



# MUTUAL EVALUATION REPORT OF DOMINICAN REPUBLIC



September 2018

**Citing reference:**

GAFILAT (2018) – Mutual Evaluation Report of the Fourth Round – Dominican Republic  
<http://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/republicadominicana/evaluaciones-mutuas12/MERRD-FourthRound.pdf>

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## MUTUAL EVALUATION REPORT OF DOMINICAN REPUBLIC

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## ABBREVIATIONS AND ACRONYMS

<b>AML/CFT</b>	Anti-Money Laundering/Countering the Financing of Terrorism
<b>CDD</b>	Customer Due Diligence
<b>CNFPASFL</b>	National Centre for the Advocacy and Promotion of Non-Profit Organisations
<b>CONCLAFIT</b>	National Committee against Money Laundering and Terrorist Financing
<b>DGII</b>	General Internal Revenue Office
<b>DNFBP</b>	Designated Non-Financial Business and Professions
<b>DNA</b>	National Anti-Terrorist Office
<b>DNCD</b>	National Directorate for the Control of Drugs
<b>EDD</b>	Enhanced Due Diligence
<b>EIFyC</b>	Financial and Exchange Intermediation Entities
<b>FIs</b>	Financial Institutions
<b>FPWMD</b>	Financing of the Proliferation of Weapons of Mass Destruction
<b>IDECOOP</b>	Cooperative Development and Credit Institute
<b>MIREX</b>	Ministry of Foreign Affairs
<b>ML</b>	Money Laundering
<b>MLA</b>	Mutual Legal Assistance
<b>MP</b>	Public Prosecutor's Office
<b>MVTS</b>	Money or Value Transfer Services
<b>NPO</b>	Non-profit organisations
<b>NRA</b>	National Risk Assessment
<b>OIF</b>	Financial Intelligence Observatory
<b>PEP</b>	Politically Exposed Persons
<b>PN</b>	National Police
<b>RBA</b>	Risk-Based Approach
<b>RI</b>	Reporting Institutions
<b>RNC</b>	National Registry of Taxpayers
<b>SIB</b>	Superintendency of Banks
<b>SIS</b>	Superintendency of Insurance
<b>SIV</b>	Superintendency of Securities
<b>STR</b>	Suspicious Transaction Report(s)
<b>TF</b>	Terrorist Financing
<b>TFS</b>	Targeted Financial Sanctions
<b>UAF</b>	Financial Analysis Unit
<b>UCABI</b>	Administration of Seized Property
<b>UNSC</b>	United Nations Security Council
<b>UNSCR</b>	United Nations Security Council Resolution(s)
<b>USA</b>	United States of America

## EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in the Dominican Republic as at the date of the on-site visit on January 15-25, 2018. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Dominican Republic's AML/CFT System and provides recommendations on how the system could be strengthened.

### *Key Findings*

- In 2014, the Dominican Republic conducted its National Risk Assessment (NRA) based on the 2010-2014 period. Through the NRA, the country made a radiography of its money laundering and terrorism financing (ML/TF) inherent risks. Overall, the outcomes of the NRA seem reasonable and have a satisfactory level of reliability, despite the difficulties to obtain reliable statistics for some sectors. In 2017, the National Risk Strategy was elaborated to mitigate threats and vulnerabilities detected in the NRA of 2014.
- Designated non-financial business or professions (DNFBPs) were rated in the NRA as the most vulnerable sector to ML/TF misuse due to the lack of specific regulation and of reliable data for the assessment of its inherent risks.
- The Dominican Republic has carried out several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing. The report provides a detailed analysis of TF specifically on the following sectors: Non-profit organisations (NPOs), remittances (including an analysis of types, values, and countries), money orders, legal arrangements, and imports and exports sector, and it concludes that the risk level is low.
- As a result of the implementation of the National Strategy, the Dominican Republic amended its legal framework, improved the inter-agency co-ordination process with the creation of the National Committee against Money Laundering and Terrorist Financing (CONCLAFIT), provided training to promote the use of financial investigations and improve training to reporting institutions, and provided the Financial Analysis Unit (UAF) with technological tools to streamline the financial analysis, as well as with financial resources for its implementation.
- There is a low number of financial intelligence reports spontaneously disseminated by the UAF to the Public Prosecutor's Office (MP); additionally, the latter used them few times for criminal investigation purposes, which negatively impacts on its effectiveness to investigate and trace criminal assets related to ML, predicate offences and TF, resulting from the natural activity performed by the UAF.
- Moreover, an active participation by the UAF in the dissemination of financial intelligence reports through Technical Assistance to competent authorities is highlighted, with a considerable number of assistance requests answered to the MP, contributing to the development and conclusion of judicial investigations.
- Authorities have made efforts to combat ML related to drug trafficking, in line with the risks identified in the NRA. However, there are few cases related to other identified threats. There are important cases of prosecution and conviction for ML of predicate offences committed abroad.
- The Dominican Republic carries out actions to identify, trace, and confiscate property, assets, or instrumentalities produced by ML. However, the number of confiscated property, even if increasing, is still limited.
- There are cases of confiscation in the Dominican Republic resulting from ML actions conducted abroad.
- There are no TF cases in the Dominican Republic. However, the country has a Specialized Prosecutor's Office and a National Anti-Terrorist Office that, eventually, can adopt or order corresponding measures for its investigation and the prosecution of those responsible.

- The Dominican Republic has carried out several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing, where it can be concluded that the risk level is low.
- No matches were found in the reporting institutions (RI) databases with the names of designated persons in the United Nations Security Council Resolutions (UNSCR) lists. The Dominican Republic does not report the existence of co-operation requests based on the UNSCR 1373 (2001) regime either.
- The Dominican Republic has a specific study on the NPO sector's risks. Said study was not developed with the aim of identifying potential higher-risk sub-sectors, but it contains a global analysis that verified the legal and institutional frameworks of the control and monitoring systems, in addition to the general features of the sector.
- Supervisors have put mechanisms in place to disseminate the updates to the UNSCR lists, and they instructed RI to check them as part of their customer due diligence (CDD) process.
- RI, especially from the financial sector, are aware of this obligation and it was verified that they regularly check the lists sent by the Ministry of Foreign Affairs (MIREX). In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.
- The country has regulations in place to adopt property and asset freezing measures. Likewise, the implementation of measures by intelligence and prosecution agencies to prevent and detect cases related to Financing of the Proliferation of Weapons of Mass Destruction (FPWMD) was confirmed.
- Overall, financial institutions have experience in relation to the implementation of preventative measures. As regards banking and securities financial institutions, in general, there is a good level of understanding of the anti-money laundering/countering the financing of terrorism (AML/CFT) risks and obligations.
- The cooperatives sector is at a preliminary stage of understanding and compliance with AML/CFT preventive measures.
- Regarding DNFBPs, the assessment team verified that the sectors started to implement the preventive measures. However, given the short time since the publication of the secondary regulations (both legislation and regulations were issued before the finalization of the onsite visit), it was not possible to assess the extent of the level of effectiveness of those measures adopted.
- All supervisors have developed and applied training programmes on AML/CFT matters, especially as a result of the enactment of the law and subsequent sectoral regulations.
- The enforcement of effective, proportionate and dissuasive sanctions by financial supervisors is limited. In particular, no AML/CFT sanctions were applied in the insurance and cooperatives sectors.
- There is basic information on legal persons, which is public and available on the website of the company register. The country has developed a series of reports that, taken together, allow concluding that the vulnerabilities of legal persons and arrangements available in the country have been assessed and understood.
- The computerisation of the company registers and the centralisation of information on companies, legal arrangements and beneficial ownership through the National Registry of Taxpayers (RNC) of the General Internal Revenue Office (DGII) can be highlighted as a strength.
- Even when the DGII has made enormous efforts to achieve the identification of beneficial owners, said identification was focused on the shareholding structure and only after the enactment of the Law 155-17 on the natural persons that exercise the final real control of legal persons or arrangements.
- In relation to other forms of international co-operation, competent authorities of the Dominican Republic have entered into memoranda of understanding with the aim of establishing direct communication channels and contact points, and have used mechanisms or means to safeguard the confidentiality of the information exchanged.

- In cases where there are not agreements or memoranda of understanding signed, it is still possible to exchange the information by the principle of reciprocity. In this line, it should be mentioned that the UAF is currently in the process to become member of the Egmont Group of Financial Intelligence Units, which has not been an obstacle to provide international co-operation to its foreign counterparts.

### *Risks and General Situation*

2. In 2014, the Dominican Republic conducted its NRA. For its development, it used a methodological tool elaborated by the World Bank. Several sectors participated in said process and made up different working groups.

3. By means of the NRA, the country made a radiography of the inherent ML/TF risks. The NRA yielded as higher-risk illicit activities drug trafficking, corruption, bank fraud and fraud against the State. Overall, the outcomes of the NRA are reasonable and have a satisfactory degree of reliability, despite the difficulties to obtain reliable statistics from some sectors.

4. The NRA rated DNFBPs as the most vulnerable sector to ML/TF misuse due to the lack of specific regulation and of reliable data for the assessment of its inherent risks. In 2017, the National Risk Strategy was elaborated to mitigate threats and vulnerabilities detected in the NRA of 2014.

5. The Dominican Republic has carried out several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing. The report provides a detailed analysis of TF specifically on the following sectors: NPOs, remittances (including an analysis of types, values, and countries), money orders, legal arrangements, and imports and exports sector, and it concludes that the risk level is low.

6. As a result of the implementation of the National Strategy, the Dominican Republic amended its legal framework, improved the inter-agency co-ordination process with the creation of the CONCLAFIT, provided training to promote the use of financial investigations and improve training to reporting institutions, and provided the UAF with technological tools to streamline the financial analysis, as well as with financial resources for its implementation.

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

7. The Dominican Republic carried out a comprehensive reform of its AML/CFT legal framework in June 2017 by the enactment and entry into force of Law 155-17. As a result, the previous regime governed by Law 72-02, that provided for a system for the prevention and detection of ML and its criminalisation, was abrogated, as well as the CFT repressive framework provided for in Law 267-08, entitled the Anti-Terrorist Law.

8. In particular, Law 155-17 establishes the AML/CFT institutional organisation and criminalises the crimes of ML and TF. Likewise, among other relevant aspects, the law establishes the preventive and detection system of ML/TF and FPWMD transactions, defines reporting institutions, provides for a sanctioning regime available in case of non-compliance with AML/CFT obligations, regulates the powers of competent authorities, and their special investigation techniques, and provides for an international co-operation framework. In addition, Decrees 407 and 408 of 2017 regulated relevant aspects on targeted financial sanctions (TFS) for TF and CDD.



9. Generally speaking, the Dominican Republic has updated its AML/CFT regulatory framework, which is largely in line with international standards. Notwithstanding the aforesaid, technical compliance deficiencies are observed, as indicated in the TC annex.

10. In relation to the AML/CFT system's effectiveness, as the comprehensive reform to the AML/CFT system occurred in 2017, the outcomes in a considerable part of the system are still incipient. In this sense, except for the banking and securities sectors, there are important challenges in the implementation of CDD measures and the risk-based approach, particularly in the DNFBS sectors. In time, most supervisors, except in the banking and securities sectors, are only now implementing the risk-based approach to supervision.

11. Moreover, even if important efforts have been made in relation to ML investigation and prosecution, the outcomes reached are moderate, with an important number of investigations and confiscations related to drug trafficking, even in co-operation with foreign authorities, but with a limited number in relation to other identified threats. The effective use of financial intelligence shows higher effectiveness in co-operations of the UAF with the MP, but the use of intelligence reports elaborated by the UAF in investigations is limited.

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

12. The Dominican Republic performed its NRA in 2014. Most public sectors related to the prevention, detection and criminal prosecution participated in its development. Several entities representatives of the financial sector were also invited. The NRA was introduced in 2017 and its outcomes were shared with the different relevant sectors, whether through the Internet or through face-to-face training sessions. On the basis of its NRA, the country developed its National Strategy, where an action plan to address the main vulnerabilities and risks identified was established.

13. As a result of the implementation of the National Strategy, the Dominican Republic amended its legal framework, improved the inter-agency co-ordination process with the creation of the CONCLAFIT, provided training to promote the use of financial investigations and improve training to reporting institutions, and provided the UAF with technological tools to streamline the financial analysis, as well as with financial resources for its implementation.

*Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)*

14. The UAF is the national centre for the reception, analysis and communication of information. The UAF has implemented an online registration and reporting system, but the migration of the paper-based system into the digital system is still underway. The UAF has access to different sources of information that allow it to generate more efficient intelligence reports. The capacity of the UAF to co-operate with investigation agencies upon request is highlighted. The intelligence reports spontaneously disseminated by the UAF are limited; however, the significant financial intelligence contributions through technical assistance of the UAF to the MP and other competent authorities are highlighted.

15. The Dominican system has an adequate legal framework and institutional co-ordination mechanisms for the investigation and prosecution of ML cases. The MP has specialised personnel trained in the fight of ML. On the other hand, there are challenges faced in relation to the use of UAF's financial intelligence reports and to the outcomes of criminal prosecution. Furthermore, efforts in the prosecution of ML resulting from drug trafficking, which is a significant threat, are observed, but the number of cases in relation to other predicate offences identified as bearing a high-risk in the NRA is limited. Notwithstanding the foregoing, the current practice in the country of prosecution of ML cases which predicate offences were committed abroad is highlighted.

16. The Dominican Republic has a criminal legal system that allows to apply provisional measures and confiscation upon property involved in the commission of money laundering. Moreover, the country has the

Office of Custody and Administration of Seized Property for the control and administration of confiscated property in money laundering cases. The vast majority of seized and confiscated property result from investigations related to drug trafficking, which is a significant issue in the criminal context of the country. In relation to other predicate offences, the number of property seized or confiscated, even if increasing, still shows room for improvement.

*Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)*

17. As at the date of the on-site visit, the country did not register TF cases. However, the MP and the DNA have the capacity to adopt measures in the potential case of TF. The Dominican Republic has elaborated several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing, where it is concluded that the risk level is low.

18. The Dominican Republic has a comprehensive TFS legal framework, and has mechanisms in place for the dissemination of updated UNSC lists. Regulation 407-17 of November 16, 2017 sets forth all the provisions related to the enforcement of measures in TF TFS matters. Moreover, the system for the dissemination of lists is supported by a modern digital platform implemented by the Ministry of Foreign Affairs (MIREX), used to send the update of the UNSC lists to supervisors. In turn, supervisors have established the obligation upon RI to check the lists as part of their CDD process. In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

19. No matches were found in the RI's databases with the names of designated persons in the UNSCR lists. The Dominican Republic does not report the existence of co-operation requests based on the UNSCR 1373 (2001) regime either.

20. The Dominican Republic has a specific study on the NPO sector's risks. Said study was not developed with the aim of identifying potential higher-risk sub-sectors, but it contains a global analysis that verified the legal and institutional frameworks of the control and monitoring systems, in addition to the general features of the sector.

21. Different entities are involved in the registration and monitoring of NPOs. The PGR registers and grants legal personality to said organisations, and it sanctions non-compliances with obligations. Moreover, the National Centre for the Advocacy and Promotion of Non-Profit Organisations and the DGII supervise and monitor their activities. Through the DGII, NPOs learn about their tax obligations and submit information and tax returns on a regular basis.

*Preventive Measures (Chapter 5 - IO.4; R.9-23)*

22. Law 155-17 and Decree 408-2017 provide an adequate legal framework on CDD matters. RI of the banking and securities sectors, mostly, and the insurance and cooperatives sectors, to a lesser extent, are aware of the ML/TF risks and have policies and procedures in place to mitigate them.

23. DNFBPs, on the other hand, have a more limited understanding of the risk and the application of CDD, mainly due to their recent incorporation to the AML/CFT preventive system. The understanding of risks and obligations on TF matters is more limited as compared with ML. DNFBPs sectoral regulations, published during the on-site visit to the country, are in a preliminary stage of implementation.

24. The low number of STRs submitted to the UAF by the different DNFBPs sectors, and by non-banking financial sectors, constitutes a challenge for the country.

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

25. The Dominican Republic has duly empowered supervisors to regulate and supervise on AML/CFT matters both the financial sector and DNFBPs: The Superintendency of Banks (SIB), the Superintendency of Securities (SIV), the Superintendency of Insurance (SIS), the Cooperative Development and Credit Institute (IDECOOP), the Casinos and Gambling Department, and the General Internal Revenue Office (DGII). The co-ordination between competent authorities and supervisors is highlighted, particularly the joint work of the UAF with the SIB, the SIV and the DGII.

26. Supervision of the insurance and cooperatives sectors shows important challenges on risk-based approach matters. Moreover, the supervision system in relation to DNFBPs is at a preliminary stage. Non-financial supervisors are developing their risk matrices and, therefore, are at the initial phase of understanding and study of the risks of their regulated institutions. There are limitations in relation to the enforcement of effective, proportionate and dissuasive sanctions to reporting institutions.

27. In the case of trusts, there are three control entities based on the activities undertaken, and supervisions are performed by each supervisor without a consolidated plan. Now, the control structure in relation to trusts, as well as the features of the legal framework in relation to how these are established and who can operate them, contribute to the mitigation of risks associated to their misuse.

28. The development of massive training sessions addressed to a large number of reporting institutions in a short period of time is highlighted as a strength, and have raised awareness of different sectors in relation to their basic AML/CFT obligations.

*Transparency of Legal Persons and Arrangements (Chapter 7 - IO.5; R. 24-25)*

29. In the Dominican Republic all business companies are bound to be registered with the Company Register, which is public, and with the RNC of the DGII. The Company Registers belong to the Chambers of Commerce of each jurisdiction and are mostly computerised. There are eight types of business companies and a total universe of 161 789 legal persons and arrangements, 68% of which are SRL and 10% SA. Of the total, 12 571 are foreign companies. In addition to the obligation to register with the RNC, there is the obligation to identify the beneficial ownership. These obligations are also applicable to NPOs and exclusive purpose trust companies.

30. All information and/or documents registered with the Company Register is of public nature, reason why it can be timely accessed by any interested party with the sole condition of fulfilling the procedure established to obtain it (request through a form), which is clearly detailed in the corresponding website. The computerisation of Company Registers and the RNC result in a greater and better availability of information available.

31. Competent authorities have carried out studies, and they have identified, assessed, and understood the risks and vulnerabilities and the extent to which legal persons created in their territories can be misused for ML/TF.

32. Even if bearer shares were forbidden, there is still a reduced stock of companies with bearer shares that should be converted by June 2018. However, the country undertakes a regular monitoring in relation to the status of said companies and the process of conversion of shares.

33. The lack of information and identification of the beneficial ownership constitutes a breach of formal duties. Sanctions have been applied for failure to update company's information. However, said sanctions are not sufficiently effective, proportionate and dissuasive.

*International Cooperation (Chapter 8 - IO.2; R.36-40)*

34. The Dominican Republic is signatory of bilateral and multilateral agreements that allow it to provide mutual legal assistance upon request and by rule of reciprocity. The country has the International Legal Assistance and Extradition Office within the Public Prosecutor's Office, central authority, that acts as the vehicle to receive, channel, answer, and request international legal assistance on criminal matters. No restrictions were observed in relation to the extradition of Dominican nationals.

35. In relation to international co-operation, competent authorities of the Dominican Republic have entered into different memoranda of understanding with the aim of establishing direct communication channels and contact points, and have used mechanisms or means to safeguard the confidentiality of the information exchanged.

36. In cases where there are not agreements or memoranda of understanding signed, it is still possible to exchange the information by the principle of reciprocity. In this line, it should be mentioned that the UAF is currently in the process to become member of the Egmont Group, a limitation mitigated through bilateral agreements with its foreign counterparts, which has not substantially impacted on its capacity to provide and receive international co-operation.

37. The Dominican Republic has entered into several bilateral international co-operation agreements and has signed relevant international conventions, which grants a broad legal framework for international co-operation. The high-level of support to the processing of requests received through known and accepted procedures was expressed by different relevant authorities. However, the spontaneous co-operation and the number of active co-operation requests are limited.

***Priority Actions***

1. Continue with the ongoing process to strengthen the understanding of TF risks in each sector, specially DNFBPs recently incorporated into the AML/CFT system.
2. Elaborate sectoral surveys for the understanding of the scope of risks of higher-risk sectors and adopt corresponding and appropriate mitigating measures based on the specific features of each sector.
3. To support the operational needs of competent authorities and strengthen the use of financial intelligence, it is recommended to substantially increase the spontaneous elaboration of reports that the UAF forwards to the different authorities and specially to the MP, and that the latter, in time, use them effectively in investigation processes to trace criminal assets, investigate and prosecute cases related to ML, predicate offences and TF.
4. Intensify outreach efforts towards RI, specifically DNFBPs identified as high-risk, to comply with necessary registration requirements and access to the UAF online platform, so as to be provided with tools to send online reports to the UAF.
5. Strengthen the development of parallel investigations for all predicate offences different from drug trafficking.
6. Further follow-up investigations resulting from UAF spontaneous intelligence reports in order to have a higher number of investigations from intelligence reports.
7. Implement inter-agency co-ordination or mechanisms for competent authorities to increase effectiveness in relation to the identification and tracing of property.
8. Adopt measures tending to the recovery of funds and proceeds of criminal activities located outside the country.
9. Perform studies of all sectors vulnerable to TF misuse, in order to identify vulnerabilities and have a broader understanding of the TF risks.

10. Enlarge the training process to auxiliary investigation authorities and agencies to allow them to be up-to-date in relation to trends, typologies, modus operandi, to adjust their investigation techniques.
11. It is necessary to raise awareness among RI, especially those sectors recently incorporated to the legislation, through regular training and/or workshops so that if they detect this type of activity, they report it properly, providing data that would allow to conduct corresponding investigations.
12. Continue with the training process of DNFBPs, considering that most of them have been recently incorporated to the system and still need to make a habit of regularly checking the UNSCR lists.
13. Continue with the communication to DNFBPs and non-financial RI on the importance and danger inherent to FPWMD.
14. Adopt awareness and outreach measures towards cooperatives and DNFBPs to strengthen their understanding of the scope of AML/CFT regulations and the ML/TF risks the sectors are exposed to.
15. Carry out actions to improve the quality and submission of STRs by DNFBPs.
16. In relation to non-financial supervisors, improve the level of understanding of the risks of the reporting institutions under their competence. Implement risk-based supervisions in DNFBP sectors and apply effective, proportionate and dissuasive sanctions to DNFBPs that fail to comply with their AML/CFT obligations.
17. Expand the beneficial ownership identification requirement to natural persons that exercise the final effective control of legal persons or arrangements.
18. Perform further efforts to achieve proportionate and dissuasive sanctions effective against legal persons that fail to comply with the requirements relating to information.
19. Make further efforts to achieve the admission of the UAF as member of the Egmont Group.
20. Implement an inter-agency statistical database on international co-operation matters that includes information from different national authorities that can provide this type of support.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings

<b>IO1</b> Risk, policy and co- ordination	<b>IO2</b> International co-operation	<b>IO3</b> Supervision	<b>IO4</b> Preventive measures	<b>IO5</b> Legal and persons and arrangements	<b>IO6</b> Financial intelligence
<b>Moderate</b>	<b>Substantial</b>	<b>Low</b>	<b>Moderate</b>	<b>Moderate</b>	<b>Moderate</b>
<b>IO7</b> Investigation and prosecution ML	<b>IO8</b> Confiscation	<b>IO9</b> Investigation and prosecution TF	<b>IO10</b> Measures preventive TF and sanctions financial	<b>IO11</b> Sanctions financial of FP	
<b>Moderate</b>	<b>Moderate</b>	<b>Substantial</b>	<b>Moderate</b>	<b>Moderate</b>	

### Technical Compliance Ratings

#### AML/CFT Policies and Co-ordination

<b>R.1</b>	<b>R.2</b>
<b>LC</b>	<b>C</b>

#### Money laundering and confiscation

<b>R.3</b>	<b>R.4</b>
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C

C

*Terrorist financing and financing of proliferation*

<b>R.5</b>	<b>R.6</b>	<b>R.7</b>	<b>R.8</b>
C	LC	LC	PC

## Preventive measures

<b>R.9</b>	<b>R.10</b>	<b>R.11</b>	<b>R.12</b>	<b>R.13</b>	<b>R.14</b>
C	LC	LC	LC	C	PC
<b>R.15</b>	<b>R.16</b>	<b>R.17</b>	<b>R.18</b>	<b>R.19</b>	<b>R.20</b>
C	LC	LC	PC	PC	C
<b>R.21</b>	<b>R.22</b>	<b>R.23</b>			
LC	LC	C			

*Transparency and beneficial ownership of legal persons and arrangements*

<b>R.24</b>	<b>R.25</b>
LC	LC

*Powers and duties of competent authorities and other institutional measures*

<b>R.26</b>	<b>R.27</b>	<b>R.28</b>	<b>R.29</b>	<b>R.30</b>	<b>R.31</b>
PC	C	LC	C	LC	LC
<b>R.32</b>	<b>R.33</b>	<b>R.34</b>	<b>R.35</b>		
PC	C	LC	C		

## International co-operation

<b>R.36</b>	<b>R.37</b>	<b>R.38</b>	<b>R.39</b>	<b>R.40</b>
C	LC	LC	PC	LC

## MUTUAL EVALUATION REPORT

### *Preface*

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

39. 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 15 to 25, 2018.

40. The evaluation was conducted by an assessment team consisting of: María Celeste Plee, Supervision Director of the Argentine Financial Information Unit (supervision expert); Javier Humerez Carranza, Head of the Legal Analysis Unit of the Bolivian Financial Investigations Unit (operative expert); Christian Mauricio Cruz Rodríguez, Superintendent of Banks of Ecuador (financial expert); Ada Margoth Mass Herrera, Specialist on International Cooperation of the Financial Intelligence Unit of Honduras (legal expert); Ricardo Moreno, Head of the Strategic Analysis Section of the Panamanian Financial Analysis Unit (operative expert); with the support of Marconi Costa Melo, Juan Cruz Ponce, and Mileidy Bernal Campos of the GAFILAT Secretariat. The report was reviewed by Carlos Acosta of the Caribbean Financial Action Task Force (CFATF) and Pierre Bardin of the FATF Secretariat.

41. Dominican Republic previously underwent a CFATF Mutual Evaluation in 2006, conducted according to the 2004 FATF Methodology. The 2006 evaluation has been published and is available at: <http://www.gafilat.info/index.php/es/biblioteca-virtual/miembros/republica-dominicana/evaluaciones-mutuas-15>.

42. That Mutual Evaluation concluded that the country was largely compliant with eight (8) Recommendations, partially compliant with twenty-six (26), and non-compliant with six (6) of the 40 Recommendations, while it was rated largely compliant with one (1), partially compliant with one (1), and non-compliant with five (5) of the IX Special Recommendations. It should be mentioned that Special Recommendation IX was not evaluated. Based on the aforesaid, the Dominican Republic was rated compliant or largely compliant with two (2) of the 16 Core and Key Recommendations.

## CHAPTER 1. ML/TF RISKS AND CONTEXT

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

43. The Dominican Republic, and its adjacent islands, has a surface of 48 511.44 square kilometres.<sup>2</sup> It occupies approximately two-thirds of the total extension of 77 000 kilometres of the Hispaniola or Santo Domingo Island, and it shares the territory with the Republic of Haiti. It limits to the North with the Atlantic Ocean, to the South with the Caribbean Sea or Antillean Sea, to the East with the Mona Passage, which separates it from Puerto Rico, and to the West with the Republic of Haiti. Both regarding its area and its population, the Dominican Republic is the second-largest country of the Caribbean in the Greater Antilles, with a total population of 9 445 281 inhabitants, pursuant to the 2010 census.

44. The Dominican Republic has a republican presidential government system. The State is represented by the Executive Power (President of the Republic), the Legislative Power (bicameral congress), and the Judiciary (two higher courts, the Constitutional Court and the Supreme Court of Justice).

45. In relation to the Military, the Dominican Armed Forces are made up by the Army that includes the forces that protect and defend the land borders; the Navy, in charge of ensuring and defending the national integrity in sea, river, and lake spaces; and the Air Force, made up by military forces that defend, protect and safeguard the air space of the nation. The country changed from a traditional militarized security model, exclusively defensive, to one of enlarged security, with new powers granted to the armed forces in other spheres of the development and stability of the country. Within the structure of the armed forces of the Dominican Republic, there are special forces for the fight against the different forms of organised crime.

#### *Overview of ML/TF Risks*

##### *ML/TF Threats*

46. Based on the information provided during the NRA of the Dominican Republic, the input provided by the Global Network and other open sources of information<sup>1</sup>, drug trafficking, corruption, and fraud were found to represent the greatest ML threats. Other sources of ML include illicit border transportation of money, tax offences, smuggling, human trafficking, and migrant smuggling.

47. Due to its geographic location, the Dominican Republic is located in the route used by criminal organisations from countries that produce illicit narcotic substances and that are large consumption markets. In this sense, it could be used for the movement of said substances. Moreover, the NRA explains that this offence accounts for 58% of the ML cases brought to court. In addition, according to the GAFILAT threats report (GAFILAT 2017), drug trafficking is a threat that affects transversally the countries of the entire region.

48. Based on the Global Competitiveness Index, among the most problematic factors to carry out businesses in the Dominican Republic, corruption is in the lead.<sup>2</sup> The findings of the NRA seem to confirm the aforesaid, since this crime was identified as having high incidence, and the amount of assets identified was significant.

49. Financial fraud constitutes a ML risk under different forms of fraud, specially by using counterfeit credit cards. According to the NRA, bank fraud and fraud against the state have an important incidence, and are mentioned in the third place, following corruption.

50. Illicit border transportation of money, tax offences, smuggling, human trafficking, and migrant smuggling are mentioned among the offences that represent ML risks. This is so because the GAFILAT regional threats report identified these crimes as threats in the sub region of Mexico, Central America, and the Caribbean, and they were identified as concerns in relation to the risks the Dominican Republic is exposed to. Moreover, these are crimes that have been prosecuted in the Dominican territory in the 2010-2014 period, based on information provided in the NRA.

##### *ML/TF Vulnerabilities*

51. According to the outcomes of the NRA, the following sectors were identified as having a higher exposure to the risk based on their vulnerabilities: Banks, savings and credit cooperative and multiple services associations, foreign exchange brokers and remittance businesses. Moreover, a priority analysis should be performed on the composition of the insurance sector given its vulnerability resulting from the

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<sup>1</sup> International Narcotics Control Strategy Report. Volume II. Money Laundering and Financial Crimes. March 2017. Pages 77-79. The Report (in English) is available at the following link: <https://www.state.gov/documents/organization/268024.pdf>

<sup>2</sup><http://reports.weforum.org/global-competitiveness-index-2017-2018/countryeconomy-profiles/#economy=DOM>



sector's weak regulatory framework. In relation to the sectors above mentioned, the assessment team paid greater attention to the effectiveness of the CDD and domestic PEP rules.

52. DNFBPs were considered particularly vulnerable to be used as ML channels, especially considering that the AML/CFT obligations, at the time of the development of the NRA, were only operational for the casinos sector.

53. In the NRA, deposits and transfers of legal persons were mentioned within the first-five most vulnerable products, and it was pointed out that there is little information on the beneficial ownership of legal persons and arrangements.

#### *Country's risk assessment & Scoping of Higher Risk Issues*

##### *Country's Risk Assessment*

54. The Dominican Republic initiated its NRA in 2014 and completed it in 2017. Upon drafting the report, it considered the period between 2010 and 2014 as sample information, with the aim of identifying, analysing, evaluating, and understanding their ML/TF risks, as well as of establishing courses of action to mitigate them and strengthen the national system. For such purpose, the country used a self-assessment analytical tool developed by the World Bank. During the risk evaluation period, most relevant public and private entities participated of the evaluation.

55. The information analysed contemplated the period between 2010 and 2014, while conclusions were adopted in 2017, through the National Strategy. In general terms, the conclusions provided in the NRA are reasonable and have a satisfactory level of reliability, despite the difficulties to obtain reliable statistics in some sectors. Considering that the sectors of DNFBPs that were considered of greater vulnerability due to the absence of specific regulation and were effectively incorporated into the MLA/CFT system, it is important to recalibrate the risks functions in order to properly consider the likelihood of occurrence and the impact of threats.

##### *Scoping of Higher Risk Issues*

56. The following areas were considered by the assessment team as requiring higher attention:

- ✓ Based on the threats identified, the team focused on the verification of how the AML/CFT system has approached such threats. Particularly, it focused on the information exchange and co-ordination among competent authorities, the use of financial intelligence, the quantity and quality of ML cases and the confiscation of funds and related assets.
- ✓ Given the vulnerability resulting from sectoral regulatory weaknesses, the team paid greater attention to the effectiveness of the CDD and domestic PEP rules, as well as to the composition of the insurance sector given its backwardness in relation to the other financial sectors.
- ✓ The assessment team reviewed the degree of implementation of the system applicable to casinos, as well as the risks identified, and measures implemented in relation to real estate agents (including building companies), notaries, accountants, lawyers, and other legal practitioners, and legal persons that act as trustees, among others.
- ✓ The assessment team reviewed the degree of development of measures implemented both by reporting institutions and authorities in relation to the access to basic and beneficial ownership information.

##### *Areas of lesser risk and attention*

57. From the information analysed, a high exposure to TF risks was not identified. From the information shared by the Global Network concerns on this subject could not be identified either.

58. Despite the TF risk is low, it was considered necessary to enhance and improve preventive measures on that matter, including the understanding of risks, monitoring, regulation, and supervision of CFT/CFPWMD. Specifically, the effective enforcement of preventive measures in relation to the sectors recently incorporated by Law 155-17 and corresponding regulations.

### Materiality

59. Pursuant to the United Nations Development Programme (UNDP), the Dominican Republic is a developing middle-income country. According to the statistics of the UNDP, the economy has grown an annual average rate of 5.4% in the last 15 years.<sup>3</sup> The country has a diversified economy, with predominant participation of services and industries in the Gross Domestic Product (GDP). Based on GDP participation, the main economic activities are the following: Local manufacturing (10.7%), trade (8.9%), construction (8.7%), transportation and storage (8.2%). It should be mentioned that based on the Labour Force Survey of the Central Bank of the Dominican Republic, 52.48% of the population aged 15 and above works in the informal economy.<sup>4</sup>

60. The main income of currency comes from tourism, free zones, remittances, foreign investment, and export of goods, particularly agricultural and mining.<sup>5</sup>

61. The regulatory entity of the monetary and financial system is the Monetary Board, which in time governs the Central Bank and the SIB. These bodies make up the Monetary and Financial Administration, which has the authority to establish policies, formulate and implement regulations, supervise and apply sanctions.

62. In 2016, the Dominican financial system experienced an annual growth of its assets and liabilities of 11.8% and 11.7% respectively.

**Table 1. Number of entities, volume of assets, and participation in the Dominican financial sector (2015-2016)**

Type of Entity	Dec. 2015	Dec. 2016	Gross Assets	
			MM DOP	Participation
Multiple Banks	17	18	1 365 545.1	85.5%
Savings and loans associations	10	10	166 733.7	10.4%
Savings and loans banks	19	18	32 162.3	2.0%
Credit corporations	17	15	4 441.9	0.3%
Public entities	2	2	28 766.7	1.8%
Total	65	63	1 597 649.7	100.0%

Source. The Central Bank of the Dominican Republic.

63. 85,5% of the participation corresponds to multiple banks, and 10,4% to savings and loans associations. The remaining 4,1% is divided between savings and loans banks (2,0%), credit corporations (0,3%) and public entities (1,8%.) Savings and loans banks experienced a growth of its assets of 14,8% during 2016, higher than the percentage growth of the consolidated financial system.

<sup>3</sup>[http://www.do.undp.org/content/dominican\\_republic/es/home/countryinfo.html](http://www.do.undp.org/content/dominican_republic/es/home/countryinfo.html)

<sup>4</sup>[https://www.bancentral.gov.do/estadisticas\\_economicas/mercado\\_trabajo/](https://www.bancentral.gov.do/estadisticas_economicas/mercado_trabajo/)

<sup>5</sup>[http://www.do.undp.org/content/dominican\\_republic/es/home/countryinfo.html](http://www.do.undp.org/content/dominican_republic/es/home/countryinfo.html)

64. The weight of securities market transactions in relation to the GDP corresponding to the year 2016 accounted for 55.8%. However, given the great percentage of transactions, it is public debt.

65. In the Dominican Republic there are all kinds of DNFBPs; moreover, the regulation includes natural or legal persons regularly buying and selling land vehicles, fire weapons, vessels and aircrafts.

### *Structural Elements*

66. The Dominican Republic has worked to strengthen its AML/CFT regime and widely improve its inter-agency co-operation. Current Dominican authorities show a strong high-level commitment to approach AML/CFT issues. Authorities have focused on the issuance of a sound and comprehensive legal and regulatory framework to approach the Standard's requirements.

### *Background and other Contextual Factors*

67. The Dominican Republic is the second-largest country of the Caribbean in the Greater Antilles, with a total population of 9 445 281 inhabitants, based on the 2010 census. According to the global financial inclusion database (Global Findex) of the World Bank, in 2014, 54% of adults age 15 and above had access to financial services.

### *Overview of AML/CFT strategy*

68. As a result of the process of adoption of NRA conclusions, in 2017 a National Risk Strategy was elaborated, which main results include the enactment of a new comprehensive AML/CFT legal framework. There is a high-level commitment in relation to the implementation of the Strategy, which represents one of the main strengths of the Dominican AML/CFT regime. Actions developed in the Strategy include: (a) the adaptation of the financial and non-financial legal and regulatory framework; (b) the provision of better resources to relevant entities; (c) improving the co-ordination between authorities; (d) outreach and training to RI; and (e) the adoption of a risk-based approach for the supervisions.

### *Overview of the legal & institutional framework*

69. The Dominican Republic carried out a comprehensive reform of its AML/CFT legal framework during 2017. As a result, the previous regime governed by Law 72-02, that provided for a system for the prevention and detection of ML and its criminalisation, was abrogated, as well as the CFT repressive framework provided for in Law 267-08, entitled the Anti-Terrorist Law.

70. In particular, on June 1, 2017, Law 155-17 against Money Laundering and Terrorist Financing was enacted and put into force, establishing the institutional organization aimed at avoiding the use of the Dominican economic system with ML/TF and FPWMD purposes. Likewise, the law criminalises the ML offence in Article 3, and sets forth its predicate offences, while Article 5 sets forth the criminalisation of TF.

71. Moreover, among other relevant aspects, the law strengthens the preventive and detection system of ML/TF and FPWMD transactions, defines reporting institutions, provides for a sanctioning regime applicable in case of non-compliance with AML/CFT obligations, regulates the powers of competent authorities, and their special investigation techniques, and provides for an international co-operation framework.

72. After the enactment of Law 155-17, the issuance and update of secondary legislation was left in charge of each financial and non-financial sector's supervisors. Therefore, it could be seen that most sectors have secondary regulations recently enacted and put into force.

73. In addition, Decrees 407 and 408 of 2017 regulated relevant aspects on targeted financial sanctions of TF and CDD. The adaptation of regulations to this regulatory framework is a responsibility of each sector's natural supervisors.

74. Relevant authorities in relation to the AML/CFT regime are:

A. Co-ordination Mechanism. National Committee against Money Laundering and Terrorist Financing (CONCLAFIT): It is a co-ordination collegiate body responsible for the efficient operation of the ML, TF, FPWMD prevention, detection, control, and fight system (Law 155-17, Art. 88). It is comprised by the following entities: The Treasury Minister (he holds the presidency), the Minister of Defence, the Superintendent of Banks, the Superintendent of Securities, the Attorney General of the Republic, the DNCD President (National Directorate for the Control of Drugs), the President of the National Council on Drugs, and the Director of the UAF, which holds the Technical Secretariat of the Committee.

B. Supervision authorities.

a. Financial sector

i. Superintendency of Banks (SIB). It governs and supervises the financial sector of financial and foreign exchange intermediation. It is the supervisor of banks, remittance businesses, and foreign exchange houses in relation to money laundering and terrorist financing matters. It has an AML/CFT specialised department.

ii. Superintendency of Securities (SIV). It governs and supervises the institutional participants intermediaries in the securities market. It is the supervisor of intermediaries in the securities market in relation to money laundering and terrorist financing matters. It has an AML/CFT specialised department.

iii. Superintendency of Insurance (SIS). It governs and supervises insurance companies. It is the supervisor of insurance and reinsurance companies in relation to money laundering and terrorist financing matters. It has an AML/CFT specialised department.

iv. Cooperative Development and Credit Institute (IDECOOP). It promotes, supports, regulates, and supervises cooperatives in the Dominican Republic. It is the supervisor of cooperatives in relation to AML/CFT matters through a specialised department.

b. Non-financial sector.

i. General Internal Revenue Office (DGII). It collects the main domestic taxes and duties in the Dominican Republic and monitors compliance of taxpayers with formal obligations. It is the supervisor of DNFBPs (except for casinos and games of chance) in relation to money laundering and terrorist financing matters. It has an AML/CFT specialised department.

ii. Casino and Gambling Department. It supervises casinos and games of chance, issues licences, performs amendments and withdraws issued licenses. It is the supervisor of casinos and games of chance in relation to AML/CFT matters.

c. Non-profit organisations.

i. National Centre for the Advocacy and Promotion of Non-Profit Organisations. It supervises NPOs and issues operation permits and registration for the reception of public funds.

C. Law enforcement authorities.

a. Public Prosecutor's Office. It is a body of the judiciary with functional, administrative, and budgetary autonomy, responsible for the development and implementation of State policies against crime. It runs the criminal investigation and exercises public prosecution on behalf of the civil society. It is comprised by the Public Prosecutor of the Republic, appointed by the president, career prosecutors elected by public exam selection process, and appointed upon their graduation from the Judicial Training Institute, Public Prosecutor's Office National School, who exercise their duties based on the principles of legality, objectiveness, unit of actions, hierarchy, indivisibility, and responsibility. They cannot be removed from their positions unless they are dismissed by means of an administrative judicial proceeding.

It has specialised Prosecutor's Offices on Money Laundering and Terrorist Financing, Corruption, Human Trafficking, High Technology, Weapons, Environment, Offences and Crimes against Health.

- b. Financial Analysis Unit (UAF). National coordinator of the AML/CFT system and against FPWMD. It collects, analyses, processes, and provides information to the MP and other competent authorities.
  - c. National Police (PN). It prosecutes and investigates criminal violations under the legal leadership of the competent authority. It provides necessary aid to the Judiciary, the Public Prosecutor's Office, and other authorities for compliance with the law and the fulfilment of their duties.
  - d. National Directorate for the Control of Drugs (DNCD). In charge of preventing and combating the consumption, distribution and trafficking of drugs throughout the national territory, as well as to conducting investigations on drug trafficking and ML.
  - e. Ministry of Defence. It presides the National Anti-Terrorist Committee and belongs to the CONCLAFIT. It defines national policies in relation to terrorism, and leads specialised military forces to combat transnational criminal activities that endanger the interests of the Republic and its inhabitants. It has specialised investigation areas in relation to airport security, organised crime, terrorism, border security, among others.
  - f. Bureau of National Investigations (DNI). It is in charge of collecting, processing, and disseminating intelligence information in relation to organised crime, national or foreign, in order to detect indicators that reveal the development of criminal activities that threaten the State security and public order.
  - g. Customs Office (DGA). It facilitates and controls trade of the Dominican Republic with the rest of the world. It has specialised areas for the investigation of smuggling, customs intelligence, among others.
  - h. Immigration Department (DGM). It orders and regulates migratory flows in the Dominican territory, both in relation to the entrance, stay, and exit of individuals, as well as in relation to immigration, emigration, and return of nationals.
  - i. National Anti-Terrorist Office (DNA). Agency in charge of executing the strategies, policies and programmes aimed at the detection, prevention and pursue of terrorist acts, coordinated by National Anti-terrorist Committee.
- D. Judiciary. It is in charge of the administration of justice, whether in relation to private or public law, made up by career judges chosen by public exam selection process, and appointed upon their graduation from the judicial training institute, National Judiciary School, who exercise their duties with independence and who cannot be removed from their positions unless they are dismissed by means of an administrative judicial proceeding. Their highest authorities are the president of the Supreme Court of Justice, and member judges.
- E. Other relevant authorities.
- a. Central Bank. It ensures the stability of prices, guarantees the efficient regulation of the financial system and the proper functioning of payment systems, as the issuing entity and executor of monetary, exchange, and financial policies to contribute with the growth of national economy. It has a compliance area given its two-fold condition of authority and reporting institution.
  - b. Ministry of Foreign Affairs (MIREX).

75. In 2004, there was a change in the criminal system of Dominican Republic that was based on the implementation and adoption of the grounds of the Ibero-American Criminal Code. By virtue of this change, Law 278-04 was enacted on the implementation of Law 76-02 in the Criminal Procedural Code. Consequently, an adversarial system was implemented; the prosecution is now exercised by the MP and by the victim and/or the plaintiff. The criminal procedure is initiated with the movement and the exercise of the criminal action. The MP leads the investigation and performs, or orders the performance of the proper procedures tending to determine the occurrence of the offence and to identify its perpetrators. In the performance of this duty, the MP acts under the supervision of the Investigative Judge, who is the Judge that controls the investigation.

*Overview of financial sector and DNFbps*

76. The Dominican Republic has a large financial sector. In particular, the banking sector is comprised by 124 entities, as follows: 60 financial intermediation entities (including multiple banks, savings and loans associations, savings and loans banks, financial intermediation public entities, credit corporations), 47 foreign exchange and remittance agents (specifically, 42 exchange brokers and 5 remittances and foreign exchange agents), and 17 trustees.

77. In relation to the structure of the banking financial system, 85,5% accounts for multiple banks and 10,4% to savings and loans associations. The remaining 4,1% is divided into savings and loans banks (2,0%), credit corporations (0,3%), and public entities (1,8%). It should be mentioned that savings and loans banks experienced an asset growth of 14,8% during 2016. Based on the First Economic and Financial Culture Survey of 2014, the estimated banking percentage in the Dominican Republic is over 50%.

78. The securities sector in the country is comprised as follows: 25 external auditors, 10 funds management companies, 1 commodities exchange, 1 securities exchange, 3 rating agencies, 1 stock exchange, 29 issuers of securities, 20 seats on the stock exchange, 19 investment promoters, 1 price supplier, 6 public offering trustees, and 1 securitization company.

79. International remittances received in the Dominican Republic increased from USD 3 682.9 million in 2010 to USD 4 571.3 million in 2014, between 6,8% and 7,0% of the GDP. For the year 2016, remittances increased to USD 5 261.5 million (7.1% of the GDP), mostly from United States (70,4%) and Spain (15,5%). The monthly average received by each remittance reception agent in the country was USD 213,5

80. Cooperatives are governed by their own special laws and are supervised by IDECOOP. There are open or free-membership cooperatives, where any natural person can associate and operate; and there are closed cooperatives, which membership is comprised by employees of a company or entity (public or private), or by members of professional unions.

81. In the Dominican Republic there are 916 cooperatives with approximately 1,906,534 associates, with a volume of assets of DOP 117,000,000,000 (approximately USD 2.349.36.000) based on information from the Central Bank. According to official information, there are 156 savings and loans cooperatives, 237 multiple services and 260 savings and loans and multiple services cooperatives. Based on the characteristics of the services provided by these cooperatives, they are classified under the category of financial institution, according to the FATF Glossary<sup>6</sup>. Meanwhile, the remaining types of cooperatives are divided into cooperatives of products, labour, consumption, agriculture, among others

82. The insurance sector is governed by regulations issued by the Superintendency of Insurance. The sector is comprised by 32 entities, among which there are 30 insurance companies and 2 reinsurance companies. The insurance sector has a total number of 845 insurance brokers, of which 498 are natural persons and 347 are legal persons. During 2016, according to reports from the Superintendency of Insurance<sup>7</sup>, collected net premiums amounted to DOP 40.588.697.365 (approximately USD 815.021.043), with an absolute increase of DOP 4.960.435.733 (approximately USD 99.605.550) in relation to the previous year, which amounts to a 13,92% increase.

83. In the Dominican Republic, factoring and leasing are products that can be offered by natural and legal persons engaged in buying and selling, or refurbishment of real estate, companies or natural persons who

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<sup>6</sup> To the purposes of this report, when there is a reference to cooperatives, it will refer to those that, due to their activities fall within the concept of financial institution.

<sup>7</sup> Report of Collected Net Premiums of January-December 2016 – Superintendency of Insurance.

regularly engage in buying and selling of vehicles, vessels and aircrafts, motor vehicles, as well as banking financial intermediary institutions.

84. Moreover, in the Dominican Republic, the following sectors are considered to be non-financial reporting institutions pursuant to Article 33 of Law 155-17:

- a) Casinos, games of chance, lottery or gambling agencies, and lottery and games of chance concessionaires;
- b) Factoring companies;
- c) Real estate agents when these are not involved in transactions for their customers related to the buying and selling of real estate property;
- d) Dealers in precious metals, stones and jewellery;
- e) Lawyers, notaries, accountants, and other legal professionals, when they are willing to perform transactions or when they perform transactions for their customers, in relation to the activities mentioned in the law;
- f) Companies or natural persons who are regularly engaged in buying and selling vehicles, fire weapons, vessels and aircrafts, motor vehicles;
- g) Pawn houses;
- h) Building companies.

85. According to the information provided by competent authorities, there are 14 199 non-financial reporting institutions. However, it is difficult to determine with accuracy such universe, especially in relation to those mixed-professionals (for example, lawyers and accountants). In relation to casinos, there are 72 casinos, 52 of which are operative; 4 online casinos (3 are operative); 3 778 lottery agencies and 332 gambling agencies. Even when there are no figures on the incidence of DNFBPs sectors in the GDP, the real estate and casinos sectors were found to have the highest relative importance in economy.

#### *Overview of preventive measures*

86. The general framework of preventive measures applicable to RI is contained in Articles 34-57 of Law 155-17, regulated by Decree 408-17. In relation to the financial sector, the following regulations are highlighted: Circular 003/18 of the SIB, dated on January 15, 2018, that approves and puts into force the “Instruction on Prevention of Money Laundering, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” for the banking and foreign exchange sector; Resolution of the National Securities Council, dated on August 2., 2017, R-CNV-2017-24-MV -amended by R-CNV-2017-47-MV of December 18, 2017-, that regulates the prevention of ML, TF and the financing of proliferation in the securities market; Resolution 02-2017, dated on March 15, 2017 on the prevention of ML/TF for the insurance sector; And Resolution 001-17, dated on May 16, 2017, on the ML/TF and financing of proliferation prevention regime in the cooperatives sector.

87. Moreover, in relation to DNFBPs, sectoral regulations published in January 2018 set forth mitigation measures for the real estate sector (General Regulation 03-18), for lawyers, accountants and notaries (General Regulation 01-18), jewellery sector (General Regulation 04-18), and automobile dealers (General Regulation 02-18). Moreover, the casinos sector is governed by Resolution 204-17.

88. Generally speaking, preventive measures set forth by the legal and regulatory framework comply with the requirements of the FATF Recommendations. These measures include the following obligations: Have a compliance programme in place (with risk assessment policies, know-your-employee policies, ethic codes, and independent auditing); AML/CFT policies in relation to their branches; risk assessment and management policies; identification and monitoring of customers; implementation of EDD measures in higher-risk situations, appointment of a compliance officer; record-keeping in relation to transactions and customers (which should be available upon request of supervisors) and reporting suspicious transactions to the UAF.

### *Overview of legal persons and arrangements*

89. There are eight types of business companies in the Dominican Republic: Individual Limited Liability Company (EIRL), Public Limited Company (SA), Simplified Public Limited Company (SAS), Limited Liability Company (SRL), General Partnerships, Limited Partnerships, Limited Partnerships issuing shares; Foreign Partnership. There is a total universe of 161 789 legal persons, of which 68% are SRL and 10% are SA, followed by companies issuing shares (8,80%), foreign companies (7,77%) and others (4,96%). Ninety percent of business companies are registered in Santo Domingo. Of the total number of legal persons, 12.571 are foreign companies. It is observed that the Dominican Republic does not act as international centre for the constitution or management of legal persons or arrangements.

### *Overview of supervisory arrangements*

90. The Dominican Republic has duly empowered supervisors to regulate and supervise on AML/CFT matters both the financial sector and DNFBPs. Particularly, supervisors are: The SIB, in charge of supervising financial and foreign exchange entities; the SIV, in charge of supervising persons authorized to operate directly in the securities market; the Superintendency of Insurance, that supervises insurance sector entities; the IDECOOP, in charge of supervising the cooperatives sector; the Casino and Gambling Department, that supervises casinos and lotteries; and the DGII, in charge of supervising factoring companies, pawn houses;, lawyers, notaries, accountants, automobile dealers, real estate sector, jewelleryes. In the case of trusts, supervisors can be the SIB, SIV or DGII, based on the purpose and constituent of each trust.

91. The DGII and the National Casinos Department have on-site and off-site supervision powers, and they can apply sanctions in case of non-compliance with AML/CFT regulations.

92. In relation to companies, these are registered with the Chamber of Commerce of the Dominican Republic. There are 31 Chambers of Commerce in the country. The Treasury Ministry is the competent authority in charge of supervising companies as long as they are not reporting institutions, in which case, it will depend on their activity. Moreover, legal persons are subject to the information requests of the DGII in tax matters.

### *Overview of international cooperation*

93. The Dominican Republic is provided with the legal framework to provide a wide range of Mutual Legal Assistance (MLA) in relation to any offence, through its central authority on MLA matters, which is the Public Prosecutor's Office. The legislation envisages that competent authorities may provide the widest co-operation, even based on the principle of reciprocity among nations. Moreover, competent authorities may perform or answer with the appropriate measures, requests of a competent authority of another State, to identify, locate, detect, seize the property, proceeds or instrumentalities of ML/TF, including among such measures sharing, repatriation, and recovery of assets of illicit origin.

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

### ***Key Findings and Recommended Actions***

#### ***Key findings***

- In 2014, the Dominican Republic conducted its National Risk Assessment based on the 2010-2014 period. Through the NRA, the country made a radiography of the ML/TF inherent risks. Overall, the outcomes of the NRA seem reasonable and have a satisfactory level of reliability, despite the difficulties to obtain reliable statistics from some sectors.



- In 2017, the National Risk Strategy was elaborated to mitigate threats and vulnerabilities detected in the NRA of 2014.
- Main sectors were incorporated in the working tables with different authorities, from both the public and private sectors, where threats and vulnerabilities of the system and of financial and non-financial sectors were analysed. The sectors that were already co-ordinated and showed a compliance basis of years, such as banking, securities and insurance sectors, were considered to bear a lower risk (low and medium.)
- DNFBPs were rated in the NRA as the most vulnerable sector to ML/TF misuse due to the lack of specific regulation and of reliable data for the assessment of its inherent risks.
- The Dominican Republic has carried out several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing. The report provides a detailed analysis of TF specifically on the following sectors: NPOs, remittances (including an analysis of types, values, and countries), money orders, legal arrangements, and imports and exports sector, and it concludes that the risk level is low.
- In relation to domestic co-ordination, it could be verified that the relationship between AML/CFT entities is one of mutual support, and that there is a co-ordination of domestic policies through the CONCLAFIT, aimed at contributing with the National Strategy recently approved.
- As a result of the implementation of the National Strategy, the Dominican Republic amended its legal framework, improved the inter-agency co-ordination process with the creation of the CONCLAFIT, provided training to promote the use of financial investigations and improve training to reporting institutions, and provided the UAF with technological tools to streamline the financial analysis, as well as with financial resources for its implementation.
- Important links of inter-agency co-operation among the entities related with the NPOs authorisation and supervision process were established. However, there is no sectoral risk assessment directly related to NPOs and the assessment of specific risks of misuse of these organisations for crimes related to terrorism and its financing.

#### ***Recommended actions***

- Elaborate sectoral surveys to determine the extension of risks detected in DNFBPs sectors from data that the surveillance area may provide (given that from January 2017 sectors have specific sectoral regulations and are subject to DGII supervision), and adopt corresponding and appropriate mitigating measures based on each sector's specific features.
- Improve the quality of statistical data of the different sectors in order to provide the quality of data used in the national risk matrix with more consistency and reliability.
- Continue with the training and dissemination of the outcomes of the National Risk Assessment, especially in the DNFBPs sector considered the most vulnerable.
- Considering that the NRA dates back to 2014, promote its updating and formalise the review and updating intervals.

94. *The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.*

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

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

95. Under the co-ordination of the UAF, in its capacity of executive unit of the National Committee against Money Laundering, the Dominican Republic conducted in 2014 the first workshop on 'Money Laundering and Terrorist Financing National Risk Assessment,' with the attendance of the majority of the public sectors related to prevention, detection, and criminal prosecution; as well as private entities. Working tables were set with inter-agency groups made up by representatives from the ML/TF relevant sectors.

96. It should be noted that the Dominican Republic used a self-assessment analytical tool developed by the World Bank. The World Bank provided the risk assessment tool, training on its use, and a guide to ensure the soundness and reliability of the assessment. This tool was designed as a self-assessment analytical tool. We highlight that it is provided with the documents fed in the templates based on a combination of cause relationships and estimated averages and through modules, taking into account elements relating to the country's threats, the vulnerability level of each sector or area assessed and its corresponding relative impact.

97. Pursuant to the information detailed in the document of the NRA, the method to develop the document was made up of three phases: The first one was the workshop referred to, which main objective was to help authorities to get familiar with the methodology and to explore the NRA tool, including the information necessary, and to identify new relevant information for the Assessment. The second phase consisted of information gathering, the drafting of the draft NRA report, and its review. The data provided refer to the 2010-2014 period. For the third phase, a final workshop was held in 2017, chaired by the National Committee against Money Laundering (CONCLA), where the outcomes of the risk assessment were discussed, and the design of action plans were addressed in relation to obstacles to their implementation.

98. The NRA was performed with the assistance of public and private entities and with the aim of obtaining objective results; to facilitate the performance of the exercise, nine (9) working tables were formed, with an inter-agency group of 8 to 10 representatives of relevant actors in ML/TF matters for each sector or area of analysis.

99. In the first module, a survey of predicate offences that generate revenues susceptible of being laundered after the commission of the crime was carried out. For this end, statistical data was gathered from the following indicators: a. Number of investigations on the predicate offence; b. Number of money laundering cases investigated; c. Number of prosecutions for the predicate offence; d. Number of prosecutions for money laundering; e. Amount of resources identified in ML investigations; f. Amount of confiscated resources; g. Number of STRs sent to law enforcement authorities for the type of predicate offence; h. Other information including UAF intelligence.

100. The document also includes an analysis of threats from the geographic location of the Dominican Republic, which is located in the route used by criminal organisations from countries that have historically been considered great producers of narcotic substances and from large consumption markets of said substances, which, based on the NRA, constitutes an important threat of being used as bridge for the movement of said substances, as well as for the laundering of proceeds of crime.

101. It should be clarified that, when analysing the NRA, the assessment team considered the rigor of the processes and procedures used in the application of the methodological tool provided by the World Bank. In this context, the reasonableness of the results derived from the application of the tool was verified to a large extent. On the other hand, in order to weigh the level of risks present in the Dominican Republic, the assessors considered other external reliable sources of information, including the inputs from the FATF Global Network, as well as relevant information on the economic and financial system of the Dominican Republic.

102. From the indicators above mentioned, the NRA determined the following illicit activities as bearing a higher risk:

- a. Drug Trafficking: The NRA indicates that specific geographical factors have an impact in the threats (the fact that the Dominican Republic is geographically located in the route used by criminal organisations from countries that have historically been considered great producers of narcotic substances and from large consumption markets of said substances.) The definition of drug trafficking

as the main identified threat is corroborated by all the indicators and accounts for, based on the statistical data provided, approximately 58% of the money laundering prosecutions.

- b. Corruption: The crime of corruption was equally identified by the NRA with a high-risk rating. The Dominican Republic, during the 2010-2014 period covered by the NRA, submitted a total of 175 investigations for the crime of corruption, 21 of which were prosecuted. This crime was also considered as a great threat for the amount of funds that involved the investigations of said processes and their economic and social impact.
- c. Bank fraud and fraud against the State: The NRA identified bank fraud and fraud against the State as a medium risk crime. In the period 2010-2014, 24 processes were submitted, with high financial amounts and an important economic impact.

103. Among the current mitigating actions in relation to the threats identified, the following can be highlighted: The creation of specialised agencies for the control and prosecution of such crime, especially the Specialised Anti-Money Laundering Prosecutor's Office; the creation of a specialised body for border security; the regulation the financial sector is subject to creates important mitigants to such threat. One of the indicators for the verification of external money laundering threats was the number of international co-operation requests sent and received.

104. The NRA concluded that as at the year of the data gathering (2010-2014), there was a high number of investigations and prosecutions for predicate offences that did not match the number of money laundering investigations and prosecutions from such predicate offences, indicating the need to further train the system's actors.

105. The NRA considered crimes such as human trafficking and migrant smuggling as bearing a low risk. The NRA considers the fact that the investigation at the domestic level is co-ordinated by the Specialised Prosecutor's Office against Human Trafficking and Smuggling, which co-ordinates the initiation of the financial investigation with the Specialised Anti-Money Laundering Prosecutor's Office, as mitigants, with sentences for money laundering resulting from human trafficking, migrant smuggling, and crimes against sexual freedom. On this regard, it would be important to have complementary reports to grant greater consistency to the NRA's conclusions on this specific subject.

106. The fact that certain offences are not considered as predicate offences was considered as an existing threat by the NRA. Among them, it mentions tax offences, crimes against the environment, illicit traffic in works of art, crimes against intellectual property, national and international illicit traffic in stolen goods, and insider trading and market manipulation. As it is analysed in the TC Annex, these deficiencies have been subsequently overcome.

107. The NRA lists a series of measures and actions the country should adopt to counter the weaknesses that accentuate their money laundering threat, specially:

- ✓ Amend the current legislation to include the offences that based on FATF Recommendations should be considered as predicate offences for money laundering and that are currently not covered by the existing legislation (measure fully fulfilled.)
- ✓ Improve the inter-agency co-ordination in a way as to intelligence information be shared effectively, timely and seamlessly.
- ✓ Develop a criminal policy guideline to make the initiation of financial investigations compulsory in proceedings of predicate offences that imply the potential acquisition of assets with the proceeds of crime.
- ✓ Adopt measures to allow the proper appraisal of property involved in a proceeding.
- ✓ Improve the training to all actors, such as judges, investigators, prosecutors.

108. As it will be analysed in the section relating to policies adopted, all items mentioned above were contemplated in the National Risk Strategy and showed important progress in their implementation.

109. In addition to the study of threats, the NRA of the Dominican Republic analysed the sectoral vulnerability of ML. In order to develop such assessment, the following structural vulnerability indicators were determined: a. Industry size; b. Business volume; c. Existence of highly cash-intensive products and services; d. Frequency or percentage of international transactions; e. Percentage of non-residing customers; f. Percentage of higher-risk customers; g. Indicators of potential ML activities or behaviours (for instance, the number of cases that involve the sector and the number of STRs reported in the industry.)

110. Once the vulnerability was rated, the analysis tool provided a general vulnerability level for each financial institution and/or product based on the information entered. This was checked against the current control measures, using indicators such as: a. Regulations, guidelines, ML/TF compliance mechanisms in place; b. Suitability of ML/TF on-site and off-site inspections; c. Available resources for the supervision of ML/TF, taking into account the budget and the number of human resources; and if relevant recommendations are included; d. Analysis of transactions and suitability of STRs.

111. Finally, once all inputs were made in terms of vulnerabilities (inherent) and control measures, the NRA established through the tool used the final vulnerability level to money laundering for each type of financial institution, product or service, based on the input provided. In this context, specific studies were elaborated for the following sectors:

- ✓ *Securities Sector*: The least vulnerable sector, with a medium to low risk. To assess the structural risk of the securities sector, the tool takes into consideration the following variables: a. Sector/industry size; b. Business volume; c. Cash intensive products/services; d. Frequency or percentage of international transactions; e. Percentage (%) of higher-risk customers (i.e., PEPs, non-residing customers, private banking customers, fiduciaries, shareholders, etc.); f. Indicators of potential ML activities or behaviours (for instance, the number of cases that involve the sector and the number of STRs reported in the industry.) In the securities sector, the following participants were analysed: Securities intermediaries, collective investment entities, negotiation and liquidation entities. After analysing the general structural vulnerability and verifying control measures, based on each sub-sector indicated, the general vulnerability of the sector was considered medium low.
- ✓ *Banking Sector*: Medium risk. The Dominican Banking sector, due to its size and its significant domestic presence, is, according to the NRA, the sector most exposed to the risk of being used by those seeking to layer money laundering and terrorist financing transactions, making it an attractive sector for legal and illegal transactions. In the evaluation, the different products offered by banks were used as criteria: Private banking, detailed deposits, deposits of legal persons, loan products for retailers, loan products for SMEs, loan products for large companies, transfers, negotiable instruments, payment correspondent accounts, trusts and assets management services, correspondent accounts, electronic banking, micro-loan product, and transfer of small values. As control measures, the presence of a regulator with broad legal capacities that has a specialised area to analyse such issues, special regulations on ML/TF matters issued for the sector, as well as an important compliance culture by its reporting institutions can be highlighted. The following indicators were used for the analysis, determining input variables for specific products and services for natural persons, small and medium enterprises, large companies, transfers, trusts management, correspondent accounts, micro-loans, among others. For each of them: Volume, average of transactions, customer profile, products abroad, cash activities and other vulnerable characteristics. The main deficiencies and weaknesses are related to the enforcement of the legislation by jurisdictional entities, for the low frequency and lack of severity in the imposition of sanctions. After analysing the general structural vulnerability, the size of the sector, and verifying control measures, the sector's risk was considered to be medium.

- ✓ *Insurance Industry*: Medium risk. To assess the vulnerability of this sector, the following variables were considered: a. Size of sector/industry; b. Business volume; c. Cash intensive products/services; d. Frequency or percentage (%) of international transactions; f. Percentage of higher-risk customers; g. Indicators of potential ML activities or behaviours (for instance, the number of cases that involve the sector and the number of MVTS, money transfer services, reported in the industry.) The general vulnerability that results from the different variables in the insurance sector is low, basically by virtue of the lack of typologies of laundering of insurance sector's products and the limited share of this sector in the Gross Domestic Product (GDP) of the Dominican Republic, as compared with other sectors in the country that have a higher impact on the economy.
- ✓ *Other financial institutions*: Medium risk. To determine the vulnerability of this module, the analysis is divided between the two main sectors: Foreign exchange and remittance agents; and savings, loans, and multiple service cooperatives. The study considered the main factors: Incidence of the sector and percentage of the frequency of international transactions. The outcomes of the NRA indicate that the foreign exchange and remittance agents sector reports suspicious transactions; however, there are deficiencies in relation to the reports, since upon reporting, certain entities do not send all the information or do not fill-in the information requested based on SIB's instructions, which are fundamental for the proper analysis of STRs. The outcomes of savings, loan and multiple services cooperatives is affected by its business volume and by the fact that, at the time of the NRA, did not have effective supervision and risk-based follow-up in relation to ML prevention.
- ✓ *Trusts*: Medium low risk. Depending on the type of business, trusts are subject to a different supervisor. Those regulated by the SIV are considered low risk. Those regulated by the SIB are considered medium risk. In the case of those regulated by the DGII, they are considered high risk given the need to apply direct controls in relation to ML/TF matters. As a result, the sector's risk is medium low.

112. The NRA highlighted the work of the most influential regulators in terms of sector's volume and maturity in the national economy, in particular the SIB and the SIV, which has long developed and implemented their organic structure with ML/TF prevention areas.

113. DNFBPs were considered to bear higher risk and vulnerability (high risk.) The DNFBPs sector was defined as having a high vulnerability and risk to be used for ML/TF given the lack of specific regulation at the time of elaboration of the NRA (deficiency already overcome.) This sector includes lawyers, notaries, accountants, casinos, dealers in precious metals, real estate sector, sale of cars. In this sense, to obtain the results for each sector, communications were sent to each official or union entity that regulates or groups them, with the analysis of products or elements by sector. The outcomes are as follows:

- ✓ *Lawyers*: This sector does not have a proper supervision on money laundering and terrorist financing matters. From the entry into force of the Law 72-02, there is no evidence that this sector implements preventive measures. Therefore, it is very vulnerable *to misuse for these crimes and, therefore, it yielded a Vulnerability level: High*
- ✓ *Notaries*: This sector does not have a proper supervision on money laundering and terrorist financing matters. There were no evidences that this sector implemented preventive measures. However, its activity is to certify proceedings, and not developing the proceedings established in the FATF glossary.
- ✓ *Accountants*: This sector does not have a proper supervision on money laundering and terrorist financing matters. There are some international or national companies that apply international IFRS regulations or compliance programmes through its headquarter, that in a certain way implement preventive measures, but it is not a widespread practice.
- ✓ *Dealers in precious metals and precious stones (jewellery stores)* Due to the level of informality of this sector and the type of product sold, which are costly, only a specific audience has the economic capacity to acquire this product; therefore, it is considered high-risk.

- ✓ *Real State Sector:* Based on the NRA, within the DNFBPs categories this is the sector with greater relative importance, given the volume of transactions (which should be conducted through the financial system) and the acquisition of real estate properties by non-resident clients. Measures aimed at boosting the development of the sector have been implemented, such as the lowering of taxes to real estate transference; tax exemptions for developers and the possibility of financing of such projects. Currently, there is a wide offer for the purchase of property. At the time of the NRA the sector did not have a natural supervisor, and it was not clear which were the measures implemented to minimize the vulnerabilities in this sector (the regulations were issued and the supervisor was duly designated before the onsite visit).

114. On DNFBPs, the NRA reflects the reality of the country in relation to the lack of statistical data, which made sectors work based on estimates due to the lack of reliable data from the sources used. In this context, the understanding of the ML risks is limited with respect to DNFBPs.

115. Domestic PEPs are considered in the NRA as bearing high risk and the need to have a list of officials to help RI perform an enhanced due diligence on these persons was highlighted. This deficiency was overcome with the approval of the new legal framework and the creation by the country of a list of positions and functions considered for the purposes of identifying PEPs.

116. Among the problems and deficiencies identified by the NRA, the following can be mentioned:

- ✓ Lack of certain predicate offences.
- ✓ Administrative sanctions that are not effective, proportionate and dissuasive due to their low amount and the fact that these are not made public.
- ✓ Limited information exchange and co-ordination between agencies and institutions responsible for mitigating the crime.
- ✓ Lack of collection of information necessary to elaborate reliable statistics on money laundering by governmental institutions.
- ✓ Lack of technological, human, and financial resources for the Financial Analysis Unit.
- ✓ Lack of training of certain actors that belong to the prosecution system.
- ✓ Lack of monitoring and supervision of DNFBPs.
- ✓ Deficiency in the identification of PEPs.

117. Considering the above described elements, the assessment team considers that the country understands its ML risks to a certain extent. In relation to the financial sector, it is considered that the understanding of risks, in general, is adequate. Regarding DNFBPs, taking into account their impact on the economy and the absence of statistical data in some sectors, risks are understood to a lesser extent. All the items mentioned above were contemplated in the National Risk Strategy and showed important progress in their implementation.

#### *Conclusion on the country's understanding of its ML/TF risks in its NRA*

118. As it was indicated, the NRA used the methodology of the World Bank adjusted to its reality. It was verified that the country has been faced to a great challenge in the collection of statistical data, since in many areas there were no reliable statistical data, which resulted in sectors working based on estimated values from general data added to the qualitative analysis of officials that integrated the corresponding working tables.

119. It can be concluded, in general, that in relation to the reliability of information this report relies on, data were directly provided by institutions in charge of prosecuting money laundering and predicate offences, and the private sector participated in the collection and validation of data. Moreover, the assessment team accessed the templates of each sector, with the full description of indicators and the way they were obtained.

120. It should be mentioned that not all institutions had systematized statistical data, reason why it was difficult to obtain them as required in the assessment template. The NRA has the strength of informing on limitations to obtain information, making gaps close by the qualitative analyses of officials that made up the corresponding working tables.

121. It should be mentioned that the period elapsed from the first phase ended in 2014, to the final workshop made in 2017 (during which there was a progressive amendment of the institutional framework in relation to the fight against ML/TF), could have a negative impact on the updated knowledge and understanding of the general country's risks. However, it should be highlighted that the outcomes yielded by the NRA in relation to the threats (main predicate offences) and vulnerabilities (specific sectors, need to improve AML/CFT activities in DNFBPs) are still current.

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

122. In relation to TF, the NRA of the Dominican Republic indicates that, in the period of assessment, there were no reports for TF or assets associated to persons or entities listed in the UNSCR lists. The UAF performed sectoral studies on TF, including a study on remittances as the sector vulnerable to TF, as well as studies on NPOs, which validated the fact of considering the TF risk as low.

123. Even if no terrorist acts have been reported in its territory, and despite the characteristics of its borders and the type of open economy of the Dominican Republic, it is important to strengthen preventive measures and understanding of the TF risks, from both public and private sectors. In this sense, some initiatives by the Dominican Republic should be highlighted, such as the monitoring measures in place by the UAF and the National Anti-Terrorist Office, whereby risk elements linked to terrorism and their financing are taken into account, even with the performance of specific sectoral studies in specific geographic areas and activities.

124. The NRA yielded a low risk in relation to TF, based on the following factors: Lack of cases related to TF, the fact that the country has not been considered as terrorist target, the institutional capacity, the existence of a legal framework that enables international co-operation and priority actions to strengthen the matter.

125. In December 2017, a more elaborated and complex document with the analysis of risk of terrorist financing was issued, with the purpose of determining the level of risk and/or exposure to activities related to terrorism and its financing, and its possible mitigants. The document includes a descriptive study that is based upon a strategic analysis of current legal provisions, institutional capacities, and procedures in place.

126. The document provides a specific analysis of TF on the following sectors: NPOs, remittances (with the analysis of the type, value and countries), money orders, legal arrangements and the imports and exports sector. Overall, it was concluded that in relation to NPOs, current controls largely mitigate the risks and certain characteristics of the sector make it less attractive for TF purposes, such as the fact of being a country that mostly receives resources, with limited deliveries (only to Haiti).

127. In relation to remittances (with the analysis of the type, value and countries, including a specific study on remittances to risky countries), money orders, legal arrangements and the imports and exports sector, the document indicates that trade countries and remittances are not directly linked to risk areas, and are related to countries that apply controls against TF. In relation to Haiti, in spite of its institutional weaknesses, the Dominican customs authorities in co-ordination with the Specialised Force for Border Security have strengthened controls for flows of goods.

128. The document establishes also the red flags of high-risk jurisdictions, which main indicators are: The analysis of migration from conflict zones, that concluded that there are no large communities of nationals

from high terrorist risk countries in the Dominican Republic: (the existence of specific studies on TF for certain sub-sectors is verified).

129. Moreover, in relation to remittances, the SIB implemented a regular reporting requirement for the remittance sector, which reports remittances sent or received in the country from or to high ML and TF risk jurisdictions in order to monitor the activities by country. Taking into account the grand total of the addition of five years of remittances sent and received from high-risk jurisdictions in relation to the GDP in 2016, these remittances taken together account for a very small value, with justified and monitored transactions.

130. The document concludes that, overall, the sectors chosen have low vulnerability levels and that the legal and institutional frameworks have consistent tools to execute appropriate actions in case a terrorist financing event would occur.

131. Moreover, no significant flows of capitals have been detected to high-risk jurisdictions, which are performed through duly regulated formal channels, and that represent a greater transparency in relation to the handling of these funds. In addition, there is the limitation of countries to which electronic transfers can be made through money orders, reason why it is concluded that the risk of the Dominican Republic being used for the performance of terrorist financing activities is low.

132. In addition to the above mentioned study, there is a specific study of the risk of the NPOs sector. The purpose of this paper was to perform an assessment of the terrorist financing risks of the NPOs sector, in an attempt to characterise the sector in the Dominican Republic so as to objectively identify the possible weaknesses on terrorist financing matters.

133. The paper concludes that the country has a regulatory framework for NPOs that allows to identify from their very creation its members and purposes, the different changes that may be made during their existence, and the origin of their resources to perform their charity work and the beneficiaries of their activities.

134. The paper also highlights that pertinent authorities perform a co-ordinated work in relation to the registration, monitoring, training, and support to NPOs during their institutional existence. The authority has reached out to them, both in meetings and joint training cycles, where not only the relevance of complying with the provisions of the law, but also the risks of TF have been explained.

135. Beyond this important initiative, it should be highlighted that the paper was not developed to identify potential higher-risk sub-sectors, but it provides a global analysis that verified the legal and institutional framework of control and monitoring systems, in addition to the general characteristics of the sector in the Dominican Republic.

136. Taking into account the results of the NRA, together with the sectoral studies in relation to the FT, it can be concluded that the understanding of TF risks in this aspect is reasonable.

#### *National policies to address identified ML/TF risks*

137. As it was previously mentioned, the NRA identified the main deficiencies, and the actions to mitigate the problems found. Thus, from the NRA, the Dominican Republic developed the National Strategy for the Prevention of Money Laundering and Terrorist Financing (2017-2020) (the Strategy), which provides the specific actions tending to mitigate the vulnerabilities detected. This paper was approved by the National Committee against Money Laundering, which implements a follow-up process of compliance with the activities included in that plan.



138. The Strategy contemplates the following activities to be developed, based on the Action Plan of the National Threat and National Vulnerability: Amendment of Law 72-02 (law that regulated actions for the fight against ML); Improvement of inter-agency co-ordination; Obligation to initiate financial investigations in cases of predicate offences; Improvement of training to reporting institutions; Admission to the Egmont Group; Establishment of information exchange protocols between different domestic authorities; Promotion of information exchange agreements signing between the UAF and the different competent authorities; Implementation of improvements of security controls for international exchange of information; Provision to the UAF of technological tools to streamline financial analysis.

139. One of the main vulnerabilities detected in the NRA referred to the inadequacy of the AML/CFT legal and regulatory framework. This issue was included in the priorities set in the Strategy and resulted in the amendment of Law 72-02 by the enactment of Law 155-17 on June 1, 2017. In this sense, as a result of the implementation of the Strategy, the vulnerability relating to the absence of certain ML predicate offences was overcome with the enactment of this Law 155-17, making the legal framework consistent with the Recommendations.

140. Moreover, in relation to the need of improving domestic co-ordination, an aspect highlighted in the NRA, Law 155-17 set forth the expansion and strengthening of the National Committee against Money Laundering, created by Law 72-02. Law 155-17 therefore created the National Committee against Money Laundering and Terrorist Financing (CONCLAFIT), made up by the main institutions involved in the prevention and fight against ML/TF offences, which strengthened the Strategy development support process and the implementation of policies for the strengthening of the AML/CFT system.

141. Currently, the Strategy works on the mitigation of other vulnerabilities detected, such as the incorporation of the membership to the Egmont Group, and the improvement of the inter-agency co-ordination, among others.

142. The NRA points out DNFBPs risks since, at the time of its development, several sectors were not reporting institutions, or did not have a regulator or regulations of their own. As a result of the implementation of the Strategy, the DGII was appointed as the sector's regulator. Moreover, Law 155-17 and its regulation set forth specific duties, and an ancillary regulation was created for each activity.

143. The NRA used specific indicators for each sector, taking into account factors such as the volume of transactions, the representativeness, types of customers, reports, suitability, existence of a supervisor, among others.

144. However, considering the uniqueness of each DNFBPs sector, it would be advisable that, in addition to the creation of specific sectoral regulation already issued, sectoral studies were carried out to determine the scope of the risks from data the surveillance area could provide (since January 2017, specific sectoral regulations are in force and sectors are subject to DGII supervision), and the adoption of appropriate policies in line with this assessment, considering each sector's characteristics.

145. It is highlighted that the Strategy is in line with the results of the NRA, and at the moment of the onsite visit various aspects foreseen in the Strategy were already implemented or were in the process of being so. However, as mentioned, the limitations indicated with respect to the understanding of risks by the DNFBPs have an impact in the development of appropriate policies.

#### *Exemptions, enhanced and simplified measures*

146. The NRA analysed and detected the deficiencies in the different sectors and in DNFBPs. In each sector, information was provided on vulnerabilities and inherent risks. This allowed the country to establish measures to mitigate higher risk activities detected in the NRA.

147. The NRA indicated for each important sector, those activities that bore a lower and higher risk. Thus, from the sectoral regulation, each entity applies enhanced or simplified measures, based on the risk level identified by the NRA.

148. Law 155-17, Chapter II, Art. 2 defines the concept of due diligence and indicates when it should be enhanced or simplified “by virtue of the outcomes yielded by the evaluation procedures, diagnosis and mitigation of risks identified.” The existence of a provision for the application of enhanced measures is verified for each sector in the corresponding regulations, for both FI and DNFBPs.

149. However, given the different functioning of each sector, it is necessary to deepen the specific analyses from data obtained as a result of the supervision of the corresponding sectors, in order to properly identify higher risk customers and consistent mitigating policies.

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

150. After identifying vulnerabilities and risks, through the NRA, objectives and activities necessary to mitigate them were designed with the application of the National Strategy. This Action Plan aimed at improving the efficiency and effectiveness of the ML/TF prevention measures. One of the most important items was the regulatory strengthening, which was achieved through the enactment of Law 155-17 that creates the institutional framework for the combat of the offences mentioned.

151. Supervisors issued preventive measures, with a series of regulations specific for each sector. In the Strategy, the progress made on supervision matters of the SIB, SIV, DGII, SIS, Casinos and Gambling Department and IDECOOP was expressed.

152. In relation to sectors considered vulnerable, such as DNFBPs, the legal and regulatory framework was updated, and institutions and entities of the different sectors were incorporated as RI. However, considering that the amendment is recent, it is necessary to perform a detailed analysis by sector for the adoption of specific policies to know their risks and mitigating means.

153. In relation to requirements for PEPs, an issue indicated as bearing a high risk in the NRA, it was included in the amendments of the new legal framework and the country elaborated a list of functions and positions considered for the purposes of identifying PEPs, which was disseminated to RI.

154. Lastly, the allocation of resources to the different AML/CFT areas is verified with the creation or strengthening of specific units that work on the matter from each supervisor and with the institutional support of the operational and strategic areas of the UAF.

#### *National coordination and cooperation*

155. Law 155-17, Chapter VIII, section I, Article 88 broadens the powers of the Committee against Money Laundering, created under Law 72-02. This agency “is the collegiate co-ordinating agency, responsible for the efficient functioning of the prevention, detection, control, and combat of money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction.” The CONCLAFIT substituted the previous National Committee against Money Laundering (CONCLA), which co-ordinated the process of elaboration of the National Risk Assessment.

156. The duties of the CONCLAFIT were updated with the participation of the main relevant authorities on the matter. Law 155-17, Article 90, indicates that the Committee is made up by:

- ✓ The Treasury Ministry, which presides it.
- ✓ The Public Prosecutor of the Republic.
- ✓ The Minister of Defence.
- ✓ The President of the National Council on Drugs.
- ✓ The President of the National Directorate for the Control of Drugs.
- ✓ The Superintendent of Banks.
- ✓ The Superintendent of Securities.

157. The Technical Committee is in charge of working on the technical aspects of policies issued by the CONCLAFIT. It is made up by the UAF, the SIB, the PGR, the DNCD. As a result of the work of the CONCLA and the subsequent CONCLAFIT, the following can be highlighted: The amendment of Law 72-02; The approval of specific regulations of Law 155-17; The support in the implementation of the National Strategy, among others.

158. The UAF provides technical assistance to competent authorities, mainly the PGR and the DNCD. Also, it has provided guidance on ML/TF matters, such as the development of regulations, mutual evaluations issues, National Risk Assessment, among others. Moreover, the UAF has entered into a co-operation agreement with the DGII, in relation to the handling of information and access to the DGII database to formalise an experience that was already performed in practice. The UAF has entered into 15 additional inter-agency agreements.

#### *Private sector's awareness of risks*

159. The CONCLAFIT approved the dissemination of the NRA Executive Summary by competent authorities. It also ordered the dissemination of the National Risk Strategy to Reporting Institutions. The UAF circulated the corresponding papers, through communications to supervisors and competent authorities. These, in turn, made an enormous outreach work with reporting institutions through their corresponding websites and awareness-raising sessions.

160. The SIB, the SIV, the DGII, the Casinos and Gambling Department, IDECOOP and the SIS have made available to reporting institutions the NRA Executive Summary so that each sector becomes aware of their own inherent risks.

161. The SIV, from 2013 to 2017, has participated in 44 ML/TF risk and prevention training programmes. RI of the securities sector are required by law to conduct AML/CFT trainings for their personnel.

162. In relation to TF, the existence of training and NRA communication efforts is verified, including aspects related to TF risks. Even if no terrorist acts are reported in its territory, its borders and considering the type of open economy of the Dominican Republic, it is advisable to continue with the ongoing process of strengthening the understanding of risks of TF in each sector, specially DNFBPs, that were recently incorporated to the AML/CFT system.

#### *Conclusions on Immediate Outcome 1*

163. In 2014, the Dominican Republic conducted its National Risk Assessment based on the 2010-2014 period. Through the NRA, the country made a radiography of the ML/TF inherent risks. In 2017, the National Risk Strategy was elaborated to mitigate threats and vulnerabilities detected in the NRA of 2014. Overall,

with the exception of the DNFBPs, the outcomes of the NRA are reasonable to a certain extent, despite the difficulties to obtain reliable statistics from some sectors.

164. Main sectors were incorporated in the working tables with different authorities, from both the public and private sectors, where threats and vulnerabilities of the system and of financial and non-financial sectors were analysed. The sectors that were already co-ordinated and showed a compliance basis of years, such as banking, securities and insurance sectors, were considered to bear a lower risk (low and medium.) The NRA rated DNFBPs as the most vulnerable sector to ML/TF misuse due to the lack of specific regulation and of reliable data for the assessment of its inherent risks.

165. The NRA used specific indicators for each sector, taking into account factors such as the volume of transactions, the representativeness, types of customers, reports, suitability, existence of a supervisor, among others.

166. Based on the risks identified in the NRA, the country implemented mitigation measures, through the National Strategy -which shaped the action plan-, including the adaptation of the legal and regulatory framework, the inclusion of DNFBPs as new reporting parties, the creation of its supervisory agencies and the creation of CONCLAFIT as the coordinating authority (in replacement of CONCLA). The Strategy is in line with the results of the NRA, and at the time of the onsite visit to the country various aspects foreseen in the Strategy were already implemented, or were in the process of being so. However, as mentioned, the limitations indicated with respect to the understanding of risks by the DNFBPs have an impact in the development of appropriate policies

167. In relation to DNFBPs, the NRA and the Strategy highlighted the lack of programmes to mitigate risks in DNFBPs, in particular in the sectors of lawyers and real estate agencies (since January 2017, said sectors have specific sectoral regulations and are subject to the supervision of the DGII.) In this sense, considering the uniqueness of each DNFBPs sector, it would be advisable that, in addition to the creation of specific sectoral regulation already issued, sectoral studies were carried out to determine the scope of the risks identified from data the surveillance area could provide.

168. The Dominican Republic has elaborated several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing, where it can be concluded that the risk level is low. Some initiatives by the Dominican Republic should be highlighted, such as the monitoring measures in place by the UAF and the National Anti-Terrorist Office, whereby risk elements linked to terrorism and their financing are taken into account, even with the performance of specific sectoral studies in specific geographic areas and activities. It is recommended to continue with the ongoing process to strengthen the understanding of TF risks in each sector, specially DNFBPs recently incorporated into the AML/CFT system.

169. One of the documents provides a specific analysis of TF on the following sectors: NPOs, remittances (including an analysis of types, values, and countries), money orders, legal arrangements, and imports and exports sector.

170. In addition to the above mentioned study, there is a specific study of the risk of the NPOs sector. The purpose of this paper was to perform an assessment of the terrorist financing risks of the sector of NPOs, in an attempt to characterise the sector in the Dominican Republic so as to objectively identify the possible weaknesses on terrorist financing matters.

171. It should be mentioned that the time elapsed from the first phase ended in 2014, to the final workshop made in 2017 (during which there was a progressive amendment of the institutional framework in relation

to the fight against ML/TF), could have a negative impact on the updated knowledge and understanding of the general country's risks. However, the outcomes yielded by the NRA in relation to the threats (main predicate offences) and vulnerabilities (specific sectors, need to improve AML/CFT activities in DNFBPs) seem to be still current.

172. In relation to domestic co-ordination, it could be verified that the relationship between AML/CFT entities is one of mutual support, and that there is a co-ordination of domestic policies through the CONCLAFIT, aimed at contributing with the National Strategy recently approved.

173. By virtue of what has been analyzed, the evaluation team considers that the country understands its ML/TF risk to a certain extent. In relation to the financial sector, it is considered that the weighting of risks, in general, is adequate. Regarding the DNFBPs, taking into account their impact in the economy and the absence of statistical data in some sectors, the risks are understood to a lesser extent.

174. Based on the analysis performed, the **Dominican Republic shows a Moderate level of effectiveness for Immediate Outcome 1**

### CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

#### *Key Findings and Recommended Actions*

##### ***Key Findings***

##### ***Immediate Outcome 6***

- The UAF is the national centre for the reception and analysis of suspicious transaction reports (STRs) and cash transaction reports (CTRs) submitted by reporting institutions, to identify and refer to the MP and competent authorities financial intelligence reports relating to potential violations of ML, predicate offences and TF.
- The UAF identifies and refers to the MP and to competent authorities said financial intelligence reports spontaneously and upon technical assistance requests.
- In order to analyse and process the information filed by reporting institutions and other additional information collected from open and closed sources, the UAF has processes, procedures, and instructions that facilitate the systematisation of the activities necessary to generate financial intelligence reports, and proactively seek that the information processed be made available to the authorities that investigate ML/TF offences and related crimes.
- The UAF receives STRs online through the web page portal created for such purpose, prior registration of the RI, and it also receives STRs in print applying security measures.
- Within the ongoing improvement plan, the implementation works of the STR and CTR electronic submission platform to the UAF progresses, thus strengthening the protection and confidentiality of the information. However, there are RI not registered in said platform and the migration of the submission of information to the digital system has not been completed yet.
- Given that the registration of certain reporting institutions is still at the early stages, specifically from the non-financial sector, there is a limitation in the filing of STRs by these sectors.
- There is a low amount of financial intelligence reports spontaneously disseminated by the UAF to the MP and, additionally, the latter only used them in a limited number of criminal investigations.
- Moreover, an active participation by the UAF in the dissemination of financial intelligence reports through Technical Assistance to competent authorities is highlighted, with a considerable number of assistance requests answered to the MP, contributing to the development and conclusion of criminal investigations.

- The access of the UAF to a great part of the databases of reporting institutions, streamlining its operativeness, is highlighted.

#### ***Immediate Outcome 7***

- Authorities have made efforts to combat ML related to drug trafficking, in line with the risks identified in the NRA. However, there are reduced cases related to other identified threats.
- The prioritisation and performance of parallel financial investigations is basically linked to actions which predicate offence is drug trafficking. In the remaining cases, the use of parallel financial investigations is under way.
- It is determined that, from the financial intelligence reports generated from STRs, there is a limited number of cases that resulted in a criminal conviction.
- A process of systematic collaboration of the UAF with the Prosecutor's Office is evidenced in cases subject to investigation in the Public Prosecutor's Office.
- The Public Prosecutor's Office has the National School of the Public Prosecutor's Office (ENMP), that includes the AML/CFT component in trainings conducted, which allows the Public Prosecutor's Office to have duly trained personnel.
- The country has made important efforts focused on strengthening the efficiency of the Public Prosecutor's Office in relation to the investigation, prosecution and sanction of ML/TF. In this context, the creation of the Anti-Money Laundering and Counter Terrorist Financing Specialised Public Prosecutor's Office is highlighted.
- There are important cases of prosecution and convictions for ML from predicate offences committed abroad.

#### ***Immediate Outcome 8***

- The Dominican Republic carries out actions to identify, trace, and confiscate property, assets, or instrumentalities produced by ML. However, the number of confiscated property, even if increasing, is still limited.
- The Dominican Republic's legislation includes the confiscation of property of equivalent value and convictions have been applied with the confiscation for equivalent values in cases initiated both in the country and in requests made from abroad.
- Through the Office of Custody and Administration of Seized Property of the PGR, all property confiscated by the MP are managed.
- The need to increase the number of requests for the location of property abroad for their future repatriation is determined, since in only certain specific cases the country has achieved the repatriation of funds or property located abroad.
- There are cases of confiscation in the Dominican Republic resulting from ML actions conducted abroad.

#### ***Recommended Actions***

#### ***Immediate Outcome 6***

- In order to support the operational needs of competent authorities and to strengthen the use of financial intelligence, it is recommended to substantially increase the spontaneous elaboration of reports that the UAF submits to the different authorities and specially to the MP, and that the latter, in time, use them effectively in investigation processes to trace criminal assets, investigate and prosecute cases related to ML, predicate offences and TF.
- Intensify outreach efforts towards RI, specifically DNFBPs identified as high-risk, to comply with necessary registration requirements and access to the UAF online platform, so as to be provided with tools to send online reports to the UAF.

- Complete the process of accessing all databases of reporting institutions to streamline the operativeness of UAF analyses.
- The call for all RI to submit online reports is suggested.

#### ***Immediate Outcome 7***

- Make further efforts to execute national policies and strategies to combat the threats identified in the NRA. For this purpose, the materialisation of the Action Plan of the National Strategy for the Prevention of Money Laundering and Terrorist Financing 2017-2020, where actions are established to face the criminal phenomenon, is necessary.
- Strengthen the application of special investigation techniques for crimes other than drug trafficking.
- Implement co-ordination mechanisms between the different competent authorities for a more effective prosecution and investigation of ML.
- Strengthen the development of parallel investigations for all predicate offences different from drug trafficking.
- Strengthen and promote the application of criminal and condemnatory sanctions to legal persons.
- Further follow-up investigations resulting from UAF spontaneous intelligence reports to have a higher number of investigations from intelligence reports.

#### ***Immediate Outcome 8***

- Implement inter-agency co-ordination or mechanisms for competent authorities to increase effectiveness in relation to the identification and tracing of property or assets subject to confiscation.
- Develop an ongoing training programme for competent authorities with the aim of increasing the effectiveness in the identification, seizure and confiscation of property.
- Adopt measures tending to the recovery of funds and proceeds of criminal activities located outside the country.

175. *The relevant Immediate Outcomes considered and assessed in this chapter are IO6 to 8. The recommendations relevant for the assessment of effectiveness under this section are R1, R3, R4 and R29-32.*

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

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

176. The UAF is the central agency in charge of receiving STRs and CTRs; it also receives information from the DGA in relation to the sworn affidavits made by travellers in relation to the cross-border transportation of currency and bearer negotiable instruments. It performs intelligence financial analysis to identify and refer to the MP and other competent authorities, reports relating to potential ML, predicate offences and TF violations.

177. For the purposes of receiving, analysing, and processing the information filed by reporting institutions, the UAF has processes, procedures, and instructions that facilitate the systematization of the activities necessary to generate financial intelligence reports to be referred to the MP and national or international competent authorities that request assistance related to this matter.

178. Reports elaborated by the UAF based on open and/or closed information sources describe socio-demographic and economic profiles of persons under investigation, beneficial owners, and ownership chain of legal persons, information on the property owned (personal and real estate), payments to social security; migratory movements and status; registration of weapons; legal arrangements; person responsible for the registration of the name (in case of legal persons); outcomes of international searches, analysis of sworn

affidavits (in case of PEPs), credit information obtained from credit bureaus, information on criminal background (if appropriate) and a table with the different reports, both STRs as CTRs, received is attached.

179. Information received from the different reporting institutions about financial products and their movements, analysis of tax returns and company registers (as appropriate) is also included. Likewise, activities performed abroad are also mentioned (as appropriate.) Conclusions made in the intelligence reports are a logic deduction with the premises that support them, and they make up potential investigation lines that investigators may follow in order to verify or reject the hypothesis established in the report.

180. Under these conditions, the report is referred to the MP, as well as to requesting competent authorities or authorities that the UAF considers necessary to submit the report to given their competence. This report serves as input for the MP and competent authorities to perform ML and predicate offences criminal investigations. The UAF can also collaborate under the working tables modality. It is important to highlight that the intelligence report submitted by the UAF to the MP and competent authorities cannot be used as evidence in criminal proceedings.

181. With the aim of providing added value to the information, the UAF is empowered to request, obtain, and use additional information from reporting institutions and use any information available from both open and closed sources, to identify specific targets, follow the trace of particular activities or transactions, and determine the links between such targets and potential ML, predicate offences, and TF violations. For such purpose, the unit has access to the following open sources:

**Table 2. Open sources the UAF has access to**

AGENCIES	TYPE OF INFORMATION
UN Lists	List of natural and legal persons designated by the UNSC
OFAC	Individuals and companies linked to money from drug trafficking
Public Registry of Panama	Properties, Partnerships and Legal Arrangements
National Bureau of Industrial Property	Consultation of registries of owners of business names
Company Register	Information on the licencing of legal persons, as well as corporate changes and documents related to their activities
Social media	Profiles and related
Social Security Treasury	Provides information on the working history of individuals.

*Fuente: Información proporcionada por la UAF.*

182. The UAF keeps inter-agency co-operation with competent authorities and public institutions, which allows it to obtain relevant information, both upon request or through direct access to their databases, among which the following can be mentioned:

**Table 3. Closed sources the UAF has access to**

ENTITY	TIPE OF INFORMATION
DGII	Information on the possession of personal and real estate property, shareholders of legal persons, other tax information of natural and legal persons are obtained upon request on a case-by-case basis.
The Judiciary	Statistics of proceedings, judgments, broken up by offences from the different judicial districts. Also, sentences issued.
DNCD	Filtering of registries of individuals, criminal networks, and case log.
	Verification of information concerning: Declaration of entrance of cash, data of export and import



DGA	licences, payments performed organised by concept, liquidation associated to imports and exports performed by natural or legal persons.
SIB	Verification of issues concerning specific aspects of financial reporting institutions.
Social Security Treasury	Provides information on the working history of individuals.
PGR	Criminal Information System (SIC): Criminal records of natural persons, as well as certain information on their profiles, such as driving licence number, vehicles registered under their name, weapons carrying licence.
National Migrations Office (DGM)	Registry of entrance exit and migratory status.
Comptroller General of the Republic	Registries of employees in the different spheres of the central government.
National Bureau of Investigation	Exchange of intelligence information relating to organised crime, national or foreign
General Office for Public Procurement and Contracting	Verification of participants or bidders and who has been awarded contracts, and the amounts of public procurement and contracting processes.
SIV	Verification of issues concerning specific aspects of securities reporting institutions.
Ministry of Defence - Intelligence Unit of the Joint Chiefs of Staff (J-2) National Anti-Terrorist Office	Exchange of intelligence information concerning threats to the national defence and security.
National Police (PN)	Verifications in the following databases: Police System of Criminal Consultation (SPCC); Data Processing Centre (MochaShoft).
Central Electoral Board	Information of authorisation book, page viewer.
Ministry of Industry and Commerce and MIPYMES	Access to Company Register information
CEVALDOM Decentralised Securities deposit	Securities registered in accounts, transfer of ownership.
Data Credito (Credit Bureau)	Credit profile of natural or legal persons.
World-Check	Verification of references of persons or organisations.
Real Estate Jurisdiction	Verification of the real estate acquisition history.

*Fuente: Información proporcionada por la UAF.*

183. Even if the UAF has direct access to certain databases of the institutions above mentioned, given that in certain other events written requests are required, it is necessary to fulfil the database access process of reporting institutions for the purpose of optimizing the operativeness of UAF analyses.

184. From the STRs received, 997 information requests were generated to the different domestic competent authorities and reporting institutions, with the aim of further providing information necessary for the analysis and elaboration of intelligence reports, as detailed in the table below:

**Table 4. Information requests sent by the UAF to domestic authorities 2013-2017**

ENTIDAD	2013	2014	2015	2016	2017	TOTAL
SIB	11	12	43	220	189	475
DGII	4	2	4	51	64	125

Ministry of Industry and Commerce	5	6	8	22	13	54
National Migrations Office	1	1	6	12	17	37
National Statistics Bureau (ONE)			2			2
SIV			2	5	108	115
PN			4	11	5	20
DNCD		1	5	11	5	22
PGR			4	10	9	23
DGA				9	23	32
Passports General Directorate	1					1
Treasury Ministry				2		2
Exports Centre (CEI-RD)				1	1	2
General Office for Public Procurement					2	2
Ministry of Public Works and Communications				1		1
Reporting Institutions			31	18	35	84
<b>TOTAL</b>	<b>22</b>	<b>22</b>	<b>109</b>	<b>373</b>	<b>471</b>	<b>997</b>

Source: Information provided by the UAF.

185. Moreover, with the purpose of identifying patterns and trends related to ML/TF that may contribute with CONCLAFIT in the definition of public policies on this matter, the UAF has conducted several strategic studies, among which the following can be mentioned:

- ✓ Sectoral Study on Trusts in the Dominican Republic and their impact on money laundering matters (November 2017.)
- ✓ Sectoral analysis of money orders in the Dominican Republic and their relevance concerning money laundering (May 2017.)
- ✓ Study of typologies related to money laundering in the Dominican Republic based on judgments, 2007-2015 (May 2017.)
- ✓ Analysis of terrorist financing risk in the non-profit organisations sector in the Dominican Republic (December 2017.)
- ✓ Legal arrangements in the Dominican Republic: Money laundering and terrorist financing risks (December 2017.)
- ✓ Payment instruments in the formal sector and use of cash in the information sector of the Dominican Republic: Impact on money laundering (December 2017.)
- ✓ Sectoral study on terrorist financing risks (December 2017.)
- ✓ Indicators of reports spontaneously disseminated from the UAF to the MP (January 2018.)

186. Therefore, the UAF also publishes its statistical reports wherein qualitative and quantitative data are included, with a view to understand the ML/TF prevention system.

187. Moreover, the Anti Money Laundering and Terrorist Financing Specialised Prosecutor's Office under the sphere of the MP has specialised personnel depending on the type of functions they perform, including prosecutors, investigators, surveyors, military and police officers, lawyers, among others. In terms of organisation, it has technical and operational units required for an adequate prosecution of the crime, being one of them the Criminal Investigation Unit (UIC) created in April 2016 as a department of the General Prosecution Office, with the duty to support investigations performed by prosecutor's offices and specialised prosecutor's offices as part of the criminal prosecution of organised crime and serious crimes, as well as to support the investigation and prosecution of criminal cases that, due to their nature and complexity, require specialised support at the intelligence or operational levels.

188. In the same way, in order to strengthen the prosecution function, the PGR and the SIB in December 2016 signed an inter-agency collaboration agreement that created the Financial Crimes Investigation Unit, which purpose is to investigate and prosecute financial crimes that require specialised attention in the country, for which purpose there is a team of 16 agents specialised in investigation functions, such as analysis, investigators, and auditors; one of its main functions after receiving the reports made by the UAF is to further investigate and make all judicial processes that would allow to provide an evidentiary element to the intelligence information provided

189. Another effort of the country to be highlighted is the creation of the Financial Intelligence Observatory (OIF) which seeks to regulate the exchange of information among the agencies that comprise it, based on the application rules and performance criteria. This observatory is regulated by the 'Performance Protocol' and sets forth the co-ordination of remote works and information exchange through electronic means in a maximum term of 48 hours for the offences of money laundering, terrorism and its financing, drug trafficking and smuggling. This strategy mainly aims at simplifying bureaucratic processes and to shorten information gathering times during investigative processes of cases or operations that require relatively urgent responses.

190. The DNCD has a Financial Investigation and Money Laundering Department (DIFLA), which duty is to assist the Public Prosecutor's Office in the investigation of punishable acts related to this offence, through co-ordinated and professional actions by both institutions, and parallel investigations that are also performed jointly with the Anti-Money Laundering and Terrorist Financing Specialised Prosecutor's Office, as well as with the UAF.

191. DIFLA, under the authority of the DNCD, has the 'Joint Investigations Handbook for Money Laundering,' which aims at planning the investigation from the moment when the institutions in charge of investigating the offence becomes aware of the criminal activity, as well as of drug trafficking cases developed by the Intelligence Community of the DNCD and other co-operating domestic and foreign institutions. In accordance with the Handbook, the investigation Strategy develops, among others, the intelligence and operational tasks which, together with information with other intelligence or operational departments, initiate money laundering cases. Among intelligence levels, the following analyses can be highlighted: Preliminary analysis, financial analysis, computer analysis, and operational analysis.

192. In relation to the total number of investigation processes on money laundering matters handled by DIFLA, for the period 2012-2017 it amounts to 227, 25 of which were handled in the year 2012, 55 in 2013, 11 in 2014, 21 in 2015, 32 in 2016, and 83 investigation processes in 2017.

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

193. The UAF receives STRs and CTRs from reporting institutions through its web page - e-mail, which have digital security certificates with SSL and TLS protocols that create an encrypted secure channel for the exchange between the user and the server; storage devices (USB, CD) with encryption based on UAF standard.

194. Pursuant to the Quality Guide for Suspicious Transaction Reports (STRs) of May 2017, in order to file STRs and CTRs, Reporting Institutions should access the UAF electronic address ([www.uaf.gob.do](http://www.uaf.gob.do).) Reporting institutions duly registered in the database can access the users' portal, where they have access to options of loading or filling STRs online, as well as downloading Excel spreadsheets wherein they can enter the information required and subsequently send them in a secure manner to the website or e-mail of the UAF created for such purpose ([www.soportes.uaf.gob.do](http://www.soportes.uaf.gob.do).) In case RI found technical problems such as: Connectivity or others, they can contact the UAF's help desk or send an e-mail, which is answered by personnel trained to overcome the difficulties in the delivery of information.

195. Given that the registration of certain reporting institutions is still at the early stages, specifically from the non-financial sector, there is a limitation in the filing of STRs by these sectors.

196. The UAF also receives physical reports, with the condition that only in the event that the reporting institution has found problems with the submission through digital channels, it can submit it in closed envelope and that the communication of submission of information does not include the names of individuals reported. Reports received through this means are granted a bar code that stores delivery and reception information.

197. In the framework of the ongoing improvement plan, implementation works of the STRs and CTRs electronic submission platform is progressing, which strengthens the protection and confidentiality of the information. However, in order to optimise the operativeness of UAF analyses and to promote online reporting, the need that all RI effectively register in such platform is verified, and that the migration of the information delivery towards the digital system is completed.

198. In the period between January 2013 to June 2017, the UAF has received a total of 38 699 STRs, which have been filed by financial and non-financial reporting institutions, as shown below:

**Table 5. STRs received by sector of reporting institutions (January 2013 - June 2017)**

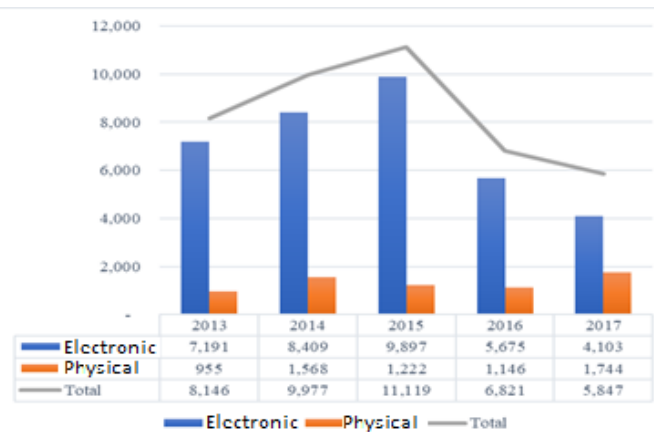
Type of RI	2013		2014		2015		2016		2017		TOTAL
	STR ML	STR TF	STR ML	STR TF	STR ML	STR TF	STR ML	STR TF	STR ML	STR TF	
Multiple Banks	829		1,685		1,124	1	1,304	1	1,448	1	6,393
Loan and Savings banks	187		339		191		1,548		831		3,096
Savings and loans associations	249		442		406		234		149		1,480
Loan cooperatives	127		83		82		29		11		332
Remittance and foreign exchange agents	6,727		7,267		8,725		3,393		2,908		29,020
Securities intermediaries	5		18		20		59		103		205
Investment Fund Managers							5		17		22
Other governmental entities	1		1		5		2		13		22
Trust of Financial Intermediation Entities									5		5
Insurance									276		276
Cooperatives									69		69
DNFBP	21		142		565		246		16		990
<b>Total</b>	<b>8,146</b>		<b>9,977</b>		<b>11,118</b>	<b>1</b>	<b>6,820</b>	<b>1</b>	<b>5,846</b>	<b>1</b>	<b>41,910</b>

*Source: Information provided by the UAF.*

199. For the period under analysis, the largest amount of STRs was sent by the financial sector, with an approximate percentage of 97.79% of the total number of STRs received. It can be noted that there has been

an increase in the reception of STRs filed by the non-financial sector if the figures of 2015 are compared to those of the two previous years. In relation to the lower volume of STRs received from non-financial RI, it is important to continue fostering their submission by high-risk sectors.

**Graph 1. Trends in the reception of printed and electronic STRs**



Source: Information provided by the UAF

200. In the period between January 2012 to January 25, 2018 (date of the last day of the on-site visit), the UAF elaborated 842 intelligence reports, 113 of which were spontaneous reports sent to competent authorities, 697 intelligence reports based on technical assistance requests, and 32 reports were filed.

201. There is a need to clarify that, for the elaboration of spontaneous reports, 95 447 reports (STRs and CTRs) were used as supporting information for the reports, 3 928 STRs and 91 519 CTRs. The following table is as follows:

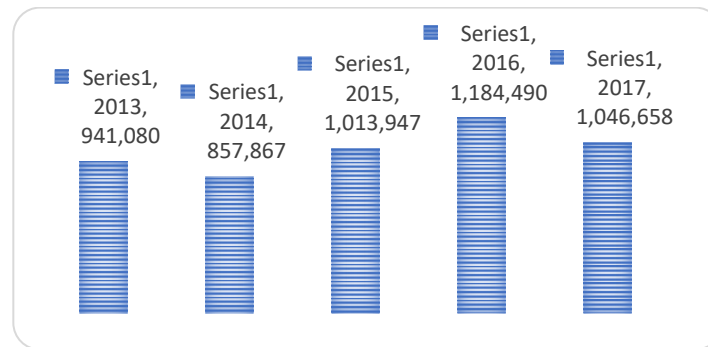
**Table 6. Number of STRs and CTRs analysed during the process of elaboration of Spontaneous Intelligence Reports 2012 to January 25, 2018**

	2012	2013	2014	2015	2016	2017	2018	Total
STR	7	3	5	1,615	1,043	1,254	1	3,928
CTR	108	58	2,648	19,714	59,753	9,106	132	91,519
Total	115	61	2,653	21,329	60,796	10,360	133	95,447

Source: Information provided by the UAF

202. In relation to CTRs, it is necessary to mention that the threshold set forth by Law 72-02 abrogated was USD 10 000, and it was in force until June 1, 2017, when the new Law 155-17 was enacted. This law provided for a threshold of more than USD 15 000 for the report of cash transactions. The change in reporting threshold is reflected in the volume of reports. In the period between January 2013 through December 2017, the UAF received from the different reporting institutions a total of 5 044 854 CTRs, as shown below:

**Graph 2. CTRs received per year from 2013 to December 2017**



Source: Information provided by the UAF

**Table 7. CTRs received per year from 2013 to December 2017**

INSTITUTIONS	2013	2014	2015	2016	2017	TOTAL
Multiple Banks	809,587	733,883	889,514	936,482	868,450	4,237,916
Savings and loans associations	29,265	31,496	37,943	37,470	32,474	168,648
Savings and loans banks	15,230	9,205	8,537	6,190	25,548	64,710
Credit corporations	1,136	1,181	1,154	931	460	4,862
Foreign exchange and remittance agents	82,396	78,530	72,579	72,799	44,341	350,645
Other institutions	1,712	1,420	1,614	6,547	7,741	19,034
Cooperatives					4,549	4,549
Insurance					10,099	10,099
Securities				121,841	52,213	173,954
DNFBP	2,654	2,152	2,606	2,330	783	10,435
<b>Total</b>	<b>941,890</b>	<b>857,867</b>	<b>1,013,947</b>	<b>1,181,490</b>	<b>1,046,658</b>	<b>5,044,852</b>

Source: Information provided by the UAF

203. The UAF has carried out an education and awareness raising process for reporting institutions through educational sessions with the aim of increasing both the quality and the quantity of STRs it receives, co-ordinating educational actions with reporting institutions and competent authorities. Likewise, the UAF holds meetings with the compliance committees of federations, as well as directly with compliance officers of different reporting institutions to provide them with feedback on the quality of the reports, as well as to notify them of the different activities to be carried out in the country on ML/TF matters.

204. After identifying the main inconsistencies in STRs, the UAF requests each institution in question a clarification of the situation detected, favouring the elaboration of a STR quality guide aimed at minimising inconsistencies. In this sense, the UAF reviewed and updated STR and CTR forms, prior consultation with relevant interested groups, taking into account their comments in order to improve them. Forms were accompanied of directions on how to fill them in to ensure the standardization of information. This is part of the 'Quality Guide for Suspicious Transaction Reports (STRs)' published by the UAF.

205. In the last three years, 84 communications were sent by the UAF to RI, with the aim of requesting clarification on STRs received from them, and in this manner, they could obtain all information possible to analyse the transactions reported and reduce the probability of incorrect hypothesis in intelligence reports.

206. In order to contribute with the supervisory work of competent authorities, the UAF regularly sends general statistics on the quality and quantity of reports received by reporting institutions, as well as on concrete aspects in specific cases it considers the competent authority should be aware of.

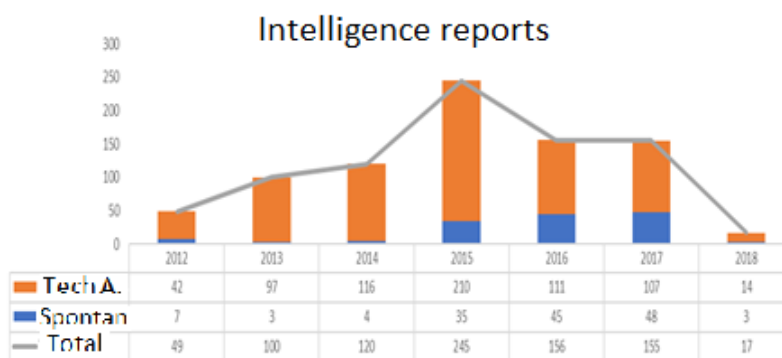
207. An example of the effective use of STRs in investigations is the case entitled ‘International bribery, corruption and money laundering,’ which investigation was initiated with an intelligence analysis of three STRs. In the information received from the financial system, transfers sent and received from private individuals and organisations linked to public officials (PEPs) were found.

*Operational needs supported by FIU analysis and dissemination*

208. The UAF disseminates spontaneous reports to the MP and other competent authorities in cases it deems the facts analysed include criminal offences within their competence. It also provides technical assistance, keeping a regular communication with the authorities, which has allowed to sustain an ongoing improvement process and receive feedback on the reports the UAF refers to them, especially the PGR, DNCD and PN. In this sense, several technical tables were constituted to conduct joint investigations which outcomes have been favourable for all the participating entities.

209. The UAF has two main tools to deliver its financial intelligence. On the one hand, it disseminates spontaneously to the MP and other competent authorities its analysis reports; and on the other, its second tool is the technical assistance whereby the UAF responds to specific requests made by competent authorities. Additionally, it interacts with competent authorities through working tables when the cases so require. In the following graph, the statistics of all financial intelligence classified based on these 2 tools is presented in relation to the 2012-2018 period:

**Graph 3 – Disseminated financial intelligence**



Source: Information provided by the UAF

210. Of 145 spontaneous intelligence reports of 2012 to January 25, 2018, 113 were forwarded and 32 were filed in the UAF. The 113 reports spontaneously submitted are classified as follows:

- ✓ Public Prosecutor's Office: 102.
- ✓ General Internal Revenue Office: 8.
- ✓ Customs Office: 1.
- ✓ National Bureau of Investigations: 2

211. Of the 102 spontaneous reports submitted to the MP, only 12 were used for cases brought to court and, in the same period, 14 convictions were ordered. This is because it is very unlikely that a process is initiated and concluded in the same year, reason why the convictions in this period include cases brought to court in years not considered for the purposes of the assessment.

212. However, the following sample cases of spontaneous dissemination are highlighted, which have then been investigated by the MP:

- ✓ *Case of financial entity under liquidation process:* The directors of a financial entity were making a non-authorized use of it pursuant to the law to obtain funds from savers, they adulterated their financial statements and accounting books. In order to cover their lack of liquidity, they reported fictitious transactions to supervisors. In the investigation process of monetary authorities and the Public Prosecutor's Office it was determined that they were committing violations to the monetary law, which are predicate offences to money laundering, sanctioned with a minimum penalty of three years' imprisonment. The investigation is still open in the judiciary for breach of Monetary and Financial Law, as well as Law 72-02.
- ✓ *Drug counterfeiting, fraud to the Dominican state and money laundering:* It refers to several State provider companies, medical labs and drug distributors that were used to sell adulterated medicines, re-labelled and counterfeited to the State, given their capacity as providers; for such purposes, procurement and contracting processes were manipulated to win the bidding process, being the beneficial owner of these companies a PEP. A conviction that is already a final sentence was achieved, an important amount of property was confiscated in favour of the Dominican state, legal persons involved were sanctioned with the loss of their legal personality, and the incineration of drugs involved in the process was ordered.
- ✓ *Case related to human trafficking:* A STR is received. It reports a legal person for performing transactions alien to its profile. In the investigation process it is determined that one of the partners had been previously investigated for human trafficking. The UAF initiates the analysis process, with the information found in the SIF and in the different sources of reference and an intelligence report is made and referred to the MP, since the analysis performed of the documents submitted to the different entities and intermediaries do not support such transactions. In a period of one year it had moved DOP 73 000 000 (approximately USD 1 465 840) and the deposits were made with an interval of a relatively short period of time, added to the background of one of its partners above mentioned.

213. In the spontaneous intelligence reports, it is possible to know the economic profile of the subjects under analysis and, using the databases referred to, properties, real estate and/or vehicles registered under the name of the legal and natural persons under analysis are identified. During the four-year period, it can be highlighted that these include 918 properties for an approximately value of DOP 2 862 270.20, which equals to USD 63 107 895.28; approximately 1 206 vehicles, and the information of foreign natural and legal persons, including international transfers, and the study of 117 legal persons which beneficial ownership is determined.

214. Moreover, in relation to technical assistance provided by the UAF to the competent authorities, it is necessary to consider and highlight that 607 financial intelligence reports were worked upon based on the requests from 2012 to January 25, 2018. These were referred to the following competent authorities:

- ✓ Public Prosecutor's Office: 469.
- ✓ National Directorate for the Control of Drugs: 199.
- ✓ Others: Authorities such as DNI; DGII; DINAT; PN; DGA: 29.

**Table N° 8. Intelligence reports for technical assistance to competent authorities 2012 to January 25, 2018**

Resplies	PGR	DNCD	Others	Total
2012	42	0	0	42
2013	78	15	4	97



<b>2014</b>	65	41	10	<b>116</b>
<b>2015</b>	130	74	6	<b>210</b>
<b>2016</b>	80	28	3	<b>111</b>
<b>2017</b>	69	32	6	<b>107</b>
<b>2018</b>	5	9	0	<b>14</b>
<b>Total</b>	<b>469</b>	<b>199</b>	<b>29</b>	<b>697</b>

Source: Information provided by the UAF

215. The 469 technical assistances provided by the UAF support the investigation tasks of the MP, since they have been used in the different stages of the criminal process. In addition, the reports sent for technical assistances to the DNCD are highlighted, as a result of which 109 cases were brought to court with intelligence information produced by the UAF.

216. Moreover, as a result of the intelligence reports spontaneously disseminated to competent authorities and as a consequence of the working tables conducted jointly, in the development of the investigation of the facts contained in the reports, the UAF has received 12 requests to provide further information that required the continuation of the financial investigation and even expanding it to different targets. The aforesaid has implied the submission by the UAF, in several cases, of new information requests, even international co-operation.

217. Moreover, the Public Prosecutor's Office reported that as proof of the interaction and exchange of information between the UAF and the MP, the following summary of data can be introduced:

**Table 9. Technical assistance provided by the UAF to the MP between 2013 and 2017**

Year	Number of responses	Number of persons involved
<b>2013</b>	78	499
<b>2014</b>	65	668
<b>2015</b>	130	974
<b>2016</b>	80	442
<b>2017</b>	69	556
<b>Total</b>	<b>422</b>	<b>3,139</b>

Fuente: Ministerio Público

218. In the memoranda of understanding (MOU) that the UAF has entered into with the PGR, DNCD, PN, DNI and J 2, the acceptance of officials has been agreed upon to share capacities and to maximise the use of intelligence reports; analysts can also exchange good practices in relation to operational needs.

219. The process with the MP was initiated in 2017, with an internship programme for collaborators of the Criminal Investigations Unit, in the Operational Analysis Department. In this programme that lasted three months, trainees had the opportunity of becoming acquainted with the procedures of the Unit and the outcomes yielded, while the collaborators from the UAF received from them cardinal elements that may contribute with a criminal investigation process. As to the date of the on-site visit, 4 trainees had been received in the UAF.

220. In relation to trainings, the UAF has participated as facilitator in educational programmes of the National School of the MP, where experiences are shared with all actors of the system (judges, prosecutors and supervisors).

221. Likewise, the UAF has conducted several working sessions with the different units of the MP with the aim of strengthening the inter-agency interaction and increasing the quality of the reports it submits. In this context, the UAF published a paper entitled ‘Instruction for the request of information to the UAF,’ which aims at having the necessary information to adequately fulfil its duties.

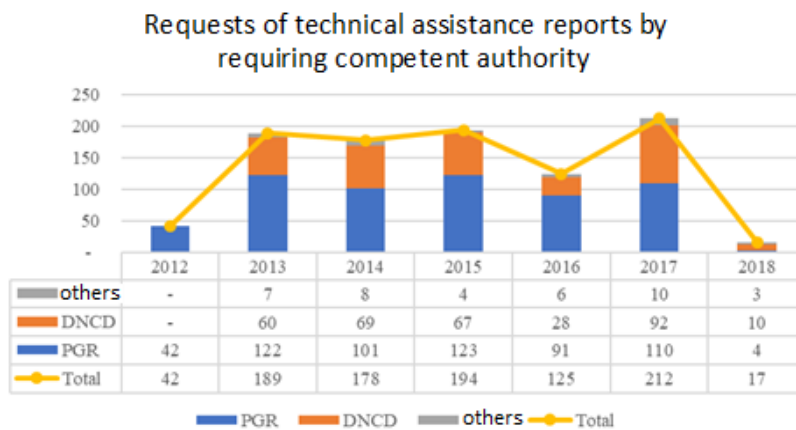
222. In spite of the significant inter-agency co-operation and interaction efforts, of the 102 intelligence reports spontaneously disseminated by the UAF to the MP in the 2012-January 25, 2018 period, only 12 were used in cases by the MP for the judicialization of criminal proceedings, and 14 in the same period have been used in proceedings that resulted in conviction. Therefore, it is necessary to strengthen this aspect to adequately support the operational needs of the MP.

223. Furthermore, valuable contributions from the UAF were made in the 697 Technical Assistancess provided to competent authorities, with 469 technical assistances provided by the UAF to the MP that support investigation duties, and 109 assistances to the DNCD, as a result of which 109 cases were brought to court with intelligence information produced by the UAF.

*Cooperation and exchange of information/financial intelligence*

224. From January 2012 to January 2018, the UAF received 970 technical assistance requests by different competent authorities, and it answered to 697 of them. These requests referred to a total number of 2 690 individuals under investigation. However, it should be highlighted that as a result of the financial investigation, the UAF provided information on 6 078 individuals, that is to say, 3 721 more than those in the requests which were found to be related or linked with the persons investigated:

**Graph 4. Technical assistance requested by competent authorities from 2012 to January 25, 2018**



Source. Information provided by the UAF

225. In the conclusions of certain intelligence reports, the UAF has considered that they could be related to certain predicate offences under the competence of several institutions, reason why it spontaneously disseminated them not just to the MP but also to the entities involved, such as the DGII.

226. The signing of Memoranda of Understanding (MOUs) aims at formalising the exchange of information between the agencies related to the matter and with institutions that have pertinent information. However, they are not a requirement for the exchange of information, since the UAF and other competent authorities have the legal capacity of requesting all information necessary for the fulfilment of their duties.

227. The UAF has entered into 12 MOUs with counterpart entities, as detailed below:

**Table 10. Memoranda of Understanding signed by the UAF**

DATE	MOU	PARTIES	PURPOSE
November 6, 2012	Co-operation agreement concerning the exchange of intelligence information for the prevention of money laundering and terrorist financing	UAF-DR and Republic of China (Taiwan)	Co-operation to gather, develop, and analyse information regarding financial transaction suspected of being related to ML/TF.
April 5, 2013	Memorandum of Understanding concerning the co-operation for the exchange of information related to counter money laundering and terrorist financing	UAF-DR and Information and Financial Analysis Unit of Colombia	Obtain, share, and analyse information on ML/TF
Nov-13	<i>Memorandum of understanding concerning the exchange of financial intelligence related to money laundering and terrorist financing</i>	UAF-DR and Financial Intelligence Unit St. Maarten	Establish a framework to provide ML/TF information
May 26, 2015	Memorandum of understanding concerning the exchange of financial intelligence on money laundering, terrorist financing, and related offences	UAF-DR and Financial Intelligence Unit of Trinidad and Tobago	Establish a framework to provide ML/TF information
May-16	Memorandum of Understanding concerning the co-operation for the exchange of information related to money laundering and terrorist financing	UAF-DR and Superintendency of Banks, Insurance and Private Administrators of Pension Funds of Peru	Obtain, share, and analyse information on ML/TF; co-operation on training matters.
January 12, 2017	Memorandum of understanding concerning the co-operation for the exchange of financial intelligence information on money laundering, predicate offences and financing of terrorism	UAF-DR and UAF-Chile	Improve and promote co-operation between the parties and foster the exchange of experiences and knowledge in ML/TF-related areas
February 7, 2017	Memorandum of understanding for the co-operation and exchange of information	UAF-DR and Financial Analysis Unit of Panama	Obtain, share, and analyse information on ML/TF; co-operation in training and education of analysis and officials through courses, internships and professional exchanges
March 27, 2017	Memorandum of understanding concerning the co-operation for the exchange of financial intelligence information on money laundering, terrorist financing and the proliferation of weapons of mass destruction	UAF-DR and Financial and Economic Analysis Unit of Ecuador	Obtain, share, and analyse information on ML/TF and proliferation of weapons of mass destruction.
March 28, 2017	Memorandum of understanding for the co-operation and exchange of information between the financial intelligence units that belong to the South American Financial Action	UAF-DR and financial intelligence units of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica,	Obtain, share, and analyse information on ML/TF; Promote the mutual exchange of professionals to favour knowledge and experiences exchange on the

	Task Force/Financial Action Task Force of Latin America (GAFISUD/GAFILAT)	Cuba, Ecuador, Mexico, Panama, Paraguay, Peru and Uruguay	matter.
March 28, 2017	Memorandum of understanding concerning the co-operation for the exchange of information of	UAF-DR and Financial Analysis Unit of Nicaragua	Obtain, share, and analyse information on ML/TF;

*Source: Information provided by the UAF*

228. In cases where there are not agreements or memoranda of understanding signed, it is still possible to exchange the information by the principle of reciprocity. In this line, it should be mentioned that even if the UAF is not a member of the Egmont Group, this factor has not been an obstacle to provide and seek international co-operation to its foreign counterparts. It should be mentioned that the UAF is currently under the process to become a member of the Egmont Group.

229. The UAF has a documented management system that aims at streamlining the use of information it holds, as well as to ensure its confidentiality, both in the internal use and in the way it is disseminated. Concerning the internal use, the information stored in the servers is protected by a technological platform that ensures its security with policies and regulations that prioritise confidentiality and protection of information. In relation to the manner it is disseminated, there is a procedure in relation to the communication and delivery of the financial intelligence analysis report to the competent authority through encrypted digital means that ensure the confidentiality of the information.

230. In September 2017, an Inter-agency Co-operation Agreement was entered into by the UAF and the MP (PGR-009) with the aim of strengthening information exchange mechanisms on prevention and detection of activities and transactions that may be linked to ML, TF and proliferation of weapons of mass destruction. Among the provisions of such Agreement there is the creation of a Mixed Commission for the resolution of common aspects and joint initiatives, the particularities that shall govern the exchange of information between both institutions and the communication channels.

231. The UAF regularly co-operates with operational institutions through working tables, training, internships, and information exchange, among which the following are highlighted: National Directorate for the Control of Drugs, Public Prosecutor’s Office, National Police, National Bureau of Investigation, General Internal Revenue Office, Customs Office, NIMIDE (J2, DINAT).

232. Moreover, the UAF has a TF specialist that, among its duties, regularly attends to the Monitoring Centre of the DINAT where joint analysis and monitoring of targets jointly traced are performed. As part of such co-ordinated work, the UAF conducted a study on Terrorist Financing and a confidential sectoral study on TF which content was submitted to the assessment team. On the latter, several monitoring tasks were deployed from the Monitoring Centre of the DINAT.

**Conclusions on Immediate Outcome 6**

233. Given that the registration of certain reporting institutions is still at the early stages, specifically from the non-financial sector, there is a limitation in the filing of STRs by these sectors.

234. A considerable number of RI of the financial sector have access to the UAF platform and are able to submit STRs online, which strengthens the protection and confidentiality of the information. Certain non-financial sectors submit STRs physically (in a significantly lower number than the financial sector) and other

DNFBPs, such as notaries, lawyers and accountants, among others, were not yet reporting to the UAF (the sectoral regulation is too recent), reason why it is important to continue the process of awareness raising on the obligations relating to the submission of STRs, especially by sectors identified as bearing a higher risk in the NRA.

235. The low amount of financial intelligence reports spontaneously disseminated by the UAF to the MP, together with the limited amount of reports used in cases of the MP, negatively impact on effectiveness. The need to implement improvements for the increase of spontaneous intelligence reports from the UAF is identified, as well as to strengthen the operational capacity of appraisal and use of them by the MP in judicial investigations, and the participation of other competent authorities.

236. Moreover, it is substantially considered that the UAF also provided technical assistance to collaborate with administrative or judicial investigations, which shows the use of financial intelligence by competent authorities in the investigation and tracing of criminal assets related to ML, predicate offences and TF. These were effectively used to initiate, deepen, and conclude judicial investigations, which proves its contribution to the effectiveness for the purpose of prosecutions and convictions.

237. Even if the UAF has direct access to certain databases of the reporting institutions, given that in certain events requests in writing are required, it is necessary to fulfil the database access process of the remaining reporting institutions for the purpose of optimizing the operativeness of UAF analyses.

238. Based on the analysis performed, the country shows a **Moderate level of effectiveness for Immediate Outcome 6.**

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

##### *ML identification and investigation*

239. The MP has specialised prosecutor's offices on investigation and prosecution of crimes, criminal structures that develop these criminal activities, among which the Anti-Money Laundering and Counter Terrorist Financing Specialised Prosecutor's Office is highlighted, under the scope of the General Prosecution Office of the MP. Said prosecutor's office has specialised personnel trained to answer to ML investigations: 10 prosecutors, 9 investigators, 2 surveyors, 6 military and police officers, 4 lawyers, 4 paralegals, and auxiliary personnel.

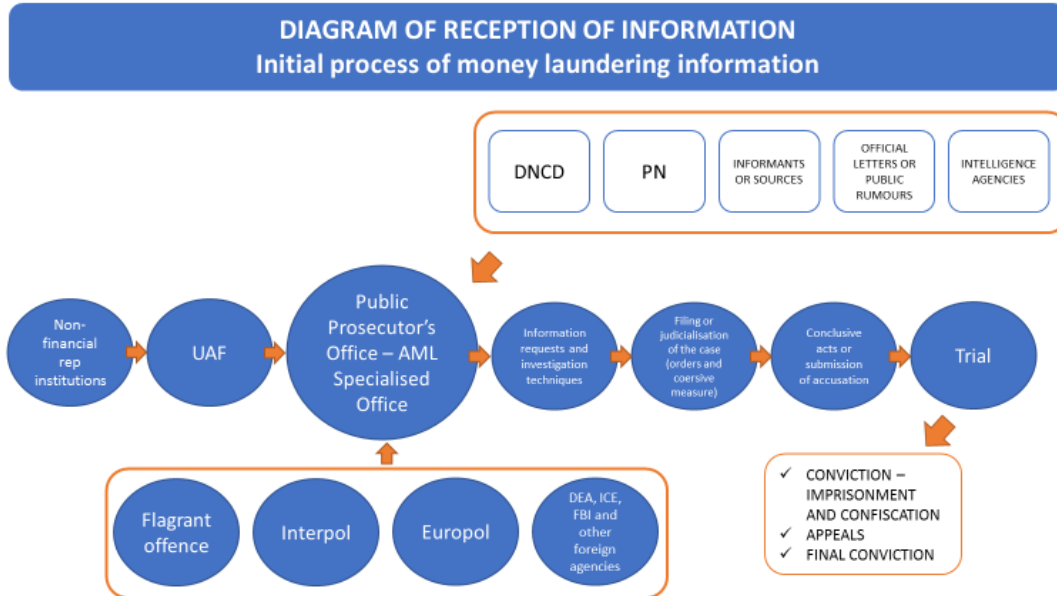
240. It is important to point out that, even if there is a specialised prosecutor's office, all prosecutor's offices of the country are empowered to conduct ML proceedings. The Anti-Money Laundering and Counter-Terrorist Financing Specialised Prosecutor's Office, in addition to conducting its own cases, provides counselling to other prosecutor's offices, even in the interior of the country, on ML matters.

241. Moreover, the Dominican Republic has the Specialised Prosecutor's Office against Corruption, a body specialised in the prosecution, presentation and support of public prosecution in cases of corruption, and it has a structure that ensures compliance with its functions and duties. During the on-site visit, it could be seen that in cases of ML related to the crime of corruption, co-ordinated actions are conducted with investigation agencies, as well as with the ML/TF Specialised Prosecutor's Office. The Public Prosecutor's Office is in charge of the functional direction of criminal investigations conducted by the police or any other executive, security, or government agency that fulfils auxiliary investigation tasks with judicial purposes.

242. For the investigation of ML cases which predicate offence is different than drug trafficking, the Public Prosecutor's Office relies on the support of the Investigation Department of the National Police.

243. Below there is a description of the flow of information reception in relation to the initial process of information on ML of the PGR:

**Graph 5. Processing of ML information**



Source. Image provided by the PGR.

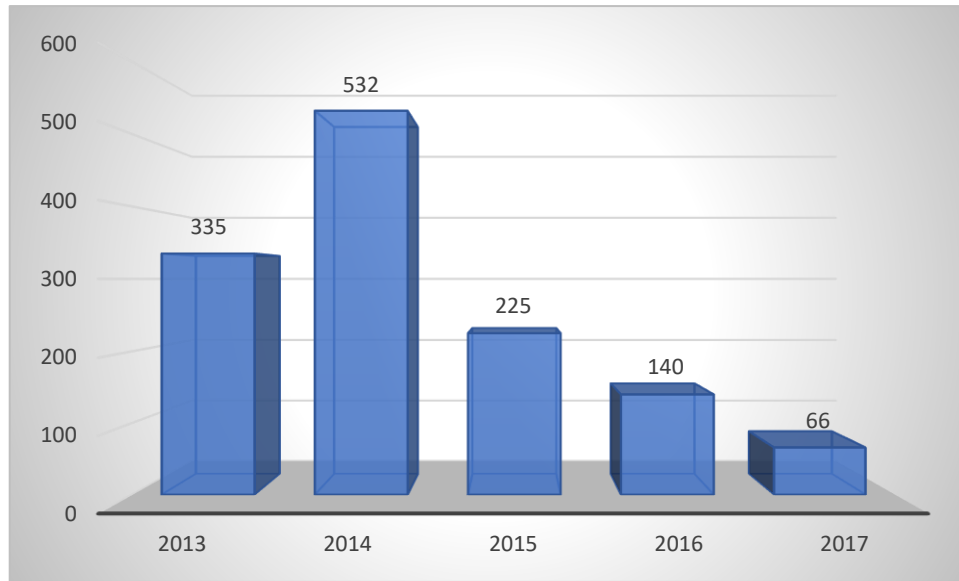
244. In accordance to Law 155-17, ML investigations can be initiated for any offence that generates proceeds. A predicate offence is understood as any serious violation punishable with a penalty of at least three years, and ML is an autonomous offence.

245. The Public Prosecutor's Office leads investigations and exercises public prosecution, and for the prioritisation of investigations it co-ordinates with the other competent authorities. For such purpose, it mainly takes into account the amount of assets determined as having an illegal origin, the type and nature of the predicate offence and the threat it represents.

246. The MP has the Criminal Investigation Unit, which duties are to support preliminary statements taken by specialised prosecutor's offices, as well as to support the investigation and prosecution of criminal cases that, due to their nature and complexity, require specialised support at the intelligence or operational levels.

247. The MP has a higher education specialised institute, the National School of the Public Prosecutor's Office, which is in charge of the ongoing training and education of members of the MP. ML and TF are part of the education process and make up the curriculum of training and education courses. This institute, moreover, has the function to execute the selection process for entrance to the career, ensuring the suitability and competence process of the personnel that enters the MP.

248. Between 2013 and 2017, the Institute of Higher Education National School of the Public Prosecutor's Office (IES-ENMP) has developed 51 training actions, with an impact on 1 298 members of the Public Prosecutor's Office that render services in AML/CFT investigation and surveillance areas; as well as on operators of the judicial system and other competent authorities.

**Graph 6. IES-ENMP: Training on ML and FT (2013-2017)**


*Fuente. Información proporcionada por la PGR.*

249. It is relevant to mention that drug trafficking is the main threat identified in the NRA and that this predicate offence accounts for 58% of ML cases. In this context, the Dominican Republic has the Financial Investigation Department that belongs to the National Directorate for the Control of Drugs, which is in charge of conducting parallel financial investigations in drug trafficking cases where property from such crime is identified. Said Department has technical, human, and financial resources that allow to conduct such investigations, their members receive training in and outside the country and work under the direction of the MP.

250. The Financial Investigation Department has 35 agents, 16 of which perform financial intelligence tasks, while the remaining are investigators and analysts.

251. The Dominican Republic has two military forces with areas specialised in the investigation of organised crime that work together with the MP. As a result of such tasks, the following emblematic cases can be mentioned:

**Table 11. Cases investigated jointly by specialised military forces and the MP**

No	Investigated	Crimes	Cooperating agency
1	Hermano Buitrago	Drug trafficking, money laundering and violation of Law 36	National Bureau of Investigations (DNI)
2	Paya Case	Assassination, drug trafficking, money laundering and illegal possession of fire arms	Army of the Republic and National Police
3	Junior Pañales	Drug trafficking, money laundering and illegal possession of fire arms	National Bureau of Investigations (DNI)
4	Alacran	Drug trafficking, money laundering and illegal possession of	National Directorate for the Control

		fire arms	of Drugs (DNCD)
5	Jose Miguel de la Cruz	Money laundering, carrying, possession and illegal trade of arms	National Directorate for the Control of Drugs (DNCD).

Source. Information provided by the Dominican Republic.

252. As part of the strategies of the country to combat ML, the Financial Intelligence Observatory was created, which protocol sets forth, among other aspects, a term of 48 hours to submit information to the MP. Likewise, the PGR, CONCLAFIT, SIB, DGA, DNCD, PN, SIS, SIV, DGII, the Superintendency of Pensions and the UAF entered into an institutional co-operation agreement that creates an inter-agency working table to strengthen the fight against ML and TF. Said working table's duty is to co-ordinate and promote the exchange of information, general or specific (on time), relating to ongoing ML and TF investigations.

253. The Dominican Republic conducts investigations with the participation of multi-disciplinary agents from different countries, which has allowed to successfully conduct arrests, seizures and confiscations through the use of special techniques such as undercover agent, telephone tapping, among others. On this regard, the following examples are mentioned:

- ✓ 'Call Centre' case conducted in co-ordination with the USA, where real estate property, several business premises, 6 vehicles and a solar in Cap Cana were seized.
- ✓ 'Pot' case conducted together with the Netherlands, where a final sentence was obtained in 2014. Property for an approximate value of USD 20 000 000.00 was confiscated and repatriated.

254. The Dominican Republic has verified the use of several special investigation techniques, in particular the use of undercover agent, interception of communications, among others, particularly in ML cases related to the drug trafficking offence:

**Table 12 – Investigation techniques applied to ML investigations from drug trafficking**

Stage of the investigation	Investigation technique	2012	2013	2014	2015	2016	2017	2018
<b>Initial stage</b>	Interception of communications	12	9	18	10	12	21	7
	Undercover agent	2	1	1	2	1	2	3
	Controlled delivery	1	4	2	1	3	8	2
	Interrogation	13	1	2	3	1	2	7
	Informant	3	2	5	5	7	8	3
	Accession of computer systems	26	18	21	32	46	100	10
	Arrest	13	10	9	6	8	9	7
<b>Proceedings under the MP</b>	Interception of communications	6	8	10	5	6	11	5
	Undercover agent	2	1	1	2	1	2	2
	Controlled delivery	2	1	3	4	5	5	3
	Interrogation	1	3	1	1	3	3	2
	Informant	12	1	2	3	1	8	7
	Accession of computer systems	13	7	9	4	5	8	6
	Arrest	10	8	13	21	34	85	6



255. ML investigations are supported by financial information provided by the UAF. Between 2012 and January 25, 2018, the UAF spontaneously disseminated to the MP 102 intelligence reports, 12 of which were used in cases brought to court, resulting in 14 convictions.

**Table 13. Cases worked by the MP with spontaneous information disseminated by the UAF (2012-2017)**

YEAR	CASES INITIATED WITH UAF INFORMATION	CASES WHERE UAF INFORMATION WAS USED AND RESULTED IN CONVICTION
2012	2	0
2013	4	2
2014	5	4
2015	0	3
2016	1	2
2017	-	3
<b>TOTAL</b>	<b>12</b>	<b>14</b>

Source. Information provided by the country.<sup>8</sup>

256. Moreover, the MP made 599 technical assistance information requests to the UAF to assist in cases of ML investigation, 469 of which were answered by the UAF.

257. The number of parallel financial investigations reported is limited, especially in cases not related to ML from drug trafficking. The country is currently making efforts to improve these types of investigations; the CONCLAFIT has sent instructions to police agencies, DNCD and the PGR to conduct parallel financial investigations in cases where the generation of property or assets related to ML is detected.

258. Pursuant to the information provided by the PGR, the number of investigations for ML between 2012 and 2017 amounts to 252 cases. These have been initiated by different specialised prosecutor's offices and as a result, 71 prosecutions and 83 convictions were achieved, as pointed out in the following table:

**Table 14. ML investigated and prosecuted cases**

Year	Investigated Cases	Prosecuted Cases	Convictions	People convicted
<b>2012</b>	48	9	5	8
<b>2013</b>	50	14	8	25
<b>2014</b>	68	10	18	54
<b>2015</b>	52	27	10	50
<b>2016</b>	34	11	17	41
<b>2017</b>	93		25	75
<b>Total</b>	<b>252</b>	<b>71</b>	<b>83</b>	<b>253</b>

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

259. The Dominican Republic identified in the NRA that the main ML threats are constituted in the predicate offences of corruption and drug trafficking. In this context, through the CONCLAFIT, it elaborated the National Strategy for the Prevention of ML/TF.

<sup>8</sup> The lack of coincidence between the number of cases initiated and the convictions refers to the fact that judicial proceedings take some years, so the data of intelligence reports of the UAF are reflected in convictions years later.

260. The Action Plan of the National Strategy for the prevention of ML/TF sets forth a series of measures tending to mitigate the risks and/or vulnerabilities identified, among which the need to develop a clear criminal policy in relation to the performance of parallel financial investigations is to be mentioned.

261. The Dominican Republic investigates many of the crimes that, based on its NRA, represent higher threats for the country. In this context, the work of the Financial Intelligence Directorate of the DNCD, in charge of drug trafficking investigations and with presence in the entire country is highlighted. Likewise, there are specialised prosecutor's offices against corruption, human trafficking and smuggling, high-technology, weapons and crimes against health and the environment.

262. Statistics of investigations by predicate offence are shown below:

**Table. 15. Investigated and prosecuted cases by predicate offence**

PREDICATE OFFENCE	2012	2013	2014	2015	2016	2017	CONVICTIONS
Drug trafficking	2	3	9	5	10	17	46
Illicit arms trafficking			1		2	2	5
Illicit trafficking in humans					1		1
Human trafficking			1				1
Procuring			1				1
Assassination (murder-for-hire)		2			1		3
Fraud against the State				1			1
Money Laundering Autonomous	1	1	2	2	1	1	8
Kidnapping		1					1
Smuggling						1	1
Cross-border transportation of cash					1		1
Crimes against the State (bribery, breach of official duty) (Corruption)	2	1	3	2	1	4	13
Forgery of public documents			1				1
<b>Total</b>	<b>5</b>	<b>8</b>	<b>18</b>	<b>10</b>	<b>17</b>	<b>25</b>	<b>83</b>

*Source. Information provided by the PGR.*

263. The country has allocated important resources to the prosecution of the predicate offence of drug trafficking, which accounts for 58% of the ML cases.

264. In general, the Dominican Republic conducts ML investigations with a greater emphasis on those which predicate offence is the Illicit Trafficking in Drugs. In the last years, ML investigations and prosecutions related to corruption crimes are under development, some of which resulted in a criminal conviction and other cases of great magnitude which are under investigation. However, the greatest number of ML convictions is still for the predicate offence of drug trafficking, which is consistent with the outcomes of the NRA.

*Types of ML cases pursued*

265. Due to the important interaction between the country and different foreign jurisdictions, particularly the United States, there is a practice of prosecuting ML from predicate offences committed abroad, and equally assist in ML cases initiated in other jurisdictions.

266. For example, sentence No. 12 of July 4, 2013 convicted 7 persons for ML and ordered the confiscation of the proceeds of crimes. In said case, apostilled convictions from other countries were used as evidence, since the predicate offence was committed abroad.

267. Some of the ML cases investigated are grounded on predicate offences prosecuted abroad; in this sense, several cases have been prosecuted, among them:

- ✓ ‘Flaquer’ case for embezzlement without legal justification.
- ✓ ‘Clan de Barahona’ case, concerning a group of Dominicans arrested in Spain for drug trafficking. In the Dominican Republic an investigation was initiated and currently their property is subject to precautionary measures.
- ✓ ‘Pascual Cabrera Ruiz’ case, a Dominican convicted in Puerto Rico for drug trafficking, against who a ML accusation was filed in the Dominican Republic.

268. The Dominican Republic can criminally prosecute legal persons for ML, as well as apply a range of sanctions that vary from fines to the elimination of the legal act that establishes them. For example, case entitled ‘Caso Paya,’ where a company called ‘Duro Motors,’ engaged in the sale of vehicles, was subject to a criminal sanction.

269. In spite of the efforts to apply sanctions to legal persons, the number of sanctions imposed as to the date of the on-site visit was limited. Below there is the table of convictions to legal persons provided by the PGR:

**Table 16. Investigations, prosecutions and convictions against legal persons for ML (2013-2017)**

Year	ML investigations against legal persons	ML prosecutions against legal persons	ML convictions against legal persons	Types of Sanctions
2012	5	2		
2013	1	-	-	
2014	20	1	1	
2015	10	8	9	Cancellation of Company Registers

2016	7	11	3	Dissolution of legal personality and of permit to operate in the regulated market / administrative sanction / cancellation of audit permits
2017	83	3	1	Fine for transnational bribery
<b>TOTAL</b>	<b>126</b>	<b>25</b>	<b>14</b>	<b>168</b>

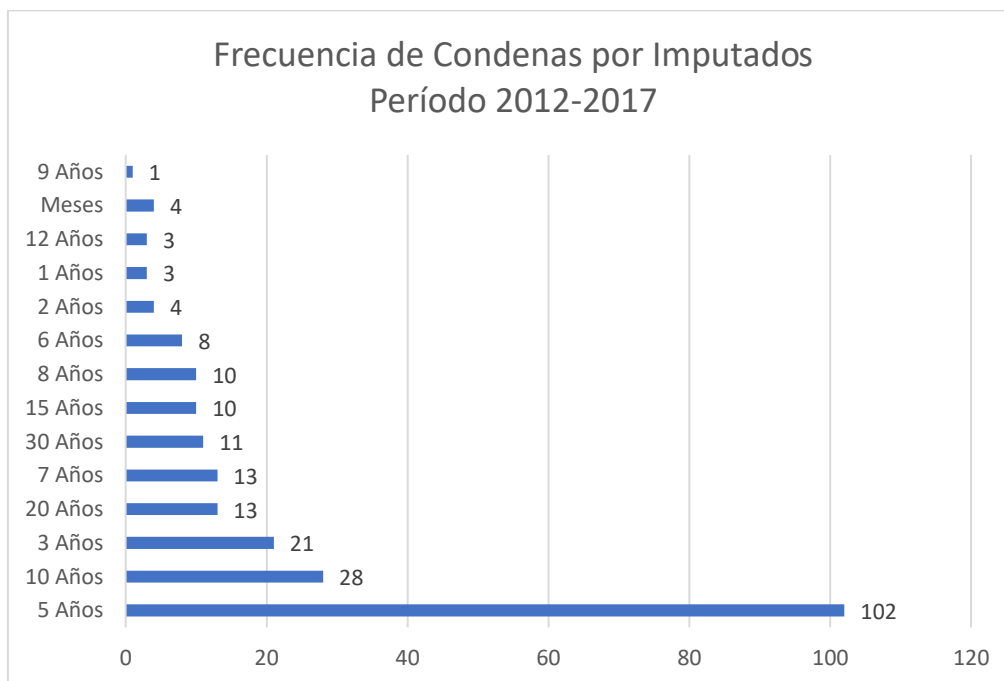
Source. Information provided by the PGR.

*Effectiveness, proportionality and dissuasiveness of sanctions*

270. Article 3 of Law 155-17 sets forth the penalty of 4 and 20 years’ imprisonment for money laundering, depending on the degree of participation of the perpetrator. Additionally, Article 9 of the law provides for aggravating circumstances in cases of ML, where the maximum penalty shall be applicable. The Dominican Republic has a broad range of criminal sanctions for natural and legal persons. The thresholds of the penalty and monetary fines are linked to the importance and seriousness of each case.

271. It can be highlighted, in general terms, that the Dominican Republic has proportionate and dissuasive sanctions. The most frequent sanction is that of 5 years, followed by 10, 3, 20, 7 and 30 years; these convictions account for 81% of the total convictions imposed to the accused. Below there is a graph with the frequency of convictions imposed by accused. Then, there is a table that specifies the sanctions imposed:

**Table 17. Sanctions imposed for ML**



Source. Information provided by the PGR.

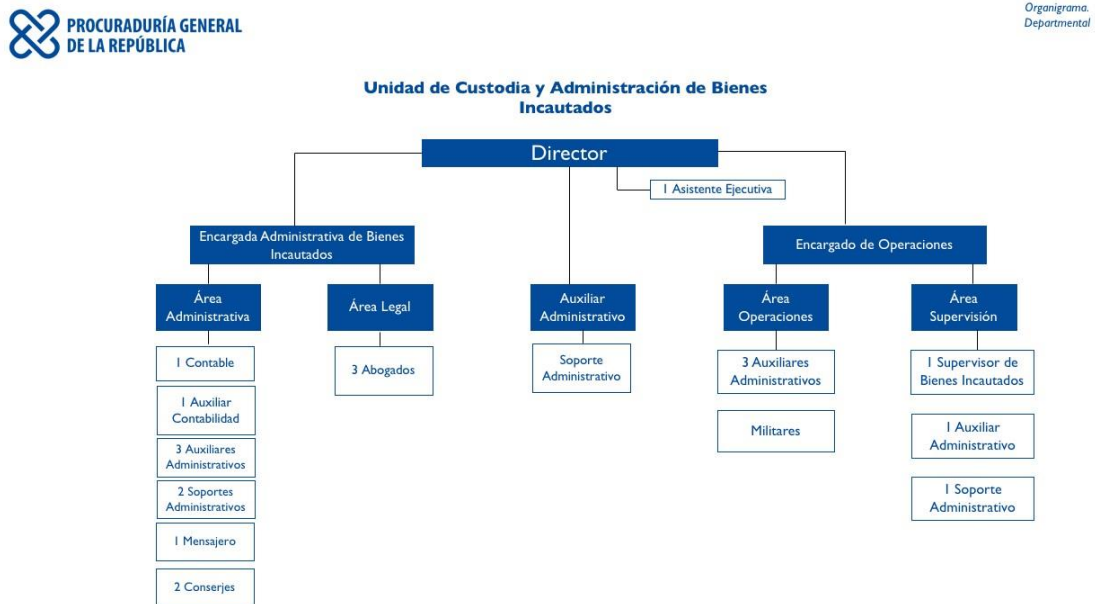
272. Based on the aforesaid, in the Dominican Republic, ML and predicate offences are investigated and prosecuted by specialised prosecutor's offices. Even if the National Strategy for the Prevention of ML was issued, efforts for the fulfilment of the Action Plan should be strengthened, since there are evidences that the prosecution and parallel financial investigation, except in relation to drug trafficking, are limited. The Dominican Republic shows a **Moderate level of effectiveness for Immediate Outcome 7**.

**Immediate Outcome 8 (Confiscation)**

273. The Dominican Republic has made efforts in relation to the confiscation of funds and property from ML and associated predicate offences. With Law 72-02, and now the Law 155-17, the procedure to seize, immobilise, freeze and attach property or assets, which can then be confiscated, was established.

274. Management, preservation, and handling of confiscated property until its sale in public auction rests on the Office of Custody and Administration of Seized Property (UCABI).

**Graph 7. Organization Chart of the UCABI**



Source. Information provided by the PGR.

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

275. The confiscation of criminal funds and assets is an objective established in the criminal policy of the Dominican Republic. It is ordered in the same conviction by the competent judge or court. Below there are the statistics relating to confiscated property based on information provided by the PGR:

**Table 18. Table of confiscation of property (various) of Money Laundering**

Type	2011	2012	2013	2014	2015	2016	2017	Grand Total
Real estate	1	35	1	10	11	12	55	125
Motor vehicles	1	30	3	26	9	20	59	148
Assets	0	0	0	0	0	0	1	1

Arms	1	0	1	15	0	6	16	39
Mobile	0	0	2	0	0	2	13	17
Jewellery	0	0	0	24	0	0	44	68
Objects	0	0	0	0	0	2	22	24
Garment	0	0	0	0	0	0	9	9
Livestock	0	1	0	0	0	0	18	19
Vessels	0	0	0	0	0	0	1	1
Ammunitions	0	0	0	4	0	0	3	7
Furniture	0	0	0	0	0	1	0	1
<b>Grand Total</b>	<b>3</b>	<b>66</b>	<b>7</b>	<b>79</b>	<b>20</b>	<b>43</b>	<b>241</b>	<b>459</b>

**Table 19 - Confiscation of money and financial products of money laundering**

Type	2011	2013	2014	2016	2017	Grand total in USD
Money	45,885.57	7,837,130.98	1,988,616.80	40,649.09	126,800.72	10,039,083.16
Financial product	307,174.00	-	-	28,921.26	-	336,095.26
<b>Grand total in USD</b>	<b>353,059.57</b>	<b>7,837,130.98</b>	<b>1,988,616.80</b>	<b>69,570.35</b>	<b>126,800.72</b>	<b>10,375,178.42</b>

Source. Information provided by the PGR.

276. Another example to be highlighted is the final conviction issued in 2013 for ML resulting from the crime of drug trafficking, assassination, torture and kidnapping, which occurred abroad, and which ordered the confiscation of USD 4 485 850, among other property.

277. Likewise, the State seeks the proper administration and distribution of seized and confiscated property by the UCABI, which disposes of the property based on its nature. It should be noted that the proceeds and interests of the corresponding property are allocated to the prevention and suppression of the offence.

278. Pursuant to Decree No. 571-02, the UCABI can rent or enter into agreements that keep the productivity and value of the property, it can sale, auction, donate, use, or assign them for institutional use for public interest reasons to public entities with the obligation of keeping good care and maintenance.

279. The Dominican Republic has executed judgments from foreign countries that contemplate the confiscation of property of equivalent value, as shown below:

**Table 20. Hermanos Benítez Case**

File No. Proceeding No.	035-12-00512	Entry date:	20-04-2012
Name given to the case	Hermanos Benitez		
Jurisdiction	National District.		
Criminal offence	Money laundering		
Law(s) and Arts. violated	Law 72-02		
Agency or origin of the case under investigation	Judgment issued in the United States, endorsed by Dominican court.		
Name of the accused	Nationality(ies)	Coercive measure	

		conviction.
3 accused		
Case description		
This case was approached as a legal co-operation with the United States of America, which in March 2012 requested the confiscation of property involved in the case Hermanos Benitez for fraud against the American State.		
The foreign sentence was endorsed and the confiscation, repatriation and sharing of assets was performed based on the Agreement between the government of the United States and the government of the Dominican Republic in relation to the sharing of assets and instrumentalities confiscated of April 19, 2012.		
Decision	It endorses and grants exequatur to the foreign sentence No. 09-12429-CIV-Hunk and 11-20802-CIV-Altonaga dated on 17-2011 and 11-10-2011.	
A foreign sentence that authorises the confiscation of personal and real estate property described below was endorsed.		
Conviction, execution		
<b>DOP</b>	<b>USD</b>	<b>DOP</b>
Personal Property		
Personal Property		Value in DOP
Several personal property		60,000,000.00
Real estate		Value in DOP
33 real estate properties in tourist area		Approximately one billion Dominican pesos \$1,000,000,000

Source. Information provided by the country.

#### *Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad*

280. In relation to the confiscation of funds and property which are the proceeds of predicate offences committed abroad, the Dominican Republic has executed sentences issued in foreign countries which contemplate confiscation of assets of equivalent value. For example, the case entitled 'Hermanos Benitez,' where the individuals were accused in the United States for fraud. The Dominican Republic endorsed the sentence issued in that country and ordered the confiscation, repatriation and sharing of assets pursuant to the provisions of the agreement between the government of the United States and the government of the Dominican Republic, entered into in 2012.

281. It is highlighted that the Dominican Republic, through competent authorities and in the context of bilateral agreements for the sharing of confiscated assets and instrumentalities, carries out actions tending to dismantle criminal organisations that perform ML activities in and out the national territory. The Dominican Republic has provided evidence of practical cases where there was a request to repatriate property abroad and cases where it has even achieved the repatriation of funds or property located abroad from ML cases initiated in the Dominican Republic, such as the case of Jason Torres, in relation to which property in Puerto Rico was affected.

282. The CONCLAFIT is empowered by Law to sale and distribute the proceeds of ML. During the 2012-2017 period, property for a value of USD 10 million have been auctioned, based on the table below:

**Table 21. Auctions CONCLAFIT**

AÑO	TOTAL POR AÑO RD\$	TOTAL POR AÑO US \$
2012	33.542.139,29	853,045.11
2013	8.780.196,97	210,017.64

<b>2014</b>	<b>291.550.262,01</b>	6.693.246,47
<b>2015</b>	<b>89.132.814,39</b>	1.978.385,92
<b>2016</b>	<b>14.576.904,00</b>	316.363,09
<b>Total</b>	<b>437.582.316,66</b>	<b>10.051.238,23</b>

Fuente. Información proporcionada por la PGR.

**Table 22. Statistical table of the distribution of funds based on Law 72-02**

<b>NATIONAL COMMITTEE AGAINST MONEY LAUNDERING</b>						
<b>DISTRIBUTION OF FUNDS BASED ON LAW 72-02</b>						
<b>Period 2012 - July 2016</b>						
<b>VALUES IN DOP</b>						
<b>DETAIL</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total 2012-2016</b>
1 National Dir. for the Control of Drugs	11333,031.83	4381,262.95	71506,462.85	21430,116.81	8723,772.60	117374,647.04
2 National Council on Drugs	9556,001.14	3066,659.34	71356,987.88	21430,116.81	6541,646.80	111951,411.97
3 Public Prosecutor's Office	5409,596.19	-	71356,687.85	21430,116.81	1449,603.28	99646,004.13
4 National Police	2163,838.48	-	28452,810.19	8572,046.73	579,591.32	39768,286.72
<b>TOTAL STATE INSTITUTIONS</b>	<b>28462,467.64</b>	<b>7447,922.29</b>	<b>242672,948.77</b>	<b>72862,397.17</b>	<b>17294,614.00</b>	<b>368740,349.86</b>
1 Hogar Crea Dominicano, Inc. Hogar	810,933.35	211,775.81	7025,432.66	2076,578.33	492,844.34	10617,564.48
2 Crea Internacional, Inc. Mesón de	725,571.85	189,480.00	6285,913.42	1857,991.12	440,965.99	9499,922.39
3 Dios, Inc.	682,937.04	178,337.15	5916,153.81	1748,697.53	415,026.81	8941,152.34
4 Fundación Fénix, Inc.	554,848.94	145,180.83	4806,874.98	1420,816.75	337,209.29	7264,930.79
5 Casa Abierta	554,848.94	145,180.83	4806,874.98	1420,816.75	337,209.29	7264,930.79
6 Reto a la Juventud	512,168.24	134,013.04	4437,115.37	1311,523.16	311,270.11	6706,089.92
7 ASCAYD y la Fe	426,806.84	111,677.58	3697,596.13	1092,935.95	259,391.76	5588,408.27
8 Niños del Camino	100,425.17	26,277.08	870,022.62	-	-	996,724.87
9 Ministerio Evangélico Juan 3.16	150,637.63	39,415.56	1305,033.93	385,742.10	91,550.03	1972,379.25
10 REMAR Foundation	-	-	-	-	-	-
11 Casa del Alfarero	50,212.46	13,138.48	435,011.31	128,580.70	30,516.68	657,459.63
12 Ministerio Evang. Rescatados del Lo	100,425.17	26,277.08	870,022.62	257,161.40	61,033.36	1314,919.63
13 Fundación Ciudades de Refugio, Inc	150,637.63	39,415.56	1305,033.93	385,742.10	91,550.03	1972,379.25
14 Cristo Transforma	-	-	-	-	-	-
15 Fundación Albergue de Esperanza	-	13,138.90	435,011.31	128,580.71	30,516.68	607,247.60
16 Hogar Nueva Vida	-	870.18	435,011.31	385,751.10	91,550.03	913,182.62
17 Desafío Juvenil	-	1,740.36	870,022.62	257,161.40	61,033.38	1189,957.76
<b>TOTAL NGOs</b>	<b>4820,453.26</b>	<b>1275,918.44</b>	<b>43501,131.00</b>	<b>12858,079.12</b>	<b>3051,667.78</b>	<b>65507,249.60</b>
<b>FUNDS DISTRIBUTED (NET VALUE)</b>	<b>33282,920.90</b>	<b>8723,840.73</b>	<b>286174,079.77</b>	<b>85720,476.28</b>	<b>20346,281.78</b>	<b>434247,599.46</b>

Source: Information provided by the Dominican Republic

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

283. In relation to confiscation related to cross-border movements, through the DGA, the country has established the written declaration system for all travellers that enter and exit the country. The application of sanctions is provided for to persons that fail to perform the declaration or submit a false declaration. Likewise, Article 4, last paragraph of Law 155-17 sets forth a penalty of six months to one year's imprisonment, in addition to the confiscation of the money or securities falsely declared or undisclosed, and a fine of forty to sixty minimum wages.

284. From 2013 to 2017 the following sanctions were applied for cross-border movements falsely declared or undisclosed:

**Table 23. Cross-border movements falsely declared or not declared or undisclosed of monetary instruments**

**Cross-border movements falsely declared or not declared or undisclosed of monetary instruments**



Year	No. of omitted or forged declarations	Total value of violation by currency	Total value withheld by currency
2013	47	USD 712,239.50	USD 1,717,159.00
		EUR 133,500.00	EUR 505,785.00
		COP 99,900.00	DOP 112,800.00
		VES 750.00	HTG 40,550.00
		...	COP 128,000.00
		...	CRC 2,000.00
2014	23	USD 1,798,557.00	USD 2,050,112.00
		EUR 201,352.50	EUR 252,487.50
		....	DOP 740,275.00
			HTG 1,820.00
		...	COP 44,000.00
2015	34	USD 1,636,991.00	USD 3,228,881.98
		EUR 115,350.00	EUR 179,860.00
		CHF 54,670.00	DOP 557,420.00
			HTG 670,900.00
		...	CHF 109,340.00
2016	24	USD 854,740.00	USD 1,214,160.00
		EUR 162,430.00	EUR 369,361.7
		VES 19,100.00	VES 19,100.00
2017	17	USD 965,049.00	USD 1,063,272.10
		EUR 21,600.00	EUR 21,600.00
		DOP 63,575.00	DOP 63,575.00

Source. Information provided by the Dominican Republic

285. It is important to highlight that the DGA and the MP work in a co-ordinated fashion when there are events of currency seizure for failure to declare or false declaration, which allows showing that the country can face these situations and impose corresponding sanctions. Thus, it can be concluded that the Dominican Republic has customs controls and performs withholdings and imposes fines for the undeclared entrance of currency. Moreover, it is verified that the MP follows-up the violations with criminal investigation purposes.

#### *Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities*

286. Based on the NRA, the predicate offence with higher impact in the Dominican Republic is drug trafficking, reason why the confiscation of property or proceeds laundered from such activity is prioritised as a policy. An example of this is the Alacran case, where assets were confiscated for the crime of ML and trafficking in drugs and controlled substances.

**Table 24. Alacrán Case**

Name given to the case	Alacran Case
Jurisdiction	Barahona
Criminal offence	Money laundering; trafficking in drugs and controlled substances; Trade, carrying, and illegal possession of arms
DR Law(s) and Arts. violated	Arts. 4, 5, 6, 28, 58, 59, 60 and 75 paragraph II of Law 50-88; arts. 3, 4, 6, 18, 19, 21 of Law 72-02 and arts. 24 y 39 of Law 631-16.

Name of the accused	Nationality(ies)	Name of the accused
Several accused	Dominican	Several accused
<b>Case description</b>		
This case was known in an ‘abbreviated criminal trial’ subject to the terms of the full agreement entered into by the Public Prosecutor’s Office and the accused above mentioned. In this agreement, the accused accepted the facts and, consequently, will be declared guilty and convicted to the penalties detailed in the decision. Resolution 00015-2017.		
Decision	HEREBY DECLARES the guiltiness of the accused. DECLARES the confiscation for the benefit of the Dominican State for having been voluntarily delivered by some of the accused.	
<b>1.1. 1.1 Seized, confiscated and frozen property</b>		
<b>Monetary values</b>		
DOP	USD	Other Currencies
2,500.00	8	
13,200.00		
<b>Personal Property</b>		
Bien mueble		
4 Vehicles		
2 enduro Yamaha motors		
6 fire weapons		
1 icom maritime communication radio		
2 cell phones		
Real Estate		
	Real estate property	Value in DOP
	9 real estate properties	N/A
	Object	Value in DOP
	- 2 watches - One bag - One bullet-proof vest - One balaclava	N/A

*Source: Information provided by the Dominican Republic.*

287. The Dominican Republic has procedures in place to confiscate the assets or property of criminals, including the money transferred through the borders, and it has a specialised unit for the management of these assets. The Dominican Republic provided the statistics and specific cases where a great amount of confiscated assets was achieved, and it proved to confiscate assets in the country based on sentences issued abroad. However, the country has not had any case to show the effectiveness in relation to the recovery of equivalent property and property outside its borders. Therefore, it shows a **Moderate level of effectiveness for Immediate Outcome 8**.

## CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### *Key Findings and Recommended Actions*

#### **Key Findings**

#### **Immediate Outcome 9**

- Terrorist financing is duly criminalised in the legislation of the Dominican Republic, in line with the international standard.

- The Dominican Republic has a Specialized Prosecutor's Office and a National Anti-Terrorist Office that, eventually, can adopt or order corresponding measures for its investigation and the prosecution of those responsible.
- The Dominican Republic has carried out several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing, which allows to conclude that the risk level is low.
- The awareness raising activities for RI in relation to TF suspicious transactions reports, especially those sectors recently incorporated to the legislation, shows room for improvement.

#### ***Immediate Outcome 10***

- The Dominican Republic has mechanisms in place for the dissemination of the updates of the lists issued by the UNSC. Regulation 407-17 sets forth all the provisions related to the enforcement of measures on preventive freezing of property or assets related to terrorism and its financing.
- No matches were found in the RI's databases with the names of designated persons in the UNSCR lists. The Dominican Republic does not report the existence of co-operation requests based on the UNSCR 1373 (2001) regime either.
- Considering the absence of cases of terrorism or TF activities in the country, domestic designations were not made based on the regime of Resolution 1373 (2001.)
- Important inter-agency co-operation links have been established between the entities related to the NPOs authorisation and supervision process.
- The Dominican Republic has a specific study on the NPO sector's risks. Said study was not developed with the aim of identifying potential higher-risk sub-sectors, but it contains a global analysis that verified the legal and institutional frameworks of the control and monitoring systems, in addition to the general features of the sector.
- Supervisors have put mechanisms in place to disseminate the updates to the UNSCR lists, and they instructed RI to check them as part of their CDD process.
- RI, especially from the financial sector, are aware of this obligation and it was verified that they regularly check the lists sent by the MIREX. In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

#### ***Immediate Outcome 11***

- The country has regulations in place to adopt property and asset freezing measures. Likewise, the implementation of measures by intelligence and prosecution agencies to prevent and detect cases related to FPWMD was confirmed.
- RI, especially from the financial sector, are aware of the obligation and it was verified that they regularly check the lists sent by the MIREX.
- Supervisors have put mechanisms in place to disseminate the updates to the UNSCR lists, and they instructed RI to check them as part of their CDD process.
- RI, especially from the financial sector, are aware of this obligation and it was verified that they regularly check the lists sent by the MIREX. In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

#### ***Recommended Actions***

#### ***Immediate Outcome 9***

- Perform studies of all sectors vulnerable to TF misuse, in order to identify vulnerabilities and have a broader understanding of the TF risks.
- Enlarge the training process to auxiliary investigation authorities and agencies to allow them to be up-to-date in relation to trends, typologies, modus operandi, to adjust their investigation techniques.
- It is necessary to raise awareness among RI, especially those sectors recently incorporated to the legislation, through regular training and/or workshops so that if they detect this type of activity, they report it properly, providing data that would allow to conduct corresponding investigations.

#### ***Immediate Outcome 10***

- Improve the dissemination of UNSCR lists, ensuring that the universe of DNFBPs and non-financial RI receive and properly verify the lists.
- Perform a deeper study on NPOs for the purpose of identifying sub-groups of organisations that have a higher risk of TF misuse.
- Deepen the training to NPOs in order to raise higher awareness of the TF problem and its impact.
- Continue with the training process of DNFBPs, considering that most of them have been recently incorporated to the system and still need to make a habit of regularly checking the UNSCR lists.

#### ***Immediate Outcome 11***

- Continue with the communication to DNFBPs and non-financial RI on the importance and danger inherent to FPWMD.
- Create awareness and training mechanisms for reporting institutions to check the lists regularly.

288. *The relevant Immediate Outcomes considered and assessed in this chapter are IO9 to 11. The recommendations relevant for the assessment of effectiveness under this section are R5 to 8.*

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

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

289. The NRA of the Dominican Republic sets forth that TF and its related activities show a low risk; to date no cases have been registered for such offence, and related typologies were not detected; however, if a case of TF arose, the Dominican Republic has legislation that criminalises such actions, as well as a procedure to be followed for the application of sanctions (Law 155-17.) Moreover, it has specialised investigation and prosecution bodies that, based on the legislation, can impose effective and dissuasive sanctions.

290. In an effort to fight against this crime, the Specialised Anti-Money Laundering and Counter-Terrorist Financing Prosecutor's Office was created, as well as the Anti-Terrorist National Unit J2, in charge of investigating cases related to TF. In this line, with the aim of strengthening TF investigations, the UAF defined the profile of the TF Analysis, for which purpose one person with the specific profile was appointed in order to have trained personnel capable of investigating TF.

291. The DNA has an organised structure that would allow it to, if the case arose, adopt immediate actions for its fight, with different ongoing monitoring departments. Likewise, a strong inter-agency task force has been created comprised by experts from different areas (specially intelligence) of all competent authorities of the country, which are under continuous training. This task force relies on a TF specialist from the UAF, who reviews the outcomes of the monitoring performed on a weekly basis.

292. TF investigation and prosecution authorities know and understand the risks of TF, reason why, as previously mentioned, they have created specialised and intelligence agencies in order to effectively address the red flags that could be triggered on such matter.

*TF identification and investigation*

293. The Dominican Republic has a legal and institutional framework in place for the prevention, investigation and conviction of TF crimes. The country has developed mechanisms to investigate and prosecute TF actions and to share information between competent authorities at both the national and international levels.

294. As it was previously mentioned, to date no investigations or cases related to terrorism and its financing have been developed; however, among the measures to prevent and detect activities tending to, or involving the TF crime, it has implemented the regulations that include a series of preventive and sanctioning measures. The UAF amended the STR form by adding instruction for filling it out, whereby RI are instructed in relation to how to indicate TF crimes, among others, which allows the unit to perform the analysis of the information reported.

295. The UAF received three STRs that indicated that the persons reported showed coincidences with individuals with some sort of connection with TF. The UAF collected information and performed the corresponding analysis, while it notified the National Anti-Terrorist Office to perform a joint investigation. The investigative process determined that it was a TF false positive case. However, it is to be highlighted that the joint working table system between the Public Prosecutor's Office, the National Intelligence Office and the Financial Analysis Unit to conduct the specific investigation procedures that, in the end, did not consider it as a TF case was triggered.

296. The Dominican Republic has the special investigation and trial bodies for the TF crime, and its legislation provides for the possibility of applying a series of special investigation methods that allow to assist in the development of the investigation process if it was necessary. Likewise, the country has a procedure for the distribution of United Nations Security Council Sanction Committees to competent authorities through MIREX and subsequently to RI through the UAF. None of the reporting institutions has reported identifying TF-related transactions. It can be highlighted that most RI conduct regular checks and cross-checking of data of their customers with United Nations lists, lists of non-cooperative countries of the FATF and OFAC lists.

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

297. The intelligence agencies of the Dominican Republic security perform a regular monitoring of elements that triggered a red flag on TF matters, and have permanent personnel for this kind of monitoring, through the Inter-Agency Task Force.

298. Based on the information mentioned in Chapter 2, the Dominican Republic has elaborated several studies relating to TF, one of which was confidentially made available to the assessment team, with an analysis of the different aspects related to the degree of threat and vulnerability of the country in relation to terrorism and its financing, where it can be concluded that the risk level is low. Some initiatives by the Dominican Republic should be highlighted, such as the monitoring measures in place by the UAF and the National Anti-Terrorist Office, whereby risk elements linked to terrorism and their financing are taken into account, even with the performance of specific sectoral studies in specific geographic areas and activities.

299. Moreover, the existence of one document with a specific detailed analysis of TF on the following sectors is determined: NPOs, remittances (including an analysis of types, values, and countries), money

orders, legal arrangements, and imports and exports sector. Institutions responsible for handling potential TF activities have risk alerts, with the incorporation of elements relating to TF high-risk jurisdictions with ongoing monitoring.

*Effectiveness, proportionality and dissuasiveness of sanctions*

300. As at the date of the on-site visit, the Dominican Republic has not had any TF case. However, the country has the legal basis in place for its suppression, as well as to impose administrative sanctions. Law 155-17, Article 5 sets forth an imprisonment penalty of 20 to 40 years. The penalty established is proportionate in relation to other more serious crimes in the Dominican Republic (for example, homicide, in abstract terms, has a penalty of 30 years.) In the event a case were prosecuted, the country has legislation in place to sanction any of the forms of participation in TF, as well as sanctions for natural and legal persons.

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

301. The country has specialised units in charge of the prevention and investigation of terrorism and TF, it has the regulations that empower it to seize or freeze assets or proceeds of crime.

302. The Dominican Republic has a process for the independent designation in the domestic list based on the UNSC decisions or upon request of third countries, as well as provisions to avoid access to funds aimed at terrorist actions. However, to date no individual was included in the domestic lists by virtue of the absence of terrorism or TF detection in the Dominican territory.

303. Based on the analysis performed, the Dominican Republic shows a **Substantial level of effectiveness for Immediate Outcome 9.**

*Immediate Outcome 10 (TF preventive measures and financial sanctions)*

*Implementation of targeted financial sanctions for TF without delay*

304. The Dominican Republic has developed mechanisms for the implementation of measures addressed at verifying the lists issued by the UNSC. Once the UNSC updates the lists of its Resolutions, the permanent mission of the Dominican Republic in the United Nations, through the Department of Security and Defence of the Ministry of Foreign Affairs directly and immediately disseminates electronically such updates to competent authorities, which in turn communicate them to their reporting institutions. Moreover, the lists are published in the websites of the different authorities. The MIREX has implemented an electronic platform to improve the time of dissemination of the updates to supervisors. Through this platform, updates are received and disseminated without delay.

305. If a match is found, the RI should preventively freeze without delay the property or assets of the person included in the list. Article 87 of Law 155-17 indicates that failure to comply with the preventive freezing regime by a reporting institution shall be considered a serious administrative breach. It is important to point out that the CONCLAFIT drafted a handbook that includes a detail of all processes for the implementation of UNSC Resolutions, in which drafting participated all competent authorities under the leadership of the UAF.

306. Reporting institutions in the Dominican Republic should notify in a matter of hours of any match found in the updates of the UNSC lists. Failure to freeze is sanctioned with a penalty for serious breaches.

307. At the time of the on-site visit, no matches had been found in relation to the persons listed in the activities of financial institutions or DNFBPs so as to verify the operation of the freezing mechanism. No sanctions were applied for non-compliance with the duty to check the lists by supervisors.

308. Regulation 407-17 of November 16, 2017 sets forth the provisions related to the application of measures on preventive freezing of property or assets related to terrorism and its financing. Moreover, the same regulation provides for the mechanism to co-operate with other countries in freezing measures of property or assets, under the regime of Resolution 1373 (2001).

309. The Dominican Republic does not report having received freezing requests in relation to property or assets resulting from the obligations set forth in the regime of Resolution 1373 (2001.) Likewise, considering the absence of cases of terrorism or terrorist financing activities in the country, domestic designations were not made based on the regime of Resolution 1373 (2001).

310. As it could be verified in the on-site visit, RI, especially from the financial sector, are aware of this obligation and it was verified that they regularly check the lists received. In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

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

311. The Dominican Republic has Law 122-05 and its regulation through Decree 40-08 that provides for the legal framework on promotion, regularisation and control of NPOs. There is an entity made up by representatives from public organisations, the National Centre for the Advocacy and Promotion of Non-Profit Organisations (Advocacy Centre.) This organisation aims at implementing public policies of national development in relation to NPOs. This body should regularly monitor public benefit NPOs and their activities.

312. To perform its monitoring function, the National Centre for the Advocacy and Promotion of NPOs works together with other NPOs supervisory entities, such as the DGII. The PGR registers and grants legal personality to organisations and sanctions, suspends, or cancels their legal personality, or dissolves them. Both the Advocacy Centre and the DGII supervise and monitor the activities of NPOs. In relation to the DGII, NPOs know their tax obligations, request exemptions and amendments to the RNC. The DGII notifies the PGR when NPOs show delays in the annual submission of their affidavits for the purposes of conducting an investigation and adopting corresponding measures. Additionally, NPOs are subject to formal duties in relation to the DGII, reason why they should submit tax returns, notify changes made and keep their information updated.

313. The Advocacy Centre regularly monitors NPOs, which should quarterly comply with their accountability duty. When such a report is not received, they receive a warning and, if not corrected, the temporary suspension of funds allocated to NPOs is requested until compliance with their obligation to report on their activities is proven.

314. If NPOs change their domicile and do not report such change, or if it is an unknown domicile, the reception of their funds can also be temporarily suspended. This temporary suspension measure in relation to the delivery of funds can be executed through a system called SIGASFL, which sends alerts to NPOs that fail to comply with the submission of required information.

315. Based on the information provided by the Dominican Republic, in 2016 88 NPOs were sanctioned with the suspension of budget allocation for failing to submit their accountability in relation to the use of public funds allocated by the State. So far, the year 2017, as a result of the visits made by personnel of the

Advocacy Centre to the domiciles registered by NPOs, 77 were not found, reason why they were sanctioned with the temporary suspension of the funds allocated by the State.

316. As it was mentioned in Chapter 2, the Dominican Republic has a specific study of the risk of the NPOs sector. The main purpose of this paper was to perform an assessment of the terrorist financing risks of the sector of NPOs, in an attempt to characterise the sector in the Dominican Republic so as to objectively identify the possible weaknesses on terrorist financing matters.

317. The paper also sets forth that pertinent authorities perform a co-ordinated work in relation to the registration, monitoring, training, and support to NPOs during their institutional existence. The authority has reached out to them, both in meetings and joint training cycles, where not only the relevance of complying with the provisions of the law, but also the risks of TF were explained.

318. Despite this important initiative, it should be highlighted that the paper was not developed to identify potential higher-risk sub-sectors, but it provides a global analysis that verified the legal and institutional frameworks of the control and monitoring systems, in addition to the general features of the sector in the Dominican Republic.

319. The Advocacy Centre is the institution responsible for mitigating the risk through on-site inspections to organisations, updating of documents and domiciles of each organisation, with the purpose of clearly identifying the identity of its directors and beneficial ownership, and accountability regulations.

320. Important inter-agency co-operation links have been established between the entities related to the NPOs authorisation and supervision process. These are the PGR, the DGII, the Treasury Ministry and the National Centre for the Advocacy and Promotion of NPOs. There is an agreement between the UAF and the Advocacy Centre for the exchange of information.

321. The Executive Summary of the NRA has been disseminated to NPOs through the web page of the Advocacy Centre.

322. The NRA has rated the risk of TF as low. Moreover, the Dominican Republic has not registered cases of investigations relating to NPOs with TF purposes. Notwithstanding the aforesaid, the MP has a Specialised Anti-Money Laundering and Counter-Terrorist Financing Prosecutor's Office to follow-up, investigate and prosecute cases that could be detected. Based on the information provided by the country, as at the date of the on-site visit, no deviation of funds of NPOs related to TF were detected.

323. The Dominican Republic has shown to have control and monitoring mechanisms in place, both applied by competent authorities and NPOs. However, it still needs to identify the sub-group of organisations with a higher risk of TF misuse for the purpose of addressing the sub-group vulnerabilities and applying enhanced or simplified measures based on their risk profile. The Dominican Republic conducted an extensive training session for NPOs in order to reinforce the content of typologies and new techniques to know the donor, so that NPOs may understand fully their TF risks.

324. Before granting funds to NPOs by the State, their members are duly investigated by the PGR. Through accountability, the use of resources granted by the State for the previously agreed purposes is verified. The address and activities of these organisations and the corresponding links with programmes and projects financed by the State are verified.

325. Moreover, there are institutions that supervise NPOs and elaborate policies tending to provide training to these organizations for the prevention of crimes and the correct enforcement of regulations on the matter. NPOs have been trained through workshops held by the UAF and other related authorities. These



trainings were developed at the national level, with the presence of an expert on TF matters, and they reached more than 800 NPOs.

326. The UAF has access to the DGII database, where all NPOs are registered.

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

327. In accordance with the description in the TC Annex, the country has regulations that allow to adopt property and assets freezing measures and RI, especially from the financial sector, are aware of this obligation and it was verified that they regularly check the lists sent by the MIREX. In relation to DNFBBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully and effectively implemented.

328. Considering the absence of cases of terrorism or TF activities in the country, domestic designations were not made based on the regime of Resolution 1373 (2001.) No matches were found in the RI's databases with the names of designated persons in the UNSCR lists. The Dominican Republic does not report the existence of active or passive co-operation requests based on the regime established under Resolution 1373 (2001) either.

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

329. As it was previously mentioned, the TF risk level identified in the ML/TF NRA of the Dominican Republic based on the different elements submitted is low. The country has understood the importance of monitoring the funds allocated to NPOs to avoid their misuse for TF purposes. Through concrete regulations, NPOs are supervised and are timely sanctioned to achieve this purpose.

330. A study of NPOs is necessary, with the aim of identifying more vulnerable sub-sectors in order to focus measures exclusively to a relatively higher-risk sub-group.

#### *Conclusions on Immediate Outcome 10*

331. The Dominican Republic has dissemination mechanisms in place for updates of lists issued by the UNSC. No matches were found in the RI's databases with the names of individuals designated by the UNSC. The Dominican Republic does not report the existence of co-operation requests based on the UNSCR 1373 (2001) regime either. Likewise, considering the absence of cases of terrorism or terrorist financing activities in the country, domestic designations were not made based on the regime of Resolution 1373 (2001.) RI, especially from the financial sector, are aware of the obligation and it was verified that they regularly check the lists sent by the MIREX. In relation to DNFBBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

332. The Dominican Republic has a legislation for the regulation and promotion of NPOs to mitigate the misuse of these organisations.

333. Important links of inter-agency co-operation among the entities related with the NPOs authorisation and supervision process were established. The Dominican Republic has a specific study on the NPO sector's risks. Said study was not developed with the aim of identifying potential higher-risk sub-sectors, but it contains a global analysis that verified the legal and institutional frameworks of the control and monitoring systems, in addition to the general features of the sector in the Dominican Republic.

334. Based on the analysis performed, the Dominican Republic shows a **Moderate level of effectiveness for Immediate Outcome 10**

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

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

335. In the context of this Immediate Outcome, once the UNSC issues an update of Resolutions related to proliferation 1718(2006), 1737(2006), 1747(2007), 1803(2008), 1929(2010), the Permanent Mission of MIREX before United Nations directly and immediately disseminates it electronically to competent authorities, which disseminate the information to reporting institutions. Updates are published in the Ministry's web page.

336. If a match is found, the RI should preventively freeze without delay property or assets of the designated individual. During the visit it could be confirmed that RI are aware of this obligation. In the on-site visit to the Dominican Republic, different reporting institutions indicated that, in spite of updates and checks to the UNSC lists, no property or assets have been detected in relation to persons included in these lists.

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

337. Law 155-17 sets forth the preventive freezing of assets by virtue of UNSCRs. Regulation 407-17 of November 16, 2017 sets forth the provisions related to the application of measures on preventive freezing of property or assets related to TF and FPWMD.

338. Reporting institutions interviewed confirmed that they receive the lists of designated entities and individuals for the activities of proliferation by electronic means from the UAF, and that they check them online to verify that there are no matches with their customers base. No matches were found in the RI's databases with the names of individuals designated by the UNSC.

#### *FIs and DNFBPs' understanding of and compliance with obligations*

339. The country has adopted measures for RI to comply with their obligation to check and answer the information included in UNSC Resolutions. For this purpose, awareness raising activities in relation to the AML/CFT regulations are conducted to increase and homogenise the level of understanding of RI, which mainly know the obligation but which understanding is unequal between financial and non-financial sectors.

340. The work with non-financial RI should be further developed in order that they understand the magnitude of the problem and feel willing to organise due diligence measures to help mitigate these types of crimes.

341. Training and awareness raising sessions should address the problem of proliferation of weapons of mass destruction and not just ML/TF.

#### *Competent authorities ensuring and monitoring compliance*

342. Supervisors of financial and non-financial RI have put mechanisms in place to disseminate the updates to the UNSCR lists, and they instructed RI to check them as part of their CDD process. The SIB and the SIV electronically send the list of persons and countries included in the UNSCRs, as well as the updates to such lists, while RI should notify in relation to any match. The country has regulation that allows to adopt freezing measures related to property and assets and RI, especially from the financial sector, are aware of the obligation and it was verified that they regularly check the lists sent by the MIREX. In relation to DNFBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

343. In the inspection processed made by supervisors, the need to verify that reporting institutions check UNSCRs lists is established. Non-compliance with this measure implies a serious breach.

344. Decree 407-17 sets forth that sectoral authorities, in the framework of their competences, shall perform the monitoring, supervision and surveillance of compliance with this resolution by RI, and it points out that, in the event of non-compliance with the provisions set forth herein, supervisors shall apply sanctions defined by Law 155-17 in the framework of their competences. To the date of the on-site visit, no sanctions had been imposed to RI for non-compliance with preventive measures related to UNSC resolutions.

345. In the on-site visit to the Dominican Republic, different reporting institutions and competent authorities indicated that, in spite of updates and checks to the UNSC lists, no property or assets have been detected in relation to persons included in these lists, nor any case related to the proliferation of weapons of mass destruction.

346. Notwithstanding the aforesaid, Dominican authorities were reported on a case resulting from intelligence information which referred to the arrival to Dominican coasts of material presumably related to weapons of mass destruction. Upon verifying the source of the information, it was concluded that it was a false positive. Even if that was the case, a series of actions were triggered that allow to conclude that the corresponding mechanism can be activated in the event of a positive case. The Dominican Republic has entered into co-operation agreements with the United States for the monitoring of radioactive products in the main ports of the country.

#### *Conclusions on Immediate Outcome 11*

347. Through Law 155-17, the preventive freezing of property is established by virtue of UNSCRs, which also applies to those relating to FPWMD. Financial supervisors monitor compliance with the obligation to check UNSCRs lists during the on-site visits to RI. Non-compliance with these measures implies serious breaches; however, at the time of the on-site visit, no sanctions had been applied on the matter because no non-compliances had been detected.

348. Training sessions and awareness raising should be organised in relation to the FPWMD and not just ML/TF.

349. In the Dominican Republic no case related to FPWMD was detected nor matches in the databases of RI with the name of persons included in the UNSC lists. The country has the regulations in place that enable to adopt property and asset freezing measures. Likewise, the implementation of measures by intelligence and prosecution agencies to prevent and detect cases related to FPWMD was verified. RI, especially from the financial sector, are aware of the obligation and it was verified that the regularly check the lists sent by the MIREX. In relation to DNFBBPs, considering that regulations are recent for most of them, it could not be verified that the periodic verification is fully implemented.

350. Based on the analysis performed, the Dominican Republic shows a **Moderate level of effectiveness for Immediate Outcome 11.**

## CHAPTER 5. PREVENTIVE MEASURES

### *Key Findings and Recommended Actions*

#### *Key Findings*

- Overall, financial institutions have experience in relation to the implementation of preventative measures.
- As regards banking and securities financial institutions, overall, there is a good level of understanding of the AML/CFT risks and obligations.
- The cooperatives sector is at the preliminary stage of understanding and implementation of measures.
- DNFBPs were recently incorporated to Law 155-17 as reporting institutions. Most sectoral regulations that govern AML/CFT measures were published some days before the completion of the on-site visit, reason why they are at a preliminary stage of implementation.
- Regarding the DNFBPs, the assessment team verified that the different sectors started to implement the preventative measures, but due to the short time since the publication of the secondary regulations (the legislation and secondary regulations were approved prior to the completion of the on-site visit), it was not possible to assess the level of the effectiveness of such measures.
- With the exception of the casinos sector, DNFBPs do not seem to have an appropriate level of understanding in relation to the scope of AML/CFT preventative measures and corresponding risks.
- The number of STRs sent by the DNFBPs is limited. Some sectors of DNFBPs have just initiated the process of submitting STRs to the UAF..

#### ***Recommended Actions***

- Strengthen the implementation process of ancillary regulations applicable to cooperatives and DNFBPs.
- Adopt awareness and outreach measures towards cooperatives and DNFBPs to strengthen their understanding of the scope of AML/CFT regulations and the ML/TF risks the sectors are exposed to.
- Develop actions aimed at strengthening the application of mitigating measures by cooperatives and DNFBPs.
- Carry out actions to improve the quality and submission of STRs by DNFBPs.
- Provide financial reporting institutions and DNFBPs with the different lists of non-cooperative countries and territories or with high levels of ML/TF.

351. *The relevant Immediate Outcome considered and assessed in this chapter is IO4. The recommendations relevant for the assessment of effectiveness under this section are R9-23.*

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

352. The financial sector of the Dominican Republic has 124 banking entities, among them 60 financial intermediation entities (includes multiple banks, savings and loans associations, savings and loans banks, financial intermediation public entities, loan corporations.) Moreover, there are 47 foreign exchange and remittance agents and 17 trust companies. Within the sector, 85.5% accounts for multiple banks, the institutions with the soundest internal AML/CFT policies, procedures and controls. Savings associations account for 10.4% of the sector, therefore, more than 96% of the sector is of banking nature and is subject to SIB's control and supervision.

353. The securities market is made up by 20 seats on the stock exchange, 10 fund administrator partnerships, 5 trust companies, 1 securitization company and 1 centralised deposit. It is important to highlight that, in the securities market, the large majority of transactions are made by institutional customers, and most of the transactions are related to public debt bonds or titles.

354. The insurance sector has 30 insurance companies, 2 reinsurance companies, and 845 insurance brokers, 489 of which are natural persons and 347 legal persons. The impact of the insurance sector in the financial sector is of approximately 1%.

355. The cooperatives sector, for the purpose of this section, is made up by 156 savings and loan cooperatives, 237 multiple services, and 260 savings, credits and multiple services cooperatives. The universe is of a total 653 cooperatives which fall under the definition of financial entity.

356. To September 2017, the number of assets of the banking sector amounted to 42.5% of the GDP. This figure allows to appreciate the important dimension and relative importance of the sector as compared with the DNFBPs.

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

### **A. FINANCIAL SECTOR**

357. Law 155-17 is an important element for the prevention of ML/TF that introduced clear guidelines on ML/TF risk assessment matters, and detailed obligations on preventive matters. The publication of the NRA's outcomes, together with the enactment of Law 155-17 and awareness raising activities carried out by competent authorities, reinforced the understanding level of reporting institutions in relation to ML/TF risks and obligations.

358. The degree of knowledge on ML/TF risks and AML/CFT obligations varies considerably based on the sector in question. While financial institutions subject to the supervision of the SIB, SIV and SIS have more experience on AML/CFT risks identification and compliance, institutions under the scope of IDECOOP are in a preliminary AML/CFT risks and compliance understanding process. This is mainly due to the fact that these have been incorporated recently to the AML/CFT regime.

359. It should be noted that all financial supervisors have provided training to their institutions. On this regard, statistics are shown below.

**Table 25. AML/CFT training to reporting institutions supervised by the SIB (2013-2017)**

AREA	YEAR	TYPE OF ENTITY		
		Multiple Banks		
Training on ML preventive measures	2013	Foreign Account Tax Compliance Act (FATCA).	-	-
	2014	Challenges and opportunities in the adoption of IGA 1 <sup>a</sup> for the Dominican Republic.	-	Foundation, objectives and mechanisms Used for Supervision - BC- CEMLA.
	2015	-	Money laundering and financial crimes prevention.	- Techniques for the prevention and investigation of money laundering risks and the increasing corruption events in the digital age - Money laundering prevention and compliance.
	2016	General guidelines for the prevention of money laundering and terrorist financing	-	Prevention of money laundering and terrorist financing.
	2017	-	Council of Directors: New challenges and responsibilities before money laundering and terrorist financing	- Impact of the new Law 155-17 (235 attendants.) Second Comprehensive Congress of Comprehensive Risk Management of the Banking Sector of the Dominican Republic (293 attendants.)
Training	2013	-	-	-
	2014	-	-	-
	2015	-	-	-

on TF preventive measures	2016	-	-	Compliance programme on the prevention of money laundering and terrorist financing.
	2017	-	-	

Source. Information from the SIB

**Table 26. AML/CFT training to reporting institutions supervised by the SIV (2013-2017)**

AREA	YEAR	TYPE OF ENTITY									
		Seats on the stock exchange	Investment Fund Managers			Seats on the stock exchange	Investment Fund Managers			Seats on the stock exchange	Investment Fund Managers
Training on ML preventive measures	2013	90	8	4	4	N/A	0	N/A	0	0	106
	2014	35	8	2	10	N/A	0	N/A	0	0	55
	2015	83	24	3	6	2	4	5	0	0	127
	2016	55	20	40	27	0	9	8	0	0	159
	2017	25	12	0	0	4	0	30	0	0	71
<b>TOTAL</b>		<b>288</b>	<b>72</b>	<b>49</b>	<b>47</b>	<b>6</b>	<b>13</b>	<b>43</b>	<b>0</b>	<b>0</b>	<b>518</b>
Training on TF preventive measures	2013	65	2	4	4	N/A	0	N/A	0	0	75
	2014	32	8	2	10	N/A	0	N/A	0	0	52
	2015	45	12	2	2	1	4	3	0	0	69
	2016	55	20	40	27	0	9	8	0	0	159
	2017	25	12	0	0	4	0	30	0	0	71
<b>TOTAL</b>		<b>222</b>	<b>54</b>	<b>48</b>	<b>43</b>	<b>5</b>	<b>13</b>	<b>41</b>	<b>0</b>	<b>0</b>	<b>426</b>
Training on financial sanctions based on UNSCR	2013	0	0	0	0	N/A	0	N/A	0	0	0
	2014	0	1	0	0	N/A	0	N/A	0	0	1
	2015	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0
	2017	0	0	0	0	1	0	65	0	0	66
<b>TOTAL</b>		<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>65</b>	<b>0</b>	<b>0</b>	<b>67</b>

Source. Elaborated based on information provided by the SIV

**Table 27. Collaborators trained by type of reporting institution supervised by the SIV (2017)**

Type of Entity	2017			
	Number of collaborators trained on Financial Crimes		Number of collaborators trained on Financial Crimes	
Seats on the stock exchange	0	0	0	0
Investment Fund Managers	0	0	0	0
Securities Centralised Deposit	0	0	0	0
Stock exchange	0	0	0	0
Securitization companies	0	0	0	0
Commodities Exchange	0	0	0	0
Trust companies	65	54	69	0
Financial Regulation Entities	0	0	0	7
International Regulators	0	0	0	9
<b>Total</b>	<b>65</b>	<b>54</b>	<b>69</b>	<b>16</b>

Source. Information provided by the PGR

360. In relation to the other supervisors, training processes were focused on the socialisation of recent regulations and on the understanding of reporting institutions liabilities on ML/TF matters and, additionally, on the national risks and strategies to face such risks.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

361. Article 33 of Law 155-17 lists non-financial reporting institutions that include casinos, factoring companies, real estate sector, jewellery sector, lawyers, notaries and accountants, dealers in automobiles, and pawn houses. Even if several sectors were included in Law 72-02, said law listed AML/CFT obligations in a general manner and, except for the casinos sector, were not operative until the enactment of Law 155-17. In this sense, the efforts made by the UAF and the supervisors are highlighted in relation to the awareness raising of sectors recently incorporated to Law 155-17. Thus, training sessions and working meetings have been conducted in relation to the application of basic due diligence measures and of the risk-based approach.

362. In relation to risks understanding, all categories of DNFBPs have the legal obligation of having a risk-based compliance programme in place that includes, among other elements, policies and procedures to evaluate the ML/TF risks. Moreover, sectoral regulations published during the on-site visit, include said obligations. Notwithstanding the fact that there is the regulatory obligation to perform risk assessments, given the recent inclusion in the law, there are no proofs of their effective performance, nor about an adequate understanding of the ML/TF risks by DNFBPs.

363. From the interviews held during the on-site visit, it could be concluded that there are basic and generic knowledge about, for instance, the four basic risk factors: Customer, product, geographic location and distribution channels; but the identification and understanding of the unique risks of the business of each of the sectors mentioned was not confirmed. It should be highlighted that the UAF and the regulators have conducted several training and awareness raising activities with reporting institutions in relation to national risks and new sectoral regulations. Moreover, given that supervision is also at a preliminary stage, no representative statistics have been provided in relation to the compliance level with these obligations in the different sectors.

364. Based on information provided during the on-site visit by the UAF, there are 14 199 non-financial reporting institutions, in relation to which there were no statistics on the universe effectively registered with the UAF. However, at the time of the on-site visit, the difficulty to determine accurately the universe of reporting institutions was identified, especially in relation to mix-nature professionals (for instance, lawyers and accountants.) In relation to Casinos, there are 52 casinos in the country, 90% of which is registered with the UAF, according to the information provided.

365. Moreover, of the total number of STRs received by the UAF since 2013, only 2.3% were filed by DNFBPs, which allows to conclude that there is no adequate level of understanding of the risks, and therefore, a low level of issuance of reports.

### *Application of risk mitigating measures*

## **A. FINANCIAL SECTOR**

366. RI have adopted and executed risk-based compliance programmes. These programmes have been adapted to each organisation, structure, resources and complexity of operations performed. Moreover, RI have implemented methodologies that allow them to timely identify, measure, control, mitigate and monitor potential ML/TF risk events.

367. The following risk factors or variables have been incorporated to the methodologies: Customers, products and/or services, geographical areas and distribution channels. The banking and securities sectors

have more experience in the follow-up and monitoring through the application of risk matrices. Additionally, RI apply mitigating measures for higher-risk cases, as in the case of customers who have been identified as bearing a higher risk, upon whom EDD is applied.

368. All RI have implemented ML/TF risk matrices. Notwithstanding the aforesaid, in the case of the cooperatives sector, it is noticed that the implementation of these matrices is recent, reason why it should continue to strengthen the sector's understanding of risk in order to apply effective mitigating measures.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

369. As it was mentioned before, during the on-site visit sectoral regulations that establish mitigation measures for the real estate sector (General Regulation 03-18), lawyers, accountants and notaries (General Regulation 01-18), jewellery sector (General Regulation 04-18) and dealers in automobiles (General Regulation 02-18) were published. As mentioned in the previous section, even if interviews allowed us to observe an understanding of AML/CFT concepts and basic measures, given that it is a new regulation just established (published one day before the interviews), it cannot be determined with certainty that the sectors referred to are implementing the mitigating measures effectively.

370. Casinos have, through their sectoral regulation, the following obligations: Register with the UAF, appoint a compliance officer, hold a handbook of compliance, and independent review (if appropriate due to the size of the business), training of personnel, know your customer policies and record keeping, file suspicious transactions reports to the UAF and cash transaction reports. In relation to the implementation of the measures listed, through the Casinos and Gambling Department, it could be verified that 92% of the casinos registered have a compliance officer and handbook of procedures. Without prejudice to the above, due to the recent implementation of the legislation and secondary regulations, it was not possible for the assessment team to verify the effective implementation of the other AML/CFT obligations contained in the sectoral regulation.

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

## **A. FINANCIAL SECTOR**

371. Law 155-17, Article 38 provides for the duty of RI of carrying out CDD on their existing and potential customers. Article 39 of Law 155-17 sets forth that RI must conduct ongoing CDD measures. Article 40 of Law 155-17 provides for CDD measures for legal persons. Article 62, moreover, prohibits RI to initiate or keep a business or professional relationship when it was not possible to identify and verify the identity of the customer. Same prohibition applies to the performance of any transaction.

372. In the case of financial institutions, particularly those supervised by the SIB, the SIV, and the SIS, the assessment team could verify that reporting institutions know their obligations and have experience in the application of enhanced CDD. Likewise, it was verified that reporting institutions keep records based on the requirements of the legislation. In the case of the cooperatives sector, the implementation of these measures is still under development.

373. Moreover, the entities of the financial sector interviewed during the on-site visit showed evidence on the application of CDD, as well as in relation to the denial of business activities and initiation of relationships in the events where CDD cannot be completed.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**



374. Both casinos as other DNFBPs have the legal and regulatory obligation to apply due diligence measures to their customers. During the on-site visit, DNFBPs showed that they understand the basic concepts in relation to their obligations recently published. Most sectors indicated that they performed the identification and monitoring of their customers pursuant to their obligations, and that they kept supporting documents as required by the regulation. The assessment team verified that the different sectors started to implement the preventive measures, but due to the short time since the publication of the secondary regulations (the legislation and secondary regulations were approved prior to the completion of the on-site visit), it was not possible to assess the level of the effectiveness of such measures.

375. In relation to casinos, when the customers are also guests, the information is requested to the hotel, if necessary. When customers are not guests of hotels and wish to cash chips out, the customer is only identified when it exceeds the USD 3 000 threshold. In no case is cash out over the threshold permitted without identification. However, even if CDD measures are adopted, mitigating measures to avoid smurfing transactions were detected. These were the CDD procedures described by the casinos, by virtue of the recent regulation applicable to the sector; however, there is no evidence to prove the effective application of such procedures.

#### *Application of EDD measures*

### **A. FINANCIAL SECTOR**

376. Article 42 of Law 155-17 introduces enhanced due diligence for cases where higher ML/TF risks were identified. Article 46 sets forth that RI must consider transactions or operations that involve jurisdictions defined by the FATF as high-risk factors, reason why EDD measures are applicable.

377. As well as in the cases of specific or enhanced CDD, the update of AML/CFT obligations of Law 155-17 is at its preliminary stage. Now, in relation to entities subject to supervision by the SIB, SIV, and SIS, that were already subject to the different AML/CFT preventive obligations, the assessment team could verify that they know the regulatory framework and have experience in the matter of application of enhanced CDD.

378. In this sense, entities interviewed showed evidences on their risk matrices, procedures and internal control methods and enhanced CDD. Within the risk assessment evaluation factors for the application of CDD, the incorporation of criteria such as the condition of PEP, among other aspects, was verified. Moreover, a customer's PEP condition is verified directly through forms filled in by customers and through consultations made to the databases of reporting institutions or public databases.

379. In case of transactions with correspondent banks, the necessary specific measures are applied. Banks and remittance agents have mechanisms in place to know the originator and beneficiary of the electronic transfers. In relation to those conducted through the use of new technologies, these were not considered factors that result in the adoption of enhanced CDD measures other than specific due diligence measures.

### **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

380. During the on-site visit, both casinos and other DNFBPs stated that they apply enhanced CDD upon operating with high-risk customers, PEPs, or initiating business relationship with high-risk territories. Even if many reporting institutions interviewed said they have risk matrices to identify high-risk customers, very similar answers were obtained from all sectors, which allows concluding that, since they are at the first phase of implementation, DNFBPs are working on standardised risk matrices models. It is necessary that

DNFBPs work in the improvement of their risk matrices unique for each activity, in order to obtain a higher effectiveness in the identification of high-risk customers or transactions.

381. In relation to the identification of PEPs, the process is performed through direct consultation to the customer, who fills in the corresponding form. Moreover, the reporting institution checks its own lists built from official information on public appointments.

#### *Reporting obligations and tipping off*

### **A. FINANCIAL SECTOR**

382. The assessment team verified that financial institutions know about their reporting obligations towards the UAF, as well as on the prohibition of tipping-off. These aspects are detailed in their internal handbooks and their compliance is verified through internal and external audits.

383. The number of STRs reported to the UAF varies based on the sector. While the financial sector demonstrates a solid tradition of report filing, the cooperatives sector, that was recently incorporated to the AML/CFT system, shows a more limited number of reports. As it can be observed in the analysis of IO6, the institutions that file the higher number of reports to the UAF are foreign exchange and remittance agents, followed by multiple banks, savings and loans banks and savings and loans associations.

### **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

384. The law provides for the protection of the originators of the report and the prohibition to reveal said information. However, there are deficiencies in the regulation since it does not limit the exemption from liability to cases where reports were submitted in good faith.

385. DNFBPs have submitted 990 STRs from 2013 to 2017, which accounts for 2.3% of the total number of STRs received by the UAF. It should be mentioned that the figure provided by the UAF includes STRs issued by cooperatives, that should fall under the financial sector. In this sense, the total number of STRs (excluding cooperatives) is of 881, 850 of which belong to casinos, and only 30 to the real estate sector, buying and selling of vehicles and notaries.

386. In relation to the confidentiality of reports and the prohibition of tipping-off, all reporting institutions said they apply very rigid policies in relation to such obligations.

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

### **A. FINANCIAL SECTOR**

387. In general terms, financial institutions have compliance programmes that incorporate the risk-based approach. These entities have developed risk matrices and parameters that understand inherent risk factors based on the customer, product, geographic area and distribution channels.

388. Financial institutions interviewed during the on-site visit showed, moreover, internal control policies implemented, as well as their compliance handbooks, recruiting policies and personnel training and internal and external audits. Moreover, the assessment team had access to internal audit reports of different reporting institutions, verifying that institutions actually have internal control policies.

### **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

389. DNFBPs interviewed expressed that they implement internal controls pursuant to the regulation of each sector. Among the measures applied, the ongoing training programme for the employees, the establishment of codes of ethics, external audits, etc. can be mentioned. However, given that the regulation was published during the on-site visit and that supervisions are at an initial stage of development, the assessment team did not have sufficient reliable data to verify the compliance levels with these controls in relation to each sector.

*Conclusions on Immediate Outcome 4*

390. Overall, financial institutions have experience in relation to the implementation of preventative measures. In relation to banking and securities institutions, there is in general a good understanding level of risks and obligations on AML/CFT matters. Regarding the cooperatives sector, the implementation of these measures is at a preliminary stage of development.

391. DNFBPs have been recently incorporated to Law 155-17 as reporting institutions. Most sectoral regulations that govern AML/CFT measures were published prior to the completion of the on-site visit. The assessment team verified that the different sectors started to implement the preventive measures, but due to the short time since the publication of the secondary regulations (the legislation and secondary regulations were approved prior to the completion of the on-site visit), it was not possible to assess the level of the effectiveness of such measures. The number of STRs sent by the DNFBPs is limited. Some DNFBP sectors have just initiated the process for submitting STRs to the UAF.

392. It is important to mention that in terms of materiality, due to the size, integration and composition of the sector, the volume of transactions and the relative level of banking in the economy of the Dominican Republic, the impact of the financial sector in general in the AML/CFT preventive system is much more significant than the impact of DNFBPs. It should also be noted that the high-risk rating assigned to DNFBPs by the country in its NRA was based exclusively on the previous lack of supervision and regulation of the sectors (which were regulated prior to the completion of the on-site visit). To this is added the fact that, in practice, the country has had a few cases of abuse of DNFBPs.

393. Based on the analysis performed, the Dominican Republic **shows a Moderate level of effectiveness for Immediate Outcome 4.**

**CHAPTER 6. SUPERVISION**

*Key Findings and Recommended Actions*

**Key Findings**

- Financial sector supervisors have fit and proper tests and procedures that prevent financial institutions from being owned, controlled or managed by non-suitable persons or criminals.
- In the case of trusts, there are three control entities based on the activities undertaken. In this sense, supervisions are performed by each supervisor without a consolidated plan. Now, the control structure in relation to trusts, as well as the features of the legal framework in relation to how these are established and who can operate them, contribute to the mitigation of risks associated to their misuse.
- All supervisors have developed and applied training programmes on AML/CFT matters, especially as a result of the enactment of the law and subsequent sectoral regulations.
- Even when foreign exchange agents are RI and require authorisation to operate and are under the control of the SIB, there is an informal market for the exchange of currency where no supervisions or control measures are applied.
- The SIS has not supervised with a risk-based approach.

- The IDECOOP has not implemented yet the risk-based model.
- The enforcement of effective, proportionate and dissuasive sanctions by financial supervisors is limited. In particular, no AML/CFT sanctions were applied in the insurance and cooperatives sectors.
- In relation to non-financial supervisors, they are at an initial stage of study and understanding of risks of their regulated institutions, reason why an adequate understanding of risks cannot be proven yet.
- It cannot be specifically determined how well is supervision and sanctioning of DNFBP sectors performed.
- The effectiveness of supervision actions cannot be determined, nor their impact on the behaviour of RI, reason why DNFBPs supervisions performed to date were awareness raising visits that have just began to be implemented.
- There is a very low level of sanctions in relation to the universe of non-financial reporting institutions.

### ***Recommended Actions***

- Strengthen controls in relation to those who perform foreign exchange operations without the authorisation of the regulator.
- Strengthen SIS and IDECOOP understanding and identification of ML/TF risks.
- In relation to the SIS, implement the supervision policy with a risk-based approach.
- Further develop activities tending to the promotion of the understanding of AML/CFT obligations and ML/TF risks of the insurance and cooperatives sectors.
- Strengthen and implement the AML/CFT sanctioning regime of the insurance and cooperatives sectors.
- Strengthen the application of effective and dissuasive sanctions by the SIB.
- In relation to IDECOOP, continue to work in the implementation of the risk-based supervision system, and continue to monitor the progress made in the approach and correction of deficiencies and non-compliances of supervised institutions.
- In relation to no-financial supervisors, improve the level of understanding of the risks of reporting institutions under their scope.
- Implement risk-based supervisions in DNFBP sectors.
- Apply effective, proportionate and dissuasive sanctions to DNFBPs that fail to comply with their AML/CFT obligations.

394. *The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.*

### ***Immediate Outcome 3 (Supervision)***

395. The Dominican Republic has authorities in charge of AML/CFT supervision of different sectors of the national economy, such as the SIB, SIV, SIS, IDECOOP, Casinos and Gambling Department and DGII. All these agencies have specific AML/CFT units in charge of supervision and monitoring of compliance by reporting institutions under their competence.

396. In particular, for AML/CFT purposes, the following agencies are supervisors of reporting institutions:

- ✓ Para las entidades que ejercen intermediación financiera o cambiaria, la SIB.
- ✓ For financial or exchange intermediation, the SIB.
- ✓ In relation to persons authorised to directly operate in the securities market, the SIV.
- ✓ For the insurance sector, the SIS.
- ✓ In relation to cooperatives, they are under the scope of the IDECOOP.
- ✓ As regards the supervision of factoring companies, pawn houses, lawyers, accountants and notaries, and the real estate sector, the DGII

397. For the case of trusts, supervisors can be the SIB, SIB or DGII, based on the purpose and the constituent of each trust. It should be noted that, in the Dominican Republic, natural persons or individual professionals cannot act as fiduciaries. On this regard, only the following can act as such:

- ✓ Legal persons established with the exclusive purpose of operating as fiduciaries. These companies should be registered and report on the beginning of their operations to the DGII. The trust company of exclusive use, that does not belong to a financial group, is subject to the supervision of the DGII.
- ✓ Investment fund managers, solely in relation to investment funds under their management. These companies should be authorised by the SIV and are under its supervision.
- ✓ Securities intermediaries, only in relation to the portfolios they manage in the event that said portfolios are constituted as trusts. These companies should also be authorised by the SIV and are under its supervision.
- ✓ Multiple banks, savings and loans associations and other financial intermediation entities authorised for such purposes by the Monetary Board. These are under the supervision of the SIB.

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

## A. FINANCIAL SECTOR

398. Financial sector supervisors have fit and proper tests and procedures that prevent financial institutions from being owned, controlled or managed by non-suitable persons or criminals.

399. The SIB has adequate assessment procedures in relation to the integrity and background information of subjects that request a licence to operate. It should be noted that the SIB provided evidence on suitability assessment procedures. The corresponding statistics on the licencing requests, approvals and rejections are shown below.

**Table 28 – Licence requests approved and rejected by SIB.**

Tipo de entidad	Licencias o registros	2013	2014	2015	2016	2017	Total
Multiple Banks	Requested	1	1	1	0	0	3
	Approved	4	1	1	1	0	7
Savings and loans associations	Rejected	0	0	1	0	0	1
	Requested	0	1	0	0	0	1
	Approved	0	1	0	0	0	1
Savings and loans banks	Rejected	0	0	0	0	0	0
	Requested	0	2	0	0	1	3
	Approved	0	1	1	0	0	2
Trust companies	Rejected	0	0	1	0	0	1
	Requested	2	8	1	3	1	15
	Approved	1	8	1	3	0	13
Guarantee agents	Rejected	0	1	0	0	0	1
	Requested	0	1	1	1	0	3
	Approved	0	1	1	1	0	3
Foreign exchange agents	Rejected	0	0	0	0	0	0
	Requested	0	2	2	0	1	5
	Approved	0	0	0	0	0	0
	Rejected	0	0	0	1	1	2

Remittance and foreign exchange agents	In process	0	0	0	0	4	<b>4</b>
	Requested	0	1	1	0	0	<b>2</b>
	Approved	0	0	0	0	1	<b>1</b>

*Source: Information provided by the SIB.*

400. In the securities sector, natural or legal persons who wish to register to operate in the Securities Market, under any modality, need to undergo a suitability analysis, which main elements are described as follows: The person requests the registration to the SIV. Once received, the technical area in charge of registration performs an internal request to the Market Crime Prevention Area, with all the information to be reviewed, for the purpose of investigating both legal and natural persons that make such application. The aforementioned area performs an analysis of all the information and investigation, which includes criminal background and potential handicaps of interested persons, in addition to the beneficial ownership information. Subsequently, a report that includes a detail of documents analysed and corresponding findings is submitted. Based on this report, the Legal Service Department decides whether to grant the registration in the securities market.

401. Between January 2013 and February 2017, the SIV granted 138 registries (equivalent to licences.) Additionally, reporting institutions annually send a renewal of their affidavit whereby they declare absence of handicaps, which is subject to the process described above. In case of change of any shareholder or senior employee, a similar process should be conducted. It should be highlighted that the SIV provided evidence in relation to the controls applied in this sense.

402. The SIS has a handbook that defines licencing procedures, as well as the purpose and scope of the registration of insurance companies, reinsurance companies and insurance brokers. Moreover, it has flow diagrams on the licencing process, that include the analysis of the file by the ML/TF Department.

403. In relation to licences and authorisations to operate, the SIS reported that, for the period between January 2012 and December 31, 2017, 3 authorisations were granted to insurance companies, and 338 licences were granted to insurance brokers, 91 of which correspond to legal persons and 247 to natural persons. In addition, during the same period, the SIS reported that it withheld 5 licences due to the fact that the person was a public servant, and cancelled 1 licence due to the omission of a wilful act.

404. In relation to the cooperatives sector, there is a specific incorporation process. First, interested persons to create a cooperative request the allocation of a technical expert from the IDECOOP, to receive counselling during the incorporation process. Then, a managing committee should be created and, in case contributions were higher than DOP 15 000 000, a compliance committee should be created, which establishment minute should be submitted to the Risk Supervision Department of IDECOOP for its analysis. Likewise, all the members of the future cooperative should fill in a form with personal information and on the source of resources contributed, and they should submit a criminal background record. This information is also referred to the Risks Supervision Department of IDECOOP. Once these requirements are met, together with others of prudential nature, the viability of the creation is analysed, and the corresponding incorporation certificate is issued, authorising the granting of the corresponding RNC.

405. During 2017, IDECOOP issued 84 certificates of incorporation, that equals a licence to operate. There is no information in relation to rejection of licences.

406. It should be added that there are subsequent controls for the entrance of new partners to all financial institutions, except the cooperatives sector, where due to their nature, free admission principles are kept.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

407. For the games of chance sector, the agency responsible for the granting of licences is the Casinos and Gambling Department, under the scope of the Treasury Ministry. This agency is in charge of registering responsible administrations, observing the pre-defined requirements to avoid that non-suitable individuals become licensees and/or operators of casinos or other games of chance, analysing the suitability and moral and financial soundness of the applicants, as well as to perform amendments or withdrawals of licences issued.

408. In the Dominican Republic there exists a casinos licencing regime. Said regime was established under Law 351-64 (Art. 11), amended by laws 139-11, 29-06, 24-98 and 494-06. The initial regime did not contemplate the identification of beneficial ownership, which was recently included by Law 155-17. In this sense, the control performed by the Casinos and Gambling Department is also at an initial stage of development, reason why it would be necessary to identify beneficial owners of licences previously granted in order to achieve the effectiveness on this core issue.

409. In relation to the remaining DNFBPs, the DGII, upon registration with the National Taxpayers Registry (RNC), requests corporate data, among them the identification of shareholders. However, the measures adopted by the DGII to prevent criminals to enter the market through DNFBPs have not been identified. In case of licenced professions, such as lawyers, notaries, and accountants, these shall submit certificates of good behaviour for their authorisation, but the actions to be taken by supervisors for effective compliance with this requirement have not been defined.

410. In relation to all DNFBPs the legal deficiency remains in relation to the express powers to reject registration on the basis of the element required by R.26 and 28, a circumstance that weakens the effectiveness of avoiding criminals and their associates from entering the market under any of the activities described in Article 33 of Law 155-17.

*Supervisors’ understanding and identification of ML/TF risks*

411. The co-ordination between the authorities of the Dominican Republic and their effort to improve the understanding of risks of the sectors under their scope of competence is highlighted as a strength. The joint work of the UAF with the SIB, SIV and DGII is highlighted.

**A. FINANCIAL SECTOR**

412. Supervisory agencies have made efforts to train the personnel on AML/CFT matters, including the understanding and identification of ML/TF risks. In particular, the training activities conducted by the SIB are highlighted, which included the hiring of experts to instruct the technical personnel on risk-based supervision matters, as well as several training programmes, as showed in the following table:

**Table 29 – AML/CFT training provided by the SIB to its personnel**

		Training performed	No. of personnel trained
2013	ML Training	7	24
	TF Training	1	5
	Training on financial sanctions based on UNSCR	0	0
	Training on risk-based supervision	0	0
	ML Training		
	TF Training		

2014	Training on financial sanctions based on UNSCRs		
	Conference on risk-based supervision		
2015	ML Training	12	25
	TF Training	2	2
	Training on financial sanctions based on UNSCR	0	0
	Conference on risk-based supervision	0	0
2016	ML Training	10	25
	TF Training	1	1
	Training on financial sanctions based on UNSCR	0	0
	Conference on risk-based supervision	0	1
2017	ML Training	7	352
	TF Training	3	274
	Training on financial sanctions based on UNSCR	3	274
	Conference on risk-based supervision	1	5
	Total	39	959

413. Training processes of supervisors, in general, have focused on sectors with recently issued regulation. Notwithstanding the aforesaid, the need to strengthen SIS and IDECOOP understanding and identification of ML/TF risks is pointed out.

## B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS

414. The legal framework indicates that the DGII and the Casinos and Gambling Department are the supervisory agencies of DNFBPs, with supervision, surveillance, regulation and sanctioning powers established in Law 155-17 and in sectoral regulations.

415. The DGII is under an internal organisation phase, awareness raising of reporting institutions on the matter, and development of risk-based supervision mechanisms. The DGII has a specific area of ML/TF prevention comprised by 4 persons, which relies on the personnel of the registration area (291 persons) and supervisors (217 persons.) A risk-based supervision handbook was provided, approved in November 2017, that sets forth the mechanisms for the performance of sectoral risk analysis, the mechanism of selection of RI to be monitored and the planning of on-site supervisions. However, there are structural deficiencies in the determination of the universe of reporting institutions under the scope of the DGII, an essential element as starting point for the understanding of risks. Reporting institutions registered with the DGII by sector, to date, are the following:

**Table 30 Reporting institutions registered by the DGII by sector**

Dealers in precious stones	187
Building	5,414
Accountants	1,535
Trust companies	13
Notaries	118
Real Estate Agents	4,750



Lawyers	2,182
<b>TOTAL</b>	<b>14,199</b>

416. In the risk analysis, the DGII has established mechanisms to identify risks of the different sectors; however, the matrices are under development, therefore at the time of the on-site visit, the DGII had been appointed as supervisors only five months before. As reported during the visit, off-site requirements were made with information requirements to feed the risk matrix, that will determine the frequency and intensity of the supervisions of DNFBBs under its scope. It should be highlighted that pilot information requests were made to a sample of 228 RI which were required to submit information, 227 of which replied.

417. Moreover, the Casinos and Gambling Department has a Money Laundering Prevention Area created in 2017, with 6 analysts and one body of supervisors. This area elaborated a risk matrix for the allocation of risk profiles by game sector and individually by reporting institution, granting values to the indicators of each inherent risk (customers, products/services, geographical area, and channel or means.) Likewise, it introduced a Supervision Handbook that, as at the date of the on-site visit, was not approved. Same as the DGII, the risk understanding mechanisms are under implementation process.

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

### **A. FINANCIAL SECTOR**

418. AML/CFT supervision of financial intermediation entities, foreign exchange agents, foreign exchange and remittance agents, and trust companies as appropriate, is performed by the SIB, which conducts it with a risk-based approach implemented in 2013 and reformulated in 2017. For the purposes of training the personnel that performs the supervisions, the SIB hired an expert in 2010 for a term of 2 years that provided guidance to the technical team in relation with the implementation of such a supervision model.

419. AML/CFT supervisions are developed based on the ML/TF/FP prevention handbook, that contemplates clear guidelines in relation to the determination of the level of inherent risks, the assessment of the effectiveness of the risk management, the determination of the risk profile, the supervision strategy and plan, the risk-based supervision methodology and other relevant aspects. Below, there is information on the supervisions performed by the SIB.

**Table 31. Supervisions to reporting institutions supervised by the SIB (2013-2017)**

Type of entity	Supervisions performed	2013	2014	2015	2016	2017	Total
Multiple Bank	On-site	10	4	17	11	13	55
	Off-site	3	3	2	2	1	11
	Additional	0	0	0	0	0	0
Savings and Loans Associations	On-site	4	3	3	7	6	23
	Off-site	0	0	0	0	1	1
	Additional	0	0	0	0	1	1
Savings and Loans Bank	On-site	9	11	8	8	6	42
	Off-site	1	3	3	4	4	15
	Additional	0	0	0	0	1	1
Credit Corporation	On-site	11	7	4	5	2	29
	Off-site	1	0	5	3	4	13
	Additional	0	0	0	0	0	0
Public Intermediation Entities	On-site	1	0	1	1	1	4
	Off-site	0	0	0	0	0	0
	Additional	0	0	0	0	0	0
Trust Companies	On-site	0	0	0	3	0	3

	Off-site	0	0	0	0	0	0
	Additional	0	0	0	0	0	0
Foreign Exchange and Remittance Agents	On-site	0	1	4	5	1	11
	Off-site	0	0	0	0	0	0
	Additional	0	0	0	0	0	0
Foreign Exchange Agents	On-site	0	9	20	16	22	67
	Off-site	0	0	0	0	0	0
	Additional	0	0	0	0	0	0
<b>Total</b>		<b>40</b>	<b>41</b>	<b>67</b>	<b>65</b>	<b>63</b>	<b>276</b>

420. Notwithstanding the aforesaid, even when foreign exchange agents are RI and require authorisation to operate and are under the control of the SIB, there is an informal market for the exchange of currency where no supervisions or control measures are applied.

421. In relation to risk-based supervision, the SIV developed an operational risk matrix that includes parameters and appraisal of several risk factors, regularly fed with new information. It should be highlighted that the SIV has an Inspections Committee that creates and executes the annual on-site inspection programme. The committee performs a previous survey at the end of each year, where it evaluates the vulnerabilities of the sector and its individual entities, as well as trends. Based on the identified risks, the priorities are defined, and potential inspection dates are determined.

**Table 32. Supervisions to reporting institutions supervised by the SIV (2013-2017)**

TYPE OF ENTITY		SUPERVISIONS PERFORMED					2013	2014	2015	2016	2017	Total
Seats on the stock exchange	On-site/Ordinary	2	0	4	8	1	<b>15</b>					
	Off-Site	16	16	20	17	22	<b>91</b>					
	Additional/Special	0	2	4	0	0	<b>6</b>					
Investment fund managers	On-site/Ordinary	0	0	1	2	0	<b>3</b>					
	Off-Site	6	7	8	9	13	<b>43</b>					
	Additional/Special	0	0	0	0	0	<b>0</b>					
Trust company	On-site/Ordinary	0	0	0	0	0	<b>0</b>					
	Off-Site	0	0	1	2	3	<b>6</b>					
	Additional/Special	0	0	0	0	0	<b>0</b>					
Self regulated entity	On-site/Ordinary	0	0	0	0	0	<b>0</b>					
	Off-Site	1	1	1	1	1	<b>5</b>					
	Additional/Special	0	0	0	1	0	<b>1</b>					
Centralized deposit	On-site/Ordinary	0	0	0	1	0	<b>1</b>					
	Off-Site	1	1	1	1	1	<b>5</b>					
	Additional/Special	0	0	0	0	0	<b>0</b>					
Case investigated / Non-regulated entity	On-site/Ordinary	0	0	0	0	0	<b>0</b>					
	Off-Site	0	0	0	0	0	<b>0</b>					
	Additional/Special	0	1	0	0	1	<b>2</b>					
Case investigated / regulated entity	On-site/Ordinary	0	0	0	0	0	<b>0</b>					
	Off-Site	0	0	0	0	0	<b>0</b>					
	Additional/Special	0	0	1	0	0	<b>1</b>					
Stock exchange	On-site/Ordinary	0	0	0	1	0	<b>1</b>					
	Off-Site	0	0	0	0	0	<b>0</b>					
	Additional/Special	0	0	0	0	0	<b>0</b>					
<b>Total</b>		<b>26</b>	<b>28</b>	<b>41</b>	<b>43</b>	<b>42</b>	<b>180</b>					

422. The SIS has a supervision handbook that defines the different aspects to be verified. Among other aspects, the handbook determines the duty to verify that reporting institutions have identified their inherent ML/TF risks in their daily activities, and it provides for the verification that reporting institutions have classified the risks based on different factors. Now, the handbook does not provide for criteria to determine the prioritisation and frequency of supervisions, and it should be noticed that it was issued in January 2018, reason why its implementation is still at a preliminary stage.

423. In relation to AML/CFT supervision of the insurance sector, as at the date of the on-site visit, the SIS reported the performance of 14 on-site supervisions to institutions under its scope. Of these supervisions, 9 were performed to insurance companies and 5 to insurance brokers companies. There are no evidences that these supervisions were made using a risk-based approach.

424. In relation to the cooperatives sector, IDECOOP has a ML/TF risk-based supervision handbook that includes clear guidelines for the management of ML/TF risks, determines functions and responsible areas, and provides for a specific and detailed methodology for the sector's risk-based supervision, among other relevant aspects. However, it should be highlighted that the handbook was issued in January 2018, reason why its implementation is still in a preliminary stage.

425. Supervision of savings and loan and multiple services cooperatives is in charge of IDECOOP. Between August and December 2017, IDECOOP performed 105 AML/CFT on-site supervisions. It should be noted that the 105 supervised entities were selected based on their size, complexity, risk rating and profile. Of the total number of entities selected, 11 were identified as having higher vulnerability level, reason why IDECOOP devoted more efforts to its supervision.

426. As it can be noticed, the supervision methodologies applied are off-site and on-site. To determine the entity that should perform the supervision, control agencies use risk matrices by sector. Those with more experience in the elaboration and use of matrices are the SIB and SIV. In the case of cooperatives, the matrix is recent, and supervisions have been performed to larger entities.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

427. In the on-site visit, the DGII stated that it started to supervise reporting institutions in September 2017 and that they were under the first round of diagnosis supervisions, where formal and structural compliance aspects of RI were verified. 350 visits were made that, in average, lasted 4 hours and that were also made with the purpose of familiarising reporting institutions in relation to compliance with their AML/CFT obligations. Of the 350 visits, only 7 resulted in sanctions and most of them were applied for absence of AML/CFT policies.

428. Moreover, the Casinos and Gambling Department has made on-site supervisions to all casinos (74), requesting the update of records, both to licensees and the responsible administrators, with 82% and 97% of response, respectively. Of the supervised casinos, 4 were sanctioned. However, the purpose and scope of said supervisions were limited to verifying formal compliance with the keeping of AML/CFT handbooks and the appointment of a compliance officer.

429. The efforts of both supervising authorities in the work carried out to establish risk-based supervision mechanisms is highlighted. However, based on the aforementioned reasons, it can be concluded that the DGII and the Casinos and Gambling Department are at a diagnosis-visit stage due to the little time elapsed in the development of the preventive system, and are not yet developing risk-based supervisions.

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

## A. FINANCIAL SECTOR

430. Only the SIB and SIV have applied some sort of sanction for ML/TF non-compliance. Below there this a table of corresponding sanctions:

**Table 33. Sanctions imposed by the SIB for AML/CFT regulatory non-compliances**

Type of entity	Type of sanction imposed	2013	2014	2015	2016	2017	Total
Foreign Exchange Agent	Non-Monetary	0	0	0	2	0	2
	Monetary	4	17	3	45	45	114
Savings and Loans Associations	Non-Monetary	0	0	0	0	0	0
	Monetary	0	1	0	0	4	5
Multiple Bank	Non-Monetary	0	0	0	1	2	3
	Monetary	0	1	1	2	3	7
Savings and Loans Bank	Non-Monetary	0	0	0	0	0	0
	Monetary	0	0	0	0	0	18
Foreign Exchange and Remittance Agents	Non-Monetary	0	0	0	0	0	0
	Monetary	0	0	3	3	3	9
Credit Corporation	Non-Monetary	0	0	0	0	0	0
	Monetary	0	3	1	1	5	10
<b>Total</b>		<b>4</b>	<b>26</b>	<b>11</b>	<b>59</b>	<b>68</b>	<b>168</b>

*Source: Information provided by the SIV*

431. In relation to the total value corresponding to the 168 sanctions applied by the SIB, it amounts to DOP 8 759 013, which equals to approximately USD 177 200. It should be noted that the value of sanctions applied during the 5 years do not allow to prove the effectiveness and dissuasiveness of the sanctions.

**Table 34. Sanctions imposed by the SIV for AML/CFT regulatory non-compliances**

Type of Entity	Type of sanction imposed	2013	2014	2015	2016	2017	Total
Depósito Centralizado de Valores S.A.	Non-monetary	2	0	0	0	0	2
	Monetary	0	0	0	0	0	0
Investment funds managing partnership	Non-monetary	1	0	0	1	4	6
	Monetary	5	0	0	0	7	12
Securities intermediary	Non-monetary	5	0	0	9	7	21
	Monetary	1	3	1	15	14	34
Commodities Exchange	Non-monetary	0	0	0	1	0	1
	Monetary	1	0	0	0	0	1
Securities issuer	Non-monetary	0	0	0	0	0	0
	Monetary	0	1	0	0	0	1
Securitization company	Non-monetary	2	0	0	0	0	2
	Monetary	5	0	0	0	0	5
<b>Total</b>		<b>22</b>	<b>4</b>	<b>1</b>	<b>26</b>	<b>32</b>	<b>85</b>

432. As it can be seen, the largest amount of sanctions imposed have been of the monetary type as compared to non-monetary. Monetary sanctions, as established by law, have a progressive nature based on the non-compliance detected and consider possible recidivism.

433. In relation to the insurance sector, the SIS has a sanctions handbook, where all possible violations are described, their rating and scope. Now, it should be highlighted that the handbook was issued in January 2018, reason why as at the date of the on-site visit, their provisions had not been applied yet. On the sanctions applied, the SIS reported on revocation and suspension of licences, but these were based on prudential nature non-compliances and not on breaches to AML/CFT regulations.

434. In relation to sanctions in the cooperatives sector, between 2012 and 2017, IDECOOP intervened 15 entities. There is no evidence that these sanctions were related to AML/CFT obligations breaches.

435. As a result, the information analysed indicates that the application of effective, proportionate and dissuasive sanctions by financial supervisors is limited.

## **B. DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSIONS**

436. As to the date of the on-site visit, the DGII has imposed seven monetary sanctions, mostly for absence of AML/CFT policies and internal controls. By virtue of the low amount of sanctions in relation to the universe of reporting institutions, it can be concluded that for DNFBPs, proportionate and dissuasive sanctions have not been effectively applied yet. The application of corrective actions was not reported either, but all sanctions reported were of monetary nature.

437. Moreover, at the time of the on-site visit, the Casinos Commission had imposed a total of 16 sanctions: 2 for non-compliance with the update of registries, 10 for non-compliance with the licencing regime, and 4 for AML/CFT technical compliance. Even if in the casinos sector there is a greater amount of sanctions, especially in relation to the universe of reporting institutions, these were grounded on merely formal non-compliances. Likewise, as in the case of the DGII, the application of corrective actions was not reported, but all sanctions reported were of monetary nature.

### *Impact of supervisory actions on compliance*

438. In general, in relation to the financial sector, the sector's impact on supervision could not be seen. In relation to savings, loans, and multiple services cooperatives, IDECOOP provided evidence in relation to the compliance status of comments made to the 105 supervised entities during the months of August and December 2017. In the matrix shown, the process of approach and correction of detected deficiencies was initiated by the entities.

439. Supervision actions, although they represented in many cases awareness raising and educational visits to the reporting institutions, had the positive impact of warning many DNFBP sectors on their nature as reporting institution and their duties in relation to such a condition. However, due to the short time in the execution of supervisions, a maturative process towards a compliance culture cannot be evidenced yet.

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

440. The promotion of AML/CFT obligations and ML/TF risks among the different actors has been conducted through trainings provided by the UAF in relation to the obligations of the law and the submission of STRs and CTRs, and by control organisations in relation to compliance with obligations.

441. The recent issuance of the law and of all subsequent regulations increased the number of trainings with socialisation purposes. Currently, there are trainings that need to adapt to the feedback of the attendants, identifying areas for further strengthening.

442. Due to the enactment of Law 155-17, the CONCLAFIT called to a massive training session for different reporting institutions, with the attendance of all competent authorities under the co-ordination of the UAF, through which, to date, more than 1 200 individuals were trained. Moreover, for the casinos sector, in 2017 three specific sectoral trainings were performed.

**Table 35. AML/CFT training sessions promoted by the UAF and the CONCLAFIT**

Conference on Training Plan on ML and TF prevention matters to reporting institutions			
Nº	Conference / Workshop	Date	Co-ordination / Organization
1	Training workshop for the prevention of ML/TF addressed at reporting institutions	17-Jul-17	CNOCLAFIT-UAF
2	Training workshop for the prevention of ML/TF addressed at reporting institutions	18-Jul-17	CNOCLAFIT-UAF
3	Training workshop for the prevention of ML/TF addressed at reporting institutions	18-Jul-17	CNOCLAFIT-UAF
4	Training workshop for the prevention of ML/TF addressed at reporting institutions	24-Jul-17	CNOCLAFIT-UAF
5	Training workshop for the prevention of ML/TF addressed at reporting institutions	26-Jul-17	CNOCLAFIT-UAF
6	Training workshop for the prevention of ML/TF addressed at reporting institutions	28-Jul-17	CNOCLAFIT-UAF
7	Training workshop for the prevention of ML/TF addressed at reporting institutions	29-Jul-17	CNOCLAFIT-UAF
8	Training workshop for the prevention of ML/TF addressed at reporting institutions	31-Jul-17	CNOCLAFIT-UAF
9	Training workshop for the prevention of ML/TF addressed at reporting institutions	3-Aug-17	CNOCLAFIT-UAF
10	Training workshop for the prevention of ML/TF addressed at reporting institutions	5-Aug-17	CNOCLAFIT-UAF
11	Training workshop for the prevention of ML/TF addressed at reporting institutions	14-Aug-17	CNOCLAFIT-UAF
12	Training workshop for the prevention of ML/TF addressed at reporting institutions	14-Aug-17	CNOCLAFIT-UAF
13	Training workshop for the prevention of ML/TF addressed at reporting institutions	17-Aug-17	CNOCLAFIT-UAF
14	Training workshop for the prevention of ML/TF addressed at reporting institutions	17-Aug-17	CNOCLAFIT-UAF
15	Training workshop for the prevention of ML/TF addressed at reporting institutions	19-Aug-17	CNOCLAFIT-UAF
16	Training workshop for the prevention of ML/TF addressed at reporting institutions	22-Aug-17	CNOCLAFIT-UAF
17	Training workshop for the prevention of ML/TF addressed at reporting institutions	26-Aug-17	CNOCLAFIT-UAF

*Source: UAF*

443. The SIS regularly publishes and disseminates its activities on AML/CFT matters, whether through the upload of information to its web site or through the dissemination by e-mails addressed to the institutions under its scope. This dissemination policy included the dissemination of the NRA's outcomes to all the sector's actors. Moreover, as it could be verified, SIS authorities regularly participate in dissemination and training activities addressed to the reporting sectors, and during 2017, the SIS conducted a training activity for the sector in order to brief them with the updates to Law 155-17. However, the promotion activities for

the understanding of AML/CFT obligations and ML/TF risks of the sector appear to be limited, based on the sector's needs.

444. Furthermore, IDECOOP has carried out actions aimed at raising awareness of the cooperatives sector in relation to Law 155-17 and its regulations. During 2017, IDECOOP conducted 23 trainings, addressed to officials and reporting institutions. In total, 176 officials from IDECOOP, 123 established cooperatives, and 100 cooperatives under development were trained.

445. Moreover, the IDECOOP Off-Site Department provided cooperatives with a matrix table, with the aim of gathering all information related to the four ML/TF risk factors. Notwithstanding the aforesaid, given the recent nature of the AML/CFT regime in the sector, it is important to continue with the awareness raising and promotion activities on the clear understanding of AML/CFT obligations and ML/TF risks.

### *Conclusions on Immediate Outcome 3*

446. In relation to the financial sector, supervisors conduct controls in the rating and licencing processes. Banking and securities supervisors have started to conduct risk-based approaches. However, in the case of insurance and cooperatives supervisors, said supervision is under implementation process. It should be mentioned that there is an informal market for the exchange of currency where no control measures are applied. The application of effective, proportionate and dissuasive sanctions by financial supervisors seems limited.

447. In relation to non-financial supervisors, they are at an initial phase of study and understanding of its regulated institutions' risks, and it cannot be determined yet how well supervision is performed in each DNFBP sectors. There is a very low level of sanctions in relation to the total universe of reporting institutions. Training and awareness raising activities were conducted.

448. Based on the analysis performed, the Dominican Republic **shows a Low level of effectiveness for Immediate Outcome 3.**

## **CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS**

### *Key Findings and Recommended Actions*

#### ***Key Findings***

- There is basic information on legal persons, which is public and available through the website of the company register.
- The country has made a series of reports that, together, allow to conclude that the vulnerabilities of legal persons and arrangements available in the country have been assessed and understood.
- The computerisation of the company registers and the centralisation of information on companies, legal arrangements and beneficial ownership through the RNC of the DGII can be highlighted as a strength.
- Even if measures were adopted to prevent and deter the misuse of legal persons and trusts to commit ML/TF crimes, it could not be proven that these are effective.
- Even when the DGII has made enormous efforts to achieve the identification of beneficial owners, said identification was focused on the shareholding structure and only after the enactment of the Law 155-17 on the natural persons that exercise the final real control of legal persons or arrangements.
- There are sanctions in the legal framework for the violation of information requirements. 509 sanctions were applied, which considering the number of registered companies in the country, is still a limited number.

#### ***Recommended Actions***

- Perform greater efforts to prevent and deter the misuse of legal persons and trusts to commit ML/TF crimes, as for example by implementing raise awareness activities in relation to the misuse of legal persons and arrangements for the purpose of conducting illegal activities.
- Increase the effective application of the existing sanctioning regime in order to ensure the proper compliance with measures set forth in R.24.
- Assess the proportionality of the sanctions and adopt measures to enhance their dissuasiveness.
- Expand the beneficial ownership identification requirement to natural persons that exercise the final effective control of legal persons or arrangements.
- Although Law 155-17 prohibited bearer shares, further efforts should be made for partnerships that issued such type of shares to convert them into nominee shares.
- Perform further efforts to achieve proportionate and dissuasive sanctions effective against legal persons that fail to comply with the requirements relating to information.

449. *The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.<sup>9</sup>*

### ***Immediate Outcome 5 (Legal Persons and Arrangements)***

#### *Public availability of information on the creation and types of legal persons and arrangements*

450. In the Dominican Republic all companies have to register with the Company Register, which is public and with the National Taxpayers Register (RNC) of the DGII. There are eight types of companies: Individual Limited Liability Company (EIRL), Public Limited Company (SA), Simplified Public Limited Company (SAS), Limited Liability Company (SRL), General Partnerships, Limited Partnerships, Limited Partnerships issuing shares; Foreign Partnership. There is a total universe of 161 789 legal persons, of which 68% are SRL and 10% are SA. Of the total, 12 572 are foreign partnerships.

451. The same obligation to register with the RNC and to identify beneficial owners is applicable to NPOs and exclusive purpose trust companies, which are also considered companies. It should be clarified that, in the case of NPOs, there are no beneficial owners but directive partners, which are also identified through the corresponding registrations and submissions to the RNC before the DGII. Likewise, NPOs should register with the National Centre for the Advocacy and Promotion of Non-Profit Organisations (CASFL.) It should also be clarified that, under Dominican legislation, there are no private interest foundations.

452. The information on the creation and types of companies and other legal arrangements in the country is published in the websites of the Chambers of Commerce, as well as in users guides, instructions, etc. This information includes not just the different types of companies and their main characteristics, but also the different procedures and requirements for their establishment, modification, and cancellation of companies and other legal arrangements.

453. Likewise, in the portal *Ventanilla Unica de Formalizacion (Single Formalisation Service)* there is information related to SRL, EIRL and natural persons (which are the legal definitions that have an application in said portal.) This information is public and free for any person interested.

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<sup>9</sup> The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.



454. Consequently, it can be concluded that any person in the Dominican Republic can access to information on the creation and types of legal persons in order to choose and directly create the corporate type that suits its objectives best.

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

455. There is an understanding of the ML/TF risks of legal arrangements by financial supervisors and the banking and securities sectors. The UAF provided a general assessment that establishes the legal framework and an initial diagnosis study. Said report is complemented with a trusts risks report elaborated together with the DGII and another report on typologies, where a series of ML typologies were identified in which legal arrangements were used.

456. Among the typologies detected, the following can be highlighted: Case 3: 573-2015 mingling of licit and illicit money through companies, state providers, fraud to the state, counterfeiting and adulteration of medicines; Case 5: 004-201 shell companies used for the entrance of currency to the country product of international drug trafficking; Case 9: 453-2014 use of shell company to justify the origin of funds from procuring; Case 16: 151-2015 use of shell companies for the acquisition of movable and immovable property, product of international drug trafficking.

457. Additionally, in relation to NPOs, the Dominican Republic has not detected criminal cases or typologies where these entities were used as ML channels.

458. Through these three documents, it is possible to conclude that Dominican authorities have identified, assessed, and understood the risks and vulnerabilities and the extent to which legal persons created in their territories can be misused for ML/TF.

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

459. The NRA identified vulnerabilities in legal persons and arrangements because the country allowed (at the time of the NRA) the issuance of bearer shares. However, it should be highlighted that only 29 companies actually had bearer shares, reason why their impact on the economy was little.

460. In addition to the legal actions adopted to prohibit them, authorities have established that, in order to guarantee the effectiveness of their removal, after the term to convert them has elapsed, non-converted shares shall be removed from that company's equity. Likewise, even when the companies would have had bearer shares, directors were nominee directors and, at least, the identity of the senior management could be established.

461. The country showed evidence in relation to the ongoing monitoring process performed in relation to the status of said companies. Moreover, incomes declared by these companies with bearer shares are close to 5 million US dollars for the 2017 fiscal year.

462. In relation to the other companies, including trust companies and NPOs, the AML/CFT department of the DGII cross-checks beneficial owners with lists of the UN, Interpol and private lists to ensure that beneficial owners do not register backgrounds or are included in the lists.

463. In relation to trust companies, in the Dominican Republic there are 25 companies registered, 6 of which are inactive. Additionally, there is a financial intermediation entity with fiduciary authorisation. These companies manage trusts. In the Dominican Republic there are different types of trusts: Succession planning, cultural, philanthropic and educational, investment, real estate investment and real estate development,

public offering of securities and products, guarantee trusts. Seventy percent perform real estate development activities.

464. There are 288 active trusts of different types in the Dominican Republic: Succession planning, cultural, philanthropic and educational, investment, real estate investment and real estate development, securities and products public offering, guarantee trusts. Seventy-three percent of trusts perform real estate development activities.

465. All trust companies are registered with the Company Register of the Chambers of Commerce and Production and with the DGII and are supervised by different supervisors based on the type of trust they manage. In this sense, public offering trusts are authorised, registered and supervised by the SIV. Trust companies authorised to offer trusts to financial intermediation entities are registered with, and subject to the supervision of, the SIB. The remaining trusts are under the supervision of the DGII, as described under Immediate Outcome 3.

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

466. Company Registers of the country's Chambers of Commerce and Production have the basic information on the company/partnership or natural person to be registered, including general information on their partners or shareholders, managers or members of the board, among others, with the duty to update such information in the different Company Registers every two years, with the renewal of the certificate, or when it changes as a result of a corporate activity of the certificate's holder.

467. It should be highlighted that, by virtue of Law 3-02 on the Company Register, any information and/or documentation registered in the Company Register is of public nature, reason why it can be timely accessed by any interested party on the condition that it complies with the procedure established for its obtainment (request through a form), which is clearly detailed in the web page. This procedure applies to private persons or reporting institutions, but only basic information on the company is provided, i.e., corporate name, main activity, shareholders, capital, chairman. Said information is provided through a certificate issued by the company register.

468. Information currently gathered by Company Registers consists in the identification of partners/shareholders, number of stocks/shares, management bodies, account commissioner, domicile of the partnership, corporate purpose, social equity, main products and services, business references, banking references, among others.

469. The SIB, SIV, UAF and DGII can access basic information on the beneficial ownership of legal persons created in the Dominican Republic, through web service, at the National Taxpayers Registry, and information of Legal Persons in the Company Register for intelligence investigations. Moreover, the DGII has entered into agreements with the UAF and the SIB to exchange this information. The SIV also has powers to access to this information. Moreover, legal persons have the duty to keep a register of partners or shareholders, which shall be updated, and to facilitate its content upon request. Likewise, other competent authorities such as the Public Prosecutor's Office, IDECOOP and the Casinos Department, even if they do not have web service, they have the power to request this information to the DGII, which is submitted in a maximum term of 2 to 3 days.

470. It should be highlighted that, as at the date of the on-site visit, the DGII had information on beneficial ownership of 91% of the existing companies. Moreover, the country has conducted investigations that included investigations to legal persons, where charges have been made against the controllers of the entities, even if they were registered under the name of straw men. One example is the case of sentence No.

12 of June 2013, whereby several legal persons were investigated, and the head of the criminal network was accused for use and enjoyment of property purchased through these companies.

471. It should be highlighted that the UAF has exchanged information on 702 beneficial owners in cases of international co-operation. This exchange of information was also submitted in a term of no more than 3 days.

472. One of the vulnerabilities detected at the time of the NRA was related to the updating of information in relation to legal persons. In this sense, the following mitigating measures were developed and implemented by the DGII:

- ✓ Identification: In the registration process with the RNC, data provided in the Sworn Affidavit Form for the Registration and Update of Companies (RC-02) are verified. Shareholders not incorporated to the RNC are registered, and foreign companies were registered as shareholders, as follows: The RNC incorporates all shareholders and directors, and every time there is a change, the RNC needs to be updated, including foreign shareholders. In all cases, the Company Register Certificate is verified in relation to the domicile of the requester. Other type of identification is through massive selective taxpayers' monitoring plans and sworn affidavits submitted.
- ✓ Evaluation: If data or documents are found to fail to meet the requirements for registration, the taxpayer is contacted by telephone to notify it that data need to be corrected. If the taxpayer does not meet the requirements, the RNC is not granted. In case of change of information to the RNC, shareholders' information is validated.

473. The information included in the Company Register Certificate needs to be updated every two years, by virtue of the renewal of the certificate or where there is a change in it, based on a change that affects the company register.

474. In consequence, there are two instances of control of beneficial ownership data updating. One is the Company Register and the other the DGII, both through submissions made by reporting institutions.

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

475. Annually, taxpayers (including trusts) should report in their affidavits the Income Tax (ISR) on its shareholders with participation higher than 10%. Moreover, the DGII incorporated both for legal persons and trusts affidavits on the beneficial owner, which are compulsory for taxpayers upon their registration or modification of data in the National Taxpayer Register.

476. In case it was impossible to obtain the information on beneficial ownership, or in case of denial to provide it, the DGII has the power to refuse granting the RNC where it were verified that incomplete forms were submitted, and it can even revoke an existing RNC. If the legal person does not complete the update of information due every two years, the Company Register has the power to cancel its legal personality. To date, no cancellation of legal personality has occurred.

477. There are approximately 17 000 requests of RNC per year, mostly for limited liability companies. In all cases, they have the duty to declare their beneficial ownership; otherwise, the RNC is not issued.

478. In relation to trusts, the same information updating requirements apply on beneficial ownership than for other legal persons.

*Effectiveness, proportionality and dissuasiveness of sanctions*

479. In relation to the failure to submit information and to identify the beneficial ownership, it constitutes a non-compliance with the formal duties. These non-compliances are identified as a result of the inconsistencies detected by the tax information system and due to the development of controls conducted by the DGII.

480. As to the date of the on-site visit, 509 sanctions had been applied to legal persons and arrangements for failure to update the information on beneficial ownership, 500 of which were paid, and it could be proven that the company changed its behaviour (fines are USD 500 average.) It should be added that sanctions were imposed after the enactment of Law 155-17.

481. In consequence, from the analysis performed, it can be concluded that, taking into account the low number of fines effectively applied (509) in relation to the universe of existing legal persons (161 789), added to their low amount, these are not sufficiently dissuasive or proportionate, which undermines the effectiveness levels reached on this fundamental matter.

*Conclusions on Immediate Outcome 5*

482. In the Dominican Republic, basic information on legal persons is public and available through the website of the company register. The country has assessed and understood the vulnerabilities of legal persons and legal arrangements in the country. The computerisation of the company registers and the centralisation of information on companies, legal arrangements and beneficial ownership through the RNC of the DGII is highlighted. Even when great efforts have been made to achieve the identification of beneficial owners, said identification was focused on the shareholding structure and only after the enactment of the Law 155-17, information on the natural persons that exercise the final real control started to be collected. There are sanctions in place in the legal framework for the violation of information requirements. However, sanctions applied are not sufficiently effective, proportionate and dissuasive.

483. Based on the analysis performed, the Dominican Republic **shows a Moderate level of effectiveness for Immediate Outcome 5.**

**CHAPTER 8. INTERNATIONAL COOPERATION**

*Key Findings and Recommended Actions*

**Key Findings**

- The Dominican Republic is signatory of bilateral and multilateral agreements that allow it to provide mutual legal assistance upon request and by rule of reciprocity, provided that human dignity and fundamental rights of people are respected; for such purposes, the country has the International Legal Assistance and Extradition Office within the Public Prosecutor’s Office, central authority, that acts as the vehicle to receive, channel, answer, and request international legal assistance on criminal matters. No restrictions were observed in relation to the extradition of Dominican nationals.
- In relation to other forms of international co-operation, competent authorities of the Dominican Republic have entered memoranda of understanding with the aim of establishing direct communication channels and contact points and have used mechanisms or means to safeguard the confidentiality of the information exchanged.
- In cases where there are not agreements or memoranda of understanding, it is still possible to exchange the information by the principle of reciprocity. In this line, it should be mentioned that the UAF is currently in the process to become member of the Egmont Group, which has not been an obstacle to provide international co-operation to its foreign counterparts.

- The competent authorities of the Dominican Republic have the capacity to provide international co-operation on financial intelligence and investigation matters
- Lack of statistical data from certain national authorities involved in international co-operation matters is observed.

#### ***Recommended Actions***

- The implementation of internal protocols or manuals on MLA matters is recommended to establish the form and terms for their processing, that would also provide for prioritisation, follow-up, and case handling mechanisms, to monitor the progress of requests.
- Spontaneous co-operation provision and the number of active co-operation requests should be increased, for both MLA and other forms of international co-operation.
- Make further efforts to achieve the admission of the UAF as member of the Egmont Group.
- Finally, it is recommended to implement an inter-agency statistical database on international co-operation matters that includes information from different national authorities that can provide this type of support.

484. *The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.*

#### ***Immediate Outcome 2 (International Cooperation)***

485. The Dominican Republic is provided with the legal framework to provide a wide range of Mutual Legal Assistance (MLA) in relation to any offence. The legislation envisages that competent authorities may provide the widest co-operation, even based on the principle of reciprocity among nations; competent authorities may perform or respond to the appropriate measures in relation to the request of a competent authority of another State, to identify, locate, detect, seize the property, proceeds or instrumentalities of ML/TF, including among such measures sharing, repatriation, and recovery of assets illicit origin.

486. The NRA of January 2014 indicates that the geographical position of the Dominican Republic constitutes a threat factor, since the country is located in the route used by criminal organisations from countries that have historically been considered great producers of narcotic substances and from large consumption market of said substances. This is an important risk factor since the Dominican Republic may be used as bridge for the movement of said substances, as well as for the laundering of the proceeds of crime.

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

487. The Dominican Republic is signatory of bilateral and multilateral agreements that allow it to provide MLA upon request and by principle of reciprocity, provided that human dignity and fundamental rights of people are respected.

488. The MP is the central authority as regards international legal assistance. This institution is headed by the Public Prosecutor of the Republic, who among its duties may co-ordinate international legal co-operation based on the commitments undertaken by the State, the principle of reciprocity, and foreign policies. For such purposes, it has the International Legal Assistance and Extradition Office, which receives, channels, answers, and seeks international legal assistance on criminal matters, headed by an Assistant Public Prosecutor, a hierarchy immediately below the Public Prosecutor of the Republic.

489. Given that the MP is the functional director of the investigation, it is assisted by investigation and security agencies of the State, and it co-ordinates with them cases that require the use of public force to execute actions aimed at enabling international co-operation (arrests, searches, identification, tracing, and seizure of real estate, etc.)

490. The Dominican Republic processes international legal assistance requests by virtue of the principle of reciprocity, regardless of the existence of an international co-operation agreement. Moreover, the Constitution of the Dominican Republic permits the extradition of its nationals abroad. Given the specialty nature of the extradition process, it is the only process that requires from a prior international legal instrument.

491. Upon providing international legal assistance, meetings or exchange of opinions with requesting authorities are held, for the purpose of ensuring the usefulness of information provided for the purposes of the request. In order to achieve a timely and useful co-operation for the requesting country, the particularities detailed by requesting countries are taken into consideration and the Dominican Republic provides as much information as possible and as available to the country.

492. The International Legal Assistance and Extradition Office of the PGR receives international co-operation requests on justice matters and it manages the information requested to competent authorities. The international legal assistance requests, as well as information received through this modality, are exclusively handled by specific trained personnel authorised to have access to this type of information, which is not authorised to disseminate or use data it has access to for other purposes.

493. The extradition processes are considered a form of highly relevant co-operation by the country, given the rights involved, highlighting that the Dominican legislation permits the extradition of its own nationals. The Dominican Republic has extradited persons to USA, Spain, France, Poland, Romania, Argentina, Chile, Canada, and Panama.

494. The country makes great efforts to achieve reciprocal, constructive, and timely assistance, and on this regard, the acknowledgment received by the PGR from different competent authorities from other countries should be highlighted, among them: Spain, France and United States of America. The fluid co-operation lies in the direct formal and informal exchange among the different actors: Central authorities, points of contact, liaison officers of Missions, Embassies, Consulates. As way of example of successful international communication, co-operation and collaboration provision, that includes extraditions, confiscations and sharing of property, the following can be mentioned:

- ✓ Case ‘Dario Gamboa,’ joint intelligence carried out since 2015 by the law enforcement authorities of the Dominican Republic and Colombia. A criminal organisation made up by Colombian and Dominican individuals, and a Haitian national was discovered. Through the dissemination through the INTERPOL red lines of the arrest warrant, the accused was arrested in Colombia by the authorities of that country, which communicated about this immediately. The Dominican Republic initiated immediately the extradition procedures and after the formal offering of guarantees in relation to the unwavering respect of the rights of the extradited person, it achieved the authorisation of Colombia to extradite. In this sense, for December 1, 2017, the extradition was made effective with the transportation of the accused to Dominican territory.
- ✓ The case ‘Oscar Rodriguez’ of the year 2008. The United States of America (USA) issued an extradition request against the accused, which was arrested in the Dominican Republic in the year 2011. The extradition process concluded in 2012, and the accused was delivered to American authorities on April 17, 2012 through Decree No. 186-12. After the extradition, on November 10, 2014, the USA issued an assistance request to locate and seize the property of the accused in the country, and for the year 2016 the confiscation order was obtained in relation to 35 real estate properties with an approximate value of DOP 369 600 000.00 (USD 7.7 million.)
- ✓ The case ‘Hermanos Benitez’ of year 2008. The United States of America sent to the Dominican Republic an assistance request to locate the property of the accused. After the localization and seizure of the property, the requesting country submitted a definite confiscation order, which was endorsed

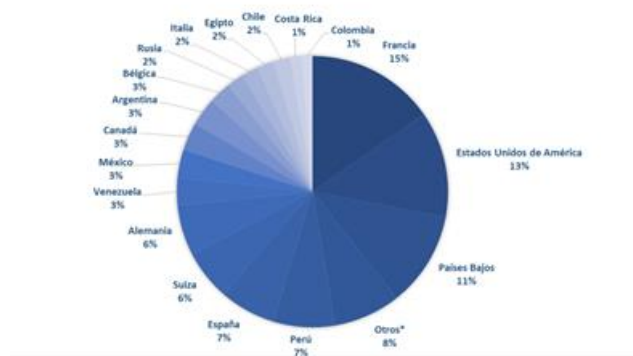
and executed. Finally, the Dominican Republic and the USA entered into an agreement whereby they agreed to share approximately DOP 360 000 000.00 (USD 7.5 million) of seized property

495. In the case of the legal assistance for the repatriation of property, numerous co-operations were conducted with the USA, which the Dominican Republic has signed an agreement for the sharing of assets and instrumentalities confiscated, as part of the mutual legal assistance, in order to formalise an activity that was already performed from previous years. Currently, several confiscated assets have been liquidated and shared through agreements negotiated on a case-by-case basis, for example, the ‘Hermanos Benitez’ case.

496. In the period of evaluation, the Dominican Republic received 214 legal assistance requests, it answered to 150 of them, receiving an average of 36 requests per year and granting 25 assistances. The 64 cases that are pending for response are under the process of receiving the information to be provided to the requesters, or of obtaining complementary information.

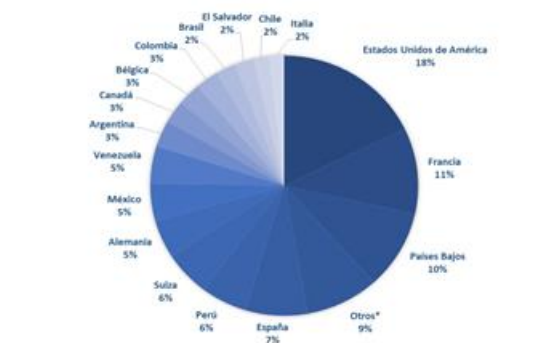
497. Main countries assisted are France, USA, the Netherlands, Peru, and Spain; these countries account for 53% of the assistance provided and 51% of assistance requested:

**Graph 8. Estimate of assistance provided to requests received by country – period 2012-2017**



Source. Information provided by the PGR.

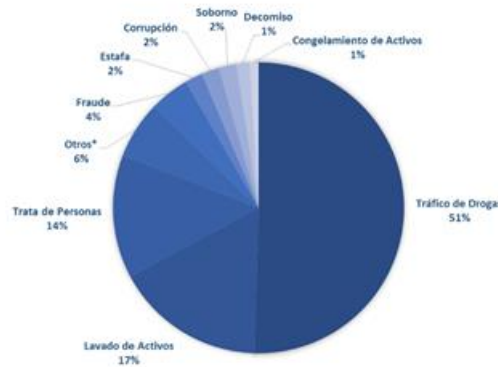
**Graph 9. Estimate of assistance requested by country – period 2012-2017**



Source. Information provided by the PGR.

498. In relation to the crimes, the 214 legal assistance requests received in the Dominican Republic included 17 crimes that supported such requests. The most frequent crimes in the requests received by the country were drug trafficking, ML and human trafficking, which were present in 77% of the assistance requests received in the Dominican Republic, as shown below.

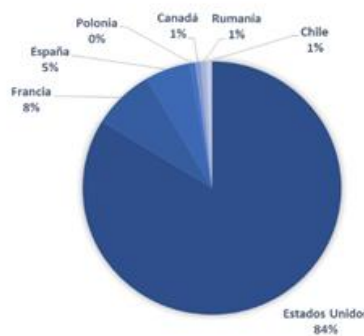
**Graph 10. Estimate of crimes in assistance requests received – period 2012-2017**



Source. Information provided by the PGR

499. In relation to extraditions, during the period of evaluation, the Dominican Republic received 147 legal assistance requests, 142 of which were executed. In average, 25 extraditions were received and 24 were executed per year, which indicates that the country makes efforts to answer the extradition requests on a timely basis. The main countries assisted are USA, France, and Spain, which account for 97% of the extraditions executed, and 89% of extraditions requested. The crimes that originated the extradition requests were 15, the most frequent were drug trafficking, fraud, murder, robbery, sexual assault, and ML; these crimes are present in 81% of the extradition requests received by the country:

**Graph 11 – Estimate of extraditions executed by country – Period 2012-2017**



Fuente. Información proporcionada por la PGR

500. Moreover, pursuant to the data provided by the PGR, the following table with some examples of seized property as a result of international co-operation is presented:

**Table 36. Examples of international co-operation cases with property seized**

CASE	SEIZED	AMOUNT DOP	AMOUNT USD
Kingsley	This is a legal co-operation case with Switzerland, and the seizure of property such as: One house, 4 solarium, one vehicle and a motorcycle has been conducted.	DOP 8 900 000	USD 187 210.77
	This is a legal co-operation case with		



Civelli	France, and the seizure of property such as: Several solaría, one vessel was conducted.	DOP 5 000 000	USD 105 174.59
Dickson Gutierrez	This is a legal co-operation case with France, and the seizure of property such as: 2 solaría has been conducted.	DOP 600 000	USD 12 620.95
Hermanos Benitez	This is a legal co-operation case with the USA, where the confiscation of property was conducted: 27 real estate properties, several vehicles, aircrafts.	DOP 1 060 000	USD 22 297.01
<b>TOTAL</b>		<b>DOP 1 074 500 000</b>	<b>USD 327 303.32</b>

Source. Information provided by the PGR.

501. The PGR is registered as contact authority in the Directory of the United Nations Organisation, IberRed, AIAMP, among others.

502. The PGR does not have handbooks or internal mechanisms on international co-operation, but it reported that it is elaborating and preparing the 'Protocol for the Request of Passive International Legal Assistance on Criminal Matters' and the 'Form for the Request of Passive International Legal Assistance on Criminal Matters,' which will be available in the official web page of the institution as from the second half of 2018. It is also elaborating a 'Handbook of Procedures on International Co-operation Matters,' where response times to international legal co-operation and assistance requests will be standardised. These developments will allow to strengthen the provision of international co-operation through measures that would allow to envision processes for the prioritisation of requests and a case handling system to monitor their progress.

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

503. In the assessment period, the Dominican Republic performed 58 legal assistance requests. Of these, it received 38 responses, with an average of 10 requests made and 6 assistances received per year. The main countries requested are the USA, Colombia, Spain, Venezuela and Panama; these countries account for 88% of the assistances received and 82% of assistances requested. The Dominican Republic has the capacity to follow-up with the corresponding liaison officers of its central authority.

504. In relation to extradition requested by the country, during the assessment period, a total of six (6) extradition requests were made; of these, two (2) were executed. The countries requested are Spain, Colombia, and Venezuela. These countries account for 33% of the extraditions executed and 100% of extraditions requested.

505. In the same manner, in International Co-operation matters, the Dominican Republic has the following instruments in place:

**Table 37. International Co-operation instruments**

No.	NAME OF INSTRUMENT	MEMBER COUNTRIES
1	Memorandum on legal co-operation between the Public Prosecutor's Office of the Republic of Poland and the Public Prosecutor's Office Of the Dominican Republic	Poland and Dominican Republic
	Memorandum of understanding to enhance mutual legal co-	

2	operation between the Public Prosecutor's Office of the Dominican Republic and the Federal Public Prosecutor's Office of the Federative Republic of Brazil	Federative Republic of Brazil and Dominican Republic
3	Inter-agency cooperation protocol to strengthen the investigation, assistance and protection to victims of the human trafficking offence between the Public Prosecutor's Office of the Republic of Bolivia, the Republic of Chile, the Republic of Paraguay, and the Dominican Republic	Republic of Bolivia, Republic of Chile, Republic of Paraguay, and Dominican Republic
4	Collaboration agreement between agencies and instrumentalities of the Commonwealth of Puerto Rico and the Public Prosecutor's Office of the Dominican Republic for the institutional strengthening	Commonwealth of Puerto Rico and the Dominican Republic
5	Extradition agreement between the Dominican Republic and the Republic of France	France and Dominican Republic
6	Collaboration agreement for the institutional strengthening between the Public Prosecutor's Office of Costa Rica and the Public Prosecutor's Office of the Dominican Republic	Costa Rica and Dominican Republic
7	Co-operation agreement between the Public Prosecutor's Office of the Dominican Republic and the Ministry of Justice of Chile on forensic and penitentiary matters	Republic of Chile and Dominican Republic
8	Agreement between the government of the United States of America and the government of the Dominican Republic in relation to the sharing of assets and instrumentalities confiscated or forfeited	United States of America and Dominican Republic
9	Bilateral co-operation agreement between the Public Prosecutor's Office of the Republic of Cuba and the Public Prosecutor's Office of the Dominican Republic	Cuba and Dominican Republic
10	Co-operation agreement between the Public Prosecutor's Office of the Dominican Republic and the Ministry of Justice of the Republic of Chile	Republic of Chile and Dominican Republic
11	Declaration to be part of an Ibero-American System for the Defence of the Interests of the State	Colombia, Spain, Peru, Republic of Chile, Guatemala and Dominican Republic
12	Inter-agency co-operation agreement between the Public Prosecutor's Office of Chile and the Public Prosecutor's Office of the Dominican Republic	Republic of Chile and Dominican Republic
13	Collaboration and information exchange protocol between the Council of Justice, Employment and Social Security of the Basque government and the Public Prosecutor of the Dominican Republic	Basque country and Dominican Republic
14	Protocol of intention to collaborate and exchange information between the Public Prosecutor of the Republic of Colombia and the Public Prosecutor of the Dominican Republic	Colombia and Dominican Republic
15	Protocol between the government of the Dominican Republic and the government of the United States of America of the agreement relating to anti-drug maritime operations	United States of America and Dominican Republic
16	Extradition treaty between the government of the Dominican Republic and the government of the United States of America	United States of America and Dominican Republic
17	International Convention on the Suppression of the Financing of Terrorism	All member States of the United Nations Organisation

18	Extradition treaty and judicial assistance on criminal matters between Spain and the Dominican Republic	Spain and Dominican Republic
19	Extradition treaty between the Dominican Republic and the Republic of China	Republic of China and Dominican Republic
20	Convention for the Suppression of the Illicit Traffic in Dangerous Drugs	Belgium, Brazil, Canada, China, Colombia, Egypt, France, Greece, Guatemala, Haiti, India, Dominican Republic, Romania and Turkey
21	Convention for the fight against the use, production and illicit trafficking in drugs and related crimes between the government of the Dominican Republic and the Government of the Republic of Peru	Peru and Dominican Republic
22	Co-operation agreement on the exchange of information and experiences for the fight against transnational organised crime, drug trafficking, and related crimes between the Public Prosecutor's Office of the Dominican Republic and the Public Prosecutor's Office of the Republic of the United Mexican States	Mexico and Dominican Republic
23	Extradition treaty between the government of the Dominican Republic and the government of the Federative Republic of Brazil	Federative Republic of Brazil and Dominican Republic
24	Extradition treaty between the Dominican Republic and the Republic of Cuba	Cuba and Dominican Republic
25	Assistance between the government of the Republic of Colombia and the government of the Dominican Republic on mutual a on criminal matters	Colombia and Dominican Republic
26	Convention on mutual legal assistance on criminal matters between the government of the Dominican Republic and the government of the Republic of France	France and Dominican Republic
27	Judicial assistance agreement on criminal matters between the Dominican Republic and the Republic of Peru	Peru and Dominican Republic
28	Inter-American Committee against Terrorism	All member States of the OAS
29	Vienna Convention on the Law of Treaties	All member States of the United Nations Organisation
30	Convention against Transnational Organised Crime	147 countries of the 189 members of the United Nations Organisation
31	Convention on Extradition subscribed in Montevideo	Honduras, United States of America, El Salvador, Dominican Republic, Haiti, Argentina, Venezuela, Uruguay, Paraguay, Mexico, Panama, Guatemala, Brazil, Ecuador, Nicaragua, Colombia, Chile, Peru and Cuba
32	Agreement between the Dominican Republic and the Republic of Venezuela on the co-operation to prevent and combat the illicit trafficking of narcotics, psychotropic substances and related crimes	Venezuela and Dominican Republic
33	Memorandum of understanding between the Ministry of Foreign Affairs of the Dominican Republic and the Ministry of Foreign Affairs of the Republic of Panama on Bilateral Consultations	Dominican Republic
34	Co-operation agreement between the Public Prosecutor's Office of the Dominican Republic and the Public Prosecutor's Office of the Russian Federation	Russia and Dominican Republic

35	Extradition treaty between the government of the Dominican Republic and the government of the United Mexican States	Mexico and Dominican Republic
36	Treaty on mutual legal assistance on criminal matters between the government of the Dominican Republic and the government of the United Mexican States	Mexico and Dominican Republic
37	Co-operation agreement for the Prevention, Control and Deterrence of Money Laundering resulting from any Illicit Activity between the government of the Dominican Republic and the government of the Republic of Colombia	Colombia and Dominican Republic
38	Convention between the Dominican Republic and the United Mexican States on Co-operation on the Fight against Illicit Traffic and Abuse of Narcotics, Psychotropic Substances and related crimes	Mexico and Dominican Republic

*Source: Information provided by the PGR*

506. After the analysis of statistical data in percentage terms provided by the Dominican Republic and of the information collected from domestic competent authorities, it could be verified that there is a constructive vision and willingness in relation to international co-operation, which is performed and enabled effectively.

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

507. The UAF exchanges information without the need of an instrument, by the principle of reciprocity. However, memoranda of understanding are entered with the aim of establishing direct communication channels and contact points. In that manner, information is exchanged with other units, through the use of co-operation agreements, always using mechanisms or means that safeguard the confidentiality of the information exchanged. The UAF has signed 12 MOU with counterpart units in the countries detailed in the Table ‘Memoranda of Understanding signed by the UAF.

508. Moreover, the UAF is a party to the Regional Memorandum of Understanding for the Fight against Money Laundering and Terrorist Financing among Units 2013-2014 UIF-DIRECTO.

509. In December 2014, the Dominican Republic formally applied for its admission into the Egmont Group, however, the important regulatory and structural changes on ML/TF matters required an update of the information submitted. As at the date of the on-site visit, the Dominican Republic was under the corresponding membership process.

510. Since August 2016, with its admission into the Financial Action Task Force on Money Laundering of Latin America, the Dominican Republic has been part of GAFILAT's Asset Recovery Network - RRAG. Moreover, the Dominican Republic belongs to the Caribbean Asset Recovery Network - CARIB since 2017.

511. In addition, the Dominican Republic participates in working groups and tables, among which there is the Regional Memorandum for the fight against ML and TF of Financial Intelligence Units, GELAVEX, before which the UAF represents the country.

512. In relation to the financial banking system's supervision, the Superintendency of Banks has entered into memoranda of understanding with countries of Central America, Panama, Venezuela, as well as with the bank supervisor of the State of New York, United States of America, among others.

513. The SIB has entered into 18 MOUs, conventions and other agreements mentioned as follows:

**Table 38. Memoranda of Understanding signed by the SIB**

No.	Country	No.	Country
1	Netherlands Antilles	10	Honduras
2	Argentine Republic	11	Cayman Islands
3	Canada	12	Mexico
4	Colombia	13	Nicaragua
5	Costa Rica	14	New York, United States of America
6	Chile	15	Panama
7	El Salvador	16	Peru
8	Guatemala	17	Bolivarian Republic of Venezuela
9	Republic of Haiti	18	Centro American Council of Superintendents of Banks, Insurance and other Financial Institutions (CCSBSO)

Source: Information provided by the Dominican Republic

514. The SIB, in the framework of a criminal investigation for fraud, organised crime and money laundering, requested on the basis of a Co-operation Memorandum to the Bolivarian Republic of Venezuela information on Venezuelan nationals that were under investigation for the crime of damages to Dominicans and foreigners.

515. An example of co-operation with counterpart units is that, during the process of dissolution of the Banco de Ahorro y Crédito Providencial, S.A., information was exchanged with the Bank of Spain since they were also shareholders of the payment entity Pay One 911 E.P.S.A., an entity established in Spain.

516. Moreover, the SIV has the legal capacity to exchange information with other foreign counterparts. Therefore, memoranda of understanding have been signed with counterparts of several countries, such as: The Republic of El Salvador, Chile, among others.

517. The law enforcement authorities have the legal capacity, as well as the institutional mechanisms for the purposes of international co-operation. Therefore, the PGR has entered into several agreements related to other forms of international co-operation among which the following can be mentioned:

- ✓ Ibero-American Legal Assistance Network, IberRed: It is a tool on civil and criminal matters that enables online co-operation and exchange of information at the international level, of which the 22 Ibero-American countries are members.
- ✓ Network of Prosecutors against Organised Crime, REFCO: It is a body of the Central American and Caribbean Council of Public Prosecutors since 2011.
- ✓ EuroJust: Created in 2002 with the purpose of supporting and strengthening co-ordination and co-operation between competent authorities for the fight against serious cross-border crimes.
- ✓ Active member of the Conference of Ministers of Justice of the Ibero-American Countries, COMJIB

518. In turn, the National Police is party to several co-operation agreements that ensure a greater effectiveness to provide assistance. Among them, the following can be mentioned:

**Table 39. International Co-operation agreements of the National Police**

NO.	Agreement
1	Inter-agency co-operation agreement with the International Justice Mission
2	INTERPOL
3	AIRCOP
4	AMERIPOL
5	Memorandum of Understanding with the Police Department of New York City

6	Co-operation agreement with the Federal Bureau of Investigation of the Justice Department of the United States of America
7	Commission of police chiefs and directors, Central America, Mexico, the Caribbean and Colombia
8	Memorandum of understanding with the Embassy of the United States of America
9	Member of the Technical Commission against Human trafficking and smuggling of Central America, Colombia, Mexico and the Caribbean
10	Convention of Budapest on Cybercrime
11	Co-operation agreement with the National Police of the Republic of Haiti

*Source: Information provided by the Dominican Republic.*

519. Moreover, the DGM has links to counterpart entities for the purposes of increasing its effectiveness in relation to co-operation. For such purpose, it has agreements that include the following:

- ✓
- ✓ Memorandum of Understanding of Co-operation between the Special Administrative Unit of Migration of Colombia and the Immigration Department of the Dominican Republic, subscribed on April 9, 2015.
- ✓ Protocol for the exchange of information between the Immigration Department of the Dominican Republic and the National Migration Service of the Republic of Panama.
- ✓ Inter-Agency Co-operation Convention with the National Central Bureau (INTERPOL) through which conditions are established to allow the electronic connection of databases authorised by Interpol with the DGM systems in order to facilitate the proper migratory and police controls of the entrance and exit points, duly authorised, subscribed on March 5, 2014

520. In this context, the DNCD has co-operation agreements with foreign and international organisations, among which the following can be highlighted:

- ✓ Memorandum de entendimiento para los Centros de Información de Drogas (CDI), de fecha 4 de marzo de 2003.
- ✓ Memorandum of Understanding between the DNCD and the National Agency against Crime of the government of the United Kingdom of Great Britain and Northern Ireland for the Co-operation in the Fight against the International Trafficking in Drugs and Money Laundering, dated on June 15, 2015.
- ✓ Memorandum of Understanding between United Nations, CESEP, Military Directorate of the Multimodal Caucedo Port, MIREX, DGA and DNCD, in relation to the Programme of Control of Containers (CCP), dated on October 10, 2013.
- ✓ Memorandum of Understanding between the United Nations, the Ministry of Interior and Police, the National Police through the National Central Bureau of Interpol in the Dominican Republic, DGM, MIREX, MIDE through the CESAC, the J2, and DNI, DGA, Public Prosecutor's Office, and the DNCD in relation to the Airport Communication Programme (AIRCOP.)
- ✓ Inter-Agency Co-operation Agreement to Counteract Drug Trafficking and Money Laundering between the Police of Puerto Rico and the DNCD, dated on January 13, 2015.
- ✓ Inter-Agency Agreement for the Co-operation and Intelligence between the DNCD and the Narcotics Control Board (NACOB) of the Republic of Ghana on the Traffic of Narcotics through West Africa, dated on January 27, 2010.
- ✓ Memorandum of understanding for Drug Information Centres (CDI), dated on March 4, 200

521. Likewise, for the purpose of expediting joint tasks and international co-operation, in the DNCD there are officials from law enforcement institutions from different countries it holds agreements with, thus benefiting the performance of joint investigations, among them USA, Canada, United Kingdom, France, among others. In the period 2012-2017, in relation to international co-operation requests sought by the DNCD, valuable and considerable amounts of legal assistance requests, letters rogatory, background

information requests, parallel investigations with liaison officers, joint operations, and red flags on the illicit trafficking in drugs can be highlighted, including information request, as shown below:

**Table N° 40 - DNCD requests of international co-operation 2012-2017 (informal information requests)**

Country	2012	2013	2014	2015	2016	2017
Germany	101	39	42	46	20	9
Belgium	100	107	223	94	192	49
Canada	22	16	26	27	15	31
Colombia	23	16	6	20	16	8
Venezuela	6	9	7	16	31	16
Peru	0	0	2	1	2	1
United States and Puerto Rico	204	236	238	169	207	199
Spain	178	73	120	143	53	90
France	100	40	350	91	161	107
Mexico	2	6	1	1	3	1
Switzerland	16	21	13	12	14	9
Netherlands	46	20	49	66	79	62
Russia	0	0	0	0	0	0
United Kingdom	151	7	100	97	40	47
Romania	1	0	0	3	1	1
Lithuania	0	0	0	0	0	0
Italy	96	14	98	113	201	160

Source: Elaborated based on information provided by the DNCD

522. The DGA exchanges intelligence information with other countries and it even belongs to important regional initiatives in the fight against organised crime. An example of this is the Memorandum of Understanding between the United Nations and the different governmental entities of the Dominican Republic, including this office. Below, there is a list of international co-operation cases by the DGA:

**Table N° 41 - 2012-2017 International co-operations - DGA:**

Year	Quantity	Description	Countries	Remarks
2012	52	Mutual assistances are investigations on: Vehicles (legal status), undervaluations, status of vessels, others.	United States, South Korea, Spain, China, Chile, Colombia, Haiti	Of the 52 mutual assistances, one is relating to passengers. The Customs of Bermuda requested to confirm if 5 passengers that were under investigation for a drug case in Bermuda had entered the Dominican Republic (information confirmed.)
2013	58	Drugs, toxic products, smuggling of cigarettes, undervaluation	United States, Panama, Bermuda, South Korea, RILO Asia Pacific, Haiti	Of the 58 mutual assistances, one is relating to passengers. The Customs of Bermuda requested to confirm if 1 passenger that was under investigation for a drug case in Bermuda had entered the Dominican Republic (information confirmed.)

2014	53	Vehicles, passengers, cigarettes	Panama, China, United States, Japan, Spain, Canada, Haiti	Of the 53 cases, two are related to passengers. An information request was sent to Spain to investigate one passenger and another to the United States.
2015	91	Vehicles, containers, drug, vessels	United States, Panama, Canada, China, France, Spain, Haiti	Of the 91 cases, one was an alert of a passenger sent by Saint Lucia, to verify if it carried money. The passenger was checked, negative outcome.
2016	76	United States, Spain, Belgium, Canada,	United States, Panama, Canada, France, Spain, Haiti, South Korea	Of the 76 cases, one is related to passengers. France sent a request to know if one passenger had entered the country. (Information confirmed.)
2017	96	Vehicles, undervaluations, status of vessels, others	United States, Peru, Haiti, Panama, Canada, Spain, Italy, Mexico, South Korea, Costa Rica, Russia, Uruguay, San Martin, Saint Lucia, Saudi Arabia, Brussels, Colombia, Dubai, France, American Virgin Islands, Venezuela.	Of the total 96 cases, 14 of positive undervaluation, 15 vehicles reported as stolen, 2 vessels with negative history. Note: Undervaluation cases increase the raising of funds by 331,263,326.26 (approximate amount.)

Source: Elaborated based on information provided by the DNCD

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

523. The Dominican Republic has legal mechanisms that allow to provide assistance to other countries through the exchange of information and it is party to different international initiatives that facilitate the flow of information, trying to achieve the broadest information exchange. Likewise, the country provides information to all countries that request it based on the reciprocity principle, i.e., even in the absence of a memorandum of understanding with a specific country. An example are the co-operation provided to countries like Italy, Curacao, Sint Marteen, Peru, and Slovenia, among others. As previously mentioned, law enforcement authorities and the UAF exchange intelligence information with their different competence spheres. In the case of Central America, the Dominican Republic is a member of the Liaison Committee of the Central America Council of Superintendents of Banks Insurance and other Financial Institutions (CCSBSO), that shares regular financial information, including academic and co-operation information with Centro American countries, Panama, Colombia and the Dominican Republic.

524. The SIV, in addition to signing several co-operation Memoranda of Understanding with authorities from other countries, it co-operates with other jurisdictions under the principle of reciprocity and good practices. An example of this is the co-operation provided in relation to an information request made in May 2016 by the General Secretariat of the Control Commission of Financial Activities of the Principality of Monaco.

525. In relation to the UAF, the information available on International Co-operation are the following:

**Table 42. 2013-2017 International co-operations received by the UAF**

COUNTR Y	201 3	201 4	2015	201 6	201 7	TOTA L
Curacao	3	-	1	2	-	6
Guatemala	1	1	3	1	-	6
Haiti	1	-	-	-	-	1
Argentina	-	1	4	-	-	5
Chile	-	1	-	-	-	1



Anguilla	-	-	3	-	-	3
Trinidad and Tobago	-	-	2	1	-	3
Bermuda	-	-	2	-	-	2
Costa Rica	-	-	1	-	-	1
San Martin	-	-	-	3	-	3
Italy	-	-	-	1	1	2
Peru	-	-	-	1	-	1
Turks and Caicos	-	-	-	1	-	1
Panama	-	-	-	-	2	2
Slovenia	-	-	-	-	1	1
<b>TOTAL</b>	<b>5</b>	<b>3</b>	<b>16</b>	<b>10</b>	<b>4</b>	<b>38</b>

Source. Elaborated based on information provided by the UAF.

**Table 43. 2013-2017 International co-operations answered by the UAF**

COUNTRY	2013	2014	2015	2016	2017	TOTAL
Curacao	3	-	-	3	1	7
Guatemala	1	1	3	2	-	7
Haiti	1	-	-	-	-	1
Argentina	-	1	4	-	-	5
Chile	-	1	-	-	-	1
Anguilla	-	-	3	1	-	4
Bermuda	-	-	2	-	-	2
Costa Rica	-	-	1	-	-	1
San Martin	-	-	-	5	1	6
Trinidad and Tobago	-	-	-	4	1	5
Italy	-	-	-	1	3	4
Peru	-	-	-	1	1	2
Slovenia	-	-	-	-	2	2
Panama	-	-	-	-	2	2
<b>TOTAL</b>	<b>5</b>	<b>3</b>	<b>13</b>	<b>17</b>	<b>11</b>	<b>49</b>

Source. Elaborated based on information provided by the UAF F.

**Table 44. 2013-2017 International co-operations made by the UAF**

Países	2013	2014	2015	2016	2017	Total
Anguila	0	0	3	1	0	4
Argentina	0	1	4	0	0	5
Bermuda	0	0	2	0	1	3
Chile	0	1	0	0	0	1
Costa Rica	0	0	1	0	0	1
Curazao	3	0	0	3	1	7
Francia	0	0	0	0	0	0
Guatemala	1	1	3	2	0	7
Haití	1	0	0	0	0	1
Italia	0	0	0	1	3	4
Panamá	0	0	0	0	5	5
Perú	0	0	0	1	1	2
República de Eslovenia	0	0	0	0	2	2
San Martín	0	0	0	5	1	6
Trinidad y Tobago	0	0	0	4	1	5
Islas Turcas y Caicos	0	0	0	1	0	1
<b>Total</b>	<b>5</b>	<b>3</b>	<b>13</b>	<b>18</b>	<b>15</b>	<b>54</b>

Source. Elaborated based on information provided by the UAF

526. The UAF has created a process to answer to co-operation requests, which main purpose is to provide the information requested in the shortest time possible. For such purpose, it performs an initial search in the entire system and sends responses in an interval of days. In case more public or private information were needed with the aim of enlarging that first response, the UAF performs such requests and sends a second report, which accounts for the difference between requests made and responses sent. Moreover, to speed-up and facilitate the co-operation provided, the UAF created an instruction No. AN-IN-002 for co-operation requests published in its website.

527. In the UAF, international requests are answered by the Analysis Division through the Department of Operational Analysis, which has technical personnel that collaborates with the search process and the elaboration of reports. The requests received are entered into the database, an internal form is filled in, where the actions to be carried out to fulfil the requirement are recorded, with a detail of the entity the information is requested from, the type of information requested, what is to be proven with the response, the date of request, the date the response was received from the requested entity, and the conclusion. In case of requests received by other countries, when they lack the necessary detail to perform an adequate analysis, the UAF requests additional information for the purpose of being able to fulfil the request. In all cases submitted, the UAF has responded to the requests, except in the case of a request where the UAF requested additional information.

528. In relation to measures to safeguard the confidentiality of the requests, the UAF has internal processes in place that ensure the security of the information since they establish access levels, both physical and to the information itself, as well as technological systems. Moreover, the legislation sets forth civil and criminal sanctions for the official that disseminates any kind of confidential information which, under the performance of its duties, it had access to.

529. With the aim of ensuring the appropriate use of information shared, each of the reports drafted include the following tag line: For International Co-operation: *“This information constitutes financial intelligence. If they are to be forwarded to the Public Prosecutor's Office and the Judiciary, to be used with evidentiary purposes, a formal request should be submitted for said information to be sent through the Ministry of Foreign Affairs of the Dominican Republic”*.

530. International co-operation requests should be performed through an encrypted e-mail, and for countries that are members to UIF-DIRECTO, they are performed through this platform. The same methods are used to send the responses, based on the provisions of the Handbook of Procedures of the Analysis Division of the UAF.

531. In the framework of co-operation mechanisms, the National Police receives the co-operation and intelligence information exchange requests with other countries of the world, with an average annual volume of 9 000 requests.

532. In turn, the DGA exchanges intelligence information with other countries and it even belongs to important regional initiatives in the fight against organised crime. An example of this is the Memorandum of Understanding between the United Nations and the different governmental entities of the Dominican Republic, including this office.

533. Moreover, the DNCD has the “Handbook of Joint Investigations for Money Laundering,” which includes in an ordered, sequential, and detailed manner the steps to be followed for each stage and phase of joint and parallel investigations on money laundering performed with the MP, the UAF and other international institutions and agencies, promoting the good administrative development of the investigation and complying with the new Law 155-17.

534. To conduct investigations and prioritise and answer assistance requests, the DNCD has a breakdown form for national and international drug trafficking cases which is appropriate for the purposes of the investigations performed in the institution, related to the investigation plan comprehensive form of the UNODC. A proactive participation of the DNCD is highlighted in relation to confiscations performed as a result of the co-ordination and international co-operation, as shown in the tables below:

**Table N° 45 - Confiscation by Sea Operations (international waters)**

DATE	PROXIMITY	COCAINE (KG)	HEROIN	MARIHUANA
19/12/2017	CARIBBEAN SEA (USCG)	1,840	-	-
01/01/2017	CARIBBEAN SEA (USCG)	1,045	-	-
20/04/2017	CARIBBEAN SEA (USCG)	1,400	-	-
30/06/2017	PUERTO RICO (MERCANTE)	300	-	-
12/12/2017	PUERTO RICO (MERCANTE)	1,325	-	-
		<b>5,910</b>	<b>-</b>	<b>-</b>

Source: Information provided by DNCD

**Table N° 46 - Confiscation by Units of Allied Countries with Intelligence and Support of DNCD**

DATE	LOCATION	COCAINE (KG)	HEROIN (KG)	CURRENCY (USD)	ARRESTED PERSONS	VEHICLES	VESSELS
12/01/2017	PUERTO RICO	2.50					
21/01/2017	PHILADELPHIA	1 2		300,000	2	2	
13/02/2017	PERU	1 5					
15/02/2017	PHILADELPHIA			150,000	2	2	

25/02/2017	PUERTO RICO	360			3		1
28/02/2017	NEW JERSEY	4		50,000	3		
28/02/2017	BRONX, NEW YORK		4		2		
22/03/2017	NEW JERSEY		3		2	1	
31/03/2017	BOSTON		1		2		
01/04/2017	CANADA	3					
03/04/2017	CONNECTICUT	3					
28/04/2017	BRONX			150,000	2	1	
10/05/2017	PUERTO RICO	60			2		1
11/05/2017	NEW YORK		2		1		
18/05/2017	BELGIUM	2.30					
05/06/2017	CANADA	23.20					
12/09/2017	FRANCE	12.50					
13/09/2017	PUERTO RICO		2	1,000,000	1		
17/09/2017	CANADA	28.50					
22/09/2017	GERMANY	73					
26/10/2017	FRANCE	33					
27/10/2017	BELGIUM	12					
04/11/2017	FRANCE	36					
08/11/2017	MIAMI	0.10		23,000		3	
08/11/2017	NEW JERSEY	0.30	1	20 000		3	
27/11/2017	CANADA	20					
29/11/2017	NEW JERSEY		6		4	5	
05/12/2017	MIAMI	64					
07/12/2017	CANADA	26.32					
18/12/2017	CANADA	17.96					
		809.08	190	1,693,000	26	17	2

Source: Information provided by DNCD

535. Through the asset recovery networks, the MP belongs to: a) In the GAFILAT Asset Recovery Network - RRAG, it has experience in handling cases with the following countries: Belgium, Paraguay, and Spain. b) In the Caribbean Asset Recovery Network - CARIN, it has experience in handling cases with the following countries: Denmark, Monserrat, France, United States.

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

536. In the Dominican Republic, the company register is public and the UAF has an inter-agency co-operation agreement that ensures the direct access to the information held by company registers, assisting in the identification of the ownership structures of investigated legal persons. Moreover, the UAF has direct

access to the DGII, which allows including in its co-operation responses existing information on beneficial ownership.

537. It should be highlighted that the DGII has entered into important information exchange agreements, among which the following can be mentioned: The FATCA, Mutual Assistance Agreement for the Exchange of Tax Information with the United States of America; Convention to Avoid the Double Imposition and Prevent Tax Evasion with the Kingdom of Spain.

538. In relation to international co-operation provided to other FIUs, all persons mentioned below correspond to natural persons requested individually, as well as partners, associates, and beneficial owners of legal persons:

**Table 47. International co-operation related to BO made by the UAF to other FIUs (2013-2017)**

COUNTRY	2013		2014		2015		2016		2017	
	Number of Requests	Number of persons Requested	Number of Requests	Number of persons Requested	Number of Requests		Number of Requests	Number of persons Requested	Number of Requests	Number of persons Requested
Canada	-	-	-	-	1	1	-	-	-	-
Colombia	1	35	-	-	-	-	3	4	2	79
Costa Rica	-	-	-	-	-	-	-	-	1	69
Spain	1	1	-	-	-	-	-	-	1	69
USA	1	5	1	4	1	3	-	-	-	-
Guatemala	-	-	-	-	-	-	-	-	1	69
Honduras	-	-	-	-	-	-	-	-	1	69
Italy	-	-	-	-	-	-	-	-	1	1
Nicaragua	-	-	-	-	-	-	-	-	1	69
Panama	-	-	-	-	-	-	2	2	4	87
Peru	-	-	-	-	-	-	1	37	1	121
El Salvador	-	-	-	-	-	-	-	-	1	69
Venezuela	1	35	-	-	-	-	1	1	-	-
<b>TOTAL</b>	<b>4</b>	<b>76</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>4</b>	<b>7</b>	<b>44</b>	<b>14</b>	<b>702</b>

*Source. Elaborated based on information provided by the UAF.*

539. In turn, the SIB has co-operation mechanisms for the exchange and provision of information in relation to basic and beneficial ownership information requests of legal persons and other legal arrangements.

540. Moreover, the SIV has the legal power and willingness to provide co-operation to foreign authorities as requested. Given that the legal definition of trust in the country must be registered with the company register and is governed by the DGII, the SIB and the SIV, based on its business model, access to information on the contributor and the beneficiary is ensured.

### *Conclusions on Immediate Outcome 2*

541. The country has a sound legal basis to provide international co-operation in ML/TF matters, regulations that enable it to make and respond MLA requests and other forms of international co-operation in a broad, unrestricted co-operation framework, further sustained on the principle of reciprocity among nations.

542. The PGR is the central authority as regards mutual legal assistance and extradition through the International Legal Assistance and Extradition Office. This office has the power to receive, channel, and respond international requests and, in relation to active co-operation, send requests to other countries. No restrictions were observed in relation to the extradition of Dominican nationals.

543. In relation to other forms of international co-operation, competent authorities of the Dominican Republic have entered into different memoranda of understanding with the aim of establishing direct

communication channels and contact points, and have used mechanisms or means to safeguard the confidentiality of the information exchanged.

544. The central authority for MLA cases and competent authorities for cases of other forms of international co-operation have shown efforts and made considerable contributions in seeking and providing constructive and proactive international co-operation, considering also that competent authorities domestically work in a co-ordinated manner to provide effective international assistance.

545. The need to have internal protocols or manuals on MLA matters is noted to establish the form and terms for their processing, that would also provide for prioritisation, follow-up, and case handling mechanisms, to monitor the progress of requests. Likewise, spontaneous co-operation provision and the number of active co-operation requests should be increased, for both MLA and other forms of international co-operation.

546. Even if the UAF is currently in the process to become member of the Egmont Group, this has not been an obstacle to provide and request international co-operation to its foreign counterparts. However, the Dominican Republic should make further efforts to achieve its admission in the shorter time possible.

547. Finally, some gaps were found in relation to statistical data of certain domestic authorities involved in co-operation matters.

548. Based on the analysis performed, the Dominican Republic **shows a Substantial level of effectiveness for Immediate Outcome 2.**

## TECHNICAL COMPLIANCE ANNEX

CT1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

CT2. The AML/CFT system of the Dominican Republic has not been previously evaluated by GAFILAT, reason why this Annex makes a thorough analysis of all criteria based on the 2013 Methodology.

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

CT3. *Criterion 1.1* – The Dominican Republic, under the leadership of the National Committee against Money Laundering, carried out the National Risk Assessment (NRA) in March 2014. The process had the technical assistance and used the methodology of the World Bank. Nine modules were created with the different sectors of the national economy which could be used as vehicles to launder assets. The result of this process was approved by the National Committee against Money Laundering, and the executive summary was published on April 25, 2017.

CT4. The NRA was carried out in three phases. During the first stage, authorities were introduced to the methodology and tools to be used, available data was included, and additional data and information necessary to complete it were identified. During the second phase, data was collected. Finally, in the third phase, carried out in 2017, there was a workshop where the outcomes of the evaluation were discussed, action plans were designed, and obstacles for their implementation were debated.

CT5. Three offences were identified as bearing the highest ML risk: Drug trafficking, corruption, and financial fraud. Some sectors were classified as low-risk, such as remittances, or medium-risk, such as NPOs. However, an evaluation is needed in relation to certain economic activities not included in the NRA, such as informal economy, that constitutes a factor that highly affects the economy.

CT6. The Dominican Republic identified and evaluated its risks, but a greater depth is needed in the analysis of some sectors, such as remittances. Moreover, there was no information on how crimes identified as high-risk negatively impact on the economy in general. In general terms, regarding the reliability on the information provided for this report, the data was given directly by the authorities in charge of the prosecution of ML offense and predicate offenses, and the participation of the private sector to gather and validate data. In addition, the evaluation team had access to the templates of each sector with the complete description of the indicators and how they are obtained.

CT7. It is worth mentioning that not all institutions had the statistical data in a systemized manner, therefore there were difficulties in obtaining them as required in the assessment template. The NRA informs the limitations in the information obtained, ensuring that the gaps were corrected by the qualitative analysis of the authorities that were part of the respective working tables.

CT8. *Criterion 1.2* – The National Committee against Money Laundering (CONCLA) was functioning during the performance of the NRA and it was in charge of its co-ordination. The CONCLA was created by Law 72-02 (on ML from the illicit drug trafficking.) This law was abrogated by Law 155-17 that created the National Committee against ML and TF.

CT9. Moreover, and since 2017, based on Article 88 of Law 155-17, the CONCLAFIT is the collegiate co-ordinating agency, responsible for the efficient functioning of the prevention, detection, control, and combat of ML/TF and FPWMD. The CONCLAFIT is made up by the Treasury Ministry, which presides it; the Public Prosecutor of the Republic; the Minister of Defence, the President of the National Council on Drugs; the President of the DCND; the Superintendent of Banks; and the Superintendent of Securities.

CT10. *Criterion 1.3* – The NRA was initiated in 2014 and contemplates data from 2010. The final outcomes were adopted in 2017.

CT11. It should be noted that the period elapsed from the first phase which was completed in 2014, until the final workshop held in 2017, during which there was a progressive modification in the institutional framework in relation to the fight against ML-TF, could have a negative impact on the up-to-date knowledge and an understanding of the country's risks in general. However, the results provided by the NRA in relation to threats (main predicate offenses) and vulnerabilities (specific sectors, the need to improve AML-CFT activities in DNFBPs) seem to remain in force up to now. There is no legal provision that establishes when does the NRA needs to be updated, however, the country reported that the CONCLAFIT determined the development of a process to update the document.

CT12. *Criterion 1.4* – As provided by the CONCLAFIT, the UAF formally forwarded to all competent authorities involved in the matter the outcomes of the NRA. Said authorities, in time, have communicated the outcomes to the reporting institutions under their supervision. An executive summary report is available in the web pages of the SIB<sup>10</sup>, the DGII<sup>11</sup>, and the National Centre for the Advocacy and Promotion of Non-Profit Organisations (CNFPASFL)<sup>12</sup>. Likewise, the CONCLAFIT co-ordinated together with competent authorities training actions through the Fiscal Policy and Management Training Centre (CAPGEFI), where, among other matters, reporting institutions were informed about the NRA outcomes.

CT13. The dissemination of the NRA to the different sectors has been very significant. Those involved in the process, and those who did not participate in it, received a feedback on the document, as well as its Executive Summary and the communication of the National Strategy.

CT14. *Criterion 1.5* – As a result of the NRA, the Dominican Republic designed the National Strategy to Prevent ML and TF (2017-2020), whereby a detailed Implementation Action Plan was drafted (Plan.) Actions provided for in the Plan set forth especially regulatory measures.

CT15. The Strategy includes the following activities to be developed, in accordance to the National Threats and National Vulnerability Action Plan: Reform of Law 72-02 (law that regulated the actions for the fight against ML); improvement of inter-institutional coordination; obligations to initiate financial investigations, in cases of predicate offenses; improvement of training for reporting entities; membership of the country in the Egmont Group; establishment of information exchange protocols between different national authorities; foster the signing of agreements for the exchange of information between the UAF and the different competent authorities; implementation of improvements in security controls for the exchange of international information; provision to the UAF of technological tools to optimize financial analysis

CT16. The National Strategy verifies actions that involve the allocation of resources to the various AML-CFT areas with the creation or strengthening of the specific units that work in this matter in each of the regulators and support the institutional development of the operational and strategic areas of the UAF.

CT17. *Criterion 1.6* – The Dominican Republic does not have any exemption in compliance with FATF Recommendations

CT18. *Criterion 1.7* – Law 155-17 sets forth the obligation to conduct Enhanced Due Diligence (EDD) by virtue of the outcomes yielded by the processes of evaluation, diagnosis and mitigation of risks identified by the reporting institutions themselves. Article 34 and 36 of the referred law establishes that the institutions should adopt measures in accordance with the greater risks identified in ML and TF, respectively.

<sup>10</sup> <http://www.sib.gob.do/content/informe-ejecutivo-resultados-evaluación-nacional-de-riesgos-de-lavado-de-activos-y>

<sup>11</sup> <http://www.dgii.gov.do/legislacion/prevencionDeLavado/marcoLegal/Documents/InformeEjecutivoLavado.pdf>

<sup>12</sup> <https://drive.google.com/file/d/0B11ebicmb1OkdWpJZzFYQnFCMnc/view>



This obligation is developed in the specific regulations issued by the supervisors, which in some cases specified the results of the NRA as a parameter for the risk-based approach of the institutions, as in the case of Circular SIB n. 12 of 2017 and Circular SIB 003 of January 2018, applicable to financial institutions regulated by the SIB. In other sectors, despite that the need to use the ENR as a parameter is inferred, there is no express obligation that reporting institutions incorporate the information identified in the NRA into their risk assessments.

*CT19. Criterion 1.8* – Law 155-17 sets forth that it is possible to conduct SDD measures by virtue of the outcomes yielded by the process of evaluation, diagnosis and mitigation of risks, when these are qualified as low (Arts. 2 and 36).

*CT20. Criterion 1.9* – Certain reporting institutions participated actively in the NRA during the collection and analysis of information. The result of said evaluation was communicated through their supervisors. The applicable standards to each sector require the development of risk matrices and the application of controls based on the outcomes yielded by said matrices.

*CT21.* There is no provision ordering reporting institutions to incorporate the communicated outcomes into the risk matrices; in this sense, supervisors are not required to monitor this fact. However, supervisors are aware of the need to have risk matrices. This provision has been communicated to their supervised entities and supervisions follow-up on that matter.

*CT22. Criterion 1.10* – In relation to taking appropriate steps to identify, assess, and understand their ML/TF risks, reporting institutions must comply with the following:

- (a) Article 37 of Law 155-17 sets forth that reporting institutions must implement a methodology that would allow them to timely identify, measure, control, mitigate, and monitor ML and TF risks. In the case of securities or commodities exchange, this obligation is developed in the Standard that regulates the Prevention of Money Laundering, Terrorist Financing, and the Financing of Proliferation of Weapons of Mass Destruction in the Dominican Securities Market, R-CNV-2017-13-MV, dated on March 28, 2017 (hereinafter regulation R-CNV-2017-13-MV), Article 4 paragraph 2); 21, e), specifically for the introduction of new products in the stock negotiation it must submit a risk assessment in relation to ML.
- (b) Article 37 of Law 155-17 sets forth that the methodology to identify, measure, control, mitigate, and monitor potential risk events shall consider at a minimum 1) customers; 2) products and/or services; 3) geographic areas; and 4) distribution channels.
- (c) The subparagraph of art. 36 of Law 155-17 establishes that the Reporting Entities must ensure that the documents, data or information collected are updated and relevant according to their risks, by conducting revisions of the existing records, including for the categories of higher risk customers.
- (d) RI must make available all records and documents established in this chapter and in the applicable sectoral regulations (Article 36) upon request of supervisors and for use in investigations and administrative procedures related to the prevention of ML, predicate offences and TF.

*CT23. Criterion 1.11* – Law 155-17 sets forth the following:

- (a) Reporting institutions must adopt, develop, and execute a risk-based compliance programme that contemplates: Policies and procedures to identify or diagnose, measure, control, monitor, and mitigate ML/TF risks. For such purposes, they must develop a methodology that encompasses, at least, the following risks factors: Customers, products and/or services, geographic areas, and distribution channels (Arts. 34 and 37).
- (b) In all cases mentioned in item (a) above, documents, data, or information collected shall be keep updated and relevant based on risk, through the review of existing records, including for higher-risk categories of customers (Art. 36).
- (c) Reporting institutions must develop policies and procedures that include risk-based CDD considering simplified, enhanced or reinforced measures (Article 36).

CT24. In Decree 408-17, Art. 17, the need to update CDD information based on the risk-level is provided for. This refers both to financial and non-financial entities.

CT25. *Criterion 1.12* – Law 155-17 provides for the implementation of simplified CDD measures (enhanced or reinforced) by reporting institutions with a risk-based approach (Art. 36). Article 42 of the referred law indicates that RI must perform EDD when higher ML/TF risks were identified, and they can apply simplified CDD when risks were lower. Simplified measures are not acceptable upon suspicion of ML/TF or upon specific higher-risk scenarios.

### *Weighting and Conclusion*

CT26. The Dominican Republic carried out a National Risk Assessment. This process relied upon the assistance of the World Bank and modules were created, where the different sectors of the national economy participated in. The NRA was widely spread through different channels. The National Strategy verifies actions that involve the allocation of resources to the various AML-CFT areas with the creation or strengthening of the specific units that work in this matter in each of the regulators and support the institutional development of the operational and strategic areas of the UAF. The NRA informs the limitations in obtaining reliable information, especially in DNFBPs. **Recommendation 1 is rated Largely Compliant.**

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

CT27. *Criterion 2.1* – As a consequence of the NRA, the Dominican Republic, under the leadership of the CONCLAFIT, elaborated the National ML/TF Risk Strategy, which was endorsed on April 25, 2017.

CT28. *Criterion 2.2* – Law 155-17 against Money Laundering and Terrorist Financing of June 1, 2017, creates the National Committee against Money Laundering and Terrorist Financing. The CONCLAFIT is the collegiate co-ordination body responsible for the efficient functioning of the ML/TF and FPWMD prevention, detection, control, and combat system. Among the functions of the CONCLAFIT, there is the elaboration and co-ordination of the national ML/TF prevention, control and fight strategy, as well as the national risk assessment on the matter. It is comprised by the Treasury Ministry (which presides the Council), the Public Prosecutor, the Ministry of Defence, the National President of the National Council on Drugs, the President of the National Directorate for the Control of Drugs, the Superintendent of Banks, the Superintendent of Securities; it should be mentioned that the UAF is in charge of the technical secretariat of the CONFLAFIT (Law 155-17, Arts. 88-91.)

CT29. *Criterion 2.3* – Among the functions of the CONCLAFIT, there is the co-ordination of efforts of the public and private sectors to avoid the misuse of the economic, financial, business, and service system for ML/TF and FPWMD purposes; it is in charge of co-ordinating the implementation, update, and amendment of the legal framework; developing policies to raise awareness and promote a culture of legality, developing citizenship education campaigns on the detrimental consequences of ML/TF, promoting mechanisms of inter-agency co-operation among competent authorities.

CT30. In relation to the private sector's training, an inter-agency board was created comprised by the UAF, the MP National School, the Judiciary National School, the SIB, and the SIV.

CT31. Moreover, the UAF has entered into co-operation agreements with the APEC University, the Bureau of National Investigations, the SIV, the Immigration Department, the General Office for Public Procurement and Contracting, the PN, IDECOOP, and CONACCOOP.

CT32. *Criterion 2.4* – The powers and duties of CONCLAFIT encompass FPWMD. Law 155-17, Art. 89, sets forth that the CONCLAFIT is a co-ordination body responsible for the efficient functioning of the ML, TF, and FPWMD prevention, detection, control, and fight system.

*Weighting and Conclusion*

CT33. There is an ongoing co-ordination and co-operation among the authorities in charge of ensuring compliance with the provisions of Law 155-17. There is an authority appointed by law for the purposes of exercising this co-ordination in ML/TF/FPWMD matters. Corresponding authorities have entered into co-operation and training agreements on this matter. Therefore, **Recommendation 2 is rated Compliant.**

**Recommendation 3 - Money laundering offence**

CT34. *Criterion 3.1* – The Dominican Republic has criminalised Money Laundering in Law 155-17, Article 3 which sets forth the following: *The criminal action of money laundering shall be considered to have occurred and shall be punished in relation to:*

- 1) *Any person who converts, transfers or transports goods, knowing full well that they are derived from any of the predicate offences, for the purpose of hiding or concealing the nature, origin, location, disposition, movement or real ownership of goods or rights over goods. Said person shall be sanctioned with a penalty of ten to twenty-years’ imprisonment, a fine of two-hundred to four-hundred minimum wages, the confiscation of all the illicit property, securities, instrumentalities and rights over them, as well the permanent prohibition to perform functions, provide services or be hired by financial intermediation entities, participants from the securities market, and public entities.*
- 2) *Any person who hides or conceals the nature, origin, location, disposition, movement or real ownership of goods or rights over goods knowing full well that said goods are derived from any of the predicate offences shall be sanctioned with a penalty of ten to twenty years’ imprisonment, a fine of two-hundred to four-hundred minimum wages, the confiscation of all illicit property, securities, instrumentalities, and rights over them, as well the temporary prohibition for a term of ten years to perform functions, provide services or be hired by financial intermediation entities, participants from the securities market, and public entities.*
- 3) *Any person who acquires, holds, manages or uses goods, knowing full well that they are derived from any of the predicate offences, shall be sanctioned with a penalty of ten to twenty-years’ imprisonment, a fine of two-hundred to four-hundred minimum wages, the confiscation of all the illicit property, securities, instrumentalities and rights over them, as well the temporary prohibition for a term of ten years to perform functions, provide services or be hired by financial intermediation entities, participants from the securities market, and public entities.*
- 4) *Any person who assists, advises, aids, facilitates, incites, or collaborates with persons involved in money laundering to avoid prosecution, judicial processes or criminal convictions shall be sanctioned with a penalty of four to ten years’ imprisonment, a fine of two-hundred to four-hundred minimum wages, the confiscation of all illicit property, securities, instrumentalities, and rights over them, as well the temporary prohibition for a term of ten years to perform functions, provide services or be hired by financial intermediation entities, participants from the securities market, and public entities.*
- 5) *Any person who participates, as an accomplice, in any of the activities mentioned in items above, the association to commit such acts, their attempt, and the act of aiding for its commission or facilitating their execution shall be sanctioned with a penalty of four to ten years’ imprisonment, a fine of one-hundred to two-hundred minimum wages, the confiscation of all illicit property, securities, instrumentalities, and rights over them, as well the temporary prohibition for a term of ten years to perform functions, provide services or be hired by financial intermediation entities, participants from the securities market, and public entities.”*

CT35. The criminalisation of FT established in art. 5 of Law 155-17 complies with all the verbs established in the Palermo Convention and the Vienna Convention and its specific requirements.

CT36. *Criterion 3.2* – Law 155-17, Art. 2, section 11) provides a list of predicate offences.

FATF Predicate Offences Categories	Range of corresponding offences
Participation in an organised criminal group and fraud;	Fraud against the State; Aggravated fraud;
Terrorism and terrorist financing;	Any violation related to terrorism and terrorist financing.

Trafficking in human beings and migrant smuggling;	Illegal trafficking in human beings (including illegal migrants); Trafficking of human organs;
Sexual exploitation, including sexual exploitation of children;	Human trafficking (including sexual exploitation of children), child pornography, procuring
Illicit trafficking in narcotic drugs and psychotropic substances;	Trafficking in drugs and controlled substances;
Illegal arms trafficking;	Illicit arms trafficking;
Illicit trafficking in stolen and other goods;	Illicit trafficking in goods, works of art, jewellery, and sculptures
Corruption and bribery;	Extortion; Bribery; Bribery; Influence peddling; Breach of official duty and offences committed by public officials during the performance of their duties; Transnational bribery;
Fraud;	Swindling;
Counterfeiting currency;	Counterfeiting currency, securities or titles
Counterfeiting and piracy of products	Crimes against intellectual property; Counterfeiting and adulteration of medicine, food, and drinks; Piracy of products
Environmental crimes	Environmental crime
Murder, grievous bodily injury	Assassination
Kidnapping, illegal restraint and hostage-taking;	Kidnapping
Robbery or theft;	Aggravated robbery
Tax crimes (related to direct and indirect taxes);	Tax offence, smuggling, unjustified enrichment
Extortion	Extortion (including recordings and electronic films performed by natural persons)
Forgery	Forgery of public documents
Piracy	Piracy
Insider trading and market manipulation	Insider trading and market manipulation

CT37. In addition, the use of front-men, financial crimes, high-technology crimes, and any violation punishable with a penalty of at least three years' imprisonment and that generates illicit recourses susceptible of ML are considered to be predicate offences (Law 155-17, Art. 2, 12.)

CT38. *Criterion 3.3* – The Dominican Republic applies a mixed approach; on the one hand, it lists predicate offences mentioned above, and on the other, it encompasses all serious offences sanctioned with a penalty of at least three years' imprisonment.

CT39. *Criterion 3.4* – For the purposes of the type of ML, the definition of asset or property is established in Art. 2.1 of Law 155-17: “*money, securities, titles, bills, or goods of any kind, such as, but not limited to, movable or immovable property, tangible or intangible property, natural resources (notwithstanding their manner of acquisition), legal documents or instruments in any form, including electronic or digital, evidencing the ownership of, or participation in, such funds or other property.*”

CT40. *Criterion 3.5* – In the Dominican Republic, ML is investigated, prosecuted and convicted as an autonomous offence in relation to the violation that occurred before, and regardless of the jurisdiction where it occurred (Law 155-17, Art. 6.)

CT41. *Criterion 3.6* – As set forth in Art. 6 of Law 155-17, money laundering violations are investigated, prosecuted and convicted as an autonomous offence in relation to the violation that occurred before, and regardless of the jurisdiction where they occurred.

CT42. *Criterion 3.7* – The ML offence is autonomous and prosecuted regardless of the commission of a predicate offence.

CT43. *Criterion 3.8* – Based on Art. 7 of Law 155-17, knowledge, premeditation, intent, or purpose may be inferred from the objective factual circumstances of the case. Premeditation, duty to know, and deliberate ignorance are considered equivalent to knowledge.

CT44. *Criterion 3.9* – Three ML offence hypotheses are sanctioned with a penalty of ten (10) to twenty (20) years’ imprisonment, plus a fine of two-hundred to four-hundred minimum wages, as well as the confiscation of all illicit assets or property; while for those who assist, advice, aid, facilitate, incite, or collaborate in the commission of ML, or participate as accomplice, the sanction is of four (4) to ten (10) years’ imprisonment, plus a fine of one-hundred to two-hundred minimum wages, as well as the confiscation of all illicit assets or property. Moreover, for the purposes of Law 155-17, serious offence is considered an offence sanctioned with a penalty of at least three years’ imprisonment.

CT45. *Criterion 3.10* – The legal framework of the Dominican Republic permits the criminal accusation of legal persons and, specifically, in relation to the ML offence, it is provided for in Law 155-17, Art. 8 that sets forth that: When a criminal offence provided for in this Law were attributable to one legal person, regardless of the criminal liability of its owners, directors, managers, administrators, or employees, the business company or individual company shall be sanctioned with any or all the following penalties: 1. A fine for a value not lower than two-thousand minimum wages or for the value of the assets laundered by said legal person; 2. Permanent closure of premises; 3. Prohibition to perform future activities similar to those performed to commit, favour or conceal the crime; 4. Withdrawal of licenses, rights or other administrative permits; 5. Dissolution of the legal person.

CT46. *Criterion 3.11* – Law 155-17 sets forth different behaviours and crimes ancillary to the ML, which are criminalised in Law 155-17, Art. 3, items 4) and 5), Art. 4.

### *Weighting and Conclusion*

CT47. The criminalisation of ML in the Dominican Republic is consistent with the International Conventions and complies with the requirements set forth in the Standard. Moreover, it covers the entire range of predicate offences; there is a provision that sets forth as predicate offence any serious offence subject to a sanction of at least three years’ imprisonment, reason why any crime that creates wealth may be considered as predicate offence. **Recommendation 3 is rated Compliant.**

### *Recommendation 4 - Confiscation and provisional measures*

CT48. *Criterion 4.1* – Seizure is thoroughly regulated in Section IV of Law 155-17. In particular, it should be mentioned that:

- (a) Art. 24 covers the confiscation of laundered property, since it establishes that the court shall order that the property, proceeds or instrumentalities related to the violation be confiscated; likewise, it indicates that when assets obtained or derived, directly or indirectly, from a crime were commingled with illicitly acquired property, their confiscation shall be ordered solely for the value of the assets, proceeds or instrumentalities of crime. It covers expressly the seizure of the proceeds and instrumentalities related to the money laundering offence. The proceeds or instrumentalities which use was attempted are equally encompassed by the law, since it reaches all property “related” to the violation. Likewise, the terms “instrumentality” and “proceeds” are defined in Article 2 of the Law (sections 14 and 20.)
- (b) The TF offence is criminalised in Article 5 of the afore mentioned Law and the regulations on confiscation provided for in Article 24 is applicable to it. It covers the confiscation of property that are the product, were used or were expected to be used to finance terrorism, terrorist acts, or terrorist organizations. The standard covers all these situations since it sets forth that the court shall order the confiscation of the property, proceeds, and instrumentalities related to the violation.

- (c) The confiscation of property of corresponding value is legislated in Article 26 of Law 155-17. This article sets forth that, whenever any of the property, proceeds, or instrumentalities, as a result of any act or omission of the convicted, could not be confiscated, the court shall order the confiscation of other property of the convicted for an equivalent value or it shall order the payment of a fine for such value.

CT49. *Criterion 4.2 –*

- (a) The Dominican Republic has implemented measures to identify, trace, and evaluate property that is subject to confiscation. In relation to identification and tracing, Art. 285 and following articles of the Criminal Procedural Code (CPP) empowers the MP to carry out all actions necessary for the investigation. Moreover, Art. 21 of Law 155-17 empowers competent authorities to exchange information with foreign counterparts to identify and trace property which are a proceed or instrumentality of crime. In relation to the evaluation of property, Art.189 of the CPP provides that the assets confiscated shall be itemised, inventoried, and stored to ensure their custody and good maintenance, under the responsibility of the MP.
- (b) The Dominican Republic has regulations that enable the execution of provisional measures. Article 23 of Law 155-17 empowers the judge to order, at any time and without prior notice or hearing, a writ of attachment, seizure order, or provisional freezing of movable property or banking products, or objection to the transfer of real estate property, with the aim of preserving the availability of movable and immovable property, proceeds, or instrumentalities related to the offence. This provision includes the seizure or freezing of funds under investigation in the institutions that are reporting institutions.
- (c) The Dominican Republic may take steps that will prevent actions that prejudice the country’s ability to freeze or seize or recover property that is subject to confiscation. In addition to the provisions mentioned in sub-criterion 4.2 (b), Article 23 of Law 155-17 sets forth that the MP can adopt exceptional precautionary measures when the delay may endanger the investigation or result in the diversion of property.
- (d) The MP has the proper investigative measures in place. Article 169 of the Political Constitution sets forth that the MP runs the criminal investigation and exercises public prosecution on behalf of the civil society. Article 88 of the CPC, moreover, sets forth its functions and Art. 285 empowers it to adopt all necessary measures for the purposes of the investigation. Finally, Section I of Chapter IV of Law 155-17 governs relevant special investigation techniques.

CT50. *Criterion 4.3 –* Articles 24 and 27 of Law 155-17 contemplate the protection of *bona fide* third parties, since it provides for that the confiscation or seizure of property, proceeds, instrumentalities, and the freezing of funds shall apply regardless of their rights, respectively.

CT51. *Criterion 4.4 –* The Dominican Republic has mechanisms in place for managing and disposing of property seized, frozen, or confiscated property. Law 133-11 (Organic Law of the MP) provides in Article 26.3 that the MP will be empowered to custody and maintain, without limitations, all assets seized or attached as a consequence of the investigation. Moreover, Article 47 sets forth as a function of the Higher Council of the MP the regulation of the custody and management of attached or seized assets. Finally, Article 33 of Law 196-11 provides for a mechanism for sharing confiscated property.

*Weighting and Conclusion*

CT52. The Dominican Republic has measures implemented to identify, trace, and evaluate property subject to confiscation, as well as to adopt measures for the restrain or freezing of said property, while protecting the rights of *bona fine* third parties; moreover, it regulates sharing of confiscated property. **Recommendation 4 is rated Compliant.**

*Recommendation 5 - Terrorist financing offence*

CT53. *Criterion 5.1 –* Terrorist financing is criminalised in Article 5 of Law 155-17:

*“Article 5. Terrorist financing. The criminal action of terrorist financing shall be considered to have occurred in relation to:*

*1) Any person who, directly or indirectly, provides, collects, offers, finances, makes available, facilitates, manages, contributes, keeps, custodies, or delivers goods or services with the aim of, or knowing full well that the goods or services are used or will be used for the promotion, organisation, support, maintenance, favouring, financing, facilitation, subsidy, or otherwise sustain an individual, terrorist organisation, even in the absence of a link to a specific terrorist act, or to commit terrorist acts, shall be sanctioned with twenty (20) to forty (40) years’ imprisonment and with the confiscation of all property involved and their rights thereof;*

*2) Any person who participates as accomplice, assists, associates to, conspires, attempts, aids, facilitates, organises, directs others to commit, advices, or incites in a public or private manner the commission of any of the offences criminalised in item 1 herein, or any person who helps one person who has participated in such crimes to evade the legal consequences of its acts, shall be sanctioned with twenty (20) to forty (40) years’ imprisonment;*

*3) Any person who travels to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorists acts or the providing or receiving of terrorist training, that receives financing for its travel or related activities, shall be sanctioned with twenty (20) to thirty (30) years’ imprisonment.*

*Paragraph. Terrorist financing violations described herein shall constitute a criminal offence even when terrorist acts were not performed, the assistance to terrorists were not provided or the terrorist act were committed or attempted to be committed in another territory.”*

CT54. The criminalisation of TF as set forth in Art. 5 of Law 155-17 complies with all guiding verbs established in the International Convention for the Suppression of the Financing of Terrorism and its specific requirements. Meanwhile, the definition of terrorist acts or acts of terrorism is provided for in Art. 5 of Law 267-08. The latter criminalised the behaviours set forth in the agreements mentioned in the Annex of the International Convention for the Suppression of the Financing of Terrorism.

CT55. Moreover, the International Convention for the Suppression of the Financing of Terrorism was incorporated to the Dominican Republic Law in October 2008.

CT56. *Criterion 5.2* – Article 5 of Law 155-17 sets forth that the TF offence encompasses any person who, directly or indirectly, provides, collects, offers, finances, makes available, facilitates, manages, contributes, keeps, custodies, or delivers property or services with the intention of, or knowing full well that:

- (a) They are used or will be used for perpetrating terrorist acts; or
- (b) they are used or will be used for promoting, organising, supporting, maintaining, favouring, financing, or facilitating, subsidizing or sustaining individuals, terrorist organisations, even in absence of a link to a specific terrorist act.

CT57. *Criterion 5.2 bis* – Art. 5, item 3) of Law 155-17 sanctions financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participating in, terrorist acts or the providing or receiving of terrorist training.

CT58. *Criterion 5.3* – The funds referred to in the TF criminalisation may have a legitimate or illegitimate source. Article 2, item 1) of Law 155-17.

CT59. *Criterion 5.4* – Based on Art. 5, paragraph of Law 155-17, it is not required that the property and services referred to (a) were actually used to carry out or attempt a terrorist act; or (b) be linked to a specific terrorist act.

CT60. *Criterion 5.5* – Based on Art. 7 of Law 155-17, knowledge, premeditation, intent, or purpose may be inferred from objective factual circumstances of the case. Premeditation, duty to know, and deliberate ignorance are considered equivalent to knowledge.

CT61. *Criterion 5.6* – The sanction provided for in relation to the offence of TF is twenty (20) to forty (40) years’ imprisonment and the confiscation of all property involved. Moreover, for the purposes of Law 155-17, serious offence is considered as any offence sanctioned with a penalty of at least three years’ imprisonment.

CT62. *Criterion 5.7* – As indicated in the analysis of criterion 3.10, Art. 8 of Law 155-17 sets forth that: When a criminal offence provided for in this Law were attributable to one legal person, regardless of the criminal liability of its owners, directors, managers, administrators, or employees, the business company or individual company shall be sanctioned with any or all the following penalties: 1. A fine for a value not lower than two-thousand minimum wages or for the value of the assets laundered by said legal person; 2. Permanent closure of premises; 3. Prohibition to perform future activities similar to those performed to commit, favour or conceal the crime; 4. Withdrawal of licenses, rights or other administrative permits; 5. Dissolution of the legal person.

CT63. *Criterion 5.8* – Ancillary offences to TF are contemplated in Law 155-17, Art. 5, item 2: 2) Any person who participates as an accomplice, assists, associates to, conspires, attempts, aids, facilitates, organises, directs others to commit, advices, or incites in a public or private manner the commission of any of the offences criminalised in item 1 herein, or any person who helps one person who has participated in such crimes to evade the legal consequences of its acts, shall be sanctioned with twenty (20) to forty (40) years’ imprisonment.

CT64. *Criterion 5.9* – Article 2.11 of Law 155-17 points out the criminal behaviours considered as ML predicate offences, among which terrorism and terrorist financing are included.

CT65. *Criterion 5.10* – TF is an offence even when the terrorist act is committed or attempted in other territorial jurisdiction (Law 155-17, Art. 5, last paragraph.)

#### *Weighting and Conclusion*

CT66. The Dominican Republic has criminalised the crime of Terrorist Financing in Law 155-17 in an adequate manner and in express compliance with all the technical compliance requirements. **Recommendation 5 is rated Compliant.**

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

CT67. *Criterion 6.1* – In relation to the designations pursuant to Resolution 1267/1989 of the UNSC (Al Qaida):

- (a) Article 9 of Decree 407-17 points out that upon grounded request by a domestic authority that a person meets the requirements to be listed in one of the UNSC lists, based on the criteria defined in Resolutions 1267, 1989 and any successor resolutions, it shall communicate so to the National Anti-Terrorist Office for its analysis, and if it considers it appropriate, it shall be communicated to the Ministry of Foreign Affairs for its communication, through the corresponding channels, to the UNSC Committee.
- (b) Article 9 of Decree 407-17 establishes the mechanism to include designated persons and entities in the UN lists. In Art.10 of Decree 407-17 it is set forth that designation criteria are set forth in Resolutions 1267 (1999), 1988 (2011), 1989 (2011), 1716 (2006) and subsequent UNSC resolutions.
- (c) Law 155-17 and Decree 407-17 do not provide for the evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation. Section 3 of Decree 407-17 does not apply to designation proposals. Criteria for designations are not exclusively related to a criminal proceeding. Section 13.c of Decree 407-17 sets forth that are subject to designation “natural and legal persons that according to information from police, financial, judicial or intelligence investigations, or from foreign counterparts, show alleged link with the authorship or participation in the crime of financing of terrorism or any other actions indicated in subsection (a) of Article 3 of the Decree”.
- (d) Section 9 of Decree 407-17 provides that the possible request for designation will be conducted in accordance to the criteria defined in the United Nations Security Council Resolution 1267, 1989, 1718, 2231 and their successors, and will be communicated to the National Anti-Terrorist Office (DNA) for its analysis, which, if deemed appropriate, will inform the Ministry of Foreign Affairs so that it can



communicate it to the corresponding Committee of the United Nations Security Council through the relevant channels. It is considered that the “relevant channels” comprise the elements required by this sub-criterion.

- (e) There is no specific regulation providing for the duty to provide as much relevant information as possible on the proposed name, in addition to a detailed statement of case and the specification whether their status as designating state may be made known.

CT68. *Criterion 6.2* – In relation to designations pursuant to UNSCR 1373:

- (a) Article 86 of Law 155-17 indicates that the MP shall analyse without delay incoming international requests to verify if the criteria defined by said resolution are met for giving effect to such request and include in a domestic list of persons (natural or legal) identified therein. Regulation 407-17 points out in Art. 23 that the National Anti-Terrorist Office shall receive information on the natural or legal persons that presumably meet the designation criteria established in Resolution 1373 (2001).
- (b) Regulation 407-17 points out in Art. 23 that the National Anti-Terrorist Office shall receive information on the natural or legal persons that presumably meet the designation criteria established in Resolution 1373. In accordance with Law 267-08, art. 56.e, the DNA in charge of coordinating the actions of the intelligence services, within the scope of the anti-terrorist action, and is composed of the Secretary of State of the Armed Forces, the Attorney General of the Republic, the Secretary of State of Interior and Police, the Chief of National Police, the Director of the DNI and the Executive Director of the DNA, therefore counting on all the investigation bodies to conducting investigations. The criteria for designation are the following:
  - a) natural or legal persons that are the subject of a judicial decision issued in the Dominican Republic or abroad, that identify them as authors or participants in the crime of terrorism or its financing or any of the conducts indicated in subsection “a” of article 3 of the Decree.
  - b) Natural or legal persons that are in any of the phases of the criminal proceeding in Dominican Republic or abroad for the crimes of terrorism or its financing or any of the conducts indicated in subsection “a” of article 3 of the Decree.
  - c) Natural or legal persons that, according to information of police, financial or judicial investigation, of intelligence, or of foreign counterparts, show an alleged link as authors or participants in the crime of terrorism or its financing or of any of the conducts indicated in subsection “a” of article 3 of the Decree.
- (c) Article 12 of Decree 407-17 indicates that the National Anti-Terrorist Office shall receive information from the UAF or other entities in charge of prosecuting criminal activities and exercising criminal procedures about natural or legal persons that presumably meet the designation criteria established in Resolution 1373 (2001) to analyse it and, if appropriate, approve their listing or de-listing from the domestic list.
- (d) Designations are not conditional upon the existence of a criminal proceeding. However, there is no provision in relation to the evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation. Article 3.h of Decree 407-17 does not apply to proposals of designations.
- (e) No details are provided as to how requests should be made by the Dominican Republic. However, it could be considered that the documentation that supported the eventual domestic designation could be sent to verify the fulfilment of the criteria set in Article 13 of Decree 407-17.

CT69. *Criterion 6.3* – Article 169 of the Constitution of the Dominican Republic and Art. 186 of the Criminal Procedural Code empower the Public Prosecutor's Office and the national police to carry out investigations. Competent authorities have the capacity to collect or solicit information necessary on terrorism matters and review the criteria for designation.

CT70. *Criterion 6.4* – Reporting institutions must preventively freeze, without delay, that is to say, in hours, the property or assets of the customer and/or beneficial owner included in the lists issued pursuant to UNSCR 1267, 1988, and any successor resolutions (Law 155-17, Arts. 2, 23, 82, 83). In Art. 3 of Decree 407-17 it is set forth that for the purposes of Resolution 1373 (2001) “without delay” means executing the measures provided for in the regulation when there were reasonable grounds to suspect or believe that a person or entity is a terrorist, someone who finances terrorism, or is a terrorist organisation. The term “without delay” will be interpreted in

the context of the need to prevent the flight or diversion of terrorist or terrorist organisation-related property or assets.

CT71. Reporting institutions may not uplift the preventive freezing without prior judicial order.

CT72. *Criterion 6.5* – According to Law 155-17:

- (a) Reporting institutions must preventively freeze without delay the property or assets of the customer and/or beneficial owner included in the designated persons lists, and notify without delay to the MP and the UAF about the measures adopted (Law 155-17, Art. 83). This Art. of Law 155 is further complemented by Decree 407-17, Art. 5 which indicates that RI shall *independently* and without delay, based on the updates of UN Lists, check their corresponding databases in relation to the existence of property or assets related to designated persons; in case of a positive match, they shall preventively freeze the property or assets detected, without prior notice to the affected person; and communicate to the Specialized Anti-Money Laundering and Counter Terrorist Financing Prosecutor's Office and the UAF about the enforcement of the freezing measure. Notwithstanding the foregoing, the obligation to freeze applies only to reporting parties and not to all natural and legal persons in the country.
- (b) The obligation to preventively freeze extends to (i) all funds and other assets defined under the terms of Law 155-17 and Decree 407-17; (ii) the beneficial owner; (iii) goods of any kind, tangible and intangible, movable and immovable property, regardless of how they were obtained, and the documents and legal instruments, whatever their form be, including electronic or digital form, that prove the property or other rights over said goods, which include deposit accounts, bank credits, traveler's checks, bank checks, wires, stocks, bonds, bills of exchange, letters of credit and interest, dividends, other income or negotiable securities or securities that are accrued or generated by those assets or assets, among others.
- (c) The general prohibition to all natural and legal persons is established in Paragraph II of art. 83 of Law 155-17. The provision establishes that "*it is forbidden for any person (natural or legal) in the Dominican Republic to offer or deliver assets, goods or services to any person who is on the lists defined in the previous article*". The norm does not expressly state that the prohibition of providing financial funds / services extends to entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or under the direction of, designated persons or entities.
- (d) Article 4 of Decree 407-17 indicates that once the Ministry of Foreign Affairs receives any of the UN Lists updated and issued by the UNSC, based on Resolutions 1267 (1999), 1989 (2011) and 1988 (2011), 1718 (2006), 2231 (2015) and successor resolutions, it shall communicate it without delay to the UAF and to the sectoral competent authorities for their immediate dissemination to reporting institutions.
- (e) Law 155-17, Art. 82, indicates the obligation of RI to monitor whether a customer, beneficial owner, or potential customer is included in the lists issued by virtue of UNSCR 1267, 1988, and any successor resolutions, all those related to the financial sanctions regimes, or in the list by virtue of the UNSCR 1373 and any successor resolutions, or other resolutions that may be issued in relation to TF. In Art. 83, the Law points out that RI must preventively freeze without delay all property or assets of the customer and/or beneficial owner included in the lists indicated in Art. 82, and notify without delay to the MP and the UAF of the measures adopted.
- (f) Article 23 of the Decree 407-17 points out that domestic entities and natural and legal persons that apply the provisions provided for in the regulation in good faith, shall be exempt from criminal or administrative liability based on the provisions of the Law 155-17.

CT73. *Criterion 6.6* –

- (a) Decree 407-17, Article 11 explains the procedure for the de-listing of persons and entities designated in the UNSC lists. This Article indicates that any national or residing person or entity, included in one of the UN Lists, or the relatives, national or residing, of the deceased included in one of the UN Lists, may request their de-listing using the procedures defined for such purpose by the UNSC Committees related to Resolutions 1267, 1988, 1718, 2231. The Ministry of Foreign Affairs shall be the channel for the communications made to the

relevant United Nations Security Council Committee. Once the UNSC communicates the Ministry of Foreign Affairs about their decision on the de-listing request of persons or entities from one of the UN lists, it shall communicate so directly to the interested party, and to the UAF.

(b) Article 16 of the aforementioned Decree details the procedure to de-list persons or entities designated by the National Anti-Terrorist Office in the domestic list and to revoke the freezing of property or assets. This Article indicates that the National Anti-Terrorist Office may, at any time, remove, prior consultation with the Public Prosecutor, a designated person or entity based on reasonable grounds, evidence that verify the disconnection of the person or entity as terrorist or part of an organisation.

(c) Article 16 of the Decree sets forth that in case the National Anti-Terrorist Office rejects the request, this decision may be reviewed upon request of the party, pursuant to the performance of administrative proceedings. Once the National Anti-Terrorist Office removes the designation of one person, the UAF and the Specialized Anti-Money Laundering and Counter Terrorist Financing Prosecutor's Office shall be immediately notified to request the uplifting of the freezing of property or assets to the competent judicial authority. Likewise, the Paragraph of the same article provides that the person who disagrees with their inclusion in the domestic list may challenge the decision through a reconsideration appeal.

(d) Art. 11 of Decree 407-17 provides that any person or entity, national or resident, included in one of the UN Lists, or relatives, nationals or residents of the deceased that are included in one of the UN lists, they may request their exclusion of the list by using the procedures defined by the CSNU Committees regarding Resolutions 1267 (1999), 1988 (2011), 1718 (2006), 2231 (2015). The Ministry of Foreign Affairs will serve as a channel to conduct the communications to the corresponding committee of the UNSC. Once the UNSC communicates to the Ministry of Foreign Affairs its decision on the request for the exclusion of persons and entities from one of the UN Lists, the latter will communicate this directly to the interested party, as well as to the UAF.

(e) There are no procedures to inform designated persons and entities of the availability of the United Nations Office of the Ombudsman, in accordance with UNSCR 1904, 1989 and 2083 to accept requests for exclusion from the list.

(f) Art. 8.b of Decree 407-2017 provides for the possibility of revoking the freezing if there is an error due to homonymy or a false positive.

(g) Art. 11 of Decree 407-2017 refers to the communication of the Ministry of Foreign Affairs to process the communications to the corresponding committee of the Security Council of the United Nations. Once the UNSC has notified the Ministry of Foreign Affairs about its decision on the request for the exclusion of persons and entities from one of the UN lists, it will communicate this directly to the interested party, as well as to the UAF. Also, with regard to UNSCR 1373, applies the procedure of art. 16 which states that once the DNA withdraws the designation of a person, it will proceed immediately to notify the UAF and the MP so that it proceeds to request the lifting of the freezing of assets before the competent judicial authority. In spite of not being explicit, the communication to the UAF would allow the communication of the exclusion to the reporting parties.

CT74. *Criterion 6.7* – Law 155-17, Art. 85 indicates that the competent jurisdictional body may authorise access to preventively frozen property or assets, prior notice to the corresponding UNSC committees, when these were necessary to defray basic expenses that may include, but are not limited to, expenses and service charges or extraordinary expenses, interests, payments due for contracts, agreements, or obligations and others, by virtue of UNSCR 1452, 1963, 1718, and any successor resolutions.

### *Weighting and Conclusion*

CT75. Law 155-17 and Decree 407-17 address most of the requirements provided for by the Criteria of Recommendation 6. However, the standard does not cover all aspects required in relation to designations pursuant to UNSCRs 1267/1989 and 1373. Recommendation 6 is rated **Largely Compliant**.

### *Recommendation 7 – Targeted financial sanctions related to proliferation*

CT76. *Criterion 7.1* – Decree 407-17, Art. 1 sets forth its purpose of establishing procedures aimed at identifying and applying measures for the freezing of property or assets pursuant to the provisions of the United Nations

Security Council Resolutions 1267 (1999) and 1989 (2011) and any successor resolutions, 1988 (2011) and any successor resolutions, 1373 (2001) and any successor resolutions, 1718 (2006) and any successor resolutions, and 2231 (2015) and any successor resolutions, as well as any other resolution issued by the United Nations Security Council on financial sanctions for terrorism, its financing and the financing of proliferation of weapons of mass destruction.

CT77. *Criterion 7.2* – In the Dominican Republic:

- (a) Reporting institutions must preventively freeze without delay the property or assets of the customer and/or beneficial owner included in the designated persons and entities lists, and notify without delay to the MP and the UAF about the measures adopted (Law 155-17, Arts. 82 and 83). Regulation 407-17, Art. 5 indicates that RI shall *independently* and without delay, based on the updates of UN Lists, check their corresponding databases in relation to the existence of property or assets related with designated persons; in case of a positive match, they shall preventively freeze the property or assets detected, without prior notice to the affected person; and communicate to the Specialized Anti-Money Laundering and Counter Terrorist Financing Prosecutor's Office and the UAF about the enforcement of the freezing measure. The obligation to freeze applies only to reporting parties and not to all natural and legal persons in the country.
- (b) The obligation to preventively freeze extends to (i) all funds and other assets defined under the terms of Law 155-17; (ii) the beneficial owner; (iii) it is not clear that the norm covers the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; (iv) the regulation cover funds or other assets of persons and entities that act on behalf or under the direction of designated persons or entities, since the beneficial owner concept applies (Law 155-17, Art. 83.).
- (c) Natural or legal persons in the Dominican Republic are forbidden to offer or deliver assets, property, or services to a designated person or entity included in the lists of the UNSCR 1718, except there were granted an authorization by the competent body, prior notice to the corresponding UNSC committees, when these were necessary to defray basic expenses that may include, but are not limited to, expenses and service charges or extraordinary expenses, interests, payments due for contracts, agreements or obligations and others, by virtue of UNSCR 1718, and any successor resolutions (Law 155-17, Art. 83, paragraph II and Art. 85). The Decree 407-17, Art. 5 enlarges the concept of access to assets under the preventive freezing measure.
- (d) Article 4 of Decree 407-17 indicates that once the MIREX receives any of the UN Lists updated and issued by the United Nations Security Council, based on Resolutions 1267 (1999), 1989 (2011) and 1988 (2011), 1718 (2006), 2231 (2015) and any successor resolutions, it shall communicate it without delay, from its reception, to the Financial Analysis Unit (UAF) and to the sectoral competent authorities for their immediate dissemination to reporting institutions.
- (e) Law 155-17, Art. 82, indicates the obligation of RI to monitor whether a customer, beneficial owner, or potential customer is included in the lists issued by United Nations by virtue of UNSCR 1267, 1988, and 1718 and any successor resolutions, all those related to the financial sanctions regimes, or in the list by virtue of the UNSCR 1373 and any successor resolutions, or other resolutions that may be issued in relation to TF and the Financing of Proliferation. In Art. 83, the Law points out that RI must preventively freeze without delay all property or assets of the customer and/or beneficial owner included in the lists indicated in Art. 82, and notify without delay to the MP and the UAF of the measures adopted.
- (f) Article 23 of the Decree 407-17 points out that domestic entities and natural and legal persons that apply the provisions provided for in the regulation in good faith, shall be exempt from criminal or administrative liability based on the provisions of the Law 155-17.

CT78. *Criterion 7.3* – Law 155-17, Art. 82, indicates the obligation of RI to monitor whether a customer, beneficial owner, or potential customer is included in the lists issued by United Nations by virtue of UNSCR 1267, 1988, and 1718 and any successor resolutions, all those related to the financial sanctions regimes, or in the list by virtue of the UNSCR 1373 and any successor resolutions, or other resolutions that may be issued in relation to TF and the Financing of Proliferation. In Art. 83, the Law points out that RI must preventively freeze

without delay all property or assets of the customer and/or beneficial owner included in the lists indicated in Art. 82, and notify without delay to the MP and the UAF of the measures adopted.

CT79. Article 87 of Law 155-17 points out that non-compliance with the preventive freezing regime by a reporting institution shall be considered a very serious administrative violation.

CT80. *Criterion 7.4 –*

(a) Decree 407-17 in Article 11 explains the procedure for the de-listing of persons and entities designated in the UN lists. This Article indicates that any national or residing person or entity, included in one of the UN Lists, or the relatives, national or residing, of the deceased included in one of the UN Lists, may request their de-listing using the procedures defined for such purpose by the UNSC Committees related to Resolutions 1267, 1988, 1718, 2231. The Ministry of Foreign Affairs shall be the channel for the communications made to the relevant United Nations Security Council Committee. Once the UNSC communicates the Ministry of Foreign Affairs about their decision on the de-listing request of persons or entities from one of the UN lists, it shall communicate so directly to the interested party, and to the UAF.

(b) Art. 8.b of Decree 407-2017 provides for the possibility of revoking the freezing if there is an error due to homonymy or a false positive.

(c) Art. 7 of Decree 407-2017 includes a mechanism for obtaining access to goods or assets subject to freezing measures in accordance with UNSCR 1452(2002), 1718(2006) and 2231(2015).

(d) Art. 11 of Decree 407-2017 refers to the communication of the Ministry of Foreign Affairs to process the communications to the corresponding committee of the Security Council of the United Nations. Once the UNSC has notified the Ministry of Foreign Affairs about its decision on the request for the exclusion of persons and entities from one of the UN lists, it will communicate this directly to the interested party, as well as to the UAF. In spite of not being explicit, the communication to the UAF would allow the communication of the exclusion to the reporting party.

CT81. *Criterion 7.5 –* La Ley 155-17 y el Art. 7 del Reglamento 407-17 se refieren a la aprobación al acceso a los activos, sujetos a sanciones, para sufragar gastos básicos, como también a contratos, acuerdos u obligaciones surgidos con antelación a la fecha en la que las cuentas pasaron a estar sujetas a sanciones financieras dirigidas.

#### *Ponderación y conclusión*

CT82. The Dominican Republic implements measures referred to PWMD targeted sanctions to a large extent through its Decree 407-17 and the Law 155-17 itself. Recommendation 7 is rated **Largely Compliant**.

#### *Recommendation 8 - Non-profit organisations*

CT83. *Criterion 8.1 –* In relation to Non-Profit Organizations (NPOs):

- (a) The Dominican Republic considered NPOs generically in the NRA. At the time of the on-site visit, a study on the TF risk of NPOs was submitted, which included a general analysis of NPOs. However, no exercise has been performed to identify the subset of organisations that are within the scope of the FATF definition; consequently, it has failed to identify the characteristics and specific types of NPOs that operate in their territory with the higher exposure to risk of misuse for TF purposes.
- (b) Even though it was considered that, taken as a whole, the NPOs sector has a low level of risk of TF, the nature of the threats NPOs are exposed to was not identified, as well as how terrorist actors misuse NPOs.
- (c) The operation of NPOs is regulated under Law 122-05, on the Regulation and Advocacy of Non-Profit Organisations (Law 122-05); and the Application Regulation 40-08 of January 16, 2008 (Regulation 40-0). These documents have not been reviewed after the NRA, and their review has neither been considered in the Action Plan of the National Strategy.
- (d) There is no deadline or periodicity established to perform an assessment of the NPOs sector. A study was performed and submitted at the time of the on-site visit on the vulnerabilities of the NPOs sector.

CT84. *Criterion 8.2* – Regulation 40-08 sets forth the following:

- (a) NPOs must be registered with the National Registry of Taxpayers (RNC); submit an informative sworn affidavit to the General Internal Revenue Office (DGII) to report on the status of the finances of the entity, including a detailed description of each contribution received during the year, indicating names and addresses of donors; detailed description of international donations received; be up-to-date in relation to their tax obligations, facilitate any other information requested on their administrative and financial situation (Art. 160). In case of change of information, they must report it to the DGII pursuant to tax provisions (Art. 161). Additionally, NPOs that receive public resources are subject to provisions on transparency matters pursuant to the General Law of Free Access to Public Information No. 200-04, Art. 1.
- (b) The Office of Liaison with NPOs is in charge of, among other things, enabling information services and performance of studies and activities for the strengthening and training of the associations of the sector (Regulation 40-08, Art. 82, paragraph f). The executive summary of the NRA was shared through the Internet with NPOs (<http://economia.gob.do/mepyd/viceministerios/planificacion/asfl/>); The Dominican Republic held a workshop entitled “Good Practices in the Management of Non-Profit Organisations,” which aimed at raising awareness among NPOs on the threat of being misused for the financing of terrorism. These trainings were developed in five conferences at the national level:
- (c) The Office of Liaison with NPOs is in charge of, among other things, enabling information services and performance of studies and activities for the strengthening and training of the associations of the sector (Regulation 40-08, Art. 82, paragraph f). The UAF, through its Strategic Analysis Department, in cooperation with other authorities such as the General Secretariat of the Public Prosecutor’s Office, the National Centre for the Advocacy and Promotion of Non-Profit Organisations (CASFL), the Management of Registration and Update of Taxpayer’s Information (DGII), and the Tax Policy and Legislation General Office (Treasury Ministry), carried out a study entitled “Terrorist financing risk analysis in the sector of non-profit associations in the Dominican Republic.”
- (d) Regulation 40-08 does not direct NPOs to use corresponding financial channels. In relation to those NPOs that receive public funds, they are required to have an account with a financial institution in order to send funds to any association; for the other types of NPOs there is no regulation on the matter.

CT85. *Criterion 8.3* – Regulation 40-08 includes NPO supervision and monitoring actions. However, despite the development of a risk study of the NPO sector, these sub-groups of a higher relative risk were not verified to conduct an adequate application of a risk-based approach.

CT86. *Criterion 8.4* – In relation to monitoring and supervision:

- (a) In accordance with article 170 of the Application Regulation No. 40-08, entities and public bodies referred to in Law 122-05 and this Regulation exercise the inspection and supervision within the framework of their respective competences and areas of action, to ensure compliance by non-profit associations.
- (b) In relation to the obligations provided for in Law 122-05, the sector's authority is in charge of enforcing sanctions. The range provided for is the annulment of constitution or the total or partial revocation to operate (Law 122-05, Art. 44, para. I and II, Regulation 40-08, Arts. 175, 176.) In relation to tax obligations, these are in charge of the tax authority, which within the range of sanctions applicable may apply a fine between 5 to 30 minimum wages, and in cases referred to the submission of information, the sanction may be increased to 0.25% of the incomes declared in the previous tax period (Tax Code, Arts. 253, 257.)

CT87. *Criterion 8.5* – In the Dominican Republic:

- (a) The PGR, the Treasury Ministry, and the DGII, the CNFPASFL have developed important inter-agency co-operation bonds. There is an inter-agency co-operation agreement for the management of information and the supervision system of Non-Profit Associations in the Dominican Republic. This agreement includes the Public Prosecutor's Office, the National Centre for the Advocacy and Promotion of Non-Profit Organisations on behalf of the Ministry of Economy, Planning and Development (MEPyD), the Treasury Ministry, and the General Internal Revenue Office.

- (b) Regulation 40-08 in Art. 79 indicates that when the MP proved that an association is engaged in illicit businesses, it may request to the Executive Power the dissolution of said association and the cancellation of its constitution registry or registry of establishment of domicile in the Dominican Republic, in case it were national or foreign.
- (c) Within the structure of the MP there is the Department for the Constitution and Registration of Non-Profit Organisations that keeps a record of all documents required for the constitution of said organisations and their amendments.
- (d) There is an inter-agency co-operation agreement for the management of information and supervision system of NPOs in the Dominican Republic. This agreement includes the Public Prosecutor's Office, the National Centre for the Advocacy and Promotion of Non-Profit Organisations on behalf of the Ministry of Economy, Planning and Development (MEPyD), the Treasury Ministry, and the DGII. This agreement ensures an efficient co-operation, co-ordination, and information exchange among all levels of authorities and organisations that hold relevant information on Non-Profit Organisations. The UAF and the National Centre for the Advocacy and Promotion of NPOs entered into a co-operation agreement for the exchange of information.

CT88. *Criterion 8.6* – By virtue of Art. 19 of Law 155-17, competent authorities may perform inquiries and obtain information on behalf of their foreign counterparts and create joint teams for cooperative investigations.

#### *Weighting and Conclusion*

CT89. NPOs were identified as low risk by the NRA. During the on-site visit, a general study on the vulnerabilities of NPOs was submitted. However, the subset of organisations that are within the scope of the FATF definition has not been identified. Consequently, it has failed to identify those with a higher exposure to TF risk, as well as the nature of the threats terrorist groups pose. Recommendation 8 is rated **Partially Compliant**.

#### *Recommendation 9 - Financial institution secrecy laws*

CT90. *Criterion 9.1* – In relation to AML/CFT matters, legal provisions relating to bank secrecy or confidentiality and professional secrecy will not prevent compliance with the obligations by reporting institutions. It should be mentioned that, on AML/CFT matters, reporting institutions must provide information as requested by the UAF, the MP and the criminal courts of the Republic, without limitations or delay (Law 155-17, Art. 57.)

#### *Weighting and Conclusion*

CT91. The Law orders that RI must provide information as requested by the UAF, the Public Prosecutor's Office, and criminal courts, without limitation and delay. **Recommendation 9 is rated Compliant.**

#### *Recommendation 10 - Customer due diligence*

CT92. *Criterion 10.1* – Article 61 of Law 155-17 sets forth that no RI can open accounts or render services to customers with false names, encrypted names, anonymous, or otherwise concealing the identity of the owner and beneficial owner.

CT93. *Criterion 10.2* – Law 155-17, Article 38 provides for the duty of RI of carrying out CDD on their existing and potential customers. Article 62, moreover, prohibits RI to initiate or keep a business or professional relation when it were not possible to identify and verify the identity of the customer. Same prohibition applies to the performance of any transaction.

- (a) Pursuant to the provisions of Arts. 38 and 62 of Law 155-17, RI must perform CDD when business relations are established with existing or potential customers.
- (b) The duty to carry out CDD is provided for all occasions, without threshold.

- (c) Notwithstanding the provisions of Arts. 38 and 62 of Law 155-17, Art. 48 provides for specific measures of CDD to be adopted by RI in relation to international transfers, to identify the sender and the addressee, regardless of the channel used.
- (d) The duty to carry out CDD is provided for all occasions, regardless of the existence of suspicions.
- (e) Pursuant to the provisions of Arts. 38 and 62 of the Law 155-17, CDD must be performed in all cases.

CT94. *Criterion 10.3* – Article 38.1 of Law 155-17 sets forth that RI must identify the customer, natural or legal person, and verify its identity using reliable, independent source documents, data or information.

CT95. *Criterion 10.4* – Article 38.2 of Law 155-17 sets forth that RI must identify and verify the identity of the person purporting to act on behalf of the customer, and verify if it is authorised to do so.

CT96. *Criterion 10.5* – Article 38.3 of Law 155-17 sets forth that RI must identify the beneficial owner (BO) and take reasonable measures to verify its identity, using relevant information or data obtained from a reliable source, such that it is satisfied that it knows who the beneficial owner is.

CT97. *Criterion 10.6* – Article 38.4 of Law 155-17 sets forth that RI must understand and, as appropriate, obtain information on, the purpose and intended nature of the business and financial relation.

CT98. *Criterion 10.7* – Article 39 of Law 155-17 sets forth that RI must conduct ongoing CDD measures. In particular:

- (a) RI must conduct ongoing CDD measures of the customer in the business relationship established and maintained with it, as well as scrutinising transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the financial institution's knowledge of the customer, their business and risk profile, including where necessary, the source and purpose or destination of the funds.
- (b) Article 39 of the Law sets forth that, moreover, RI must implement efficient mechanisms to keep information and documents on customers updated as appropriate. It is furthermore mentioned as follows:
  - (i) SIB Circular 004-16, subsection IV, page 9, paragraph 5 sets forth that entities must ensure that documents, data, or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records;
  - (ii) The regulation R-CNV-2017-13-MV sets forth in Arts. 28.d) and 31 that, based on risk, RI must update data obtained in the customer's admittance process;
  - (iii) Resolution 02-2017 of the insurance sector sets forth in Art. 22 that data obtained to comply with the Know your Customer Policy shall be updated every two years or when unusual transactions are detected in accordance with the prudential assessment made by the RI, when significant transactions are conducted, when there are relatively important changes in the way a customer conducts transactions, when there is suspicion of ML/TF or when within the risk parameters set by the institution, such update is deemed useful.
  - (iv) Regulation 001-2017 for the cooperatives sector sets forth in Art. 22 that data obtained to comply with the associate knowledge rule shall be updated every two years or when unusual transactions are detected in accordance with the prudential assessment made for each cooperative, when significant transactions are conducted, or when there are relatively important changes in the way an associate conducts transactions, when there is suspicion of ML/TF and/or when within the risk parameters set by the institution, such update is deemed useful.

CT99. *Criterion 10.8* – Article 38.4 of Law 155-17 sets forth that RI must understand and, as appropriate, obtain information on, the purpose and intended nature of the business and financial relation. Moreover, Art. 40.2 sets forth that, for customers that are legal persons, RI should adopt measures to understand, at least, the ownership and control structure of the customer, as well as the names of the persons that hold top management positions within the legal person or arrangement.



CT100. *Criterion 10.9* – Article 40 of Law 155-17 provides for CDD measures for legal persons. In particular, it highlights the following:

- (a) Article 40.1 requires RI to adopt measures to, at least, identify and verify the corporate name, tax identification number, legal form, and proof of existence. Such requirements are expanded, moreover, in SIB Circular 004-16 (subsection IV, item 2), regulation R-CNV-2017-13-MV (Art. 28), resolution 02-2017 for the insurance sector (Art. 15) and regulation 001-2017 for the cooperatives sector (Art. 17.)
- (b) Article 40.2 requires RI to adopt measures to, at least, identify the names of individuals that hold a top-management position within the legal person or arrangement. Such requirements are expanded, moreover, in SIB Circular 004-16 (subsection IV, item 2), regulation R-CNV-2017-13-MV (Art. 28), resolution 02-2017 for the insurance sector (Art. 15) and regulation 001-2017 for the cooperatives sector (Art. 17.)
- (c) Article 40.3 of the law require RI to adopt measures to, at least, identify the address of the registered office or principal place of business.

CT101. *Criterion 10.10* – Article 40.4 of Law 155-17 requires RI to adopt measures to, at least, identify and verify the identity of the BO of customers that are legal persons. The concept of BO, moreover, is provided for in Art. 2.5 of the same law, that defines it as the natural person who exercises the final effective control of a legal person or holds at least 20% of its capital, including the natural person on whose benefit transactions are carried out.

- (a) Article 40.4 of Law 155-17 requires RI to adopt measures to identify and verify the identity of the BO. The concept of BO comprises anyone who holds at least 20% of the legal person's capital.
- (b) Notwithstanding the BO identification and verification requirement, Art. 40.2 of Law 155-17 requires RI to understand the ownership and control structure of the customer, as well as the names of the individuals who hold top-management positions in the legal person or arrangement.
- (c) Notwithstanding the BO identification and verification requirement, Art. 40.2 of Law 155-17 requires RE to understand the ownership and control structure of the customer, as well as the names of the individuals who hold high-management positions in the legal person or arrangement.

CT102. *Criterion 10.11* – In relation to other legal arrangements, it is mentioned that:

- (a) Article 41 of Law 155-17 provides for specific measures for trusts upon providing for that companies that are allowed to create and manage trusts must conduct CDD measures to identify and verify all parties to the trust, including the trustee and the beneficial owner, and apply all preventive measures. Moreover, SIB Circular 004-16 (subsection IV, page 13), resolution 02-2017 for the insurance sector (Article 15.c) and regulation 001-2017 for the cooperatives sector (Article 17) provide for specific requirements for the identification of the parties to a trust. The regulation R-CNV-2017-47-MV of the Securities Market, Article 6. Duties of securitization companies and public offering trusts. Paragraph II. Public listing trusts must perform due diligence to identify and verify all parties to a public listing trust, including the trustee, settlor, and beneficial owner, considering them all as customers and applying all preventive measures mentioned in the Law against Money Laundering and this Standard. In case any of the parties to the trust, including the trustee, settlor, and beneficial owner, were a legal person, its identification implies all obligations set forth for the identification of this type of customers. In case settlors or beneficial owners of a public listing trust were the holders of the securities issued, due diligence will be in charge of securities intermediaries through which the purchase or negotiation of public listing securities is performed, based on legal and regulatory provisions in force.
- (b) The regulation refers to the CDD requirements for legal persons and trusts.

CT103. *Criterion 10.12* – As regards CDD of the insurance sector, it is mentioned that:

- (a) Articles 15 and 16 of Resolution 02-2017 of the insurance sector provide for specific requirements for the identification and verification of the customer's identity.
- (b) Article 17 of Resolution 02-2017 of the insurance sector refers to the verification of the BO based on the insurance classes. In particular, it provides for that RI must implement proper mechanisms to collect BO information in the different insurance classes, based on the provisions of Law 146-02 on Insurances.

- (c) Article 25 Paragraph II of Resolution 02-2017 provides that the identification of the beneficiary should be made in the moment of the payout at the latest.

CT104. *Criterion 10.13* – Article 37 of Law 155-17 provides for measures on risk management. On this regard, it sets forth that RI must implement a methodology to permit timely identifying, measuring, controlling, mitigating, and monitoring potential ML/TF-risk events. In said methodology, RI must at least incorporate the following factors or risk variables: 1) customers; 2) products and/or services; 3) geographic areas; and 4) distribution channels. In addition, Article 9 of Resolution 02-2017 establishes that RIs should include the beneficiary of a life insurance policy as a risk factor.

CT105. *Criterion 10.14* – Based on the provisions of Arts. 38 and 62 of Law 155-17, RI must perform CDD when business relations are established with existing or potential customers. Only the banking and foreign exchange sector have the possibility of completing the CDD measures at a later time. In this sense, SIB Circular 004-16 provides for in its subsection III that entities may complete the verification of the customer after the establishment of the business relation, with the purpose of avoiding the interruption of the normal conduct of business, when there is an adequate risk-management framework. However, this exception does not contemplate the requirements provided for in the Criterion in relation to the fact that it should occur as soon as reasonably practicable, be essential not to interrupt the normal conduct of business, and that ML/TF risks are effectively managed.

CT106. *Criterion 10.15* – Only the banking and foreign exchange sector have the possibility of completing the CDD after the establishment of the relationship. In this sense, SIB Circular 004-16 sets forth in subsection III that entities may complete the verification of the customer after the establishment of the business relationship, with the aim of not interrupting the normal conduct of business, when risks are effectively managed.

CT107. *Criterion 10.16* – Article 36 of Law 155-17 sets forth that, in all cases, RI must ensure that documents, data or information gathered are kept updated and relevant based on the risk, through the review of existing records, including categories of higher-risk customers. Also, article 17 of regulation 408-17 establishes the obligation to update the due diligence for all the reporting entities according to their risk level and the regulations and gives one year for such purposes.

CT108. *Criterion 10.17* – Law 155-17, Art. 42 sets forth that RI must conduct enhanced due diligence (EDD) where the ML/TF risks are higher. Moreover, the requirement to conduct EDD where the risks are higher is provided for in the following regulations: SIB Circular 004-16 for the banking and foreign exchange sector (subsection IV, paragraph I), regulation R-CNV-2017-13-MV for the securities market sector (Article 31) and regulation 001-2017 for the cooperatives sector (Art. 19.)

CT109. *Criterion 10.18* – Law 155-17, Art. 42, sets forth that RI may apply simplified CDD measures where lower risks have been identified. The simplified measures should be commensurate with the lower risk factors, but are not acceptable whenever there is suspicion of ML/TF, or specific higher risk scenarios apply. Moreover, the possibility of adopting simplified CDD measures is provided for in the following sectoral regulations: SIB Circular 004 for the banking and foreign exchange sector (subsection III, page 7) and regulation R-CNV-2017-13-MV for the securities market sector (Art. 30.)

CT110. *Criterion 10.19* – Law 155-17, Art. 62 sets forth the prohibition to establish a business relationship without relevant CDD. In particular:

- (a) It sets forth that RI are not allowed to establish or maintain a business or professional relationship where it were unable to identify and verify the identification of the customer. Same prohibition applies to the performance of any transaction.
- (b) It sets forth that a suspicious transaction report will be required if the potential customer refuses to provide identifying information.

CT111. Moreover, these aspects are provided for in the following Sectoral regulations: SIB Circular 004-16 for the banking and foreign exchange sector (subsection IV, page 9), Resolution 02-1017 for the insurance sector (Art. 32) and Regulation 001-2017 for the cooperatives sector (Art. 32.)

CT112. *Criterion 10.20* – SIB Circular 004-16 for the banking and foreign exchange sector provides for in its subsection III, page 8 that, in case the entity forms a suspicion of ML/TF activities and believes that performing the CDD process will tip-off the customer, they should report the transaction as suspicious, without performing the CDD. Moreover, Resolution 02-2017 for the insurance sector contains a similar provision in Art. 33, as well as in Art. 34 of the regulation 001-2017 for the cooperatives sector, and regulation R-CNV-2017-47-MV for the securities sector.

#### *Weighting and Conclusion*

CT113. Most of the aspects required in the criteria are covered, with the following exception. The SIB Circular. No. 004-16 provides that entities can complete the verification of the client after establishing the commercial relationship, in order not to interrupt the normal operation of the transaction, when it has an adequate risk management framework. However, this exception does not contemplate that it is as soon and as reasonably possible, that it is essential not to interrupt the normal operation of the transaction and that ML/TF risks are effectively under control. **Recommendation 10 is rated as Largely Compliant.**

#### *Recommendation 11 - Record-keeping*

CT114. *Criterion 11.1* – Article 43 of Law 155-17 refers to record keeping, and sets forth that RI must maintain all necessary records on transactions for at least 10 years following completion of the business relationship or after the date of the occasional transaction.

CT115. *Criterion 11.2* – Article 43 of Law 155-17 sets forth that RI must keep all necessary records obtained through CDD measures, account files, business correspondence, and results of any analysis undertaken, for at least 10 years following the termination of the business relationship or after the date of the occasional transaction.

CT116. *Criterion 11.3* – Article 43 of Law 155-17 sets forth that RI may keep a magnetic, photostatic, photographic, micro-filming copy or recordings or any other reproduction means, and that these shall constitute evidence in investigations of criminal and administrative violations provided for in the law.

CT117. Moreover, SIB Circular 004-16 determines in subsection IV, paragraph 3 that records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. Notwithstanding the aforesaid, no similar requirements are foreseen for non-banking financial institutions.

CT118. *Criterion 11.4* – Article 51 of Law 155-17 sets forth that RI should make available all records and documents to supervisors upon request and to be used in ML, predicate offences, and TF-prevention related investigations and administrative procedures. Likewise, Article 56 sets forth that records and documents should be available to the MP, the competent jurisdictional body and the UAF for its use in ML, predicate offences, and TF investigations and criminal and administrative procedures.

#### *Weighting and Conclusion*

CT119. The Law and regulations in relation to the banking sector is clear in relation to the maintenance and use of records, but no so in the case of non-banking entities and DNFBPs. **Recommendation 11 is rated Largely Compliant.**

### *Recommendation 12 - Politically exposed persons*

CT120. *Criterion 12.1* – The definition of Politically Exposed Person (PEP) is provided for in Art. 2.19 of Law 155-17 and covers domestic and international PEPs and PEPs from international organisations. However, except for the banking and foreign exchange sector that in SIB Circular 004-16 specifically contemplates it in its subsection III, Glossary of Terms, the definition in other sectors does not cover individuals who occupy prominent functions such as representatives of important political parties. In relation to applicable preventive measures, the following is mentioned:

- (a) Law 155-17, Art. 37 sets forth that RI must implement a methodology to permit timely identifying, measuring, controlling, mitigating, and monitoring potential ML/TF-risk events. Said methodology should include customers as risk factor or variable. However, the duty to put in place risk management systems to determine if a customer or beneficial owner is a PEP is not specified. Moreover, Art. 46 determines that RI must consider PEPs as high-risk factors. In relation to sectoral regulations, SIB Circular 004-16 for the banking and foreign exchange sector sets forth in subsection IV, page 12 and item 6, page 25, that forms used by entities for the identification of customers should contain questions to determine if a customer is or has been a PEP, if they are somehow related to a PEP, and to specify the level of affinity. Moreover, they should obtain sufficient customer information and verify available public information to determine if a customer or related person is a PEP. In turn, regulation R-CNV-2017-13 for the securities market sector, determines in Art. 32.a that RI should have risk-management systems to determine if a customer is a politically exposed person. In addition, Regulation 001-2017 for the cooperatives sector sets forth in Art. 18 that cooperatives should implement measures to identify if the transaction is performed for or on behalf of a PEP. Finally, Resolution 02-2017 for the insurance sector determines in Art. 18 that RI should implement measures to identify if the transaction is performed for or on behalf of a PEP, and that they should put in place risk-management systems to determine if a customer or beneficial owner is a PEP.
- (b) SIB Circular 004-16 for the banking and foreign exchange sector determines in item 6.e (page 25) the duty to obtain senior management approval before establishing or continuing business relationships. Regulation R-CNV-2017-13-MV for the securities market sector sets forth in Art. 32.B that RI should obtain senior management approval before establishing business relationships with PEPs, with the obligation to record said approval in the file. Regulation 001-2017 for the cooperatives sector, in Article 18, paragraph I, sets forth that the administrative council of each cooperative should keep the discretionary power to approve the acceptance of a PEP as associate. Notwithstanding the aforesaid, it is not clear that these requirements also apply for the insurance sector.
- (c) SIB Circular 004-16 for the banking and foreign exchange sector determines in item 6.c (page 25) the duty to investigate the source of funds of a PEP before opening an account. Regulation R-CNV-2017-13-MV for the securities market sector, provides in Art. 32.c that RI should adopt measures to establish the source of the patrimony and funds to be invested, and adopt reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs. There are no similar requirements for the insurance and cooperatives sectors.
- (d) SIB Circular 004-16 for the banking and foreign exchange sector determines in item 6.c (page 25) that, if a PEP were accepted as customer or related person, the entity should perform an ongoing monitoring on the business relationship. Regulation R-CNV-2017-13-MV for the securities market sector, provides in Art. 32.c that RI should perform a continuous and enhanced monitoring on the business relationship.

CT121. *Criterion 12.2* – The definition of PEP is provided for in Art. 2.19 of Law 155-17 and encompasses domestic individuals and individuals from international organisations.

- (a) The regulation does not distinguish measures based on if the PEP is domestic, international or from an international organisation. Therefore, please refer to the analysis of Criterion 12.1.a.
- (b) The regulation does not distinguish measures based on if the PEP is domestic, international or from an international organisation. Therefore, please refer to the analysis of Criterion 12.1.b/c/d.

CT122. *Criterion 12.3* – Article 46 of Law 155-17 sets forth that RI should apply a RBA to due diligence and monitoring of the PEP's spouse, common-law marriage or cohabitation partner, and persons within the

second degree of consanguinity or affinity, as well as close associates, and those that perform transactions on their behalf.

CT123. *Criterion 12.4* – Beyond general measures pointed out in criteria 10.12 and 10.13, the legislation does not provide for additional specific requirements in relation to PEPs.

#### *Weighting and Conclusion*

CT124. The definition of PEP is provided for in the Law, but it could leave aside profiles with political exposure that should be considered, such as representatives of political parties; in addition, the duty to determine PEPs in the risk-management system should be added. **Recommendation 12 is rated Largely Compliant.**

#### *Recommendation 13 - Correspondent banking*

CT125. *Criterion 13.1* – Article 50 of Law 155-17 sets forth the measures that RI must implement with entities they establish corresponding relationships with. In particular, it mentions the following:

- (a) Article 50.1 provides for the duty to gather sufficient information to understand fully the nature of the respondent's business, and to determine from publicly available information the reputation of the institution and the quality of supervision. Moreover, SIB Circular 004-16 for the banking and foreign exchange sector provides for in subsection V, page 28, several measures that entities should consider: (i) Define policies and procedures to require the existence of people responsible for ensuring compliance with requirements in relation to correspondent banking, and that at least one senior authority different from the official that backs the relationship back, approves said correspondent banking relationship; and (ii) the correspondent bank that presents higher-risks should be subject to higher-level CDD measures. The financial intermediation entity should gather sufficient information about the respondent relationship to understand fully the nature of the respondent's business, and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML/TF investigation or regulatory action.
- (b) Article 50.2 provides for the duty to assess the respondent institution's AML/CFT prevention controls. The same requirement is set forth in SIB Circular 004-16 for the banking and foreign exchange sector, subsection V, page 29.
- (c) Article 50.3 provides for the duty to obtain approval from senior management before establishing the new correspondent relationship. The same requirement is set forth in SIB Circular 004-16 for the banking and foreign exchange sector, subsection V, page 29.
- (d) Article 50.4 provides for the duty to document the responsibilities of each institution in the correspondent relationship, include that on ML/TF. Moreover, SIB Circular 004-16 for the banking and foreign exchange sector adds in its subsection V, pages 28 and 29 that the entity should consider clearly understanding the respective AML/CFT responsibilities of each institution.

CT126. *Criterion 13.2* – Article 50 of Law 155-17 sets forth the measures that RI must implement with entities they establish corresponding relationships with. In particular, it mentions the following:

- (a) Article 50.5, in relation to payable through accounts (regional accounts), provides for the duty to satisfy themselves that the respondent bank has verified the identity and applied at all times CDD measures in relation to its customers that have direct access to the accounts of the correspondent bank. The same requirement is provided for in SIB Circular 004-16 for the banking and foreign exchange sector, subsection V, pages 29, and 30.e.
- (b) Article 50.5, in relation to payable through accounts (regional accounts), provides for the duty to satisfy themselves that the respondent bank has verified the identity and applied at all times CDD measures in relation to its customers that have direct access to the accounts of the correspondent bank. The same requirement is provided for in SIB Circular 004-16 for the banking and foreign exchange sector, subsection V, pages 29 and 30.e.

CT127. *Criterion 13.3* – Article 60 of Law 155-17 prohibits RI from entering into, or continuing, correspondent banking relationships or performing transactions with shell banks. Moreover, SIB Circular 004-16 for the banking and foreign exchange sector, subsection III, page 7 further says that entities cannot perform financial transactions with natural persons that are not duly identified or legal persons that are not legally established, or perform transactions with financial entities or companies that do not have a physical presence, that is to say, with shell banks or companies.

*Weighting and Conclusion*

CT128. **Recommendation 13 is rated Compliant.**

*Recommendation 14 - Money or value transfer services*

CT129. *Criterion 14.1* – In the Dominican Republic, entities empowered to act as MVTs are called “exchange and remittance agents” and to operate they need prior licence of the Monetary Board.

CT130. The procedure for obtaining the licence to operate is provided for in Articles 6 to 10 of the Exchange Regulation approved by the Sixth Resolution of the Monetary Board of October 12, 2006. The licence should be requested through the Superintendency of Banks and a series of requirements determined in articles 7 and 8 of the regulation should be complied with. The Monetary Board decides on the granting of the authorization after receiving the opinion of the Superintendency of Banks and the corresponding layers of the Central Bank.

CT131. *Criterion 14.2* – No actions have been taken to identify those who provide MVTs without a licence and there is no information on the application of sanctions on this matter.

CT132. *Criterion 14.3* – Pursuant to Art. 27 of the Exchange Regulation, remittance and exchange agents are subject to supervision of the SIB in relation to their compliance with accounting, operational, management, and internal control systems compliance.

CT133. *Criterion 14.4* – According to the information provided by the country, the remittance and exchange agents do not have or use sub-agents.

CT134. *Criterion 14.5* – According to the information provided by the country, the remittance and exchange agents do not have or use sub-agents.

*Weighting and Conclusion*

CT135. Even though MVTs are RI, they require a licence to operate and are under the control of the SIB, no actions have been taken to identify those who provide MVTs without a licence and there is no information on the application of sanctions on this matter. **Recommendation 14 is rated Partially Compliant.**

*Recommendation 15 - New technologies*

CT136. *Criterion 15.1* – In its NRA, the Dominican Republic identified as a vulnerability the lack of follow-up of products based on new technologies, such as e-currency or crypto-currency, e-trade, among others.

CT137. Moreover, Art. 45 of Law 155-17 determines the duty of RI to identify and assess ML/TF risks related to products, services, and delivery mechanisms, new and existing, including those that use new technologies, made available to customers and users, adopting for such purposes appropriate measures to manage and mitigate those risks. Moreover, when new products and services are launched, financial RI should submit a ML/TF risk-assessment, and a mitigation plan.

CT138. These duties are listed, moreover, in the corresponding sectoral regulations: SIB Circular 004-16 for the banking and foreign exchange sector (subsection III, page 7, para. 5); regulation R-CNV-2017-13-MV for the securities market sector (Art. 21.d/e and Art. 40.i); regulation 001-2017 for the cooperatives sector (Art. 35); and regulation 02-2017 for the insurance sector (Art. 34.)

CT139. *Criterion 15.2* – Article 45 of Law 155-17 provides for the duty to adopt products and services' monitoring measures. In particular:

- (a) The duty of RI to identify and assess ML/TF risks associated with products, services and delivery mechanisms, new and existing, including those that use new technologies, made available to customers and users.
- (b) The duty to adopt appropriate measures to manage and mitigate the risks. Moreover, when new products or services are launched, financial RI should submit a ML/TF risk assessment, together with a mitigation plan.

#### *Weighting and Conclusion*

CT140. The law and secondary regulations include the obligation of RI to perform a ML/TF risk assessment of new products and services, including those that use new technologies; a continuous monitoring should be performed for new products that offer and involve new technologies. **Recommendation 15 is rated Compliant.**

#### *Recommendation 16 - Wire transfers*

CT141. *Criterion 16.1* – Article 48 of Law 155-17 requires that financial RI adopt measures to identify the originator and the beneficiary of the international transfer, regardless of the channel used. In particular:

- (a) (i) the name of the originator (section 1); (ii) the originator account number where such an account is used to process the transaction or a unique transaction reference number to identify the transfer (section 2); and (iii) the originator's address, or national identity number (section 3).
- (b) (i) the name of the beneficiary; and (ii) the beneficiary account number where such an account is used to process the transaction or a unique transaction reference number to identify the transfer.

CT142. Moreover, the previous requirements are provided for in SIB Circular 004-16 applicable to the banking, remittances and foreign exchange sectors, subsection VI, paragraph 1 and entities involved in items a, b, c, and d.

CT143. *Criterion 16.2* – SIB Circular 004-16 applicable to the banking, remittances, and foreign exchange sectors, in subsection VI, paragraph 4 sets forth that where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain required and accurate originator information, and full beneficiary information, that is fully traceable; and the financial institution should be required to include the originator's account number or unique transaction reference number.

CT144. *Criterion 16.3* – Current legislation does not establish a threshold for the enforcement of the requirements above mentioned.

CT145. *Criterion 16.4* – Article 48 of Law 155-17 requires verifying the information pertaining to its customer and/or beneficiary, based on the risk analysis performed by the financial RI, or where there is suspicion of ML/TF.

CT146. *Criterion 16.5* – Article 49 of Law 155-17 requires financial RI to adopt measures to identify the originator, regardless of the channel used. The article requires that, at least, the following information be included: (i) the name of the originator; (ii) the originator account number where such an account is used to process the transaction or a unique transaction reference number to identify the transfer. (iii) the originator's address, or national identity number; and (iv) the amount of the transaction.

CT147. *Criterion 16.6* – SIB Circular 004-06 applicable to the banking, remittances and foreign exchange sector, in subsection VI, paragraph 5 provides for that where the information accompanying the domestic wire transfer can be made available to the beneficiary financial institution and appropriate authorities, the ordering financial institution need only be required to include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. In cases where the ordering intermediation institution did not provide the information and the beneficiary institution requests it, the ordering institution should submit the information within the following five business days from the reception of the request. Now, the term of 5 business days provided for in the regulation is higher than the one provided for in the criterion, which is 3.

CT148. *Criterion 16.7* – Article 43 of Law 155-17 refers to record keeping, and sets forth that RI must maintain all necessary records on transactions for at least 10 years following completion of the business relationship or after the date of the occasional transaction. Likewise, SIB Circular 004-16, subsection VI, paragraph 7 sets forth that the ordering financial intermediation institution should maintain all originator and beneficiary information collected.

CT149. *Criterion 16.8* – Article 62 of Law 155-17 prohibits RI to establish or maintain a business or professional relationship where it were unable to identify and verify the identification of the customer. Same prohibition applies to the performance of any transaction.

CT150. *Criterion 16.9* – Article 43 of Law 155-17 sets forth that RI must maintain all necessary records on transactions for at least 10 years following completion of the business relationship or after the date of the occasional transaction.

CT151. Likewise, SIB Circular 004-16, applicable to the banking, remittances, and foreign exchange sectors, subsection VI, items a and b, set forth the following measures: a) beneficiary institutions should adopt measures to identify cross-border wire transfers that lack required originator information or required beneficiary information. These measures may include post-event monitoring or real-time monitoring where feasible; and b) for cross-border wire transfers of USD 1 000 or more, or its equivalent in national currency or any other currency, a beneficiary financial institution should verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with domestic and international requirements.

CT152. *Criterion 16.10* – Article 43 of Law 155-17 sets forth that RI must maintain all necessary records on transactions for at least 10 years following completion of the business relationship or after the date of the occasional transaction.

CT153. Moreover, SIB Circular 004-16 applicable to the banking, remittances, and foreign exchange sectors, subsection VI, paragraph 1.c sets forth that where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution should keep a record, for at least 10 years, of all the information received from the ordering financial institution or another intermediary financial institution involved.

CT154. *Criterion 16.11* – SIB Circular 004-16 applicable to the banking, remittances and foreign exchange sector, subsection VI, item 1.c, provides for that institutions should have policies and procedures implemented to identify cross-border wire transfers that lack required originator information or required beneficiary information.

CT155. *Criterion 16.12* – SIB Circular 004-16, applicable to the banking, remittances and foreign exchange sector, subsection VI, item 1.d, provides for that institutions should have risk-based policies and procedures for determining: (a) when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.



CT156. *Criterion 16.13* – SIB Circular 004-16 applicable to the banking, remittances and foreign exchange sector, subsection VI, paragraph 1, provides for that institutions that offer the wire transfers service should request accurate information on the originator, as well as the information on the beneficiary. Moreover, related messages and information should remain throughout the entire payment chain. Institutions should monitor wire transfers with the aim of detecting those that lack originator and/or beneficiary information and adopt corresponding measures.

CT157. *Criterion 16.14* – Article 43 of Law 155-17 sets forth that RI must maintain all necessary records on transactions for at least 10 years following completion of the business relationship or after the date of the occasional transaction. In addition to the record keeping, the recommendation aims at the beneficiary institution to verify the identity of the beneficiary, if it has not been previously verified.

CT158. Moreover, SIB Circular 004-16, applicable to the banking, remittances and foreign exchange sector, subsection VI, paragraph 7, and item 2.b provides for that the ordering financial intermediary institution should keep all the information gathered from the originator and beneficiary, while for cross-border wire transfers of USD 1 000 or more, or its equivalent in national currency or any other currency, the beneficiary institution should verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with national and international requirements.

CT159. *Criterion 16.15* – SIB Circular 004-16, applicable to the banking, remittances and foreign exchange sector, subsection VI, item 1.d, provides for that institutions should have risk-based policies and procedures for determining: (a) when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

CT160. *Criterion 16.16* – Even if remittance and foreign exchange agents are RI and must comply with CDD measures provided for in the Law 155-17, and SIB Circular 004-16, they are not required to comply with all relevant requirements of Recommendation 16 in the countries they operate in, whether directly or through agents.

CT161. *Criterion 16.17* – Remittance and foreign exchange agents are RI pursuant to Article 32.3 of Law 155-17 and are subject to the duty of reporting suspicious transactions to the UAF, as provided for in Article 55 of the same law. Likewise, subsection VII of the second version of the Due Diligence Handbook, entered into force through the Circular SIB: No. 0012/17 establishes that, in case the reporting entity controls both the originator and the beneficial owner of a wire transfer, it should (a) take into account all the information, both on the originator and on the beneficial owner, in order to decide whether a STR should be submitted; and (b) submit a STR in the affected country for the suspicious wire transfer and provide the relevant information on the transaction to the correspondent FIU.

CT162. *Criterion 16.18* – Article 82 of Law 155-17 provides for the duty of RI of monitoring if one customer, beneficial owner or potential customer is included in the lists issued by United Nations by virtue of UNSCRs 1267, 1988, 1718 and any successor resolutions, and those related to the financial sanctions regimes, or in the list by virtue of UNSCR 1373 and any successor resolutions, or others that are issued in relation to TF and FPWMD.

CT163. Moreover, Art. 83 provides for the duty of RI to preventively freeze without delay the property or assets of the customer and/or beneficial owner included in the corresponding lists, and to notify without delay to the MP and the UAF about the measures adopted. RI should not uplift the preventive freezing until they receive a judicial notice on this regard. In time, natural or legal persons are forbidden to offer or deliver assets, property, or services to a designated person or entity included in the lists.

### *Weighting and Conclusion*

CT164. Overall, Law 155-17 and regulation applicable to the banking, remittances and foreign exchange sector mostly incorporate the requirements of the Recommendation. However, in cases where the ordering intermediation institution did not provide the information and the beneficiary institution requests it, the ordering institution should submit the information within the following five business days from the reception of the request. Now, the term of 5 business days provided for in the regulation is higher than the one provided for in the criterion, which is 3. Also, even if remittance and foreign exchange agents are RI and must comply with CDD measures provided for in the Law 155-17 and SIB Circular 004-16, they are not required to comply with all relevant requirements of Recommendation 16 in the countries they operate in, whether directly or through agents **Recommendation 16 is rated Largely Compliant.**

### *Recommendation 17 - Reliance on third parties*

CT165. *Criterion 17.1* – Article 47 of Law 155-17 sets forth that RI may rely on other RI, even if it is part of the same financial or economic group it belongs to, the identification of the customer, the identification of the BO, and the understanding of the nature of the business. The ultimate responsibility of the customer identification remains with the institution relying on the third party. Moreover, it should be highlighted that:

- (a) According to Article 47 of Law 155-17, the RI that delegates CDD measures should obtain immediately the identification information, as well as a copy of corresponding documents that support these aspects.
- (b) In addition to the aforesaid, SIB Circular 004-16 of the banking and foreign exchange sector, subsection VII, item b, adds that institutions that delegate CDD must ensure that it should not limit, or restrict the SIB's powers to supervise, and that it should take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request and without delay. Moreover, Resolution 02-2017 for the insurance sector sets forth in Art. 31 that RI may outsource CDD as long as they have immediate access to the information obtained by the third party, and as long as they take steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request and without delay. The securities sector governs this in regulation R-CNV-2017-47-MV. There are no similar provisions for the cooperatives sector.
- (c) SIB Circular 004-16 of the banking and foreign exchange sector, subsection VII, item c, sets forth that entities that rely on third parties for the compliance of CDD shall satisfy themselves that the third party has measures in place for compliance with CDD and record-keeping requirements. Likewise, Resolution 02-2017 for the insurance sector sets forth in Art. 31 that RI that rely on third parties to perform CDD must take steps to satisfy themselves that the third party has control measures in place for compliance with CDD and record-keeping requirements. In relation to the securities and cooperatives sectors, there are no similar provisions. However, Art. 47 of Law 155-17 empowers RI to rely on other RI for the performance of CDD. In this way, only for such cases, they can rely on other RI, who should comply with the obligations of Recommendations 10 and 11.

CT166. *Criterion 17.2* – Art. 22 of regulation 408-17 which is applicable to all reporting entities establishes that, when due diligence is delegated to a third party that resides in another country and that complies with the conditions defined in Law no. 155-17, the available information on the level of risk in that country should be considered and the necessary mitigation measures taken so that the due diligence information is as complete and updated as possible. A similar provision is on SIB Circular 004-16 for the banking and foreign exchange sector, subsection VII, item d.

CT167. *Criterion 17.3* – Article 47 of Law 155-17 sets forth that RI may rely on other RI the performance of CDD, even if it is part of the same financial or economic group it belongs to. The ultimate responsibility of the customer identification remains with the institution relying on the third party. Moreover, it should be highlighted that:

- (a) Article 35 of the Law sets forth that RI must apply a compliance programme, including CDD measures, to all local branches and subsidiaries abroad.
- (b) Article 98 of Law 155-17 sets forth the powers of the supervisors. Moreover, Article 99 determines that the supervision shall follow a risk-based approach. In the case of financial groups, supervision may use

a consolidated supervision approach. In time, in relation to the banking sector, Monetary and Financial Law 183-02, Art. 58 sets forth that where a financial intermediation institution directly or indirectly controls supporting and related services institutions or other institutions, whether national or foreign, these shall be submitted to consolidated supervision by the SIB.

- (c) The legislation does not foresee that any higher country risk should be properly mitigated by the group's AML/CFT policies.

### *Weighting and Conclusion*

CT168. The legislation covers most of the requirements of this Recommendation. However, not all the relevant provisions apply to the securities and cooperative sector, and there is no provision establishing that higher risks of a country should be adequately mitigated by means of AML/CTF group policies.

**Recommendation 17 is rated Largely Compliant.**

### *Recommendation 18 - Internal controls and foreign branches and subsidiaries*

CT169. *Criterion 18.1* – Financial institutions should adopt, develop, and execute a risk-based compliance programme adequate for the organisation, structure, resources, and complexity of the transactions performed, based on the following:

- (a) The programme should have policies and procedures in place to assess ML/TF risks and mitigate them. Moreover, they should appoint a senior official with technical capacity, in charge of monitoring strict compliance with the compliance programme, and as a liaison between the reporting institution, the UAF, and the supervisor (Law 155-17, Arts. 34, 1) and 44, SIB Circular 004-16, III; SIB Circular 00117, 1; Regulation R-CNV-2017-13-MV, Arts. 16, 20, 21; Regulation 001-2017 for cooperatives, Arts. 6, 13, and 14; and Regulation 02-2017 for the insurance sector (Art. 5.)
- (b) The compliance programme mentioned in item (a) above should include policies and procedures to ensure high standards when hiring officials, employees and directors (Law 155-17, Arts. 34, 2) and 44, SIB Circular 004-16, III; SIB Circular 00117, 1; Regulation R-CNV-2017-13-MV, Arts. 16, 20, 21; Regulation 001-2017 for cooperatives, Arts. 6, 13, and 14; and Regulation 02-2017 for the insurance sector (Art. 5.)
- (c) Ongoing training must be included as part of compliance programmes (Law 155-17, Art. 34, 2); SIB Circular 001-17, 8, f); Regulation R-CNV-2017-13-MV, Arts. 4.a), 5.a), 6.a) 7.a), 9, 13, 14, 21. p; Regulation 001-2017 for cooperatives, Arts. 6.d, 14.e, and 16; and Regulation 02-2017 for the insurance sector, Art. 11, para. I, 12.d, 14.)
- (d) Art. 34 of Law 155-17 provides the duty to have an external audit responsible for verifying the effectiveness of the compliance program. Notwithstanding this, an independent audit function is not included in the secondary regulation to test the system in the insurance and cooperative sectors.

CT170. *Criterion 18.2* – Reporting entities must put in place AML/CFT programmes under the terms of Art. 34 of Law 155-17. In relation to financial and economic groups, it is set forth that they can have a group-wide compliance programme which should be applied to all local branches and subsidiaries abroad, including CDD measures. (Law 155-17, Art. 35):

- (a) In relation to banks, the Regulation for Investments Abroad and Opening of Cross-Border Institutions of March 2004 sets forth in Art. 10, item b, numeral vii that the Monetary and Financial Administration will evaluate the requests of permits to establish or to invest in an offshore or cross-border entity and will determine, among other things, if the multiple bank has the administrative and managerial capacity to mitigate the global risk on the financial intermediation institution, taking into account among the administrative facts, policies established to avoid ML.
- (b) Subsection VI, page 60 of Circular SIB No. 003/18 of January 15, 2018, establishes the guidelines for implementing compliance programs at a group level. Financial groups of non-banking financial institutions are not required to include the provision, at group-level compliance, audit, and/or AML/CFT functions, together with customer, account, and transaction information from branches and subsidiaries where necessary for AML/CFT purposes.

- (c) Subsection VI, literal b), page 60 of Circular SIB No. 003/18 of January 15, 2018, establishes the requirement of protocols for obtaining, reviewing and exchanging information, including confidentiality measures and use of the information exchanged, for the cases of compliance programs implemented at a group level. There is no provision for a similar requirement for non-banking financial institutions.

CT171. *Criterion 18.3* – Reporting entities should put in place AML/CFT programmes in terms of Article 34 of Law 155-17. In relation to financial and economic groups, they may have a group-level compliance programme that should be applied to all local branches and subsidiaries abroad, including CDD measures (Law 155-17, Art. 35.) However, it does not require financial institutions to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country.

#### *Weighting and Conclusion*

CT172. From the information analysed, there is evidence that an independent audit function to test the system is not included, as well as the obligation to share information for CDD, or to request group-level compliance with AML/CFT requirements, or that branches or subsidiaries are required to comply with AML/CFT of the home country. **Recommendation 18 is rated Partially Compliant.**

#### *Recommendation 19 - Higher-risk countries*

CT173. *Criterion 19.1* – Article 42 of Law 155-17 provides for that RI should perform EDD where higher ML/TF risks are identified. Moreover, Article 46 sets forth that RI must consider transactions or operations that involve jurisdictions defined by the FATF as high-risk factors, reason why EDD measures are applicable. EDD is also required in the following cases by regulation R-CNV-2017-13-MV applicable to the securities market sector (Art. 31), regulation 001-2017 for the cooperatives sector (Art. 14, items h and j) and resolution 02-2017 for the insurance sector (Art. 16, items d, g, and i.) These aspects are not provided for in the banking sector.

CT174. *Criterion 19.2* – Law 155-17 identifies as high-risk factors transactions and operations of jurisdictions indicated by FATF, although there is no specific regulation for the banking and insurance sectors.

CT175. *Criterion 19.3* – The SIB, in its corresponding web page, provides the electronic links to the different lists of non-cooperative countries and territories or with high levels of ML/TF. Lists of non-cooperative or high-risk jurisdictions identified by FATF are not published in the securities, insurance and cooperatives sectors.

#### *Weighting and Conclusion*

CT176. Mechanisms for the country to apply proportionate counter-measures are not included, as well as the different lists of non-cooperative countries and territories or with high-levels of ML/TF, which does not allow fully complying with the recommendation. **Recommendation 19 is rated Partially Compliant.**

#### *Recommendation 20 - Reporting of suspicious transaction*

CT177. *Criterion 20.1* – Law 155-17, Art. 55 sets forth the duty of reporting institutions to report suspicious transactions to the UAF within five business days following the performance, or attempt to perform, the transaction. The scope of suspicious transaction is defined in Art. 2.16 and covers the following transactions: (i) complex, unusual, significant, as well as all patterns of non-habitual transactions or insignificant but regular transactions, that do not have a clear economic or legal reason; and (ii) transactions suspected of being involved in ML, a predicate offence or TF.

CT178. *Criterion 20.2* – Article 55 of Law 155-17 expressly provides for the duty to report suspicious transactions, performed or attempted, regardless of their amount. Likewise, the definition of suspicious transaction, included in Art. 2.16 of said Law, comprises performed and not performed transactions.

*Weighting and Conclusion*

CT179. Even if the obligation of RI to submit a STR is contemplated, the existence of specific regulations to ensure reporting for each sector should be reviewed: Banking, securities, insurance, and cooperative. **Recommendation 20 is rated Compliant.**

*Recommendation 21 - Tipping-off and confidentiality*

CT180. *Criterion 21.1* – Article 58 of Law 155-17 provides for that reporting institutions, and their employees, officers, directors or other authorised representatives, shall not incur in civil, administrative, and criminal liability where, in compliance with their AML/CFT obligations, they submit suspicious transaction reports and cash transaction reports to the UAF or provide information to competent authorities. However, legislation does not limit the exemption of liability to cases where reports were submitted in good faith.

CT181. *Criterion 21.2* – Article 63 of Law 155-17 sets forth that reporting institutions, as well as their directors, officers and employees, are prohibited from disclosing the fact that information has been filed to the UAF or competent authority, or that any transaction is under investigation for suspicion of ML or TF. Likewise, Art. 4 provides for that the employee, executive, director or other authorised representative of reporting institutions that disclose to their customers, providers, users, or third parties not authorised by law, STRs or other related information filed with the UAF shall be sanctioned with a penalty of 2 to 5 years' imprisonment, a fine of 200 to 400 minimum wages, and permanent prohibition to perform their functions, provide advice or be hired by public entities or financial intermediation institutions, and participants of the securities market.

*Weighting and Conclusion*

CT182. Legislation does not limit the exemption of liability to cases where reports were submitted in good faith. **Recommendation 21 is rated Largely Compliant.**

*Recommendation 22 - DNFBPs: Customer due diligence*

CT183. *Criterion 22.1* – Article 38 of Law 155-17 sets forth the duty of RI to carry out CDD measures, which include the requirements provided for in Recommendation 10. In relation to DNFBPs:

- (a) Article 33 of Law 155-17 includes as RI casinos, games of chance, lottery or gambling agencies, and lottery and games of chance concessionaires. In turn, resolution 204-2017 applicable to casinos, sports agencies, lotteries and other games of chance provides for, in Arts. 17 to 21, all due diligence measures to be applied on customers. In this sense, Art. 17 includes the obligation to identify all customers, requiring basic information (name, identification, if it is a domestic or foreign customer, telephone number, e-mail address, and address or place of residence.) Article 18 sets forth that RI must have a Know-Your Customer policy in place and Art. 19 sets forth that RI must perform due diligence when customers engage in transactions above USD 3 000 (unique or accumulated amount.) In such cases, CDD must be performed upon payment of the prize or upon the purchase or exchange of chips.
- (b) Article 33.c of Law 155-17 includes real estate brokers as RI when they are involved in transactions for a customer concerning the buying and selling of real estate. Regulation 03-18 of the DGII, Arts. 21 to 27 sets forth that CDD measures to be implemented by real estate brokers upon performance of buying and selling of real estate transactions.
- (c) Article 33.d of the Law 155-17 includes dealers in precious metals, stones and jewellery as RI, without thresholds being established. Regulation 04-18 of the DGII, Arts. 21 to 27 sets forth the CDD measures that the sector should apply upon operating with their customers.

- (d) Article 33.d of Law 155-17 includes lawyers, notaries, accountants and other legal professionals as RI when they prepare for, or carry out, transactions for their customer concerning the following activities: 1. Buying and selling, or refurbishment of real estate; 2. Management of customer money, securities or other assets; 3. Management of bank, savings or securities accounts; 4. Organisation of contributions for the creation, operation or management of companies; 5. Creating, operating or managing of legal persons or arrangements and buying and selling of business entities; 6. Establishment of legal persons, change in their equity due to increase or decrease of social equity, merger or split, as well as buying and selling of shares and social shares, among others. Likewise, the regulation 01-18 of the DGII sets forth, in Arts. 21 to 27, CDD measures the mentioned sector should apply upon operating with their customers.
- (e) Article 32.5 of Law 155-17 includes legal persons empowered or licenced to operate as trusts as RI. In relation to trust and company services providers, Art. 33.e of Law 155-17 includes lawyers, notaries, accountants and other legal professionals as RI when they prepare for, or carry out, transactions for their customer concerning the following activities: 7. acting as formation agent of legal persons; 8. acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; 9. providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; 10. acting as (or arranging for another person to act as) a nominee shareholder for another person.

CT184. *Criterion 22.2* – Article 43 of Law 155-17 refers to the record-keeping obligation and sets forth the general obligation of RI of maintaining all necessary records on transactions during at least 10 years following completion of the business relationship or after the date of the occasional transaction. Moreover, sectoral regulations mentioned before (regulations 01-18, 02-18, 03-18, 04-18), Art. 33 include the obligation of DNFBPs to keep records. In this sense, it is set forth that RI must maintain all necessary records on transactions, CDD measures, and other documents, as well as correspondence and analysis of the customer for 10 years following completion of the business relationship or after the date of the occasional transaction. Moreover, it provides for that said files should permit reconstruction of transactions and be kept safely, and made available to the supervisor upon its request.

CT185. *Criterion 22.3* – The definition of PEP is provided for in Art. 2.19 of Law 155-17 and covers domestic and international PEPs, and PEPs from international organisations. In relation to DNFBPs, the definition does not encompass other persons that perform prominent functions, such as representatives from important political parties. In relation to applicable preventive measures, Art. 37 of Law 155-17 determines that RI must put in place a methodology to permit timely identifying, measuring, controlling, mitigating, and monitoring potential ML/TF-risk events. In said methodology, customers should be incorporated as risk factor or variable. Moreover, Art. 46 determines that RI must consider PEPs as high-risk factors. In addition, all sectoral regulations mentioned above include in their Art. 28 that all RI must perform EDD when the operate with PEPs. Moreover, it is provided for that upon operating with PEPs, they should at least: Obtain senior management approval to operate, identify the source of funds, and perform an enhanced monitoring of their transactions.

CT186. *Criterion 22.4* – In its NRA, the Dominican Republic identified as a vulnerability the lack of follow-up of products based on new technologies, such as e-currency or crypto-currency, e-trade, among others. Moreover, Art. 45 of Law 155-17 determines the duty of RI to identify and assess ML/TF risks related to products, services, and delivery mechanisms, new and existing, including those that use new technologies, made available to customers and users, adopting for such purposes appropriate measures to manage and mitigate those risks. Moreover, when new products and services are launched, financial RI should submit a ML/TF risk-assessment, and a mitigation plan. However, the obligation to comply with new technologies requirements set forth in Recommendation 15 is not covered in sectoral regulations.

CT187. *Criterion 22.5* – Article 47 of Law 155-17 sets forth that RI can rely on other RI, even if it is part of the same financial and economic group it belongs to, the identification of the customer, the identification of

beneficial owner, and the understanding of the nature of the business. The ultimate responsibility for customer identification remains with the institution relying on the third party. Moreover, Art. 35 of the Law sets forth that RI must apply a compliance programme, including CDD measures, to all its domestic and foreign subsidiaries. Article 98 of Law 155-17 sets forth the powers of supervisors. Moreover, Art. 99 determines that the supervision shall follow a risk-based approach methodology. In case of financial groups, supervision may follow a consolidated supervision approach. In addition, Arts. 18 to 20 of aforementioned regulations, cover the requirements of Recommendation 17. In this sense, outsourcing of CDD is only allowed to a RI of the same economic group (Art. 18), with the ultimate responsibility for CDD measures remaining in the RI that delegated the CDD, who shall obtain immediately the identification information and copy of pertinent supporting documents.

CT188. However, it is not clear either that DNFBPs must be satisfied that the third party is regulated, supervised or monitored.

### *Weighting and Conclusion*

CT189. According to the law, DNFBPs are reporting institutions that must comply with AML/CFT provisions. There are sectoral regulations published during the on-site visit that cover the criteria of R.23. However, it should be mentioned that sectoral regulations are replicated identically in the four regulated sectors, and are not adjusted to the different realities of each of them. Moreover, non-financial trusts do not have a regulation that indicates specifically the measures to be implemented in relation to their customers. **Recommendation 22 is rated Largely Compliant.**

### *Recommendation 23 - DNFBPs: Other measures*

CT190. *Criterion 23.1* – The categories of DNFBPs and other non-financial reporting institutions under the scope of Law 155-17 have the obligation to file a STR to the UAF within five business days following the performance or the attempt to perform the transaction. (Law 155-17, Art. 55, Art. 36 of sectoral regulations 01-18, 02-18, 03-18, 04-18 and Art. 32 of resolution 204-17 applicable to Casinos.)

- (a) Lawyers, notaries, accountants and other legal professionals must apply suspicious transaction report requirements when they perform the activities described in criterion 22.1 (d) Art. 55 of Law 155 and Art. 36 of regulation 01-18.)
- (b) Dealers in precious metal and stones must apply suspicious transaction report requirements regardless of the amount of the transaction (Art. 55 of Law 155 and Art. 36 of regulation 04-18.)
- (c) Trust service providers must apply suspicious transaction report requirements by virtue of Art. 55 of Law 155; while company service provides (lawyers) are also governed by the sectoral regulation mentioned above.

CT191. *Criterion 23.2* – DNFBPs and other non-financial reporting institutions covered by Law 155-17 have the following duties as provided in said law and in the sectoral regulations previously mentioned:

- Create and execute risk-based compliance programmes, appropriate to the organisation, structure, resources and complexity of the transactions performed. Said programme shall include, but not be reduced to, the following: 1) Policies and procedures to assess money laundering and terrorist financing risks and mitigate them; 2) Appointment of a senior management level Compliance Officer; 3) Policies and procedures to ensure high standards for hiring and ongoing training of its officers, employees and directors; 4) Disciplinary sanctions regime; 5) Code of ethics and good conduct; and 6) External audits to verify the effectiveness of the compliance programme. The compliance programme should include due diligence measures for all its local branches and subsidiaries abroad.

CT192. *Criterion 23.3* – DNFBPs and other non-financial reporting institutions covered by Law 155-17 should comply with the provisions of Art. 46, where the involvement of jurisdictions defined by the FATF are considered as high-risk factors. Moreover, sectoral regulations indicate that reporting institutions should perform enhanced due diligence upon operating with customers or institutions established in high-risk countries,

territories or jurisdictions or that imply the transfer of funds from or to such countries, territories or jurisdictions, including those countries that the FATF requires the application of enhanced due diligence measures (Art. 26 (b) of sectoral resolutions 01-18, 02-18, 03-18, 04-18 and Art. 24 of resolution 204-17 applicable to Casinos.)

CT193. *Criterion 23.4* – DNFBPs and other non-financial reporting institutions covered by Law 155-17, must comply with the provisions of Arts. 58 and 63 described above in the criteria for compliance with Recommendation 21. Moreover, sectoral regulations indicate that reporting institutions, as well as their directors, officers, and employees may not disclose to the customer or third parties the fact that information has been filed with the UAF, or that any transaction is under analysis for suspicion of money laundering and terrorist financing (Art. 39 of sectoral regulations and Art. 33 of resolution 204-17 applicable to Casinos.)

#### *Weighting and Conclusion*

CT194. There is a legal framework that compels DNFBPs listed in the Law to file STRs with the UAF. The same obligation is included in sectoral regulations. Moreover, there is a legal and regulatory framework applicable to DNFBPs that complies with sub criteria 23.2 to 24.4. **Recommendation 23 is rated Compliant.**

#### *Recommendation 24 - Transparency and beneficial ownership of legal persons*

CT195. *Criterion 24.1* – The Dominican Republic has legislation and mechanisms that identify and describe the different types, forms and basic characteristics of the legal persons that may be established in the country. Pursuant to the General Law of Companies and Individual Limited Liability Companies, Law 479-08 as amended (LSC), the following corporate types may be established: i) general partnerships; ii) limited partnerships; iii) limited partnerships issuing shares, iv) limited liability companies; v) public limited company, and vi) simplified public limited company (SAS.) In the website of the Company Register there is information on the characteristics of the corporate types, as well as their characteristics and creation processes.<sup>13</sup>

CT196. *Criterion 24.2* – The Dominican Republic has three documents that were used to assess the ML/TF risks associated with the different types of legal entities created in the country. Firstly, the UAF carried out a general evaluation that establishes the legal framework of the companies in the country and an initial diagnostic study. This report is complemented by a report of risks of trusts prepared jointly with the DGII and another typology report, from which a serie of ML typologies have been identified in which different legal structures were used. Through these three documents it is possible to conclude that the Dominican authorities evaluated the risks related to the use of legal entities created in their territory in relation to the ML/FT.

CT197. *Criterion 24.3* – The Chambers of Commerce are in charge of registering business companies and are divided by jurisdictions. There are 31 Chambers of Commerce in the Dominican Republic. Moreover, there are 161 789 legal persons established in the country, most of them are limited liability companies (67.80%), followed by public limited companies (10.80%), partnerships issuing shares (8.80%), foreign companies (7.77%) and others (4.96%). Ninety percent of business companies are registered in Santo Domingo. In accordance with Art. 13 of the LSC, business companies, except joint ventures or partnerships shall exist, be established, and proven by public or private deed duly registered in the Company Register (Art. 13 of LSC.) Likewise, Art. 5 of Law 3-02 on the Company Register sets forth that business companies have full legal personality after their registration with the Company Register, except joint ventures or partnerships. Partnerships are registered with the Chamber of Commerce and Production corresponding to the registered office (Art. 16 of LSC.) Article 14 of LSC provides for the basic information that partnerships should keep, which shall be submitted to the Company Register to obtain the corresponding licence. Finally, pursuant to Art. 22 of Law 3-02 on the Company Register, this information is public information and any person can, by filling a form, perform a request to the corresponding Company Register to access basic information of a legal person.

<sup>13</sup> <http://www.camarasantodomingo.do/registro-mercantil/Home/TipoSocietarios>



CT198. *Criterion 24.4* – Article 14 of the LSC provides for the basic information that partnerships should maintain, contemplating the requirements of criterion 24.3. Likewise, Art. 34 of the LSC provides for that, in addition to accounting records, business companies shall keep: a) for companies where shares are proven through certificates or titles, a register with general information on their partners and at least the following data of the certificates that prove ownership of the shares: Issuance date, types and classes of shares, certificates numbers, amount of share in each certificate, nominal value of each share, and amount of share; b) in those whose decisions are adopted by meetings, a register in chronological order of the minutes of the general shareholders or owners' meetings, as well as of meetings of management bodies. Finally, Art. 35 of the LSC sets forth that registries should be available at the registered office.

CT199. *Criterion 24.5* – In relation to the accuracy of the information, Art. 13 of the LSC as amended sets forth that business companies, except joint ventures or partnerships shall exist, be formed and proven through public or private deed duly registered with the Company Register. In relation to the update of information, Article 12 of Law 3-02 on the Company Register determines that, every two years from the date of initial registration, all natural or legal persons shall renew their licence with the corresponding Chamber of Commerce and Production. Likewise, Art. 16 of the LSC as amended determines that all statutory amendments, changes in equity, fusion, split, transformation process, as well as dissolution and liquidation of companies, and in general all acts, minutes, deeds and documents relating to the social life which registration is required by the Law on Company Register, shall be subject to the deposit and registration formalities with the Company Register.

CT200. *Criterion 24.6* – The definition of BO is provided for in Art. 2.5 of Law 155-17, that conceptualizes it as the natural person that exercises the ultimate effective control on a legal person, or that holds at least 20% of the capital of the legal person, including the natural person in whose benefit a transaction is performed. Moreover, all companies have the obligation to declare data on their BO at the time of their registration or updating of their data in the National Taxpayer Register. The same obligation to register with the RNC and to identify beneficial owners is applicable to NPOs and exclusive purpose trust companies, which are also considered companies. Said Register was created under Law 53 of 1970 and is the mechanisms through which the tax identification is granted to all persons that want to engage in trade in the Dominican Republic. With the issuance of Law 155-17 and its regulatory Decree 408-17, the requirement to identify before the DGII all natural persons who hold a direct or indirect participation of 20% or more in the entity or that exercise their effective control was added (Arts. 38 and 42 of Decree 408-17.) Said identification is performed upon registration with the RNC or upon submitting tax returns. In relation to the mechanisms to guarantee the obtaining of information on the BO, and that it is available in the country, the following is mentioned:

- (a) LSC and Law 3-02 on the Company Register require, respectively, that information on the shareholders and composition of the equity be registered and updated before the Company Register, among other aspects pointed out in criteria 24.3 and 24.4. However, there are no specific provisions on the BO.
- (b) LSC and Law 3-02 on the Company Register require, respectively, that business companies keep and update information on the shareholders and composition of the equity, among other aspects pointed out in criteria 24.3 and 24.4. Moreover, Art. 104 of Law 155-17, that amends item c) of Article 50 of the Tax Code, sets forth taxpayers' duties. In particular, it provides that, all resident or, in certain cases, non-resident legal persons or entities without legal personality must have updated information on their beneficial owners. Moreover, it adds that information needed on beneficial owners will be regulated, as well as the place where it should be kept within the Dominican territory, and the periodicity to update it, that in no case shall be later than 6 months following changes occurred to the BO. In addition, Art. 106 of Law 155-17, that amends Art. 51 of the Tax Code, adds that legal persons and entities without legal personality that should be registered to perform transactions with tax repercussions in the Dominican Republic shall be in charge of keeping an updated record of their beneficial owners available to the Tax Administration authority. Moreover, Decree 408-17 regulates said duty, as mentioned in paragraph 181. The aforementioned Decree also sets forth the minimum BO identification information and of the ownership chain in cases of indirect control or participation (Art. 39.)
- (c) In accordance with Article 38.3 of Law 155-17 RI must identify the beneficial owner (BO) and adopt reasonable measures to verify its identity, using corresponding information or data obtained through reliable means, so as to get the proper knowledge of who the BO is. There is a similar obligation specific

to customers who are legal persons, in accordance with Art. 40.4. Moreover, Art. 56, 91.8 and 98 of Law 155-17 empower the MP, the UAF and supervisors, respectively, to access information gathered by RI.

CT201. *Criterion 24.7* – Article 104 of Law 155-17, that amends item c) of Article 50 of the Tax Code provides for that, for any resident, or in certain cases, non-resident legal person or entity without legal personality, should provide updated information on their beneficial ownership. In addition, Art. 106 of Law 155-17, that amends Art. 51 of the Tax Code, adds that legal persons and entities without legal personality that should be registered to perform transactions with tax repercussions in the Dominican Republic shall be in charge of keeping an updated record of their beneficial owners available to the Tax Administration authority. Moreover, Decree 408-17 sets forth in Art. 42 that, in addition to declaring beneficial owners upon filing tax returns, the Tax Administration should be notified about changes in the beneficial ownership within of a maximum term of six months from the occurrence of the change.

CT202. *Criterion 24.8* – The Dominican Republic has mechanisms in place to make business companies co-operate with competent authorities for the purpose of determining who the BO is.

- (a) As it was mentioned, Art. 104 of Law 155-17, that amends item c) of Article 50 of the Tax Code, sets forth that, all resident or, in certain cases, non-resident legal persons or entities without legal personality must have updated information on their BO. Article 106 of Law 155-17, that amends Art. 51 of the Tax Code, adds that legal persons and entities without legal personality that should be registered to perform transactions with tax repercussions in the Dominican Republic shall be in charge of keeping an updated record of their BO available to the Tax Administration authority. Moreover, all legal entities that want to perform business transactions in the Dominican Republic must register with the DGII and obtain the Company Register, as well as provide their domicile in the country as provided for in the General Law of Companies and Individual Limited Liability Companies, Law 479-08, as amended, dated on December 11, 2008: Article 8 (amended by Law 31-11 dated on February 11, 2011.)
- (b) Article 104 of Law 155-17, that amends item c) of Article 50 of the Tax Code sets forth that information needed on BO will be regulated, as well as the place where it should be kept within the Dominican territory. It is not clear that these obligations are in force.
- (c) It is not clear that authorities are taking comparable measures.

CT203. *Criterion 24.9* – In accordance with Article 105 of Law 155-17, that amends Art. 50 h) of the Tax Code, the duty to keep for 10 years the documentation necessary for compliance with BO provisions, as well as accounting books, special books and registers, background, receipts or proof of payment, or any other document, physical or electronic, relating to transactions and activities is established. Likewise, the LSC provides for in Art. 321 that documents and information that support transactions of business companies, and the records where these are registered, should be kept in its original form for a period of 10 years. Moreover, Art. 40 of Decree 408-17 sets forth that the documentation that supports information provided on BO should be available upon request by competent authorities and should be kept for a term of 10 years. However, it is not clear that they should be maintained for at least five years after the date on which the company is dissolved or otherwise ceases to exist. Finally, in relation to reporting institutions, Law 155-17 requires the maintenance of all necessary records on transactions, CDD, account files, business correspondence, and results of any analysis undertaken, for at least 10 years following the termination of the business relationship or after the date of the occasional transaction.

CT204. *Criterion 24.10* – Supervisors, the UAF and the Public Prosecutor's Office are empowered to require and obtain basic and beneficial ownership information held by the reporting institutions, in accordance with Arts. 51 and 91 of Law 155-17. Article 50 of the Tax Code empowers the DGII to obtain said information from taxpayers. Law enforcement authorities have such powers to obtain timely access to the basic and BO information.

CT205. *Criterion 24.11* – In relation to bearer shares:

- (a) In accordance to Art. 305 of the LSC, amended by Art. 103 of Law 155-17, shares and obligations represented by titles can only be issued nominatively. The nominee title will be registered in a registration book kept by the secretary of the partnership, where subsequent transfers, swaps, repayments or cancellation of shares will be recorded, indicating the name, surnames, corporate name, if appropriate, nationality and address of the subsequent owners of those who were owners before the repayment or cancellation, as well as the constitution of real property rights and other levies. The partnership shall only consider as owner to the person registered as such in the records.
- (b) Article 305 bis of the LSC, incorporated in Art. 103 of Law 155-17, sets forth the term of one year from the entry into force of Law 155-17 for partnerships that issued bearer shares to convert them into nominee shares. After such term, if the conversion were not performed, the partnership should repay the titles and separate their partners in a maximum additional term of 6 months.
- (c) N/A.
- (d) N/A.
- (e) N/A.

CT206. *Criterion 24.12* – In relation to measures to prevent the misuse of nominee shares and nominee directors:

- (a) It is not clear that there are measures to require nominee shareholders and directors to disclose the identity of their nominators to the company and to the Company Register, and for this information to be included in the Register.
- (b) It is not clear that nominee shareholders and directors are required to be licensed, for their nominee status to be recorded in company registries, and for them to maintain information identifying their nominator.
- (c) Article 33.e.10 (c) includes as RI lawyers, accountants, and other legal professionals in relation to the performance or arrangement for a person to act as nominee shareholder for another person. In this framework, AML/CFT obligations are applicable. Notwithstanding the aforesaid, it is not clear that there are other appropriate mechanisms to avoid misuse of nominee directors.

CT207. *Criterion 24.13* – Chapter VI of Law 155-17 provides for a regime of liabilities and sanctions applicable to RI that fail to comply with AML/CFT obligations, including those relating to basic and BO information of customers. Moreover, Art. 25 of Law 3-02 on the Company Register, amended by Art. 108 of Law 155-17, provides for a sanction of 10 to 40 minimum wages for failing to submit information relating to changes in the business or in any other element that determines the obligation to modify data in the register.

CT208. *Criterion 24.14* – In relation to the requirement to provide immediate international co-operation in relation to basic and BO information, it is mentioned that:

- (a) In accordance with Art. 17 of Law 155-17, competent authorities may provide the broadest co-operation sustained in the principle of reciprocity. Likewise, Art. 21 of the Law empowers competent authorities to exchange information available at the domestic level with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, and TF, including the identification of the beneficial owner of legal persons or transactions. In this manner, the Dominican Republic has a legal framework to enable access to basic information held by the Company Register.
- (b) Based on Art. 17 and 21 mentioned, the Dominican Republic has a legal framework to exchange information on shareholders.
- (c) Based on Art. 19, competent authorities have the power to perform inquiries and obtain information on behalf of their foreign counterparts. In this way, they have legal powers to obtain information on BO on behalf of their foreign counterparts. However, it is not clear that the obligation of companies to obtain and maintain updated information on BO, provided for in Art. 50 of the Tax Code, is in force, which may impact on the capacity to obtain said information.

CT209. *Criterion 24.15* – The Information Exchange Handbook of the DGII sets forth that the International Cooperation Department shall supervise and analyse incoming and outgoing exchange requests

with other States partners in the information exchange, as well as to request feedback to the internal department on the usefulness of the information provided. That is with the purpose of sending it to the foreign competent authority that provided the information, with the aim of improving the quality in future information exchanges.

### *Weighting and Conclusion*

CT210. The Dominican Republic has Company Registers which are public (most of them computerised) and there are legal mechanisms in place that provide for the obligation to identify beneficial owners and report to the authority. However, there is not an adequate understanding of the risks of using legal persons, and it is not possible to ensure the existence of mechanisms to prevent the misuse of legal persons. The issuance of bearer shares was recently prohibited and its conversion to nominee shares is underway. **Recommendation 24 is rated Largely Compliant.**

### *Recommendation 25 - Transparency and beneficial ownership of legal arrangements*

CT211. *Criterion 25.1* – In accordance with Art. 25 of Law 189-11 (Law for the Development of the Mortgage Market and the Creation of Trusts), only legal persons whose exclusive purpose it to act as such, investment funds, securities intermediaries, multiple banks, savings and loans institutions, and other financial intermediation institutions previously authorized for such purposes by the Monetary Board can act as trustees. On this regard, it is added that:

- (a) Article 13 of Law 189-11 determines the need to identify all parties in the trust creation act. Moreover, Article 32.5 of Law 155-17 includes legal persons empowered or licenced to act as trustees as RI in AML/CFT matters. Article 41 specifically sets forth that companies that are allowed to create and manage trusts must perform CDD to identify and verify all parties to a trust, including the settlors, and the BO, and apply all preventive measures. Moreover, regulatory Decree of Law 155-17 that regulates mentioned Art. 41 sets forth that data should be provided to the Tax Administration in relation to beneficial ownership of entities without legal personality, including trustees or settlors or beneficiaries or trustors of trusts.
- (b) It is not clear that trustees of non-financial trusts are required to maintain basic information on other regulated agents of the trust and services providers, including investment advisors or managers, accountants and tax advisors.
- (c) Being trustees RI, they are bound to implement measures provided for in Law 155-17, which includes record-keeping, pursuant to Art. 43.

CT212. *Criterion 25.2* – Article 41 of Law 155-17 sets forth that trustees should apply all preventive measures contained in the law, and that the information must be kept up to date. Moreover, Art. 39 determines the duty of ongoing CDD, as well as the implementation of efficient mechanisms for information and documents to be updated. Likewise, Article 42 of the decree that regulates Law 155-17 sets forth that data on beneficial ownership should be reported to the Tax Administration annually or when changes occur. Moreover, Art. 17 of Law 189-11 for the Development of the Mortgage Market and the Creation of Trusts determines that the act of constitution of the trust and its amendments should be recorded in the Company Register.

CT213. *Criterion 25.3* – Article 39 of Law 155-17 sets forth the duty of RI to identify the customer and verify the person that claims to act on behalf of the customer and verify that it is authorised to do so, and identify the BO and adopt reasonable measures to verify its identify.

CT214. *Criterion 25.4* – Article 51 of Law 155-17 sets forth that, upon request, RI should make available to supervisors all records and documentation provided for in the law, for use in AML/CFT investigations and administrative proceedings. In time, Art. 57 sets forth that legal provisions in relation to banking secrecy or confidentiality and professional secrecy shall not prevent compliance with RI's obligations.

CT215. *Criterion 25.5* – Supervisors, the UAF and the Public Prosecutor's Office are empowered to require and obtain basic and beneficial ownership information held by the reporting institutions, in accordance

with Arts. 51 and 91 of Law 155-17. Article 50 of the Tax Code empowers the DGII to obtain said information from taxpayers.

CT216. *Criterion 25.6* – In relation to the requirement to provide immediate international co-operation in relation to trusts and other legal arrangements, it is mentioned that:

- (a) In accordance with Art. 17 of Law 155-17, competent authorities may provide the widest range of co-operation sustained in the principle of reciprocity. Likewise, Art. 21 of the Law empowers competent authorities to exchange information available at the domestic level with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, and TF, including the identification of the beneficial owner of legal persons or transactions. In this manner, the Dominican Republic has a legal framework to enable access to basic information held by the Company Register.
- (b) Based on Art. 17 and 21 mentioned, the Dominican Republic has a legal framework to exchange information on trusts and other legal arrangements.
- (c) Based on Art. 19, competent authorities have the power to perform inquiries and obtain information on behalf of their foreign counterparts. In this way, they have legal powers to obtain information on BO on behalf of their foreign counterparts. However, it is not clear that the obligation of companies to obtain and maintain updated information on BO, provided for in Art. 50 of the Tax Code, is in force, which may impact on the capacity to obtain said information.

CT217. *Criterion 25.7* – Chapter VI of Law 155-17 provides for a regime of liability and proportionate and dissuasive sanctions applicable to RI, including trustees, that fail to comply with AML/CFT obligations.

CT218. *Criterion 25.8* – The regime of liability and sanctions provided for in Chapter VI of Law 155-17 is applicable in relation to non-compliance with obligations to co-operate with competent authorities, which implies the duty to provide requested information (Art. 69.b.) However, the sanctioning regime is at an early stage and to the date of the on-site visit, there were no proof of application of sanctions related to criterion 25.1.

### *Weighting and Conclusion*

CT219. In the Dominican Republic, legal persons exclusively dedicated to such activity can act as trustees, and there are only financial trusts. Trustees are RI on AML/CFT matters and must perform CDD to all parties to the trust. Trustees have the obligation to identify and verify customers. Supervisors, the UAF, and the DGII are empowered to require and obtain basic information on BO held by RI, however, such power is not legally established for law-enforcement authorities. **Recommendation 25 is rated Largely Compliant.**

### *Recommendation 26 - Regulation and supervision of financial institutions*

CT220. *Criterion 26.1* – For AML/CFT purposes, the following are the supervisors of reporting institutions: For the purposes of financial or exchange intermediation, the SIB is the competent authority. In case of persons authorised to directly operate in the securities market, the SIV is in charge of supervision. In the case of the insurance sector, the competent authority is the SIS. Cooperatives are within the scope of IDECOOP, while factoring and pawn shops are under the supervision of the DGII. (Law 155-17, Art. 2, 2) and 17); Monetary and Financial Law, Arts. 1, D, 19, 41, 45, 57, and 58.a).

CT221. *Criterion 26.2* – Financial intermediation institutions are subject to an administrative authorisation to operate by the Monetary Board, the procedure is established under Monetary and Financial Law 183-03. The opening, moving, and closure of branches and agencies in the Dominican territory requires the authorisation of the SIB. Exchange and remittance and exchange agents are subject to prior authorisation to operate (Law 183-03, Arts. 3, a); 35; Sixth Resolution of the Monetary Board dated on October 12, 2006 that approves the Exchange Regulation, Art. 6). In relation to the securities market, all public offerings must be previously approved by the SIV. The SIV has powers to authorise the opening and operation of stock-exchange, securities intermediaries, investment funds, companies, users and other participant of the securities market (Law 19-00,

Arts. 5, 21, 60, 103; Regulation R-CNV-2017-17-MV, Art. 9, 19.) The insurance sector is also subject to authorisation pursuant to Law 146-02 on Insurance and Sureties of the Dominican Republic (Arts. 17, 22, 23, 23, 199, 208, 210.)

CT222. Law 155-17 in Art. 60 prohibits reporting institutions to initiate or continue a relationship or operate with shell banks.

CT223. *Criterion 26.3* – Supervisors should establish controls and have tools to avoid reporting institutions under their supervision be controlled by non-suitable persons that control or directly or indirectly participate in the direction, management or operation (Law 155-17, Art. 100, 4.) This aspect is only developed for reporting institutions supervised by the SIV in Law 19-00, Arts. 71, 76, IV, and 87, that set forth that natural or legal persons that directly or indirectly committed gross negligence against the provisions of the SIV, the Central Bank, the SIB or the SIS cannot be members of the administrative board or partners of the clearing house, of the securities centralised deposits or a risk rating agency. For reporting institutions supervised by the SIB, SIB Circular 004-17 refers to the assessment of the suitability and adequacy of the shareholders, members of the board, senior management, and key employees in financial intermediation institutions. However, there are no clear provisions and mechanisms that encompass the universe of reporting institutions under the umbrella of SIS and IDECOOP to prevent criminals or their associates from holding (or being the beneficial owner of) an interest or holding a management function, not necessarily at the time of its constitution but after during its operation.

CT224. *Criterion 26.4* – Financial institutions are subject to risk-based supervision, that should consider: 1) Identification or diagnosis; 2) Measurement and control; 3) Monitoring and mitigation. In the case of reporting institutions supervised by the SIB, the SIV and the SIS, in case of financial groups, supervisors may use the consolidated supervision approach, especially when it were considered that there are combined risks that may impact upon all its members (Law 155-17, Arts. 99, 100; Law 182, 02, Arts. 1, 19, 57, 58; Law 19-00, Art. 19; Law 146-02, Art. 5.)

CT225. *Criterion 26.5* – The frequency and intensity of on-site and off-site AML/CFT supervision of financial institutions are based on the risks, pursuant to the provisions of Law 155-17 (Arts. 99, 100.) The supervision programme may respond to the sector’s risk assessment outcome.

CT226. The SIB and the SIV have a Risk-Based Supervision Framework where they specify the manner the risk matrix should be integrated (SB Circular letter CC/003/12.) In this framework, it is set forth that the Supervision Plan of each reporting institution under their supervision should include an analysis of the sector’s risks; the concerns or issues expressed by other institutional areas that support the supervision; and the planning of the assessment of pair institutions, analysis of the competition, and other special studies relating to the sector. No similar aspects are foreseen with respect to the insurance and cooperative sectors.

CT227. *Criterion 26.6* – Even if by law all supervisors have the power to review the risk profile of its supervised institutions, the lack of risk-based supervision plans in all controlling entities does not demonstrate full compliance of the requirement of the criteria.

### *Weighting and Conclusion*

CT228. There are no clear provisions and mechanisms that encompass the universe of reporting institutions under the umbrella of SIS and IDECOOP to prevent criminals or their associates from holding (or being the beneficial owner of) an interest or holding a management function. SIB and SIV have a risk based supervision framework. No adequate risk-based supervision frameworks are provided for the securities and cooperatives sectors. **Recommendation 26 is rated Partially Compliant.**

### *Recommendation 27 - Powers of supervisors*

CT229. *Criterion 27.1* – In addition to the powers granted by the specific regulations, the SIB, SIV, SIS, IDECOOP and DGII have regulation, supervision, surveillance, monitoring, information requesting, and sanctioning powers on reporting institutions and their staff (Law 155-17, Arts. 98 and 100; Law 19-00, Arts. 21, 32; Law 183-02, Arts. 19, 57; Law 127-64, Art. 8; Law 146-02, Art. 5, 235, 238, 245, and 250.)

CT230. *Criterion 27.2* – In addition to the powers granted by the specific regulations, the SIB, SIV, SIS, IDECOOP and DGII have in-site and off-site inspection powers (Law 155-17, Arts. 98 and 100; Law 19-00, Arts. 21, 32; Law 183-02, Arts. 19, 57; Law 127-64, Art. 8; Law 146-02, Art. 5, 235, 238, 245, and 250.)

CT231. *Criterion 27.3* – In accordance to Law 155-17, Reporting Entities should make available records and documents requested by supervisors pursuant to Law 155-17. For such purposes, the order of a judge is not necessary (Law 155-17, Arts. 51, 98, and 100.)

CT232. *Criterion 27.4* – Supervisors, i.e. SIB, SIV, SIS, IDECOOP, and DGII, have powers to impose sanctions based on Law 155-17. The range of disciplinary sanctions go from administrative sanctions to the suspension or revocation of the person subject to authorisation, as appropriate, in case of very serious violations or recidivism. Administrative sanctions will be published once they are final (Law 155-17, Arts. 2, 66, 67, 76, 77; Law 183-02, Art. 66, Law 19-00, Arts. 110, 111, 113, 114, 119, 120, 121; Law 146-02, Arts. 185, 238.)

#### *Weighting and Conclusion*

CT233. Even if the law empowers different regulators for the supervision, monitoring, and sanctioning on ML/TF matters, it is necessary to review that the specific regulation of each sector incorporates said powers. **Recommendation 27 is rated Compliant.**

#### *Recommendation 28 - Regulation and supervision of DNFBPs*

CT234. *Criterion 28.1* – In the Dominican Republic, the operation of casinos must be subject to the following:

- (a) Casinos should have a licence granted by the Treasury Secretariat to be able to operate. For said purposes, the location, facilities, and capital invested should be taken into account, and an inspection should be performed to verify the corresponding classification. (Law 352 that authorises the issuance of licences to games of chance facilities, Art. 1, 2; Law 494-06 of the Organisation of the Treasury State Secretariat, Art. 3.)
- (b) Supervisors must establish controls and have tools in place to avoid reporting institutions under their supervision being controlled by non-suitable persons that control or participate directly or indirectly in the direction, management or operation (Law 155-17, Art. 100, 4.) Casinos must apply procedures to ensure a high-level of integrity among their personnel and a system to evaluate their personal, working, and patrimonial background (Resolution 104-2017 of the Treasury Ministry that approves measures for the Prevention of Money Laundering and Terrorist Financing in the casinos, sports agencies, lotteries, and other games of chance sector, Art. 5.c.) Notwithstanding the aforesaid, the identification of the BO is not established in the licensing regime of Law 351. Therefore, there is no provision within the licensing regime that prevent criminals or their associates from holding (or being the BO of) a significant or controlling interest, or holding a management function in the casinos, since the aforementioned legislation refers only to a suitability control.
- (c) The Casino and Gambling Department of the Treasury Ministry is the competent authority for the supervision of casinos, games of chance, lottery agencies and lotteries and games of chance concessionaires (Law 155-17, Art. 2.)

CT235. *Criterion 28.2* – Other DNFBPs are supervised by the DGII (Law 155-17, Arts. 98 and 100.)

CT236. *Criterion 28.3* – Natural or legal persons that perform other professional, business, or corporate activities that due to their nature are susceptible of being used in ML/TF activities are considered non-financial reporting institutions (Law 155-17, Art. 33), namely:

- (a) Real estate agents when these are not involved in transactions for their customers related to the buying and selling of real estate property;
- (b) Dealers in precious metals, stones and jewellery;
- (c) Lawyers, notaries, accountants, and other legal professionals, when they are determined to perform transactions or when they perform transactions for their customers, buying and selling or refurbishment of real estate; management of customer money, securities or other assets; management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; creating, operating or management of legal persons or arrangements and buying and selling of business entities; establishment of legal persons, their equity changes resulting from increase or decrease of social capital, merger or dissolution, as well as the buying and selling of shares and social stock; acting as formation agent of legal persons; acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; acting as (or arranging for another person to act as) a nominee shareholder for another person.
- (d) Companies or natural persons who regularly purchase and sale vehicles, fire weapons, vessels and aircrafts, motor vehicles;
- (e) building companies.

CT237. *Criterion 28.4* –

- (a) The DGII has powers to regulate, supervise, surveil, monitor, request information, perform on-site and off-site inspections, and apply sanctions to reporting institutions and their personnel (Law 155-17, Arts. 98 and 100.)
- (b) Professional Associations (accountants, lawyers, and notaries) request criminal background certificates to licence their professionals. Moreover, even if the DGII reviews the shareholding structure of its taxpayers, there are no provisions, regulations or mechanisms specific for preventing criminals and their associates from being professionally accredited, or holding (or being the BO of) a significant or controlling interest, or holding a management function in an DNFBP.
- (c) The DGII has powers to sanction RI under its supervision (Law 155-17, Art. 100, subsection 7.)

CT238. *Criterion 28.5* – The Dominican Republic has regulations in place to require supervisors of DNFBPs to apply a risk-based approach, with policies and procedures that include the following phases: identification or diagnosis, measurement and control, and monitoring and mitigation (Law 155-17, Art. 99.)

- (a) Both the DGII and the Casinos and Gambling Department are developing their first risk-based annual supervision plans in accordance with their corresponding risk matrices. Both agencies have risk-based supervision handbooks (although in the case of the Casinos and Gambling Department, the approval procedure has not been terminated yet.)
- (b) Both the DGII and the Casinos and Gambling Department have risk matrices in place to assign a risk-level to their supervised institutions.

### *Weighting and Conclusion*

CT239. Casinos and other DNFBPs have supervisors that have recently started to apply risk-based supervision procedures. However, there are no mechanisms in place for competent authorities to adopt legal measures necessary to prevent criminals and their associates from holding (or being the BO of) a significant or controlling interest, or holding a management function, or being an operator of a casino (criterion 28.1 and 28.2.) The remaining DNFBPs, that are RI on AML/CFT matters, are supervised by the DGII.

**Recommendation 28 is rated Largely Compliant.**



### *Recommendation 29 - Financial intelligence units*

CT240. *Criterion 29.1* – The UAF is the technical entity attached as unit of the Treasury Ministry, in charge of receiving suspicious transaction reports (STRs) and cash transaction reports (CTRs). Among its functions, it is in charge of performing an analysis to identify and submit to the MP financial analysis reports (FAR) relating to possible ML offences, predicate offences and TF (Law 155, Art. 91.)

CT241. *Criterion 29.2* – The UAF is in charge of receiving the following reports:

- (a) STR (Law 155-17, Arts. 55, 91.)
- (b) CTR, Multiple in Cash, cross-border declaration of money (Law 155-17, Arts. 52, 53, 54, 65, 91.)

CT242. *Criterion 29.3* – According to Law 155-17, the UAF:

- (a) Has access to registries and documents of reporting institutions, therefore it has powers to request, obtain, and use additional information of reporting institutions to complete or enlarge the analysis it performs, even background information and any other data or element considered to be related with financial, commercial, or business transactions that may be related to the analysis it performs (Art. 56, 91.)
- (b) The UAF, during the performance of its duties, has subscribed inter-agency agreements to access and exchange information with its counterparts. Among the agencies it has entered into agreements with there is the Bureau of National Investigations, the SIV, the Immigration Department, the General Office for Public Procurement and Contracting, the PN, the National Drug Control Direction, and the IDECOOP. The UAF has powers to enter into co-operation agreements with domestic authorities (Art. 91.)

CT243. The UAF may access to open and closed information sources. Likewise, it keeps inter-agency co-operation with competent authorities and public institutions, which allows it to obtain relevant information, upon request and through its direct access to their databases. For further details on the sources it has access to, refer to tables 2 and 3 of the MER.

CT244. *Criterion 29.4* – The UAF performs:

- (a) An operative analysis, using all available information to identify specific targets, follow the trail of activities or particular transactions, and determining the links between such targets and possible ML violations, predicate offences, and TF (Law 155-17, Art. 91, 4.)
- (b) Strategic analysis to identify trends and patterns related to TF and ML (Law 155-17, Art. 91, 3.)

CT245. *Criterion 29.5* – The UAF should forward to the MP reports of financial analysis relating to potential ML violations, predicate offences, and TF (Law 155-17, Art. 91.) For the purposes of the aforesaid, it has a procedure to send the financial intelligence reports to the MP, through a safe and protected means used for such purposes.

CT246. The UAF is able to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities.

CT247. *Criterion 29.6* – The UAF:

- (a) Has the obligation to ensure proper security of the information that it obtains and generates (Law 155-17, Art. 91) and it has the Information Security Handbook (TI-MA-001) which sets forth information security policies with the aim of regulating information security management inside and outside of the institution. Likewise, the Position Profile Handbook RH-MA-001 details the positions in the agency that should ensure confidentiality of the information.
- (b) The UAF has a recruiting process to ensure the suitability of employees hired, who upon joining the agency sign a confidentiality agreement (RH-PR-001 Recruitment and Personnel Selection Procedure.) Additionally, in relation to new collaborators, an induction process on in-house processes is initiated

based on their access level. Finally, the Code of Ethics DG-MA-001 has been issued, wherein information handling regulations are included (Art. 10) and the consequences the UAF's personnel is subject to (Art. 11.)

- (c) In the Physical Security Handbook SE-MA-001, regulations for entrance to the UAF facilities are set forth. The Handbook applies to all physical security activities, UAF access control, and monitoring of surveillance cameras. The handbook describes visitors' access control regulations, as appropriate, vehicles; access control of providers, employees; in particular, it details the procedure for cases where computers and mobile devices are brought into the Unit. Additionally, it describes the monitoring through surveillance cameras, inspections and procedures in emergency situations. Likewise, it sets forth the regulations for access control to each area of the UAF: General Management Office, Analysis Division, Information Technology Division, Filing Division.

CT248. *Criterion 29.7 – The UAF:*

- (a) Has the authority and capacity to perform analysis for identifying and submitting to the MP financial analysis reports relating to possible ML violations, predicate offences, and terrorist financing (Law 155-17, Art. 91.) Thus, the UAF can also directly request information to a reporting institution, based on the urgency, specificity, age, and volume of information requested (Decree 408-17, Art. 25.)
- (b) It has powers to sign into agreements with domestic competent authorities and foreign counterparts for the exchange of information (Law 155-17, Arts. 21 and 91.)
- (c) The UAF is the technical entity attached as unit of the Treasury Ministry, in charge of receiving STRs and CTRs. Among its functions, it is in charge of performing an analysis to identify and submit to the MP financial analysis reports (FAR) relating to possible ML offences, predicate offences and TF (Law 155, Art. 91.)
- (d) It has its own legal personality, financial, human, and technical resources to ensure its independence and autonomy in the performance of its analysis and information management duties (Law 155-17, Art. 91 and 92.)

CT249. *Criterion 29.8 –* In December 2014, the Dominican Republic formally applied for membership in the Egmont Group, but given the significant regulatory and structural changes on AML/CFT matters, the information submitted was updated to be reconsidered for the purposes of its admission, which indicates that the country is fully engaged in the application process.

CT250. The UAF is currently in the process to become member of the Egmont Group, which has not been an obstacle to provide international co-operation to its foreign counterparts.

#### *Weighting and Conclusion*

CT251. The Dominican Republic has established a UAF that acts as a national centre for the receipt and analysis of suspicious transaction reports (STRs) and cash transaction reports (CTRs), with the power to submit to the MP and other competent authorities analysis and financial intelligence reports, relating to possible ML violations, predicate offences, and TF. Likewise, the UAF has the power to obtain additional information from RI and has access to open and closed information sources as required to perform its functions appropriately. The UAF requested its admission to the Egmont Group and is fully engaged in the membership application process. **Recommendation 29 is rated Compliant.**

#### *Recommendation 30 - Powers of law enforcement and investigative authorities*

CT252. *Criterion 30.1 –* In the Dominican regime, the MP is the authority that leads the criminal investigation through the Specialised Anti-Money Laundering and Counter-Terrorist Financing Prosecutor's Office. Said institution is regulated, mainly, by the Constitution of the Dominican Republic, Art. 169; Law 133-11, Organic of the Public Prosecutor's Office, Arts. 5, 53 and 54; First Resolution, paragraph one of the Third Session of the Higher Council of the Public Prosecutor's Office dated on February 04, 2013, that transforms the Anti-Money Laundering Unit into a Specialised Prosecutor's Office; Ninth Resolution of the Eighth Regular Session of

August 3, 2016, Minutes 0008, that approves the change of name of the Specialised Anti-Money Laundering and Terrorist Financing Prosecutor's Office.

CT253. Moreover, Article 88 of the Criminal Procedural Code sets forth that the Public Prosecutor's Office leads the investigation and practices or orders the execution of pertinent procedures to determine the occurrence of the violation.

CT254. Likewise, the country has the (DNCD, with an attached unit in charge of performing financial investigations in cases of drug trafficking, where the existence of property is detected. The National Police has the Financial Investigations Directorate, in charge of performing ML investigations.

CT255. Article 91 of the Criminal Procedural Code sets forth that: "The policy, under its own initiative, by virtue of a complaint or by order of the Public Prosecutor's Office, should investigate the public action crimes, prevent their occurrence, completion, or expansion of their effects, identifying its perpetrators and accomplices, gathering the elements of proof useful for determining the truth on the occurrence of facts and exercising any other tasks as set forth in their organic law and in this code." Article 274 of the same code sets forth that: "Officers of the policy force practice preliminary procedures aimed at obtaining and ensuring evidence, avoiding the escape or concealing of suspects, taking the statements of witnesses and preventing the event to cause subsequent consequences."

CT256. *Criterion 30.2* – The legal framework of the Dominican Republic does not explicitly set forth current provisions that establish that competent authorities conducting investigations of predicate offences should conduct parallel financial investigations, or provisions that allow referring the case to another agency to follow up with such investigations.

CT257. *Criterion 30.3* – During the course of an investigation of any of the offences provided for in Law 155-17, the MP can request the corresponding judge a writ of attachment, seizure order, or provisional freezing of movable property or banking products, or objection to the transfer of real estate, with the aim of preserving the availability of movable or immovable property, proceeds or instrumentalities related to the offence. The aforesaid includes the seizure or freezing of funds under investigation held in the institutions considered reporting institutions (Law 155-17, Art. 23.) Article 15 of the aforementioned law sets forth the Controlled Delivery, which purpose include the identification of property, proceeds, instrumentalities, or incomes, to achieve their seizure and subsequent confiscation.

CT258. *Criterion 30.4* – The UAF is the technical entity attached as unit of the Treasury Ministry, in charge of receiving suspicious transaction reports (STRs) and cash transaction reports (CTRs). Among its functions, it is in charge of performing an analysis to identify and submit to the MP financial analysis reports (FAR) relating to possible ML offences, predicate offences and TF (Law 155, Art. 91.)

CT259. Likewise, in case of violation to the customs law, the DGA has powers to initiate a verbal procedure, for the purpose of drafting the corresponding complaint before the competent authority (Law for Customs Regime 3489, Art. 6.)

CT260. In the same way, investigative powers are regulated in Art. 44 of the Tax Code, which sets forth that: Tax Administration bodies have broad powers of inspection, surveillance and investigation through its competent officials, with the aim of complying with the provisions of this Code, and other laws, regulations, and tax rules of their competence. These officials, in the performance of these powers, shall be granted with public faith and specifically empowered to: m) Arrest any person found committing a tax crime and, when the urgency of the case so requires, being the person arrested put at disposal of the competent authority.

CT261. *Criterion 30.5* – As analysed in item 30.1, the Public Prosecutor's Office leads the investigation in support of the Police and investigative bodies; for cases resulting from corruption it has the Specialised Administrative Corruption Prosecutor's Office (PEPCA), with national jurisdiction for the prosecution of these

types of crimes; however, it is not made clear if this prosecutor's office can carry out ML/TF investigations arising from corruption, and it is not signalled that it can perform the freezing and confiscation of assets.

#### *Weighting and Conclusion*

CT262. The legislation sets forth the responsibilities of law-enforcement authorities of ensuring and investigating ML and TF offences, among them the MP, PN, DGA and Tax Administration Agencies. However, it is not established that said authorities can perform parallel financial investigations. In practice, though, there are some investigations of this kind. It is not clear either that the Special Prosecutor's Office against Corruption can perform the freezing of assets. **Recommendation 30 is rated Largely Compliant.**

#### *Recommendation 31 - Powers of law enforcement and investigative authorities*

CT263. *Criterion 31.1* – Law enforcement authorities in the Dominican Republic have access to the necessary documentation and information to perform investigations and criminal and/or administrative procedures related to ML, predicate offences and TF, based on the following:

- (a) The records and documents held by reporting institutions based on Law 155-17 should be made available to the MP, the competent jurisdictional body, and the UAF, for its use in investigations and criminal and administrative proceedings related to ML/TF (Law 155-17, Art. 56.)
- (b) The officials from the MP or the Police can search persons, premises or things where there are reasonable grounds to suppose the existence of evidence useful for the investigation or the concealment of the accused, as appropriate (Law 76-02, Arts. 175, 177, 178, 183, 184.)
- (c) All persons have the right to appear when they are summoned to give their statement (Law 76-02, Art. 194, 198.)
- (d) Objects and documents related to the violation and subject to confiscation, relevant for the investigation, should be identified, taken in guarantee and kept as good as possible (Law 76-02, Art. 186, 191, 193.)

CT264. *Criterion 31.2* – The legislation in the Dominican Republic provides for a series of special investigation techniques for the ML and TF offences. However, it is not clear that special techniques contemplated in Law 267-08 are applicable to ML investigations, such as the case of access to computer systems.

- (a) The Public Prosecutor's Office can request the judge to authorise the protection of the identity of one or several investigators when it is clearly useful for the development of the investigation (Law 76-02, Art. 372.)
- (b) Judicial authorization is required for the interception, reception, and recording of communications, messages, data, images or sounds transmitted through public or private telecommunications networks made by the accused or any other person that may reasonably facilitate relevant information for the determination of a violation, notwithstanding the technical method used (Law 76-02, Art. 192.)
- (c) Special competent authorities may order, with or without a request by the Public Prosecutor's Office or the National Anti-Terrorist Office, special communication and correspondence interception measures, including Internet, inspection of bank accounts, DNA, biometric, polygraph tests, medical-psychiatric assessments, as well as any other similar measure that favours the prevention, prosecution, and sanction of terrorist activities (Law 267-08, Art. 46.)
- (d) Article 13 of Law 155-17 sets forth the special investigation techniques for ML and TF violations, including the concepts of informer and controlled delivery.

CT265. *Criterion 31.3* – Law enforcement authorities have a mechanism in place to identify accounts and assets of natural or legal persons without prior notification.

- (a) Article 91 of Law 155-17 sets forth that the UAF has the power to request any type of information to reporting institutions. Likewise, Law 155-17 sets forth the following:  
*“Art. 56. Availability of records. Records and documentation established under this Law and its regulation should be available to the Public Prosecutor's Office, the competent jurisdictional body, and the Financial Analysis Unit (UAF), for its use in investigations and criminal and administrative proceedings related to money laundering, predicate offences and terrorist financing.*

*Paragraph. Supervisors should have access to all records and documentation relating to the transactions performed by reporting institutions, except intelligence details contained in the suspicious transaction report.*

*Article 57. Banking, fiduciary or professional secrecy. Legal provisions relating to bank secrecy or confidentiality and professional secrecy should not prevent compliance with the obligations of reporting institutions, pursuant to the provisions of this Law, on money laundering and terrorist financing matters.”*

Decree 408-17 that regulates the enforcement of Law 155-17, points out that:

*“Article 24: All reporting institutions should submit to the UAF the information it requests for the fulfilment of its duties, analysis, investigations, and international co-operation requests, regardless of the fact that reporting institutions may have reported or not a cash or suspicious transaction. Moreover, Art. 25 sets forth that “the UAF can directly request to a reporting institution the information it needs, which shall be directly provided by said institution in a maximum term of ten business days, or in a shorter term provided for by the UAF based on the urgency, specificity, age, and volume of the information requested”.*

- (b) The DNCD has a process in place to identify and itemise and link property related to ML and drug trafficking investigation processes.

CT266. The UAF, among its powers, has the objective of submitting spontaneous reports and providing technical assistance to the competent authorities. Moreover, the UAF has access to databases that permit identifying property. Law 155-17, Art. 91.7 sets forth that the UAF can provide technical assistance to the other competent authorities, at any phase of the process of investigation.

CT267. *Criterion 31.4* – One of the functions of the UAF is to provide technical assistance to the other competent authorities, at any phase of the investigation (Law 155-17, Art. 91.7.) Article 56 of the referred law points out that records and documentations therein specified should be available to the MP, competent jurisdictional body, and the UAF, for its use in investigations and criminal and administrative processes related to ML, predicate offences and TF.

#### *Weighting and Conclusion*

CT268. Law enforcement authorities in the Dominican Republic have access to the necessary documentation and information to perform investigations and criminal and/or administrative procedures related to ML, predicate offences and TF. However, it is not clear that said authorities can use all special investigation techniques for ML and TF; additionally, the identification of accounts and/or assets of investigated persons is not regulated. **Recommendation 31 is rated Largely Compliant.**

#### ***Recommendation 32 - Cash Couriers***

CT269. *Criterion 32.1* – The Dominican Republic has a declaration system in place for all natural persons, whether national or foreign, that enter or exit its national territory, by air, sea or land, to submit the DGA form, a statement whereby it notifies if it transports money, e-wallets, securities or bearer negotiable instruments (Law 155-17, Art. 65.) Notwithstanding the aforesaid, there is no regulation on this aspect for cargo and mail transportation, therefore, it is not clear that the Dominican Republic has a complete cross-border cash and bearer negotiable instruments transportation declaration system as an obligation for said transportation forms.

CT270. *Criterion 32.2* – The Dominican Republic has adopted a written declaration system for all natural persons, national or foreign, that enter or exit the national territory by air, sea, or land, to submit a statement in the form “Customs Form for Entrance or Exit of Passengers, Form 001-2008,” whereby passengers notify if they transport money, e-wallet, securities or bearer negotiable instruments, of ten thousand American Dollars or more (USD 10 000) or its equivalent in national or foreign currency (Law 155-17, Art. 65.)

CT271. *Criterion 32.3* – The Dominican Republic has adopted a written declaration system for all travellers that carry amounts above the threshold.

CT272. *Criterion 32.4* – In case of amounts above the threshold, failure to declare or false declaration of the amount to be entered to, or exited from the Dominican territory, by air, sea, or land, in the form of money or bearer securities, or if these are sent by public or private mail, this act shall be considered as a smuggling offence pursuant to Art. 200 of Law 3489 dated on February 14, 1953 “Customs Regime,” amended by Art. 19 of Law 226-06 that grants the DGA legal personality and functional, budgetary, administrative, technical and patrimonial autonomy. Therefore, customs officers have powers to, upon discovery of a violation to the corresponding laws, initiate a verbal process that includes the questioning of the presumed offender, the testimony of witnesses, if any, and the nature of the violation, time and place where it was committed, description of the crime, and other evidential elements to elaborate the corresponding report before the competent authority (Law for Customs Regime 3489, Art. 6.)

CT273. *Criterion 32.5* – Failure to declare or a false declaration in relation to the amount upon entering or exiting the Dominican territory is sanctioned with a penalty of six months to one year’s imprisonment, the seizure of the money or securities falsely declared or undisclosed, and a fine of forty to sixty minimum wages (Law 155-17, Art. 4.12.)

CT274. *Criterion 32.6* – The DGA sends the UAF digital forms on the cross-border declaration of money or monetary instruments (Law 155-17, Art. 65.) Likewise, the DGA should submit to the UAF in an editable format, either directly or as an attachment to a secure e-mail, the following information: 1) Within the first 15 days of the month: The forms of the previous month, and 2) Within the first 24 hours: The minutes drafted upon the performance of the seizure (Regulatory Decree 408-17, Art. 27.)

CT275. *Criterion 32.7* – The UAF and the DGA have signed an Inter-Agency Co-operation Agreement, in which Article 3 it is established that the parties are committed to improve and promote mutual co-operation, foster the exchange of experiences and knowledge in the areas of their corresponding competences.

CT276. Likewise, the authorities of the Dominican Republic reported that a co-ordinated work is carried out between the DGA and other competent authorities, through working-tables and meetings, mentioning as a proof of that a “Petit Meeting of the Committee on Money Laundering and Currency Declaration” carried out on February 16, 2017. There is no additional information to prove the co-ordination mechanisms between the corresponding authorities, reason why it is necessary to strengthen the co-ordination between the DGA, Migration authorities and other authorities relevant to the implementation of this Recommendation.

CT277. *Criterion 32.8* – In a criminal investigation, authorities from the Dominican Republic have powers to attach objects and documents related to the crime (CPC Art. 186), as well as to order at any time and without prior notice or hearing, a preventive attachment, seizure or freezing of movable property or banking products, or objection to the transfer of real estate (Law 15-17, Art. 23.)

CT278. However, in absence of express legislation on this regard, it is not objectively certain that competent authorities have the power to retain or withhold currency or bearer negotiable instruments for a reasonable period of time to find evidence:

- (a) Where there is suspicion of ML/TF or predicate offences.
- (b) Where there is a false declaration or disclosure.

CT279. *Criterion 32.9* – Judges, the MP and customs authorities of the Dominican Republic can cooperate and provide international assistance in cases when (a) a declaration which exceeds the prescribed threshold is made, or (b) there is a false declaration, or (c) there is suspicion of ML/TF. Cooperation and assistance can be performed based on the international agreements and treaties that exist or based on the reciprocity principle (Law 76-02, Art. 155; Law 155, -17, Arts. 17, 18, 19, 65; Law 226-06, Art. 4; Decree 408-17, Art. 27.)

CT280. *Criterion 32.10* – The UAF and the DGA have signed an Inter-Agency Co-operation Agreement on September 19, 2017, by means of which the parties expressly agree to use information, among them cross-border declarations, only and exclusively for the purposes they are granted for, i.e., as confidential intelligence,

which cannot be disclosed to third parties under penalty of bearing the consequences pointed out in Law 155-17.

CT281. However, there is no information to prove that established processes do not restrict trade payments or the freedom of capital movements.

CT282. *Criterion 32.11* – On the one hand, as mentioned before, failure to declare or false declaration on the physical transportation of currency or bearer negotiable instruments is considered as smuggling and is sanctioned criminally. On the other hand, smuggling is considered a predicate offence to ML. In this sense, (a) sanctions established for the crime of smuggling range from six months to one year's imprisonment, as well as a fine of 40 to 60 minimum wages. While (b) undeclared or falsely declared currency or bearer negotiable instruments should be confiscated (Law 155-7, Art. 4-12.)

*Weighting and Conclusion.*

CT283. The assessed country has adopted a written declaration system for all natural persons, whether national or foreign, that enter or exit its national territory, by air, sea or land, to submit a declaration, and has means and procedures in place to control and sanction failure to declare or false declaration. Likewise, judges, MP and customs authorities can co-operate and provide international assistance in such cases. However, it is not clear that the Dominican Republic has a cross-border currency and negotiable instruments declaration system as an obligation in the transportation modalities of cargo and mail; there is not much information on the co-ordination mechanisms between the DGA, migration authorities and relevant authorities related to the implementation of this Recommendation; there is no objective certainty about the power of competent authorities to stop or restrain currency or bearer negotiable instruments for a reasonable time where there is suspicion of ML or TF and where there is a false declaration; moreover, there is no information on whether established processes in the Dominican Republic restrict trade payments or the freedom of capital movements in relation to the customs declaration. **Recommendation 32 is rated Partially Compliant.**

*Recommendation 33 - Statistics*

CT284. *Criterion 33.1* – The Dominican Republic keeps AML/CFT statistics based on the following:

- (a) The UAF keeps statistics on STRs and CTRs received, as well as on intelligence reports it spontaneously communicated, and the number of STRs involved in intelligence reports.
- (b) Different agencies keep statistics on investigations, prosecutions, and convictions for ML/TF. Specially the PGR through the Statistics Unit.
- (c) Statistics on seized property are kept by the Property Unit, which belongs to the PGR.
- (d) The PGR has statistics on mutual legal assistance, while the UAF keeps statistics of its own in relation to assistance and other forms of co-operation provided to international counterparts.

CT285. Through Decree 408-17 all related to the statistics of the AML/CFT System is regulated. This Decree indicates in Article 5 that competent authorities should keep complete and updated statistics on issues relating to effectiveness of its activities, within the National System against Money Laundering and Terrorism Financing. These should at least include STRs received and intelligence reports communicated; investigations and prosecutions, agreements and convictions on ML and TF; supervisions and sanctions imposed; international co-operation requests.

*Weighting and Conclusion*

CT286. In the Dominican Republic, Decree 408-17 regulates everything related to the statistics of the ML/TF System. The UAF keeps statistics on STRs and CTRs, as well as intelligence reports communicated spontaneously; also, on other forms of co-operation. The PGR has statistics on seized property and mutual legal assistance. **Recommendation 33 is rated Compliant.**

### *Recommendation 34 - Guidance and feedback*

CT287. *Criterion 34.1* – In accordance with Law 155-17, supervisors must keep communication and feedback with reporting institutions to issue instructions, guides, or recommendations that help their supervised entities to implement preventive measures and detect suspicious patterns related to money laundering, predicate offences, and terrorist financing in the behaviour of their customers (Art. 102). However, there is no information on how this obligation is made operational.

#### *Weighting and Conclusion*

CT288. Even if the law includes the obligation of keeping communication and feedback with reporting institutions, there is no obligation to establish guidelines or mechanisms for its application. **Recommendation 34 is rated Largely Compliant.**

### *Recommendation 35 - Sanctions*

CT289. *Criterion 35.1* – The range of available sanctions for natural and legal persons that fail to comply the AML/CFT requirements of Recommendations 6 and 8 to 23, includes administrative sanctions for failure that may be classified as minor, serious, and very serious, and there is a distinction between those applicable to the financial and non-financial sectors (Law 155-17, Art. 66-77.)

- ✓ Financial sector. a) For very serious violations: Fine of five million and one Dominican pesos (DOP 5 000 001.00) to ten million Dominican pesos (DOP 10 000 000.00); b) For serious violations: Fine of two million five thousand and one Dominican pesos (DOP 2 500 001.00) to five million Dominican pesos (DOP 5 000 000.00); c) For minor violations: Five of one million Dominican pesos (DOP 1 000 000.00) to two million five hundred thousand Dominican pesos (DOP 2 500 000.00.)
- ✓ Non-financial sector. a) For very serious violations: Fine of two million and one Dominican pesos (DOP 2 000 001.00) to four million Dominican pesos (DOP 4 000 000.00). b) For serious violations: Fine of one million and one Dominican pesos (DOP 1 000 001.00) to two million Dominican pesos (DOP 2 000 000.00.) c) For minor violations: Fine of three-hundred thousand Dominican pesos (DOP 300 000.00) to one million Dominican pesos (DOP 1 000 000.00.)

CT290. Additionally, it is possible to suspend or revoke the licence to reporting institutions that require authorisation of some sort to operate. Once made final, sanctions become public.

CT291. *Criterion 35.2* – Under the terms of Law 155-17, Art. 72, those who exercise management of direction functions in single-owner or collegiate reporting institutions, shall be responsible for the violations attributable to the legal persons where they perform functions in, in addition to the liability proper of the reporting institution.

#### *Weighting and Conclusion*

CT292. The Law includes violations and its sanctions, with a range from very serious, serious or minor; Likewise, the possibility of the sanction to be applicable to the institution and its managers is also contemplated. **Recommendation 35 is rated Compliant.**

### *Recommendation 36 - International instruments*

CT293. *Criterion 36.1* – Resolution 355-06, dated on September 14, 2006 approved the Palermo Convention, entered into by the Dominican Republic on December 15, 2000. Resolution 333-06, dated on August 8, 2006 approved the United Nations Convention against Corruption, entered into by the government of the Dominican Republic on December 10, 2003. Resolution 361-07 dated on November 9, 2007 approved the International Convention for the Suppression of the Financing of Terrorism, entered into on December 15, 2000. Lastly, the Dominican Republic adhered to the Vienna Convention of 1988 on September 21, 1993.



CT294. *Criterion 36.2* – The Dominican Republic implemented the provisions of the Vienna, Palermo, Merida Conventions and the Convention on the Suppression of the Financing of Terrorism through Law 155-17.

*Weighting and Conclusion*

CT295. **Recommendation 36 is rated Compliant.**

*Recommendation 37 - Mutual legal assistance*

CT296. *Criterion 37.1* – The Dominican Republic has a legal framework to provide a wide range of MLA in relation to any crime. The country has 26 instruments signed with other States on MLA matters. Moreover, Art. 17 of Law 155-17 provides for that, where there is no bilateral or multilateral agreement ratified by the Dominican Republic, competent authorities may provide the widest range of co-operation based on the principle of reciprocity between nations.

CT297. Likewise, the Criminal Procedural Code (CPC) governs the international legal co-operation in Chapter IV. In particular, Art. 155 sets forth that judges and the MP must provide the maximum co-operation to requests made by foreign authorities as long as they are made pursuant to the provisions of the international treaties and that code. In cases of urgency, the judge or the MP, as appropriate, may address, through any means, co-operation requests to any judicial or administrative authority, in which case it should report it to the Secretariat of State of Foreign Affairs.

CT298. *Criterion 37.2* – The central authority on MLA matters is the Public Prosecutor's Office (PGR), based on Art. 30.23 of Law 133-11 (Organic Law of the Public Prosecutor's Office.) Resolution PR-PR-D-AJIE-001 established the international legal assistance procedure, that has a clear process for the timely execution and follow-up of MLA requests, which includes a regular follow-up policy of requests, and a policy to process immediately the response to requesting authorities. Even of the authorities of the PGR explained that mutual legal assistance requests are processed immediately and answered pursuant to the complexity of the case and the information requested, it is not clear that there is a prioritisation process of requests, and a case management system to monitor progress on requests.

CT299. *Criterion 37.3* – Article 17 of Law 155-17 provides for that, where there is no bilateral or multilateral agreement ratified by the Dominican Republic, competent authorities can provide the widest range of co-operation based on the principle of reciprocity between nations. Article 157 of the CPC provides for, in time, that the international legal co-operation can be refused through grounded resolution when the request endangers the guarantees and rights of the parties. There are no restrictive, unreasonable or undue conditions in relation to the execution of requests in the current legislation.

CT300. *Criterion 37.4* – In relation to the possibility of refusing a mutual legal assistance request:

- (a) There are no regulations that enable the refusal of MLA in cases where the crime also involves fiscal matters. In accordance with Art. 3.11 of Law 155-17, the tax crime is a predicate offence to ML.
- (b) There are no regulations that enable refusing MLA on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs. Pursuant to Art. 57 of Law 155-17, legal provisions relating to banking secrecy or confidentiality and professional secrecy shall not prevent compliance with RI's AML/CFT obligations.

CT301. *Criterion 37.5* – Regulatory Decree 408-17, Article 7, sets forth that competent authorities should maintain the confidentiality of all co-operation requests and information exchanged and that, in absence of clarity or a provision on confidentiality, competent authorities should, at least, protect the co-operation or information exchanged in the same way as they protect similar information provided by domestic sources and for national procedures. Additionally, Art. 290 of the CPC, in reference to the criminal procedure, sets forth that

the preparatory procedure is not of public nature for third parties and that proceedings can only be examined by the parties, directly or through their representatives, and that the parties, officials that participate in the investigation and other persons that, for any reason become acquainted with the proceedings performed, have the obligation to keep it secret. Likewise, the Organic Law of the MP provides for that the officials of the MP should, among other duties, maintain the confidentiality of data, documents, and reports they become aware of in the fulfilment of their functions (Law 311, Art. 78, item 7.)

CT302. *Criterion 37.6* – There is no dual criminality requirement for rendering MLA in the legislation.

CT303. *Criterion 37.7* – There is no dual criminality requirement for rendering MLA in the legislation.

CT304. *Criterion 37.8* – Article 155 of the CPC sets forth that judges and the MP must provide the maximum co-operation to foreign authorities' requests. Moreover, Art. 17 of Law 155-17 provides for that competent authorities may provide the widest range of co-operation based on the principle of reciprocity between nations. On this regard, the following should be born in mind:

- (a) Pursuant to Art. 18 of Law 155-18, the MP may perform or answer appropriate measures in relation to the request of a competent authority from other State, to identify, locate, detect, seize property, proceeds or instrumentalities of ML/TF, including among such measures sharing, repatriation, and recovery of illicit assets. Likewise, Art. 19 of Law 155-17 sets forth that competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and create joint investigation teams to perform co-operative investigations and, when necessary, establish bilateral or multilateral arrangements to enable such joint investigations.
- (b) In accordance with Art. 21 of Law 155-17, competent authorities have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, TF, and other violations described in this law, including the identification and tracing of the proceeds and instrumentalities of crime, and of the BO of legal persons.

#### *Weighting and Conclusion.*

CT305. The country has regulatory provisions that allow performing and responding to MLA requests in a broad framework of international co-operation, without restrictions, and further sustained in the principle of reciprocity among nations. However, it is not clear that the Dominican Republic has a process in place for the prioritisation of requests and a case management system to monitor progress of requests. **Recommendation 37 is rated Largely Compliant.**

#### *Recommendation 38 - Mutual legal assistance: freezing and confiscation*

CT306. *Criterion 38.1* – Article 155 of the CPC sets forth that judges and the MP must provide the maximum co-operation to foreign authorities' requests. Moreover, Art. 17 of Law 155-17 provides for that competent authorities may provide the widest range of co-operation based on the principle of reciprocity between nations. On this regard, Art. 18 of Law 155-17 determines that the MP may perform or respond to the appropriate measures in relation to the request of a competent authority of another State, to identify, locate, detect, seize the property, proceeds or instrumentalities of ML/TF, including among such measures sharing, repatriation, and recovery of assets illicit origin. Moreover, in accordance with Art. 21 of Law 15521, competent authorities have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, TF, and other violations described in this law, including the identification and tracing of the proceeds and instrumentalities of crime, and of the BO of legal persons. Therefore, the Dominican legal regime enables the country to undertake expeditious actions in response to requests by foreign countries to identify, freeze, seize, or confiscate property, pursuant to the following aspects:

- (a) Article 24 of Law 155-17 comprises the confiscation of laundered property, since it establishes that the court shall order that the property, proceeds and instrumentalities related to the violation be confiscated.

- (b) Article 24 of the Law expressly covers the confiscation of the proceeds of crime of ML/TF and serious criminal offence. The proceeds from and instrumentalities intended for use are equally covered by the regulation, since it covers all property “related” to the violation. Likewise, the term “proceeds” is defined in Article 2 of the Law (subsection 20.)
- (c) Article 24 of the Law expressly covers the confiscation of the proceeds of crime of ML/TF and serious criminal offence. The proceeds from and instrumentalities intended for use are equally covered by the regulation, since it covers all property “related” to the violation. Likewise, the term “instrumentalities” is defined in Article 2 of the Law (subsection 14.)
- (d) The definition of “instrumentality” of Art. 2.14 of Law 155-17 covers those intended for use in a crime.
- (e) The confiscation of property of corresponding value is legislated in Article 26 of Law 155-17, reason why it is also comprised by MLA.

CT307. *Criterion 38.2* – Even if the Dominican Republic can approve a confiscation request from other country with the approval of the sentence, the Dominican legislation does not contemplate the concept of non-conviction based confiscation. Consequently, it is not clear that it can provide assistance on that matter.

CT308. *Criterion 38.3* – (a) The Dominican Republic has an Assistance Agreement with the Republic of Colombia on mutual assistance on criminal matters. One of its purposes is to provide the widest range of mutual legal assistance for the investigation, attachment, seizure and other precautionary measures, confiscation of the proceeds and instrumentalities of the crime. There is no further information on agreements entered into under these considerations. (b) The Dominican Republic has mechanisms in place to manage and dispose of the property seized, frozen or confiscated. Law 133-11 (Organic Law of the MP) provides for in Article 26.3 that the MP is empowered to custody and maintain, without restrictions, all property seized or attached as a consequence of the investigation. Likewise, Article 47 grants the Higher Council of the MP the power to regulate the custody and management of property attached or seized. Finally, Article 33 of Law 199-11 contemplates a mechanism for sharing of confiscated property.

CT309. *Criterion 38.4* – Pursuant to Art. 18 of Law 155-18, the MP may perform or answer appropriate measures in relation to the request of a competent authority from other State, to identify, locate, detect, seize property, proceeds or instrumentalities of the crime, including among such measures sharing, repatriation, and recovery of illicit assets. Moreover, the Dominican Republic entered into an agreement with the US to share confiscated assets and instrumentalities.

#### *Weighting and Conclusion.*

CT310. Competent authorities in the Dominican Republic may provide the widest co-operation on MLA matters, including under the principle of reciprocity among nations; competent authorities may perform or respond to the appropriate measures in relation to the request of a competent authority of another State, to identify, locate, detect seize the property, proceeds or instrumentalities of ML/TF, including among such measures sharing, repatriation, and recovery of assets illicit origin. Moreover, he Dominican Republic entered into an agreement with the US to share confiscated assets and instrumentalities. However, the Dominican legislation does not contemplate the concept of non-conviction based confiscation, and therefore it is not clear that they can provide international co-operation on this regard. **Recommendation 38 is rated Largely Compliant.**

#### *Recommendation 39 - Extradition*

CT311. *Criterion 39.1* – Extradition is regulated by the Constitution of the Dominican Republic, the standards of international treaties, conventions, and agreements adopted by this country, which are 7, and by the CPC. For the ML/TF crimes, Law 155-17 is in force and contemplates additional provisions.

- (a) Pursuant to Art. 22 of Law 155-17, the ML/TF crimes are extraditable offences.

- (b) Article 22 of Law 155-17 provides for that, on ML/TF extradition matters, there should be clear and efficient processes, even so, it is not clear that there is a case management system in place, that includes prioritisation where appropriate.
- (c) Article 22 of Law 155-17 provides for that, on ML/TF extradition matters, there should be no restrictive or unreasonable conditions. Moreover, the general extradition procedure is regulated in the CPC (Art. 160 to 165.) Article 157 of the CPC provides for that the international legal co-operation can be refused through grounded resolution when the request endangers the guarantees and rights of the parties. There are no restrictive, unreasonable or undue conditions in relation to the execution of requests in the current legislation.

CT312. *Criterion 39.2 –*

- (a) In accordance to Article 46 of the Constitution of the Dominican Republic, nationals can be extradited.
- (b) It does not apply. Dominican nationals can be extradited.

CT313. *Criterion 39.3 –* There is no dual criminality requirement for granting extradition in the legislation.

CT314. *Criterion 39.4 –* There are no simplified extradition mechanisms in place in the Dominican general legislation. Notwithstanding this, it should be noted that the extradition treaty between the Dominican Republic and the USA, which entered into force on December 15, 2016, provides in Article 16 the possibility of carrying out simplified extradition between both countries.

#### *Weighting and Conclusion.*

CT315. In the Dominican Republic it is possible to extradite for the ML/TF crimes, nationals can be extradited, their legislation contemplates that clear and efficient processes should be in place and that there should be no restrictive or unreasonable conditions on extradition matters. However, it is not clear that there is an extradition case management system in place that includes prioritisation where appropriate; and there is no simplified extradition mechanisms in place in the Dominican general legislation. **Recommendation 39 is rated Partially Compliant.**

#### *Recommendation 40 - Other forms of international cooperation*

CT316. *Criterion 40.1 –* Pursuant to the legal framework provided for by Law 155-17, competent authorities can provide the widest range of international co-operation in relation to ML, associated predicate offences and TF. Likewise, Decree 408-17, Article 6, determines the provisions of a spontaneous information exchange for international co-operation and the new technologies, with the aim of ensuring that they can provide the widest range of timely international co-operation in relation to money laundering, associated predicate offences and terrorist financing. Said information exchange can be made ex officio or upon request.

CT317. *Criterion 40.2 –* The Dominican Republic has a legal framework that allows competent authorities to provide international co-operation. On this regard:

- (a) The international co-operation powers are provided for in Section II of Law 155-17. Article 17 empowers authorities to provide the widest range of co-operation based on the reciprocity principle. Article 18 empowers the MP to perform or answer appropriate measures in relation to the request of a competent authority from other State, to identify, locate, detect, seize property, proceeds or instrumentalities related to the violations provided for in the law, including among such measures sharing, repatriation, and recovery of illicit assets. Article 19 sets forth that competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and to create joint investigation teams to perform cooperative investigations. Article 21 sets forth that competent authorities have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, TF, and other violations

- (b) There seems to be no regulation to limit the authorities' capacity to use the means considered efficient to cooperate.
- (c) Competent authorities of the RD, PGR, PN, and the UAF have clear and secure gateways that allow for the transmission and execution of requests from foreign counterparts, since they are part of networks such as INTERPOL, AMERIPOL, EUROPOL, UIF Director, RRAG, Ibero-American Legal Assistance Network (IberRed), Prosecutors' Network against Organised Crime (REFCO), Camden Assets Recovery Interagency Network (CARIN), the European Union Judicial Cooperation Unit (EUROJUST.)
- (d) The UAF has an Instruction for the Request of Financial Intelligence Cooperation (AN-IN-002) wherein there are no measures or processes for the prioritisation and timely execution of requests. It is not clear either that the rest of the competent authorities have such processes in place.
- (e) Authorities reported that the UAF, upon reception of information from foreign counterparts, does not reveal to any other authority the purpose of the investigation. Likewise, they reported that within the Analysis Division of the UAF, there is an area exclusively engaged in the response of international requests, limiting access to such information of non-authorized individuals. Regulatory Decree 408-17, Article 7, sets forth that competent authorities should maintain the confidentiality of all co-operation requests and information exchanged, and that, in absence of clarity or provisions on confidentiality, competent authorities should at least, protect the co-operation or information exchanged in the same way as they protect similar information provided by domestic sources and for national procedures.

CT318. *Criterion 40.3* – Article 19 of Law 155-17 sets forth that when necessary, bilateral or multilateral agreements will be signed to enable the performance of joint investigations. In this context, competent authorities have negotiated and signed several bilateral and multilateral agreements with foreign counterparts to facilitate international cooperation. The UAF signed 12 agreements with foreign counterparts, including the GAFILAT Memorandum. The SIB signed 13 agreements with counterparts and a multilateral memorandum with the Central American Council of Superintendents of Banks, Insurances, and other Financial Institutions (CCSBSO.) The SIV signed 4 MoU with foreign counterparts. The DNCD signed agreements or memoranda with 10 counterparts. The National Police signed agreements with AMERIPOL and EUROPOL. Likewise, the PGR has agreements and MoU with its foreign counterparts.

CT319. *Criterion 40.4* – Authorities of the Dominican Republic reported that competent authorities offer feedback on the co-operation received when it is asked about it. Even if one example of this practice is that the UAF's sample report as a response to international co-operation requests includes a section that covers this aspect, there is no further information if other competent authorities provide feedback on the use and usefulness of the information obtained. In the same manner, the DGII Information Exchange Handbook points out among other aspects that the head of the international co-operation department must request feedback to the internal area on the usefulness of the information provided.

CT320. *Criterion 40.5* – Article 17 of Law 155-17 provides for that competent authorities can provide the widest range of co-operation based on the principle of reciprocity. Article 157 of the CPC provides for, in time, that the co-operation can be refused through grounded resolution when the request threatens the guarantees and rights of the parties. There are no restrictive, unreasonable or undue conditions in relation to the execution of requests in the current legislation. Likewise, the following should be taken into account:

- (a) There are no regulations that enable the refusal of international co-operation in cases where the crime also involves fiscal matters. In accordance with Art. 3.11 of Law 155-17, the tax crime is a predicate offence to ML.
- (b) There seem to be no regulations that enable refusing co-operation on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs. Pursuant to Art. 57 of Law 155-17, legal provisions relating to banking secrecy or confidentiality and professional secrecy shall not prevent compliance with RI's AML/CFT obligations.
- (c) There seems to be no regulation that enable refusing co-operation for the existence of an inquiry, investigation or proceeding underway in the Dominican Republic.

- (d) There seem to be no regulation to enable refusing co-operation because the nature or status of the requesting counterpart authority is different from that of its foreign counterpart.

CT321. *Criterion 40.6* – Competent authorities in the Dominican Republic can use the information obtained through an international co-operation request for the purposes said information was sought or provided, being an authorisation of the counterpart necessary for said information to be used with other purposes (Decree 408-17, Art. 8.) In relation to the UAF, in the international co-operation request responses there is a warning that specifies that the information provided is confidential and that it can only be used with intelligence purposes. Additionally, the authorities of the Dominican Republic reported that the co-operation agreements signed by the competent authorities have information safeguards.

CT322. *Criterion 40.7* – In accordance with Decree 408-17, Article 7, “Confidentiality of Information,” competent authorities of the Dominican Republic should maintain the confidentiality for any request for co-operation and the information exchanged, consistent with the obligations contained in international treaties, memoranda of understanding, or bilateral agreements. In absence of clarity or provisions on confidentiality, competent authorities should, at a minimum, protect co-operation or exchanged information in the same manner as they would protect similar information received from domestic sources and for domestic processes. In relation to the possibility of competent authorities refusing to provide information if the requesting competent authority cannot protect the information effectively, the MP may refuse to co-operate through grounded resolution when the request threatens the guarantees and rights of the parties. Likewise, co-operation may be suspended through grounded resolution when its immediate execution would prejudice the course of an investigation or prosecution developed in the requested jurisdiction.

CT323. *Criterion 40.8* – In accordance with Article 19 of Law 155-17 competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and to create joint investigation teams to perform cooperative investigations. Moreover, Article 21 sets forth that competent authorities have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, and TF.

CT324. *Criterion 40.9* – In accordance with Art. 91 of Law 155-17, the UAF may enter into co-operation agreements with other domestic or international competent authorities for the exchange of information (subsection 6) and provide co-operation and exchange information on the basis of reciprocity, with foreign counterparts (subsection 9.)

CT325. *Criterion 40.10* – Dominican authorities reported that the UAF also offers feedback on the co-operation received, when the country is asked about it; pursuant to the information provided in criterion 40.4, an example of this practice is that the UAF’s sample report for the response of international co-operation requests includes a section that covers this aspect.

CT326. *Criterion 40.11* – The UAF has powers to exchange information.

- (a) In accordance with Art. 91.9 of Law 155-17, the UAF can provide co-operation and exchange information on the basis of reciprocity, with foreign counterparts, for the analysis of cases related to ML/TF offences.
- (b) Pursuant to Article 21 of Law 155-17, competent authorities (including the UAF) have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, and TF.

CT327. *Criterion 40.12* – Financial supervisors have the sufficient legal basis for providing co-operation with their foreign counterparts pursuant to Arts. 2.2, 17, 21 and 100 of Law 155-17, and Art. 58 of Law 183-02 (Monetary and Financial Law.)

CT328. *Criterion 40.13* – In accordance with Art. 21 of Law 155-17, competent authorities (including financial supervisors, Art. 2.2) have the power to exchange available information in the national sphere with foreign counterparts. Likewise, Art. 100.10 sets forth that it is an obligation of supervisors to co-operate, under the principle of reciprocity, with other domestic and international competent authorities, in the exchange and analysis of information and investigations.

CT329. *Criterion 40.14* – Pursuant to the legal framework reported in criteria 40.12 and 40.13, supervisors can exchange a wide range of AML/CFT information with its foreign counterparts:

- (a) Regulatory information and general information on the financial sectors.
- (b) Prudential information.
- (c) AML/CFT formation on internal AML/CFT procedures and policies of financial institutions, CDD information, customer files, samples of accounts and transaction information.

CT330. *Criterion 40.15* – In accordance with Article 19 of Law 155-17 competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and to create joint investigation teams to perform cooperative investigations.

CT331. *Criterion 40.16* – Regulatory Decree 408-17, Art. 8. “Use of information in the framework of international co-operation,” sets forth that competent authorities may use the information obtained through an international co-operation request for the purposes said information was sought or provided. Likewise, it says that were it necessary to use said information for other purposes, prior authorisation of the counterpart is necessary. Moreover, as reported by the authorities, upon requesting information and whenever information is requested, supervisors indicate their counterparts the use intended for the information and authorisation is requested for said purposes, as appropriate.

CT332. *Criterion 40.17* – In accordance with Art. 21 of Law 155-17, competent authorities (including law enforcement authorities) have the power to exchange available information in the national sphere with foreign counterparts to comply with intelligence or criminal or administrative investigation purposes relating to ML, associated predicate offences, TF, including the identification and tracing of the proceeds and instrumentalities of crime, and of the BO of legal persons or transactions.

CT333. *Criterion 40.18* – In accordance with Article 19 of Law 155-17 competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and to create joint investigation teams to perform cooperative investigations. Section I of Chapter IV of the Law regulates special investigation techniques that law enforcement authorities may perform. The National Police, moreover, signed agreements with AMERIPOL and EUROPOL, and use said channels for the purposes of international co-operation.

CT334. *Criterion 40.19* – Article 19 of Law 155-17 sets forth that competent authorities have the power to conduct inquiries and obtain information on behalf of foreign counterparts and create joint investigation teams to perform cooperative investigations and, when necessary, establish bilateral or multilateral arrangements to enable such joint investigations.

CT335. *Criterion 40.20* – Article 9 of Regulatory Decree No. 408-17 establishes that the competent authorities of the DR may indirectly exchange information with those who are not counterparts, with the addition of requiring the foreign authority to clearly specify the purposes of their request and on whose behalf they are making the request.

#### *Weighting and Conclusion.*

CT336. Overall, the country has regulatory provisions and mechanisms that permit to provide the widest range of other forms of international co-operation, highlighting co-operations made by the PGR, UAF, and PN, among others. However, there seems to be no measures or processes for the prioritisation and timely execution of

requests and there is no further information about the competent authorities providing feedback on the use and usefulness of the information obtained. **Recommendation 40 is rated Largely Compliant.**



### Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
1. <i>Assessing risks and applying a risk-based approach</i>	LC	<ul style="list-style-type: none"> <li>Between the NRA carried out in 2014 and the Strategy, a significant time has elapsed.</li> <li>There are no updated data on the Assessment.</li> <li>Greater depth in the study of certain sectors, such as remittances, is necessary.</li> <li>Actions provided in the Plan establish especially regulatory measures, however, they do not apply a risk-based approach.</li> <li>RI are not required to incorporate the NRA's information in their internal assessments.</li> </ul>
2. <i>National cooperation and coordination</i>	C	
3. <i>Money laundering offence</i>	C	
4. <i>Confiscation and provisional measures</i>	C	
5. <i>Terrorist financing offence</i>	C	
6. <i>Targeted financial sanctions related to terrorism &amp; TF</i>	LC	<ul style="list-style-type: none"> <li>The Dominican Republic has not identified a competent authority responsible for proposing persons or entities for designation.</li> <li>Law 155-17 and Decree 407-17 do not provide for the evidentiary standard of proof, "reasonable grounds" or "reasonable basis" when deciding whether or not to make a designation and the provision of as much detail as possible the on the proposed names for designation, among others.</li> <li>The obligation to freeze applies only to reporting parties and not to all natural and legal persons in the country.</li> <li>The norm does not expressly state that the prohibition of providing financial funds / services extends to entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or under the direction of, designated persons or entities.</li> <li>There are no procedures to inform designated persons and entities of the availability of the United Nations Office of the Ombudsman, in accordance with UNSCR 1904, 1989 and 2083 to accept requests for exclusion from the list.</li> </ul>
7. <i>Targeted financial sanctions related to proliferation</i>	LC	<ul style="list-style-type: none"> <li>The obligation to freeze applies only to reporting parties and not to all natural and legal persons in the country.</li> <li>It is not clear that the norm covers the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities</li> </ul>
8. <i>Non-profit organisations</i>	PC	<ul style="list-style-type: none"> <li>No subsets of organisations that fall within the FATF definition, and characteristics and types of NPOs with greater exposure to TF risk have been identified either.</li> <li>Although the NRA determined the Low Risk Level for NPOs, the nature of threats posed by terrorist entities to NPOs was not identified.</li> <li>The legislation that regulates the NPOs has not been revised after the NRA, and this has not been considered in the Action Plan included in the National Strategy.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>There is no date or periodicity established to perform an assessment of the NPO sector.</li> <li>Regulation 40-08 includes certain NPO's supervision and monitoring actions. However, these measures lack a risk-based approach.</li> </ul>
9. <i>Financial institution secrecy laws</i>	C	
10. <i>Customer due diligence</i>	LC	<ul style="list-style-type: none"> <li>The SIB Circular. No. 004-16 provides that entities can complete the verification of the client after establishing the commercial relationship, in order not to interrupt the normal operation of the transaction, when it has an adequate risk management framework. However, this exception does not contemplate that it is as soon and as reasonably possible, that it is essential not to interrupt the normal operation of the transaction and that ML/TF risks are effectively under control.</li> </ul>
11. <i>Record keeping</i>	LC	<ul style="list-style-type: none"> <li>The law and regulations in relation to the banking sector is clear in relation to the maintenance and use of records, but not so in the case of non-banking entities and DNFBPs.</li> </ul>
12. <i>Politically exposed persons</i>	LC	<ul style="list-style-type: none"> <li>Except for the banking and exchange sector, which SIB Circular 00416 specifically contemplates it in subsection II, Glossary of Terms, the definition in the remaining sectors does not cover other persons that perform prominent functions such as representatives of important political parties.</li> <li>The duty to put in place risk management systems to determine whether a customer or the beneficial owner is a PEP is not specified.</li> <li>It is not clear that the duty to obtain senior management approval before establishing (or continuing) business relationships with PEPs is applicable to the insurance sector.</li> <li>Beyond the general measures pointed out in criteria 10.12 and 10.13, the regulations do not provide for additional specific requirements in relation to PEPs.</li> </ul>
13. <i>Correspondent banking</i>	C	
14. <i>Money or value transfer services</i>	PC	<ul style="list-style-type: none"> <li>No actions have been taken to identify persons that carry out MVTS without a licence, and there is no information on the application of sanctions on this matter.</li> </ul>
15. <i>New technologies</i>	C	
16. <i>Wire transfers</i>	LC	<ul style="list-style-type: none"> <li>In cases where the ordering financial intermediation institution had not provided information and the beneficiary institution requests it, the ordering institution should make the information available within five business days of receiving the request. However, this term is higher than expected in the criterion, which is three days.</li> <li>Remittance and change agents are not required to comply with all the relevant requirements of Recommendation 16 in the countries in which they operate, either directly or through their agents.</li> </ul>
17. <i>Reliance on third parties</i>	LC	<ul style="list-style-type: none"> <li>Beyond Article 47 of Law 155-17, there are no specific provisions on reliance on third parties for the cooperative sector.</li> <li>The legislation does not foresee that any higher country risk should be properly mitigated by the group's AML/CFT policies.</li> </ul>
18. <i>Internal controls and foreign branches and</i>	PC	<ul style="list-style-type: none"> <li>An independent audit function to test the system is not included in the secondary regulation.</li> <li>Financial groups are not required to provide compliance at group-level, audit, and/or AML/CFT functions, along with information about the customer,</li> </ul>

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<i>subsidiaries</i>		<p>account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes.</p> <ul style="list-style-type: none"> <li>Subsection VI, literal b), page 60 of Circular SIB No. 003/18 of January 15, 2018, establishes the requirement of protocols for obtaining, reviewing and exchanging information, including confidentiality measures and use of the information exchanged, for the cases of compliance programs implemented at a group level. There is no provision for a similar requirement for non-banking financial institutions.</li> <li>Financial institutions are not required to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country.</li> </ul>
19. <i>Higher-risk countries</i>	PC	<ul style="list-style-type: none"> <li>Law 155-17 does not provide for the mechanisms for the country to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.</li> <li>There is no advertising of non-cooperative or high-risk jurisdictions lists identified by the FATF in the securities, insurance and cooperatives sectors.</li> </ul>
20. <i>Reporting of suspicious transactions.</i>	C	
21. <i>Tipping-off and confidentiality</i>	LC	<ul style="list-style-type: none"> <li>Legislation does not limit the exemption of liability to cases where reports were filed in good faith.</li> </ul>
22. <i>DNFBPs: Customer due diligence</i>	LC	<ul style="list-style-type: none"> <li>In relation to DNFBPs, the definition does not encompass other persons that perform prominent functions, such as representatives from important political parties.</li> <li>The obligation to comply with new technologies requirements set forth in Recommendation 15 is not covered in sectoral regulations of DNFBPs.</li> <li>In relation to the reliance on third parties to perform CDD, it is not clear that DNFBPs should satisfy themselves that the third party is regulated, supervised or monitored. It is not clear, moreover, that the Law sets forth that any higher country risk should be properly mitigated by the group's AML/CFT policies.</li> </ul>
23. <i>DNFBPs: Other measures</i>	C	
24. <i>Transparency and beneficial ownership of legal arrangements</i>	LC	<ul style="list-style-type: none"> <li>At the time of the on-site visit, no statistics were provided on the application of measures aimed at ensuring that the information referred to in criteria 24.3 and 24.4 is accurate and updated.</li> <li>It is not clear that the obligations of Article 50 of the Tax Code on the update of BO information are in force, and that other competent authorities different from the DGII have mechanisms in place for business companies to cooperate with them and provide the information.</li> <li>It is not clear that obligations relating to BO information that should be obtained and the place where it should be kept within the Dominican territory are in force.</li> <li>It is not clear that the information and records should be kept for at least five years after the date on which the company is dissolved or otherwise ceases to exist.</li> <li>In relation to law enforcement authorities, it is not clear that they have the power to obtain timely access to basic and BO information.</li> <li>In relation to measures to prevent the misuse of nominee shares and nominee directors:</li> </ul>

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		<ul style="list-style-type: none"> <li>- It is not clear that there are measures to require nominee shareholders and directors to disclose the identity of their nominators to the company and to the Company Register, and for this information to be included in the Register.</li> <li>- It is not clear that nominee shareholders and directors are required to be licensed, for their nominee status to be recorded in company registries, and for them to maintain information identifying their nominator.</li> <li>- It is not clear that there are other appropriate mechanisms in place to avoid misuse of nominee directors.</li> <li>• It is not clear that the obligation of companies to obtain and maintain updated information on BO is in force, as provided for in Art. 50 of the Tax Code, which may impact on the capacity of obtaining said information for international co-operation purposes.</li> <li>• It is not clear that competent authorities monitor the quality of assistance they receive from foreign counterparts in response to requests for basic and BO information or requests for assistance in locating BO residing abroad.</li> </ul>
25. <i>Transparency and beneficial ownership of legal arrangements</i>	LC	<ul style="list-style-type: none"> <li>• It is not clear that trustees are required to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants and tax advisors.</li> <li>• It is not clear that the obligations of the companies to obtain and maintain up-to-date information on the BO, provided for in Art. 50 of the Tax Code, are working, which may have an impact on the ability to obtain such information.</li> <li>• There are no foreseen measures to ensure that trustees disclose their status to RI when forming a business relationship or carrying out an occasional transaction.</li> <li>• In relation to law enforcement authorities, it is not clear that they have the power to obtain timely access to basic and BO information.</li> <li>• The sanctioning regime is in an incipient stage and, as of the date of the on-site visit, the application of sanctions related to criterion 25.1 has not been evidenced.</li> </ul>
26. <i>Regulation and supervision of financial institutions</i>	PC	<ul style="list-style-type: none"> <li>• In the securities, insurance, and cooperatives sectors there are no provisions and, consequently, there are no mechanisms to cover the universe of reporting institutions and to prevent criminals or their associates from holding (or being the BO of) an interest or holding a management function.</li> <li>• The SIB and the SIV have a Risk-Based Supervision Framework where they specify the manner the risk matrix should be integrated (SB Circular letter CC/003/12.) In this framework, it is set forth that the Supervision Plan of each reporting institution under their supervision should include an analysis of the sector's risks; the concerns or issues expressed by other institutional areas that support the supervision; and the planning of the assessment of pair institutions, analysis of the competition, and other special studies relating to the sector. No similar aspects are foreseen with respect to the insurance and cooperative sectors.</li> </ul>
27. <i>Powers of supervisors</i>	C	
28. <i>Regulation and supervision of DNFBPs</i>	LC	<ul style="list-style-type: none"> <li>• In relation to casinos, there is no provision or mechanisms for preventing criminals or their associates from holding (or being the BO of) a significant or controlling interest, or holding a management function in the casinos, since the aforementioned legislation refers only to a suitability control.</li> <li>• In relation to other DNFBPs, even if the DGII reviews the shareholding structure of its taxpayers, there are no provisions, regulations or mechanisms specific for preventing criminals and their associates from being professionally accredited, or holding (or being the BO of) a significant or controlling interest, or holding a management function in an DNFBP.</li> </ul>

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		<ul style="list-style-type: none"> <li>Both the DGII and the Casinos Department are currently developing their first risk-based annual supervision plans based on their corresponding risk matrices.</li> </ul>
29. <i>Financial intelligence unit</i>	C	
30. <i>Powers of law enforcement and investigative authorities</i>	LC	<ul style="list-style-type: none"> <li>It is not established that law enforcement and investigative authorities may perform parallel financial investigations.</li> <li>The country does not have provisions that allow referring the case to another agency to follow up with such parallel financial investigations.</li> <li>It is not clear that the Specialised Prosecutor's Office against Corruption can carry out investigations of ML/TF derived from corruption, and it does not indicate that it can perform the freezing or confiscation of assets.</li> </ul>
31. <i>Powers of law enforcement and investigative authorities</i>	LC	<ul style="list-style-type: none"> <li>It is not clear that authorities may use special investigation techniques for ML and TF.</li> <li>The process to identify accounts and/or assets of investigated persons is not regulated.</li> </ul>
32. <i>Cash couriers</i>	PC	<ul style="list-style-type: none"> <li>It is not clear that the Dominican Republic has a cross-border currency and negotiable instruments declaration system as an obligation for cargo and mail transport systems.</li> <li>There is not much information on the co-ordination mechanisms between the DGA, migration authorities and relevant authorities related to the implementation of this Recommendation.</li> <li>In absence of express legislation on this regard, it is not objectively certain that competent authorities have the power to retain or withhold currency or bearer negotiable instruments for a reasonable period of time to find evidence where there is a suspicion of ML/TF or predicate offences, or where there is a false declaration.</li> <li>It could not be proven that processes established by the Dominican Republic do not restrict trade payments or the freedom of capital movements in relation to a customs declaration.</li> </ul>
33. <i>Statistics</i>	C	
34. <i>Guidance and feedback</i>	LC	<ul style="list-style-type: none"> <li>There is no information on how this obligation is made effective.</li> </ul>
35. <i>Sanctions</i>	C	
36. <i>International instruments</i>	C	
37. <i>Mutual legal assistance</i>	LC	<ul style="list-style-type: none"> <li>It is not clear that there is a request prioritisation process and a case management system to monitor progress of requests.</li> <li>Moreover, it is not clear that the country has mechanisms in place to timely identify if a natural or legal person has or controls accounts, or processes to identify assets without prior notice to its owner; and there is no certainty that the country can provide mutual legal assistance on these aspects.</li> </ul>
38. <i>Mutual legal assistance: freezing and confiscation</i>	LC	<ul style="list-style-type: none"> <li>The Dominican legislation does not contemplate the concept of non-conviction based confiscation, reason why it is not clear that assistance can be provided on that matter.</li> <li>There is no further information on agreements entered by the country to provide the widest range of mutual legal assistance for the investigation, attachment, seizure and other precautionary measures, or confiscation of the proceeds and instrumentalities of the crime.</li> </ul>
39. <i>Extradition</i>	PC	<ul style="list-style-type: none"> <li>It is not clear that a case management system is in place that includes prioritisation of cases where appropriate.</li> </ul>

**Compliance with FATF Recommendations**

<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) Underlying the Rating</b>
		<ul style="list-style-type: none"> <li>• There is no simplified extradition mechanisms in place in the Dominican general legislation.</li> </ul>
<i>40. Other forms of international cooperation</i>	LC	<ul style="list-style-type: none"> <li>• The UAF has an Instruction for the Request of Financial Intelligence Cooperation (AN-IN-002) in which there are no measures or processes for the prioritisation and timely execution of requests. It is not clear either that the rest of the competent authorities have such processes in place.</li> <li>• There is no further information about competent authorities other than the UAF providing feedback on the use and usefulness of the information obtained.</li> </ul>