so it uses the general provisions of the Code of Criminal Procedure and the AML/CFT Law for mutual legal assistance. The country also lacks mechanism that allows management and monitoring of requests for mutual legal assistance, which raises doubts as to the promptness with which they are dealt with and is a major deficiency of the country's system. Guinea Bissau's law does not explicitly cover situations where the request for MLA does not involve coercive measures. The authorities have not been able to demonstrate that the dual criminality requirement is met in Bissau even though an offence is not classified in the same category or worded with the same terminology, so far as the underlying conduct is criminalized, which may significantly limit the provision of MLA by the competent authorities in Guinea-Bissau. **Guinea-Bissau is rated Partially Compliant with Recommendation 37.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In its first MER, Guinea-Bissau was rated partially compliant with the requirements of this Recommendation. The main technical deficiencies indicated were that: the Criminal Procedure Code was limited in terms of the possibility of investigating proceeds of crime; neither the CPC nor the AML law were clear on the persons responsible for conducting certain procedural acts; there were no coordination mechanisms to facilitate cooperation in respect of requests for seizure or confiscation from other countries; there was no provision for an asset recovery fund or the possibility of sharing assets; there were no statistics or concrete data on mutual legal assistance requests pertaining to seizure and confiscation of property.

Criterion 38.1 a-d [Met] –Article 137 of the AML/CFT law gives Bissau-Guinean authorities the power to enact precautionary measures, including seizure in the context of international cooperation. Similarly, it appears from the combined provisions of Articles 147, 148 and 149 of same law, that competent authorities can, in relation to ML and TF crimes, carry out searches and seizures of assets subject to confiscation, and order precautionary measures, as well as order their confiscation, provided that the applicable legislation is compatible and said measures do not violate the rights of third parties of good faith. Additionally, Article 93(1)(k) of the Guinean Criminal Procedure Code also provides the legal basis for the application of these measures in the context of international cooperation. Articles 128 and 129 also permit confiscation of assets of corresponding value and instrumentalities intended to be used in ML/TF-related case. Article 132 provides the legal basis for MLA in ML/TF matters. On the basis of these Articles, Guinea Bissau has the power to take diligent action in response to requests from foreign countries to identify, freeze, seize or confiscate (a) laundered assets (b)proceeds of crime (c) an instrumentalities used in ML/TF-related cases (d) instrumentalities intended to be used in ML/TF-related case (e) property of corresponding value.

Criterion 38.2 [Not Met] – There are no legal principles under the laws that permit the provision of legal assistance in cases where requests for co-operation is made on the basis of non-conviction based confiscation or related provisional measures in circumstances when a perpetrator is unavailable by reason of death, flight, absence, or the perpetrator is unknown.

Criterion 38.3 [Mostly Met] –

- a) Under Articles 3.2 and 6 of the Criminal Police Cooperation Agreement of the ECOWAS Member States of 19 December 2003, police authorities can carry out permanent or *ad hoc* joint operations in specific areas of transnational crime and search for and disclose information that relates to an offence that has been committed or attempted. Other than this, there are no other measures that specifically address coordinating seizure and confiscation actions with other countries and the national authorities did not provide any case study, nor information on the existence of national policies that specifically focus on coordination of seizure and confiscation action with other countries
- b) There is a mechanism for managing all frozen and seized or confiscated assets. Paragraph 1 of article 12 of Decree 9/2018, which establishes the Asset Management Office, provides that the management of assets seized or recovered, within the scope of national proceedings or acts of international judicial cooperation, be ensured by division of the Directorate-General for the Administration of Justice of the Ministry of Justice, known as the Office for the Administration of Goods. This Office is also competent to dispose of these assets.

Criterion 38.4 [Met] – Under Article 151 of the AML/CFT law, the State benefits from the property forfeited in its territory, unless otherwise agreed with the requesting State. Therefore, it is inferred that the distribution of forfeited property is possible in the event of an agreement between the parties cooperating in this area. In addition, para 2 of Article 22 of Decree 9/2018 provides that in cases of compliance with requests for international judicial cooperation requested by other States, the sharing must, unless otherwise provided, be distributed as follows: 60% for the Requesting State; 40% for the Requested State.

Weighting and Conclusion

There is no mechanism to coordinate seizure and confiscation actions with other countries. However, this deficiency is not so significant in Guinea Bissau’s context since cooperation for coordinated seizures and confiscation could be achieved by an arrangement or bilateral agreement with a country. The main deficiency relates to the fact that, there is no legal provision stating that Guinea-Bissau can assist with requests for cooperation resulting from confiscation procedures without prior conviction and associated provisional measures, at least in the event of death, escape or absence of the author or if the identity of the author is unknown. **Guinea Bissau is rated Largely Compliant with Recommendation 38.**

Recommendation 39 – Extradition

In its first MER, Guinea-Bissau was rated as partially compliant with the requirements of this Recommendation. The main technical deficiencies were that: the country’s national legislation was silent on the obligation to prosecute when an extradition request was refused because it involved a national; AML law did not provide a truly simplified extradition procedure; it was not possible to authorize extradition requests based on acts of financing terrorism, terrorist organizations or the individual terrorist; there were no statistics on extradition requests, including the number of acceptance or refusals, the reasons for refusal and the average duration of the procedure, making it impossible to assess the system's effectiveness.

Criterion 39.1 [Mostly Met] –

- a) **(Met)** Article 156 (1) of the AML/CFT law allows extradition related to ML and TF crimes. Article 157 of the same law provides that a request for extradition must

be directly addressed to the Attorney General with a copy to the Minister of Justice. Guinea-Bissau has also signed bilateral and multilateral extradition treaties including, the Convention on Transnational Organized Crime, UN Convention against illicit traffic in narcotics drugs and psychotropic substances, UN Convention Against Corruption, International Convention for the Suppression on the Financing of Terrorism

- b) **(Mostly Met)** There is a simplified procedure for the execution of extradition requests (Article 157 of the AML/CFT Law). However, there is no provision in the law that ensure that there is a timely and efficient system for executing extradition requests. While Guinea Bissau does not have a formal case management system to prioritize requests and handle cases, in practice, the competent authorities presented extradition requests received by Guinea-Bissau, albeit in a negligible number, for which responses seem to be timely. Overall, assessors believe that with other countries, the case management system would be an advantage or even an important consideration in case there is a large number of extradition requests, which is not the case in Guinea Bissau.
- c) **(Met)** Guinea Bissau's law does not impose unreasonable or unduly restrictive conditions on the execution of extradition requests. In particular, Article 156 of the AML/CFT Law outlines reasonable conditions for the the execution of extradition requests.

Criterion 39.2 [Met] –

- a) The Constitution of the Republic of Guinea-Bissau does not allow for extradition or expulsion of nationals;
- b) Article 161 of the AML/CFT law provides that in case of refusal of extradition, the relevant process must be granted before competent national authorities, in order to initiate criminal proceedings against the person in question.

Criterion 39.3 [Partly Met] – On the basis of Article 156 of the AML/CFT law, dual criminality is a condition for extradition in the Guinea Bissau. The provision states that there is no derogation from the rule of ordinary law relating to extradition, in particular, relating to dual criminality. Bissauan law does not expressly stipulate that the requirement for dual criminality is met so long as both the requesting and requested country penalize the conduct underlying the offence, even if both countries do not classify the conduct in the same category or use the same terminology to describe the conduct. In practice, the authorities stated that as long as both countries criminalise the conduct underlying, Guinea Bissau does not focus on whether or not it is classified in the same category of offences or whether or not it is designated by the same terminology in the requesting country and Guinea Bissau. Nevertheless, Guinea Bissau could not provide any case studies, judicial decisions, practice, etc to demonstrate that dual criminality was interpreted consistently with the FATF Standards

Criterion 39.4 [Met] – Article 157 (1) of the AML/CFT law allows the direct transmission of extradition requests related to ML/FT crimes to competent authorities.

Weighting and Conclusion

Guinea-Bissau uses the legal provisions in the AML/CFT Law, the Code of Criminal Procedure and the Constitution of the Republic for the purpose of extradition as it does not have a specific law in this regard. These frameworks do not address prioritization,

management and monitoring of extradition requests. In addition, there is no formal case management system or clear processes for the timely execution of extradition requests. Also, Guinea Bissau could not provide any case studies, judicial decisions, practice, etc to demonstrate that dual criminality was interpreted consistently with the FATF Standards. The shortcomings relating to the lack of a formal case management system and prioritization are considered not significant in the context of Guinea Bissau as the number of extradition requests are few, and requests are dealt with based on the urgency as justified in the request. However, the lack of clear processes and procedures for extradition is a more significant deficiency for the country, given that it impacts the effectiveness of the execution of request. **Guinea-Bissau is rated Largely Compliant with Recommendation 39**

Recommendation 40 – Other forms of international cooperation

In its first MER, Guinea-Bissau was rated as partially compliant with the requirements of Recommendation 40. The main technical deficiencies listed were the limited cooperation between national competent authorities and foreign counterparts; an absence of practical information to measure the effectiveness of exchange of information with foreign counterparts; the fact that the FIU was not operational; a lack of statistics and information to verify specific cases that could prove that there are no restrictive, disproportionate or unjustified conditions to cooperation; absence of spontaneous information exchange between most LEAs and judicial authorities, financial sector supervisory authorities were not able to exchange information spontaneously; and competent authorities were not authorized to conduct diligences on behalf of their foreign counterparts.

Criterion 40.1 [Met] – There are various provisions, agreements, and arrangements that allow competent authorities in Guinea Bissau to rapidly exchange a wide range of information regarding ML/TF and associated predicate offences both spontaneously and upon request. The AML/CFT law (Law 3/2018), as well as the general provisions of the Penal Procedure Code, provide the necessary legal basis for the authorities to cooperate with their international counterparts in matters of ML/TF and associated predicate offences⁹⁶.

The Judiciary Police is able to spontaneously and by request exchange information through international channels, such as INTERPOL. The Judiciary Police has entered into a number of bilateral and multilateral agreements to enable exchange of information with overseas LEAs. For example, Bissau is a party to the Agreement on Criminal Police Cooperation between the countries of the Economic Community of West African States (ECOWAS) signed in Accra on December 19, 2003. This cooperation is carried out through INTERPOL's National Office and other sub-regional bodies that bring together the judicial police. Other LEAs can exchange information on the basis of Article 130-161 of the AML/CFT Act, as well as the articles 45-115 of de Code of Criminal Procedure which cover MLA and extradition.

Customs is able to disclose information to overseas enforcement agencies for assisting the authority to carry out its functions. It also uses a range of co-operative arrangements for the exchange of information on matters of common interest with other customs administrations, including bilateral MOUs with a number of key trade and regional partners. For instance, Guinea-Bissau has signed other agreements with Senegal on

⁹⁶ Articles 78, 130, 132 of the AML/CFT law (Law 3/2018)

customs control and is part of a cooperation agreement signed by Lusophone countries. Guinea Bissau is a member of the World Customs Organization.

The FIU is able to exchange financial information and intelligence with foreign counterpart under Articles 76 and 78 of the AML/CFT Law. As a non-Egmont Group members, the FIU has entered into MOUs with some foreign counterparts (Non WAEMU members) for information exchange.⁹⁷The FIU does not need MoU with FIUs of the WAEMU countries to exchange information

The supervisory authorities also have the legal basis to cooperate with their foreign counterparts. Such exchanges of information can be both spontaneously and upon request (Article 86 (2) (h) of the AML/CFT law). The Banking Commission can also exchange information with overseas regulatory authorities under Article 60 of the Banking Commission Convention.

Criterion 40.2 [Mostly Met] –

- a) [Met] The legal basis for international cooperation relating to ML/TF provided for in the AML/CFT law (Article 130 and 132) covers international cooperation among judicial and judiciary authorities, as well as the International Criminal Police Organization (ICPO/Interpol) or direct communication by foreign counterpart. The FIU (Articles 76 and 78 of the AML/CFT Law), the supervisory authorities (Article 86 (2) (h) of the AML/CFT law, Articles 60, 76 and 78 of the Banking Commission Convention), and the customs also have a basis (multilateral MoU) for exchanging information as member of World Customs Organization (WCO).
- b) [Met] With regard to international cooperation, there are no legal impediments preventing competent authorities from using the most effective means for cooperation;
- c) [Met] International cooperation requests to competent authorities are ensured through clear and secure diplomatic channels according to the Uniform AML/CFT law, which includes the transmission and execution thereof. In case of emergency, the AML/CFT law allows the communication and transmission of requests to competent authorities to be made through the international criminal police organization (ICPO/INTERPOL) or through direct communication by the foreign authorities to Guinea Bissauan judiciary authorities through any means of rapid transmission (Article 132 of the AML/CFT law). Overall, there are clear and secure channels, or mechanisms to facilitate or enable the transmission and execution of requests through diplomatic, judicial or administrative channels, including channels such as Interpol's I-24/7, and the African Union Mechanism for Police Cooperation (AFRIPOL) for police and other investigative services, AIRCOP for police and Customs at airports. Prosecuting authorities use the diplomatic channel and the informal channels of WACAP and ARNWA to cooperate. All other competent authorities not mentioned by name use diplomatic channels and secure administrative channels to exchange intelligence with their counterparts.
- d) [Not Met] There are no clear processes for prioritizing specific requests and defining priorities for the timely execution of requests;

⁹⁷ As an example, Guinea-Bissau's CENTIF signed cooperation agreements with the FIU of Angola, Brazil, Cabo Verde, the Gambia, Nigeria, Portugal, São Tomé and Príncipe and Sierra Leone.

- e) [Met] Regarding cooperation between FIUs, the AML/CFT law compels the observance of the rules of confidentiality and data protection.⁹⁸ In addition, Article 141 of the AML/CFT Law also requires the competent authority for MLA to maintain secrecy on this request, its scope, attached documents and even the facts relating to this assistance. Similarly, there are clear procedures to protect the information received through channels such as, the I24/7 (INTERPOL), AIRCOP, and WACAP.

Criterion 40.3 [Mostly met] – Bilateral or multilateral agreements or arrangements to cooperate are negotiated and signed with a wide range of foreign counterparts. The FIU may negotiate and conclude agreements with counterpart FIUs (Article 78 of the AML/CFT Law). On the basis of this provision, the FIU had signed 10 MoUs with different countries outside the WAEMU Zone as at the time on onsite. Other competent authorities such as the police and customs can exchange information following the signing of agreements, based on reciprocity or through international organization networks such as WACAP and ARINWA. For investigative authorities such as the judiciary police, membership of Interpol is sufficient, and no agreement is necessary. The same is applicable to Customs, which is a member of the WCO. CIMA is a signing party of the International Association of Insurance Supervisors (IAIS) multilateral MOU. Although no hindrances to the negotiation and signing of these agreement or arrangements in a timely way were identified, there are no provisions regarding the timeliness for the negotiation.

Criterion 40.4 [Mostly Met] –Article 135.º of the AML/CFT Act requires that the requesting competent authorities should ensure timely feedback to the competent authorities from which they have received assistance by sending copies of the decisions taken. Guinea Bissau uses the secure INTERPOL channel to provide feedback to foreign authorities from whom they receive assistance. There are no legal impediments keeping Guinea Bissau from promptly providing feedback to its foreign counterparts regarding the use and usefulness of the information received. The FIU presented statistical data demonstrating that it generally provides feedback to its foreign counterparts. However, the country did not provide information that would allow the timeliness of this feedback to be confirmed.

Criterion 40.5 [Mostly Met] –

- a) [Met] - The legal conditions for refusal to execute a request for MLA as provided for in Article 140 (1) (a) to (h) of the AML/CFT Law does not specify any grounds for refusal to execute any request for MLA for tax-related offences;
- b) [Met] - Although there is a legal framework that imposes a general confidentiality on FIs and DNFBBs with regard to personal data, it does not prevent them from providing information to FIU and the authorities of financial supervision, law enforcement as well as financial investigation, nor does it impede the provision of information to the respective foreign authorities. In general, Article 140(2) of the AML/CFT Law stipulates that no request for mutual assistance may be refused on the grounds of professional secrecy.
- c) [Met] Under Article 140(1)(c) of the AML/CFT Law, mutual legal assistance may only be refused if "the facts to which it relates are the subject of criminal proceedings or have already been the subject of a final court decision in the national territory". In terms of cooperation between counterpart FIUs, Article 78 (2) (a) of Law 3/2018 provides that information should not be shared within the scope of international

⁹⁸ Article 78 a) and b) of Law 3/2018

cooperation when a criminal proceeding has been initiated in Bissau-Guinean territory. Similarly, under Article 94.º (1) of the Code of Criminal Procedure, if immediate execution of a request hinders the conduct of an investigation or of a criminal proceeding relating to a case other than the one in which the request is based, the requested State may suspend the execution for a specific time, upon agreement with the Court. Nonetheless, the suspension must not extend beyond what it is necessary for the investigation or criminal proceedings in question to be carried out by the requested State. The latter, before deciding to suspend the execution of the request, checks whether the request cannot be granted immediately under certain conditions.

- d) [Met] The fact that the nature or status of the requesting counterpart authority is different from that of its foreign counterparts is not a restrictive condition for exchange of information in Guinea Bissau. For instance, the FIU does not prohibit or place unreasonable restrictions on information exchange based on the nature or status of the requesting counterpart authority.

Criterion 40.6 [Mostly Met] – Article 78 of the AML/CFT law on cooperation between FIUs, provides that the exchange of information is only possible provided that the criteria of reciprocity, confidentiality and data protection are respected. The confidentiality rule of information exchanged also applies in the context of cooperation between LEAs under Article 141 of the same law. Article 141 states that if it is not possible to execute the request without disclosing the secret, the competent authority shall inform the requesting State, which shall then decide whether to maintain the request. As regards, supervisors, BCEAO regulatory framework contains similar provisions. However, there is no evidence to ascertain whether these requirements apply to other competent authorities.

Criterion 40.7 [Mostly Met] – Within the scope of international cooperation between the Bissauan FIU and counterparts, there is a legal basis to ensure the confidentiality and protection of information exchanged. The Banking Commission (BC) also disseminates information to counterpart supervisory authorities, provided that these authorities are themselves bound by professional secrecy (Article 60 of Title IV of the BC Convention). However, Guinea-Bissau has not demonstrated through any normative text that this provision is applicable to other competent authorities, including the police and the customs services.

Criterion 40.8 [Partly Met] – The law enforcement authorities conduct investigations on behalf of foreign counterparts and exchange information that would be obtainable by them domestically if such inquiries were being carried out domestically. The provisions of Articles 76 and 78 of the AML/CFT law provide for due diligence measures and sharing of information gathered by the FIU. It is not clear from the provisions in the AML/CFT law whether other competent authorities can carry out investigations on behalf of their foreign counterparts.

Criterion 40.9 [Met] – Article 78 of the AML/CFT law meets this criterion, taking into account that it provides for the possibility of cooperation between FIUs relating to ML and TF and criminal activities.

Criterion 40.10 [Met] – Under Articles 76 and 78 of the AML/CFT Law, the FIU has power to provide feedback to its counterparts, spontaneously or on request, on the use of the information previously provided and the findings of the analyses carried out based on this information. The FIU presented statistical data demonstrating that it generally provides feedback to its foreign counterparts.

Criterion 40.11 [Met] – Articles 76 and 78 of the AML/CFT law meet this criterion. These provisions authorize the FIU to exchange all information required to be accessible or obtained directly or indirectly by the FIU (in particular with regard to R.29) and any other information that it has the power to obtain, directly or indirectly, at the national level, subject to the principles of reciprocity.

Criterion 40.12 [Met] – According to Article 86 (2) (h) of the AML/CFT law, supervisory authorities of financial institutions are able to provide fast and effective cooperation to their foreign counterparts,⁹⁹ who have similar functions, including the exchange of information. The Banking Commission can enter into cooperation agreements with other supervisory authorities and disseminate information concerning credit institutions to them, subject to the UEMOA banking regulations and the principle of reciprocity and provided that these authorities are themselves bound by professional secrecy (Art 60 of Title IV of the BC Convention, Sept. 2017). Similar provisions apply to the insurance sector. (Article 17, CRCA's Functions).

Criterion 40.13 [Met] – Guinea Bissauan law provides the necessary legal basis for cooperation between financial sector supervisory authorities with their foreign counterparts in respect of information exchange. In particular, Article 86 (2) (h) of the AML/CFT law, empowers supervisory authorities of the financial sector to exchange information with their foreign counterparts at the national level, including information held by financial institutions, in a manner proportionate to their needs. Additionally, pursuant to the provision of Article 60 of the Convention governing the Banking Commission, the Commission may transmit information particularly concerning credit institutions subject to WAEMU banking regulations, to the Authorities responsible for the supervision of similar institutions in other countries, subject to reciprocity and provided these Authorities are themselves bound by professional secrecy.

Criterion 40.14 [Met] – Without being restrictive, the AML/CFT law indicates that financial sector authorities can exchange information and cooperate in matters related to ML/TF (Article 86 (2) (h) of the AML/CFT law). In addition, as noted above, Article 60 of the Banking Commission convention empowers the Commission to communicate information on the situation of a credit institution to another supervisory or resolution authority, subject to reciprocity and confidentiality. Overall, there is no provision that limits the scope of exchangeable information, and the term “information” is broad and can therefore include regulatory, prudential and AML/CFT-related information.

Criterion 40.15 [Mostly Met] – Although Article 86 (2) (h) of the AML/CFT law ensures cooperation between supervisors in the financial sector, this legal provision does not explicitly establish that these authorities can carry out inquiries on behalf of their foreign counterparts, nor that they can facilitate the ability of their foreign counterparts to carry out such measures themselves. Nevertheless, Article 61 of the Annex to the Banking Commission Convention, states that the Commission may, along with other oversight authorities, form a college of supervisors for each financial company and parent credit company with significant international activity. Similarly, the article allows for the Banking Commission to participate as the host oversight authority in foreign oversight college groups on invitation from the supervisory authority in the country of origin.

Criterion 40.16 [Partly Met] – There are no express legal provisions that met this criterion in the AML/CFT law, given that Article 86 (2) (h) of the AML/CFT law does not provide

⁹⁹ Includes authorities from Member States or third-party States.

for any restrictions on the use of information exchanged between supervisory authorities of financial institutions and their foreign counterparts. However, Article 60 of the Banking Convention Annex, foresees the possibility of the Banking Commission exchanging information on the situation of a reporting entity with other supervisory or settlement entities subject to confidentiality and reciprocity. Nevertheless, there is no express requirement in the law or in any other normative instrument to obtain prior authorization from the requestee financial supervisor for any dissemination of the information exchanged.

Criterion 40.17 [Met] – Law enforcement authorities in Bissau are empowered to exchange information on money laundering, related predicate offences or terrorist financing with foreign counterparts for intelligence or investigative purposes (Article 142, AML/CFT Law). This can be done through platforms such as INTERPOL. Additionally, Guinea Bissau, as a member of the ECOWAS, can make use of ARINWA and WACAP for the exchange of information related to ML, predicate offenses and FT with its foreign counterparts.

Criterion 40.18 [Met] – Under Article 142 (1) of the AML/CFT law, inquiry and investigative measures are carried out in accordance with the legislation in force, unless the competent authority of the requesting State requests otherwise, and provided it is in agreement with Bissau-Guinean law.

Criterion 40.19 [Met] – Article 142 (3) permits joint investigations to be carried out between the judicial and police authorities of Guinea-Bissau and its foreign counterparts and cooperate on inquiry and fact-finding activities.

Criterion 40.20 [Mostly Met] – Guinea Bissau can exchange indirect information with non-counterpart authorities through the FIU or through INTERPOL channels. Even so, the law does not clearly establish the requirement for requesting authorities to specify the objective of the requests and on behalf of whom they have been formulated.

Weighting and Conclusion

In general, Bissau-Guinean competent authorities have a legal basis to ensure international cooperation with their counterparts and Guinea Bissau mostly meet the criteria under R.40. Notwithstanding there is no clear processes for prioritizing specific requests and defining priorities for the timely execution of requests; and no clarity in the AML/CFT law as to whether other competent authorities can carry out investigations on behalf of their foreign counterparts. In addition, there are no provisions requiring supervisors to ensure that they have the prior authorization of the requested financial supervisor before disseminating information, although there is a general confidentiality rule in the exchange of information in the annex to the Banking Commission Convention. Other than the lack of clear processes for prioritizing specific requests and defining priorities for the timely execution of requests, other shortcomings are not considered significant in the general context of the country's international cooperation system. **Guinea-Bissau is rated Largely Compliant with Recommendation 40.**

Summary of Technical Compliance – Key Deficiencies

Annex Table 1. Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> • There are limitations pertaining to availability of some statistics. • The NRA report has not been finalized. • The country is yet disseminated the results of the NRA to competent authorities, SROs and reporting entities and develop a risk-based approach to the allocation of resources. • Supervision is not risk based for FIs, other than commercial banks. • Supervision is not being undertaken in the DNFBP sector. • The legal provision relating to simplified measures is not linked to proven low risks.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • The Inter-Ministerial Committee which was established to promote cooperation and coordination in development and implementation of AML/CFT policies is not functional. • National AML / CFT policies are not informed by the identified risks since the NRA report has not been finalized. • There is no coordination mechanism to combat the financing of proliferation of weapons of mass destruction.
3. Money laundering offences	PC	<ul style="list-style-type: none"> • Guinea Bissau has not criminalized all categories of predicate offenses listed by the FATF. • The AML/CFT law only covers the concealment or disguise of the nature, origin, place, disposition, movement or real ownership of <i>immovable property</i>, thus, other types of assets are not covered.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • The country has not demonstrated that there are internal mechanisms that allow competent authorities (courts) to annul acts already consummated that hinder the country's possibility to freeze, seize, or recover assets subject to confiscation • The law does not provide for the confiscation of instruments used or intended to be used in the execution of the predicate offenses.
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> • The legislation does not cover the financing an individual terrorist or terrorist organizations for any purpose and financing of FTFs. • The AML/CFT legislation does not clearly specify that TF offence will be established even in the absence of a link to one or more specific terrorist acts.

Recommendations	Rating	Factor(s) underlying the rating
6. Targeted financial sanctions related to terrorism & TF	PC	<ul style="list-style-type: none"> • The AML/CFT law does not cover contribution to the commission of TF by a group of people or persons with a common purpose. • There is no designated competent authority or a court with the responsibility to propose persons or entities to the 1267/1989 Committee and the 1988 Committee. • There is a lack of mechanism for identifying targets for designation. • The law does not prescribe the application of the evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when considering a proposal for designation. • There is no mechanism for identifying targets for designation based on the UNSCR 1373 criteria. • There are no measures to adequately respond to a request by another country, or to make a prompt determination as to whether a proposed designation meets the criteria for designation under UNSCR 1373. • There is no procedure or mechanism to collect or solicit information to identify persons and entities that meet the criteria for the designation. • There is an absence of the requisite legal provision to apply Targeted Financial Sanctions “without delay. • The law does not cover the funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. • There are no clear guidelines to these reporting entities. • There is no procedure for the submission of de-listing requests in accordance with procedures adopted by the 1267/1989 Committee or the 1988 Committee • There are no clear procedures to facilitate review by UN Committees, in accordance with any applicable guidelines.
7. Targeted financial sanctions related to proliferation	PC	<ul style="list-style-type: none"> • The law does not cover the funds or other assets that are jointly owned or controlled, directly or indirectly by designees or by person or entities acting on behalf of or at the direction of the designees. • It is not all nationals that are prohibited from providing or continuing to provide services to or for the benefit of designated persons or entities. • There are no clear guidelines for financial institutions and DNFBPs. • The current mechanism for applying targeted financial sanctions targets only TF and not the PF. • The measures in place are silent on the conditions for derogation set by Resolution 2231.

Recommendations	Rating	Factor(s) underlying the rating
8. Non-profit organisations	NC	<ul style="list-style-type: none"> • The lack of a designated competent authority to conduct risk-based supervision/oversight measures and monitor the activities of the NPOs sector. • There has been no comprehensive assessment to ascertain which NPOs are high-risk of terrorist abuse or the nature of threats posed by terrorist organizations to those NPOs. • There is no mechanism to respond to international requests for information on NPOs suspected of TF or supporting terrorism in any other way. • Guinea Bissau has not conducted appropriate awareness raising or sensitization to targeted TF high-risk NPOs. • There is no coordination and cooperation between relevant authorities to develop best practices procedures in dealing with TF risks
9. Financial institution secrecy laws	C	
10. Customer due diligence	PC	<ul style="list-style-type: none"> • The lack of an express provision that requires FIs to understand the nature of customer that is a legal person or arrangement's business or ownership and control structure. • The lack of requirement for FIs to identify and take reasonable measures to verify the identity of beneficial owners for customers that are legal arrangements as indicated under criterion 10.11. • The requirement to identify the beneficial owner, "where appropriate" is not in keeping with the standards • There is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable; and • There is no explicit requirement for FIs to identify the senior managing official, where no natural person is identified under elements (a) or (b) as required under c10.10 (c). • There is limited obligation regarding failure to satisfactorily complete CDD; and • The lack of requirement not to pursue CDD process that may tip-off a customer and instead file an STR
11. Record keeping	LC	<ul style="list-style-type: none"> • There is no express provision that states that transaction records should be sufficient to permit reconstruction of individual transactions. • There is no clear provision requiring transaction records to be made available to domestic competent authorities upon appropriate authority.
12. Politically exposed persons	PC	<ul style="list-style-type: none"> • The definition of Foreign PEP is restrictive

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • There is no requirement for FIs to obtain senior management approval to continue business relationship with existing customer • The requirement for FIs to establish the source of wealth and the source of the funds involved in the business relationship or transaction with foreign PEPs on the basis of risk is inconsistent with the FATF standards. • FIs are not required to apply the relevant measures of criteria 12.1 and 12.2 to family members or close associates of national PEPs and PEPs of international organisations, • There is no express provision requiring FIs to take reasonable measures to determine whether the beneficiaries or the beneficial owner of the beneficiary of a life insurance policy, are PEPs • There is no specific provision requiring FIs to consider making a suspicious transaction report where higher risks are identified
13. Correspondent banking	LC	<ul style="list-style-type: none"> • There is no provision that explicitly requires FIs to gather information on whether the FI has been subject to an ML/TF investigation or regulatory action. • There is no express provision requiring the respondent and the correspondent bank to clearly understand the respective AML/CFT responsibilities of each institution.
14. Money or value transfer services	PC	<ul style="list-style-type: none"> • Guinea Bissau has not taken any steps to sanction natural and legal persons who provide money and value transfer services without being authorised or registered; • There is no obligation for remittance service providers using agents to incorporate them into their AML/CFT programmes and monitor them for compliance with these programmes and sub-agents of money transfer services are not approved by a competent authority
15. New technologies	NC	<ul style="list-style-type: none"> • The country has not identified or assessed the ML/TF risks arising from • (a) virtual asset activities and the activities or transactions of virtual asset service providers (VASPs). • (b) virtual asset activities or the activities and transactions of virtual asset service providers and, as such, cannot understand this risk and apply an approach based on the understanding of this risk. • There is no legal provision requiring virtual asset service providers to identify, assess, manage and mitigate their money laundering and terrorist financing risks. • There is no legal provision requiring virtual asset service providers to be licensed or registered. • Competent authorities have not taken any legal or regulatory measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP • The country has not identified whether there are natural or legal persons that carry out VASP activities and sanctions have not been applied in this regard. • Guidelines and feedback have not been provided to VASPs

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • There is no legal provision prohibiting virtual asset service providers, and there is no legal provision recognizing and regulating virtual asset service providers. • There are no provisions requiring VASPs to comply with the requirements set out in Recommendations 10 to 2. • There is no evidence of international cooperation or information exchange in this regard.
16. Wire transfers	PC	<ul style="list-style-type: none"> • The lack of provision requiring beneficiary FIs to take reasonable measures, including post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator or beneficiary information. • The absence of a requirement for beneficiary financial institution to verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with Recommendation 11. • There is no express provision prohibiting Ordering FIs from executing a wire transfer if it does not comply with the requirements specified under c.16.1-16.7. • There is no specific obligation on the intermediary FIs to take reasonable measures (such as monitoring) to identify cross border wire transfers that lack required originator or beneficiary information • There is no specific obligation for MVTs providers to take into account all the information from both the ordering and beneficiary side of a wire transfer in order to determine whether an STR has to be filed, and file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the FIU
17. Reliance on third parties	LC	<ul style="list-style-type: none"> • There is no requirement that countries should take into account available information on the risk level associated with these countries when determining the countries in which third parties may be established.
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> • There is no explicit provision requiring FIs to have screening procedures to ensure high standards when hiring employees. • There is no requirement that allows the provision, at group-level compliance, audit and/or the provision, at group-level compliance, audit, and/or AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes.
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • There is no specific provision that requires the country to apply countermeasures proportionate to the risks, when called upon to do so by the FATF. • There is no provision that explicitly covers the requirement to have measures that advice FIs on the weaknesses in other AML/CFT systems.
20. Reporting of suspicious transaction	PC	<ul style="list-style-type: none"> • There is no express provision requiring financial institutions to report STRs promptly to the FIU. • There is no explicit requirement in the AML/CFT law for FIs to report suspicious transactions in the case of attempted transactions.
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> •
22. DNFBBs: Customer due diligence	PC	<ul style="list-style-type: none"> • There is no requirement for DNFBBs to implement due diligence requirements for new technologies set out in R.15.

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • There is no provision requiring DNFBPs to comply with the reliance on third-party requirements set out in Recommendation 17. • Other than casinos and companies, there is no provisions requiring other DNFBPs such dealers in precious stones and metals to keep records. • Deficiencies relating to Recommendations 11 and 12 also have impact on this Recommendation
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • There is no provision requiring DNFBPs to comply with the higher-risk countries requirements set out in Recommendation 19. • The deficiencies noted under R.20, including the non-coverage of attempted transactions and the lack of requirement for STRs to be filed to the FIU “promptly” also apply to c23.1. In addition, the shortcomings noted under R18 also applies to c23.2
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> • The country has not assessed the risks ML / FT associated with the different types of legal persons • There are no mechanisms to identify and describe some legal persons like foundations or processes for their creation. • Measures to ensure that information on the beneficial ownership of a company is maintained by that company or can be otherwise determined in a timely manner by a competent authority are absent. • There is no legal provision that requires the country to monitor the quality of assistance that it receives from other countries. • There is no express obligation to update information on beneficial owners. • The country has not assessed the risks ML / FT associated with the different types of legal persons • There are no mechanisms to identify and describe some legal persons like foundations or processes for their creation. • Measures to ensure that information on the beneficial ownership of a company is maintained by that company or can be otherwise determined in a timely manner by a competent authority are absent. • There is no legal provision that requires the country to monitor the quality of assistance that it receives from other countries. • There is no express obligation to update information on beneficial owners.
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • The obligation on professional trust providers to obtain information does not extend beyond the customer and the beneficial owner of the customer to all the other parties to the trust. • There is no legislation that requires trustees to be held legally responsible for failure to perform the duties relevant to meeting their obligations.

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> There are no measures to ensure that proportionate and dissuasive sanctions apply for failing to grant competent authorities timely access to information regarding the trust.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> There is no provision that requires that the frequency and intensity of on-site and off-site AML/CFT supervision of financial institutions or groups should be determined on the basis of: ML/TF risks and the policies, internal controls and procedures, group's risk profile or characteristics of the FI. There is no provision that requires a supervisor to review the assessment of the ML/TF risk profile of a financial institution or group (i) periodically and (ii) where major events or developments have occurred in the management and operations of the financial institution or group.
27. Powers of supervisors	C	
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> DNFBPs are not subject to any systems for monitoring compliance with AML/CFT requirements. There are no measures to prevent criminals and their associates holding a significant or controlling interest, or holding a management function in a DNFBP. There is no requirement for DNFBP supervisors to review the ML/TF risk profiles and risk assessments prepared by DNFBPs and take the result of the review into consideration and develop and implement a risk-based approach to supervision. Even though some DNFBPs have designated prudential supervisors, these supervisors do not have AML/CFT supervisory mandate.
29. Financial intelligence units	LC	<ul style="list-style-type: none"> The lack of ICT security policy by the FI. The absence of a provision or measures requiring the staff of the FIU to have security clearance. The FIU's Egmont membership application process is still in the preliminary stage.
30. Responsibilities of law enforcement and investigative authorities	C	
31. Powers of law enforcement and investigative authorities	C	
32. Cash couriers	PC	<ul style="list-style-type: none"> The scope of application of the system of declaration of cash and BNI is limited to people entering and leaving the WAEMU territory, thus excluding those who move between member countries. There are no coordination mechanisms between the different domestic competent authorities on matters related to Recommendation 32. Information relating to a declaration which exceeds the prescribed threshold, a false declaration or a suspicion of ML/TF are not retained by customs in order to facilitate international cooperation.
33. Statistics	PC	<ul style="list-style-type: none"> The country does not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems.
34. Guidance and feedback	PC	<ul style="list-style-type: none"> There is no express provision regarding providing feedback to reporting entities.
35. Sanctions	LC	<ul style="list-style-type: none"> The range of penalties are not explicitly stated.

Recommendations	Rating	Factor(s) underlying the rating
36. International instruments	LC	<ul style="list-style-type: none"> Some relevant provisions of the conventions have not been fully transposed into the national legislation.
37. Mutual legal assistance	PC	<ul style="list-style-type: none"> The country does not have a central authority or other official mechanism that allows management and monitoring of processes of requests for MLA, which raises doubts as to the promptness of handling requests. The authorities have not demonstrated that the dual criminality requirement is met even if the offence is not classified in the same category or worded with the same terminology, insofar as the underlying conduct is criminalized. The Bissauan law does not explicitly cover situations where the request for MLA does not involve coercive measures.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> There is no legal provision that allows the country to provide assistance to requests for co-operation made on the basis of non-conviction based confiscation proceedings and related provisional measures, even in cases where a perpetrator is unavailable by reason of death, flight, absence, or the perpetrator is unknown.
39. Extradition	LC	<ul style="list-style-type: none"> There is no clear processes for prioritisation and timely execution of extradition of requests. There are no provisions stipulating that the requirement for dual criminality should be met if both the requesting and requested country penalize the underlying conduct notwithstanding the differences in categorization and designation of the offence in each jurisdiction.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> There is limited information on bilateral or multilateral cooperation agreements or protocols between competent authorities and their foreign counterparts. With the exception of law enforcement authorities, other competent authorities do not have clear legal basis to conduct inquiries on behalf of their foreign counterparts. There are no provisions requiring supervisors to obtain the prior authorization of the requested financial supervisor before disseminating information exchanged, or using of the information for supervisory and non-supervisory purposes.

Glossary of Acronyms

	DEFINITION
AML/CFT	Anti-Money Laundering / Combating the Financing of Terrorism
AML/CFT Act	Anti-money laundering/Combating the Financing of Terrorism Act
AMO	Asset Management Office
APBEF	Professional Association of Banks and Financial Institutions
ARO	Asset Recovery Office
ASAPM	Agency for Supervision of Savings and Micro-Credit Activities
AQMI	Al-Qa'ida in the Islamic Maghreb
BA	Banking Act
BCEAO	National office of the Central Bank of West African States
BDC	Bureau de Change
BNI	Bearer Negotiable Instrument
BO	Beneficial Ownership
C	Compliant
CBR	Correspondent banking Relationship
CBU	UEMOA Banking Commission
CDD	Customer Due Diligence
CFE	Business Formalization Center
CFT	Combating the Financing of Terrorism
CIMA	Inter-African Conference of Insurance Markets
CNCFT	National Commission for Freezing the Funds and other Financial Resources of Terrorists
COIL	Criminal Organization and Investigation Law
CPA	Criminal Procedure Act (1965)
CPLP	Community of Portuguese Language Countries
CRCA	Regional Commission for Insurance Control
CREPMF	Regional Council of Public Savings and Capital Markets
CSO	Civil Society Organization
CTRs	Currency Transaction Reports
DFIs	Decentralized Financial Institutions
DGCANG	General Directorate for the Coordination of Non-Governmental Aid
DGICRN	General Directorate of Civil Identification, Registries and Notary
DNFBPs	Designated Non-Financial Businesses and Professions
DPMS	Dealers in Precious Metals and Stones
DPP	Director of Public Prosecutions
ECOWAS	Economic Community of West African States
EDD	Enhanced Due Diligence
EUR	Euro
EMIs	Electronic Money Issuers
FATF	Financial Action Task Force
FIs	Financial Institutions
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
FTFs	Foreign Terrorist Fighters

FTR	Foreign Transaction Reports
FUNPI	Fund for the Promotion of the Industrialization of Agriculture Products
GDP	Gross Domestic Product
GIABA	Inter-Governmental Action Group against ML in West Africa
GLC	General Legal Council
GLCCDE	Office for the fight against Corruption and Economic Crimes
GTANR	National Risk Assessment Working Group
GTC	Governance and Transition Committee
IMC	Inter-Ministerial Committee
IMF	International Monetary Fund
IO	Immediate Outcome
INTERPOL	International Criminal Police Organization
JIC	Joint Intelligence Committee
JAITF-AIRCOP	Joint Airport Interdiction Task Force
KYC	Know your customer
LC	Largely Compliant
LEAs	Law Enforcement Agencies
LPA	Legal Practitioners Act
LTD/GTE	Limited Liability Companies/Companies Limited by Guarantee
MEF	Ministry of Economy and Finance
MER	Mutual Evaluation Report
MFIs	Microfinance Institutions
ML	Money Laundering
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
MOFA	Ministry of Foreign Affairs
MOJ	Ministry of Justice
MoU	Memorandum of Understanding
MTI	Ministry of Trade and Industry
MVTS	Money or Value Transfer Service
NBFIs	Non Bank Financial Institutions
NC	Non-Compliant
NCCLW	National Commission to Combat the Proliferation of Light Weapons
NDLEA	National Drug Law Enforcement Agency
NIP	National Integrated Plan
NMA	National Mineral Agency
NGO	Non-Governmental Organization
NPO	Non-Profit Organization
NRA	National Risk Assessment
NSCCG	National Security Council Co-ordinating Group
OFIs	Other Financial Institutions
ORNATOC-GB	National Order of Chartered Accountants – Guinea Bissau
PC	Partially Compliant
PEP	Politically Exposed Person
PF	Proliferation Financing
PPO	Public Prosecutor's Office
R	Recommendation
RCB	Rural Community Bank
RBA	Risk- Based Approach
RBS	Risk- Based Supervision
SCDD	Simplified Customer Due Diligence

SIS	Intelligence and Security Service
SNEC-UMOA	UMOA Credit Rating System
SRB	Self-Regulatory Body
STR	Suspicious Transaction Report
TCU	Transnational Crime Unit
TFS	Targeted Financial Sanctions
UBO	Ultimate Beneficiary Owner
UEMOA	West African Economic and Monetary Union
UMOA	West African Monetary Union
UNCAC	United Nations Convention against Corruption
UNSC	United Nations Security Council
UNSCRs	United Nations Security Council Resolutions
XoF	Franc of African Financial Communities



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