GAFILAT

Mutual Evaluation Report of the Republic of Honduras

OCTOBER 2016

The Financial Action Task Force of Latin America (GAFILAT) is a regionally based inter governmental organization that gathers 16 countries from South America, Central America and North America in order to combat money laundering and terrorist financing by means of a commitment for continuous improvement of the national policies against both scourges, and the enhancement of different cooperation mechanisms among its member countries.

Citing reference:

GAFILAT (2016) – Informe de Evaluación Mutua de la República de Honduras. http://www.gafilat.org/UserFiles//Biblioteca/Evaluaciones/HondurasMER-FourthRound.pdf

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Contents

TABLE OF ACRONYMS AND ABBREVIATIONS

AML	Anti-Money Laundering
WMD	Weapons of Mass Destruction
DNFBPs	Designated Non-Financial Businesses and Professions
UNSC	United Nations Security Council
Merida Convention	United Nations Convention against Corruption
Palermo Convention	United Nations Convention against Transnational Organized Crime
Vienna Convention	United Nations Convention against the Illicit Trafficking of Narcotic Drugs and Psychotropic Substances
CFPWMD	Counter Financing the Proliferation of Weapons of Mass Destruction
CFT	Combating the Financing of Terrorism
DD	Due Diligence
CDD	Customer Due Diligence
NRA	National Risk Assessment
FPWMD	Financing the Proliferation of Weapons of Mass Destruction
FATF	Financial Action Task Force
GAFILAT	Financial Action Task Force of Latin America (Grupo de Acción Financiera de Latinoamérica)
FI(s)	Financial Institution(s)
ML	Money Laundering
PEP	Politically Exposed Person
UN	United Nations
NPO	Non-Profit Organization
PW	Proliferation of Weapons
PWMD	Proliferation of Weapons of Mass Destruction
STR	Suspicious Transaction Report
TF	Terrorist financing

EXECUTIVE SUMMARY

1. This report summarizes the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in the Republic of Honduras as of the date of the on-site visit, carried out on June 1st - 12th, 2015. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system in Honduras, and provides recommendations on how to strengthen certain aspects of the system.

A. Risks and General Situation

2. The high levels of organized crime in Honduras, mainly related to drug trafficking activities, extortion and human trafficking by criminal groups, both national and transnational, especially drug cartels and street gangs or "*maras*", are the main money laundering (ML) threats.

3. Moreover, the high levels of corruption among public institutions give this phenomenon a cross-cutting impact for ML and Terrorist Financing (TF) risk, being corruption a threat and a structural factor that contributes to the materiality of ML/TF offenses.

4. Designated Non-Financial Businesses and Profession (DNFBPs) are especially vulnerable for money laundering purposes given their recent incorporation as obliged subjects and the lack of effective supervision. Besides, an important vulnerability identified is with regard to the appropriate record keeping and updated data of legal persons and, therefore, legal persons can be used to carry out ML activities.

5. Evidently, the main risks arise from organized crime. Given this situation, the resources of the Honduran authorities are mainly destined to attack organized crime and the ML that results from it. Meanwhile the terrorism represents a lesser threat for the country. Regarding TF, the risk is perceived as low.

6. Nevertheless, since 2010, and especially since 2014, the authorities of the country have been issuing regulations and legislations aimed at addressing the detected situations. Additionally, new agencies have been created to fight organized crime, evasion and extortion, as well as inter-institutional agreements have been developed, which shows the commitment and the different strategies being implemented to mitigate the risks identified. Moreover, different bodies have been guided to strengthen international cooperation as a means to fight organized crime.

B. Key Findings

7. Honduras has made efforts to identify and understand the ML/TF risks to which it is exposed. The risks identified in the National Risk Assessment (NRA), are, to certain extent, related to the policies defined in previous documents, such as the Vision of the Country 2010-2038 and the Plan of the Nation 2010-2022. However, there are shortcomings that must be addressed in the short term and which are related to the disclosure of the NRA's results and the communication with the private sector, especially regarding DNFBPs. Finally, the national strategy against ML/TF risks should be formalised.

8. Although there are some inter-institutional cooperation and collaboration agreements among the relevant Honduran agencies, there are still several informal channels that should be structured for adequate coordination. At the same time, some cooperation and coordination mechanisms should be extended to include combating the financing of proliferation of weapons of mass destruction (FPWMD).

9. The level of risk of terrorism and TF is understood as low by the authorities in Honduras. The current legal system enables Honduras to judge and punish those who commit or attempt to commit such acts.

10. There are shortcomings in the implementation and supervision of TF preventive measures by DNFBPs and non-profit organizations (NPOs), mainly those related to the compliance with the United Nations Security Council (UNSC) Resolutions that impose sanctions for terrorism and TF.

11. From a technical compliance and effectiveness point of view, the prevention of and combat against the FPWMD must be developed to reach the minimum compliance levels with the relevant Recommendations.

12. There is a marked difference between the implementation and knowledge of preventive measures among financial institutions and DNFBPs. Until the recent legislative modifications, DNFBPs had no clear AML/CFT obligations, therefore they did not show any implementation of preventive measures, which affected the effectiveness. Meanwhile, in general terms, it was evident that financial institutions understand their risks and obligations and that mitigation measures implemented are proportionate to their risks.

13. Honduras has an authorization granting regime for all segments of the financial sector, which includes "fit and proper" tests. Nevertheless, there are shortcomings in the non-financial sector. Effective, proportionate and dissuasive sanctions have been applied to obliged subjects of the financial sector. However, at the time of the on-site visit, DNFBPs had not been supervised and, nor sanctions had been applied to this sector.

14. Honduras has significant deficiencies regarding the identification of beneficial ownership of legal persons. Information regarding the creation and the operation of the different types of legal persons that can be incorporated in Honduras is not easily accessible. The information is not unified, complete or updated. Moreover, the incorporation of irregular companies is allowed, as well as the transfer of nominative and bearer shares, without greater controls regarding beneficial ownership.

15. With regard to international cooperation, Honduras has ratified several international instruments regarding the fight against ML/TF, for which different central authorities have been designated depending on the treaty. Despite not having a unique central authority, Honduras has proper statistics regarding the cooperation received and provided, especially with countries of the Central American region. Additionally, the regulation enables international cooperation regarding ML/TF offenses, among others. These laws include provisions that allow the freezing and confiscation of property of people being investigated for such offenses in Honduras. Nevertheless, there are no relevant provisions to share said property with foreign countries.

16. As regards extradition, the Honduran legal framework enables this type of collaboration for offenses such as drug trafficking, terrorism, organized crime, money laundering, and serving as figurehead. Moreover, several people have been extradited to the United States due to drug trafficking since 2014.

C. General Level of Compliance and Effectiveness

AML/CFT policies and national coordination

17. The country acknowledges that the main threats are related to the drugs trafficking, corruption and extortion, and that the most effective way to fight them is to coordinate with the different law enforcement agencies, such as the Public Prosecutor, the financial police, the Financial Intelligence Unit (FIU), intelligence agencies and specialized military bodies.

18. One of the functions of the Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT, for its Spanish acronym) is to advise the National Defense and Security Council on public policies related to prevention, control and repression of ML and TF offenses.

19. The institutional framework of the AML/CFT system in Honduras has been recently updated, since the coming into force of the Special Anti-Money Laundering Law, issued on January 13th, 2015, through Legislative Decree no. 144-2014, published in the official gazette *La Gaceta* on April 30th, 2015, and which came into force on May 30th of the same year.

20. The objectives and activities of the competent authorities are consistent with the threats and vulnerabilities as regards ML/TF risks identified in the NRA developed by Honduras with the support of the Inter-American Development Bank (IADB). Those, to certain extent, are related to previous national policies such as the Vision of the Country 2010-2038 and the Plan of the Nation 2010-2022. However, work must be done so that resource allocation is proportional to the risks identified, and for the results of the NRA to be informed to obliged subjects, which is necessary for improving risk understanding of all sectors, in particular DNFBPs.

Legal system and operational matters

21. Honduras has a FIU that carries out the intelligence cycle in a comprehensive manner. Prosecutors and legal operators, the sole final recipients of the FIU's information, expressed that the information provided by the FIU is useful, appropriate and relevant in the investigation and prosecution phases of proceedings regarding money laundering, terrorist financing and asset forfeiture. However, an IT system that ensures secrecy and confidentiality must be implemented for the reception of suspicious transaction reports (STRs).

22. The criminalization of ML establishes a range of criminal sanctions against individuals and legal persons that is effective, proportionate and dissuasive. The Honduran AML/CFT system is able to investigate and take to court cases of sophisticated money laundering and shows an internal inter-institutional organization and international cooperation.

23. In criminal investigations of ML offenses and in the exercise of asset forfeiture, prosecutors can use special investigation techniques expressly authorized by law, such as controlled delivery, undercover agent and interception of communications. Moreover, in cases of national impact that involve predicate offenses such as drug trafficking, corruption or arms smuggling, the Specialized Prosecutor's Office in Organized Crime (FESCCO, for its Spanish acronym) initiates parallel investigations on money laundering and asset forfeiture, in addition to the predicate offense.

24. The country has a legal framework that enables seizing and securing any type of asset linked to illicit activities through criminal confiscation and the asset forfeiture act. The confiscation of assets, instruments and properties of organized criminal structures is one of the foundations and objectives of the criminal policy aimed at protecting the national defense and security.

25. The system of disclosure of currencies is consistent with the standard as it enables the autonomous imposition of administrative fines, the initiation of criminal proceedings of money laundering and the initiation of asset forfeiture. Finally, Honduras has a specialized agency that manages the property and assets seized from organized crime, either by criminal confiscation or asset forfeiture.

TF and financial sanctions

26. The level of risk of terrorism and TF is understood by the authorities as low in Honduras. At the time of the on-site visit, there were no processed or judged cases for terrorism or TF.

27. Relevant authorities have assessed the threats and vulnerabilities to which they are exposed with regard to TF risk. However, the assessment and understanding of TF risk could be improved with the inclusion of DNFBPs and NPOs into the country risk analysis. The FPWMD subject is not well known and neither the corresponding risks.

28. Regarding the effectiveness of regulations, as authorities have evaluated the TF risk as low, Honduras should focus on strengthening preventive measures for DNFBPs and improving the supervision system of those, as well as it is necessary to implement training and awareness actions for both DNFBPs and NPOs. Moreover, it is advisable that relevant authorities also receive training on the matter.

29. As regards UNSC Resolutions on terrorism, Honduras has a legal and regulatory framework largely compliant with international standards, but it must strengthen the procedures for the implementation by all the stakeholders of the system.

30. Finally, as regards FPWMD targeted financial sanctions, Honduras must address this matter and expressly include in its regulations the necessary elements to implement the UNSC Resolutions, and the implementation of training and awareness actions in the short term is required, while strengthening its mechanisms to prevent the financing of proliferation.

Preventive measures

31. The recent modifications made to the legislative framework enable, in general terms, for the provided obligations for financial institutions and DNFBPs to be comprehensive and largely include the preventive measures of FATF's Recommendations.

32. With regard to the effectiveness level, DNFBPs have not developed or implemented preventive measures, mainly because the regulations of the recent Law had not been issued at the time of the on-site visit, which is necessary to clearly define the AML/CFT obligations. As for financial institutions, they have carried out compliance programs that include the identification of the risk profile of customers. However, the programs are not consistent; they are more advanced in those institutions that belong to foreign financial groups.

Supervision

33. It was observed that in the financial sector, the National Commission of Banks and Insurance (CNBS, for its Spanish acronym) carries out a "fit and proper" analysis of shareholders before issuing licenses. However, there are no legally conferred powers to prevent criminals or their accomplices from obtaining accreditation as part of the DNFBP sector.

34. Supervision of the financial system is undertaken following a risk based approach and coordination for financial groups. However, supervision must be improved, as not all the financial entities are being supervised and, at the time of the on-site visit, DNFBPs had not been supervised.

35. Effective, proportionate and dissuasive sanctions have been imposed to obliged subjects of the financial sector. At the time of the on-site visit, no sanctions had been imposed on DNFBPs.

Legal persons and structures

36. In Honduras, the trade registry is public. However, the Property Institute does not have complete or updated information regarding legal persons and this information is not consolidated at a national level. With the exception of the two departments located in the main cities of the country, the registry is carried out manually. In the case of a cooperation request, it is understood that foreign authorities have access to the required information. However, it is difficult to access this kind of information, even for local authorities.

37. It is also important to mention the potential creation of companies which information regarding shareholders and beneficial ownership is not verified. Additionally, single-member companies can be set up without requiring the intermediation of a notary for their incorporation; completing a form in the Trade Registry website is enough. Moreover, there is a lack of adequate and precise identification of the beneficial owner. The Commerce Code does not include a clear requirement for legal persons to maintain updated information on beneficial owners. Updates that include changes of ownership must be informed to the Registry. However, authorities have informed that there is no compliance with this requirement. Although the updating obligation exists, no sanctions have been established in case of noncompliance.

38. As for legal persons who carry out financial activities, due to the Anti-Money Laundering Law it is possible to have access to the information of all the obliged subjects of the financial sector in an updated and precise manner, including beneficial ownership information. Additionally, by means of the banking, insurance and pensions sector, it is possible to obtain the beneficial owners of the customers to which obliged subjects provide this service.

International cooperation

39. In general, Honduras has a wide legislative framework regarding the fight against money laundering and terrorist financing, which requires regulation in some matters already established by law carried out on jurisprudence basis. International cooperation and extradition require regulation to provide a greater clarity to the process, as it is not expressly established in the law. Section 79 of the Special Anti-Money Laundering Law establishes that Honduran authorities must cooperate to the maximum extent possible with authorities of other countries to investigate money laundering and similar offenses, and they can also implement precautionary measures for extradition, mutual legal assistance or any other type of international cooperation permitted.

40. The legislation of the country enables that the assets of criminal organization be seized and frozen for purposes of confiscation. The Administrative Office of Seized Property (OABI, for its Spanish acronym) coordinates that confiscated property can continue its production function. The same system applies to national and transnational offenses, and although it is possible to act based on international requests, based on current legislation, the possibility of repatriating property derived from the offense is not observable.

D. Priority Actions

41. The country should formalize the national strategy against the ML/TF risks.

42. Considering the results of the NRA, the country should implement measures that specifically address the findings and conclusions of said document. The regulation must take into consideration aspects such as the updating of the risk assessment and its use as an input for the allocation of resources and policy priorities.

43. The country should improve its future ML/TF NRA processes and, include the DNFBPs and NPOs. The NRA results must be disseminated to all financial and non-financial obliged subjects with the purpose they include these results in their own risk assessments and implement measures to mitigate such risks.

44. The processes for producing and updating statistics for the AML/CFT system should be strengthened. As for national cooperation and coordination, the regulations of the CIPLAFT must be updated as CIPLAFT functions and responsibilities need to be clearly defined, including its capacity to formulate national AML/CFT policies and the frequency of CIPLAFT meetings, among others aspects.

45. The FIU must strengthen its operational analysis capacities through the development of strategic studies, red flags indicators and typologies, which are updated and consistent with the criminal reality of Honduras.

46. For reasons of security and confidentiality of the information, it is imperative and urgent for this Unit to implements electronic STRs, as the obliged entities currently file them in paper.

47. The FIU must provide constant and regular feedback to reporting entities and supervisors in order to improve the quality of STRs.

48. Moreover, it is extremely important to have reaching programs with the financial sector, DNFBPs and especially NPOs for these to know and be aware of the risks to which they are exposed to as regards targeted financial sanctions, and to understand their obligations and the importance of their compliance. Honduras must also provide training to relevant authorities as regards targeted financial sanctions.

49. Honduras must adapt its legal framework in order to implement targeted financial sanctions related to FPWMD.

50. Honduras must implement measures, both at a regulatory and supervisory level, to ensure consistency in the understanding and implementation of preventive measures by financial institutions and DNFBPs. The obligations should permit that institutions do not to carry out customer due diligence in case it would tip-off the customer, and be allowed to issue a STR instead.

51. As for DNFBPs, they must standardize all the obligations, such as those related to training, other measures of internal control and actions against high-risk countries, among others. These measures must include all types of DNFBPs, especially the dealers of precious metals and stones.

52. As priority action, it is recommended that the regulation regarding the supervision of DNFBPs is clear enough to determine who supervises and that the supervisor is suitable to carry out this function. Moreover, as for the supervision of DNFBPs, it is recommended to work with a risk-based approach.

53. It is also essential to increase the transparency of legal persons. Competent authorities must work on the identification of all the legal persons, systematisedatabases and the adequate identification of the beneficial owner, as legal persons are still important vehicles for money laundering networks. The Trade Registry must work in the registry's platform to have consolidated data at a national level.

54. Given the importance of the control function of notaries in the system of incorporation of legal persons, authorities should carry out awareness activities addressed to these professionals to promote a better understanding of ML/TF risks and to develop guidelines on additional measures that could or should be implemented as part of the obligations.

55. It is recommended to reassess the application of the Law for Employment Generation, Promotion of Entrepreneurship, Business Formalization and Protection of Investor Rights, given the risks that its applications imply in achieving the purpose of Immediate Outcome 5.

E. Table of Effective Implementation of Immediate Outcomes

Effectiveness	
1. Risk, policy and coordination	**Moderate**
56. With the support of the IADB, Honduras has developed a NRA through which it materialises the country efforts to identify the main ML/TF risks. Regarding ML, the main risks result from organized crime that mainly carries out drug trafficking and extortion activities. With regard to TF, authorities understand the threat has an external nature, and given the Honduran financial system characteristics, the TF risk level is understood as low. 57. Nevertheless, it is necessary that the country improves its ML/TF assessment process by including DNFBPs and NPOs, documenting their risk assessment process regarding TF and, finally, disclosing the results to obliged subjects in order to raise the understanding of the risks they are exposed to and to mitigate such risks. 58. In order to keep said risk assessment relevant, it is necessary that the country structures and articulates the national AML/CFT strategy; develops and implements the rules of procedure of the CIPLAFT to clearly define its functions and responsibilities, including its capacity to formulate national AML/CFT policies and the frequency of CIPLAFT meetings, among others aspects. The resource allocation must be implemented based on the risks of each agency of the AML/CFT system. Moreover, the effectiveness of DNFBPs measures must be strengthened.	
2. International cooperation	**Substantial**
59. Honduras carries out international cooperation in an efficient way through the different authorities in charge in the country, mainly with countries of the Central American region. It has a wide legislative framework on the matter that enables the extradition of national and foreign people for different offenses, such as drug trafficking, ML and terrorism, among others. Moreover, the Law allows for the collaboration in legal investigations and proceedings related to said offenses, as well as the implementation of precautionary measures and the confiscation of property by international request. Said cooperation has had positive results in the dismantling of criminal organizations. Evidence of results was provided to the assessment team. 60. Nevertheless, in order to provide clarity to the process, it would be convenient to designate a Central Authority to manage the information requests, received and sent, as well as to regulate the different laws of the country related to international cooperation.	
3. Supervision	**Moderate**
61. Honduras has a financial supervision system. However, some financial entities are not obliged subjects, and currently, DNFBPs have not been supervised. 62. Honduras has an authorisation granting regimes for all segments of the financial sector, which include "fit and proper" tests. However, there are shortcomings with regard to the powers of authorities	

to prevent criminals and their accomplices from obtaining accreditations, possessing, controlling or managing an obliged subject of the non-financial sector.

63. The risk analysis approach is consistent in the financial system and each supervisor (Banking, Insurance and Securities) carries out this analysis. The prudential supervisors of the banking, insurance and securities sectors make their own sectorial risk assessment and keep their risk matrix updated. However, not every financial institution has been supervised with regard to ML/TF.

64. Effective and proportionate sanctions have been imposed on obliged subjects of the financial sector. At the end of the on-site visit, no sanctions were yet imposed on DNFBPs.

4. Preventive measures	**Moderate**

65. In general, financial institutions understand their ML/FT risks and, according to the foregoing, they implement measures in a proportionate manner. Moreover, financial institutions that are part of a foreign group already implement a risk-based approach. Additionally, financial institutions comply with CDD measures and record keeping, as well as the STRs submissions of medium or good quality, according to their legal obligations.

66. Notwithstanding the foregoing, this is not the case of DNFBPs, as there is no evidence that they implement preventive measures or have internal controls, mainly due to their recent inclusion into the AML/CFT system.

5. Legal persons and structures	**Low**

67. The information on the creation and operation of the different types of legal persons set up in Honduras is not easily accessible. The information is not unified, complete or updated in a timely manner.

68. The incorporation of companies where the information required to shareholders, including beneficial ownership information, is not available to the public. Both Section 17 of the Commerce Code and the Law for Employment Generation, Promotion of Entrepreneurship, Business Formalization and Protection of Investor Rights allow the incorporation of companies without controls as regards the identification of shareholders and beneficial owners, which creates significant ML/TF risks. Legal persons are important vehicles for money laundering networks in Honduras.

6. Financial intelligence	**Moderate**

69. Honduras has a FIU that carries out the intelligence cycle in a comprehensive manner. Prosecutors and legal operators, the sole final recipients of the FIU's information, expressed that the information provided by the Unit that carries out the financial intelligence of the country is useful, appropriate and relevant in the investigation and prosecution phases of ML/TF and asset forfeiture proceedings. However, the FIU must strengthen its capacity of analysis through the development of are updated strategic studies and red flags indicators, and typologies according to the reality of Honduras. Likewise, an IT system for the reception of STRs should be put in place in order to ensure reserve and confidentiality.

70. The FIU can access without restriction or legal authorization to a wide range of public and private information that is used to develop financial intelligence.

71. In the last years, the FIU has assumed a strategic and predominant role in the national stage and in the organization and effectiveness of the AML/CFT system, assuming different coordination functions.

7. ML investigation and prosecution	Moderate

72. Honduras has carried out a number of ML cases related, which have been developed concurrently with investigations and prosecution for predicate offenses and asset forfeiture.

73. At an inter-institutional level, there are structures that work jointly. In general, Honduras investigates and takes to court many offenses that, in conformity with the Risk Assessment, represent the greatest threats of the country.

74. The Honduran AML/CFT system allows for investigation and prosecution of ML sophisticated cases that show an internal inter-institutional organization and international cooperation. Notwithstanding the foregoing, it is important to implement a sustained specialized training program addressed to judges and prosecutors regarding the processes of investigation and prosecution of this type of cases, in order to prioritize investigations on complex operations of ML rather than investigations on flagrance acts of smuggling currency or illicit drugs. Moreover, Honduras is urged to increase the number of ML investigations associate to corruption, extortion, trafficking of human beings or migrant smuggling, among others.

8. Confiscation	High

75. The prosecution of assets of criminal origin is a State priority and is done consistently with the risks identified in the NRA. The results of these actions have been remarkable, with an average of approximately 90% of convictions regarding the cases initiated.

76. The relevant Law establishes the creation of a specialised national jurisdiction on asset forfeiture, which must include three judges. However, despite the positive results of asset forfeiture in the fight against financial structures of criminal organizations, only one (1) judge is exercising in this jurisdiction. Therefore, it is necessary to complete the two vacancies to improve the effectiveness of the results obtained so far.

9. TF investigation and prosecution	Substantial

77. Honduras has an adequate CTF legal framework to react to the possibility that a case is presented.

78. Honduran law enforcement authorities have assessed their TF vulnerabilities and threats, and have understood their exposure to terrorism and TF risk is low. Said understanding could be improved by including the DNFBP and NPO in the risk assessment.

79. Authorities understand their obligations regarding the prevention of and fight against terrorist financing. However, it is recommended more training to the relevant authorities. Moreover, there are institutions with investigation and legal capabilities to prosecute TF, in the event of such situation.

10. TF financial sanctions and preventive measures	Moderate

80. Authorities have the necessary legal framework to comply with the relevant UNSC resolutions and monitor their compliance. However, the monitoring should be more rigorous as some relevant authorities still do not completely understand their part in the compliance with such UNSC resolutions. 81. Likewise, obliged subjects have limited understanding of their obligations regarding targeted financial sanctions and the importance of their role within implementation process of the UNSC Resolutions related to terrorism. Therefore, they do not pay as much attention to the compliance of these obligations as they do with ML prevention. 82. Likewise, NPOs do not completely understand how they might be abused with TF purposes and the relevance of complying with their obligations on the matter. Nevertheless, an important sector of NPOs is supervised by the Unit for Registering and Monitoring Civil Associations (URSAC, for its Spanish acronym), although it is necessary to strengthen the measures of authorization to operate, as well as those related to transparency.
11. FP financial sanctions **Low**
83. Honduras has begun to adapt its legal framework to expressly include measures for the prevention of the financing of proliferation. Authorities agree that the current legal framework could be applied in a supplementary manner due to the interpretation of the law. 84. Nevertheless, relevant authorities and obliged subjects have little or no information on the phenomena; in this sense, there is an urgent need to implement awareness measures both, for public and private sectors. Moreover, there are no adequate procedures for the identification and freezing of resources linked to the proliferation of weapons.

Table of compliance with FATF's Recommendations

Compliance with FATF's Recommendations		
Recommendation	**Qualification**	**Factors that justify the qualification**
1. Assessing risks and applying a risk-based approach	PC	The regulation does not establish the frequency with which the NRA should be updated and it does not define the aspects of public access or the dissemination means of its results. The allocation of resources to the agencies of the AML/CFT system does not seem to be consistent with the risks that the agencies face. Obliged subjects have not documented their risks.
2. National cooperation and coordination	LC	There are no regulations that precisely define the powers and functions of the CIPLAFT.

3. Money laundering offense	LC	Some predicate offense categories are not explicitly included such as, the illegal trafficking of stolen goods, falsification and piracy of products.
4. Confiscation and provisional measures	C	
5. Terrorist financing offense	LC	Honduras should ratify the Convention on the Physical Protection of Nuclear Materials, as well as other relevant treaties, so that the behaviors punished in the international sphere are punishable locally.
6. Targeted financial sanctions related to terrorism & TF	LC	It is necessary to provide more clarity to the mechanism established to carry out designations based on relevant UNSCRs, as well as to have access to funds to cover basic needs and other expenses, as allowed by the UNSC resolutions.
7. Targeted financial sanctions related to proliferation	PC	The applicable measures for the prevention of proliferation of weapons of mass destruction should be expressively included in the legal framework, as they should not result from the supplementary implementation or from an interpretation of law. The current regulations must establish measures and mechanisms in accordance with the relevant resolutions of the UNSC in harmony with the Honduran legal system.
8. Non-Profit organizations	LC	There are no outreach programs the NPOs sector in order to raise awareness on the TF risks to which they may be exposed.
9. Financial institution secrecy laws	C	
10. Customer due diligence	LC	There is no requirement that allows for not to pursue CDD in case that may tip-off the customer.
11. Record keeping	C	
12. Politically exposed persons	LC	The applicable measures for national PEPs are not extended to their family members and closed associated.
13. Correspondent banking	C	
14. Money or value transfer services	C	

15. New technologies	C	
16. Wire transfers	PC	Lack of clarity as regards the implementation of regulations to all the operations. The established thresholds do not comply with those established by the Recommendation. The law does not establish procedures for determining when to execute, reject or suspend a transaction due to lack of information, and appropriate follow-up actions.
17. Reliance on third parties	PC	There is lack of regulation to clarify the relying limits, such as how the reliance applies in the case of financial groups acting in Honduras and the requirements for this process.
18. Internal controls and foreign branches and subsidiaries	LC	There are no explicit requirement regarding training on TF. Requirements do not establish that the strict standard must be implemented for those financial or business groups that operate in different countries.
19. Higher-risk countries	C	
20. Reporting of suspicious transactions	C	
21. Tipping-off and confidentiality	C	
22. DNFBPs: Customer due diligence	LC	There are no requirements applicable to DNFBPs with regard to PEPs identification and enhanced monitoring.
23. DNFBPs: Other measures	PC	There are no regulations for DNFBPs regarding internal controls such as continuous training and personnel selection processes. Requirements of Recommendation 18 applicable to dealers in precious metals and stones have not considered in the regulations applicable to dealers in precious metals and stones. There are no regulations related to business relationships with customers located or from countries in which the FATF has requested the implementation of counter-measures.

24. Transparency and beneficial ownership of legal persons	NC	The country lacks mechanisms for basic information and identification of beneficial ownership of legal persons. Said information is not accurate or timely updated. There are no limits for the issuance of bearer shares in order to comply with the mechanisms established in the Standard. There are not enough mechanisms to prevent the misuse of nominative shares, such as blank endorsement.
25. Transparency and beneficial ownership of legal arrangements	LC	The sanctions for specific non-compliance related to trusts are not the same in terms of ML or TF.
26. Regulation and supervision of financial institutions	LC	The ML/TF risks have not been identified with regard to financial institutions that provide money or value transfer services, or currency exchange services.
27. Powers of supervisors	C	
28. Regulation and supervision of DNFBPs	PC	There are shortcomings with regard to powers to prevent criminals and their accomplices from obtaining accreditations, possessing, controlling or managing an obliged subject of the non-financial sector. In some sectors, the requirements do not address the issue of beneficial ownership.
29. Financial intelligence units	LC	There is no strategic analysis that develops red flags and typologies updated to the reality of Honduras. There are no powers to provide feedback to obliged subjects and supervisors to improve the quality of STRs.
30. Responsibilities of law enforcement and investigative authorities	C	
31. Powers of law enforcement and investigative authorities	C	
32. Cash couriers	C	
33. Statistics	PC	The regulations do not require the Public Prosecutor to keep statistics, although it does in practice.

		There is no evidence of updated statistics requirement in all the cases. There is no national centralized body in charge of producing statistics.
34. Guidance and feedback	NC	It is not clear whether the FIU and supervisors can provide feedback to all the obliged subjects regarding the compliance of directives.
35. Sanctions	PC	The sanctions for DNFBPs and NPOs are not clear.
36. International instruments	LC	There are not optimal mechanisms for the implementation of provisions of the different agreements entered into.
37. Mutual legal assistance	LC	It is not clear which are the central authorities for the agreements and treaties signed and agreed, and it is not possible to determine which the applicable confidentiality regulations are. There is no formalized procedure to prioritize and processes mutual legal assistance requests.
38. Mutual legal assistance: Freezing and confiscation	LC	There are not clear provisions regarding the sharing of assets identified, based on measures implemented under an international request.
39. Extradition	LC	The procedures are not clear, especially those related to passive extradition.
40. Other forms of international cooperation	LC	There are no regulations related to sending feedback to counterpart institutions (such as FIUs), with which information is exchanged or it is cooperated.

MUTUAL EVALUATION REPORT OF THE REPUBLIC OF HONDURAS

Preface

85. This report summarizes the AML/CFT measures in place in Honduras at the time 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 in Honduras, and issues recommendations on how to strengthen some aspects of the system.

86. This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on the information provided by Honduras and information obtained by the assessment team during its on-site visit on June 1st-12th, 2015.

87. The evaluation was conducted by an assessment team consisting of: Luna Montes, Assistant Manager of Analysis, Regulation and Cooperation of the Superintendence of Insurance of the Republic of Argentina, financial expert; Vinicius Santana, General Coordinator of Tactical Analysis of the Council for Financial Activities Control (COAF, for its Portuguese acronym) of Brazil, operative expert; Andrés Rodríguez Álvarez, Legal Advisor of the Directorate of the Financial Information and Analysis Unit of Colombia, legal expert; Mileidy Bernal Campos, Deputy Director of Regulatory Affairs of the Financial Intelligence Unit of Mexico, operative expert; and Farida Paredes Falconi, Lead Supervisor of Risks of the Superintendence of Banking, Insurance and Private Administrators of Pension Funds of Peru, financial expert. From the Executive Secretariat of GAFILAT, the Technical Experts Guillermo Hernández and Andrea Garzón participated. The report was reviewed by Yara Esquivel, Financial Specialist of the World Bank; Mariano Federici, Regional Advisor of the International Monetary Fund and Kevin Vandergrift, Senior Policy Analyst of the Secretariat of the Financial Action Task Force (FATF).

88. Honduras, previously underwent a mutual evaluation carried out by the World Bank, and the Evaluation Report was discussed and approved by the Caribbean Financial Action Task Force (CFATF) in August 2009, and was carried out in accordance with the 2014 FATF Methodology. Taking into consideration the significant regulatory change Honduras has had since the previous evaluation, this evaluation reviews the criteria in accordance with the 2013 Methodology.

89. The Mutual Evaluation of 2009 concluded that the country was compliant with 6 Recommendations, largely compliant with 6 Recommendations, partially compliant with 15 Recommendations and did not comply with 22 Recommendations. The conclusion was reached that it was compliant or largely compliant with 6 of the 12 Core and Key Recommendations. As a consequence of the evaluation, the country was placed in a follow-up process by the FATF from October 2010 to February 2012.

I. ML/TF RISKS AND CONTEXT

91. The Republic of Honduras is located in Central America and has coasts in the Pacific Ocean and the Caribbean Sea; it shares borders in the Southeast with Nicaragua, in the Southwest with El Salvador and in the Northeast with Guatemala. Honduras is politically and administratively divided in 18 departments, which are subdivided in 298 municipalities. It is a free, democratic, sovereign and representative republic that has three branches of government: the Legislative, the Executive and the Judicial.

92. In accordance with the World Bank's figures, the Gross Domestic Product (GDP) of Honduras in 2013 was of $18.55 billion dollars and its GDP per capita was of $2,290 dollars which, although the standards of said body defines the country as "medium low" income, it is one of the poorest countries of the region. It is a country whose migratory flows are mostly destined to the United States and it is the second Central American country with the highest population in the United States, with more than 633 thousand inhabitants[1]. This means that remittances accounted for approximately 19% of the GDP, according to data from 2009 and in accordance with figures of the Central Bank of Honduras, and 62.8% of remittances are destined to the current expenditure for the consumption of families.

93. The government is exercised by three branches that collaborate with each other. The Legislative branch develops the constitutional order and the Executive and the Judicial branches enforce the law as follows:

94. The Legislative branch approves, amends, abolished laws, and interprets them in general manner. It deliberates public matters and is exercised by a Congress of Deputies or representatives of each of the departments in which Honduras is divided.

95. The Executive branch, through the President of the Republic, enforces the law, manages the country and serves the national public needs, such as: health, education, communications, roads, security, which the Executive meets through centralized bodies called Secretaries of State. Moreover, it provides specific public services, such as electricity, drinking water and housing through decentralized bodies.

96. The Judicial branch enforces the law in special cases and in cases of conflict between individuals or the State. It is formed by a Supreme Court of Justice, the courts of appeals and the courts of first instance established by law.

97. The Honduran population mostly carries out agricultural activities, apart from trade, manufacturing, finances and public services, among other activities.

A. ML/TF Risks

98. Although ML/TF risks will be described below, it is important to mention that Honduras has endeavoured to show a high political commitment as regards efforts to address and prevent ML/TF, which is emphasized by the NRA. The threats and vulnerabilities identified in the NRA developed with the support by the IADB are, to certain extent, related to previous documents such as the Vision of the Country 2010-2038 and the Plan of the Nation 2010-2022.

[1] According to the information of the 2010 population census of United States which considers Honduran inhabitants with a regular migratory status. There are no official statistics on the number of Hondurans living in the United States illegally.

Threats

99. In Honduras, there are high crime levels: a high degree of violence and presence of organized crime.

100. According to the NRA, "with the information gathered and the reports received from international organizations, Honduras is one of the countries with the highest levels of crime. This is shown both in the commission of all types of offenses and in the violent deaths derived from these offenses."

101. "Regarding the violent deaths that have occurred in the country, there are multiple statistics that show their severity. According to data provided by the National Human Rights Commissioner, in the last 15 years there have been approximately 65,000 violent deaths in the country, going from a rate of 30.7 homicides per 100,000 inhabitants in 2004 to 85.5 homicides per 100,000 inhabitants in 2012." However, during the last years, these figures have considerably decreased.

102. The NRA explains: "these violence levels are generally related to the commission of other type of offenses, such as drug trafficking, extortion, robbery or migrant smuggling." The commission of all these crimes entails obtainment of illegal profits that are subject of money laundering. This poses a serious threat for the integrity of the country.

103. The existence of these criminal rates, along with the intelligence knowledge on the activities of criminal networks, allows concluding that organized crime presence in the country is high. The establishment of *maras* or other types of organizations has a negative impact in the activity of the country and seriously threatens its development. Among the activities carried out, apart from drug trafficking, it is important to mention extortion against many sectors of the society, mainly the transportation sector due its impact in violent deaths. All these circumstances allow for the determination that high criminality is a serious threat for money laundering.

Vulnerabilities

104. The NRA identified that the level of compliance of obliged subjects, both financial sector and non-financial activities, is poor with regard to the standards. Financial institutions perceive that their compliance with AML/CFT/CFPWMD obligations is optimal, although the authorities that were part of the NRA process expressed doubts about their real capacity to detect ML/TF operations. Regarding non-financial activities, their regulation and supervision are incipient, as the law non-financial activities was enacted recently. It is important to mention that lawyers and notaries do not agree with being obliged subjects and expressed that they should not be subject to any requirements established by the law. This represents a lack of awareness related to their role regarding AML/CFT.

105. There is perception of lack of technological capacity and human resources in the institutions in charge of preventing, investigating and prosecuting ML/TF.

B. Materiality

106. The NRA acknowledges that "Honduras is a country located in Central America and is relatively close to Mexico and the United States of America (the latter being the final destination of drugs). This location places the country as territory for the transit of drugs, which are cultivated and treated in South American countries and need to be taken to the final consumer in North American. The transport occurs by land, sea and air. Giving the topography of the country, the permeability of its borders and the extension of its seas, this makes Honduras especially vulnerable. This contributes the fact that there are areas of the country that have a weak presence of public institutions and are located in inhospitable areas of difficult access. These

areas are readily available for drug trafficking networks to be used for the transformation of cocaine paste into elaborated drugs, in labs that can be located in places outside the control of authorities. On the other hand, just as drugs go north, it is foreseen that part of the profits will go south, also passing through Honduras."

107. Another element that contributes to the materiality is impunity. The international body Human Rights Watch rates the impunity in Honduras as a serious problem. The NRA uses the estimated data that show that only approximately 4% of offenses and violent deaths are resolved. Nevertheless, Honduras showed that due to several repressive measures, the homicide rate of the country has progressively dropped by approximately a 27% from 2013 to May 2015. A comparative analysis made between January and May showed that the homicide rate per 100,000 inhabitants was of 34 homicides in 2013, and dropped to 23.8 homicides in May 2015.

C. Structural Elements

108. A structural and cross-cutting element that increases ML/TF risk in Honduras is corruption. On the one hand, corruption is identified as a threat as it is an offense that its profits can be laundered in Honduras. The NRA highlights that "the recent cases of public corruption detected in the country, which a paradigmatic case refers to the situation detected in the Honduran Institute of Social Security, put a strain on the development of the country. According to international organization, Honduras ranks near the top in the classification of public corruption by country."

109. Moreover, the corruption of institutions is a factor that contributes to the materialization of ML/TF. For example, the degree of connection between members of police and judicial bodies with criminal activities. As the NRA mentions, "a filtering process has been under development for the last two years in the Honduran National Police, which has been accelerated in 2014. Due to this process, around 20% of its members have been separated from the Police and through different tests; the potential relationship with criminal networks is checked. This type of processes shows the willingness of authorities to "clean" their police forces, indication that there is an increased degree of corruption among the members of this force. Likewise, different actions have been taken to sanction different judges for their relation to organized crime.

110. Both situations show the existence of collusion of justice officials with organized crime and entail a significant vulnerability to the integrity of the country."

111. The factors that make corruption a structural element, as highlighted in the NRA are, among others, the following: "lack of awareness of the hazards of corruption, weakness of public institutions, lack of processes aimed at controlling public activity or the capacity of organized crime networks to generate corrupt behaviors."

D. Other Contextual Factors

112. The NRA also identifies the following:

113. "Characteristics of the Honduran labour market: labour market data provided by the National Statistics Institute shows that a significant segment of the population is employed in activities that are paid below the minimum wage and another significant segment of the population carries out activities in a partial way (visible and invisible underemployment rate of 52.5%). All of this implies the existence of large segments of the population that lack the necessary means to ensure regular subsistence, resulting in an increased likelihood of involvement in criminal activities."

114. "High levels of poverty: the information provided by the National Statistics Institute shows that the percentage of poor households amounts to 64.5%, while the percentage of extreme poverty amounts to 55.6% of the population. As in the previous case, this situation fosters illicit activities by segments of the population for their livelihood.

115. "Lack of security in justice operators: In any country, in order to fight crime, an important factor is to provide security to justice operators as allows for the performing of functions without interferences or pressures that might affect proper delivering of justice or investigation. This need is critical in a country like Honduras, which has high levels of violence and security is a key element to prosecute crimes with greater guarantees. Recent attacks to prosecutors and other justice operators show that they have become a target of criminal gangs. They have themselves expressed their concerns about the lack of security received and leaks of information leaks regarding their actions which put their integrity in danger, and also affect negatively the course of their operations."

116. Informality: the Honduran economy presents a high component of informality, mainly due to the high unemployment rates and the low incomes perceived in formal activities. According to the indicators regarding financial inclusion of the World Bank's Global Findex, the level of bancarization has increased from 20.5% to 31.5% between 2011 and 2014. Remittances represent a high percentage of the GDP and, according to the World Bank; they stand between 15.76% of the GDP for 2012 and 16.95% of the GDP for 2014.

117. Nevertheless, since 2010, and especially since 2014, the country has been issuing regulations and legislations aimed at addressing the detected threats and vulnerabilities. New entities have been created to fight organized crime, evasion and extortion, and inter-institutional agreements have been signed. This shows the commitment and development of strategies to mitigate the risks identified.

E. Scoping of Higher Risk Issues

118. As it will be presented later, Honduras has worked to understand the risk particularly ML related. The NRA identified several risks and authorities have made efforts to reduce the vulnerabilities identified. The following were the risks of greater importance at the time of the on-site visit.

119. It is evident that the main threat in Honduras is organized crime and resources are dedicated to fight this phenomenon, together with ML. Terrorism and TF do not represent a significant threat for the country.

120. The following list includes the issues that have been considered of higher risk. Therefore, they were examined with detail during the on-site visit and in the Mutual Evaluation Report (MER).

121. The high rates of organized crime in the country, mainly related to drug trafficking, extortion and human trafficking by criminal groups, both national and transnational, especially drug cartels and "*maras*". In this sense, it was deemed necessary to analyse the reaction of authorities when linking the previously described activities with ML/TF.

122. The high rates of corruption in public institutions draw the attention to corruption as a threat, and structural element.

123. DNFBPs result mainly vulnerable.

124. The vulnerability represented by the weaknesses in the registration and update of information on legal persons.

125. Obliged subjects with currency exchange activities, as well as sending and receiving wire transfers and remittances, as this sector can be abused into send proceeds of crime given the migration of Hondurans to other countries.

126. Verify that in the TF risk assessment obligated subjects are dully considered and that the measures implemented to that effect respond to the risks identified.

II. AML/CFT POLICIES AND NATIONAL COORDINATION

127. Honduras has made efforts to identify and understand the ML risks to which it is exposed, focusing on those related to organized crime that are originated from drug trafficking and are later manifested in extortion, corruption of officers, and tax evasion.

128. A first approach to the identification and analysis of risks can be found both in the Vision of the Country 2010-2038 and in the Plan of the Nation 2010-2022, submitted to the National Congress in January 2010, as well as in the results of the NRA developed by the IADB during 2014 and which results were submitted to the country in April 2015.

129. As for TF risk, the authorities have established it is low. Among other aspects, it took into consideration the local and regional characteristics and observed that the TF threat has an external character; the financial system has a limited offering of sophisticated financial instruments, i.e. few international transfers are made; identification of the origin and destination of remittances, that are used in 96.8% of the cases for domestic consumption of households; as well as several mechanisms established by the country to prevent and prosecute potential cases of TF

130. Nonetheless, in order to have a proper understanding of both LA and TF risks by Honduras, it is required the involvement of the obliged subjects (private sector), particularly the DNFBPs (which at the time of the on-site visit lacked supervision) and NPOs in the whole process, both analysis and communication of the results of the process.

131. The institutional framework of the AML/CFT system was recently updated, by the Special Anti-Money Laundering Law enacted and issued through Legislative Decree no. 144-2014 on January 13th, 2015, published in the official gazette *La Gaceta* on April 30th, 2015 and which came into force on May 30th of the same year.

132. The CIPLAFT created through Executive Decree no. PC-024-2004 and attached to the National Defense and Security Council, advises the Council on public policies related to the prevention, control and repression of ML and TF offenses.

133. As public policy of national defense and security, the country has implemented a strategy of inter-agency cooperation that prioritizes the economic, asset and financial dismantling of the structures of organized crime. Honduras acknowledges that the main threats are related to the drug trafficking, corruption and extortion, and that the most effective way of fighting them is to coordinate with the different law enforcement agencies, such as the Public Prosecutor, the financial police, the FIU, intelligence agencies and specialized military forces. The purpose of such coordination is to economically dismantle and weaken criminal organizations. Subsequently, through the disclosure of cases of significant impact, the objective is for these organizations to lose their capacity of manoeuvre and operational power and, this way, capture their leaders. In spite of the former, it is also required strengthening the capacity of the agencies to coordinate and cooperate adequately, especially by the establishment of formal mechanisms and procedures.

A. Background and Context

General view of the AML/CFT strategy

134. The AML/CFT strategy developed by Honduras is originated in the *"Vision of the Country 2010-2038 and the Plan of the Nation 2010-2022"*, documents submitted to the National Congress in January 2010. These consider as objectives, the reduction of levels of crime as below to the international average and

improvement of the border protection as a condition for the external dissuasiveness and the increase of internal trust. The strategic guidelines and objectives of the Action Plan highlight the importance of fostering citizen security as a requirement for the development of the country.

135. In general terms, the AML/CFT strategy does not come from a single national ML/TF risks assessment exercise, –developed in 2014 and its results were submitted in April 2015–. The Strategy results from the evaluations carried out and incorporated in the Vision of the Country 2010-2038, as well as different strategic plans of the institutions that are part of the AML/CFT system. According to the information provided and to the on-site interviews, it is evident that the components of the AML/CFT strategy that have been aimed at attacking the vulnerabilities and threats that resulted from the process of the NRA are the following:

- Amendment of the Anti-Money Laundering Law to include all the ML predicate offenses.
- Modification of the functions of the National Defense and Security Council (CNDS, for its Spanish acronym) and the Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT, for its Spanish acronym).
- Creation of maritime, aerial and terrestrial shields to prevent the inward and outward movement of illegal goods, as well as cash and other assets linked to ML/TF.
- Updating of the border systems for the migratory control, inward movement of cash and prohibited goods.
- Creation of the National Inter-Agency Security Force (FUSINA, for its Spanish acronym).
- Creation of the National Anti-Evasion Force and the National Anti-Extortion Force.
- Creation of the Permanent Inter-Institutional Technical Commission on Chemical Precursors and Synthetic Drugs.
- Creation of the Inter-Agency Anti-Corruption Commission.
- Creation of the access platform to the database of the National Intelligence System.
- Empowerment of the Administrative Office of Seized Property (OABI, for its Spanish acronym).
- Inter-institutional coordination among the agents of the AML/CFT system.
- Modification of the supervision scheme implemented for obliged subjects, both financial institutions and particularly DNFBPs.

136. There is a strategy as regards the fight against ML originated from organized crime and other offenses. With regard to TF and terrorism the priority given is different from that of ML, due to the low risk level established by the country. No risks have been acknowledged in relation to the financing of proliferation of weapons of mass destruction.

Institutional framework

137. The institutional framework of the AML/CFT system was recently updated. The Special Anti-Money Laundering Law was issued through Legislative Decree no. 144-2014 on January 13th, 2015, published in the official gazette *La Gaceta* on April 30th, 2015 and which came into force on May 30th of the same year.

138. Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT): created through Executive Decree No. PC-024-2004. It was originally dependent on the National Council against Drug Trafficking. However, since the enactment of the "Special Anti-Money Laundering Law", created through Decree no. 144-2014, it was established directly under the National Defense and Security Council (CNDS), regulated through Decree no. 239-2011 "Special Law of the National Defense and Security Council". The CNDS consists of the President of the Republic, the President of the National Congress, the President of the Supreme Court of Justice, the Attorney General, the Secretary of State in the Ministry of Security and the Secretary of State in the Ministry of Defense.

139. One of the functions of the National Defense and Security Council is to "design strategies for the prevention, combat, investigation and sanction of criminal behaviors in any form, coordinating the necessary and relevant actions among the different entities with competence in the matter". Formed by the highest authorities of the country, the CNDS is the body in charge of defining the national strategies to address ML/TF phenomena. In this framework, the CIPLAFT, as operational body of the CNDS, is in charge of advising the Council on public policies related to the prevention, control and repression of ML and TF offenses. It is formed by:

- The President of the National Commission of Banks and Insurance (CNBS, for its Spanish acronym)
- The Executive Director of the Administrative Office of Seized Property (OABI, for its Spanish acronym).
- The Secretary of State in the Ministry of National Defense.
- The Secretary of State in the Ministry of Finance.
- The Secretary of State in the Ministry of Justice, Human Rights, Governorship and Decentralization.
- The Secretary of State in the Ministry of Security.
- The Executive Secretary of the National Defense and Security Council.
- The coordinator for the regulation of DNFBPs of the National Commission of Banks and Insurance (CNBS).

140. The CNBS is in charge of the coordination of the CIPLAFT through its President. The FIU is in charge of the CIPLAFT's Technical Secretariat. The regulations of the commission must be submitted in a maximum period of 120 days as from May 30th, 2015.

141. The Judicial branch: branch of the State in charge of delivering justice on behalf of the State through independent magistrates and judges, only subject to the Constitution and the laws. The Judicial branch is formed by a Supreme Court of Justice, Courts of Appeals, Courts of First Instance and other offices established in its organic law.

142. Public Prosecutor Office: particularly as regards the fight against organized crime, drug trafficking and other crimes related to ML; it is highlighted the role of the Specialized Prosecutor's Office in Organized Crime (FESCCO, for its Spanish acronym) and the coordination carried out with other actors, such as the CNBS.

143. National Commission of Banks and Insurance (CNBS): it is in charge of the monitoring and supervision of banking, finance, insurance, pensions, securities institutions and other related to the management, exploitation and investment of resources collected from the public. It also monitors the implementation of the ML and terrorist financing prevention systems by obligated subjects, and enforces the laws that regulates these activities.

144. Superintendence of Trading Companies: entity attached to the Ministry of Finance, created through Executive Decree no. PCM-017-2011, published on April 9th, 2011; it is in charge of the supervision, registration and control of trading companies.

145. Executive Directorate of Revenue (DEI): autonomous body in charge of raising and managing internal and external taxes, and of implementing customs controls; directly attached to the AML system through the fight against tax evasion by means of increasing tax and custom controls, which appears as one of the strategic objectives for the period 2014-2017.

146. Financial Intelligence Unit (FIU): Decree no. 3-2008 modified Decree no. 45-2002, thus creating the Financial Intelligence Unit (FIU) as an office of the CNBS that had a representative from the Public Prosecutor on a permanent basis. It will also act as a means for the Public Prosecutor or the competent authority to obtain information related to the investigation of the offenses established in the Anti-Money Laundering Law. Resolution GA no. 552/21-05-2015 modified its name to the one currently used and the organizational structure, incorporating new operational units and taking on the comprehensive supervision of DNFBPs.

147. Administrative Office of Seized Property (OABI): created by Legislative Decree no. 113-2011, published on July 8th, 2011 as an office of the Executive branch attached to the Ministry of State of the Presidential Office. Its main functions are to keep, guard and manage seized, confiscated or abandoned property put at its disposal by the competent authority.

148. Other bodies: the police and military forces are also part of the AML/CFT system, such as:: National Inter-Agency Security Force (FUSINA, for its Spanish acronym); National Anti-Evasion Force; National Anti-Kidnapping Force; Inter-Agency Airport Security Force (FISA, for its Spanish acronym); Permanent Inter-Institutional Technical Commission on Chemical Precursors and Synthetic Drugs, among others.

Cooperation and Coordination Agreements

149. Different cooperation and coordination agreements have been signed between the different institutions relevant to the national AML/CFT strategy, some of which can be broadened to include to combat the financing of proliferation. These agreements, as well as the results obtained as regards the dismantling of economic structures of organized crime, show the existing coordination among the different institutions. The following agreements stand out:

150. Inter-Institutional Cooperation Agreement between the Public Prosecutor and the CNBS regarding cooperation for the analysis, interpretation of documents and specialized audits required in the investigation processes, entered into on October 11th, 2005.

151. Inter-Institutional Agreement between the Public Prosecutor and the CNBS regarding information handling related to unusual transactions, entered into on January 11th, 2006.

152. Inter-institutional Cooperation Agreement to fight corruption, entered into on March 8th, 2015 between the Judicial branch, the Public Prosecutor, the Executive branch through the General Government Coordinating Secretary, the CNBS, the Office of the General Prosecutor of the Republic, the Supreme Court of Accounts and the Executive Directorate of Revenue (DEI).

153. Administrative Agreement between the Supreme Court of Accounts and the CNBS, entered into on February 28th, 2005, extended on December 4th, 2012, with the objective of establishing mechanisms for the exchange of available information between both institutions for the exercise of their corresponding functions.

154. Inter-Institutional Assistance and Cooperation Agreement between the Public Prosecutor and the DEI to combat corruption, tax crimes and illegal financial activities in Honduras. It establishes actions to combat corruption, tax crimes and the training of similar units of both bodies. This agreement signed in September 4th, 2000.

155. Inter-Institutional Cooperation Agreement to fight tax evasion and corruption. It was established between: the DEI, the Secretary of State in the Ministry of Security, the Secretary of State in the Ministry of Governorship and Justice through the General Directorate of Migration and Aliens; the Public Prosecutor of

Honduras; the National Port Authority; the Supreme Court of Accounts; the National Federation of Honduran Customs Agents (FENADUANAH, for its Spanish acronym), the Honduran Association of Companies and Naval Representatives (AHCORENA, for its Spanish acronym); the company Swiss-Port; GBE-Honduras S. A.; the Honduran Council of Private Enterprise (COHEP, for its Spanish acronym); and the National Federation of Commerce and Industry (FEDECAMARA, for its Spanish acronym). The objective of this multilateral agreement is to establish a general cooperation framework between the signatory bodies to coordinate efforts in the development and compliance of the institutional objectives as regards fraud and custom offenses. Among the institutional commitments of each body, there is that of disclosure of information on illegal activities detected in each of the bodies, the provision of technical personnel to clarify doubts and to be witness or expert witness. It was subscribed in November 2007.

156. Technical Cooperation Agreement between the Administrative Office of Seized Property and the National Agricultural Institute (INA, for its Spanish acronym), which establishes cooperation objectives between both institutions for the administration of property seized by the OABI on agricultural issues. This agreement was subscribed on August 6th, 2015. Likewise, the OABI has entered into agreements with the National Agricultural University (UNA) and the National School of Forestry Sciences (U-ESNACIFOR, for its Spanish acronym).

157. On the basis of the institutional framework and the agreements entered into, different documents have been developed that articulate and seek to formalize the relations and activities of the different AML/CFT agents. The following stand out: the "Financial and Accounting Investigation Guidance", developed by the CNBS, the National Police, the Public Prosecutor, the National Investigation and Intelligence Directorate, which first version was published in November 2014, and the "Asset Forfeiture Manual", developed by the Public Prosecutor, the Judicial branch, the CNBS, the National Police and the Administrative Office of Seized Property (OABI).

158. It is also important to mention the agreements between the OABI and different public bodies, such as the one with the National Agricultural University to provide materials and equipment to said educational institution, and to strengthen the productive agricultural sector through Field Schools located in some communities of Olancho, developing the supply of young bulls and fattening heifers. In the framework of the latter project, 1,208 livestock were supplied.

Risk Assessments of the Country

159. In April 2014, the ML/TF NRA was initiated by the advisor team designated by the IADB, with the objective of defining the main ML/TF threats and vulnerabilities, in order to develop a National AML/CFT Strategy and to implement a mechanism to enable the regular update of the risk matrix of the country.

160. The NRA report was submitted to the country on April 6th, 2015 and it was approved through CNBS Resolution no. 547-201. This document is confidential and will be partially disclosed to the sectors that are part of the AML/CFT prevention system. The CNDS will be in charge of developing the National Strategy for ML/TF Prevention, Control and Combat. It will also be in charge of defining the frequency with which the NRA will be updated.

161. The threats and vulnerabilities identified in the NRA developed by the IADB are, to a certain extent, consistent with the risks considered in the Vision of the Country 2010-2038 and in the Plan of the Nation 2010-2022, which are also reflected in the creation of new entities aimed at fighting organized crime, evasion and extortion, and in the inter-institutional agreements entered into.

B. Technical Compliance

162. Recommendation 1 is rated as Partially Compliant.

163. Recommendation 2 is rated as Largely Compliant.

164. Recommendation 33 is rated as Partially Compliant.

C. Effectiveness: Immediate Outcome 1 (Risk, Policy and Coordination)

Knowledge of the country of its ML/TF risks

165. Honduras has made efforts to identify and understand the ML/TF risks to which it is exposed. The main mechanism for risk understanding used by Honduras was the NRA. The NRA is focused on those risks related to organized crime that are originated in drug trafficking but that are later manifested in phenomena that go from extortion to corruption of officers, as well as tax evasion. The identification and analysis of risks of the NRA which results were submitted to the country in April 2015 are, to certain extent, consistent with the actions expressed in the Vision of the Country 2010-2038 and in the Plan of the Nation 2010-2022, submitted to the National Congress in January 2010.

166. Both documents provide detailed information of the problems resulting from organized crime, the effect of the low schooling and education index of the population, the employment creation and other aspects linked to social welfare. Moreover, it was considered that the advance of petty crimes and organized crime contribute to the lack of governance of the country, since the security of the population is a requirement for the development of the country.

167. As for the TF risk, based on the NRA, Honduras, particularly its authorities, carried out an analysis and understanding of the TF threats and vulnerabilities, and understood that its exposure to the TF risk is low, based on different aspects, including the following:

168. From the perspective of threats, and as pointed out in the NRA, the following was identified through the sources of information used in this process:

- At a local and regional level, no presence of terrorist organizations has been shown and no TF activities have been identified,. As regards to TF threats of external origin, one of the sources included in the NRA, the Department of State of the United States of America pointed out in 2013 that the threat of a transnational terrorist attack in this part of the world is low. Moreover, this report establishes that there are no operational cells of Al-Qaeda or Hezbollah in the region. The report of the aforementioned institution for 2014 points out that there is an informed knowledge that terrorist groups do not affect the region as the way they can affect other parts of the world. Specifically, Honduras is not mentioned as a jurisdiction with potential threats regarding terrorism.

- One way of tackling the potential external threat, among the many ways implemented by Honduras, is to implement an immigration alert system that enables a timely information as to when any person could possibly be connected to a case of terrorism or terrorist financing in another jurisdiction enters the country.

From the perspective of vulnerabilities, the NRA establishes that:

- The Honduran financial system is still being developed. It is not a complex economic and financial system, but a system characterized by few institutions with a very limited offering of sophisticated financial instruments, i.e., reduced number of international transfers, focusing on products related to savings and direct credit for individuals or legal persons.

- As for remittances and its potential connection with TF, the country takes into account the characteristics and importance of this product in its economy. Receiving and not sending remittances characterize Honduras economy. These come from United States in most cases as Hondurans migrate mostly to this country. According to the information provided by the Central Bank of Honduras, by January 2015, 96.8% of the remittances received were used for family expenses, and the remaining 3.2% were used for the acquisition or improvement of real estate. Moreover, remittance companies are obliged subjects compliant with the regulations of ML/TF prevention and supervised by the CNBS.

- The vulnerability related to cash illegally entering through borders has been attacked by maritime, aerial and terrestrial shields aimed at reducing the risk of Honduras being used as a cash transit point for TF. Moreover, regarding currency trading through borders, Honduras has shown that it has the powers and effective processes to detect and confiscate the cash, and to investigate and sanction offenders.

169. Given the meetings with the authorities, additionally to the factors taken into consideration in the NRA and the resulting evaluation, it was also considered that Honduras' conclusion regarding the risk level of TF is also supported by the following measures implemented:

- Honduras has an appropriate legal framework that empowers it to investigate, prosecute and take to court terrorism and its financing. As the Asset Forfeiture Act also applies to cases of terrorism and TF, it is also empowered to confiscate all the assets connected to that offense.
- The Law against the Financing of Terrorism establishes that, in the event of a request by a third country, Honduras can implement the seizing of assets, goods or instruments located in its jurisdiction related to the TF offense as a precautionary measure.
- It is important to mention that at the time of the visit, and based on the review of the international cooperation feedback sent by countries as established by the mutual evaluation procedures, it was observed that Honduras had not received international cooperation requests regarding TF.
- As regards obliged subjects, risk management programs include TF prevention. Financial institutions review international listings regarding countries that are highly exposed to terrorism and TF; if it is determined that there is a commercial relation, operation or customer connected to these jurisdictions, enhanced monitoring measures are implemented.
- As for Non-Profit Organizations (NPOs), it was observed during the visit that the Unit for Registering and Monitoring Civil Associations (URSAC, for its Spanish acronym) had cancelled almost half of the NPOs[2] registered due the lack of compliance with any of the requirements for its creation.

170. Nevertheless, it should be noted that to improve the understanding of ML as well as TF risks by Honduras, it is required a greater involvement of the obliged subjects, particularly DNFBPs (that at the time

[2] Currently, NPOs amount to 4.358. This implies a reduction of approximately 65% as regards the number of NPOs registered since December 2004.

of the onsite visit lacked supervision) and NPO, throughout the entire process, analysis and dissemination of the results of the ENR.

National policies and activities to combat ML/TF risk

171. The CIPLAFT has been created for the decision-making and support to the different members of the AML/CFT system in the adoption of policies and allocation of resources. The CIPLAFT was originally attached to the National Council against Drug Trafficking, and it currently depends on the National Defense and Security Council (CNDS). It is still pending the update and approval of the Regulations for the CIPLAFT to have the necessary institutional framework for decision making.

172. With regard to policies and measures that address the risks identified, given that drug trafficking is one of the most important risks to which the country is exposed, as well as trafficking of human beings and organized crime, work has been done on an approach that has developed actions, such as: the creation of maritime, aerial and terrestrial shields to prevent the inward and outward movement of illegal goods, as well as cash and other assets related to ML/TF; updating of the border systems for migratory controls, inward movement of cash and prohibited goods; and the creation of special forces.

173. The adoption of measures to mitigate and prevent these phenomena are reflected as well in the creation of different attack forces addressed at said phenomena, such as the National Anti-Evasion Force, the National Anti-Extortion Force, the National Inter-Agency Security Force (FUSINA); as well as in the coordination agreements entered into between the entities that are part of the AML/CFT system of the country. This process is currently undergoing a transition phase, as the AML/CFT system has been modified with the coming into force of the Special Anti-Money Laundering Law enacted through Decree no. 144-2014, published in January 2015, and that at the moment of the assessors visit to the country was undergoing a regulation process. Should such a case arise, the coordination mechanisms extend to terrorism and TF, as well as the FPWMD.

Excluded Activities and Implementation of Enhanced Measures

174. Based on the identification of its ML/TF risks, Honduras does not apply exclusions in relation to the activities that must be regulated as regards AML/CFT. As regards the implementation of simplified measures, financial institutions can implement these measures in the case of minor ML/TF risks, i.e., financial inclusion instruments, such as "Basic Accounts". There is a similar scenario with enhanced measures, as financial institutions implement enhanced measures when the ML/TF risk assessment determines higher ML/TF risk levels.

175. Nevertheless, this approach must be strengthened for DNFBPs, which regulatory framework has been recently modified through Decree no. 131-2014, which approved the Law for the Regulation of DNFBPs, and changes have been made as regards the supervision of these activities.

Objectives and Activities of Competent Authorities

176. As previously mentioned, the objectives and activities of competent authorities are consistent with the threats and vulnerabilities as regards ML/TF risks identified in the NRA, developed by the IADB, and have, to certain extent, relation to the risks taken into consideration and reflected in national policies in the Vision of the Country 2010-2038 and in the Plan of the Nation 2010-2022. This has been reflected in the creation of new entities aimed at fighting organized crime, evasion and extortion; the coordination commission against corruption; and inter-institutional agreements entered into.

177. Moreover, the different entities of the State have included in their operational plan activities or strategies that are consistent with the risks identified. For example, Objective 1 of the Strategic Plan 2015-2020 of the Public Prosecutor consists of *Strengthening the response to offenses against life, organized crime and corruption*, which line of action is to strengthen the Asset Forfeiture Unit of the Specialized Prosecutor's Office in Organized Crime (FESCCO). In an indirect manner, but as importantly to the AML/CFT effort, the Strategic Plan 2014-2017 of the DEI establishes as its first strategic objective *to combat tax evasion by increasing tax and customs controls*. However, these objectives have not taken into consideration the development and implementation of a system that allows for the development, updating and unification of statistics connected to the AML/CFT system.

Cooperation and Coordination

178. As public policy of national defense and security, the State has implemented a strategy of inter-agency coordination that prioritizes the economic, asset and financial dismantling of the structures of organized crime. Honduras acknowledges that the main threats are related to the trafficking of narcotic drugs, corruption and extortion, and that the most effective way to combat them is the coordinated work between law enforcement agencies, such as the Public Prosecutor, the financial police, the FIU, intelligence agencies and specialized military forces, whose mission is to economically weaken and dismantle criminal organizations through cases of significant impact, in order for these to lose their capacity of manoeuvre and operational power and, this way, capture their leaders.

179. Different cooperation and coordination agreements have been entered into between the different institutions and actors of the national AML/CFT strategy, such as the Inter-Institutional Cooperation Agreement between the Public Prosecutor and the CNBS regarding the cooperation for the analysis, interpretation of documents and specialized audits required in the investigation processes; the Inter-Institutional Agreement between the Public Prosecutor and the CNBS regarding the handling of information related to unusual transactions, entered into on January 11th, 2006; and the Inter-institutional Cooperation Agreement to fight corruption, entered into on March 8th, 2015 between the Judicial branch, the Public Prosecutor, the Executive branch through the General Government Coordinating Secretary, the CNBS, the Office of the General Prosecutor of the Republic, the Supreme Court of Accounts and the Executive Directorate of Revenue (DEI).

180. Examples of the foregoing are the joint investigations between the National Investigation and Intelligence Directorate; the Special Follow-up Unit of the Public Prosecutor; and the Financial Intelligence Unit in cases of embezzlement and corruption. The coordinated action between the different agencies enabled the development of cases such as that of the Honduran Institute of Social Security; the case of Carlos Arnoldo Lobo, also known as "El Negro"; the case of the Valle Valle brothers; and the case of Juan Ramon Matta.

Identification of ML/TF risks by the private sector

181. Financial institutions, some DNFBP sectors and other private sectors connected to the AML/CFT system participated and provided information for the development of the NRA, which will be shared after the definition by the National Defense and Security Council. In general terms, the private sector participated through round tables and questionnaires formulated by the IADB's team.

182. At the time of the on-site visit, obliged subjects did not know the results of the NRA. The knowledge of risks is not equal to all obligated subjects according to the information provided by them during the on-site visit. In the case of financial institutions belonging to an international financial group, the knowledge of risks is higher compared to other financial institutions. In the case of DNFBPs, the understanding of ML/TF risks was quite limited, specially due to the lack of supervision at the time of the on-site visit. As for actions

in accordance with the obligations regarding targeted financial sanctions, obliged subjects need a greater understanding of their obligations.

Conclusions of Immediate Outcome 1

183. The authorities of Honduras have made efforts to understand the ML/TF risks. The NRA of the country should be improved by including the DNFBP information, and it is required to formalize and coordinate actions on a national strategy. Results should be communicated to the private sector. There are instances for cooperation and coordination, but they should be institutionalized. It is necessary to effectively implement the supervision of DNFBPs and, create mechanisms that enable the understanding of the ML/TF risks by the obliged subjects. According to this, the country has a moderate level of effectiveness regarding Immediate Outcome 1.

D. Recommendations on National AML/CFT Policies and Coordination

184. As regards the risk assessment and the implementation of a risk-based approach, the country must define the frequency with which the NRA will be updated, as well as the aspects that will be of public access and/or disseminated to the relevant authorities and the private sector. Said information is essential for the evaluations that both financial institutions and DNFBPs will have to develop in the framework of the Special Anti-Money Laundering Law.

185. In subsequent NRA processes, the country must include DNFBPs and NPOs. Similarly, the country should communicate the results to all financial and nonfinancial obliged subjects in order to these results be incorporated into their own risk analyses and establish mitigating measures.

186. The country must formalize a process of continuous updating of the TF information, so that it can be monitored permanently in the framework of the risk-based approach and generate actions to seek understanding of risks by obliged subjects.

187. It is recommended that the country continues to develop measures related to the knowledge and supervision of ML and TF risks in the framework of the risk-based approach.

188. As regards national cooperation and coordination, the Regulations of the CIPLAFT must be updated for its functions and responsibilities to be clearly defined, such as the capacity to formulate national AML/CFT policies and the frequency of CIPLAFT meetings, among others aspects.

189. The country must strengthen its processes to develop and update statistics for the AML/CFT system.

190. The allocation of resources to the agencies of the AML/CFT system must be established based on their risks. Moreover, although the coordination mechanisms among the different agencies of the AML/CFT system are formalized, they have to be broadened to include not only government agencies but also the private sector.

III. LEGAL SYSTEM AND OPERATIONAL MATTERS

Key findings

191. Honduras has a FIU that carries out the intelligence cycle in a comprehensive manner. Prosecutors and legal operators, the sole final recipients of the FIU's information, expressed that the information provided by the Unit that carries out the financial intelligence of the country is useful, appropriate and relevant in the investigation and prosecution phases of ML, terrorist financing and asset forfeiture proceedings. However, the FIU must strengthen its analysis capacities through the development of strategic analysis and red flags, and typologies that are updated and adapted to the reality of the country. Likewise, an IT system that ensures secrecy and confidentiality must be implemented for the reception of STRs.

192. The crime definition of ML in Honduras establishes a threshold of criminal sanctions against individuals and legal entities that is effective, proportionate and dissuasive.

193. The Honduran AML/CFT system has the power to continue investigating and taking to court cases of sophisticated ML, which shows an internal inter-institutional organization and international cooperation. Currently, there are no enforced judgments related to sophisticated operations of MLML. Nevertheless, based on a criminal proceeding currently in progress, the assessment team observed that the Public Prosecutor of Honduras is prepared at a judicial and operational level to investigate and take to court complex cases and of significant national impact of ML that include an international component. Investigations derived from corruption and extortion cases are required to be linked to ML processes.

194. Special investigation techniques. In criminal investigations of ML and TF offenses, and in exercise of asset forfeiture, prosecutors can use special investigation techniques expressly authorized by law, such as controlled delivery, undercover agent and interception of communications.

195. Honduras has an efficient legal framework that enables it to seize and secure any type of illicit asset through the criminal confiscation and the asset forfeiture act. The confiscation of assets, instruments and properties of organized criminal structures is one of the pillars and objectives of the criminal policy aimed at maintaining the national defense and security.

196. There is a system of disclosure of currencies that enables the autonomous imposition of administrative fines, the initiation of criminal proceedings of ML and the initiation of asset forfeiture. The State of Honduras, through the Executive Directorate of Revenue (DEI), has established a mechanism for the disclosure of currencies and securities with a threshold of USD $10.000, as established in the international threshold. This disclosure system is implemented at airports, ports and terrestrial cross-borders. It is necessary to use these declarations in the processes of development of financial intelligence carried out by the FIU.

197. The State has a specialized entity that administers the properties and assets seized from organized crime, either by confiscation or asset forfeiture. The Administrative Office of Seized Property (OABI, for its Spanish acronym) is the high body in Honduras in charge of the guard, custody and administration of all the criminal properties, products and instruments seized and confiscated that the competent authority puts at its disposal in its exercise of the Asset Forfeiture Act, the Anti- Money Laundering Law, the Law on the Misuse, Illicit Trafficking of Narcotic Drugs and Psychotropic Substances, and the Law against the Financing of Terrorism.

198. Parallel financial investigations. In the cases of significant national impact that involve predicate offenses, such as drug trafficking, corruption or arms smuggling, the Specialized Prosecutor's Office in

Organized Crime (FESCCO, for its Spanish acronym) initiates parallel investigations on ML and asset forfeiture.

199. The Honduran security and intelligence forces have a technological platform that integrates several public and private databases, which enables the secure access in real time to useful information in the fight against ML, TF and State defense and security.

A. Background and Context

200. Honduras acknowledges that its main criminal threats are related to the trafficking of narcotic drugs, public corruption and extortion. The State, headed by the President of the Republic, acknowledges the evolution, mutability and economic power of *maras* and Honduran criminal organizations that present criminal synergies with international drug cartels and are mixed with its criminal economy and its asset structures. These criminal bands do not have political aspirations or ideological causes as cohesive elements, the Honduran organized crime arises, hangs over and maintains in time with the aim of obtaining resources and increasing the individual wealth of its members.

201. In view of this diagnostic and based on the experiences of the past, as a public policy of national defense and security, the government implemented in 2013 an inter-agency coordination strategy that prioritizes the economic, asset and financial dismantling of the power structures of organized crime. It considers that the most effective way to combat them is achieving a harmonic synergy between the different law enforcement agencies, such as the Public Prosecutor, the financial police, the FIU, intelligence agencies and specialized military corps, in order to economically weaken and dismantle criminal organizations through cases of significant impact, so that they lose their capacity of maneuver and operational power and, this way, take to court and convict their leaders. The State assumes that ML is not an isolated phenomenon, and that its prosecution and combat are part of the national security and defense policy.

202. As part of that comprehensive State policy, the National Defense and Security Council was created by law, formed by the highest levels of the Executive, the Legislative and the Judicial branches, standing as the maximum permanent body in charge of the design and supervision of strategies for the prevention, combat, investigation and sanction of criminal behaviors in any form, and of harmonizing the actions between the different operators in terms of security, defense and intelligence for the optimal performance of its duties.

203. Moreover, (i) the FIU was included as part of the intelligence community of the State, forming part of the Strategic Intelligence Committee; (ii) the National Information Center was created, which integrates the different public databases of interest for the national security and defense, to which the FIU has access; (iii) the National Inter-Agency Security Force (FUSINA) was implemented as the operational arm of the National Defense and Security Council; (iv) the Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT) was put into operation, which complies with the guidelines of the National Defense and Security Council; (v) the Special Tactical Operations Group (GOET) was organized as an elite troop of the National Police with the purpose of dismantling groups dedicated to drug trafficking, kidnapping, human trafficking and of seizing property that belongs to these organizations; (vi) the TIGRES (Investigation Troop and Special Security Response Group) Force was created, formed by members of the National Police and Armed Forces, which operations focus on combating the most powerful organizations of transnational organized crime and are accompanied by judges and prosecutors of the Public Prosecutor and who were trained by the government of U.S and Colombia; (vii) the National Anti-Extortion Force (FNA) was created, whose technical secretariat is in the FIU and which purpose is to neutralize and economically dismantle racketeer bands; and finally (viii) the National Anti-Evasion Force was put into operation in 2014 to attack tax crimes and smuggling, connecting it to ML.

204. All these coordination actions were reflected in the effectiveness of the results of the AML/CFT system of the Honduran State, represented in the number of property seized and criminal organizations dismantled.

Legal System and Offenses

205. In the last years, Honduras initiated a process of regulatory adjustment that enabled the adaption of its institutions and AML/CFT system to the international standards and conventions. Consequently, the following laws were enacted: Special Anti-Money Laundering Law, Law against the Financing of Terrorism, Law on Designated Non-Financial Businesses and Professions, Asset Forfeiture Act, and National Intelligence Law.

206. Honduras has a crime definition of ML (Sec. 36 Decree 144/2014) that been recently modified, aimed at adjusting it to the international standards and conventions ratified. The crime definition is of indefinite active subject, i.e., it can be carried out by any person in a direct way or through an intermediary, it has most of the required categories of predicate offenses and the last paragraph allows the implementation of the criminal offense of ML to any other offense that has no economic or legal cause or justification of its origin. Likewise, in the trial phase, evidence is admitted.

207. The Honduran internal legislation allows the implementation of special investigation techniques in ML investigations to obtain information such as undercover agents, interception of communication and controlled deliveries, among others.

208. The Honduran State has a Specialized Prosecutor's Office in Organized Crime (FESCCO) that currently includes 4 dully trained prosecutors, 10 financial analysts, economic resources and an adequate legal framework to advance on criminal investigations of ML and the established predicate offenses. The Anti-Money Laundering Law (Decree 144 – 2014) includes regulations that permit the prosecution of an offense when the behavior that generated the assets has been committed abroad. Likewise, in the cases of figureheads and self-laundering, the law acknowledges the autonomy of the offense regarding other precedent cases that could be charged.

209. Finally, as one of the foundations of that strategy, Honduras has implemented a legal framework that enables it to seize and secure any type of illicit asset through the criminal confiscation and the Asset Forfeiture Act. Since the enactment of Decree no. 27/2010 "Asset Forfeiture Act", a specialized asset forfeiture jurisdiction was created and includes 4 prosecutors and 1 judge. One of its main objectives is to fight transnational organized crime in accordance with the international conventions ratified by Honduras, through the divestment of goods, products, instruments or profits originated, obtained or derived from the infringement of the law. This is an effective measure against the financial structures of criminal power, as 90% of the initiated causes end in asset forfeiture court decision.

210. With the clear objective that the main threats are represented by the trafficking of narcotic drugs, corruption and extortion, and taking into consideration past experiences, the AML/CFT system implemented as a public policy of national defense and security an inter-agency cooperation strategy that prioritizes the economic, asset and financial weakening and dismantling of the power structures of organized crime with the implementation of the Asset Forfeiture Act that aims at depriving criminals from their property. To achieve these objectives, a scheme of joint forces was designed and implemented to economically dismantle criminal structures. Once they are economically weakened, the State has been able to capture and convict or extradite their leaders. In practice, this strategy has proved to be effective and to provide with strong results.

211. Therefore, and as it will be shown later, the State of Honduras has achieved effectiveness against the financial structures of organized crime, using the Asset Forfeiture Act as an initial tool and complemented by criminal proceedings for ML and predicate offenses.

B. Technical Compliance (R.3, R.4, R.29-32)

212. Recommendation 3 is rated as Largely Compliant.

213. Recommendation 4 is rated as Compliant.

214. Recommendation 29 is rated as Largely Compliant.

215. Recommendation 30 is rated as Compliant.

216. Recommendation 31 is rated as Compliant.

217. Recommendation 32 is rated as Compliant.

C. Effectiveness: Immediate Outcome 6 (Financial Intelligence)

218. Since 2002, the State of Honduras has had a Financial Intelligence Unit (FIU) that has progressively grown and adapted to the needs and evolution of the AML/CFT system of the country. This Unit carries out financial intelligence, requesting, receiving, analyzing and disseminating useful information to the Public Prosecutor regarding events that are objectively considered as potential cases of ML or terrorist financing. Moreover, it responds to selective information requests of prosecutors and judges on ML, terrorist financing and asset forfeiture.

219. The FIU is an office attached to the presidency of the National Commission of Banks and Insurance (CNBS), that apart from being the national AML/CFT coordinator and carrying out financial intelligence regarding ML and terrorist financing, it acts as liaison between subjects obliged to inform, regulatory and control entities, and authorities in charge of investigation and prosecution.

220. As for the resources to carry out its functions in an adequate way, Resolution no. 2119/29-12-2010 ratifies the budgetary allocation based on the Annual Operational Plan of the Unit. For 2015, there is a budgetary line in Lempiras to carry out its operations. The FIU also receives an allocation of resources from the Administrative Office of Seized Property (OABI) as a result of the (Unit's) participation in the fight against ML/TF.

221. It is worth mentioning the commitment assumed by the Honduran State in the last years in the fight against the finances of organized crime, which has been reflected, among multiple actions, in the organic, operational and functional restructure of the FIU through Resolution GA no. 55 of May 21st 2015, that will enable the number of officers to go from 17 to 47 and to carry out its functions in a more comprehensive manner.

222. The FIU can access without restriction or legal authorization to a wide range of public and private information used to develop financial intelligence.

223. Section 31 of Decree no. 144–2014 (Special Anti-Money Laundering Law) and Section 50 of Decree no. 241–2010 (Law against Terrorist Financing) legally empower the FIU to obtain all the necessary information from any reporting entity and individual or legal person, without the possibility of being

prevented by banking, professional or State secrecy. Likewise, free access is granted to all its information sources and systems for the verification or broadening of the information provided by them or when this is necessary to analyze cases related to ML or TF. In other words, it can make additional information requests, such as background information and any other data or element considered to be related to financial, commercial or business transactions that might have a criminal connection.

224. The FIU has access to a wide range of databases that contribute to the strengthening of financial intelligence analysis. Additionally, the FIU has implemented a technological and computerized platform (PALANTIR system) that ensures the security of the information and integrates, in real time, the wide range of databases based on information received from reporting entities, portal records and public background, information from State security corps and forces, and information from other Honduran intelligence agencies, among others. The assessment team could observe that all this provides the analyst with all the detailed information that can appear in the State's databases regarding an individual o legal person.

STR process creates investigative records

225. As regards Suspicious Transaction Reports received from the FIU, the Public Prosecutor informed that in 2013, it received 81 suspicious transaction reports that created 65 investigative records, and the remaining ones were included in or complemented cases already initiated. In 2014, it received 70 suspicious transaction reports, from which 43 investigative records were opened, 20 complemented cases already initiated and 7 were connected to investigation requests. By February 2015, it received 31 suspicious transaction reports, from which 20 investigative records were opened, 2 complemented cases already initiated and 9 were connected to investigation requests.

226. In the analysis of STRs, the FIU identifies the following main suspicious activities:

Main red flags found in STRs
Transactions that are not consistent with the customer's profile
Transactions with USD $20 bills
Structuring of deposits
Operations that are not consistent with the company's line of business
Sending/receiving international transfers that are not consistent with the company's line of business
Not completing the RTE
Politically Exposed Persons (PEPs)
Smurfing
Beneficiary or sender of remittance to persons without an apparent relationship

Use and added value of the information provided by the FIU in criminal investigations and in asset forfeiture proceedings

227. Prosecutors and legal operators, final recipients of the FIU's information, expressed in the interviews carried out by the assessment team during the on-site visit that the information provided by the Unit that carries out the financial intelligence of the country is useful, appropriate, timely and relevant in the investigation and prosecution phases of ML, terrorist financing and asset forfeiture proceedings. They pointed out that the financial intelligence information provided by the FIU is helpful to obtain evidence, to channel the investigation and to identify and locate the profits of criminal activities, and that in most asset forfeiture cases, the information provided by the FIU is used.

228. By using the PALANTIR platform that integrates multiple State databases and using technological tools such as I2, the analysts of the FIU are able to carry out operational analysis based on STRs received and the centralized information of its databases, or from databases to which they have access, such as that of the National Intelligence Analysis Center. The objective is to provide added value to establish activity patterns, financial profiles, investigation leads, criminological profiles, connections between individuals and financial transactions, and to trace assets that show a connection with the suspects of underlying offenses and, this way, to provide to the prosecutor an input that works as an investigation route. The Public Prosecutor and judges have pointed out that the information provided by the FIU is key for the development of investigations of financial complexity, mainly those related to asset forfeiture.

229. The FIU issues two types of reports. On the one hand, it presents reports related to suspicious transaction reports and, on the other hand, it presents reports related to investigation requests. The latter are in response to requests made by the Public Prosecutor related to an ongoing investigation.

230. In order to ensure that the information provided by the FIU is useful for the Public Prosecutor, round tables have recently been implemented to provide feedback with prosecutors, in which the information is refined. As a result of these round tables, a Conceptual Technical Manual for the Control and Analysis of Anti-Money Laundering Information has been developed, which intends to provide guidance to make the processes in which the FIU provides information to the Public Prosecutor more efficient and for these to be more useful for justice operators. For example, the "24-hour report" is provided, in which the Public Prosecutor can make requests and the FIU must provide a response in less than 24 hours. During the interviews, the Public Prosecutor stated that these urgent reports are very useful.

231. Moreover, the FIU spontaneously provides financial intelligence information to its authorized recipients at the same time it answers their information requests, including requests related to asset forfeiture.

232. The following are statistical tables provided by the Public Prosecutor related to information requests made to the FIU:

Specialized Prosecutor's Office in Organized Crime		
Information requests made to the FIU		
YEAR	Received	Submitted
2011	149	149
2012	208	208
2013	103	53
2014	79	27
TOTAL	539	437

Attorney General of the Republic/Other Institutions		
Special requests made to the FIU		
YEAR	Received	Submitted
2012	53	53
2013	34	33
2014	15	14
TOTAL	102	100

Specialized Prosecutor's Office in Organized Crime		
Asset forfeiture requests made to the FIU		
YEAR	Received	Submitted
2011	35	35
2012	53	53
2013	34	34
2014	15	15
TOTAL	137	137

233. The assessment team verified that despite the fluid and dynamic relationship that exists between the FIU and the Public Prosecutor, and despite the fact that in the last years feedback meetings have been carried out to improve the quality of the information and to refine the information provided in the past, it is necessary to institutionalize the frequency of these meeting by means of an agreement and inter-institutional protocols that ensure permanence.

Effectiveness of the financial intelligence information in criminal investigations of ML and in asset forfeiture proceedings

234. The Head of the Specialized Prosecutor's Office in Organized Crime (FESCCO) and the Judge of the Asset Forfeiture Jurisdiction, interviewed by the assessment team, were categorical when they expressed that several of the criminal investigations of ML and asset forfeiture proceedings initiated thanks to the information provided by the FIU, or that during the investigation, the information provided by the Financial Intelligence Unit was effectively used in the AML/CFT system and in the defense and security of the State. Evidence of this is that the reports of the FIU can and are used as proof in criminal proceedings.

235. Moreover, as previously mentioned, in most asset forfeiture cases, the information provided by the FIU was used, such as precise information on location of movable and immovable goods, financial products, asset profiles and title to immovable assets.

236. The Executive and the Judiciary branches acknowledged and expressed the importance of the FIU in the sphere of the State's intelligence community, the security and defense forces, and in the bodies that investigate and prosecute offenses related to organized crime. The interviewed officers expressed an understanding of the role and functions of their FIU in the fight against the economic structure and illegal financial activities of criminal organizations.

Cooperation and exchange of intelligence information among State agencies to combat ML/TF

237. In the last years, the FIU has assumed a strategic and predominant role at a national level and in the organization and effectiveness of the AML/CFT system, assuming functions such as:

238. In accordance with Law 211–2012, the FIU is part of the specialized institutions of the State for the production of intelligence. In this sense, the Director of the FIU is part of the Strategic Intelligence Committee (CIE, for its Spanish acronym) and this Unit has access to the platform of the National Intelligence System that groups several intelligence and counterintelligence databases of the State. This has enabled the FIU to support special task forces at an operational level through prosecutors of organized crime who act together with these forces. Within the CIE, minutes were approved to carry out parallel financial investigations in criminal proceedings, aimed at initiating asset forfeiture proceedings.

239. The FIU coordinates the Inter-Agency Anti-Corruption Commission (MIA, for its Spanish acronym), which has the main function of developing a national strategy for the combat, prevention, investigation and sanction of offenses related to corruption, and of establishing expeditious and secure mechanisms of exchange of information to combat State corruption mafias.

240. The FIU is in charge of the technical secretariat of the CIPLAFT, which is the coordination body responsible for ensuring that the system of prevention, control and fight against ML and terrorist financing offenses works in an efficient way and in harmony with the agreements and international standards regarding the matter. The CIPLAFT is integrated in the National Defense and Security Council. The Council understands that part of the strategy to combat organized crime consists on the fact that the most effective way of dismantling criminal organizations is to take away their resources. That is why the FIU has gained more importance.

Secrecy, IT and Physical Security of the FIU

241. Regarding the legal secrecy of the information of the FIU, Section 54 of Decree no. 241–2010 (Law against Terrorist Financing), expressly establishes that the officers of the FIU are obliged to maintain the secrecy or confidentiality of all the information on the basis of their position. This obligation continues during the exercise of their functions and upon termination of their functions, for having been transferred to another section or for having retired from the institution. The breach of the duty of secrecy may generate the commission of a criminal offense called breach of secrecy, which has a sanction from three (3) to six (6) years of imprisonment.

242. In this sense, Section 15 of the National Commission of Banks and Insurance Law establishes that all its officers and employees, included the FIU, must keep the strictest secrecy regarding papers, documents and information of their knowledge and will be responsible for the damages caused by their revealing. Nevertheless, the assessment team verified during the on-site visit that STRs were still received in paper, what shows an important shortcoming regarding the secrecy of the intelligence information and its due security guard.

243. As regards recipients authorized of the reserved information of the FIU, Section 29 of Decree no. 144 of 2014 establishes that this Unit can only provide information to the Public Prosecutor and the Competent Judicial Body, ensuring security in the disclosure of the information. Before the enactment of this Law, the FIU would provide information to other State entities, such as the Executive Directorate of Revenue (DEI), the Superintendency of Insurances and Pensions and the Office of the General Prosecutor of the Republic, among other entities.

244. The FIU also applies and implements proof of credibility and trust (polygraph) to its officers to prevent information leaks. In accordance with Resolution no. 1931 of November 8th 2011 of the CNBS, the officers of the FIU must sign an act of commitment of confidentiality.

245. As regards the IT security and with the purpose of providing security to the flow of information among obliged subjects, the FIU uses the System of Financial Interconnection of the National Banking and Insurance Commission, active since December 2005 and which includes a certification for the System of Financial Interconnection and the Internal Network of the Israeli company AVNET, which certified it under ISO-17799. Moreover, the FIU administers the Wireless Metropolitan Network, a safe network for the data transmission to the service of the institutions that are members of the CIPLAFT.

246. The aforementioned resolution ensures that the information is stored in exclusive FIU servers, as well as the division of the networks that are used for the computer and the information systems specially designed for the Unit, and the rest of the applications used by the CNBS. It was verified that the information is compartmentalized among the officers of the FIU. Therefore, each of them has a personal access code to the information exclusive of its competence.

247. Finally, the assessment team verified that all the information security regulations are being implemented by the officers and that their premises are located in the upper floor of the CNBS building, separated from the rest of the offices by security doors, electronic access systems through fingerprint recognition, security cameras and human surveillance at the caretaker of the building.

Nevertheless, taking into consideration the lack of STR submission by DNFBPs, as well as the shortcomings already pointed out regarding the way STRs are submitted and the weakness in the production of the strategic analysis, it is considered that **Honduras presents a moderate level of effectiveness in immediate outcome 6**.

D. Effectiveness: Immediate Outcome 7 (ML Investigations and Prosecution)

- Since 2010, a jurisdiction specialized in organized crime was created which focuses on ML and drug trafficking. The Public Prosecutor has a Specialized Prosecutor's Office in Organized Crime (FESCCO) that is formed by the following Units:
- Anti-Drugs Unit (4 prosecutors);
- Anti-kidnapping, Arms Smuggling, Extortion and Anti-Terrorism Unit (7 prosecutors);
- Anti-Money Laundering and Asset Forfeiture Unit (9 prosecutors);
- Legal Assistance Unit (1 lawyer and 2 analysts); and
- Financial Analysts Unit (10 analysts)[3].

248. The following was observed in the interviews made by the assessment team to competent prosecutors to investigate ML: The investigations are advanced by the prosecutors of the anti-money laundering unit of the Specialized Prosecutor's Office in Organized Crime (FESCCO). The prosecutor leads the investigation and coordinates with the financial investigation police. The Public Prosecutor has an analysts' unit on unjustified patrimony. The fieldwork is carried out by other financial police groups.

249. It is important to mention that according to the Penal Code, investigations can be initiated on any crime that yields profits. As mentioned in the Technical Compliance Annex, it is possible to prosecute ML when

[3] FESCCO also has an office in the city of San Pedro Sula (9 prosecutors) that covers the Northwestern area of the national territory, and a regional office in the city of La Ceiba (3 prosecutors) that covers the Northeastern area of the national territory.

"there is no economic or legal cause or justification of its origin", what means that offenses that are not explicitly established in the crime definition can be covered as ML predicate offenses. Moreover, there is autonomy of the ML offense.

250. As shown in FESCCO's structure, within this unit, the offenses that have the highest impact according to the national risk assessment for ML are dealt with, and within this unit there is coordination among prosecutors, and parallel investigations are carried out regarding three categories: ML, predicate offense and asset forfeiture. If there already is confiscation and securing, the asset forfeiture proceeding is not initiated. If there are no arrests, the asset forfeiture proceeding is initiated. Moreover, they expressed that in the last 2 years, the budget for prosecutor's offices and specialized courts on ML was increased.

251. Honduras has a financial investigation police office (OPIF, for its Spanish acronym), formed by 36 investigators who are subjected to credibility and trust tests and who work directly with FESCCO in special operations. Their main function is to collect evidence and enforce the chain of custody in ML and asset forfeiture proceedings. It is formed by accountants, auditors and lawyers who are available to the prosecutor and participate as specialized technical witnesses in ML and asset forfeiture proceedings. Their priority is not to arrest people but to gather asset and financial evidence.

252. Prosecutors consider that it is more effective to attack and dismantle criminal structures with deprivation of assets because it has been shown that with this measure, criminal organizations lose power of action and maneuverability. It is also worth mentioning that investigations on ML are not abandoned. The FIU and the financial police help identify the assets. Special investigation techniques have been used in operations regarding asset forfeiture and ML, such as undercover agents and interception of communications, among others.

253. It is pointed out that the Public Prosecutor, along with the National Commission of Banks and Insurance, the National Police, the National Investigation and Intelligence Directorate and the Special Investigation Force on Asset Forfeiture and Money Laundering (CEIPLA, for its Spanish acronym), published in 2014 the document "FINANCIAL AND ACCOUNTING INVESTIGATION GUIDANCE", which highlights the importance of financial and accounting investigation as an indirect method to prove the existence of economic offenses; describes the basic procedures and investigation techniques; emphasizes forensic audit and refers to accounting and financial experts witness. This guide was developed with the purpose of homogenizing procedures to make financial investigations more efficient, and seeks the attainment of greater knowledge on the dynamic of criminal activities to develop national security strategies with which Honduras can address challenges related to the formulation of criminal policies aimed at combating the financial dimension of crime, relying on financial and accounting investigations.

Conducting parallel financial investigations

254. The assessment team points out that, in Honduras, it is a national defence and security policy and a strategy of the Public Prosecutor to advance autonomous and parallel proceedings related to predicate offenses, ML and asset forfeiture. Each process involves a financial and asset investigation by the financial police and the analysts of the Specialized Prosecutor's Office in Organized Crime (FESCCO), with the support and information of the FIU, which financial intelligence reports work as judicial evidence that can be brought to the process. This ensures the prosecution and seizure of illegal finances of criminal structures, through the confiscation of property in criminal proceedings and asset forfeiture in favour of the State.

255. The Financial Investigation Police Office (OPIF) works directly with the FESCCO and currently includes 36 investigators for special operations, whose mission is to collect and subject to chain of custody

financial and asset evidence that prosecutors can bring to ML investigations, such as hard drives, deeds, accounting statements, etc. It is empowered to act in all the national territory.

256. The OPIF is formed by accountants, auditors and lawyers. They are dully subject to credibility and trust tests, such as polygraph. Their priorities are ML investigations and asset forfeiture, in which they can participate as specialized witnesses. The members of this elite police force have been trained by GAFILAT, the US embassy, the judicial academy of Honduras, the FIU and Italian cooperation, among others.

Investigation of criminal finances in accordance with national threats

257. Honduras investigates and prosecutes many of the offenses that, according to their NRA, represent the greatest threats to the country, such as drug trafficking, arms smuggling, human trafficking and kidnapping. Nevertheless, high risk and impact offenses for the country, such as public corruption and extortion, should be emphasized.

258. The following are statistics on ML predicate offenses investigations and prosecutions.

259. Statistics by predicate offense.

260. ILLEGAL TRAFFICKING OF NARCOTIC DRUGS

Description	2011	2012	2013	2014
Opened complaints	74	74	47	30
Prosecuted cases	20	11	04	07
Investigative cases	54	63	43	23

261. ILLEGAL TRAFFICKING OF ARMS

Description	2011	2012	2013	2014
Opened complaints	12	21	1	3
Prosecuted cases	4	10	1	3
Investigative cases	8	11	5	0

262. ILLEGAL HUMAN TRAFFICKING

Description	2011	2012	2013	2014
Opened complaints	3	3	3	0
Prosecuted causes	1	0	0	0
Investigative causes	2	3	3	3

263. KIDNAPPING

Description	2011	2012	2013	2014
Opened complaints	6	37	31	25
Prosecuted causes	1	9	4	5

Investigative causes	5	28	27	20

264. VEHICLE THEFT

Description	2011	2012	2013	2014
Opened complaints	49	43	26	3
Prosecuted causes	11	22	6	0
Investigative causes	38	21	20	3

265. ROBBERY TO FINANCIAL INSTITUTIONS

Description	2011	2012	2013	2014
Opened complaints	15	13	0	1
Prosecuted causes	14	11	0	1
Investigative causes	1	2	0	0

266. Joint ML and predicate offense investigations

PREDICATE OFFENSE	**2011**	**2012**	**2013**	**2014**
Trafficking of narcotic drugs	30	17	21	1
Trafficking of arms	0	1	2	1
Kidnapping	7	1	2	0
Acts of corruption	1	0	1	0
Other offenses	2	1	0	0
Asset forfeiture investigation	15	7	3	1

Effectiveness of investigations and ML convictions

267. The prosecutors of the Specialized Prosecutor's Office in Organized Crime (FESCCO) expressed that the mutual legal cooperation based in the international agreements and treaties are a tool that enables significant achievements to prosecute and convict the transgressors of the anti-money laundering law in its different forms and typologies. All ML investigations are carried out by teams formed by financial analysts, investigators and prosecutors, which coordinate the review of preliminary reports, working meetings and information requests. Moreover, investigations have been carried out with other dependences in complex cases, such as offenses against public administration. It was evident that there are no political reasons or undue pressures that prevent the correct autonomous exercise of prosecutors to advance in their ML investigations.

268. The following are some statistical tables provided by the Public Prosecutor regarding ML convictions in the last 4 years:

DESCRIPTION	2012	2013	2014	2015
Prosecutor request	21	10	4	5
Convictions in causes initiated that same year	9	0	0	0
Dismissal	4	5	1	1
Acquittal	4	0	0	0
Another stage	4	5	3	3
Convictions of other years	6	5	1	2

269. The Public Prosecutor of Honduras has expressed the following regarding convictions of ML since 2012:

270. In 2012, 139 investigative proceedings were initiated for ML offense, 27 cases were prosecuted and 9 convictions were obtained of causes initiated that same year. These last convictions were the result of an expedited proceeding being carried out, in which those involved pleaded guilty.

271. In 2013, 55 investigative proceedings were initiated, 12 cases were prosecuted and 5 convictions were obtained of investigations initiated in another year. In 2014, 13 investigative proceedings were initiated, 4 cases were prosecuted and 1 conviction of cases initiated in another year was obtained.

272. The Public Prosecutor acknowledges that there are no written documents that prioritize ML investigations for the most critical predicate offenses according to the NRA, and that most of ML convictions have had as common denominator self-laundering. Moreover, most of the cases have been connected to drug trafficking operations and there are investigations and convictions that have included individuals of different nationalities, such as Colombians, Nicaraguans and Guatemalans, in which cases mutual legal assistance has been requested.

273. It is recurrent that most ML convictions are derived from drug trafficking, although there are also convictions on extortion, arms smuggling and currency trading, among others. It would be convenient if the Honduran AML/CFT system achieved effectiveness regarding ML convictions that predicate offense is public corruption, and other offenses of high impact and recurrence in the country.

274. As for successful ML cases in which the predicate offense is public corruption, and those include judicial operators, politicians and members of the public forces, among others, the Public Prosecutor informed to the assessment team that, at the moment, there are ongoing investigations without a conviction, but precautionary measures that include detention have been implemented (Case of the Honduran Institute of Social Security [IHSS]). In addition, it was expressed that in 2015 a police commissioner was convicted for ML.

275. As example of ML convictions for offenses different from drug trafficking, in 2011 Osman Antonio Meza, also known as Osman Umaña Salvatierra, was convicted for ML with 15 years of imprisonment and a fine of 1,000,000.00 Lempiras, and with 3 years imprisonment and the confiscation of the arms seized for the offense of manufacturing and trafficking firearms and commercial ammunition, and personal defence and commercial explosives to the detriment of the domestic security of the Honduran State.

276. Moreover, Honduras showed one ML conviction derived from extortion, in a case related to a member of the *maras*, initiated in 2012, although it was not considered at that time as a predicate offense within the crime definition. Nevertheless, the case was prosecuted and a conviction was obtained from the last paragraph of the crime definition, which allows charging for any offense that yields an illegal profit. This shows that the country can be effective despite the fact that not all the predicate offenses defined by the FATF are explicitly included.

277. There are no ML convictions in which the predicate offense was committed abroad, although several causes are being investigated. Even though there have been no ML convictions when the offense has been committed abroad, there have been asset forfeiture decision when foreign courts have requested the extradition of individuals for offenses committed in such countries. Some examples can be seen in the table entitled "*Emblematic cases in which the finances of criminal organizations are dismantled and their leaders are convicted or extradited*".

278. As for figurehead investigations, the FESCCO explains that, in these cases, a ML investigation and an asset forfeiture investigation are always initiated. Taking into consideration the agility of the asset forfeiture proceeding, asset forfeiture decision to figureheads have been obtained, in which all the assets involved have been confiscated, and ML cases continue being investigated. The Public Prosecutor and the asset forfeiture judge expressed that this proceed has been highly effective.

279. As an example of the foregoing, in 2014, the judge approved the request for the forfeiture of several properties owned by the criminal organization of the Valle Valle brothers, and these assets were registered under the name of associates and family members, and are currently included in a precautionary securing measure: 86 immovable assets that include homes, estates and hotels; 15 trading companies involved in the marketing of coffee, cattle, varied products and hotel management; 20 vehicles; and several banking products. As for drug trafficking and ML investigations of previous years, a prosecutor request was presented against 10 individuals on February 20th and March 13th 2015, which resulted in indictments and the preventive detention of four of these individuals, who are part of the structure of the organization, for the offenses of arms smuggling, unlawful association, drug trafficking and ML. An arrest warrant has been issued for the remaining individuals.

280. It is also worth mentioning that Honduras is able to prosecute legal entities for ML. However, up to date, Honduras has chosen to carry out asset forfeiture proceedings of companies and achieved several seizures of companies and obtained positive decisions for the confiscation on others that have been liquidated. For example, in the case of "El Negro Lobo", 4 trading companies were confiscated and liquidated.

281. As regards this difficulty, judicial operators extensively commented on the difficulties they had to develop investigations and to obtain ML convictions.

282. Many of these difficulties have been gradually overcome in the last years with the political and legislative will of the State of Honduras in its effort to dismantle criminal organizations. All the legislative modifications have been pointed out (anti-ML law, law against the financing of terrorism and asset forfeiture act). Likewise, the training plan is positively pointed out, which, as regards ML and asset forfeiture, has been

provided to judicial operators by the judicial academy with the support of some embassies of allied countries, and the publication of financial investigation guidance documents. Finally, the filtering plan and the credibility and trust tests that have been implemented on investigators and members of the public force that participate in investigations related to organized crime has also contributed substantially.

Asset forfeiture as a priority to fight ML

283. Taking into consideration the fundamental issue 7.5, and as previously mentioned, Honduras bases its strategy to combat organized crime in the economic and financial dismantling of criminal structures through asset forfeiture, and the subsequent arrest and conviction for ML, and the possible extradition of their members.

284. The foregoing, under the premise that the arrest and conviction of the members of criminal organizations and of its highest leaders, does not represent a serious threat for the survival of the organization, as they have the necessary personnel to provide the vacancies that arise and the replacement of the arrested criminals with increasingly rated criminals is taken for granted. Moreover, it is considered that if the structure has economic resources, it will be able to carry out bribery, pay for complicity and continue committing crimes; these factors obviously hamper the investigation processes and the prosecution of ML.

285. Since 2013, Honduras has been relying on a State policy to attack the financial part of criminal organizations (Operational Plan 2015-2020). State operators, including prosecutors, consider that it is more effective to attack and dismantle criminal structures and their financial arm with asset forfeiture. The foregoing does not mean that ML investigations are abandoned, as for every asset forfeiture case there exists a criminal proceeding for ML and another one for the predicate offense. A clear example of this is the case of "El Negro Lobo", in which asset forfeiture (adopted as an institutional policy to take away the resources) resulted in17 fishing boats and several properties and assets, and facilitated his arrest once his assets were affected. Honduran prosecutors have evidence that criminal organizations are losing power of action and maneuverability. The FIU and the financial police help identify the assets.

286. Therefore, it is important to mention that in Honduras the fight against organized crime, including ML, has three main pillars: Prosecution of the predicate offense, prosecution of ML and direct prosecution of criminal finances through asset forfeiture. These three factors work in parallel and, in the Honduran context, it is seen that such action is efficient to dismantle the economic and ML structures of criminal organizations.

Effective, proportionate and dissuasive sanctions

287. Section 36 of Decree no. 144–2014 (Special Anti-Money Laundering Law) establishes that anyone who incurs in the criminal offense of ML will be punished with imprisonment from six (6) to fifteen (15) years. Likewise, it establishes the criteria of graduation of the ML punishment according to the value of the assets subject to ML:

288. From six (6) to ten (10) years of imprisonment, if the value of the assets subject to ML is equal to or lower than the value equivalent to seventy (70) of the highest minimum wage of the area;

289. From ten (10) years and one (1) day to fifteen (15) years of imprisonment if the value of the assets subject to ML exceeds a value equivalent to seventy (70) minimum wage and does not exceed a value of one hundred and twenty (120) of the highest minimum wage of the area; and

290. From ten (15) years and one (1) day to twenty (20) years of imprisonment if the value of the assets subject to ML exceeds a value equivalent to one hundred and twenty (120) of the highest minimum wage of the area.

291. Finally, the last paragraph establishes an aggravating factor of the punishment that consists on the fact that promoters or leaders and direct or indirect beneficiaries of ML activities must receive the corresponding punishment as established in the crime definition, increased by one third (1/3) of the punishment.

292. As is can be seen in the technical compliance questionnaire, Honduras has a wide range of criminal sanctions for individuals, legal persons, public officers and obliged subjects who incur, facilitate or participate in ML activities. It is observed that the thresholds of sanctions and monetary fines are consistent with the importance, severity and harmfulness that the criminal law acknowledges in the ML offense within the Honduran legal framework. On this regard, prosecutors pointed out that in order to receive a lower penalty, the reduction of the punishment reaches ¼, what means that when it comes to a ML offense, the minimum reduction can be of 4.5 years, and there is no room for commuted sentences.

293. The following are statistics provided by the Public Prosecutor regarding punishments imposed in ML convictions. It is important to mention that these convictions were the result of the Law in force until June 2015, in which the conviction was from 15 to 20 years. It could be reduced to 11 years and 3 months when the accused accepted the charges (expedited proceeding):

TABLE OF CONVICTIONS

YEAR 2012

PUNISHMENT IMPOSED	Conviction	Conviction of other years
11 YEARS + 3 MO	5	4
15 YEARS	3	2
17 YEARS + 6 MO	1	0
TOTAL	**9**	**6**

YEAR 2013

PUNISHMENT IMPOSED	Conviction	Conviction of other years
11 YEARS + 3 MO	0	1
15 YEARS	0	4

17 YEARS + 6 MO	0	0
TOTAL	**0**	**5**

YEAR 2014

PUNISHMENT IMPOSED	**Conviction**	**Conviction of other years**
11 YEARS + 3 MO	0	0
15 YEARS	0	1
17 YEARS + 6 MO	0	0
TOTAL	**0**	**1**

YEAR 2015

PUNISHMENT IMPOSED	**Conviction**	**Conviction of other years**
11 YEARS + 3 MO	0	0
15 YEARS	0	1
17 YEARS + 6 MO	0	0
TOTAL	**0**	**1***

* One conviction has been recently imposed but, until the moment of drafting the report, the punishment had not been individualized.

294. At a legal level and as a result, it is evident that criminal sanctions in Honduras are proportionate and dissuasive. However, taking into consideration that Honduras combats ML and economic structures with asset forfeiture, this measure is also an example that sanctions in Honduras are proportionate and dissuasive. According to the interviews carried out, judicial operators in Honduras consider that seizure and asset forfeiture measures have a strong sanctioning effect by taking away criminals' properties that result from or are involved in the offense. This is effective and quite dissuasive, as the real criminal motivation is attacked, i.e. the increase of their wealth.

295. As previously mentioned, asset forfeiture has enabled the dismantling of financial structures of criminal organizations, which leaves them vulnerable and enables the arrest, conviction or extradition of their leaders (such as the case of Carlos Lobo and Chepe Handal, among others – see emblematic cases in the following

table). Authorities also mentioned that some criminals have even surrendered to justice, after being deprived of their economic power.

296. Moreover, asset forfeiture sends the message to citizens and society in general to refrain from having business and/or financial relationships with apparently illegal companies and businesses. Likewise, it creates the culture of knowing the customer or contractual counterpart and beneficial ownership.

Examples of emblematic cases

Emblematic cases in which the finances of criminal organizations are dismantled and their leaders are convicted or extradited

1. Case "DLCC" (July 25th 2014): Osman Antonio Meza was convicted to 15 years of imprisonment and a fine of one million Lempiras for money laundering. In addition, a parallel decision was issued by the Court of First Instance of Deprivation of Ownership Rights of Illicit Assets, confiscating an estate, a plot of land, a house, 209 cows, 10 horses, a commercial company and 9 vehicles.

2. Case Carlos Arnoldo Lobo, also known as "El Negro": In response to an anonymous complaint of unjustified economic growth related to drug trafficking activities through fishing boats from Colombia, in October 2011, different assets of Mr. Lobo and his family were seized: 18 fishing vessels, 3 recreational motorboats, 45 immovable goods, 4 trading companies, L 10,854,083 and USD 142,310. In 2014, he became the first Honduran to be extradited to U.S.A.

3. Case of the Valle Valle brothers: In 2011, a money laundering investigation was initiated against the brothers Luis and Arnulfo Valle Valle, in response to information that pointed at them as a criminal organization involved in the trafficking of drugs. In 2014, a precautionary measure of the deprivation of ownership proceeding seized 86 immovable goods that included houses, estates and hotels, trading companies, vehicles and several banking products. In 2014, the brothers were extradited to U.S.A.

4. Case José Miguel Handal "Chepe Handal": In 2011, two investigative files were opened, which pointed at José Miguel Handal, perpetrator of the money laundering crime originated in the trafficking of drugs. In 2013, a precautionary measure of the deprivation of ownership proceeding seized 6 immovable goods that included an estate, 10 trading companies and several banking products. The suspect was accused before a Court of Florida for being the head of an organization responsible for the coordination and distribution of sending several tons of cocaine from Colombia and Venezuela.

5. Case Juan Ramón Matta: This action started with a legal assistance request made by the Kingdom of Spain in 2002. Mr. Matta was convicted in U.S.A to life imprisonment for several charges of drug trafficking. In 2014, proceedings were ordered to carry out an asset investigation of his nuclear family, which resulted in the seizure of 19 immovable goods, a trading company dedicated to livestock and USD 500.687.

Example of investigation of sophisticated ML

297. Although it is true that at the moment of the on-site visit to Honduras, the country (as it acknowledges in its own risk assessment) did not have convictions for sophisticated ML behaviors, the assessment team notes that a case of sophisticated ML is currently being investigated and prosecuted. This case is derived from public corruption and has international connotation, which shows that the AML/CFT system, the institutionalism, officers and the legal framework of the country are able to respond to demanding threats and challenges related to organized economic crime. In these cases, parallel work is done on asset forfeiture.

298. CASE IHSS: Since 2013, a transnational investigation has been conducted for sophisticated ML related to public corruption for approximately 230 million dollars, presented by the Honduran Institute of Social Security (IHSS).

299. This investigation has involved the preventive detention of two former ministers (PEPs); the articulation of more than 14 administrative and intelligence agencies and State security forces; it has involved special investigation techniques; mutual legal assistance and investigations with other countries; asset recovery with two countries; extraditions and deportations; asset forfeiture precautionary measures for L 258 million; and international arrest warrants issued by INTERPOL.

300. This case of significant national impact shows great sophistication and complexity in its typology, as it includes shell companies in several companies, diversification of economic sectors, figurehead operations and sophistication of financial products. A correct coordination was observed between several State authorities and bodies to detect and investigate a complex and transnational case of ML that includes several legal mechanisms of national and international cooperation.

301. The IHSS case includes 38 ongoing legal proceedings, 2 of ML and 1 of asset forfeiture for each case. Five cases were identified in which money was hidden. The FIU has provided the information and mutual legal assistance has been requested. This is the first case of asset recovery for ML that involves 2 countries.

According to the foregoing, ML and severe offenses that generate assets are successfully investigated and prosecuted in Honduras by implementing asset forfeiture as a tool to reach financial structures of criminal organizations directly, in parallel to criminal investigations. These measures are implemented in consistency with the risk of the country. However, there is no evidence of an effective prosecution of ML offense. Therefore, it **has a moderate level of effectiveness in immediate outcome 7.**

E. Effectiveness: Immediate Outcome 8 (Confiscation)

302. The prosecution of criminal assets is a priority of the State and is carried out consistently with the risks identified. As presented in the Technical Compliance Annex, Honduras has two important tools to confiscate property and assets: traditional confiscation as an accessory sanction to the punishment and asset forfeiture as an autonomous sanction on the property resulting from or used to commit an offense.

303. The State of Honduras, headed by the President of the Republic, acknowledges that the country faces a security crisis and that the government has made several attempts to control or neutralize those operations aimed at increasing the finances of criminal networks. The Executive and Judicial branches conclude that the criminal punishment (arrest, convictions, confiscation) by itself has not achieved the objective of dismantling the organizations of organized crime and, as mentioned in the previous section, the use of the asset forfeiture tool has enabled the infliction of some heavy blows on organized crime.

304. In response to the foregoing, the Honduran AML/CFT system assimilates that the financial dismantling is one the new main tools to fight criminal power. The purpose of asset forfeiture is for justice operators to use this proceeding to take away the economic benefits from criminals, including property for a corresponding value, and to weaken these organizations at an operational level so that they do not continue strengthening with the use and trade of property and products obtained from economic crimes, terrorism, extortion, arms smuggling and human trafficking, which among other factors increase insecurity and the sense of impunity. Moreover, the State seeks that these goods and products are adequately administered and distributed by the special office created for this purpose (OAFI), returning their social function to the goods.

305. As previously mentioned, the implementation of measures on property, both confiscation and forfeiture, is carried out consistently with the risks identified by the country. These are very important tools in the fight against organized crime, drug trafficking, human trafficking and corruption, among others.

306. Honduras has an effective legal framework that enables the seizure and securing of any type of illicit asset through criminal confiscation and the asset forfeiture act.

307. Honduras legally provides and applies the confiscation of assets, instruments and property as an accessory punishment in criminal proceedings, in an autonomous way and regardless of there being an ongoing action of asset forfeiture. Confiscation in ML proceedings, as well as asset forfeiture, is a real and effective measure aimed at fighting the economic structures of organized crime. It was observed that this measure is implemented for a wide range of offenses. The following are some confiscation statistics as an accessory punishment to ML convictions.

Confiscations for ML convictions

Confiscations for ML	2012	2013	2014
1	USD $175,000.00	-	-
2	USD $9,900.00 and a passenger car	-	-
3	USD $349,000.00 and two vehicles	-	-
4	USD $1,275.00; COP 194,600.00 and L 581	-	-
5	-	-	Confiscation of arms

308. Although Honduras has regulated and uses confiscation, as regards the fight against ML/TF, the Asset Forfeiture Act has been more effective and, therefore, most of the property or assets related to organized crime have been processed through asset forfeiture, what has decreased confiscation statistics in 2013 and 2014, as shown in the previous table. In view of the importance that this instrument has in Honduras to dismantle the financial structures of criminals, more emphasis will be made on said legal instrument.

309. Since the enactment of Decree 27–2010 "Asset Forfeiture Act", a specialized asset forfeiture jurisdiction was created, which includes 4 prosecutors and 1 judge. One of its main objectives is to fight transnational organized crime in accordance with the international conventions ratified by Honduras and to provide legitimate protection of public interest for the benefit of society through the divestment of property, products, instruments or profits originated, obtained or derived from the infringement of the law.

310. Moreover, regarding Sections 54 and 84 of the Law mentioned, the Supreme Court of Justice, through the Agreement entered into on July 21st 2010, created the Court of First Instance of Asset Forfeiture, which has national jurisdiction, is located in the city of Tegucigalpa and is formed by three (3) judges. Also, the Attorney General of the Republic issued on October 14th of the same year the "Rules of Procedure for the Operation of the Specialized Prosecutor's Office in Asset Forfeiture", which purpose is to establish the structure, operation and powers of this Prosecutor's Office to develop the mechanisms for the investigation and identification of property of illicit origin.

311. As a development of the doctrine, principles and law enforcement, and in order for investigation, prosecution and administration of goods proceedings to be carried out with responsibility by investigators, investigation analysts, prosecutors and judges, an inter-agency coordination document called "Asset Forfeiture Manual" was published in 2013. This manual is an example of how the different entities involved have created protocols to homogenize processes and make their work more efficient.

312. Moreover, as a proof of the commitment and coordination of the State in the enforcement of this law as part of the national defense and security strategy, Honduras provided a copy of the inter-institutional agreement entered into by several entities (Supreme Court of Justice, National Council against Drug Trafficking, Attorney General of the Republic, Office of the General Prosecutor of the Republic, National Commission of Banks and Insurance, Executive Directorate of Revenue and General Directorate of Migration and Aliens, among others), whose purpose is for the parts to act in a complementary and coordinated manner in accordance with their powers and functions regarding asset forfeiture, ML and terrorist financing prevention.

Characteristics and effectiveness of the Asset Forfeiture Act and jurisdiction

313. For Honduras, at a legal level (Sec 4, Decree no. 27–2010), asset forfeiture consists of ruling in favor of the State, without consideration or compensation of any nature, to anyone who holds the property right and other inherent real rights (main or accessory), transferable personal rights, regarding property, products, instruments or profits found in any of the 10 grounds referred to in Section 11 of the mentioned Law (illicit enrichment is included as a ground).

314. Asset forfeiture is a special proceeding applied in a jurisdiction, with investigators, prosecutors and judges specialized in this action; it is of public order, autonomous and independent of any other action or proceeding (including criminal action); it is of jurisdictional nature; real character; asset content; it is imprescriptible in time; it acts on any type of good, instrument or profit; it respects the due process and the rights of bona fide third parties; it allows probation; banking, professional or State secrecy does not apply, it allows the use of special investigation techniques; it implements precautionary or securing measures registered in the Trade Registry; it provides for regulations on equivalent goods; it uses financial intelligence information provided by the FIU and acknowledges the reversal of the burden of proof and allows the appointment of public defenders.

315. Currently, this jurisdiction has 4 specialized prosecutors and 1 judge. The Honduran authorities expressed that the Honduran criminal structures are united and focused on economic and asset aspects, without there being fidelity to the person. Therefore, it is an effective action to fight organized crime. The

average of convictions regarding cases initiated is of approximately 90%. They also pointed out that for every big criminal proceeding of organized crime, there is an asset forfeiture proceeding and that the procedure lasts in average 4 months from its start until the court decision is adopted.

316. At the moment of the on-site visit, the asset forfeiture judge expressed that so far there were 12 cases of asset forfeiture, 9 of which had a precautionary measure, 62 court decisions that might be still subject to appeal, and there were 21 final decisions with property for USD 17 million dollars[4] (some of the emblematic cases of these decisions cs can be identified in the previous table *Emblematic cases in which the finances of criminal organizations are dismantled and their leaders are convicted or extradited*). There are asset forfeiture court decisions connected to public corruption, and 2 cases of extortion are being investigated and a precautionary measure has been implemented.

317. The Court of First Instance of Asset Forfeiture presented the statistics of all the property that has been processed by the Court since 2011. A wide range of property has been subject to measures, such as jewelry, GPS, phones, cash, etc. The following table shows data of the most representative goods as an example of these goods consolidated by 2015.

318. The table below shows the property that has been part of an asset forfeiture proceeding since 2012. "Confiscation" refers to property seized by a judge order and "N/A" refers to property which the Judge considered that asset forfeiture did not apply.

Year		CARS	VESSELS	LIGHT AIRCRAFT	IMOVABLE GOODS	IMMOVABLE GOODS	LIVESTOCK
	Confiscation	28		1	6	7	
	N/A					1	
2012	**Total**	**28**	**0**	**1**	**6**	**8**	**0**
	Confiscation	3	69	2		36	
	N/A	7				1	
2013	**Total**	**10**	**69**	**2**	**0**	**37**	**0**
	Confiscation	11	2	23		6	219
	N/A	2					
2014	**Total**	**13**	**2**	**23**	**0**	**6**	**219**
	Confiscation	2			71,624.5,(GALLONS OF FUEL)	18	45
	N/A		1				
2015	**Total**	**2**	**1**	**0**		**18**	**45**
TOTAL 2011-2015		**53**	**72**	**26**	**6 y 71,624.5 (GALLONS OF FUEL)**	**69**	**264**

[4] According to the information provided after the visit, by December 2014 goods had been deprived of ownership and seized for US$ 1,605,501,300.00.

319. In addition to this property, cash in different currencies has been confiscated in asset forfeiture proceedings. The following table presents the most representative currencies in forfeiture court decisions and their total value per year.

Year		HNL	USA	EUR
2011	Confiscatior	$ 12,504.00	$ 357,800.00	
	N/A	$ -	$ -	
	Total	**$ 12,504.00**	**$ 357,800.00**	
2012	Confiscatior	$ 351,696.66	$ 11,580,858.00	€ 24,450.00
	N/A	$ 250,000.00	$ 274,310.00	
	Total	**$ 601,696.66**	**$ 11,855,168.00**	**€ 24,450.00**
2013	Confiscatior	$ 1,201,706.58	$ 1,478,155.00	
	N/A	$ 1,443,667.07		
	Total	**$ 2,645,373.65**	**$ 1,478,155.00**	
2014	Confiscatior	$ 12,931,657.01	$ 3,603,512.37	
	N/A		$ 520.00	
	Total	**$ 12,931,657.01**	**$ 3,604,032.37**	
2015	Confiscatior	$ 1,399,768.10	$ 11,321,466.00	
	N/A	$ 404,670.70	$ 1,183.66	
	Total	**$ 1,804,438.80**	**$ 11,322,649.66**	
TOTAL 2011-2015		**$ 17,995,670.12**	**$ 28,617,805.03**	**€ 24,450.00**

320. As previously mentioned, the asset forfeiture measure has been really effective at a national level. Nevertheless, authorities acknowledged that there exists a limitation at an international level to cooperate on the matter, as few countries in the region have this type of legislation and the inclusion of international cooperation regarding goods was not considered. However, Section 80 of the Special Anti-Money Laundering Law allows a greater scope to cooperate at an international level as regards goods, including the sharing and repatriation of goods. Additionally, the Public Prosecutor has already requested cooperation to Chile and Panama in this matter[5].

321. There is a system of declaration of currencies that enables the autonomous imposition of administrative fines, the initiation of criminal proceedings of ML and the initiation of asset forfeiture.

322. The State of Honduras, through the Executive Directorate of Revenue (DEI, for its Spanish acronym), has established a mechanism for the declaration of currencies and securities with a threshold of USD 10,000, as established in the international threshold. This declaration system is implemented in airports, ports and terrestrial border crossings.

323. There is a digital system administered by the DEI that centralizes the scanned images of the forms of all the declarations. The declarations that exceed the threshold of USD 10,000 are submitted to the FIU and

[5] On December 4th 2015, the first cooperation was provided at the request of the USA Government. Two bank accounts were secured for money laundering and bribery.

the Specialized Prosecutor's Office in Organized Crime (FESCCO) for them to carry out their functions. If the person declares currencies or securities that exceed the established threshold, a special form must be completed to justify the income and support documentation must be annexed. Currently, this form is sent in paper, but it would be ideal if it were sent through an IT channel or a secure online access in real time.

324. If currencies or securities are found which are not declared or which declaration is fraudulent, 3 parallel autonomous or independent actions can apply: (1) fines and administrative sanctions (withholding and fines that can go up to 1/3 of the undeclared value); (2) criminal investigation for ML; (3) asset forfeiture.

325. There is an inter-administrative agreement that coordinates the DEI, the Public Prosecutor, the airport security, the border police, the Office of the General Prosecutor of the Republic and the National Investigation and Intelligence Directorate that carries out random operations in border ports and airports in the search of undeclared currencies, arms, smuggling, drugs, chemical precursors, etc.

326. There is a digital system that stores the declarations of currencies that exceed the threshold, which are submitted to the FIU and the FESCCO. Moreover, the DEI carries out random operations in border ports and airports together with the border police.

327. The following are the results of the seizure of currencies by the Public Prosecutor. Several of these cases raised suspicion on ML or unjustified patrimony.

SEIZURE OF CURRENCIES

DESCRIPTION	2012	2013	2014	Up to June 2015
Cases	26	8	5	3
In customs	15	3	3	1
In raids	4	1	0	1
In vehicles	4	2	1	1
In vessels	3	2	1	0
TOTAL AMOUNT SEIZED				
DOLLARS	$1,760,508	$2,323,600	$1,767,216	$53,1520
LEMPIRAS	$1,473,571	$1,209,255	$11,773	$11,52,8230

DETECTION OF CASH (DOLLARS) BY THE AIRPORT SECURITY DIVISION				
NO.	**AIRPORT STATION**	**DATE**	**AMOUNT OF DOLLARS REPORTED**	**OBSERVATIONS**

1	**TONCONTIN – TEGUCIGALPA**	20/DEC/2014	$213,396.00	The case was turned to the Prosecutor's Office
		02/FEB/2015	$50,000.00	The case was turned to the Prosecutor's Office
		SUBTOTAL	**$263,396.00**	
2	**RAMON VILLEDA MORALES – SPS**	15/FEB/2015	$11,885.00	The case was turned to the Border Police/Prosecutor's Office
		21/APR/2015	$86,900.00	The case was turned to the Border Police/Prosecutor's Office
		18/MAY/2015	$12,000.00	The case was turned to the Border Police/Prosecutor's Office
		SUBTOTAL	**$110,785.00**	
3	**GOLOSON – CEIBA**	30/APR/2015	$10,247.00	The case was turned to the Border Police/Prosecutor's Office
		SUBTOTAL	**$10,247.00**	
		TOTAL (DOLLARS)	**$384,428.00**	

DETECTION OF CASH (LEMPIRAS) BY THE AIRPORT SECURITY DIVISION

NO.	AIRPORT STATION	DATE	AMOUNT OF LEMPIRAS REPORTED	OBSERVATIONS
1	**GOLOSON – CEIBA**	24/MAY/2015	275,000.00	The case was turned to the Border Police/Prosecutor's Office

328. Additionally, the Anti-Evasion Force was created by mandate of the National Defense and Security Council through Resolution no. CNDS-001/2014. This force started its operations on March 3rd 2014 with the participation of the Investigation Division of the National Investigation and Intelligence Directorate, the Special Unit of the Executive Directorate of Revenue, the Special Prosecutor's Office of the Public Prosecutor, the Special Unit of the Office of the General Prosecutor of the Republic, the Armed Forces of Honduras (PMOP, for its Spanish acronym) and the National Police (DNSEI, for its Spanish acronym). Its main objective is to combat tax crimes (ML predicate offenses) and smuggling. Arms, drugs, currencies and

chemical precursors have been seized. This force started its operations in 2014 and the following are its achievements since that date.

ACHIEVEMENTS

Detainees	31 people
Approximated estimate of confiscations already valued	L 52,628,994.00
Puerto Cortés customs	Three (3) trucks without the corresponding payment of taxes. One (1) container with used car parts for failure to public official's duties. Eighteen (18) molding boxes in a package (tax evasion). Air conditioners withheld. Awaiting technical report.
La Mesa customs	Three (3) containers for tax evasion and failure to public official's duties. Twenty seven (27) pallets for tax evasion. Three (3) power generators for tax evasion. Estimated value L 32.5 million.
Toncontín customs	One (1) truck with two hundred and fifteen (215) bulks of undeclared goods for tax evasion. Four (4) bulks containing seventy seven (77) purses and two hundred and fifty (250) tags of the brand "Michael Kors" and "Prada" for trademark counterfeiting. Two (2) bags of undeclared silver accessories.

329. It is also pointed out that Honduras has seized several trading companies that contributed to the strengthening and protection of the economic power of criminals. These trading companies are administered by the Administrative Office of Seized Property (OABI).

330. The Administrative Office of Seized Property (OABI) is the high body in Honduras in charge of the guard, custody and administration of all the criminal property, products and instruments seized and confiscated that the competent authority puts at its disposal in accordance with the Law on Permanent Deprivation of Ownership Rights of Assets of Illicit Origin, the Law against Money Laundering Offense, the Law on the Misuse Illicit Trafficking of Narcotic Drugs and Psychotropic Substances, and the Law against the Financing of Terrorism.

331. The OABI has legal status and depends on the Executive branch. Its main function is the reception, identification, inventory, custody, maintenance, administration and preservation, as well as the return, donation, auction and destination of the property and money seized, both by confiscation and asset forfeiture.

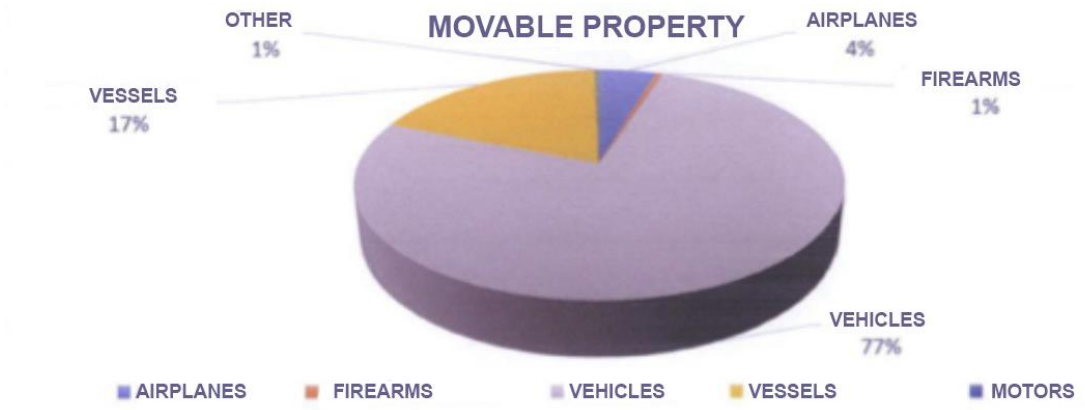
332. As a transparency measure, this office has an updated record in its website of all the assets under custody and administration, as well as an auditor or inspector which is independent to the Director and directly appointed by the President of the Republic. An internal Resolution (78–2013) establishes the administration guidelines for goods seized and confiscated by the OABI.

333. Once the decision ordering the asset forfeiture or the confiscation of the goods, products, instruments or profits is final, the OABI can, by means of a resolution, donate them to other entities of the State or auction them and distribute the cash, securities and financial products, plus the yields, profits or interests at its disposal.

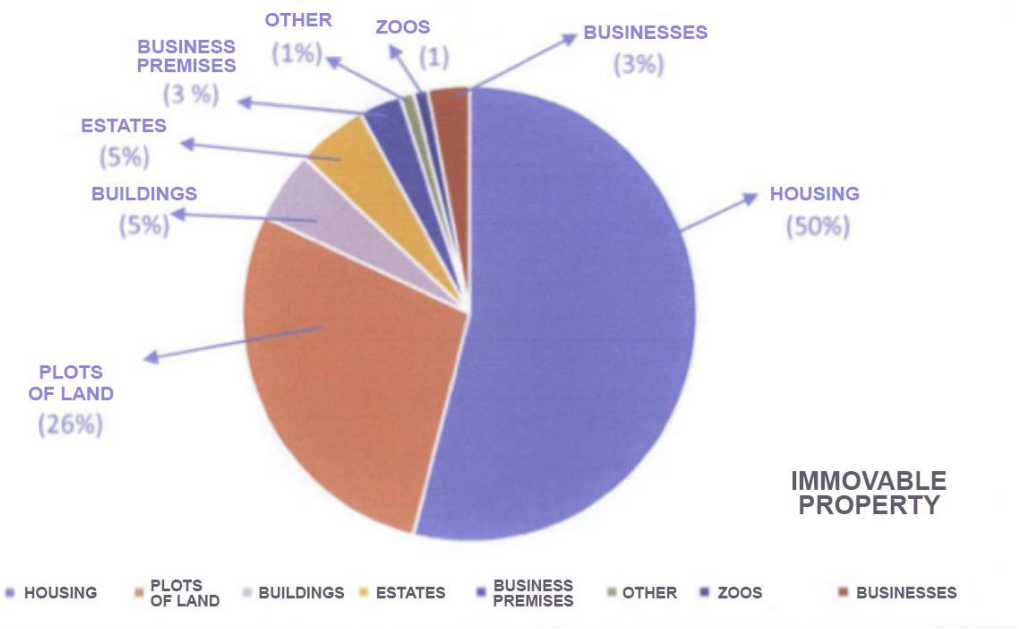
334. The OABI has had interesting results not only in the custody of the assets received for administration, but its capacity in the administration of trading companies is also pointed out in an exemplary manner, such as the *Joya Grande* zoo, which was seized from the criminal organization "Los Cachiros". Apart from the experience in the management of companies, it has also guarded livestock, horses and other animals.

335. The OABI has served as a model for the development of the "Manual for the reception and administration of operating companies", approved by the CICAD/OAS. It has also been a reference in issues regarding offices specialized in the administration of assets at a global level. It has received visits of the delegations of Costa Rica, Peru and Ecuador, and it has received invitations to present the system of administration of goods in Guatemala and Costa Rica and has participated in international forums of the OAS and the United Nations.

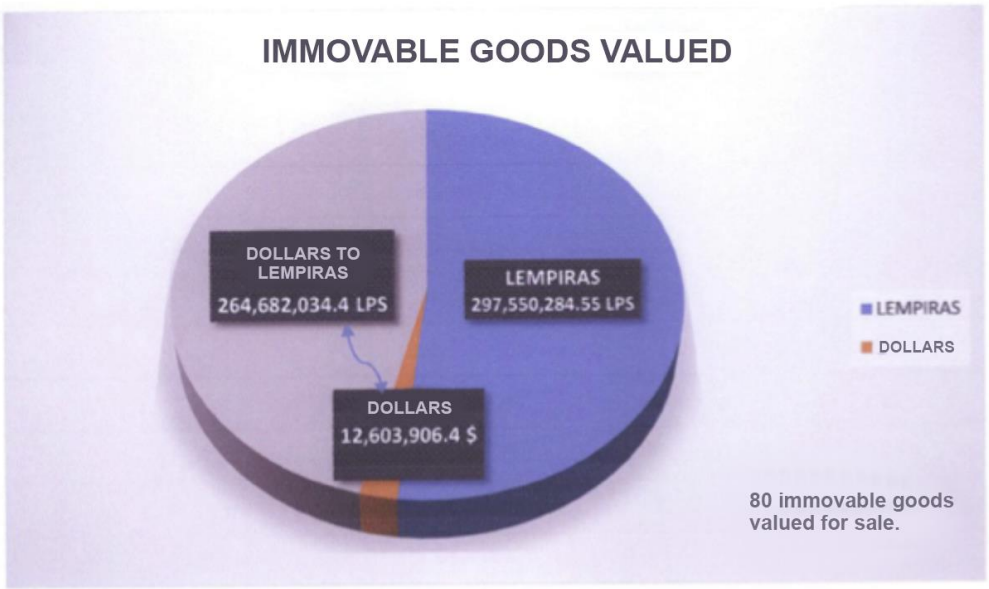
336. Assets administered by the OABI[6]:



[6] Tables were provided by the OABI.



There are, at least, eighty immovable goods with their net value, which are shown below both in dollars and in local currency (Lempiras):



337. In accordance with Decree no. 27-2010, the OABI can lease or enter into agreements that maintain the productivity and value of the assets, as well as sell, auction, donate, usufruct or transfer them. Moreover, the law requires that the OABI presents to the Attorney General of the Republic a detailed report on the administration of the goods.

338. Based on the foregoing, Honduras is effective in depriving criminals of their assets or property, including money transfers through borders. As mentioned in Immediate Outcome 7, the forfeiture act makes the offense non-profitable and shows the society that the offense is not lucrative. Moreover, Honduras is

very effective as regards the process of administrating these assets. **According to the foregoing, Honduras presents a high level of effectiveness in Immediate Outcome 8.**

F. Recommendations Regarding the Legal System and Operational Issues

339. To strengthen the operational analysis capacities of the FIU through the development of strategic analysis and red flags, and typologies that are updated to the reality of Honduras.

340. To carry out regular and periodic feedback with reporting subjects and supervisors to improve the quality of Suspicious Transaction Reports.

341. To establish the frequency of the feedback meetings between the FIU and the Public Prosecutor by means of an agreement and inter-institutional protocols that ensure permanence.

342. To implement the electronic filing of STRs, as they are currently carried out in paper by obliged subjects.

343. To use the information and declarations of inflows and outflows of cash above USD 10,000 sent by the Executive Directorate of Revenue (DEI) in the development of financial intelligence reports and in strategic studies carried out.

344. To develop teaching material in the area of ML and terrorist financing prevention that makes a contribution in the sphere of the anti-crime culture.

345. To provide more training to judges and prosecutors on complex cases of ML and terrorist financing.

346. To prioritize investigations on complex operations of sophisticated ML rather than investigations on acts derived from flagrancy.

347. To promote more investigations on ML derived from public corruption.

348. To promote more investigations on ML derived from other offenses that represent significant threats for the country, such as extortion, human trafficking and migrant smuggling, among others.

349. To strengthen the schemes of personal protection of judges and prosecutors of ML/TF.

IV. FINANCING OF TERRORIST AND FINANCING OF PROLIFERATION OF WMD

Key findings

350. Honduran law enforcement authorities have assessed their vulnerabilities and threats, thus understanding that the situation as regards level of exposure to TF risk is low.

351. Honduras has a legal framework to allow the State to comply with its international obligations regarding TF, mainly those related to the follow-up and freezing of assets of those individuals designated in the lists under UNSC Resolutions 1267-1989 and 1988.

352. FPWMD is not a priority within the Honduran national agenda. Despite Honduras has the operational and institutional elements necessary to react urgently if needed; it does not mean that the country has the proper legal instruments to comply with the relevant resolutions of the UNSC.

A. Background and Context

353. On December 11th 2010, Decree no. 241-2010 was published in the official gazette of the Republic of Honduras, through which the Law against the Financing of Terrorism was enacted, as well as the amendment to Section 335. Moreover, the Rules of Procedure for the Prevention and Detection of the Financing of Terrorism were published on August 30th 2011.

354. This way, the country has gathered the necessary substantive and procedural legal tools to investigate, prosecute and sanction potential cases of terrorism and TF. As explained in the Technical Compliance Annex, TF offense complies with the requirements of the International Convention for the Repression of the Financing of Terrorism (1999) and with the technical compliance requirements of Recommendation 5. Additionally, the specific type of "recruitment" was established.

355. The Law against the Financing of Terrorism establishes as a precautionary measure the power of the Public Prosecutor to request the freezing of assets of anyone suspected of carrying out terrorist financing activities, as well as of those individuals or entities designated by virtue of the UNSC resolutions, specifically those designated in its lists.

356. Additionally, Honduras has the Asset Forfeiture Act as a complementary regulatory element for the freezing of assets.

Targeted financial sanctions

357. Targeted financial sanctions specifically related to terrorism and its financing, applicable in compliance with UNSCR 1267-1898, 1988 and 1373, were incorporated to the Law against the Financing of Terrorism, and the obligation for the FIU to disclose the corresponding lists to obliged subjects was established.

358. As mentioned before, Honduras relies on the CIPLAFT, a coordination body as regards AML/CFT, and in terms of Circular 001/2015 of June 10th 2015, paragraphs 2 and 3 establish it is in charge of carrying out designations before the United Nations Security Council, as well as provide follow-up on them.

359. Also, Circular 002/15, issued on June 11th 2015 communicates the obligation of examining the lists according to UNSCRs 1718 and 1737, by virtue of Recommendation 7 of the FATF, and in that sense, the need to update and incorporate prevention, mitigation and risk-assessment mechanisms, regarding the

financing of proliferation in their corresponding compliance programs, to obliged subjects supervised by the CNBS.

B. Technical Compliance (R. 5-8)

360. Recommendation 5 is rated as Largely Compliant.

361. Recommendation 6 is rated as Largely Compliant.

362. Recommendation 7 is rated as Partially Compliant.

363. Recommendation 8 is rated as Largely Compliant.

C. Effectiveness: Immediate Outcome 9 (TF Investigations and Prosecution)

364. Up to the time of the on-site visit, Honduras had not investigated or prosecuted cases related to terrorism or TF. Therefore, the effectiveness of measures in place of the system to combat TF will be analysed. Indeed, according to the information provided by the country, there was a case informed in the meetings held with competent authorities, it was observed that migratory alerts raised authorities' attention about suspicious facts that proved to be illegal, and a potential terrorist or TF connection was dismissed as a result of investigations.

Assessment and understanding of TF risks

365. As it is mentioned in the assessment of Immediate Outcome 1, the relevant authorities assessed their threats and vulnerabilities to determine the level of risk with regard to TF.

366. Honduras authorities took into consideration the absence of terrorist activity in the region, mainly in the Central American sub-region. Additionally, it took into consideration the size and characteristics of its financial sector, the origin, amount and purpose of remittances and the permeability of its borders as regards cash. Likewise, the measures implemented as a result were taken into consideration, such as TF preventive measures and measures related to the maritime, aerial and terrestrial shields to strengthen and detect, among other things, the illegal transportation of cash and the alert systems implemented by different agencies

367. As previously mentioned, at the time of the on-site visit, there were no investigations or convictions regarding terrorism and its financing, what was also taken into consideration in the risk assessment carried out by the country, however it was not the predominant factor.

368. As it is explained in the analysis of the Immediate Outcome 1, the TF risk understanding could be improved with the inclusion of the DNFBPs and the NPOs in the risk analysis of the country.

Understanding of powers as regards TF

369. The assessment low TF risk level does not imply that Honduras has not developed instruments to combat potential cases. Honduras has a structure, tools and operational processes that would enable the country to prosecute different types of activities regarding the TF, should such a case arise. The following are some examples:

- Capacity to detect and investigate TF. Honduras has a Financial Investigation Police Office (OPIF) that works directly with the FESCCO. The OPIF was created specifically for the General Directorate of the

National Police to have an office to collect, analyze, and process information related to ML and TF, and other offenses that generate illicit proceeds. It has three (3) operational groups and received training in financial investigation. In this context, the following training have been conducted:

- Financial Crimes Investigation Course, given by the CNBS, OABI, Embassy of the United States, 27 people trained
- Basic Criminal Investigation Course, taught by the School of Criminal Investigation.
- Basic Accounting Course, taught by INFOP, 27 people trained.
- Strategic Intelligence Analysis Diploma, two people trained.
- Internal Affairs Diploma, two people trained.
- Seminar on Public Corruption, Trafficking and Asset Laundering, four people trained.

Moreover, the FESCCO has two competent units under its structure that, should the case arise, would work together to perform investigations, these are the Anti-Kidnapping, Arms Smuggling, Extortion and Anti-Terrorism Unit and the Anti-Money Laundering and Asset Forfeiture Unit, the first of these Units with the capacity to investigate terrorism, and the second to perform the financial part of such investigations.

- Prosecution. The Honduran Judicial branch has the capacity to judge TF in accordance with the Law against the Financing of Terrorism. It is worth mentioning that, as pointed out in the Technical Compliance Annex, the TF offence is in line with the international standard, and a sanction is provided that includes imprisonment from 30 to 40 years, and a fine between 85.5 and 170 minimum wages. Moreover, it is considered a felony that does not allow commuted punishments or release on bail and, therefore, it can be considered effective, proportionate and dissuasive, in addition to the fact that it is possible to sanction legal persons.

- Freezing of assets. In the case of freezing of assets linked to terrorist activities or TF, Honduras is enabled to implement the procedure provided for Asset Forfeiture, in accordance with Section 11, paragraphs 4 and 5 of the Asset Forfeiture Act. On this regard, in urgent cases, it is possible to freeze the assets of those of whom TF is suspected, i.e., in less than 24 hours. Honduras has experience to carry out the freezing of assets as it is analysed in the IO 8.

370. The Honduran law enforcement authorities know and understand their powers as regards CFT, mainly the Prosecutor's Office, the police, military forces and migration authorities. As previously mentioned, Honduras has an intelligence community with inter-agency mechanisms capable of responding to alerts that may arise in an immediate manner. An example of this is the FUSINA, as well as coordination agreements entered into between the authorities that form the AML/CFT system.

371. The FIU is within that intelligence community, with its own Rules of Procedure and Manual for the Prevention and Detection of Terrorist Financing, which describe the actions to follow in order to prevent and detect these acts and transactions. In this regard, the FIU also has powers to require urgent information to the obliged subjects, and these are aware of the importance of responding to the requirements considered as priority.

372. The authorities commented on a sole experience they had in 2002, regarding some migrants who entered the Honduran territory with a fraudulent passport and who raised the immigration alerts due to their unusual travel route with regard to migration patterns. The corresponding alarms were immediately triggered in order to verify the identity of the individuals, the competent authorities followed the case until the terrorist suspicion was dismissed, and even the TF suspicion. In this case international cooperation was used. This is the only situation reported in the last years.

373. On the other hand, as regards Honduras' operational capacity, it is possible to point out that it has a network of international instruments that allow the country to coordinate with authorities of other countries to prevent crime in general. Such network also works for CFT. Moreover, it was possible to verify the good collaboration between Honduran authorities, who are able to collaborate both in the national and international spheres, as it is seen in the section of International Cooperation. It is noteworthy to mention that at the time of the onsite visit, Honduras had not received TF related requests from other countries.

374. Additionally, financial obliged subjects generally comply with their AML/CFT obligations and have been trained. Meanwhile, supervisory authorities review the compliance with those obligations. Nevertheless, DNFBPs have not been supervised and the NPOs require to better understand the risks and a greater emphasis as regards those related to CFT is desirable, .

375. It is important to point out that if a case of TF arises, Honduras can and has the capacity to implement the same tools and processes that are used for a ML case, in particular assets forfeiture. The Prosecutor's Office through FESCO has a structure and specialised units to carry out investigations on terrorism, its financing and also asset forfeiture. The Public Prosecutor pointed out that the asset forfeiture measure could be the most effective tool for TF. However, as to strengthening the system, increase training on this matter is recommended in order to provide major ability for the investigation and prosecution of TF cases, should the case arise

General Conclusions of the Immediate Outcome 9

376. According to the foregoing, the Honduran authorities understand the risk of terrorism and its financing is low, that understanding could be improved by including the DNFBPs and the NPO in the risk analysis of the country.

377. Honduras has not prosecuted cases of terrorism or its financing. However, Honduras has in place a legal framework and structure, and the authorities understand their obligations. Therefore, if a case is presented, Honduras would be capable to investigate and prosecute the case inaccordance with the standard. Likewise, Honduras is entitled to apply other legal measures to disrupt TF activities, specifically those measures related to asset forfeiture.

378. It would be desirable to implement more awareness and permanent training actions among the participants of the system, especially as regards the identification of red flags on the matter for DNFBP and the NPO, as well as the development of cases, when required. According to the above, the existing measures in Honduras to investigate, prosecute and judge the TF correspond to the risk profile determined by the authorities. **Honduras presents a substantial level of effectiveness in Immediate Outcome 9.**

D. Effectiveness: Immediate Outcome 10 (TF Financial Sanctions and Preventive Measures)

379. Honduras has the necessary legal framework to comply with Recommendation 6. It is therefore able to immediately freeze the financial assets of those individuals and entities designated in accordance with UNSCR 1267 and successor resolutions, and those requests made in the terms of UNSCR 1373.

Designating, delisting and freezing assets procedures in accordance with UNSCRs

380. Despite the current regulations, as regards the procedure to disseminate the lists issued by the Committees established in accordance with UNSCRs 1267-1989 and 1988, it was observed that although the lists are disseminated to the FIU, it is not clear how they are sent to the FIU o how it is aware of their updating

or the authorities to which they are disseminated. Moreover, it was not verified if the FIU effectively disseminates said lists to obliged subjects as soon as they are aware of their updating.

381. From the perspective of the Public Prosecutor and the judges, it was observed that if there is a match, they know how to act, and they confirmed that the measure is implemented without delay. As for the Public Prosecutor, the FESCCO has personnel available 24 hours for urgent proceedings, including the freezing regarding the Security Council resolutions, and the asset forfeiture judge explained that the precautionary measure could be ratified in less than 24 hours, as it is an urgent measure.

382. On another hand, as regards the obligation of obliged subjects to freeze funds or assets of those included in the lists, an uneven compliance was perceived among the subjects. While some obliged subjects of the financial sector have the necessary tools to carry out searches and receive the immediate red flags in case an individual designated in the lists by virtue of UNSCR 1267 and successor resolution carries out an operation, there are examples in which this obligation is not fully complied with, what shows that there is a considerable scope for further improvement for a strict supervision of the matter. As for DNFBPs, it cannot be said that they are all aware of said lists and there has not been supervision on the matter. It is worth mentioning that after being directly asked, the obliged subjects of the financial sector indicated that up to the moment of the on-site visit they had not found any positive results when looking for matches with the lists of the Committees established by virtue of UNSCRs 1267-1989 and 1988.

383. As for financial supervisors, they should pay more attention to the compliance with CFT obligations and the way said obligations are included in the manuals.

Non-Profit Organizations

384. According to the Law against the Financing of Terrorism, NPOs are obliged subjects as regards CFT and must register with the URSAC, body that is also in charge of following up the activities of these organizations, and are subject to supervision requests. As for donations, those that exceed the established threshold of USD 2,000 or its equivalent in national or foreign currency must be registered. Moreover, NPOs must report to the FIU when they receive donations for an amount equal to or above the threshold indicated.

385. As for NPOs, it was not possible to verify the existence of outreach or awareness programs for the sector, and it was not possible to verify if all NPOs are supervised in accordance with the Law against the Financing of Terrorism. Nevertheless, an important sector of NPOs is supervised by the URSAC.

386. The legal framework applicable to NPOs could be stricter as regards authorization and registration criteria. Likewise, there is an urgent need to implement on-site supervision that enables the authority to verify the full compliance with CFT obligations established in the Law against the Financing of Terrorism. Additionally, an outreach program is needed to raise awareness regarding the risks to which the sector is exposed and the ways of mitigating them, as well as the importance of having transparent donations to prevent said organizations from being used with TF purposes.

General Conclusions of Immediate Outcome 10

387. Honduras has the necessary legal tools that allow it to have a highly efficient system that prevents terrorists and terrorist organizations from collecting, transporting and using the funds, as well as to prevent the abuse of NPOs.

388. It was evident that the Public Prosecutor and the judge know which the process is in case of finding a match. However, it was not verified if the FIU is notifying obliged subjects immediately, and those who check the lists do so by their own initiative.

389. It is necessary to strengthen the awareness on the importance of complying with the obligations as regards CFT, mainly regarding targeted financial sanctions, and to double the efforts with the purpose of implementing applicable legal measures. Likewise, it is necessary for financial supervisors to control the strict compliance with these obligations.

390. Non-profit organizations are a highly vulnerable sector given the lack of knowledge of their CFT obligations, the lack of supervision of their obligations as regards TF and the laxity in the controls to grant their registration. **Honduras presents a moderate level of effectiveness in Immediate Outcome 10.**

E. Effectiveness: Immediate Outcome 11 (FP Financial Sanctions)

391. The Circular of the FIU no. 2/2015, issued on June 11th 2015, communicates to obliged subjects supervised by the CNBS the obligation of UNSCRs 1718 and 1737, as well as the obligation under Recommendation 7 of the FATF, and in that sense, the need to update and incorporate prevention, mitigation and risk-assessment mechanisms, regarding the financing of proliferation in their corresponding compliance programs. However, this circular does not apply to DNFBPs.

392. Honduras has the capacity to apply the legal framework for the freezing of property and confiscation as a complement for the cases of proliferation of weapons of mass destruction.

393. This way, according to what was established by the law enforcement authorities that include the FIU, the Prosecutor's Office and the Judicial branch, the measures established in the Law against the Financing of Terrorism regarding the freezing of property and assets are applicable. Therefore, should the case arise, the funds and assets of those individuals designated in accordance to UNSCRs 1718 and 1737 and successor Resolutions can be frozen, as these regulations apply to any illicit activity, including those which are so according to international law.

394. Honduras has operational measures that strengthen the prevention against the financing of proliferation of weapons of mass destruction.

395. In the operational sphere, Honduras provided examples of how the system can respond to indicators related to chemical precursors and illicit trafficking of conventional arms. Therefore, should the case arise, Honduran authorities have the necessary tools to respond to the red flags.

396. The procedure to communicate designations by virtue of UNSCRs 1718 and 1737 is not clear. It was not possible to verify if financial sanctions regarding the prevention of the financing of proliferation are implemented without delay. The procedure through which the FIU is notified about the updating of the corresponding lists is unknown, as well as the way in which they are disseminated to obliged subjects.

397. Obliged subjects and law enforcement authorities do not completely understand their obligations and powers as regards the prevention of the proliferation of weapons of mass destruction.

398. Obliged subjects ignore the obligatory nature of the lists issued by the United Nations Security Council Committees, established by virtue of Resolutions 1718 and 1737, and show a low level of understanding of their role in the prevention of the financing of proliferation of weapons of mass destruction, although the financial transactions that include the countries in the resolutions mentioned are considered of high risk.

399. Competent authorities, such as customs and the police, showed a lack of information regarding financial sanctions aimed at the prevention of the PWMD. The preventive measures that the Honduran legal framework would allow have not been implemented, such as trade control with the Democratic People's Republic of Korea, control of temporary exports or imports with the Asian country as final destination.

General Conclusions of the Immediate Outcome 11

400. Honduras has express and clear procedures to ensure the identification and, given the case, freezing of the resources of those individuals connected with the PWMD.

401. Obliged subjects and relevant authorities are not clearly aware of the need to implement the measures established in Recommendation 7. In that sense, they are no implemented.

402. **Honduras presents a low level of effectiveness in Immediate Outcome 11.**

F. Recommendations Regarding the Financing of Terrorism and the Financing of Proliferation

403. It should be verified that all the international protocols and agreements regarding the financing of terrorism are ratified.

404. To promote the rapprochement of all the sectors for them to know and understand their obligations as regards TF and PWMD prevention, as well as the risks to which they are exposed, particularly to the DNFBPs (which have not been supervised) and NPOs. In that sense, feedback should be encouraged to identify red flags.

405. Although the FIU issued Circular 2/2015 on June 11th 2015 incorporating UNSCR 1718 and 1737 to the national legal regime, Honduras lacks express legal regulations to prevent the financing of proliferation of weapons of mass destruction. In this sense, the relevant regulations as regards sanctions related to terrorism and the financing of terrorism result applicable through interpretation.

406. To intensify the revision of obligations as regards TF and PWMD.

407. To carry out training actions aimed at potentially involved law enforcement authorities, so that they know the red flags on PWMD and establish measures that allow the assessment of the risk and the establishment of mitigating measures.

408. As for NPOs, to effectively implement the measures established in the regulations regarding supervision, and to establish stricter measures to grant the registration and authorization to operate. To explicitly include the prevention and fight against PWMD in the current legislation. Additionally, it is necessary to strengthen the transparency measures and the supervision powers of the URSAC, as well as to support that Unit in order to have more resources to fulfil its duties.

V. PREVENTIVE MEASURES

Key findings

409. As regards preventive measures, it is important to mention that the recent regulatory framework, that includes the Special Anti-Money Laundering Law and the Law for the Regulation of Designated Non-Financial Businesses and Professions, allows for most of the Recommendations related to preventive measures to be complied with at a technical compliance level.

410. Nevertheless, the country must issue the corresponding regulations to both laws, to allow financial institutions and DNFBPs to develop compliance programs in relation to the obligations established in the laws and to allow both types of obliged subjects to develop effective preventive measures.

411. As regards effectiveness level, it is clear that DNFBPs have not developed or implemented preventive measures, mainly because the necessary regulatory framework to clearly define their AML/CFT obligations was not developed.

412. Based on the revision of the AML/CFT compliance programs of several financial institutions and on the profiles and criteria of ML/TF risks, it was determined that they understand their risks and obligations. Therefore, it is considered that the mitigation measures are proportionate to their ML/TF risks. It is important to mention that even when the regulation prior to the Special Anti-Money Laundering Law did not establish the obligation to carry out ML/TF risk assessments, some financial institutions, mainly commercial banks and other institutions that are part of the financial groups supervised by the CNBS, and to a greater extent those that are part of foreign financial groups, had developed risk assessment criteria that included the determination of the risk profile of the customers.

413. Nevertheless, it is necessary to ensure uniformity in the understanding and implementation of preventive measures by financial institutions, mainly their obligations towards high-risk countries and the UNSC lists.

A. Background and Context

Financial Sector and DNFBPs

414. The Honduran financial system is formed by 95 financial institutions supervised by the National Commission of Banks and Insurance (CNBS) and includes the following, among others: commercial banks, financial companies, private financial development organizations (OPDF, for its Spanish acronym), insurance institutions and state pension institutions. It is important to point out that some financial institutions do not carry out financial intermediation activities, such as Private Credit Bureaux, whose objective is to provide information regarding the credit characteristics of customers of other financial institutions.

415. According to the report "Honduras in figures 2012-2014", developed by the Central Bank of Honduras[7], by December 2014 there were 234 credit and savings cooperatives, some of them formed by the Honduran Limited Federation of Credit and Savings Cooperatives (FEHCACREL, for its Spanish acronym). However,

[7] Available in: http://www.bch.hn/download/honduras_en_cifras/hencifras2012_2014.pdf

these figures could be inexact, as the authority in charge of its supervision (CNBS) does not have a detailed inventory of the number of credit and savings cooperatives of the country.

Table 5.1 Financial institutions supervised by the CNBS

Type of institution	No.
Commercial banks	17
Insurance	12
Financial companies	10
Brokerage firms	9
Bureaux de change	6
Remittance companies	6
Warehouses	5
Public pension fund	5
OPDF	5
Risk rating agencies	4
CC processing companies	4
Second-tier banking	2
State banks	2
Private credit bureaux	2
Representative offices	2
Mutual guarantee administrators	1
Stock market	1
Credit card issuers	1
Private pension funds	1
Total	**95**

416. Within the composition of the financial system, the figures of Private Financial Development Organizations (OPDF) stand out. Microfinance institutions whose main and only purpose, according to the Regulatory Law of Private Development Organizations that carry out Financial Activities is to finance micro and small enterprises, with the purpose of ensuring the legality, transparency and security of its operations and to strengthen their viability and sustainability. The pension system is formed by 5 state welfare institutions, which are autonomous, decentralized and have their own budgets: the Retirement and Pension Institute of the Employees and Officers of the Executive Power; the National Welfare Institution for the Teaching Profession; the Military Welfare Institute; the Employees Welfare Institute of the National University of Honduras; and the Honduran Institute of Social Security. The latter being the only one that is not exclusive to one type of worker.

417. The Honduran Association of Banking Institutions groups 16 of the 17 commercial banks, and the Honduran Chamber of Insurance Companies groups 12 insurance companies.

418. By the end of 2014, the assets of the financial system at an aggregated level amounted to L 406,673.3 million, as banks represent 96.8% of the total assets, equivalent to L 393,762.6 million; financial companies followed as regards participation with 2.1%, State banks with 1.0% and representative offices with 0.1%.

Public deposits[8] amounted to L 222,605.8 million, compared with L 26,108.8 million by the end of 2013; fund-raising in national currency represented 68.2% of total deposits, while the remaining 31.8% corresponded to foreign currency. Most (97.9%) of the public deposits are collected by commercial banks, amounting to L 217,891.3 million by the end of 2014, while financial companies and state banks represented only 1.6% and 0.5% respectively. The intermediation commissions of brokerage firms were around L 24.37 million by December 2014; insurance companies had assets for L 12,476.65 million by December 2014; by the same date, the consolidated investments of state pension funds reached L 78,001.47 million. As regards loans per destination, the economic activities with the most progress were the financing of services with L 7,126.7 million, followed by trade financing, consumption, real estate and agriculture with L 2,759.7, L 2,669.7, L 2,247.5 and L 1,628.5 million respectively. In general terms, according to the figures of the Central Bank of Honduras, financial intermediation represents 7.23% of the Gross Domestic Product before subsidies taxes[9].

419. According to the Country Risk Report corresponding the first quarter of 2015 developed by the Executive Secretariat of the Central American Monetary Council[10], Panama is still the only country of the region whose sovereign debt is set as "Low Investment Degree". The following countries have a highly speculative sovereign debt: Dominican Republic, Nicaragua, Honduras and El Salvador (rated by Standard & Poor's Rating).

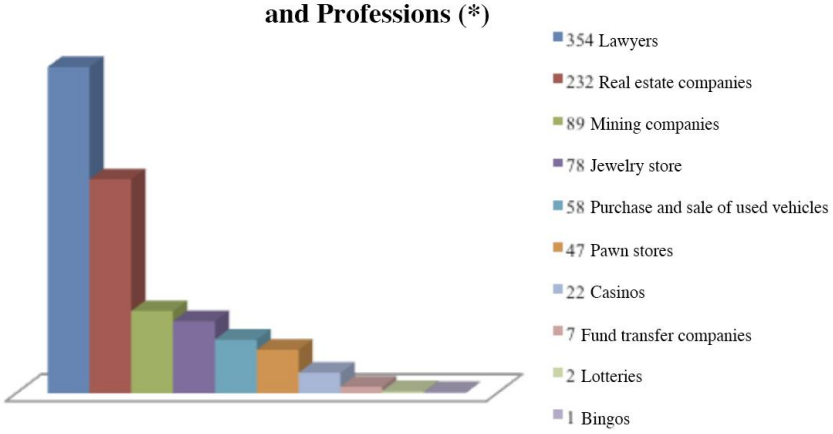
420. Additionally, there are financial institutions that, given their characteristics and the type of services provided, which do not include financial intermediation activities, are not object of supervision as regards AML/CFT, such as risk rating agencies, private credit bureaux, representative offices of foreign financial institutions, credit card issuers and processing companies.

421. As for trusts, financial institutions offer these products. Therefore, they are taken into consideration within the products offered by financial institutions. There are no companies whose only activity is connected with trusts.

422. As for the DNFBPs of the country, the figures are not conclusive because of the modification of the regulation and supervision framework of these activities. Before the changes implemented by Resolution GA N º 552/21-05-2015 of May 21st 2015, the Superintendence of Trading Companies supervised these institutions. This institution developed an inventory of DNFBPs, with which the following chart was created. This resolution also establishes that the supervision of DNFBPs will be in charge of the FIU, that is why at the moment of the on-site visit the actual number of DNFBPs was not known, mainly regarding the activities that do not require an authorization prior to the operations.

[8] Data by December 2014.
[9] Available in: http://www.bch.hn/download/honduras_en_cifras/hencifras2012_2014.pdf
[10] Available in: http://www.secmca.org/INFORMES/07%20RiesgoPais/RiesgoPais.pdf

Table 5.3 Designated Non-Financial Businesses and Professions (*)



(*) Information provided by the Superintendency of Trading Companies
Own preparation

423. The country did not provide information regarding how representative DNFBPs are in its economy. However, taking into consideration the data of the Gross Domestic Product by December 2014, it was established that the GDP in the case of the construction activity was of L 5,284 million; exploitation of mines and quarries L 349 million; hotels and restaurants L 3,953 million and real estate and business activities L 7,321 million.

Preventive measures

424. The institutional framework that establishes the obligations regarding ML/TF prevention for financial institutions and DNFBPs was recently modified. Since the coming into force of the Special Anti-Money Laundering Law, issued through the Legislative Decree no. 144-2014 on January 13th 2015, published in the official gazette *La Gaceta* on April 30th 2015 and which came into force on May 30th of the same year. This Law establishes the obligations of financial institutions and DNFBPs. Moreover, in case of DNFBPs, the Law for the Regulation of Designated Non-Financial Businesses and Professions is also applicable, enacted through Decree no. 131-2014, published on April 30th 2015, which came into force on May 30th and had 120 days for the issuing of regulation, which at the moment of the on-site visit of the assessment team had not been issued.

425. Prior to that modification, in the case of financial institutions, the obligations were established by the different Rules of Procedure applicable to each type of institution. In the case of financial institutions, the legal framework referred to in the Technical Compliance Annex was applied.

426. In the case of DNFBPs, their obligations as regards AML/CFT were established through the Law against the Financing of Terrorism, Decree no. 241-2010. Currently, they are established by the Law for the Regulation of Designated Non-Financial Businesses and Professions, enacted through Decree no. 131-2014, published on April 30th 2015 and which came into force on May 30th and had 120 days for the issuing of regulation.

Exemptions based on risk or extensions of the preventive measures

427. As regards the risk-based approach, obliged subjects can implement simplified, regular or enhanced measures according to the risk level. There exists the obligation of carrying out a continuous follow-up to the customers with the higher risk, including the residents of countries that do not cooperate with the FATF and of geographical areas of high risk, politically exposed persons (PEPs), non-profit organizations and those whose volume of cash operations is significant, with an emphasis on operations carried out with low denominations. Moreover, based on Section 6 of the Law against the Financing of Terrorism and in accordance with the Special Anti-Money Laundering Law, obliged subjects can implement simplified due diligence measures based on the risk of their customer and/or user. As for low risk products, such as "basic accounts" regulated through the Rules of Procedure for the Opening, Managing and Closure of Basic Accounts of Saving Deposit in Supervised Institutions (Resolution GE no. 2511/16-12-2013), the requirements to open a basic account are less than those established in similar regulations for other sectors, always establishing that a basic account will only be opened to customers classified as low risk.

B. Technical Compliance (R. 9-23)

428. Recommendation 9 is rated as Compliant.

429. Recommendation 10 is rated as Largely Compliant.

430. Recommendation 11 is rated as Compliant.

431. Recommendation 12 is rated as Largely Compliant.

432. Recommendation 13 is rated as Compliant.

433. Recommendation 14 is rated as Compliant.

434. Recommendation 15 is rated as Compliant.

435. Recommendation 16 is rated as Partially Compliant.

436. Recommendation 17 is rated as Partially Compliant.

437. Recommendation 18 is rated as Largely Compliant.

438. Recommendation 19 is rated as Compliant.

439. Recommendation 20 is rated as Compliant.

440. Recommendation 21 is rated as Compliant.

441. Recommendation 22 is rated as Largely Compliant.

442. Recommendation 23 is rated as Partially Compliant.

C. Effectiveness: Immediate Outcome 4 (Preventive Measures)

443. In order to establish the level of effectiveness as regards the adequate implementation of preventive measures by financial institutions and DNFBPs, it is important to make a distinction between both types of obliged subjects. When carrying out the effectiveness evaluation, the results presented by the assessment team were taken into consideration. These results correspond to the regulatory framework prior to the Special Anti-Money Laundering Law, approved by Decree no. 144-2014 of January 13th 2015, published in the official gazette *La Gaceta* on April 30th 2015 and which came into force on May 30th of the same year. It established that as from that date, authorities had 120 days to issue the regulations on the matter.

444. As for DNFBPs, although they are considered as obliged subjects since 2008 through the amendment of Section 37 of Decree no. 45-2002 - Law against Money Laundering Offense, reporting regulations were applied as regards the AML/CFT obligations. The amendments of the Special Anti-Money Laundering Law of January 2015 establish the obligations for DNFBPs as regards AML/CFT, which are similar to those of financial institutions and those established in the Recommendations, as well as the change of the supervisor entity (with the previous framework, this function was carried out by the Superintendency of Trading Companies and now it is carried out by the FIU as part of the CNBS). Therefore, at the moment of the on-site visit of the assessment team, **DNFBPs did not implement preventive measures, situation that affects the effectiveness of such measures.**

Knowledge of ML/TF risks and AML/CFT obligations, and implementation of mitigation measures

445. **Financial institutions understand their risks and obligations, and the mitigation measures implemented are proportionate to their risks.** This was evidenced through the revision of ML/TF prevention programs of some financial institution, as well as the profiles and criteria of ML/TF risks established by financial institutions.

446. It is important to mention that even when the regulation prior to the Special Anti-Money Laundering Law did not establish the obligation to carry out ML/TF risk assessments, some financial institutions, mainly commercial banks, and other institutions that are part of the financial groups supervised by the CNBS, and to a greater extent those that are part of foreign financial groups, had developed risk assessment criteria that included the determination of the risk profile of the customers. According to the financial institutions interviewed by the assessment team, training is one of the most important tools to develop the ML/TF risk assessment of institutions. Also, the relationship with the FIU, mainly the notes in which the main shortcomings are communicated, and the correct way of submitting unusual transaction reports.

Due diligence, document keeping and specific measures

447. **Financial institutions comply with due diligence measures regarding "know your customer" (KYC) and the period of conservation of documents.** This was verified in the evaluation of Compliance Programs of some financial institutions, as well as in the interviews carried out with the responsible people as regards AML/CFT of said institutions. It is important to mention that the period of conservation of documents is of 5 years, the same period that was known by the representatives interviewed during the visit of the assessment team.

448. This is consistent with what was expressed by the supervisors of the CNBS, as they mention that with regard to due diligence measures and KYC, as well as measures applicable to PEPs, correspondent banking, new technologies and wire transfers, financial institutions have made progress in the last years, both due to the requirements of international markets –belonging to foreign financial groups and correspondents– as well as to the sanctions applied by the CNBS. For example, in the case of insurance companies, the stage of

customer identification has been standardized with the obligation of completing the "Unique insurance request form". **However, this is not uniform in all the financial institutions.** In some cases, the risk assessment is not carried out; the obligations are not clear for the same institutions regarding higher risk countries and the financial sanctions regarding the financing of terrorism and those stemming from the discovery of a customer who might be included in some lists of the United Nations Security Council.

Suspicious transaction reports and measures to prevent tipping-off

449. **According to financial institutions, supervisors and FIU authorities, financial institutions comply with the obligation of submitting suspicious transaction reports in accordance with the regulation.** The development of supervision activities as regards AML/CFT since 2007 and the sanctions imposed by the CNBS, as well as the improvement of the compliance programs of FIs has had effects in the submission of unusual transaction reports (or suspicious transaction reports) since 2007 up to the date of the evaluation, as shown in the following table:

Number of STRs sent per year and per financial institution

	Year				
Financial Institution	**2010**	**2011**	**2012**	**2013**	**2014**
Banks and financial companies	404	362	672	681	814
Stock market	0	0	0	0	0
Insurance companies	10	2	0	6	18
Bureaux de change	7	1	9	0	17
Credit and savings cooperatives	20	19	29	16	84
Credit card issuers	7	19	9	6	41
OPDF	0	0	0	0	0
Brokerage firms	0	0	0	0	0
Remittance companies	3	20	48	22	93
Pension funds	0	0	0	32	32
Others	8	6	22	2	38
Total	**459**	**429**	**789**	**765**	**1137**

Source: FIU

450. **As it can be observed, the increase in the number of STRs is due mainly to banks and financial companies, as well as remittance companies and credit and savings companies.** However, as regards the quality of information submitted by financial institutions, according to the information provided by the FIU, from 484 STRs assessed by the FIU, the quality of STRs between 2009 and 2014 has maintained between good and average.

Quality of STRs

Year	Good	Excellent	Incomplete	Bad	Average	Overall total
2009	21	1		13	27	**62**

2010	47		3	12	28	**90**
2011	11			1	9	**21**
2012	37	8	1	12	31	**89**
2013	95	21		12	37	**165**
2014	27	4	1	4	21	**57**
Overall total	**238**	**34**	**5**	**53**	**153**	**484**

Source: FIU

451. **Nevertheless, no measures have been implemented to prevent the dissemination of information of STRs**, mainly due to the physical delivery by the Compliance Officer or by a messenger of the financial institution, which does not ensure the confidentiality of said documents.

Internal controls

452. **There are no obstacles for financial institutions that are part of financial groups to establish uniform procedures among them and to share information.** The assessment team had access to AML/CFT programs of different financial institutions – banks, insurance companies, bureaux de change, brokerage firms and pension fund administrator (AFP, for its Spanish acronym) – that showed the implementation of internal controls and procedures.

453. The working programs include due diligence obligations, conservation of information, identification of beneficial ownership, enhanced measures for PEPs, knowledge of correspondent banking and wire transfers regulations. The training programs as regards AML/CFT include both the content of working programs and the typologies obtained from international references.

454. The Honduran financial institutions do not present foreign branches or subsidiaries.

Case of the Central Bank of Honduras

455. It is important to point out the case of the Central Bank of Honduras (BCH, for its Spanish acronym), which even if it does not carry out financial intermediation activities, it has developed ML/TF prevention programs and appointed an officer responsible for the ML/TF prevention system designated by the Board of Directors, which runs a unit formed by 6 analysts. This compliance program is adapted to the banks' operating capacity. Specifically, it gets to know exporters, who must register with the Central Bank before carrying out exports, and must identify the foreign trade operations that might be done with high-risk countries. These policies have been developed within the Central Bank with further momentum since 2014. During the interview with the assessment team, the responsible person for the ML/TF prevention system of the BCH said that this institution was not an obliged subject. However, it was shown that the CNBS carried out supervision activities as regards ML/TF prevention in the BCH.

456. Taking into consideration the lack of uniformity in the identification and measures to combat the ML/TF risks to which financial institutions are exposed, as well as the understanding of the obligations regarding ML/TF of financial institutions, and the lack of implementation of preventive measures by DNFBPs given their recent inclusion in the AML/CFT system, **the country presents a moderate level of effectiveness in Immediate Outcome 4 on preventive measures.**

D. Recommendations Regarding Preventive Measures

457. Although the regulatory framework that incorporates DNFBPs to the AML/CFT system is recent, it is extremely important to develop mechanisms to allow the full identification of the institutions that have the capacity of DNFBPs and to develop the necessary regulation for DNFBPs and financial institutions to comply with the preventive measures that ensure an efficient system for the prevention of and fight against ML and terrorist financing, as well as to ensure that the risk approach is uniform by financial institutions and DNFBPs.

458. As regards the obligations of Politically Exposed Persons (PEPs), it is necessary that the country extends the obligations to family members and close friends of PEPs, both national and foreign PEPs, and representatives of international organizations with a leading role.

459. The country must establish obligations for DNFBPs to comply with the identification and enhanced monitoring of PEPs requirements,, as well as other aspects of Recommendation 12. It must also include obligations related to continuous training, procedures for the selection of compliance officers, and extend the measures established in criterion 23.2 to dealers in precious metals and stones in the assumptions considered in criterion 23.2 of Recommendation 23.

VI. SUPERVISION

Key findings

461. Honduras has an authorization granting regime for all the segments of the financial sector, which include fit and proper tests. However, there are shortcomings in the powers of authorities to prevent criminals and their accomplices from obtaining accreditations, possessing, controlling or managing an obliged subject of the non-financial sector.

462. The approach of the risk analysis is consistent in the financial system and is carried out by each of the supervisors (Banking, Insurance and Securities). The prudential supervisors of the banking, insurance and securities sector make their own sectorial risk assessment and each of them keeps their risk matrix updated. However, not every financial institution has been supervised as regards ML/TF.

463. Effective and proportionate sanctions have been imposed on obliged subjects of the financial sector.

464. At the time of the on-site visit, DNFBP have not been supervised and no sanctions have been imposed to DNFBPs.

A. Background and Context

465. The different Superintendencies that are part of the CNBS carry out their supervision activities independently, relying on the Money Laundering and Terrorist Financing Risk Units (URLAFT, for its Spanish acronym), formed by personnel trained to carry out these activities.

466. The Superintendency of Banks, Financial Companies and Savings and Loan Associations (SBFAAP, for its Spanish acronym) has a Risk Unit (URLAFT) that is currently formed by 6 people, one (1) coordinating supervisor and five (5) on-site risk analysts, who are exclusively dedicated to the evaluation of ML/TF risk. In 2010, the Resolution no. 2043/22-12-2010 approved the "Functions Manual and Risk-Assessment Methodology of Money Laundering and Terrorist Financing of the URLAFT" in Banks, which was updated in 2014. Additionally, the processes of the URLAFT-BCO are included in the comprehensive risk-assessment of the CNBS in accordance with the risk-based supervision manual approved by Resolution no. 376/12-03-2012.

467. As regards the Superintendency of Insurance and Pensions, this unit is currently formed by four (4) people, one (1) coordinating supervisor and three (3) on-site risk analysts, who are exclusively dedicated to the evaluation of ML/TF risk. There is a draft project of the "Functions Manual and Risk-Assessment Methodology of Money Laundering and Terrorist Financing of the URLAFT in Insurance", which is in process of internal approval. By February 2015, there were two (2) people who had an international certification on the matter by well-known international associations (ACAMS).

468. As regards the Superintendency of Securities and Other Institutions, this unit is currently formed by three (3) people, one (1) coordinating supervisor and two (2) on-site risk analysts, who are exclusively dedicated to the evaluation of ML/TF risk. They have a "Functions Manual and Risk-Assessment Methodology of Money Laundering and Terrorist Financing of the URLAFT in SVOI", which is in process of internal approval.

469. For sectors other than Cooperatives and Private Organizations of Financial Development (OPDF, for its Spanish acronym), as these two sectors have a risk-based supervision manual. By June 2015, there were three (3) people who had an international certification on the matter by well-known international associations

(ACAMS). Moreover, they have specific guidelines for each sector that are directly related to that risk, in which institutions are rated and their risk profile is established. The result of the qualification is shared with the off-site area, which follows said risks, in accordance with the risk level made by on-site visits with a regular frequency for the supervised subjects that have a higher risk.

470. The new Special Anti-Money Laundering Law significantly increases the amount of monetary fines from one hundred (100) to five hundred (500) minimum wages in the area where the offense is committed, which is calculated for each non-observance or non-compliance. Said assumption also establishes that, in the case of recidivism by the obliged subject, the fine will be the double of that established. The fines will be imposed by the CNBS in the case of financial institutions supervised by this Commission, and will be communicated to the rest of the obliged subjects by the FIU. The Honduran legislation provides for criminal liability derived from the committed offense. In addition to the fines, there is administrative, civil and criminal liability of the officers and employees of obliged subjects, and liability of the legal person, which will be sanctioned with a fine of 100% the amount laundered, if it commits or facilitates the offenses established by said law for the first time; in the case of recidivism, the fine will be the same but the legal person will also be cancelled or closed down.

B. Technical Compliance (R.26-28, R.34, R.35)

471. Recommendation 26 is rated as Largely Compliant.

472. Recommendation 27 is rated as Compliant.

473. Recommendation 28 is rated as Partially Compliant.

474. Recommendation 34 is rated as Non-Compliant.

475. Recommendation 35 is rated as Partially Compliant.

C. Effectiveness: Immediate Outcome 3 (Supervision)

Measures to prevent criminals and their accomplices from entering the market

476. The supervisors of the financial sector implement the "fit and proper" criteria evaluation regarding an institution that will be supervised by the CNBS. The CNBS, through Resolution GE no.461/26-03-2014, which contains the "Rules of procedure of the Minimum Requirements for the Establishment of New Supervised Institutions", complied with by the Superintendencies that are part of the CNBS, establishes that prior to the authorization of new institutions the Commission will verify that the founding partners and organizers of the institutions, subject to the compliance of the present Rules of Procedure, comply with the requirements established in the corresponding regulation, and with suitability, competence, capacity and the necessary economic solvency characteristics.

477. Said analysis is carried out by the Studies Management of the CNBS. One example of the work done by this office is the authorization to operate required by the shareholders of a Bank, which was firstly denied because there were records of a lawsuit in U.S.A for using privileged information of the Stock Market. When they filed the 2nd request, they argued that it was a sanction for a minor offense. Information was requested

to the United States on the sanctions, and it was determined that it was not the shareholders who had been sanctioned in U.S.A, but a bank-related company[11].

478. The Financial System Law is directly applied to the institutions supervised by the CNBS, when required. Therefore, in accordance with Section 23, every January they must submit to the CNBS a list of its shareholders by December of the previous year, detailing the amount and percentage held by each of them in the share capital, notwithstanding the CNBS requiring said information at any time considered convenient. Moreover, said Law refers in Section 22 to the transfer of shares; the CNBS must authorize when a percentage of shares is transferred and through which a shareholder reaches or exceeds participation equal to or above 10% of the capital. This empowers the Commission to carry out investigations and the necessary verifications, at any time, to establish the origin of the capital.

479. Additionally, as regards the Superintendency of Insurance and Pensions, the Central Bank of Honduras randomly implements fit and proper criteria prior to the authorization of insurance and reinsurance companies. To this effect, Section 43 of the Insurance and Pension Law establishes that the members of the Administrative Board or the Board of Directors must be suitable, solvent and honorable people. Also, according to the current legislation, every time the Central Bank of Honduras (BCH) receives an authorization request from an insurance or reinsurance company, it will seek the opinion of the National Commission of Banks and Insurance, and based on this opinion, the Studies Management will carry out a comprehensive analysis of the future founding partners. If any of the founding partners lacks the requirements established in the legal framework, the authorization request will be denied. As for the establishment of welfare institutions, it is carried out through a Decree issued by the Legislative branch.

480. As for the Superintendency of Securities and Other Institutions (SVOI), the operating licenses are granted by the Central Bank of Honduras, after the ruling of the CNBS, and some of them are registered with the Superintendency of Securities and Other Institutions, within the risk analysis division, Registration Unit. The latter carries out the registration of 1) asset appraisers; 2) fund remittance companies; 3) stock market public registry. The purpose is to evaluate the suitability; the analysis is complemented with national and international databases in order to assess criminal verifications. When deemed necessary, the CNBS checks in national and international databases if founding partners comply with the fit and proper requirements and those related to ML/TF prevention. Their content may be enough to deny the request for an opinion, as appropriate.

481. However, there are no legally conferred powers to prevent criminals or their accomplices from obtaining accreditation from the DNFBP sector. As for casinos, the license is granted by the Secretariat of Culture, Tourism and Information. From the DNFBP, this is the only subject that requires a license prior to its establishment. Section 3 requires partners, shareholders and administrators not to have convictions for crimes whose punishment is deprivation of liberty (Law on Casinos and Games of Chance - Decree no. 488).

[11] Additionally, it was pointed out that on November 9th, 2015, the CNBS informed and proceeded to the forced liquidation of *Banco Continental S.A.* On October 7th, 2015, an official communication of said entity published on the website of the Department of Treasury of the United States of America that Yankel Antonio Rosenthal Coello, Yani Benjamín Rosenthal Hidalgo, Jaime Rolando Rosenthal Oliva, BANCO CONTINENTAL S.A., among others, had been included in the list of the Office of Foreign Assets Control (OFAC) due to their money laundering connections. In accordance with the communication, BANCO CONTINENTAL S.A. had served as an integral part of money laundering operations for the Rosenthal family and had facilitated the laundering of drug trafficking proceeds. In view of the freezing of assets, the CNBS was bound to request the forced liquidation of the Bank in accordance with Sections 115 and 117 of the Financial System Law, which is being developed.

Supervision of compliance of obligations as regards ML/TF. Identification of risks

482. Each sector has established a risk-based approach regarding the sector to supervise, which is reviewed by each Supervisor. The CNBS, formed by three Superintendencies, has a ML/TF Risk Unit in each Superintendency (URLAFT), created by Resolution no. 001/05-01- 2010, with the purpose of assessing the ML and terrorist financing prevention systems, through the implementation of a risk-based assessment system. As regards the supervision process, in order to establish if an institution will be visited or not in a period of time, two aspects of risk are taken into consideration: a) the results of the last ML/TF risk evaluation described in the resolution communicated, identified noncompliance, shortcomings found and risk sheet that establishes the level of risk of the entity; b) external events of recent knowledge. Thus, according to the level of risk, it is established whether the visit is carried out or not, the period of time and the personnel assigned to it; the higher the risk of the entity, the longer the period of time and dedication.

483. The Superintendency of Banks, Financial Companies and Savings and Loan Associations (SBFAAP) implements an effective risk-based approach. The SBFAAP; the Superintendency of Insurance and Pensions; and the SVOI carry out, at least, one supervision per year to the obliged subjects of each sector. As for banks and insurance, the prudential supervision is carried out on an annual basis.

484. There is an effective coordination among financial supervisors. Moreover, the development of the Annual Plan as regards supervision takes into consideration the assessment of Financial Groups. This is carried out through the coordination of the three supervisions for a joint visit in the framework of a consolidated supervision to exchange information of different risks, including ML/TF risk. In all the cases, there is a joint planning, but the supervision is carried out by each Superintendency. However, notall the financial institutions are being supervised with regard to AML/CFT requirements. In the particular case of cooperatives, at the time of the on-site visit, their registry system was voluntary, which has not allowed to know the total number of cooperatives and therefore there is a lack of AML/CFT supervision by the SVOI. In addition, the manual for functions and ML/TF risks assessing methodology, it was still in internal approval process.

485. Lack of supervision to DNFBPs as regard to ML/TF. According to the current legal framework, the supervision of DNFBPs corresponds to the Superintendency of Trading Companies, attached to the Ministry of Finance. Nevertheless, no supervision has been carried on this matter up to this date. The recent approval of the DNFBP Law was published in the official gazette, dated April 30th, 2015, and establishes that it will come into force 30 days after its publication. However, this law establishes a period of 120 days for its regulation following its coming into force. This would make up for this shortcoming, as the FIU would be the one to carry out the supervision of these sectors through the creation of the URMOPRELAFT.

Corrective measures and sanctions for the noncompliance with ML/TF obligations

486. The supervisors of the financial sector can implement corrective measures and monetary fines in the case of noncompliance. The CNBS can implement a wide range of sanctions: warnings, restitution of the perceived values, fines to the institution, its officers or directives, prohibitions to carry out activities, and even to cancellation of the authorization to operate, all of these not being mutually exclusive.

487. The financial sanctions are implemented when there is noncompliance with the preventive system or when an entity does not comply with the action plan of corrective measures required in cases of noncompliance detected in an on-site supervision.

488. There are cases within the financial sector in which the sanctions are effectively dissuasive, according to the documentation presented by authorities. A remittance company has been deregistered and another one

is in process of deregistration; the license of a bureau de change has been suspended for not paying the fine; and a cooperative is being investigated.

489. Details of the cases:

490. *REMESADORA TRANSREMESAS S.A.*: The authorization to operate was cancelled and its dissolution was ordered due to, among other factors, the noncompliance with the "Rules of Procedure for the Authorization and Operation of Remittance Companies", specifically Section no. 20 regarding the obligation of appointing a Compliance Officer; moreover, it was verified that this company did not comply with the "know your customer" policy (it had not updated the files and it did not use a format that included the minimum customer information required).

491. *REMESAS GIROS LATINOS S.A.*: It is in process of cancellation and forced liquidation due to, among other factors, noncompliance with the "Rules of Procedure for the Authorization and Operation of Remittance Companies", specifically Section no. 19 regarding the Compliance Program, Section 22 regarding the functions and powers of the Compliance Officer, Section 26 regarding the Know your Customer Policy, Section 28 regarding payment forms and sending of remittances, Section 29 regarding cash remittances and Section 30 regarding not reporting on multiple remittances in a timely and duly manner.

492. *CORPORACIÓN DE INVERSIONES NACIONALES (COIN) CASA DE CAMBIO S.A.*: Two (2) fines have been imposed for money laundering, which amount to L 2,365,975.50 and L 675,993.00, totalling L 3,041,968.50, for noncompliance with Sections 33 of Decree no. 45-2002 "Law against Money Laundering" and Section 33 of Resolution no. 869/29-10-2002 "Rules of Procedure for the Prevention and Detection of the Misuse of Financial Products and Services", for not reporting 35 unique transactions on time to the Financial Intelligence Unit (FIU) and for not complying by October 31st, 2011 –date of the general exam– with all the regulations contained therein.

493. The Central Bank of Honduras (BCH) suspended the authorization to negotiate with currencies through Resolution no. 434-10/2012 of Session no. 3437 of October 25th, 2012. Said Resolution was based on shortcomings found in the risk management of institutions, as well as noncompliance with the applicable legal framework and the sanctions described in Resolution SV no. 1559/02-10-2012, issued by the National Commission of Banks and Insurance, resulting from the review carried out to the bureau de change on October 31st, 2011. Up to date, the suspension is in force.

494. *COOPERATIVA MIXTA MUJERES UNIDAS LIMITADA (COMIXMUL):* The Superintendency of Securities and Other Institutions supervised this cooperative with the purpose of assessing the compliance with the Law against ML/TF, as well as with Resolution no. 1477/22-08-2011, which takes into consideration the Money Laundering Regulations issued by the CNBS applicable to cooperatives. Moreover, the solvency of the Cooperative was assessed. The examination established administrative shortcomings and noncompliance with ML/TF regulations, which resulted in a fine of L 1.6 million. The Cooperative filed a legal action against the fine.

495. On December 31st, 2014, the Cooperative was supervised one more time as a follow-up of the previous supervision, especially as regards ML/TF shortcomings and noncompliance. In this case, other severe administrative shortcomings were identified as well as noncompliance as regards ML/TF, which was reported to the National Supervisory Cooperatives Board (CONSUCOOP, for its Spanish acronym), the body that supervises the cooperatives' system, which agreed to initiate the Intervention Process of COMIXMUL; this is currently in process of resolution in the courts for the contestation carried out by the members of the Board of Directors against the CONSUCOOP's decision.

496. Additionally, according to the information provided during the visit to the country, the following fines have been imposed to Banks and financial companies that operate in the Honduran financial market. It is noted that the fines are not disseminated or public.

Fines imposed 2010-2014

NO. OF RESOLUTION	NAME OF INSTITUTION	DATE OF NOTIFICATION	TOTAL
923/25-06-2010	BANK1	01/JUL/2010	L. 110.000,00
824/07-06-2010		18/JUN/2010	55.000,00
1046/22-07-2010	BANK 2	28/JUL/2010	55.000,00
SB-969/03-06-2013	BANK 3	26/JUN/2013	259.068,48
SB2070/10-10-2013	BANK 4	30/OCT/2013	13.005.952,00
SB 169/30-01-2014	BANK 5	20/FEB/2014	76.505,60
SB 906/01-07-2014	BANK 6	15/AUG/2014	2.906.212,80
SB 1212/08-09-2014	BANK 7	12/SEP/2014	82.243,50
SB 832/16-06-2014	BANK 8	17/JUL/2014	1.480.383,00
SB 520/09-04-2014	FINANCIAL COMPANY 1	24/APR/2014	224.862,30
SB 904/01-07-2014	FINANCIAL COMPANY 2	10/JUL/2014	82.243,50
SB 1517/19-11-2014	FINANCIAL COMPANY 3	27/NOV/2014	82.243,50
	TOTAL		L. 18.419.714,68

497. The sanctions are proportionate, as the cases of noncompliance detected are taken into consideration, and a monetary fine is imposed to each of them.

498. There are no ML/TF sanctions imposed on DNFBPs.

Impact of supervisory activities on compliance

499. The information provided by the private sector shows that the supervision has had an effect in the compliance with preventive systems.

Promotion of a clear understanding of ML/TF risks and of obligations as regards ML/TF prevention

500. As regards DNFBPs, there is a lack of awareness in the implementation of the preventive framework as regards the fight against money laundering and terrorist financing. Based on the meetings held during the on-site visit, there is a low level of participation in the preventive system. This situation results from the lack of understanding of this phenomenon and the lack of awareness of the dangers it represents for their integrity. Based on their statements and declarations, it can be inferred that they consider that this problem does not concern them and that the money laundering activities are carried out in other sectors, which entails a serious failure in the implementation of the system.

501. There are controls both in the granting of licenses and in the changes of structure (capital contributions, mergers or acquisitions) of financial entities to prevent criminals from controlling them.

502. The Republic of Honduras has a financial supervision system as regards ML/TF prevention that is partially effective, its procedures of supervision are established on a risk-based approach and a follow-up of the detected shortcomings is carried out. Nevertheless, not all the financial institutions have been supervised as regards ML/TF, and the time of the on-site DNFBPs have not been supervised with regard to AML/CFT obligations.

503. **Honduras presents a moderate level of effectiveness in Immediate Outcome 3.**

D. Recommendations Regarding Supervision

504. Based on the previous conclusions, the assessment team recommends that the regulation regarding the supervision of DNFBPs has to be clear enough to determine which will be the supervising authority and that it is suitable to carry out the supervision. Moreover, it is recommended to work with a risk-based approach for the supervision the DNFBPs.

505. To strengthen the mechanisms to prevent criminals and their accomplices from obtaining accreditations, possessing, controlling or managing an obliged subject of the non-financial sector.

506. It is recommended that all the financial institutions are supervised (either on-site or off-site) at least one time as regards ML/TF, taking into consideration the scope of the supervision in accordance with the inherent risk of each obliged subject, according to the risk matrix designed, to later determine the nature of the monitoring that the CNBS will carry out.

507. The country must strengthen the supervision mechanisms regarding TF with the purpose of continuously monitoring possible emerging risks.

VII. LEGAL PERSONS AND STRUCTURES

Key findings

508. The information on the creation and operation of the different types of legal persons that can be set up in Honduras cannot be easily accessed. The information is not unified, complete not updated.

509. The incorporation of companies is allowed, but the information requested to shareholders, including beneficial ownership information, is not available to the public. Both Section 17 of the Commerce Code and the Law for Employment Generation, Promotion of Entrepreneurship, Business Formalization and Protection of Investor Rights allow the incorporation of companies without controls as regards the identification of shareholders and beneficial owners, what creates significant ML/TF risks.

510. Legal persons are important vehicles for money laundering networks in Honduras. The legal authorities point out an increase in the use of individual companies or companies' networks (both national and foreign) for money laundering, such as the case of the Institute of Social Security.

A. Background and Context

(a) Overview of Legal Persons

511. The Honduran legislation allows the establishment of the following: a) General Partnerships, b) Public Limited Companies, c) Limited Liability Companies, d) Public Corporations, e) Joint Stock Company, f) Single-Member Companies, g) Foreign Companies that carry out their activities in Honduras and h) Holding Companies.

512. The Property Institute has the property registry, the vehicle registry and the Trade Registry, in which the different types of companies and the Individual Traders who own a company are registered. However, since January 23rd 2006, the administration of the Trade Registry was turned to the Chamber of Commerce and Industry of Tegucigalpa (CCIT, for its Spanish acronym), through Decree no. 253-2005, as associate center, the administration of trading registries where it has competence. This transfer only had place in the Departments of Francisco Morazán and San Pedro Sula. In the rest of the Departments, the administration of the Trade Registry lies in the Property Institute.

513. The process of incorporation of Limited Liability Companies and Public Corporations is similar. A public deed of incorporation is needed before a notary, who verifies the identity of owners and administrators of the company as part of the procedure only as a diligence measure. Then, the interested person proceeds to register the articles of incorporation before the Trade Registry (based on the information and documentation provided by the notary) and in the Chamber of Commerce. Then, the person must file form 4/10 before the Executive Directorate of Revenue to get the taxpayer identification number of the National Tax Registry (RTN, for its Spanish acronym), which is necessary to carry out financial and tax transactions. It is pointed out that the data obtained from said form is then exported to the ETAX database, which contains the largest amount of information as regards legal persons at a national level.

514. The legal persons and financial groups regulated by the CNBS are obliged to provide information regarding their shareholders; this information is public but is submitted in response to a formal request to the CNBS.

Overview of Legal Structures

515. General Partnerships: they exist under a registered name and all the partners have unlimited, joint and several liabilities.

516. Public Limited Companies: they exist under a registered name and are formed by one or several limited partners, who have unlimited, joint and several liabilities, and of one or more limited partners who are only obliged to pay their contributions. After the registered name, the words "Sociedad en Comandita" will follow, or the abbreviations "S. en C.".

517. Limited Liability Companies: they exist under a registered name o denomination and its partners are only obliged to pay their contribution; the partners, who will never be represented by securities, can only be assigned in the cases with the requirements established by the present Code. The name will be formed in accordance with Section 91; the registered name will be formed with the name of one or more partners. Any of the previous will be followed by the words "Sociedad de Responsabilidad Limitada" or the abbreviation "S. de R.L.".

518. Public Corporations: they exist under a registered name and have a founding capital divided in shares, whose partners limit their liability regarding the payment of the shares subscribed. The name will be formed freely, but will always refer to the main social activity; it shall be different from other companies and will be followed by the words "Sociedad Anónima" or its abbreviation "S.A.".

519. Joint Stock Company: they are formed by one or several limited partners, who have unlimited, joint and several liability, and of one or more limited partners who are only obliged to pay their contributions.

520. Cooperative Company: The cooperative company will carry out its activities exclusively in favor of its partners, it will operate under a registered name, and its capital will be divided in equal parts, the partners will limit their liability for the corporate operations to the amount of the participation under their names.

521. All these companies can be of variable capital. The country has not provided information regarding the total amount of incorporated companies that exist or regarding the existing types of companies.

522. Although the Commerce Code establishes which information must be provided when setting up a legal person and the update process, the legislation does not include mechanisms to know the beneficial owner of legal persons. There exists the possibility of setting up companies that are not registered in the Public Trade Registry, in which the information regarding shareholders, including beneficial ownership, is not available to the public. This is a risk as regards ML/TF prevention, given the fact that setting up companies that do not need to be registered or created by notaries makes them vulnerable to be used in the commission of ML/TF offenses. The Commerce Code does not include a clear requirement for companies to maintain updated information on beneficial ownership, except for the registration of the ownership changes.

523. The Commerce Code allows nominative or bearer securities. Moreover, companies are required to keep a record of nominative shares and a record of those nominative shares that are converted into bearer shares. However, there are no additional requirements for bearer shares; it is possible to transfer the stock ownership through a simple endorsement. Said record is done by the company in the shareholders' book, what is not enough as a mechanism of control. Therefore, Honduras cannot provide assistance on the matter due to lack of information.

524. In Honduras, the Commerce Code only authorizes banks to carry out trust operations, which are obliged subjects. Additionally, the Anti-Money Laundering Law establishes that in the case of trusts, supervised

institutions must request the corresponding certifications that show the incorporation and validity of companies, as well as the identification of signatories, proxies, directors and legal representatives of said companies, so that they can adequately establish and document the actual owner or beneficiary of the trust, either direct or indirect. This service is subject to the risk management and the CDD process.

525. The Special Anti-Money Laundering Law establishes that for the purpose of applicability of the Law, the banking, professional or tax secrecy shall not be cited, therefore, all the information that can be timely accessed includes that of beneficial ownership, according to Section 17, on trusts.

International context for legal persons and structures

526. Honduras is not an international center for the incorporation and administration of companies or a country of origin of legal instruments. However, according to authorities, a trend has been observed in the use of new shell companies without a legal business activity or the use of already incorporated companies that also carry out other legal business activities (such as trading companies). The assessment team was not provided with any quantitative analysis of the risk derived from the use of legal instruments in money laundering activities.

B. Technical Compliance (R.24, R.25)

527. Recommendation 24 is rated as Non-Compliant.

528. Recommendation 25 is rated as Largely Compliant.

C. Immediate Outcome 5: Public Availability of the Information and Sanctions

529. In Honduras, the Trade Registry is public. However, the Property Institute does not have consolidated information at a national level, only the departments of Francisco Morazán and San Pedro Sula have computerized information regarding individuals and legal persons registered, but in the remaining departments the registration is carried out manually. Therefore, in the case of a cooperation request, authorities could be able to access the information. However, even local authorities have difficulties accessing the information.

530. The Commerce Code does not include a clear requirement for legal persons to maintain updated information on beneficial owners. The required updating is merely of the Social Contract, there are not sanctions in the case of noncompliance.

531. Section 17 establishes that "companies not registered before the Public Trade Registry that externalize as such with third parties will have legal capability whether they appear in a public deed or not"; therefore, the creation of companies that could never register before the Trade Registry is allowed, regarding which there will never exist the adequate and precise identification of its members or information on beneficial ownership.

532. The Law for Employment Generation, Promotion of Entrepreneurship, Business Formalization and Protection of Investor Rights (Decree no. 284-2013) allows the creation of single-member companies through the submission of an on-line form to the Trade Registry, which makes them very vulnerable to be used for the commission of ML/TF offenses.

533. Honduras allows nominative and bearer shares, and lacks mechanisms to prevent these from being used for ML/TF purposes. Additionally, it is possible to transfer the ownership of nominative shares through a

blank endorsement. The endorsement must only be registered in the shareholder's book, which is kept by these companies.

534. As for legal persons who carry out financial activities, thanks to the Law against Money Laundering it is possible to have information of all the obliged subjects in the public registry in an updated and precise manner regarding beneficial ownership. Also, by means of the banking, insurance and pension sector, it is possible to obtain the final beneficiaries of the customers to which obliged subjects provide this service.

535. The National Commission of Banks and Insurance can provide information on shareholders of financial entities upon request. The information on representatives of Boards of Directors is public and can be found in the website.

Vulnerabilities of legal persons

536. Honduras has recently identified and assessed the vulnerabilities and risks of ML/TF prevention regarding the use of legal persons established in its territory through a field study of the Superintendency of Trading Companies and through the NRA, carried out with the support of the Inter-American Development Bank. The latter analysis identifies the existence of the possibility of creating companies that could not register despite of being formally established by means of a notary, what makes them very vulnerable to be used for the commission of ML/TF offenses. Additionally, it is acknowledged that despite having a regulation regarding the registration of legal persons, it is not reliable and the information of the public registry is not updated. The risk analyses identify this sector as risky. Nevertheless, competent authorities have presented a work plan to mitigate these vulnerabilities.

Access to information by authorities

537. The Executive Directorate of Revenue has a technological tool called ETAX that enables a rapid access to information regarding a specific taxpayer in a comprehensive way. However, this database includes information of those companies that have registered with the Trade Registry and the Chamber of Commerce, as this is a requirement to obtain the National Tax Registry (RTN). During the on-site visit, it was observed that if the taxpayer is a legal person or individual trader, the system will show the following: Trade Registry number, Trade Registry date, share capital, incorporation Decree/Agreement number (for public or autonomous institutions), number of Resolution of foreign company, type of company, legal representative, RTN legal representative.

538. As for the data of incorporation, merger and takeover, it will show the date, notary and RTN of the notary in charge of the incorporation, merger and/or takeover, as appropriate, and the starting, closing and cessation date of activities. Also, it has information on the relationships of the taxpayer, i.e. his partners, in which companies does the selected taxpayer appear as partner or legal representative, and establishes "Connected Companies", either with the information of the National Tax Registry of the taxpayer, the name or registered name and the type of connection. The DEI can receive and provide information upon request of legal authorities regarding said information.

539. As regards ensuring the access to basic information and information on beneficial ownership of legal persons, the implemented system in Honduras is not efficient and needs to be improved. Authorities have showed that it is very difficult to obtain information regarding legal persons who are being investigated in money laundering cases in a fast and precise way. This makes the identification, prosecution and conviction of the beneficial owners difficult. The information on the beneficial owner of companies is not dully regulated as there are not mechanisms to know the beneficial owner. Additionally, it is acknowledged that

despite having a regulation regarding the registration of legal persons, it is not reliable and the information of the public registry is not updated.

Measures to prevent the use of legal persons

540. There are shortcomings in the implementation of preventive measures against the abuse of corporate instruments. The possibility of creating irregular companies, on which there is no information on the ownership, including beneficial ownership information, is a concern. There is a lack of transparency of the transfer of shares, as previously mentioned bearer shares are allowed and are not regulated.

541. Notaries have significant limitations to prove the identity of the beneficial owner and the chain of ownership.

542. No measures have been implemented to prevent the misuse of legal persons. In fact, in the case of the Honduran Institute of Social Security (IHSS), different acts had been carried out through shell companies or portfolio companies, which received payments as if they were suppliers. In this case, the judicial system can intervene and liquidate these companies.

543. **Honduras presents a low level of effectiveness in Immediate Outcome 5.**

D. Recommendations Regarding Legal Persons and Structures

544. Based on the previous conclusions, the assessment team recommends the following improvements for the measures implemented to legal persons and instruments in Honduras:

545. Authorities must work on a plan to mitigate the risks, taking into consideration the need to increase the transparency of legal persons. Competent authorities must work in the identification of all the legal persons, the computerization of databases and the adequate identification of beneficial owners, as legal persons are still important vehicles for money laundering networks.

546. The Property Registry must work in the registry's platform in order to have consistent data at a national level.

547. Given the important control function of notaries in the system of incorporation of legal persons, authorities should: carry out dissemination activities aimed at these professionals to foster a better understanding of the ML/TF risks and develop guidance on additional measures that could or should be adopted as part of the (enhanced) due diligence obligations regarding legal persons, including: i) the verification of ownership and control structure of the company; ii) a more detailed examination of the purpose and nature of the company's activities; and iii) the verification of the beneficial owner condition and (if appropriate) of the chain of ownership.

548. It is recommended to reassess the implementation of the Law for Employment Generation, Promotion of Entrepreneurship, Business Formalization and Protection of Investor Rights, given the risks implied by it in order to comply with this immediate outcome.

VIII. INTERNATIONAL COOPERATION

Key findings

549. Honduras provides international cooperation through different mechanisms available in the country, such as mutual legal assistance carried out by the Public Prosecutor, extradition, even of Hondurans, financial intelligence by the Financial Intelligence Unit (FIU), asset recovery by the OABI and other forms, such as Customs and the Police. The FIU has several memoranda to enable said cooperation, mainly with the countries of the region, such as Panama, El Salvador, Guatemala and Dominican Republic.

550. Honduras provides international cooperation in a proactive manner, mainly through the Public Prosecutor for cases related to drug trafficking, and through the FIU for cases related to money laundering and underlying offenses. Agreements have been entered into with U.S.A, Chile and Panama for the recovery of assets.

551. Honduras centralizes its legal assistance requests in offenses related to drug trafficking and organized crime respectively according to the Vienna and Palermo Conventions, and has not made any other requests according to other agreements and treaties entered into by the country.

552. Honduras should regulate some matters that are already provided for in the law but that are carried out based on jurisprudence. The cases of simplified extradition and international cooperation established in the Law on Money Laundering and Terrorist Financing must be regulated to provide a greater transparency to the process.

A. Background and Context

553. In Honduras, international cooperation is important due to its problems related to the international trafficking of drugs that cause problems for the country, which leads to high violence levels. Honduras is an important transit point of illegal drugs that come from South America and are destined to Mexico and United States. This results in the presence of criminal organizations in the country with links overseas. Since 2014, the government of Honduras has been prioritizing the fight against drug trafficking and has achieved significant results in the dismantling of gangs and laboratories for the development of drugs, mainly cocaine, and the surrender of suspicious local leaders to the justice of the United States. Among the adopted measures, there is the creation of a unilateral aerial shield in the Caribbean and a maritime shield, in coordination with the U.S.A. and other neighboring countries, such as Guatemala and El Salvador, which significantly reduced the entrance of drugs from South America; and the enactment of laws that enable and foster international cooperation.

554. The President of Honduras, Juan Orlando Hernández, has encouraged the different bodies of the country to strengthen international cooperation as a way of fighting organized crime. There is not a single responsible central body in charge of the coordination of international cooperation carried out by several agencies of the country.

555. Honduras is a signatory to the Vienna, Palermo and Merida Conventions, and the Agreement for the Repression of the Financing of Terrorism, which entail laws with the legal instruments to comply with these conventions, such as Section 79 of the Special Anti-Money Laundering Law (Decree no.144-2014) and Section 34 of the Law against the Financing of Terrorism (Decree no. 241-2010).

556. Honduras is also a signatory to international treaties and agreements, and makes requests according to the Inter-American Convention on Mutual Assistance on Criminal Matters; the Inter-American Convention

against the Manufacturing and Illegal Trafficking of Firearms, Munitions, Explosives and Other Related Materials; the Multilateral Convention on Cooperation and Mutual Assistance among Customs National Directorates, as well as some important treaties, such as the Mutual Legal Assistance Treaty on Criminal Matters between the Republic of El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica and Panama; and the Mutual Legal Assistance Treaty on Criminal Matters between the government of the United Mexican States and the Republic of Honduras.

557. Honduras has a legislative framework that enables mutual legal assistance in cases related to ML/TF and other similar offenses. Section 79 of the Special Anti-Money Laundering Law establishes that Honduran authorities must cooperate to the maximum possible extent with authorities of other countries to investigate money laundering and similar offenses, and they can also implement precautionary measures for extradition, mutual legal assistance or any other type of international cooperation permitted. However, processes have yet to be developed to provide transparency to their implementation.

558. A positive aspect to take into consideration is related to the TF. Section 34 of the Law that governs on the matter in the country establishes the criteria for the Public *Prosecutor* to provide the necessary cooperation and also enables oral requests or any other type or request in urgent situations.

559. Section 38 of the Special Anti-Money Laundering Law and other sections of the Law against the Financing of Terrorism establish that in the case of a foreign request, the country can implement measures to secure assets, products or instruments in its jurisdiction in relation tomoney laundering crimes and other crimes established by law.

560. As regards asset recovery, Section 79 of the Asset Forfeiture Act establishes that competent bodies, such as the Public Prosecutor and the Central Bank, among others, can provide mutual legal cooperation or assistance through authorized mechanisms to other countries that have similar mechanisms.

B. Technical Compliance (R.36- R.40)

561. Recommendation 36 is rated as Largely Compliant.

562. Recommendation 37 is rated as Largely Compliant.

563. Recommendation 38 is rated as Largely Compliant.

564. Recommendation 39 is rated as Largely Compliant.

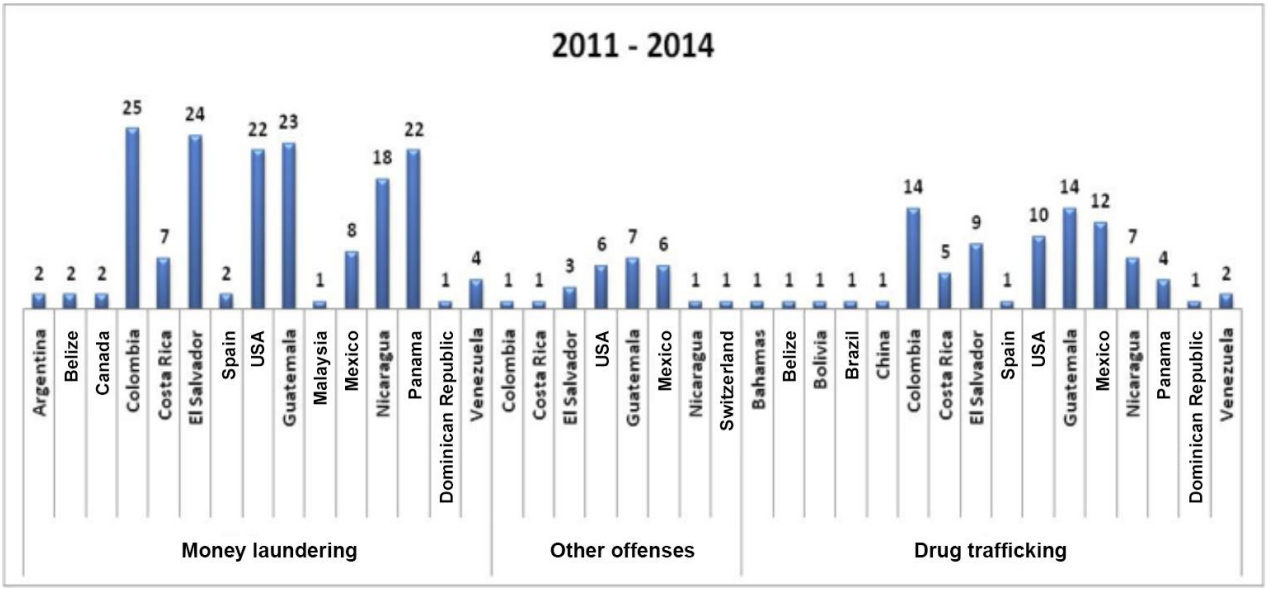
565. Recommendation 40 is rated as Largely Compliant.

C. Effectiveness: Immediate Outcome 2 (International Cooperation)

Required assistance

566. In Honduras, international cooperation is very important due to its problems related to drug trafficking, as the country is an important transit point of illegal drugs that come from South America and are destined to Mexico and the United States, and that yields profits of significant value for criminal organizations operating in the country and in the region.

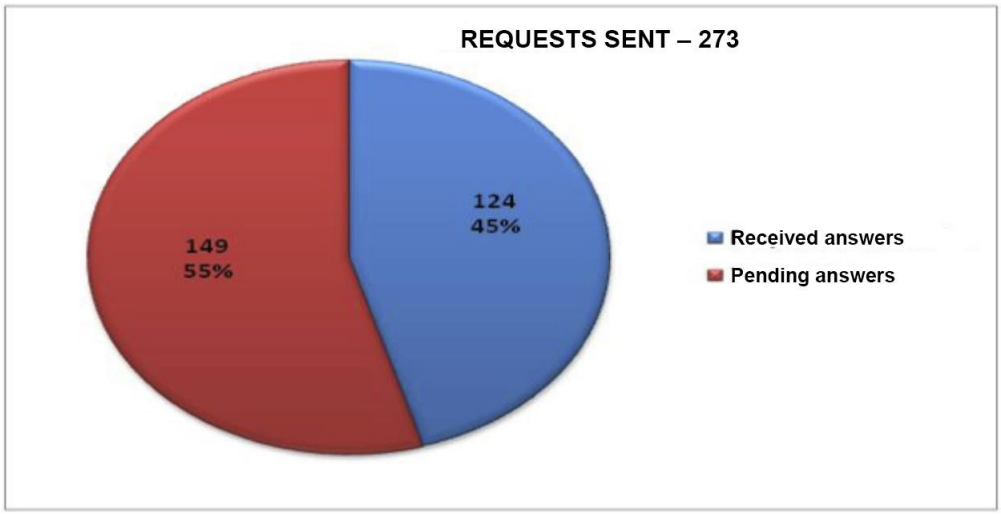
567. Between 2011 and 2014, Honduras made 273 international cooperation requests related to money laundering and drug trafficking offenses. The countries that received the most requests from Honduras were United States, Colombia, Panama and Mexico, as shown below:



1. Source: Public Prosecutor of the Republic of Honduras.

2. Other offenses*: Corruption, Forgery, Illegal Possession, Asset Forfeiture, Robbery, Kidnapping, Arms Smuggling, and Human Trafficking.

568. In the requests presented by Honduras in the 2011-2014 period, there were no requests for precautionary measures or confiscation of property. Most of these requests are still pending response by foreign authorities, as shown in the following table. However, Honduras has not showed slowness in any particular case.



ii. Source: Public Prosecutor.

Assistance provided

569. In Honduras, the law allows the provision of mutual legal assistance to other countries in investigations and prosecutions, mainly related to drug trafficking, money laundering and terrorist financing offenses by criminal organizations, and implements measures of confiscation of assets related to these offenses. There is no clear regulation regarding legal assistance when it comes to other offenses, such as smuggling and corruption. Section 84 of the Special Anti-Money Laundering Law establishes that legal assistance can only be denied if it does not come from a competent authority, in accordance with the legislation of the requesting country.

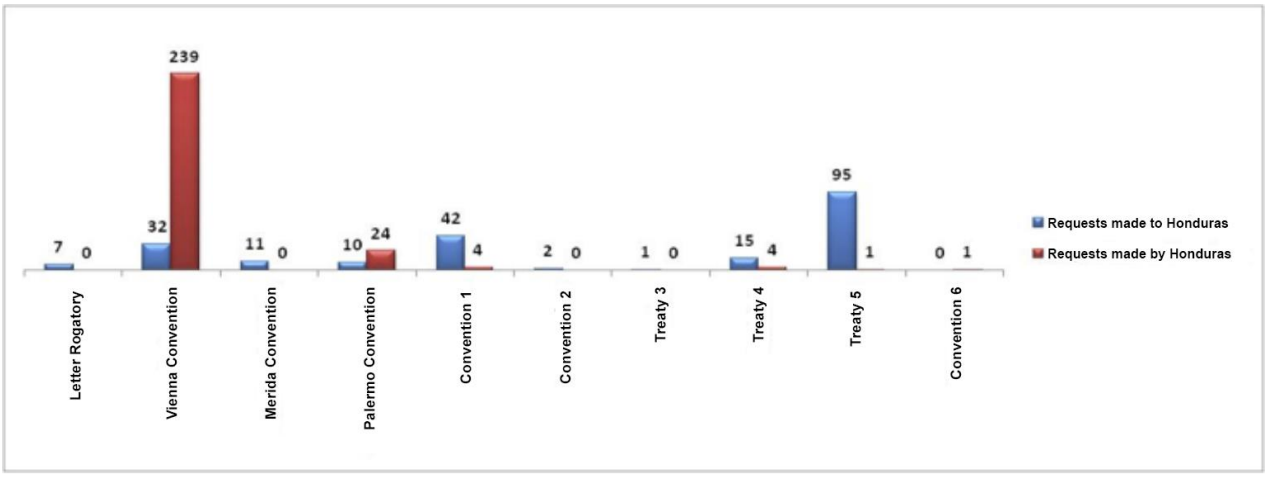
570. Honduras provides legal assistance in a significant number of investigations related to drug trafficking, money laundering and similar offenses, with the Public Prosecutor acting as the operational instrument of such exchanges.

571. Honduras receives a significant number of requests for international cooperation from third countries. The Public Prosecutor is responsible for the compliance with these requests through a specialized group within the special unit to combat organized crime to centralize the requests received. Between 2011 and 2014, 215 cooperation requests were received, and only 2 requests are pending. In the responses, the country has provided useful, timely and quality information, according to the verification carried out with several countries[12].

572. The requests presented by Honduras are mostly carried out according to the Vienna Convention, which represented approximately 90% of the requests made. Despite the fact that corruption is another crime that affects the country, there were no requests for corruption under the Merida Convention. Most of the cooperation requests received by Honduras were made according to the Mutual Legal Assistance Treaty on Criminal Matters between the government of the United Mexican States and the Republic of Honduras, while

[12] The countries that provided information were: Costa Rica, France, Guatemala, Macao, Mexico, Nicaragua, Panama, Paraguay, Peru and United States.

most of the cooperation requests made by Honduras were made according to the Vienna Convention, as shown below. No requests, either received or made, are related to the TF.



Source: Public Prosecutor of Honduras[13].

573. Honduras lacks prioritization criteria to make requests or answer the requests received. There is only one employee responsible for the coordination of this process in the responsible sector and there are no electronic methods for the control and prioritization. The time to response varies widely, from less than a month to over a year.

574. Honduras does not request foreign authorities to send a feedback regarding the information provided and does not send additional information to the one previously sent. The most common offense in the international cooperation contained in the requests received was money laundering derived from drug trafficking; the same trend is observed in the requests sent, although to a lesser extent. Feedback is important for a better understanding of the dynamic of the process, as this is one of the main problems of the country. Similarly, between 2011 and 2014, Honduras received eleven requests for international cooperation as regards corruption and has not made any request.

Cooperation as regards extradition

575. Honduras has a legislation that allows the extradition of nationals or foreigners. Section 102 of the Honduran Constitution establishes the extradition of nationals for drug trafficking, terrorism or any other offense committed by a criminal organization, and Section 79 of the Special Anti-Money Laundering Law establishes that Honduran authorities must cooperate to the maximum possible extent with foreign authorities

[13] Convention 1: Inter-American Convention on Mutual Assistance on Criminal Matters.
Convention 2: Multilateral Convention on Cooperation and Mutual Assistance among Customs National Directorates.
Treaty 3: Bilateral Treaty between Brazil and Honduras on Mutual Legal Assistance on Criminal Matters.
Treaty 4: Mutual Legal Assistance Treaty on Criminal Matters between the Republic of El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica and Panama.
Treaty 5: Mutual Legal Assistance Treaty on Criminal Matters between the government of the United Mexican States and the Republic of Honduras.
Convention 6: the Inter-American Convention against the Manufacturing and Illegal Trafficking of Firearms, Munitions, Explosives and Other Related Material.

in order to carry out extraditions. The Law against the Financing of Terrorism still establishes that no offense established in said Law can be considered a political offense for extradition purposes, what is consistent with the FATF standard. These sections are not regulated, there are no rules or periods of time; therefore, the act of extradition becomes a matter of interpretation of the legal system according to the ruling published in the Gazette on June 11th 2013. At the moment of the on-site visit, there were 20 extradition cases in the Courts of Justice that had been assigned to judges who were processing the requests[14].

576. The Honduran State has entered into bilateral and regional agreements on the matter that are ratified and are part of the legislation of the country. There are extradition agreements with the United States of America, Great Britain and Spain, as well as documents that establish the procedure to carry out said extraditions. Moreover, there is a regional agreement entered into between Central American countries that specifies the issuing of a Central American arrest warrant, also known as express extradition, that entails the validity of this arrest warrant issued under the parameters of this agreement in the entire Central American isthmus.

577. Honduras does not carry out the extradition of nationals for political offenses or related offenses, and does not have any restrictions as regards the extradition of foreigners. Before 2014, Honduras did not have a tradition of carrying out extraditions of nationals or foreigners, and so did not provide precise data or statistics on the matter. The constitutional reform and the new regulatory frameworks, such as the new Law against Money Laundering, is changing this trend, as observed in 2014, when seven Honduran nationals were extradited to the United States for drug trafficking.

578. The Supreme Court is the body in charge of deciding on passive and active extraditions, in accordance with Section 303 of the Constitution of the country, without political decision in the proceeding. The eight passive extraditions carried out up to June 2015 included Honduran citizens extradited to the United States for investigations related to drug trafficking. In the demands for active requests, the Supreme Court of Justice must authorize the request after the being made by the Public Prosecutor. In 2014, Honduras sent extradition requests to Chile and Panama.

579. Honduras only submits those individuals whose extradition has been denied to the requesting State for judicial control. Moreover, double incrimination is not required in order to carry out extraditions.

Example of international cooperation to dismantle criminal organizations and recover assets

580. Valle Valle Case: the Valle Valle brothers (Arnulfo Miguel, Luis Alonso and José Reynerio) led one of the biggest criminal organizations in Central America, with operations based in the city of Copán, responsible for the distribution of cocaine destined to United States. The criminal organization was operated by a family business that laundered the proceeds of drug trafficking through a network of companies, including three coffee producers in Honduras. They were also cattle farmers and owners of milk production companies, which were also used in money laundering schemes. They had many properties abroad, mainly in Guatemala, where assets were recovered with the help of the country. In the dismantling of the criminal organization, the cooperation of United States through the Office of Foreign Assets Control (OFAC) was of vital importance and helped to show that the Valle Valle brothers were the leaders of this criminal organization. they had been previously investigated in the United States and Honduras extradited the three members of the Valle Valle family and other leaders of the criminal organization.

[14] Honduras mentioned that after the on-site visit, one extradition request was approved.

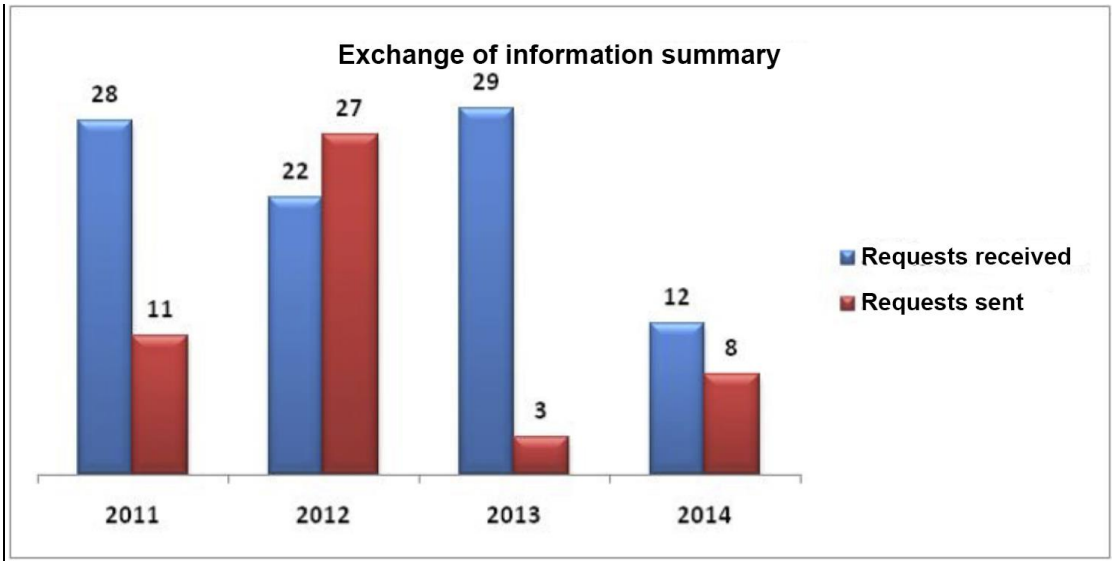
581. Negro Lobo Case: Carlos Arnoldo Lobo, also known as "El Negro", was the owner and administrator of a fleet that left the east coast of Honduras transporting illegal drugs, mainly cocaine, from Colombia and Panama. Carlos was responsible for receiving the shipments from Honduras and for its transportation to Guatemala and Mexico and, ultimately, United States. With the cooperation of the United States, the National Inter-Agency Security Force (FUSINA) captured "El Negro" and confiscated all his assets. Later, he was extradited to U.S.A., where he was convicted to 20 years imprisonment for drug trafficking. Carlos Arnoldo Lobo was the first Honduran to be extradited.

582. Morazán Operation: This operation was coordinated by the government of Honduras with the cooperation of several bodies of the State in order to fight organized crime in the country. Since its creation, Morazán Operation was characterized by an intensified patrolling 24/7 in the most insecure areas of the cities of Tegucigalpa and San Pedro Sula, which had endured crime for a long period of time, to the extent that criminals obliged farmers to abandon their lands if they did not pay the "war tax". Several State bodies, under the coordination of the National Inter-Agency Security Force (FUSINA), joined through different actions, such as the Military Police, the National Police, the TIGRES force, other units of the Armed Forces, the Directorate of Migration and Aliens, the Executive Directorate of Revenue (DEI), the Supreme Court of Justice (CSJ), the Public Prosecutor and the Financial Intelligence Unit of the country, with the support of financial intelligence, apart from international cooperation, especially from neighboring countries and United States of America.

Other forms of cooperation

583. Honduras, through the Public Prosecutor (FESCCO), sends and responds to administrative international cooperation requests through some international platforms available for the country by agreements entered into, including the Prosecutors Network against Organized Crime in Central America and the Asset Recovery Network of GAFILAT, as well as the IBERED platform. It still has Section 84 of the Special Anti-Money Laundering Law and Section 38 of the Law against the Financing of Terrorism, which establish that the Public Prosecutor or any other authority can request and provide administrative assistance to competent authorities of other countries in order to facilitate the investigations related to offenses provided in both laws, figurehead and other applicable offenses.

584. Honduras provides international cooperation through other channels, such as the Financial Intelligence Unit, the Financial Investigation Police Office (OFIP), the OABI, Customs, the Superintendency of Banks, Financial Companies and Savings and Loan Associations. The FIU requested the regular exchange of information as a way to help its own analysis, such as the cooperation of financial intelligence with other governmental bodies. The following graph shows the requests received and made by the FIU since 2011.



585. Source: Financial Intelligence Unit of Honduras.

586. The OPIF makes requests to Interpol and has entered into agreements and treaties with Central American countries. The OABI has entered into cooperation agreements with U.S.A., Chile and Panama. Customs has entered into agreements with neighboring countries (Guatemala, El Salvador and Nicaragua).

Cooperation as regards legal persons

587. As previously mentioned, Honduras is not an international center for the incorporation and administration of companies or a country of origin of legal instruments. Additionally, there are significant difficulties for investigators and legal operators to obtain updated information on legal persons, which hampers the provision of said information. Despite this situation, it is clear that authorities have the powers and willingness to provide any kind of information available and to which they have access.

588. Finally, Honduras does not have a unique central authority in charge of controlling the international cooperation process. Instead, it is the Ministry of Foreign Affairs that sends and receives requests. The existence of a Central Authority would facilitate the identification of national and foreign counterparts, which know who to contact in matters related to international legal cooperation in their own country, and in the case of foreign central authorities, abroad. This centralization allows closer bonds among the National Central Authority and Foreign Central Authorities.

General Conclusions of Immediate Outcome 2

589. In general terms, Honduras provides cooperation and legal assistance in a reasonable period of time, and provides quality information to requesting countries through different bodies, such as the Public Prosecutor, the Financial Intelligence Unit, the National Police and Customs, among others. Honduras has also responded to the necessary extradition requests, without judging nationals, and at the same time not taking into consideration the extradition requests of foreign authorities, and without requesting double incrimination.

590. The Public Prosecutor is the body in charge of providing international cooperation in the framework of legal assistance, and does so regularly, as verified in 2011 and 2014 that 488 international cooperation

requests were made, including demands and requests. Most of these requests are related to drug trafficking, as this is the main problem related to violence in the country, considered a traffic route from South America to the United States.

591. Honduran authorities have provided concrete examples of the fight against organized crime in which criminal organizations were dismantled with the help of international cooperation, such as the already mentioned cases of the Valle Valle brothers, "El Negro" Lobo and Morazán Operation.

592. The high-level authorities of the country are committed to provide international cooperation, what was observed in the Executive, Judicial and Legislative branches. The President of the country has been strongly committed with international cooperation, mainly with offenses related to money laundering and the fight against drug trafficking. The Legislative branch has introduced laws to facilitate this process, such as the recent constitutional reform for the authorization of extradition of nationals, and the new law against money laundering, among others. The Judicial branch must carry out its functions without hampering the extradition procedures.

593. Honduras is expected to continue developing actions to further improve the international cooperation provided by the country, mainly with the development of international cooperation regulations and the creation of a specific law to regulate the extradition process, currently carried out through a process of the Supreme Court of Justice of the country, without any periods of time or clear methodology.

594. **According to the foregoing, Honduras presents a substantial level of effectiveness in Immediate Outcome 2.**

D. Recommendations Regarding International Cooperation

595. Honduras must establish clearer and more precise mechanisms for international cooperation, legal assistance and extradition, through the regulation of Section 79 of the Special Anti-Money Laundering Law (Decree no. 144-2014) and Section 34 of the Law against the Financing of Terrorism (Decree no. 241-2010), and the creation of regulations to make the extradition process more transparent, even creating mechanisms that ensure the confidentiality and integrity of the information contained in those processes.

596. Honduras must develop a risk matrix and a management system to establish priorities of international requests, with precise periods of time and methods to provide a more effective and efficient answer to requesting countries.

597. Honduras must create a national statistics system on the fight against money laundering and terrorist financing, in order to present precise and consolidated information of the different forms of international cooperation, mainly regarding legal assistance and extradition.

598. Honduras must carry out more internal cooperation requests for precautionary measures, to locate and freeze Honduran properties abroad, mainly in neighboring countries (El Salvador, Guatemala y Nicaragua).

599. Honduras should appoint a central authority to control the international cooperation process as a way to define a unique contact point in the country for the processing of international legal cooperation requests in a fast and effective manner. This body should have the power to receive, send, adjust, analyze and supervise the whole compliance process of requests with foreign authorities.

TECHNICAL COMPLIANCE ANNEX

I. INTRODUCTION

TC1. This annex provides a detailed analysis of the level of compliance of Honduras with the FATF 40 Recommendations. It does not include descriptive texts of the situation or risks of the country, and limits to the analysis of the technical criteria of each Recommendation. It must be read along with the Mutual Evaluation Report.

TC2. Honduras' AML/CFT system had not been previously evaluated by the Financial Action Task Force of Latin America (GAFILAT). Therefore, this annex provides a detailed analysis of all the criteria, according to the 2012 Methodology to evaluate the technical compliance with the FATF 40 Recommendations.

II. AML/CFT POLICIES AND NATIONAL COORDINATION

Recommendation 1 – Assessing Risks and Applying a Risk-Based Approach

TC3. *Criterion 1.1* Through a technical assistance request with the (IADB), Honduras agreed to receive said assistance, with which the NRA was developed, in accordance with the Terms of Reference agreed upon. The final report was officially delivered on April 2015. In accordance with the Terms of Reference established for the NRA, the objective of the consultancy was to develop the mentioned assessment in the terms expressed by FATF Recommendation 1, aimed at identifying, analysing and evaluating ML/TF risks in the Republic of Honduras. The document, which clearly identifies and evaluates the risks, was disclosed on a confidential basis to the members of the CIPLAFT and other relevant entities of the Honduran State.

TC4. *Criterion 1.2* The Special Anti-Money Laundering Law (Decree no. 144/2014) establishes in Section 3 the Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT) as the coordinating body in charge of ensuring the efficient functioning of the prevention, control and ML/TF combat systems. According to Section 4 of the mentioned Special Law, the CIPLAFT is formed by: the National Commission of Banks and Insurance (CNBS); the Executive Director of the Administrative Office of Seized Property (OABI), the Secretary of State in the Ministry of National Defense; the Secretary of State in the Ministry of Finance; the Secretary of State in the Ministry of Justice, Human Rights, Governorship and Decentralization; the Secretary of State in the Ministry of Security; the Executive Secretary of the National Defense and Security Council; the Coordinator or Director of the Monitoring and Registration Unit for the Prevention of ML/TF (URMOPRELAFT) of the CNBS; and the Financial Intelligence Unit as Technical Secretariat. Moreover, Section 12 of the Law establishes that the CIPLAFT will be in charge of developing a methodology for the identification, evaluation, supervision, monitoring, administration and mitigation of the inherent risks of ML/TF activities, apart from developing the risk map of the country regarding its identification and mitigation. The CIPLAFT has the power to develop its own regulations, which must be issued 120 days after its Law comes into force.

TC5. *Criterion 1.3* The NRA was developed with the support of the IADB and concluded on April 2015, being the first one to be carried out. In this sense, it is believed that it reflects the most updated AML/CFT developments in the country since 2012. Moreover, the report shows that it is a key input in the development

of a National Strategy aimed at addressing the detected shortcomings, enabling the regular update of the risk matrix of the country. Notwithstanding the foregoing, the update frequency of the information will be defined in the regulations of the CIPLAFT, document that at the moment of the on-site visit was not published or in force.

TC6. *Criterion 1.4* Decree no. 131-2014, which approved the Law for the Regulation of Designated Non-Financial Businesses and Professions, establishes in Section 6 that the CIPLAFT is in charge of developing the risk assessment of the country. Moreover, regulations will be issued to establish the way of keeping the information updated, mechanisms to communicate results to competent authorities, supervised institutions and individuals or legal persons that carry out DNFBPs. Said regulation will be issued through the regulation of the Law, which establishes a period of 120 days for the issuing of regulation since its coming into force. At the moment of the on-site visit, the assessment team did not have access to these regulations because the legal period for the issuance had not passed.

TC7. *Criterion 1.5* In accordance with Section 78 of the Special Anti-Money Laundering Law, the distribution of cash, securities, titles and financial products, including yields, profits and interests seized or product of the auction of the seized property will be distributed among authorities as follows: 45% for the security and justice sector, 45% for the prevention sector and the remaining 10% for the OABI. Nevertheless, as the NRA was recently concluded (April 2015), it has not been the basis for the establishment of the budget or allocation of resources to relevant authorities, for the implementation of prevention measures and measures to fight ML/TF. Moreover, most of the legislation and measures have been analyzed, approved and implemented prior to the conclusion and dissemination of the assessment. In general terms, the measures implemented by the Honduran State are consistent with the findings of the NRA.

TC8. *Criterion 1.6* Currently, all the obligations imposed as regards AML/CFT are applied to financial institutions and DNFBPs on an equal base, in accordance with Section 18 of the Special Anti-Money Laundering Law, which considers both as obliged subjects. The current Law does not expressly establish the possibility of exemption of obligations, based on low risk. Additionally, it is uncertain whether the regulation of recently passed laws as regards money laundering and DNFBPs' regulation consider the exemption of the implementation of Recommendations.

TC9. *Criterion 1.7* The Special Anti-Money Laundering Law states in Section 6 that obliged subjects must have due diligence policies and procedures based on risk, providing for the possibility of implementing enhanced measures when higher risk areas are identified, as well as the need to keep information and documentation updated and relevant, especially for higher risk customers. Moreover, the supervision carried out by the National Commission of Banks and Insurance (CNBS) will take into consideration the risk management adopted by the supervised institutions through their compliance programs. The issue of due diligence in relation to risk is also seen in the regulations of the different supervised institutions, such as Credit and Savings Cooperatives (Resolution SV no. 1477/22-08-2011, Sections 15 and 28 on risk rating and program compliance), Securities Markets (Resolution SV no. 1476/22-08-2011, Section 25 on program compliance) and Remittance Companies (Resolution no. 1719/17-11-2009, Section 27 on procedures manual).

TC10. The CNBS has issued the resolutions "Risk Countries" (Resolution no. 018/08-01-2013) and "Politically Exposed Persons" (Resolution no. 650/10-05-2010), which instruct obliged subjects to take into consideration the previously mentioned factors for the risk classification of customers and operations, as well as to implement the relevant measures, both due diligence and any other to establish and mitigate ML/TF risks. Moreover, the resolution mentioned on Countries at Risk, which was updated and repealed through

Resolution FIU no. 548/21-05-2015, instructs the FIU to publish the updated lists in its website, so that obliged subjects have the most recent information for the risk classification of their customers and operations.

TC11. *Criterion 1.8* As for due diligence measures, the Special Anti-Money Laundering Law establishes in Section 6 the possibility of implementing simplified measures in areas of low risk. Moreover, the Honduran legislation takes into consideration a product called "Basic Account", which according to Resolution GE no. 2511/16-12-2013 containing the "Rules of Procedure for the Opening, Managing and Closure of Basic Accounts of Saving Deposit in Supervised Institutions", will have restrictions as regards the maximum balance of the account (L 10,000), the accumulated monthly deposits and withdrawals (L 20,000), the opening only by individuals, and the possibility of having only one account per customer, for which opening there will be simplified due diligence requirements. In accordance with Section 3 of the aforementioned Resolution, basic accounts will only be opened to customers considered as low risk as a result of an analysis carried out with a methodology that identifies, evaluates, measures and mitigates ML/TF risks.

TC12. *Criterion 1.9* The National Commission of Banks and Insurance Law, contained in Decree no. 155-95, establishes in its first section that the CNBS will supervise financial activities, insurance activities, provisional activities, securities activities and other institutions with the possibility of public raising, verifying they have ML/TF prevention systems and enforcing the laws applicable to said subjects. Section 19 of the Special Anti-Money Laundering Law also establishes that the CNBS will control the compliance of obliged subjects under their supervision, taking into consideration the risk management adopted by supervised institutions. In addition, the regulations relevant to several institutions, such as cooperatives (Resolution AV no. 1477/22-08-2011), Stock Market (Resolution SV no. 1476/22-08-2011), bureaux de change, credit card operators and general deposit warehouses (Resolution no. 869/29-10-002), establish in the Supervision section that the Commission will carry out supervision through procedures that verify the management and compliance of the regulation as regards AML/CFT.

TC13. *Criteria 1.10 – 1.11* As for compliance programs to be implemented by obliged subjects, Section 10 of the Special Anti-Money Laundering Law establishes that said programs must be based on the adequate risk as regards organization, structure, resources and complexity of operations; they must also include a continuous documentation process to establish the methodology designed for the identification, measure, control, mitigation and monitoring of potential cases. This way, they can be adequately managed taking into consideration risk variables such as customers, products, services, geographical locations, distribution channels, etc. Section 11 of the aforementioned Law states that ML/TF risks must be identified and evaluated in products and services offered both at present and in the future, using the adequate measures to manage and mitigate the risks. In addition, in accordance with the relevant regulations for Cooperatives and Stock Market, the factors included to assess the risk in transactions include geographical area, products and services, level of political exposure, type of activity, connected persons and volume of operations, among others. In accordance with Section 19 of the Law mentioned, the supervision by the CNBS will take into consideration the risk management adopted by the supervised institutions.

TC14. Notwithstanding the foregoing, there are no updated regulations as regards the Special Anti-Money Laundering Law that establish the need for obliged subjects to document the risk identification and assessment, and to keep those assessments updated. Moreover, these should not be sent to the supervisor as an obligation, unless specifically requested.

TC15. *Criterion 1.12* As previously mentioned, the cases in which simplified measures are allowed, specifically due diligence measures, are those in which the low risk is proven as a result of an analysis, such as the one developed for the authorization of the "Basic Account" product, for which the specific Resolution

GE no. 2511/16-12-2013 applies. Likewise, when higher risk cases are detected, the regulations establish that enhanced measures must be implemented.

TC16. *Weighing and Conclusion:* Honduras carried out a risk assessment that is documented and includes inputs provided by Honduran authorities, as well as other studies and external sources. The relevant legislation and regulation establish an adequate basis for obliged subjects to identify and evaluate their risks, and to implement measures that are consistent with these risks, although it is uncertain whether the AML/CFT risk assessment must be documented or not. Nevertheless, given the short period of time between the presentation of the final report of said assessment and the mutual evaluation, it was not possible to observe measures specifically addressed at the findings, conclusions and recommendations of said document. It is important that the regulatory provisions take into consideration those aspects such as the update of the risk assessment and its use as an input for the allocation of resources and policy priorities aimed at maximizing the effect of the Evaluation. **Recommendation 1 is rated as Partially Compliant.**

Recommendation 2 – National Cooperation and Coordination

TC17. *Criterion 2.1* In accordance with Section 5 of the Special Anti-Money Laundering Law, the CIPLAFT is the entity in charge of designing and implementing public policies for the prevention, control and fight against ML/TF. Paragraph 1 specifies the function of developing the national strategy for the prevention, control and fight against ML and TF, as well as the methodology to identify, evaluate, supervise or monitor, manage and mitigate the inherent risks of these activities, including the development of the risk map of the country regarding their identification and mitigation. Honduras has developed a national risk assessment as regards ML/TF with the support of the IADB, which presents some areas that should be prioritized and four main lines of action. However, it is not clear whether this constitutes a strategy at a national level to mitigate the ML/TF risks identified in the analysis.

TC18. *Criterion 2.2* In accordance with Section 5 of the Special Anti-Money Laundering Law, the CIPLAFT is the entity in charge of designing and implementing public policies for the prevention, control and fight against ML/TF.

TC19. *Criterion 2.3* Paragraphs 4 to 6 of the Special Anti-Money Laundering Law establish that the CIPLAFT will have inter-institutional cooperation mechanisms and will establish the mechanisms for the support among institutions dedicated to the prevention, control and fight against ML/TF. Likewise, it has the power to foster and update the legal framework and the necessary regulatory modifications.

TC20. *Criterion 2.4* At present, Honduras does not have a cooperation and coordination mechanism to combat the financing of proliferation of weapons of mass destruction.

TC21. *Weighing and Conclusion:* Honduras has established, through its Law, the CIPLAFT as a commission that encompasses and coordinates institutions involved in the prevention and fight against ML/TF, which is in charge of formulating and monitoring the policies on the matter. However, within the functions of the CIPLAFT, at least prior to the issuance of the relevant regulatory provisions, it is not clear whether there is a framework for action as regards the financing of proliferation of weapons of mass destruction. **Recommendation 2 is rated as Largely Compliant.**

Recommendation 33 – Statistics

TC22. *Criterion 33.1* The Special Anti-Money Laundering Law, Section 30, paragraph 4, and the Law against the Financing of Terrorism, Section 48, establish that the FIU must develop and keep the necessary records and statistics. The Asset Forfeiture Act establishes in Section 75 that the OABI must submit a quarterly report to the National Defense and Security Council detailing the administration and monitoring of the property under its administration. Moreover, the agreement published through Official Letter no. 1979-SCSJ-2003 created the Electronic Center for the Judicial Documentation and Information (CEDIJ, for its Spanish acronym), which orders, analyzes, classifies, files, digitalizes, publishes and disseminates information of the Judicial branch. Among the functions of the CEDIJ, there is the "creation of reliable judicial statistics at a national level", apart from having a Statistics Department.

TC23. *Weighing and Conclusion:* The Law clearly establishes that the FIU, the OABI and the Judicial branch, the latter through the CEDIJ, must keep statistics that are relevant to their functions. However, no regulations were observed that request the same functions to the Public Prosecutor, although it does so. Also, it is not clear whether updated statistics are kept for all the cases. **Recommendation 33 is rated as Partially Compliant.**

III. LEGAL SYSTEM AND OPERATIONAL MATTERS

Recommendation 3 – Money Laundering Offense

TC24. *Criterion 3.1* the Special Anti-Money Laundering Law criminalizes in Sections 36-41 the offense of money laundering in several types, including, figurehead, unlawful association to commit a money laundering offense, concealment and money laundering by omission. These sections take into consideration almost all the elements established in the Vienna and Palermo Conventions. Moreover, the Penal Code explains intent and attempt in Title II on "The Offense". The Penal Code also includes elements of participation in Title V, Chapter I on "Participation in the Offense".

TC25. *Criterion 3.2* Section 36 of the Special Anti-Money Laundering Law lists the ML predicate offenses and includes the offenses expressed in the Penal Code under Titles V-A "Against the Environment", Title VI "Against Freedom and Security" and Title XIII "Against Public Administration". It is worth mentioning that the last ones include smuggling and tax evasion, based on the amendment made through Legislative Decree no. 212-2004 of December 29th 2004. Within the offenses there is human trafficking; the Law against Human Trafficking, through Decree no. 59-2012, defines what is understood by human trafficking, where it is included, and the forms of adult and child sexual exploitation.

TC26. Although among FATF's categories of predicate offenses it seems that the offenses for the illicit trafficking of stolen goods, counterfeiting and piracy are not explicitly included, the crime definition mentions assets "that do not have an economic or legal cause or justification of their origin". Therefore, the offenses that are not explicitly mentioned in the crime definition can be considered predicate offenses of money laundering. Thus, these offenses have been considered as predicate offenses of money laundering in practice.

TC27. *Criterion 3.3* Honduras does not take into consideration the threshold approach, therefore, this criterion is not applicable.

TC28. *Criterion 3.4* Section 2 on definitions of the Special Anti-Money Laundering Law and Section 3 on definitions of the Asset Forfeiture Act define what is understood by assets, and these extend to any type of tangible or intangible property, movable or immovable, regardless of its value.

TC29. *Criterion 3.5 – 3.7* Section 35 of the Special Anti-Money Laundering Law defines the autonomy of the crime as follows: "typified crimes will be prosecuted and sentenced by competent jurisdictional bodies as an autonomous crime of any other criminal offense included in common law and in special criminal laws." In accordance with Section 35, "When the assets, products or instruments are located in the Republic of Honduras, the offense of money laundering, TF and figurehead must be prosecuted regardless of whether the predicate offense has been committed or initiated abroad." Likewise, sanctions will be applicable when the commission of the offense is connected with other illegal activities, in which case the offender will be punished in accordance with the concurrent crimes applicable to the specific case, in accordance with Section 35.

TC30. *Criterion 3.8* Section 199 of the Penal Code states that "the facts and circumstances related to the offense subject to the process may be proved by any probatory means, although it is not expressly regulated in this Code, as long as they are objectively trustworthy." Section 202 of the Criminal Procedure Code states that "proofs will be valued in accordance with reasonable judgment." The jurisdictional body will form its opinion taking into consideration all the proof provided jointly and in a harmonious manner."

TC31. *Criterion 3.9* Section 36 of the Special Anti-Money Laundering Law establishes that the ML offense can be punished with 6 to 20 years imprisonment. It also states different levels of penalties within the maximum range of 20 years, depending of the value of assets subject to money laundering, despite the fact that these assets can also be subject to asset forfeiture, in accordance with Decree no. 27-2010. These sanctions are proportionate and dissuasive.

TC32. *Criterion 3.10* Section 43 of the Special Anti-Money Laundering Law states that "Regardless of the criminal liability of its directives, managers or administrators, when the offenses criminalized by the Law are committed or facilitated for the first time, the legal persons will be sanctioned with a fine of one hundred percent (100%) the amount laundered. If the criminal offenses established in this Law are committed for the second time, the legal person will be sanctioned with the fine established in the previous paragraph plus its final closure or cancellation, in accordance with the procedures predefined in the Law according to its nature, without prejudice to the criminal liability of its directors, managers or administrators." These sanctions are proportionate and dissuasive.

TC33. *Criterion 3.11* Section 38 of the Special Anti-Money Laundering Law establishes that "Those who associate or conspire to commit the offense of money laundering or figurehead must be sanctioned only for such offense, with six (6) to ten (10) years imprisonment." In addition, the Penal Code, in its Title V, Chapter I on "Participation in the Offense" includes the description of perpetrators and accomplices, and states in Section 32 that the perpetrators will also be those who "incite" or "force", and in Section 33 that the accomplices will be those who "cooperate", including the cooperation in a less serious activity.

TC34. *Weighing and Conclusion*: The criminalization of the money laundering offense in Honduras is consistent with the international conventions and includes a wide range of predicate offenses, although it does not expressly include all the offenses established in the standard, which are included in the provision related to a lack of illegal cause or justification of the origin of resources. **Recommendation 3 is rated as Largely Compliant.**

Recommendation 4 – Confiscation and Provisional Measures

TC35. *Criterion 4.1* On the one hand, Section 55 of the Penal Code defines confiscation as the "loss of effects as a result of an offense or misdemeanor, and the instruments with which it was committed, unless they belong to a third party who is not responsible for the offense." Section 38 of the Penal Code establishes that the confiscation is an accessory penalty. Sections 63 and 72 of the Special Anti-Money Laundering Law and Sections 13 and 14 of the Law against the Financing of Terrorism establish that, in the case of a conviction, the confiscation of the assets or funds used or intended to be used to commit the offenses referred to in both laws must be ordered. In addition, they establish that when the localization, identification or material encumbrance of investigated property is not possible, or when the intention of confiscation is inappropriate due to the acknowledgment of bone fide third party rights, the competent jurisdictional body must order the confiscation of assets up to a corresponding value to that of the encumbered property.

TC36. On the other hand, Honduras has the Asset Forfeiture Act, published through Decree no. 27-2010, whose purpose is to "identify, localize, recover and secure property or assets, and to carry out the asset forfeiture of the property, products, instruments, profits of illicit origin or that do not have an economic or legal cause of origin". Moreover, Section 4 states that "asset forfeiture consists of ruling in favor of the State, without consideration or compensation of any nature, to anyone who holds the property right and other inherent real rights (main or accessory), transferable personal rights, regarding property, products,

instruments or profits of illicit origin, including the offenses of ML and TF." This Law enables the forfeiture of any property in compliance with this criterion, without said action being connected to an investigation process, judicial proceeding or conviction for a money laundering predicate offense, in accordance with Section 8. The asset forfeiture proceeding also takes into consideration the possibility of declaring the permanent forfeiture of assets or corresponding value to the owner of the property connected to an offense that is impossible to locate, in accordance with Section 12 of Decree no. 27-2010.

TC37. *Criterion 4.2* Section 55 of the Asset Forfeiture Act establishes minimum requirements of the asset forfeiture request, among which it is worth mentioning paragraphs 2, 3 and 4, which enable the identification and tracking or localization of property. As regards valuation, the Administrative Office of Seized Property (OABI) carries out the evaluation of merit up to the moment it is authorized for sale or anticipated disposal, or when the declarative asset forfeiture decision is issued. Section 15 therein confers the powers to the Public Prosecutor, which will develop the asset investigation and origin of funds with the help of the National Police.

TC38. Moreover, Section 33 of the same Law establishes that, in any stage of the process, the competent jurisdictional body can issue precautionary or preventive measures, or measures to secure the goods, without prior notifications or hearing upon request of the Public Prosecutor. This section also states that the filing of appeals in any of the stages established in this Law will not prevent the Public Prosecutor from encouraging the asset forfeiture proceeding before the jurisdictional body. The foregoing is in compliance with this criterion.

TC39. *Criterion 4.3* Sections 40 to 42 of the Asset Forfeiture Act state the rights of those affected and expressly define that the rights guaranteed in the Act are also applied as regards bona fide third parties. Moreover, as regards the regular confiscation connected with a criminal conviction, Section 55 of the Penal Code establishes that said action will not be carried out when the property belongs to a third party who is not responsible for the offense. In this sense, the criterion is complied with in both systems.

TC40. *Criterion 4.4* Section 34 of the Asset Forfeiture Act states the obligation of placing the property at the disposal of the OABI for their administration, guard, custody or destruction, depending on the case. Honduras has different concepts that apply as regards the seized property, within which anticipated disposal, provisional use, destruction, storage, administration of productive property, and loans are worth mentioning. In the case of confiscated property, Section 78 establishes a specific destination for the money (45% for the security sector, 45% for the prevention sector and the remaining 10% for the OABI), regardless of the possibility of donating the property for the projects described in Sections 72 and 76 of the Law.

TC41. *Weighing and Conclusion*: Honduras has two systems to forfeit assets that are derived from, instruments of or destined to the commission of offenses that work in an adequate way, either by means of a conviction (criminal confiscation) or without a connection to a conviction (asset forfeiture), which allow to proceed on the identified property, including those of corresponding value, while protecting the rights of bona fide third parties. **Recommendation 4 is rated as Compliant.**

Legal and Operational Implementation

Recommendation 29 – Financial Intelligence Units

TC42. *Criterion 29.1* Honduras has a Financial Intelligence Unit (FIU), which was created in 2002 through Decree no. 45-2002, Section 44, and subsequently modified through Decree no. 03-2008, establishing the FIU as an office of the CNBS as well as its functions of reception, analysis and consolidation

of the information of reports on cash transaction, included in the forms received from obliged subjects. The functions of the FIU are extensively established in Section 30 of the Special Anti-Money Laundering Law, currently in force and that abolished the aforementioned Decree no. 45-2002, which apart from the functions mentioned it establishes the power of the FIU to request information to obliged subjects, develop and keep statistics, exchange information, cooperate with counterparts, and support the Public Prosecutor in investigations as appropriate. Section 48 of Decree no. 241-2010 - "Law against the Financing of Terrorism" states the same powers and functions of the FIU as regards TF.

TC43. *Criterion 29.2* Section 21 of the Special Anti-Money Laundering Law establishes the obligation of the National Commission of Banks and Insurance (CNBS) to communicate to the FIU when, in the exercise of its supervision function, it identifies operations, transactions or commercial relationships considered to be irregular, unusual or suspicious, using the form provided to that effect. Moreover, Section 27 establishes the obligation of obliged subjects, including Designated Non-Financial Businesses and Professions (DNFBPs), to submit suspicious transactions reports when operations made or attempted can represent or be related to illegal activities. This obligation is explicit for "unusual and suspicious" transactions that could be connected with the TF in Section 42 of Decree no. 241-2010, which applies and is explicit for lawyers and external accounting experts.

TC44. As for reports based on thresholds, Section 23 of the Special Anti-Money Laundering Law establishes the submission of reports of multiple cash and financial transactions, that exceed the threshold established by the Central Bank of Honduras, which was fixed, through Resolution 325-2003, at ten thousand U.S. dollars ($10,000.00) or its equivalent is Lempiras or another foreign currency. The Resolution establishes that remittance companies must notify operations of two thousand U.S. dollars ($2,000.00) or its equivalent in another currency, which enter or exit Honduras. In addition, in accordance with Section 58 of Decree no. 241-2010, Non-Profit Organizations must report to the FIU the reception of donations that are equal to or above two thousand U.S. dollars ($2,000.00) or its equivalent in another currency. As regards the sworn statements provided to customs authorities regarding money in cash or convertible securities upon entering and/or exiting of the country, they are also submitted to the FIU, in accordance with Section 64 of Decree no. 241-2010.

TC45. *Criterion 29.3* Section 31 of the Special Anti-Money Laundering Law and Section 50 of the Law against the Financing of Terrorism empower the FIU to request documentation or additional information to obliged subjects or any other person, either individuals or legal persons. Moreover, they establish that obliged subjects must allow the FIU to access their information sources and systems. The information requested by the FIU to obliged subjects must be delivered in a period of five (5) working days, except for urgent requests, in which case they will have to provide the information in twenty-four (24) hours. The FIU has access to several databases, both internal and of governmental authorities, to which they resort for the development of intelligence reports. Such access has been obtained through the signing of inter-institutional cooperation agreements, such the one entered into with the Public Prosecutor in 2005. In addition to the foregoing, Section 31 of the Special Anti-Money Laundering Law establishes that if the FIU cannot obtain information due to the respect of constitutional rights, it must inform to the Public Prosecutor so that the request can be made.

TC46. *Criterion 29.4* Section 30 of the Special Anti-Money Laundering Law establishes in a clear and express way that the FIU must carry out the operational analysis, which is the one through which the information of cases is processed, as well as the strategic analysis, defined as the development of financial intelligence studies, that contribute to the decision-making and direction of actions.

TC47. *Criterion 29.5* Section 29 of the Special Anti-Money Laundering Law establishes in its second paragraph that the FIU is a means for the Public Prosecutor and jurisdictional bodies to obtain the necessary information to investigate and judge, accordingly, the offenses of money laundering and the TF. Section 30 the aforementioned Law also establishes that one of the functions of the FIU is to provide information on the persons being investigated to the previously mentioned authorities, for which it has structured procedures established in the Procedures Manual of the FIU, which are applied in accordance with the nature of the requests received and only to the relevant Prosecutor's Office, with prior authorization of the Attorney General of the Republic.

TC48. *Criterion 29.6* The rules and procedures regarding the reception, handling and dissemination of the information held by the FIU are included in the Procedures Manual of the FIU, approved through Resolution DPI no. 1550/13-08-2013. In addition to said procedures, among which there is reception of unusual transaction reports (suspicious operations) and dissemination of information to national and foreign authorities, Resolution no. 782/24-06-2003 establishes the rules of implementation of the "Financial Interconnection System" as an integrated network of electronic communication among obliged subjects and the CNBS that enables the secure and timely transmission for processes of communication, consultancy and sending of any type of information. Moreover, Resolution USI no. 1931/08-11-2011 approved the current version of the Commitment of Confidentiality Act, in compliance with Section 15 of the National Commission of Banks and Insurance Law, which states the regulations that apply to officers attached to said institution regarding documents and information, which must be signed by each officer of the CNBS. However, despite the regulations, at the moment of the visit, the system to send STRs virtually was being developed. Therefore, STRs are received physically, which can jeopardize their confidentiality.

TC49. In addition to the foregoing, Section 28 of the Rules of Procedure for the Prevention and Detection of the Financing of Terrorism, published through Resolution FIU no. 1537/30-08-2011 of the CNBS, expressly states the obligation for officers and FIU employees to keep the secrecy and confidentiality of the information, even when they do not belong to said entity any more. The secrecy and confidentiality regulation applies to obliged subjects, including, officers, employees, directors, administrators, partners, representatives and legal representatives, as well as those to whom information is required, regardless if they are obliged subjects or not. In accordance with Section 28, confidentiality also entails the prohibition not to provide information regarding issues of investigation, reports and others, on money laundering and the TF.

TC50. As regards the restricted access to the information and facilities of the FIU, the relevant regulations are included in the IT Security Legal Framework of the National Commission of Banks and Insurance, which includes policies and IT security manuals, among others, and establishes access rules and restrictions to the facilities and systems of the CNBS, where the FIU is located.

TC51. *Criterion 29.7* In accordance with the Special Anti-Money Laundering Law and the Law against the Financing of Terrorism, the FIU has the authority to receive and request information to obliged subjects, as well as to analyze it, without the intervention of any other institution or authority. In addition, in full use of its powers, it has entered into the following agreements with other authorities of the Honduran State: "Inter-Institutional Agreement for Asset Forfeiture", "Inter-Institutional Agreement between the CNBS and the DEI", and "Inter-Institutional Collaboration Agreement to be signed between the Land Administration Program of Honduras and the CNBS".

TC52. As regards cooperation at an international level, Section 79 of the Special Anti-Money Laundering Law states that Honduran authorities, including the FIU, must cooperate in the maximum possible extent with foreign authorities as regards the exchange of information to investigate and prosecute offenses related to money laundering and figurehead; as well as identify assets with extradition purposes, and any other

cooperation allowed by legislation, as long as the established requirements are complied with. In this sense, it is worth mentioning that the signing of an agreement or Memorandum of Understanding is not specifically required for such purposes. Section 81 of the same Law states the proceedings that can be requested or provided in the framework of cooperation with foreign authorities.

TC53. As previously mentioned, the FIU is located within the facilities of the CNBS and directly reports to the Presidency of the Commission. Based on the foregoing, the budget of the FIU is allocated as a result of the Annual Operational Plan, on the basis of its powers and competencies, as explained in Resolution FIU no.2119/29-12-2010. In addition, it can access resources coming from the confiscation or auction of property confiscated as established in the Law, in accordance with requests directly made by the Director of the FIU.

TC54. *Criterion 29.8* The FIU of Honduras has been a member of the Egmont Group of Financial Intelligence Unit since 2005.

TC55. *Weighing and Conclusion*: The Financial Intelligence Unit of Honduras has a legal framework that complies with the necessary criteria established by the standard, with a wide access to information, the powers to carry out operational and strategic analyses, the capacity to exchange information and to develop its functions in an independent manner. It must strengthen its IT system to ensure the confidentiality of STRs. **Recommendation 29 is rated as Largely Compliant.**

Recommendation 30 – Responsibilities of Law Enforcement and Investigative Authorities

TC56. *Criterion 30.1* Section 272 of the Criminal Procedure Code establishes that "in the investigation of the truth, the National Police, the Public Prosecutor or another competent authority will carry out all the relevant and useful proceedings to establish the existence of the punishable act and will take into consideration the circumstances that, in accordance with the penal law, are important to establish the degree of responsibility of the agents." Section 279 of the same Code establishes that "in the performance of its functions, the members of the General Directorate of the Criminal Investigation (DGIC, for its Spanish acronym) [of the National Police] will act on their own initiative, according to the general guidelines issued by prosecutors, and will execute the orders received in relation to the offense being investigated and in compliance with their tasks in order to achieve their objectives." This is supported by the Organic Law of the National Police of Honduras (Decree no. 67-2008).

TC57. *Criterion 30.2* The Asset Forfeiture Act (Decree no. 27 – 2010) establishes in Section 15 the powers of the Public Prosecutor, who will be assisted by the National Police to develop the property investigation and on the origin of funds. Additionally, the Special Anti-Money Laundering Law establishes in Section 45, on Financial and Asset Investigation, that the "Public Prosecutor will include in its structure the investigative and technical personnel that, as part of a Specialized Multidisciplinary Unit, will carry out the relevant field research, as well as the financial and property analyses to establish the commission of the money laundering offense and the identification of assets, products or instruments used in the commission in order to ensure the securing and subsequent confiscation of the property.

TC58. *Criterion 30.3* As mentioned in Recommendation 4, the Asset Forfeiture Act (Decree no. 27 – 2010) defines and explains in Sections 32 to 38 the implementation of preventive measures, precautionary measures or measures to secure the property subject to the confiscation or presumed to be the product of an offense or to be connected to it.

TC59. *Criterion 30.4 and 30.5* These criteria do not apply as in Honduras there are no other entities empowered to investigate.

TC60. *Weighing and Conclusion*: The legislation establishes the responsibilities of law enforcement and investigative authorities as regards the investigation of ML/TF offense and its predicate offenses. It also establishes that those authorities who are not law enforcement or investigative authorities, such as the DEI or the Supreme Court of Accounts, should they know of a potential offense, must inform competent authorities, in this case the National Police and the Public Prosecutor. In addition, the legislation provides a special division within the Public Prosecutor to carry out investigations of financial nature. **Recommendation 30 is rated as Compliant.**

Recommendation 31 – Powers of Law Enforcement and Investigative Authorities

TC61. *Criterion 31.1* The Criminal Procedure Code establishes in Sections 175 to 177, 203 to 220, 267 to 273 and 282 the different powers of the authorities in charge of the investigation to obtain records, search persons and raid stores, take statements from witnesses, seize and collect evidence. As for the production of records of financial institutions and DNFBPs, the Special Anti-Money Laundering Law states in Section 29 that the FIU is a means for the Public Prosecutor or the competent jurisdictional body to obtain the information deemed necessary in the investigation and prosecution of the offenses established in such Law. In addition, the Asset Forfeiture Act establishes in Section 17 that public or private institutions are obliged to provide the information requested by the Public Prosecutor or competent authority within 24 hours, with the possibility of extending the term to 48 hours in exceptional situations.

TC62. *Criterion 31.2* The special investigation techniques are widely regulated in the Honduran legislation. The Criminal Procedure Code introduces in Section 223 the powers for operators to carry out the interception of communications. Specifically, Decree no. 243/2011, containing the Special Law on the Interception of Private Communications, regulates all the interceptions and the access to IT systems. In addition, the Special Anti-Money Laundering Law regulates the Special Investigation Techniques in Chapter VIII, listing in Section 49 the handling of informants, controlled delivery, undercover operations and interception of communications. The Asser Forfeiture Act (Decree no. 27-2010) does so Chapter VII "Special Investigation Techniques on Property, Products, Instruments or Profits" and lists the techniques previously mentioned in the definitions' section; the Law against the Financing of Terrorism does so in Chapter XV "Special Investigation Techniques".

TC63. *Criterion 31.3* The Asset Forfeiture Act establishes in Section 18 that the information requested to supervised financial institutions by the CNBS and financial institutions not supervised by the CNBS but obliged to inform in accordance with the Anti-Money Laundering Law will be obtained by the Public Prosecutor through the FIU, as well as from the compliance officers appointed by the financial institution. Moreover, Resolution FIU-1537/30-08-2011 states that the "obliged subjects and individuals or legal persons referred to in the previous paragraph must allow the FIU to access all their information sources and systems for the verification or expansion of the information provided by them, or when deemed necessary for the analysis of cases related to the TF." In accordance with the Asset Forfeiture Act (Decree no. 27-2010), authorities have mechanisms to identify assets without prior notice to the owner.

TC64. *Criterion 31.4* The Special Anti-Money Laundering Law states in Section 30 that the information of the FIU regarding persons being investigated by said entity must be provided to the Public Prosecutor and

jurisdictional bodies if requested. Moreover, the Asset Forfeiture Act establishes in Section 17 that public or private institutions (including the FIU) must provide to the Public Prosecutor or competent authority the information requested within twenty-four (24) hours, with the possibility of extending the term to 48 hours in exceptional situations with justified reasons.

TC65. *Weighing and Conclusion*: The Honduran authorities have extensive powers to act in the investigation of money laundering cases, including both conventional means and special investigation techniques. **Recommendation 31 is rated as Compliant.**

Recommendation 32 – Cash Couriers

TC66. *Criterion 32.1* Section 579 of the Rules of Procedure of the Central American Customs Code establishes that "Every traveler entering the customs territory by any authorized route will make a statement in the form issued by the customs service for that effect." On the one hand, Section 16 of the Law against the Financing of Terrorism refers to producing a sworn statement informing the carrying, transportation, moving, taking or bringing of cash, bearer negotiable instruments or property of immediate convertibility that exceed ten thousand dollars or its equivalent in another currency. In addition, Section 62 of the same Law establishes that the Executive Directorate of Revenue (DEI) must implement mechanisms to monitor, detect and identify the transportation of cash, negotiable securities and properties that exceed the threshold established by the Central Bank of Honduras (BCH) of ten thousand dollars or its equivalent in other currencies. Section 63 of the Law establishes the requirement of making a sworn statement when entering or leaving Honduras regarding the money or securities being carried. On the other hand, Section 34 of the Special Anti-Money Laundering Law refers to the statement itself and establishes the sanctions that will be applied to whoever omits to make a statement or does so with a lack of veracity, along the same lines of the Law against the Financing of Terrorism.

TC67. *Criterion 32.2* Section 34 of the Law against Money Laundering and Section 16 of the Law against the Financing of Terrorism establish that any individual, either national or foreign, who enters or exits the country through aerial, maritime and terrestrial customs will be obliged to make a sworn statement notifying if they carry cash, electronic wallets, negotiable instruments or securities, such as traveler checks, or any other security of immediate convertibility that is equal to or above 10,000 U.S. dollars or its equivalent in national or foreign currency. If the traveler declares quantities above the established threshold, the customs authority will provide Form DEI-No.181.

TC68. *Criterion 32.3* Section 63 of the Law against the Financing of Terrorism and Section 34 of the Special Anti-Money Laundering Law establish the presentation of a document recording their sworn statement on the amounts of money or securities of immediate convertibility being carried as an essential requirement for the entry or exit of the Republic of Honduras. The sworn statement shall constitute a public document.

TC69. *Criterion 32.4* The Criminal Procedure Code states in Section 206 that when there are grounds to believe that a person hides or has adhered signals related to an offense, registrations will be carried out, and the objects founds will be seized. Notwithstanding the foregoing, the procedures established as regards the declaration of cash or negotiable instruments do not establish the powers of the customs authorities to request and obtain additional information, as it only states that in case of detecting an omission or false declaration the undeclared property will be seized, the Public Prosecutor will be informed and the sanctions described in the following criterion will be implemented.

TC70. *Criterion 32.5* Section 16 of the Law against the Financing of Terrorism and Section 34 of the Law against Money Laundering establish that, without prejudice to the criminal liability that can be incurred in accordance with the applicable legal regulations, when the sworn statement is omitted or it lacks veracity, the offender will be sanctioned with an administrative fine that consists of one third (1/3) of the value of the undeclared assets, which will be imposed by the DEI, either on its own initiative or as a result of the report submitted to the Public Prosecutor, Nevertheless, if an illicit behavior in inferred, all the assets being carried will be seized and will be placed at the disposal of the Administrative Office of Seized Property (OABI).

TC71. *Criterion 32.6* Section 64 of the Law against the Financing of Terrorism establishes that for the purpose of analysis and investigation in cases of TF, money laundering or other illegal activities, the DEI will send copies of the previously mentioned sworn statements to the FIU and the Public Prosecutor. The statements that correspond to the month will be sent by the DEI by electronic means, photocopy, negatives or any other mechanism, and will have to provide the necessary support in the first ten (10) days of the following month to the previously mentioned authorities. Section 34 of the Special Anti-Money Laundering Law includes a regulation along the same lines.

TC72. *Criterion 32.7* Section 5, subsection 5 of the Law against Money Laundering establishes the function of the CIPLAFT to design and implement public policies for the prevention, control and combat of illegal activities, including the promotion of inter-institutional cooperation mechanisms aimed at the practical application of the Law within the public and private sectors of the country. Moreover, Section 65 of the Law against the Financing of Terrorism states that those public and private institutions linked to registration must appoint liaison officers whose function will be to coordinate the activities requested by the institutions that carry out the analysis, prosecution, investigation and conviction of the reference offenses. In addition, Resolution no. CNDS-001/2014 of the National Defense and Security Council establishes an Inter-Agency Force for the prevention and combat of tax crimes and related crimes (tax evasion and smuggling, both predicate offenses of ML), with the participation of the DEI, the Public Prosecutor, the Office of the General Prosecutor of the Republic (PGR), the National Directorate of Special Investigation Services (DNSEI) of the National Police, the Military Police of Public Order (PMOP) and the National Investigation and Intelligence Directorate (DNII).

TC73. *Criterion 32.8* Section 34 of the Law against Money Laundering explains that when the sworn statement is not done or when it lacks veracity "The imposition of the administrative sanction referred to... must be understood notwithstanding the immediate seizure of an amount equivalent to the corresponding fine of one third (1/3), unless the investigations of the case infer the existence of an illegal behavior, in which case all the assets will be seized and will be made available to the Administrative Office of Seized Property (OABI) for its administration, guard and custody until its legal situation is defined by the competent authority."

TC74. *Criterion 32.9* Section 79 of the Special Anti-Money Laundering Law and Section 28 of the Law against the Financing of Terrorism establish that the authorities of Honduras will cooperate in the maximum possible extent with foreign authorities as regards the exchange of information to investigate and prosecute the offense of money laundering, as well as to identify assets on which precautionary or securing measures or confiscation may be implemented, with extradition, mutual legal assistance purposes or any other cooperation allowed by national legislation. This provision is inclusive for the purposes of this criterion.

TC75. *Criterion 32.10* Section 87 of the Law against Money Laundering establishes that the officers and employees of the FIU are obliged to keep the secrecy or confidentiality of the information known given their position. This secrecy is mandatory during the exercise of their position and upon its termination, if they are

transferred to another section or if they are retired. The provisions of secrecy and confidentiality are also applicable to officers and employees of the Public Prosecutor and the Superintendency of Trading Companies. The noncompliance with the provisions of this Section will result in a breach of confidence, typified in Section 77 of the same Law. As regards the officers of the DEI, Section 78 of the Special Labor Regime of the Administrative, Tax and Customs Career establishes in subsection 9 that they must keep the "necessary secrecy and discretion, as well as secrets regarding reserved administrative matters, which dissemination may cause damage to the Executive Directorate of Revenue, its employees or officers..."

TC76. *Criterion 32.11* Section 34 of the Special Anti-Money Laundering Law establishes that when the investigations of the case infer the existence of an illegal behavior all the assets will be seized and will be made available to the OABI for their administration, guard and custody until their legal situation is defined by the competent authority. In addition, if there is a potential illegal behavior, it may be criminally investigated, in accordance with Recommendations 3 and 5. Moreover, Section 26 of the Criminal Procedure Code applies as regards revisions when suspecting that signals connected with the commission of an offense are being hidden or adhered to the body.

TC77. *Weighing and Conclusion*: Honduras has a system of written statement for travelers who carry amounts above ten thousand dollars in cash or its equivalent in another currency. In addition, it has mechanisms that enable them, in case a false statement is detected, to sanction such behavior or, in the case of commission of an offense, to seize all the resources. **Recommendation 32 is rated as Compliant**.

IV. FINANCING OF TERRORIST AND FINANCING OF PROLIFERATION OF WMD

Recommendation 5 – Terrorist Financing Offense

TC78. *Criterion 5.1* Section 3 of the Law against the Financing of Terrorism criminalizes the offense of TF in compliance with the standard. Moreover, Sections 2 and 80 establish the terrorist acts, including most of the behaviors related to the protocols annex to the International Agreement for the Repression of Financing of Terrorism. Nevertheless, Honduras has not ratified the following protocols and they are not included in the descriptive list for the criminal type. Therefore, the behaviors referred to are not covered in the aforementioned Law: 1) Convention on the Physical Protection of Nuclear Material (1980); 2) Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991); 3) International Convention on the Suppression of Acts of Nuclear Terrorism (2005); 4) Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010).

TC79. *Criterion 5.2* Section 3 of the Law against the Financing of Terrorism establishes that the offense of TF will be committed by "anyone who by any means, directly or indirectly, provides or collects assets or funds, or provides or tries to provide financial services or other services, used or to be used, completely or partially for the financing of terrorist acts. [...] The financing offense exists and will be sanctioned regardless of whether the terrorist acts are committed or not. Therefore, it is not necessary for assets or funds to have been effectively used to commit the offense." Section 5 establishes that "Whoever participates in real or simulated acts or contracts to hide assets of funds used or intended to be used or destined to the financing of terrorist acts, terrorist organizations or terrorist individuals also incurs in the terrorist financing offense and will be punished in accordance with Section 3 of this Law."

TC80. *Criterion 5.3* Section 10 of the Law establishes that the "terrorist financing offense extends to the assets or funds or legal origin as well as those assets or funds or illegal origin."

TC81. *Criterion 5.4* Section 3 of the Law against the Financing of Terrorism also establishes the following: "[...] whoever, knowing the intention of the terrorist organization to commit terrorist acts, contributes with this organization through any means and form of collaboration. [...] The financing offense exists and will be sanctioned regardless of whether the terrorist acts are committed or not. Therefore, it is not necessary for assets or funds to have been effectively used to commit the offense."

TC82. *Criterion 5.5* Section 199 of the Penal Code states that "the facts and circumstances related to the offense subject to the proceeding may be proved by any probative means, although it is not expressly regulated in this Code, as long as they are objectively trustworthy." Moreover, Section 202 of the Criminal Procedure Code states that the "proofs will be valued in accordance with reasonable judgment." The jurisdictional body will form its opinion taking into consideration all the proof provided jointly and in a harmonious manner."

TC83. *Criterion 5.6* Section 3 of the Law against the Financing of Terrorism establishes the following: "Whoever incurs in the terrorist financing offense shall be punished with imprisonment from thirty (30) to forty (40) years and a fine from eighty-five point five (85.5) minimum wage to one hundred and seventy (170) minimum wage." These sanctions are proportionate and dissuasive.

TC84. *Criterion 5.7* Section 6 of the Law against the Financing of Terrorism establishes the following: "Regardless of the criminal liability incurred by owners, directors, managers, administrators, officers, employees or legal representatives for the offenses provided in this Law, when legal persons are involved in

the unlawful behaviors stated in this Law, they will be punished, unless they are the State, with a fine from one hundred and seventy (170) minimum wage to two hundred and fifty-five (255) minimum wage. Moreover, the legal persons will be sanctioned as follows: 1) Suspension from five years to permanent closure of its authorization to operate the direct or indirect exercise of specific professional activities; 2) Permanent closure or for a period of up to five years of the premises used to commit the offense; 3) Dissolution and liquidation, if it was established for the commission of the offenses established in this Law; 4) Dissemination of the conviction in, at least, two of the daily media publications of widespread circulation in the country; 5) Confiscation, loss or destruction of the objects and products resulting from the commission of the offense, as well as the instruments used for the commission; and 6) Payment of costs and procedural expenses. These sanctions are considered to be proportionate and dissuasive for the purposes of this criterion.

TC85. *Criterion 5.8* Section 3 of the Law against the Financing of Terrorism establishes that "Whoever, knowing the intention of the terrorist organization to commit terrorist acts, contributes with this organization through any means and form of collaboration. Whoever organizes the commission of the behaviors stated in this Section or orders other persons to commit them also incurs in the offense of terrorist financing." In addition, Section 7 of the same Law establishes the following: "Those who incur in the attempt of the offenses stated in this Law as well as the accomplice of the offense committed and the accessory of the fact will be punished with the sanction established for the perpetrator of the offense committed, reduced in one third and other accessory punishments that correspond." Taking into consideration what was previously established, the crime definition does not include complicity in the case of offenses that were not committed.

TC86. *Criterion 5.9* Section 36 of the Special Anti-Money Laundering Law takes into consideration the offenses of terrorism and TF as predicate offenses of money laundering.

TC87. *Criterion 5.10* Section 9 of the Law against the Financing of Terrorism establishes the following: "The terrorist financing offense will be punished regardless of whether the terrorist act was committed or is to be committed inside or outside the Honduran territory." In addition, Section 11 of the same Law establishes the following: "The Honduran Courts have jurisdiction to know the offenses of terrorism and TF committed abroad by Hondurans, if any of the circumstances referred to in Section 4 of this Law [Recruitment] and Section 4 of the Penal Code [Offenses against public health, public faith, the economy, foreign or domestic security of the State or against public administration committed abroad] or those cases against humanity are present."

TC88. *Weighing and Conclusion:* The TF offense is taken into consideration in a special law and expressly complies with the requirements of technical compliance. In addition, the specific definition of "recruitment" was established; in this sense, Honduras has the capacity to judge and impose the corresponding sanctions. Notwithstanding the foregoing, Honduras is not part of the Convention on the Physical Protection of Nuclear Material, as well as of other relevant conventions. In this sense, it is possible that some of the behaviors provided in the international sphere are not fully covered in the Honduran domestic law. **Recommendation 5 is rated as Largely Compliant.**

Recommendation 6 – Targeted Financial Sanctions Related to Terrorism & Terrorist Financing

TC89. *Criteria 6.1 – 6.3* Based on the regulations of the Special Anti-Money Laundering Law and the Law against the Financing of Terrorism, the Inter-Institutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT) is established as the competent authority in the operation of ML/TF systems, although there is no reference, either direct or indirect, to a mechanism that identifies recipients or proposes designations based on the criteria established in the relevant Resolutions, and the

power to propose designations to the Sanctions Committee of UNSCR 1267/1989, UNSCR 1988 or UNSCR 1373 is not observed in the regulations or legislations. Nevertheless, the implementation of said mechanism was regulated through Circular no. 001/2015 of June 10th 2015, issued by the CIPLAFT for the exercise of its functions, being this Commission in charge of said mechanism[15]. Circular CIPLAFT no. 001-2015 establishes in subsection 3 that the National Defense and Security Council will receive the requests of national public bodies that have sound reasons to believe that a person or entity meets the criteria to be included in the relevant lists of UNSCR 1267 and its successor resolutions, as well as the designations based on Resolution 1373. If deemed appropriate, the Council will communicate this to the relevant bodies of the United Nations, through the corresponding channels and without delay.

TC90. *Criterion 6.4* As regards the implementation of targeted financial sanctions, the Law against the Financing of Terrorism establishes that if the jurisdictional bodies or the Public Prosecutor identify constituent elements or assets connected with terrorism or its financing, the freezing or securing measures must be implemented without delay, notification or prior audience. If the freezing or securing measure is issued by the Public Prosecutor, its implementation must be informed and explained to the jurisdictional body within 24 hours, to be validated or cancelled.

TC91. When it is the obliged subject who detects the presence of funds or assets connected with terrorism or its financing after the reception of the lists of the Sanctions Committee of the UNSCR, an immediate temporary freezing must be carried out, and the FIU must be informed of the situation, as established in Section 25 of the Law against the Financing of Terrorism and in Section 11 of Resolution no. 1537/30-08-2011. If the persons included in the lists are not found, the FIU must be informed of the situation in a term of 72 hours. The previously mentioned procedure is described in detail in Circular CIPLAFT no. 001/2015, issued on June 10th 2015.

TC92. *Criterion 6.5* The obligations of freezing funds connected with terrorism and its financing are extensive to all obliged subjects, in accordance with the Law against the Financing of Terrorism and Resolution no. 1537/30-08-2011. Moreover, in accordance with Section 3 of the Law against the Financing of Terrorism, the criminal definition of terrorism financing expressly prohibits to provide or collect assets, funds, securities and financial services, accommodation, training, documentation or identification, communication equipment, facilities, arms, explosives, personnel, means or any other material or personal support, as well as to contribute with a terrorist organization in any form, knowing that they will be used for purposes of terrorist acts or criminal activities connected with terrorism.

TC93. The FIU of the CNBS is the authority in charge of communicating obliged subjects and the Public Prosecutor the designation lists based on the Sanction Committees of the UNSCR, and they must be communicated without delay for precautionary measures of freezing or immobilization to be implemented. Moreover, financial institutions and DNFBPs must inform without delay to the FIU the existence of assets and funds connected with individuals or legal persons that appear in the lists, based on Section 27 of the Law against the Financing of Terrorism. In addition, as previously mentioned, when an obliged subject detects funds of a person who has been designated in the lists of the Sanctions Committees, the freezing must be carried out and the FIU must be informed.

TC94. According to the definitions established in the Law against the Financing of Terrorism and Resolution 1537/30-08-2011, the property of third parties that are not responsible for the terrorist financing

[15] Although the implementation of said mechanism is established through the regulations of the Law and the regulations of the CIPLAFT, at the moment of the on-site visit, there were no regulations on the matter.

offense will not be susceptible of confiscation. Moreover, Section 20 of the Law against the Financing of Terrorism and Section 55 of the Penal Code establish that the property of a third party that is not responsible for the criminal offense are not subject to confiscation, thus protecting the rights of bona fide thirds parties.

TC95. *Criterion 6.6 – 6.7* Section 20 of Resolution 1537/30-08-2011 establishes that the unfreezing of property can be revoked through a communication of the United Nations Security Council, through the Ministry of Foreign Affairs, for the FIU and the Public Prosecutor to process the unfreezing request. Moreover, another reason for the revocation will consist on the fact that, after the investigation, it is determined that the relevant assets that do not belong to persons or organizations connected with terrorism, or that were destined to the commission of terrorist acts or the financial support of terrorism. In addition, Section 15 of the Law against the Financing of Terrorism establishes the means for those affected to assert their rights and states that the appropriate legal resources may be lodged as established in the Criminal Procedure Code. The OABI has defined the processes of property administration with which it will have access to funds or other assets to cover basis expenses, pay fees, costs and extraordinary expenses, in accordance with the procedures established in UNSCR 1452 and successor resolutions, and UNSCR 1373.

TC96. Moreover, Circular CIPLAFT no. 001/2015 establishes the procedure that must be followed after the publication of the updated lists regarding the Sanctions Committee of Resolution 1267 (1999) by the CNBS in its web portal, which states that if it is proven that the securing of property affects an individual or legal person different from the object of the UNSC designation, the competent judge may revoke the measure upon request of the Public Prosecutor; if the designated person is withdrawn from the lists, the FIU must immediately communicate this to the Public Prosecutor or jurisdictional body to revoke the securing measure, informing this to the FIU.

TC97. *Weighing and Conclusion*: Honduras has regulations in force that enable the compliance with obligations as regards targeted financial sanctions, terrorism and its financing, with mechanisms that enable obliged subjects to identify subjects, implement appropriate freezing measures and unfreeze the corresponding resources. Moreover, it has recently implemented a mechanism to carry out designations before the Committees of the United Nations Security Council by virtue of Resolution 1267/1989 and Resolution 1988, although its power to request the removal of persons from the lists as well as to carry out designation by virtue of Resolution 1373 is not clear. Nevertheless, there still is a lack of express regulations that establish the mechanisms and means to access funds to cover basic needs or other needs allowed by the resolutions themselves. **Recommendation 6 is rated as Largely Compliant.**

Recommendation 7 – Targeted Financial Sanctions Related to Proliferation

TC98. *Criterion 7.1 – 7.5* The FIU of Honduras published Circular no. 2/2015 on June 11th 2015, which instructs to inform the resolutions of the UNSC 1718 and 1737 to obliged subjects, as well as the obligation of Recommendation 7 of the FATF and, in that sense, the need to update and include mechanisms for the prevention, mitigation and assessment of the risk related to the financing of proliferation of weapons of mass destruction, showing the implementation of relevant regulations of Decree no. 241-2010, containing the Law against the Financing of Terrorism, in the financing of proliferation of weapons of mass destruction (WMD).

TC99. Nevertheless, the obligation of implementing the UNSCR 1718 and 1737 without delay is not expressly established, mainly as regards making the lists of designated persons and entities public.

TC100. Likewise, the competent authorities responsible for the implementation and enforcement of targeted financial sanctions were not expressly identified; this must be done in accordance with the Recommendation being evaluated.

TC101. Circular no. 002/2015 does not include the procedures to submit removal requests of the lists issued by virtue of UNSCR 1718 and 1737 in the case of persons and entities that do not meet the designation criteria.

TC102. Likewise, Circular no. 002/2015 does not mention the requirements of criterion 7.5, in the sense that access must be granted to frozen accounts of interests or profits due by virtue of contracts, agreements or obligations incurred previously to the punitive actions, as well as the use of resources within an account to make payments due prior to the sanctions.

TC103. When extending the regulations of Decree no. 241-2010 to the financing of proliferation of WMD, the CIPLAFT acts as the competent authority in charge of compliance. However, this is not satisfied in each and every technical compliance criterion applicable to financial sanctions applicable to the financing of proliferation of weapons of mass destruction.

TC104. *Weighing and Conclusion:* With the issuing of the previously mentioned Circular with "immediate implementation" nature, Honduras has started to implement a system that enables the use of financial sanctions connected with the proliferation of WMD, which takes into consideration the measures and actions already known by obliged subjects, as they are similar to those applicable to the effects of terrorist financing. However, as previously mentioned, it is necessary to have specific measures that are not the result of the supplementary application. Moreover, the resources of the frozen accounts cannot be used for the payment of obligations incurred prior to the establishment of the sanction, or for the reception of resources or interests derived from contracts or agreements, prior to the sanctions themselves. **Recommendation 7 is rated as Partially Compliant.**

Recommendation 8 – Non-Profit Organizations

TC105. *Criterion 8.1* The obligations and powers of Non-Profit Organizations (NPOs) as regards CFT are included in the Law against the Financing of Terrorism, Chapter XIII, which states that NPOs must register with the Unit for Registering and Monitoring Civil Associations (URSAC), institution created with the purpose of creating a register and monitoring the activities of said organizations in accordance with Agreement no. 770-A-2003. For the purpose of registration, data such as complete name, address and telephone number of each person in charge of the association's operation must be included. Notwithstanding the foregoing, it is not expressly established that the URSAC must carry out the regular reassessment of the sector to detect threats and vulnerabilities as regards CFT.

TC106. As regards the supervision and verification of NPOs, Resolution no. 1537-30-08-2011 establishes in Section 53 that the authority in charge of the supervision and verification on AML/CFT matters is the Superintendence of Trading Companies. In a similar vein, the URSAC has the power to request civil associations the information deemed necessary, including financial statements and accounting information.

TC107. *Criterion 8.2* The authorities of Honduras pointed out the existence of activities that connect the URSAC, the Federation of Non-Governmental Organizations for the Development of Honduras (FOPRIDEH, for its Spanish acronym) and the Evangelical Confraternity of Honduras. Nevertheless, this

connection is not included in a decree, resolution, circular, inter-institutional agreement or any similar document. Therefore, it cannot be corroborated.

TC108. *Criteria 8.3 – 8.4* Section 59 of the Law against the Financing of Terrorism, included in the chapter on NPOs, establishes that NPOs must keep appropriate accounting records and submit their accounting statements to the competent authorities for such purposes two months after the end of the financial year. The same section establishes that the amounts of money received as donations must be deposited in an account of a national financial institution. In addition, Section 19 of Decree no. 32-2011 "Special Promotion Law for Non-Governmental Development Organizations" establishes that when a State entity allocates funds to a Non-Governmental Development Organization (ONGD, for its Spanish acronym), the Secretary of State of Interior and Population will supervise such funds.

TC109. As previously mentioned, civil associations must register with the URSAC with information that identifies all the persons in charge of the operation of the organization, specifically if it is the President, Vice-President, Secretary, members of the Board of Directors, treasurer and prosecutor. Based on the Law on Transparency and Access to Public Information, Non-Governmental Development Organizations are included as part of the entities that must provide information on their management to the public, as well as provide complete, truthful, appropriate and timely information upon request of any natural or legal person within the framework of the Law mentioned. In accordance with Agreement no. 770-A-2003, the registry developed by the URSAC will include, apart from the previously mentioned information, the by-laws, amendments, changes of address, elections of boards of directors and management boards of said associations. The agreement also states that the associations must present annual reports, detailing the activities, financial statements and general balance sheets, which may be audited to corroborate their veracity. As for the reception of donations by these institutions, those that are above the amount of two thousand U.S. dollars or its equivalent in another currency must include in the register the data of the donor, date, nature and amount of the donation, and must be kept for a minimum period of ten (10) years and must be available to competent authorities. Although the possibility of keeping the donor anonymous exists, his identity must be provided when the authorities in charge of a criminal investigation request it. Nevertheless, the Law does not seem to request a register of the operations carried out by said organizations as regards the implementation of its programs.

TC110. *Criterion 8.5* The URSAC may issue a report to the Superintendency of Trading Companies for it to impose sanctions to associations or non-profit organizations that raise or grant funds without being registered, in accordance with Section 56 of the Law against the Financing of Terrorism, or that do not comply in any form with what the Decree establishes. The organizations that do not comply will be sanctioned with fines between twenty (20) and five hundred (500) of the highest minimum wage, the prohibition to carry out activities for a maximum term of five (5) years or the dissolution of the association or organization, notwithstanding the criminal sanctions that may be incurred. Nevertheless, it is not clear whether these sanctions are applicable in matters relating to Recommendation 8.

TC111. *Criterion 8.6* In accordance with Section 50 of the Law against the Financing of Terrorism, the FIU can request additional information to obliged subjects, as well as any natural or legal person, and can access information sources and systems to verify and complete the information provided or to carry out the analysis of TF cases. This regulation includes ONGD. In addition, Section 59 of the Law mentioned refers to the presentation of accounting statements, as well as the information that must be included in the register kept by the URSAC, in the form of annual reports. However, there is no proof of existence of mechanisms for relevant authorities to share information in a rapid manner regarding an NPO.

TC112. *Criterion 8.7* According to what the country pointed out, the international cooperation requests related to cases of terrorism are received by the Secretariat of Foreign Affairs, which sends the cases to the FIU to make the corresponding consultations among obliged subjects. However, no document, circular or regulation was observed that establishes such mechanism.

TC113. *Weighing and Conclusion:* The legislation considers the figure of NPOs directly in the legislation as regards prevention and fight against FT, which includes obligations for the sector to monitor these obligations. The Honduran legislative framework covers most of the requirements of technical compliance. However, there are several shortcomings as regards requirements to NPOs. In this sense, there are no formal records of rapprochements to the sector or procedures to answer international requests or the sharing of information. It is observed a lack of legislation to request the register of all the operations of NPOs, which is only limited to the reception of donations. **Recommendation 8 is rated as Largely Compliant.**

V. PREVENTIVE MEASURES

Recommendation 9 – Financial Institutions Secrecy Laws

TC114. *Criterion 9.1* Section 47 of the Special Anti-Money Laundering Law establishes as regards money laundering that "[...] safeguarding the fundamental rights of the person, the banking, professional or tax secrecy shall not be cited." An almost identical regulation is established in Section 53 of the Law against the Financing of Terrorism, relevant for TF offenses.

TC115. *Weighing and Conclusion:* The Law is clear not allowing the banking, professional or tax secrecy as regards AML/CFT. **Recommendation 9 is rated as Compliant.**

Customer Due Diligence and Record Keeping

Recommendation 10 – Customer Due Diligence

TC116. *Criterion 10.1* Section 7, subsection 9 of the Special Anti-Money Laundering Law expressly establishes that deposit accounts shall not be opened to anonymous people, with fake names, coded or with any form that does not allow knowing the identity of the holder and beneficial owner. The Rules of Procedure for the Prevention of the Misuse of Financial Products and Services, included in Resolution no. LA 869/29-10-2002, state that when opening an account, supervised financial institutions must request in a uniform manner the appropriate information to identify the customer depending on whether it is a natural or a legal person. In the special case of credit and savings cooperatives, Resolution SV no. 1477/22-08-2011 establishes the "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism in Credit and Savings Cooperatives", which establish in Section 12, paragraph c that it is not possible to enroll people under fake names or forms that conceal the identity of a member of a cooperative.

TC117. *Criterion 10.2* As regards the due diligence that must be carried out at the time of establishing a commercial relationship, Section 16 of Resolution no. LA 869/29-10-2002 states that supervised institutions must create a profile for each customer and/or depositor to establish the characteristics of the operations, products or services. Moreover, there are specific regulations for different products and services: in the case of "basic accounts", which are subject to simplified measures, Section 5 of Resolution GE no. 2511/16-12-2013; in the case of remittance companies, Section 26 of Resolution no. 1719/17-11-2009; in the case of credit and savings cooperatives, Section 13 of Resolution SV no. 1477/22-08-2011; and in the case of stock market, Section 9 of Resolution SV no. 1476/22-08-2011.

TC118. In general terms, the information requested by obliged subjects for opening or engaging a product or service, or at the beginning of a relationship with a customer, includes the following:

Individuals

a) First and last name as they appear in the identity document;
b) Place and date of birth;
c) Type of identification;
d) Nationality;
e) Sex;
f) Complete address;
g) Telephone number, fax number and e-mail address;

h) Complete name of economic dependents;
i) Profession, occupation or trade;
j) Origin of resources;
k) Economic activity;
l) Name of business;
m) Name, address and telephone number of employer:
n) Public offices held in the last two years;
o) Level of income;
p) Asset situation;
q) Purpose of the account;
r) Personal and cooperative or commercial references;
s) Marital status and name of spouse;
t) Complete first and last name of beneficial owner;
u) Complete first and last name of the person acting on behalf of the customer;
v) First and last name of persons with authorized signatures;
w) Objective of the investment;
x) Financial capacity and risk preference; and
y) Declaration of direct and indirect beneficiaries of the transaction.

Legal persons

a) Company name, address and telephone number;
b) Economic activity;
c) Date of incorporation;
d) Address of the company;
e) Location of headquarters, agencies, branches and other premises;
f) Telephone number, fax number and e-mail address;
g) National Tax Registry (RTN);
h) Photocopy of the articles of incorporation and its modifications, as well as registration number;
i) Deed of property and control of the company (shareholders or owners, indicating beneficiary or controlling shareholder if it is not one of the previously mentioned, for shareholders who hold more than 10% the requirements for individuals will we applied);
j) Volume of income;
k) Detail and identification of authorized legal representatives;
l) Documents that show the origin of funds;
m) Objective of the investment;
n) First and last name of persons with authorized signatures; and
o) Financial capacity and payment preference.

TC119. *Criterion 10.3* Section 17 of the Rules of Procedure for the Prevention and Detection of the Misuse of Financial Products and Services establishes that a policy of knowing the customer must be complied with, which must have the following minimum objectives: to reduce the risks of use for money laundering, to protect the reputation of the institution, to promote compliance with the Law, to know the activities and businesses of customers, to notice suspicious transactions in a timely manner, to prevent negative consequences to the institution, to establish requirements of identification of customers, to notice common behaviors in money laundering offense and to classify customers according to geographical areas and products.

TC120. Section 18 of the previously mentioned legislation establishes the procedure that supervised institutions must follow for the identification of customer. The minimum information that must be included in the application for opening an account includes first and last name, number of identity card, marital status, profession, nationality, address, telephone number, company where it works, and banking and commercial references, as well as the photocopy of the personal identity document. Moreover, Section 22 lists the information that must be requested to customers for the opening of an account.

TC121. As regards the verification of identity, Section 7 of the Special Anti-Money Laundering Law establishes that the identity must be verified based on documents, data or information from reliable and independent sources.

TC122. *Criterion 10.4* The relevant regulations are found in different rules of procedure and resolutions, depending on the sector to which they apply. The general application is found in Resolution no. LA 869/29-10-2002, which Section 18, paragraphs f) to i) establishes the obligation of identifying of all the persons with authorized signature for the products, obtaining and keeping information of accounts' beneficiaries, obtaining information on intermediation of beneficial owners, as well as recording the actions carried out to identify customers. Almost identical regulations are found in the same paragraphs of Resolution SS no. 1423/15-08-2011, "Rules of Procedure for the Prevention and Detection of Money Laundering and Terrorist Financing Offenses in Products and Services Marketed by Insurance and Reinsurance Institutions", Section 12.

TC123. As regards basic accounts taken into consideration in the Honduran legislation, Section 5, paragraph a) on Rules for the Opening, Managing and Closure of Basic Accounts of Saving Deposit in Supervised Institutions (Resolution GE no. 2511/16-12-2013) establishes that the name and identification of the person acting on behalf of the customer and authorized to do so must be verified. Likewise, Resolution SV no. 1477/22-08-2011 establishes that cooperatives must identify the representatives of their regular members. As regards stock market, Resolution no. SV 1476/22-08-2011 establishes in Section 9 that it must always be mentioned if the customer acts on his own behalf or in representation of a third party, in which case the beneficiary must be identified.

TC124. *Criterion 10.5* As mentioned in the previous criteria, the relevant regulations of this criterion are found in different regulations that are specific for different sectors. The most general regulations are found in the Special Anti-Money Laundering Law, Section 7, subsection 2, which establishes the need for institutions to identify the beneficial owner of products and services. Moreover, Sections 18 and 19 of Decree no. LA 869/29-10-2002, which establish the policy of knowing and identifying the customer, state the need to obtain and keep information on the identification of persons on whose benefit an account is opened, an international transfer is made or a transaction is made.

TC125. In addition, Resolution FIU no. 066/11-01-2012 specifically addresses the issue of beneficial ownership. This resolution instructs obliged subjects to develop compliance programs and due diligence in such a way they can fully identify the beneficial owner, defined as: "the individual who is the beneficial owner or has the final control of the operation of a customer, and/or the person on whose behalf an operation is made, and that individual who has the final effective control on a legal person."

TC126. *Criterion 10.6* Section 7 of the Special Anti-Money Laundering Law expressly states in subsection 3 that the policies and procedures of due diligence applied by obliged subjects must "Know and, when appropriate, obtain information on the purpose and nature intended for the commercial and financial relationship [...]."

TC127. Section 22 of Resolution LA no. 869/29-10-2002 establishes as one of the requirements for the opening of an account to establish its purpose (paragraph x for individuals and paragraph 1 for legal persons). In addition, there are regulations on knowing the purpose and nature of the relationship in the specific rules of procedure of each sector as follows: section 12, paragraph f) of Resolution SV no. 1477/22-08-2011 (cooperatives) and Section 9, paragraph t) for individuals, paragraph k) for legal entities (objective of the investment) of Resolution SV no. 1476/22-08-2011.

TC128. *Criterion 10.7* The Special Anti-Money Laundering Law establishes in Section 7, subsection 4 that obliged subjects must carry out a regular due diligence of the commercial relationships they have, as well as analyze the consistency of the transactions made with the profile of the customers, including the origin of funds, when deemed necessary. Subsection 5 establishes that if there are inconsistencies or doubts regarding the existence of customers, they must be verified in person and, if the information obtained is inconsistent with the information provided by the customer, the commercial relationship must be ended. In addition, Resolution 1619/22-12-2008 on customer due diligence establishes the need for obliged subjects to have policies, plans and strategies of continuous updating of their customers with information that includes, among other aspects, income, monthly amount of account management and risk rating.

TC129. As regards regulations of specific sectors, Section 10 of Resolution SV no. 1476/22-08-2011, applicable to securities markets, establishes among its subsections the obligation to implement systems to monitor operations, with the purpose of observing unusual or suspicious patterns regarding the transactional profile, in order to have a continuous due diligence process and detailed examination of operations in the course of the relationship; Section 14 of Resolution SV no. 1477/22-08-2011, applicable to cooperatives, states that entities must have parameters to analyze if the transactions correspond to the knowledge they have of the customer, as well as the need to have tools to detect operations that do not correspond with the parameters; and as regards the insurance sector, the relevant regulations are found in Section 16, paragraph g) of Resolution no. 1423/15-08-2011, which states that obliged subjects must carry out a continuous process of due diligence as regards the business relationship.

TC130. The process of continuous update referred to in paragraph b) of the present criterion is referred to in Resolution no. 1619/22-12-2008. Subsections 2 and 3 of said resolution establish the responsibility of obliged subjects to have policies, plans and strategies for customer data update, which must include, at least, the address, telephone number, income, employment, amount of account management, profession or occupation, risk rating, marital status and name of spouse. Moreover, the Special Anti-Money Laundering Law establishes the need to keep updated and relevant information, on the basis of risk (Section 6), as well as the minimum frequency of a year for the updating of information on customers who operate at a distance (Section 7). As with other regulations related to customer due diligence, the updating is taken into consideration in the specific resolutions for the sectors of cooperatives, insurance companies and securities markets.

TC131. *Criterion 10.8* In accordance with Section 7, subsection 3) of the Special Anti-Money Laundering Law, obliged subjects must understand and obtain information regarding the commercial and/or financial relationship. As regards regulations, Resolution LA no. 869/29-10-2002 establishes in Section 16 the obligation to establish a profile of the customer or depositor in order to know the type, number, volume and frequency of operations and use of products or services, while Section 22 lists the information that must be requested to customers to open an account; the specific list for legal persons includes the activity of the business, the monthly amount of account management, the origin of the funds of the account, the names of suppliers and the purpose of the account.

TC132. Resolution no. 066/11-01-2012, which is specific for issues of identification of beneficial owner, establishes in subsection 3, paragraph b) the identification of the beneficial owner "[...] until the ownership and control structure is understood [of individuals and legal persons...]." Moreover, Resolution LA no. 869/29-10-2002 lists the documents and information required for accounts of legal persons, among which there is deed of incorporation and its modifications dully registered with the relevant Registries. In the case of legal persons established abroad, they must register with the Public Trade Registry of the place where they are established[16], and "comparatively similar" documents to the ones mentioned must be obtained.

TC133. *Criterion 10.9* In response to criterion 10.2, the due diligence requirements for customers who are entities or legal persons are established. Moreover, Section 7 of the Special Anti-Money Laundering Law states that customers must be identified and their identity must be verified based on documents and information obtained from reliable and independent sources, while Section 17, which is specific for trusts, establishes the need to request certifications of incorporation and existence of companies, as well as the identification of those who have authorized signatures, directors, proxies and legal representatives.

TC134. Resolution LA no. 869/29-10-2002 establishes the information requirements that customers must meet, either individuals or legal persons, when opening an account, such as company name, trade name, list of main partners, registered social deed and people who have authorized signature. Among said requirements, with the only exception of the regulations of Sections 13 and 14 of Resolution SS no. 1423/15-08-2011, applicable to insurance and reinsurance institutions, the address of the legal person is not included, either the business establishment or the corporate office.

TC135. *Criterion 10.10* In Honduras, there is a special resolution for the identification of beneficial owners, which corresponds to Resolution no. 66/11-01-2012, which instructs obliged subjects to implement reasonable measures to identify and verify the identity of beneficial owners of all the legal persons and structures, which will be carried out with reliable data and sources until it is determined that the beneficial owner is known. In different regulations applicable, either generally or specifically, to the different sectors subject to the AML/CFT regime in Honduras, it is established that the identification of the people authorized to sign and engage, as well as beneficial owners, shareholders, partners, officers and others will have the same requirements that are requested to individuals who hire or engage services personally.

TC136. *Criterion 10.11* Section 17 of the Special Anti-Money Laundering Law states that it will be requested to identify the signatories, directors, proxies and legal representatives in the case of trusts, so that the trust actual, direct or indirect beneficiary may be identified, as well as certifications proving the organization and existence of the related companies; additionally, the Regulation contained in Resolution LA no. 869/29-10-2002 has the same text in section 30.

TC137. *Criterion 10.12* Resolution SS no. 1423/15-05-2011 establishes the "Rules of Procedure for the Prevention and Detection of Money Laundering and Terrorist Financing Offenses in Products and Services Marketed by Insurance and Reinsurance Institutions", which Section 12 establishes the identification requirements. The requirements include the full identification of contracting parties, insured parties, other customers, beneficial owners and users upon establishment of the contractual relationship, observe

[16] In accordance with Section 385 of the Commerce Code, the Public Trade Registry will be kept in the administrative center of the departments or judicial sections, and in accordance with Section 386 it will be in charge of whoever is in charge of the Property Registry in the same location. Notwithstanding the foregoing, according to the information provided during the on-site visit, the Public Registries of Commerce are now in the field of competence of the Chamber of Commerce of the corresponding departments.

guidelines intended to maintain the identification record, verify if the party is acting on behalf of a third party, obtain information on the nature of the relationship, etc.; the policies' beneficiaries are fully identified upon claim submission. In addition, paragraphs c) and d) of Section 16 set forth that the institutions should take reasonable measures to verify the identity of individuals on whose behalf a party is acting, as well as of the policy's beneficiary before making the compensation effective, until the insurance company is convinced of the accuracy of the information it has.

TC138. *Criterion 10.13* The provisions relevant to insurance engagement by legal entities are included in Section 13, Resolution no. 1423/15-08-2011, where the requirements to be met upon engagement are listed, which consist of a copy of the articles of incorporation and by-laws, as well as their duly registered amendments; original and copy of the authorization by the Secretary of the State to engage in business; full identification of the individual in charge of the administration and representation of the legal person
TC139. , and; a copy of the Board of Director's certification with the full name and ID of the partners and executives authorized to engage on behalf of the company. In addition, Section 16 of the same Regulation states that in case of contracting legal entities, reasonable measures to know the customer's ownership and control structure should be taken.

TC140. In turn, based on Section 6 of the Special Anti-Money Laundering Law, it is noted that the obliged subjects should carry out a risk-based due diligence, covering the implementation of simplified, normal and enhanced measures based on the detection of risk areas in customers, including individuals and legal entities according to the definition given in the law itself.

TC141. *Criteria 10.14 – 10.15* The customer's information should be collected and verified upon establishing a relationship therewith, whether opening an account or delivering any kind of product or service, in accordance with Section 18, Resolution no. 869/29-10-2002, which should be verified as per the provisions of Section 19 of the same Resolution. Likewise, Section 12, Resolution no. 1423/15-08-2011 establishes that insurance institutions and their intermediaries should identify the involved parties upon the establishment of a contractual relationship for the first time, while the insurance policies' beneficiaries will be identified upon submission of the claim. In this connection, it is not considered that a customer may use the products and services derived from the business relationship without having completed the identification and identity verification procedure by the obliged subject or agent.

TC142. *Criterion 10.16* Section 6 of the Special Anti-Money Laundering Law provides for that obliged subjects should have risk-based due diligence policies and procedures, with the possibility to implement simplified, regular or enhanced measures. Furthermore, Resolution no. 1619/22-12-2008, "Customer Due Diligence" which refers to the regulations including the policy of knowing the customer, establishes the need to implement ongoing policies, plans and strategies of customers' data update, as well as information update of customers with inactive accounts when they are activated again. Specifically for insurance and reinsurance companies, Resolution SS no. 1423/15-08-2011 sets that the know your customer polices to be adopted by the sector should include a "health risk management" in order to accept and identify customers, as well as to carry out the due follow up of those customers considered as high risk customers (Section 27, Paragraph d.1.).

TC143. *Criterion 10.17* As mentioned above, Section 6 of the Special Anti-Money Laundering Law instructs obliged subjects to have risk-based CDD policies and procedures; while Section 11 of the same Law requires obliged subjects to identify and evaluate the ML/TF risks of their products and services, as well as to implement measures for said risk management and mitigation. Section 11, Resolution SV no. 1476/22-08-2011 should also be mentioned, which sets the need for an ongoing follow up of the higher risk customers, among which there are residents of countries non-cooperative with the FATF and from high risk

geographic areas, politically exposed persons (PEP), non-profit organizations and those with significant operation volumes, with an emphasis on operations performed with small denomination bills. Furthermore, obliged subjects should establish customers' risks based on their own models. For the credit and savings cooperative sectors, as well as the securities markets, the relevant resolutions state that institutions should keep permanent and strengthened surveillance of the cooperative members rated as of medium or low risk, or customers rated as of high risk.

TC144. *Criterion 10.18* Based on the provisions of Section 6 of the Law against the Financing of Terrorism, obliged subjects may apply simplified due diligence measures based on their customer and/or user's risk. As to low risk products, such as "basic accounts", Resolution no. 2511/16-12-2013 lists the relevant opening requirements, which are fewer if compared to those set forth in similar provisions for other sectors, always establishing that a basic account may only be opened for customers rated as low risk.

TC145. *Criterion 10.19* Section 7, Subsection 5 of the Special Anti-Money Laundering Law states if obliged subjects have doubts regarding the customers' identity or if there is inconsistent information, they may carry out a verification of said information and, if the collected information is not satisfactory for the obliged subject, the business relationship should be terminated, considering the filing of a suspicious transaction report to the FIU. Similar provisions are included in Section 13, Resolution SV no. 1477/22-08-2011 and in Section 12, Resolution SV no. 1476/22-08-2011.

TC146. *Criterion 10.20* The Honduran legal system does not consider the possibility of not performing customer due diligence and notifying the FIU in case a customer might be alerted. The Law establishes the case in which the due diligence is not fulfilled with the information provided by the customer, in which case the obliged subject should terminate the business relationship and issue a suspicious transaction report to the FIU, in accordance with section 7 of the Special Anti-Money Laundering Law.

TC147. *Weighing and Conclusion:* Honduras has a comprehensive and robust legal framework to require obliged subjects the implementation of customer due diligence measures, which may be applied in an enhanced manner if so required. Notwithstanding the foregoing, there are no specific provisions related to the possibility of not carrying out due diligence in the assumption included in the essential criterion 10.20, thus alerting the customer upon the performance of the CDD and, in turn, issuing a STR. **Recommendation 10 is rated as Largely Compliant.**

Recommendation 11 – Record Keeping

TC148. *Criteria 11.1 – 11.3* Section 8 of the Special Anti-Money Laundering Law refers to record keeping by obliged subjects for a minimum period of five (5) years after a transaction or after the completion of a business relationship. Among the records to be kept are the records for transactions above the set threshold (10,000 U.S. Dollars or its equivalent in Lempiras or another currency), as well as all the information included in the relevant Chapter (III) of the Law. Along this line, Section 7 of the Law sets forth that records should be kept in compliance with the provisions of the regulations and directives issued for such purposes by the CNBS or the relevant supervisory body, of all the information gathered as part of the customer knowledge and identification policy. Records should be kept in any storage and communication media, whether physical or electronic.

TC149. Other laws that establish the obligation to keep records for a minimum period of five (5) years include: the National Commission of Banks and Insurance Law (Decree no. 155-95), in Section 26, with

regards to credit and investment files; the Financial System Law (no. 129-2004), in Section 172, with regards to checks and credit notes; the Tax Code (Decree no. 22-97), Section 43, on the accounting books and special records, documents and background of tax obligations, and; the Commercial Code, Section 43, with regards to the general business books.

TC150. In addition to the aforementioned laws, the following Resolutions contain provisions related to record keeping for a minimum period of five (5) years: Resolution no. 869/29-10-2002 "Rules of Procedure for the Prevention and Detection of Misuse of Financial Services and Products in Money Laundering", Sections 33, 34 and 35; Resolution no. 1719/17-11-2009 "Rules of Procedure for Remittance Companies" sections 37 and 38; Resolution no. 1537/30-08-2011 "Rules of Procedure for the Prevention and Detection of Terrorist Financing" Section 6; Resolution no. 2511/16-12-2013 "Rules for the Opening of a Basic Account" Section 14; Resolution no. 31-1/2003 "Amendments to the Operating Rules of the Payment Electronic Clearinghouse ACH Pronto" Section 10; Resolution SV no. 1477/22-08-2011 "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism in Credit and Savings Cooperatives" Section 30; Resolution SV no. 1476/22-08-2011 "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism in Securities Markets" Section 26; and Resolution SS no.1423/15-08-2011 "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism Offenses in Products and Services Marketed by Insurance and Reinsurance Institutions", Section 25.

TC151. *Criterion 11.4* On the one hand, Section 8 of the Special Anti-Money Laundering Law provides to fully and diligently meet the FIU's requirements on transactions and business relationships as one of the objectives for the record keeping of information gathered as part of the CDD processes and transactions above the threshold. On the other hand, Section 24 of the same law states that obliged subjects should complete the records within five business days after the performance of the transactions and send the records of the previous month to the FIU within the first ten days of each month, keeping a physical or electronic copy of any such record for the set period of, at least, five (5) years.

TC152. *Weighing and Conclusion:* The Honduran legal framework establishes record keeping for a minimum period of five (5) years for transactions above the set threshold and for the information and documentation obtained as part of CDD processes, which may be requested by the FIU. **Recommendation 11 is rated as Compliant.**

Additional Measures for Specific Customers and Activities

Recommendation 12 – Politically Exposed Persons (PEPs)

TC153. *Criteria 12.1 – 12.2* With regards to the due diligence to be performed to politically exposed persons (PEP), Section 3, Resolution 650/10-05-2010 "Politically Exposed Persons", points out that obliged subjects should have risk management systems to determine if a customer, prospect customer or current beneficiary of a product and/or service is a PEP, whether a Honduran or a foreigner, as well as to determine if any of the current customers or beneficiaries are considered a PEP. Likewise, obliged subjects are required to obtain the approval of the senior managers, empowered to approve the start or continuance of a business relationship. This Section also states that reasonable measures should be taken to determine the origin or source of funds of the customers identified as PEPs, as well as to perform an "ongoing and thorough" surveillance of the relationships held with PEP customers. Section 4 states that greater due diligence procedures should be applied to these customers.

TC154. Moreover, Section 7 of the Special Anti-Money Laundering Law states that obliged subjects' due diligence policies should contain mechanisms that enable to assign a risk level to the operations performed with Honduran or foreign PEPs, in order to review if their transactions profile is consistent with their functions, level and responsibilities, as well as with their declared incomes.

TC155. *Criterion 12.3* Section 4, Resolution 650/10-05-2010 extends the identification to the name, address and ID document number of the spouse, partner and children; and to the name and address of parents and relatives and/or business related persons in Honduras. Nevertheless, these identification requirements for close associates only apply to foreign PEPs, without mentioning national PEPs.

TC156. *Criterion 12.4* Resolution 650/10-05-2010, which includes the establishment of mechanisms to determine if the customers, prospective customers or beneficial owners are PEPs, applies to all obliged subjects, including insurance and reinsurance institutions.

TC157. *Weighing and Conclusion:* The PEP-related requirements are mostly regulated, although the identification requirements for close associates are not applicable to national PEPs. **Recommendation 12 is rated as Largely Compliant**

Recommendation 13 – Correspondent Banking

TC158. *Criterion 13.1* The Special Anti-Money Laundering Law has a special section (15) for correspondent entities, which includes the obligation to perform due diligence to the institutions with which a correspondent relationship is held. Subsection 1 of said Section states that information should be gathered to understand the nature of the correspondent activities and to determine the reputation of any such entity; Subsection 2 establishes the need to evaluate the ML/TF prevention controls of said entity; Subsection 3 states that the Board of Directors or the Administration Council should approve the establishment of correspondence relationships, and; Subsection 4 includes the need to document the responsibilities of each entity.

TC159. *Criterion 13.2* The above mentioned Section 15 of the Special Anti-Money Laundering Law instructs supervised institutions to verify if correspondent institutions have checked the identity and applied, at all times, CDD measures regarding customers with direct access to accounts of the correspondent entity and if they provide customer's data, upon request.

TC160. *Criterion 13.3* Section 2 of the Special Anti-Money Laundering Law defines a Shell Bank as an institution without a physical address that operates without the relevant authorization to perform banking transactions and is not subject to supervision. Section 14 of said Law explicitly establishes that the institutions supervised by the CNBS cannot have financial relationships with entities with those characteristics. Said prohibition is also established in Section 21, Resolution LA no. 869/29-10-2002.

TC161. *Weighing and Conclusion:* By means of Sections 14 and 15 of the Special Anti-Money Laundering Law, regarding correspondent relationships, all the relevant elements are covered. **Recommendation 13 is rated as Compliant**

Recommendation 14 – Money or Value Transfer Services (MVTR)

TC162. *Criterion 14.1* Section 2 of the Rules of Procedure for Money Remittance Companies Authorization and Operation, contained in Decree no. 1719/17-11-2009, states that remittance companies should be duly authorized under the terms of the Regulations, while Section 13 points out that the record kept for such purposes by the CNBS of the registered companies will be available to the public. Likewise, Sections 5 and 7 of the aforementioned Regulation establish the requirements to be met by legal entities interested in performing remittance activities. Furthermore, Section 11, Resolution no. 1537/30-08-2011 states that those who provide money transfer or remittance services should observe the provisions of said regulation.

TC163. *Criterion 14.2* Sections 44 and 45, Decree no. 1719/17-11-2009 establish that non-compliance with the provisions of the Regulation will be sanctioned under the Financial System Law and the Anti-Money Laundering Law. In this regard, failure to comply with Section 2 of the Regulation, which establishes registration as a requirement to operate, is a behavior subject to sanction.

TC164. Section 98 of the Financial System Law (Decree no. 129/2004) establishes sanctions ranging from public warning to the cancellation of the authorization to operate, with different intermediate sanctions in the form of fines. In turn, the Regulation of Sanctions to be Applied to the Institutions of the Financial System and Other Punishable Subjects, approved by Resolution GE no. 450/19-03-2012 sets fines from ten (10) to one hundred (100) of the highest minimum wage in the area[17] for the non-compliance with the obligations established in the Law by supervised institutions.

TC165. *Criterion 14.3* Section 18, Subsection 4 of the Special Anti-Money Laundering Law establishes as obliged subject "The individuals or legal entities that provide money transfer or remittance services…" According to their capacity as obliged subjects, the individuals and legal entities carrying out said operations will be subject to supervision and to the obligation of filing reports, keeping records, and providing the relevant information to the competent authorities, pursuant to the Law.

TC166. *Criterion 14.4* Section 15, Resolution no. 1719/17-11-2009 establishes that the money remittance companies may enter into agreements with agents, provided they send to the CNBS a full list thereof, and notify the Commission, within a period of five (5) business days, of the start and termination of a relationship with an agent.

TC167. *Criterion 14.5* Section 19, Resolution no. 1719/17-11-2009 requires remittance companies to have a compliance program, under the terms of Section 41 of the Anti-Money Laundering Law. Section 19 also establishes that remittance companies will be liable for their agents' compliance with the effective regulation.

TC168. *Weighing and Conclusion:* The Honduran legal framework, through different laws generally and specifically applied to remittance companies properly establishes that they should be registered, subject to supervision, submit an updated list of their agents to the authorities, and include the latter in their compliance programs. **Recommendation 14 is rated as Compliant.**

[17] For reference purposes, the minimum wage in Honduras is divided depending on the economic activities, layers of workers and the geographic area of the country where said activities are carried out. Amounts: The effective monthly minimum wage for 2015 in the "Financial and Insurance Institutions, Real Property and services provided to companies" sector, which is the highest wage and that considered to set fines for the Department of Francisco Morazán, where Tegucigalpa, capital city of Honduras, is located, was of Lempiras 8,882.30, according to the tables set by the relevant Secretary of the State. The minimum wage for the years 2014 to 2016 was fixed by means of Agreement No. STSS-599-2013 issued by the Departments of Work and Social Security of the Ministry of the State.

Recommendation 15 – New Technologies

TC169. *Criteria 15.1 – 15.2* Section 11 of the Special Anti-Money Laundering Law states that obliged subjects should perform a ML/TF risk identification and assessment for products and services provided to customers, whether they are new or existing ones. Likewise, Section 10, Resolution no. 869/29-10-2002 includes as one of the duties of the supervised entities' compliance managers to ensure that the new products and services offered to customers comply with the ML prevention rules. With regards to the securities markets, Section 13 of the relevant Regulation contained in Resolution SV no. 1476/22-08-2011, sets forth the implementation of special procedures to verify the identity in the case of non face to face operations, either non-resident customers, via Internet or any other method that provides anonymity, whether through a new or in-progress technology.

TC170. Along this line, Honduras has made efforts to include new products, services and technologies in the AML/CFT regime. An example of this is included in Resolution SB no. 1609/10-12-2014, whereby the company "Telefonía Celular, S.A. de S.V." (CELTEL) is required to observe and comply with the obligations established in Resolution no. 869/29-10-2002, Resolution no. 1537/30-08-2011 and all those applicable in terms of AML/CFT, as well as to appoint a compliance officer. The above Resolution considers the need for the CNBS, based on the FAFT Recommendations of February 2012, to regulate and supervise emerging technologies that may be vulnerable to ML/TF, such as sending and receiving money through telephone mechanisms.

TC171. *Weighing and Conclusion:* Honduras has provisions applicable to financial products and services in order to identify ML/TF risks in new and currently available products. Along this line, even a Resolution was issued whereby a telecommunications company is included as an obliged subject, based on the products it developed. **Recommendation 15 is rated as Compliant.**

Recommendation 16 – Wire Transfers

TC172. *Criteria 16.1 – 16.2* Section 12 of the Special Anti-Money Laundering Law, on wire transfers, states that the institutions should take measures to include clear information on the sender of transfers above the threshold set by the BCH, i.e., ten thousand U.S. dollars, or its equivalent in another currency. The information referred to in said section includes the sender's name, account number, address and ID document, as well as the beneficiary's name and account number and the amount of the transaction. Additionally, Resolution no. 1664/26-08-2013 is specific on the identification of wire transfers ordering parties and beneficiaries, which requires their full identification for wire transfers, national money orders, national remittances and local transfers, without making any reference to their amount. In accordance with Section 3 of the BCH rule, the threshold for remittance companies is 2,000 U.S. dollars, applicable to wire transfers, which is not higher than the amount set in the standard. In case of individuals, the ID number is requested while for legal entities, the Taxpayer Identification Number is requested.

TC173. Section 29, Resolution no. 869/29-10-2002 includes provisions in line with this, requesting "clear and significant" information regarding the name, identity, address, phone number and account number of the transaction originators, without making any reference to the specific amounts. Resolution 323-8/2011, whereby the Operating Rules of the Payment Electronic Clearinghouse (ACH PRONTO) are set, establishes that the originating financial institutions should ensure in all the transactions initiated the ordering party is identified.

TC174. Specifically for the remittance companies sector, Section 28 of the Regulation of Resolution no. 1719/17-11-2009 states that for every transaction performed by these companies, a form should be filled out, which will contain data on the place and date of the operation, name of the ordering party and beneficiary, ordering party's ID document, remittance amount, commission charged, origin and destination addresses, remittance identification number and exchange rate for purchase and sale at the time of the transfer; the regulation itself establishes that all the operations that, together, exceed the amount set by the BCH ($10,000 U.S. dollars or its equivalent in Lempiras for any transaction and 2,000 U.S. dollars for remittances) will be considered as one if sent on the same day. Furthermore, based on Decree no. 241-2010, the sender's name, ID number and the address of the individual to whom the funds are sent are included as requirements. Notwithstanding the implemented measures, the threshold set by the BCH is far higher than that set by the criterion of one thousand dollars.

TC175. *Criterion 16.3* Although wire transfer related provisions refer to the threshold set by the BCH of 10,000 U.S. dollars or its equivalent in Lempiras, the ordering party and beneficiary's information is requested in the remittance and transfer operations stated in Resolution no. 1664/26-08-2013, without making any reference to the operation amount. Moreover, Resolution no. 1719/17-11-2009 establishes that customers' operations that might be related to ML/TF behaviors should be periodically analyzed, regardless of their amount.

TC176. *Criterion 16.4* The Special Anti-Money Laundering Law states that all the obliged subjects should develop risk-based due diligence policies, where simplified measures are applied when low risks are detected and enhanced measures are applied for greater risk cases. In this connection, as to remittance companies, Section 35, Resolution no. 1719/-17-11-2009, states that they should periodically analyze the customer's operations when they might be related to ML/TF behaviors, and a follow-up should be made of the consolidated operations performed by customers.

TC177. *Criterion 16.5* As established in Resolution 1664/26-08-2013, the information sent to the Inter-Banking Processing Center (CEPROBAN, for its Spanish acronym) should include the full name and ID number of the ordering party, which will be sent through the ACH PRONTO. Likewise, the provisions where the ordering party and beneficiary's full identification is required, includes national operations such as money orders, remittances and local transfers. Section 29 of Resolution no. 869/29-10-2002 establishes that supervised institutions should implement the necessary measures to include information on the sender of a wire transfer.

TC178. *Criterion 16.6* Section 28 of Resolution no. 1719/17-11-2009 states that within the information to be included in the form corresponding to the operations, a control code or remittance identification number should be included as part of the minimum information required for each transfer.

TC179. Based on the Special Anti-Money Laundering Law and Decree 241-2010, the FIU is entitled to request information to obliged subjects and other individuals and legal entities, which should be submitted in a period of five (5) business days, two days more than set in the standard.

TC180. *Criterion 16.7* Section 8 of the Special Anti-Money Laundering Law states that the records of information and documentation required based on such law should be kept for, at least, five (5) years. Specifically in terms of remittance companies, Section 37 of Resolution no. 1719/17-11-2009 states that documents proving the performance of operations should be kept for five (5) years, in physical or digital format, as well as the records, reports and identity of the subjects linked to the operations.

TC181. *Criterion 16.8* Section 24 of Resolution no. 869/29-10-2002 establishes that when an obliged subject receives a transfer order without the name of the ordering party, the correspondent bank should be requested to provide this information. If it is not obtained, the transfer will be returned to its originator.

TC182. *Criterion 16.9* Section 44 of the Law against the Financing of Terrorism expressly states that the institutions transferring money are bound to obtain information of the ordering party and recipient of the transfer, which should be kept with the related message or transfer.

TC183. *Criterion 16.10* Based on the provisions of the Special Anti-Money Laundering Law, records should be kept for any transaction or business relationship during its effective term and for, at least, five (5) years after its termination, regardless of any technical limitation, which may be kept in copies through any means whatsoever for its reproduction and storage. Likewise, Section 38 of Resolution 1719/17-11-2009 provides for that the documents proving transactions should be kept for five (5) years, whether in physical or digital format.

TC184. *Criteria 16.11 –16.15* Resolution no. 869/29-10-2002 states that when an institution receives a transfer without the name of the ordering party, the correspondent bank will be requested to provide such information, otherwise, the transfer will be returned to the originator thereof. Based on the provisions relevant to wire transfers included in the different regulations, the verification of a transfer originator and beneficiary's identity should be performed, regardless of the amount thereof. In this connection, it is not established that an operation may be executed without the relevant information, regardless of the risk analysis. Likewise, the relevant provisions do not mention follow-up activities in case a transfer is returned.

TC185. *Criteria 16.16 – 16.17* The specific provisions for remittance companies are included in Section 32 of Resolution no. 1719/17-11-2009, which states that remittance companies should communicate the operations performed which, after being analyzed, are considered unusual, as well as prepare a file with all the support documentation for the operation.

TC186. In addition to the aforementioned companies, Resolution no. 1609/10-12-2014 establishes those mobile telephone companies that offer money and value transfer services as obliged subjects. In this regard, the obliged subjects should issue the suspicious transaction reports referred to in Section 24 of the Special Anti-Money Laundering Law. The Suspicious Transaction Reports will be issued for transactions, whether performed or not, regardless of their amount, if they are not consistent with the customer's profile, if they are not related to their economic or professional activity or if they are not within the parameters of normality in their market range.

TC187. *Criterion 16.18* Based on Section 12 of Resolution no. 1537/30-08-2011, when obliged subjects detect in their databases funds or assets of people listed based on the United Nations Security Council Resolutions, they should immediately freeze them and inform the FIU. In turn, Sections 33 and 34 of Resolution no. 1719/17-11-2009 state that when there is evidence or indication of transactions related to TF, they should be reported to the FIU immediately, and the lists of individuals and legal entities that represent a risk to commit acts of terrorism should be promptly addressed.

TC188. *Weighing and Conclusion:* Even though there is a wide legal framework applicable to money and value transfer operations, whether national or international, the legislation is not entirely clear as to the application of measures for all the transactions, since the Special Anti-Money Laundering Law provides for the application of measures to transactions above the threshold of ten thousand dollars or its equivalent in other currency, set by the BCH, which exceeds the threshold set by the standard. **Recommendation 16 is rated as Partially Compliant.**

Reliance, Controls and Financial Groups

Recommendation 17 – Reliance on Third Parties

TC189. *Criterion 17.1* Section 13 of the Special Anti-Money Laundering Law defines that "When obliged subjects delegate the Customer Due Diligence process to third parties, these, at the request of the obliged subject with whom a relationship has been established, should make the identification information, as well as a copy of the requested data, available. However, the final customer identification and verification responsibility lays in the Obliged Subject who delegated the identification. The third parties referred to herein should be regulated and supervised or monitored by the Competent Authority. Nevertheless, it is not clear whether this delegation is only to identify and verify the customer and beneficial owner.

TC190. *Criterion 17.2* Section 16 of the Special Anti-Money Laundering Law establishes that supervised institutions with branches and/or subsidiaries abroad must perform due diligence for the common customers of the group, including customer related information exchange procedures and policies. However, it is not clear whether the risk of the country where reliance on third parties is permitted should be taken into account.

TC191. *Criterion 17.3* Section 16, subsection ii) of Resolution 592/31-05-2005 "Financial Groups" sets forth that those institutions domiciled outside Honduras that are part of a Financial Group authorized to operate in Honduras, should have a regulation and supervision regime in compliance with the international principles and rules as to money laundering prevention, among others. The supervision carried out by the CNBS for Financial Groups should have a consolidated supervision approach. This consolidated supervision is explained in more detail in the Financial System Law where it is defined as "the verification, surveillance, monitoring and control performed on companies that belong to a financial group domiciled in the country or abroad, in order to evaluate and control the risks of all the companies of the group on an individual and global basis." However, it is not clear that when a financial institution delegates in any foreign or local member of the financial group the execution of a CDD measures, whether this third party should comply with all the CDD, record keeping, PEP, AML/CFT programs and risk mitigation requirements.

TC192. *Weighing and Conclusion:* Honduras has provisions regarding the fact that a third party may carry out CDD measures, and regarding common policies in terms of foreign Financial Groups, whose compliance programs are supervised in a consolidated manner for the Group. Nevertheless, there is no regulation that clarifies the limits of this delegation, defining how this delegation is applicable to financial groups operating in Honduras and the requirements for this process. **Recommendation 17 is rated as Partially Compliant.**

Recommendation 18 – Internal Controls and Foreign Branches and Subsidiaries

TC193. *Criterion 18.1* Section 5 of Resolution LA no. 869/29-10-2002 states that all supervised entities must have a compliance program, which effectiveness shall be periodically reviewed by the internal and external audit of the obliged subject in order to identify deficiencies or needs of adjustment.

TC194. Consistent with the above, Section 9 of the Special Anti-Money Laundering Law requires obliged subjects to appoint a senior executive in charge of supervising observance of the compliance program and of acting as a link to the FIU. The functions of the compliance manager cover terrorist financing aspects based on Section 43 of Decree no. 241-2010, and are described in Section 10 of Resolution LA no. 869/29-

10-2002, including, among others, to propose ML prevention and detection policies and procedures, to disseminate the legal and regulatory provisions on this regard, to supervise compliance with said policies and procedures, to send the relevant reports to the FIU, etc. In addition to the above, the institutions should notify in writing the appointment or replacement of the Compliance Manager to the CNBS, which may issue the relevant comments in case the level of responsibility and office does not allow him/her to properly perform his/her duties. The specific provisions for different sectors also refer to the duties and powers of the compliance officers and managers.

TC195. With respect to the criteria and quality standards related to the obliged subject's employees, Section 31 of Resolution LA no. 869/29-10-2002 states that their highest moral values should be ensured, through the selection, investigation and follow up of employees, as well as the implementation of procedures to evaluate and check their employees, officers and legal representatives' background. This is reinforced by paragraph c) of Section 38, as to the need to establish procedures to know the employees by the Human Resources departments as an integral part of the Compliance Program.

TC196. Personnel training is provided for in Section 32 of the above mentioned Resolution. As per this provision, the personnel should receive introductory and ongoing training on ML recognition, which should be intended to all the personnel and should include basic ML concepts and its stages, as well as the legal and regulatory aspects in accordance with the law, which also considers TF.

TC197. The above mentioned compliance program should contain an audit system to verify its effectiveness, as set forth in Section 10 of the Special Anti-Money Laundering Law. Furthermore, Resolution no. 1537/30-08-2011 states the need to have an audit system of the compliance manuals, which will be included in the annual internal audits, so as to verify the effectiveness, efficiency, observance and results of said manual implementation.

TC198. *Criterion 18.2* Based on the provisions of Section 10 of the Special Anti-Money Laundering Law, Financial and Economic Groups must have a Unified Compliance Program, which will be consolidated and observed by an official at the group level, as well as an ongoing and documented procedure for the identification, measurement, control and mitigation of phenomena that may affect them, so that they may be timely managed. Section 16 of the same Law establishes that, in case of Groups of branches and subsidiaries abroad, it must be possible to exchange information on the due diligence performed to common customers of the group.

TC199. Provisions relevant to the confidentiality of the information are contained in Section 33 of the Special Anti-Money Laundering Law, as well as in Section 46 of Resolution no. 869/29-10-2002, whereby any officer, employee, director, shareholder, owner, trustee, legal representative, compliance manager and auditor is prohibited from disclosing the information requested by or provided to authorities.

TC200. *Criterion 18.3* Concerning the above-mentioned Special Anti-Money Laundering Law, Financial and Economic Groups must have a unified compliance program; likewise, Resolution no. 529/31-05-2005 states that the Financial Groups are subject to the international standards and principles in terms of AML/CFT. Notwithstanding that, it is not expressly mentioned whether foreign branches and subsidiaries need to apply the highest standard between the country where the headquarters are located and the country where the branch or subsidiary is located.

TC201. *Weighing and Conclusion:* The legislation requires financial institutions and other non-financial activities to implement compliance programs, appoint an officer in charge of its design and implementation, and in case of Financial Groups it is established that they should have a consolidated compliance program.

Likewise, it is considered that the institutions' personnel should have a high standard and be subject to ongoing training. However, the Law is not entirely clear as to the type of training to be provided in terms of TF, and it does not expressly state the application of the highest standards of the country and that all these measures are applicable to branches and subsidiaries at a national level. **Recommendation 18 is rated Largely Compliant.**

Recommendation 19 – Higher Risk Countries

TC202. *Criterion 19.1* The CNBS of Honduras determined, by means of FIU Resolution no. 548/21-05-2015, replacing FIU Resolution no. 018/08-01-2013, to make public the documents "Public Statement" and "Improving Global AML/CFT Compliance: On-Going Process", issued by the FATF, as well as to order the obliged subjects to establish an enhanced due diligence to the business relationships and transactions which origin or destination is Iran and the Democratic People's Republic of Korea (North Korea). Likewise, they are required to consider the information contained in both documents issued by the FATF and to apply Enhanced Due Diligence policies and procedures, and other similar measures, to mitigate risks related to individuals and legal entities, to the transactions which origin or destination are the countries included in the Public Statement, without limiting that the institutions may include other countries based on their risk management systems. For such purposes, the FIU is instructed to post on the CNBS's website the updates to the aforementioned FAFT documents.

TC203. In addition to the foregoing, two specific regulations for the sectors state that permanent and strengthened surveillance should be implemented for customers or users residing in the countries identified by the FAFT as non-cooperative jurisdictions, in the following Sections: Section 16, Resolution SV no. 1477/22-08-2011 for credit and savings cooperatives and Section 11, Resolution SV no. 1476/22-08-2011 for securities markets.

TC204. *Criterion 19.2* Resolution FIU no. 548/21-05-2015 requires obliged subject to pay special attention to the business relationships and transactions with every legal and natural person from the countries identified in the FATF Public Statement. Moreover, it establishes that said list is not restrictive, since other countries may be included based on the risk management of obliged subjects.

TC205. *Criterion 19.3* Pursuant to Resolution FIU no. 21-05-2015, the FIU will make available to obliged subjects the updates made to the FAFT lists, on those countries of special concern regarding their AML/CFT systems, via its Web Site.

TC206. *Weighing and Conclusion:* The FIU of Honduras has the necessary regulations to inform and require obliged subjects to implement the relevant enhanced Due Diligence measures regarding the countries identified as Higher Risk Countries. **Recommendation 19 is rated Compliant.**

Suspicious Transactions Report

Recommendation 20 – Suspicious Transactions Report

TC207. *Criteria 20.1 – 20.2* The obliged subjects' obligation to submit suspicious transactions reports (STRs) is reflected in different Honduran legal regulations, such as Section 27 of the Special Anti-Money Laundering Law, which states that obliged subjects should notify the FIU, through a form provided for such

purposes, on transactions, operations or business relationships performed or attempted to be performed, which may be related to illegal activities. For such purposes, Section 2 of the Law itself defines suspicious transactions as "[…] those transactions, operations or business relationships, regardless of whether have been performed or not, which are not consistent with the Customer's previously determined profile, which are not related to the professional or economic activity, which are outside the parameters of normality established for their market range or which might indicate that the Customer is carrying out activities without an evident economic or legal foundation, as well as those that consist of or are related to illegal activities or may be used for money laundering or terrorist financing." Likewise, Section 36 of Resolution no. 869/29-10-2002 states that an "Unusual Transaction Report"[18] must be submitted to the FIU on "[…] those transactions performed by individuals or legal entities considered as unusual as a result of an analysis of the entity […]". Section 8 of Resolution FIU no. 1537/30-08-2011, sets the requirement to report suspicious transactions related to TF.

TC208. Moreover, the specific regulations of the different sectors that make up the Honduran obliged subjects refer to the obligation to report unusual or suspicious transactions as follows: Sections 24 and 26 of Resolution SV no. 1423/15-08-2011; Section 21 of Resolution SV no. 1476/22-08-2011; Section 25 of Resolution SV no. 1477/22-08-2011; and Section 32 of Resolution no. 1719/17-11-2009.

TC209. *Weighing and Conclusion:* Honduras has enacted the relevant Laws and Regulations that define the legal provisions required to fulfill this qualification. **Recommendation 20 is rated Compliant.**

Recommendation 21 – Tipping-off and Confidentiality

TC210. *Criterion 21.1* Based on Section 28 of the Special Anti-Money Laundering Law, the obliged subjects and their officers, directors, owners, representatives and employees that issue the STR shall be released from any civil, administrative and criminal liability. As for DNFBPs, Section 18 of the Law for the Regulation of Designated Non-Financial Businesses and Professions includes a provision similar to that mentioned above.

TC211. There are similar provisions for the TF offense, which are expressly included in Section 26 of Decree no. 241-2010, and Section 15 of Resolution FIU no. 1537/30-08-2011.

TC212. *Criterion 21.2* Section 33 of the Special Anti-Money Laundering Law establishes relevant regulations as regards the confidentiality of the information. In said section, obliged subjects are prohibited from disclosing that information was provided to or requested by authorities. Furthermore, Section 87 includes a text related to the prohibition to disclose confidential information regarding known FIU affairs "[…] related to investigations, reports and others, with individuals who intending to take advantage of their hierarchical position want to know the activities of others for a purpose other than this Law or any other individual without any type of functional relationship with the analysis, compliance and financial operations duties known by the FIU."

TC213. Accordingly, Section 21 of Decree no. 131/2014 extends the same prohibition to disclose the provision or requesting of information to the authorities to the DNFBPs. Furthermore, similar sections are provided for three specific sectors–insurance and reinsurance institutions, credit and savings cooperatives and remittance companies.

[18] The former Anti-Money Laundering Law included under the name "Unusual Transactions Report" the issuance of reports that met the characteristics of those currently called "Suspicious Transactions Reports" under the framework of the Special Anti-Money Laundering Law.

TC214. *Weighing and Conclusion:* The Special Anti-Money Laundering Law provides for the necessary protection for individuals who issue a STR to be released from criminal or civil liability related to the issuance thereof. Moreover, it includes the prohibition to disclose information provided to or requested by authorities. **Recommendation 21 is rated Compliant.**

Designated Non-Financial Business and Professions

Recommendation 22 – DNFBPs: Customer Due Diligence

TC215. *Criteria 22.1 – 22.2* Section 18 of the Special Anti-Money Laundering Law expressly extends the scope of application of provisions related to the offense of money laundering and figurehead to DNFBPs, whether they are individuals or legal entities, either regular or irregular. These include the provisions of Sections 6 to 8 and 11, on due diligence policies and procedures of customers and users, including the risk determination for transactions performed with PEPs, record keeping, identification of ML/TF risks in products and services and due diligence carried out by third parties. Additionally, Section 17 of the same Law orders to keep the reports issued to the FIU for, at least, five (5) years, in any means of reproduction or storage, which should be available to competent bodies for the ML/TF prevention, pursuant to Section 20 of the Law.

TC216. Moreover, with the purpose of including DNFBPs in the AML/CFT regime, Honduras approved by means of Decree no. 131-2014 the "Law for the Regulation of Designated Non-Financial Businesses and Professions", which includes as such the following activities: entities that provide international financial services and are not supervised by the CNBS; postal services companies that perform value or money orders or transfers; entities that carry out games of chance, such as casinos, slot machines, bingos or lotteries; provision of money transfer and/or remittance services; leasing, buying and selling of real estate; buying and selling of antiques, works of art and luxury goods; buying and selling of precious metals; purchase, sale, manufacture and industrialization of jewelry; buying, selling, leasing and distribution of vehicles, airplanes, or maritime transports; non-banking leasing; value or money transportation; armoring of vehicles or real estate; lawyers, notaries public and accountants who carry out real estate buying and selling activities, asset management, creation, operation or management of legal persons or structures; savings and loan transactions, systematic transactions with checks; systematic magnetic, electronic, telephone or communication transactions; clubs or sport associations; sale of tickets for international sport events; concerts or shows; hotels and pawn shops; stock exchange transactions, and; systematic fund transfers or transactions with current or future means.

TC217. *Criterion 22.3* There are no specific provisions in terms of PEP for the DNFBPs. Although this might be one of the aspects to be included in the Regulation to the Law, at the time of the conclusion of the on-site visit, said regulation had not been approved, published or implemented.

TC218. *Criterion 22.4 – 22.5* The provisions of Section 11 of the Special Anti-Money Laundering Law, with regards to the identification and assessment of ML/TF risks of new and existing products and services, as well as the implementation of measures to mitigate said risks, and those provisions of Section 13 on the application of due diligence processes by third parties, are applicable to DNFBPs based on the scope of Section 18 of said Law, which extends the obligations to any such subjects.

TC219. *Weighing and Conclusion:* The Honduran legal framework covers a wide range of non-financial businesses and professions, including those designated by the FATF and, in addition, it includes other sectors

determined as high risk in terms of ML/TF. However, at the time of drafting the report, those relevant to PEPs were not detected. **Recommendation 22 is rated Largely Compliant.**

Recommendation 23 – DNFBPs: Other Measures

TC220. *Criterion 23.1* Individuals or legal entities that perform the businesses or professions considered as DNFBPs regularly or professionally, based on Section 16 of the Law for the Regulation of Designated Non-Financial Businesses and Professions, are subject to submit reports on cash transactions; multiple, financial and suspicious transactions, pursuant to the Special Anti-Money Laundering Law, the Law against the Financing of Terrorism and Section 7 of Resolution UIF no. 1537/30-08-2011, for those transactions performed with their users and customers. For the purpose of the above, the reporting obligation extends to all DNFBPs, covering the assumptions stated in the essential criterion of Recommendation 23.

TC221. *Criterion 23.2* Section 5 of Resolution FIU no. 1537/30-08-2011 states that the Board of Directors of obliged subjects should appoint a compliance officer, who will be in charge of coordinating the compliance and follow up functions related to AML/CFT; in case of obliged subjects who are individuals, they should carry out the functions of the compliance officer. Likewise, they should keep the information related to each transaction for, at least, five (5) years from the moment the transaction is performed. As they are today, these provisions are applicable to independent accountants, as well as to lawyers and other legal professionals who perform activities that include the buying and selling of property, asset administration and the creation, management or buying and selling of trading companies. Nevertheless, the legislation and regulation effective during the evaluation do not include provisions related to ongoing training programs, compliance personnel selection procedures; moreover, they do not apply to individuals and legal entities that carry out activities of buying and selling of precious metals and stones in the assumptions included in essential criterion of Recommendation 23.

TC222. *Criterion 23.3* Section 6 of the Law for the Regulation of Designated Non-Financial Businesses and Professions provides for the need to evaluate the country risk, and the regulation will establish how to update the information and mechanisms to communicate results. However, it does not state any responsibility or obligation for obliged subjects, in this case DNFBPs, regarding business relationships with customers or users from countries on which the FATF has issued appeals, as well as the implementation of countermeasures or other types of measures.

TC223. *Criterion 23.4* Section 18 of the Law for the Regulation of Designated Non-Financial Businesses and Professions excludes those individuals or legal entities engaged in DNFBPs from civil, administrative or criminal liability, stated in the Law, from actions that result from the transactions report issued based on the relevant provisions. Furthermore, Section 21 establishes the prohibition to inform any individual on the request of information by authorities or the disclosure of information thereto.

TC224. *Weighing and Conclusion:* With the inclusion of non-financial businesses and professions to the range of obliged subjects, by means of the recent Law for the Regulation of Designated Non-Financial Businesses and Professions, the State of Honduran has implemented measures to ensure that the considered sectors are not vulnerable to the commission of ML/TF offenses, and it also makes them subject to the confidentiality duties regarding tipping-off. Nevertheless, there is not yet a regulation for said Law to be fully enforced. Moreover, in the legislation reviewed for the purposes of this report, no provisions were observed regarding the relationships with customers from high-risk countries identified by the FATF, or regarding ongoing training, compliance personnel selection and other internal controls in general. In

addition, the precious metals and stones sector is not subject to all the obligations required by the standards.
Recommendation 23 is rated Partially Compliant.

VI. SUPERVISION

Recommendation 26 – Regulation and Supervision of Financial Institutions

TC225. *Criterion 26.1* Section 1 of Decree no. 155-95, National Commission of Banks and Insurance Law, establishes that the CNBS shall supervise the financial, insurance, provisional securities activities and any other activity related to the management, use and investment of the resources captured from the public; and other financial institutions and activities determined by the President of the Republic in the Council of Ministers. In addition, it shall verify that supervised institutions have ML/TF prevention systems, in compliance with the relevant laws. Furthermore, section 6 states that the Commission shall exercise, through the Superintendencies, the supervision, surveillance and control of public and private banking institutions, insurance and reinsurance companies, financial companies, saving and loan associations, general deposit warehouses, stock exchange, stock exchange seats or houses, bureaux de change, pension funds and welfare institutions, public and private pension and retirement administrators and any other with duties similar to those states herein.

TC226. *Criterion 26.2* Section 6 of the Financial System Law describes that the CNBS will be the institution in charge of authorizing or granting licenses for the establishment of financial system institutions, including all the institutions mentioned above. Additionally, Section 21 of the CNBS Regulation no. 869/2002 prohibits Shell Banks. This prohibition has also been included in Section 14 of the Special Anti-Money Laundering Law.

TC227. *Criterion 26.3* The Financial System Law defines all the requirements to be met by financial institutions to carry out their activities; particularly, Section 8 explains the procedure for the authorization granted by the CNBS, whereby it is stated that the financing, organization, governance and management, viability, suitability, reputation, experience and responsibility basis of the organizers and eventual officers of the projected entity will be evaluated. Additionally, Section 22 states that in order for financial system institutions to perform a transfer of shares with voting rights, the authorization of the Commission will be required if the transaction is for a percentage equal to or higher than 10% of the share capital, or when said transfer implies a change in the institution's control. For the purposes of this authorization, the Commission should review the suitability and reputation of the individuals, if they are or have been involved in legal procedures, among others.

TC228. *Criterion 26.4* As mentioned above, the Financial System Law contains the legal framework for the creation, operation, and supervision, among others, of the entities of the financial system. Particularly, Section 73 "Corporate Governance" includes all the provisions necessary to ensure good Corporate Governance. As regards financial groups, Sections 77 to 80 of the Financial System Law regulate financial groups, while Section 81 refers to the consolidated supervision to be developed by the commission. Additionally, there are regulations by sectors on this regard: Resolution no. 2043/22-12-2010 whereby the Functions Manual and Risk-Assessment Methodology of Money Laundering and Terrorist Financing of the URLAFT in Banks was approved; Resolution SB no. 869/29-10-2002 "Rules of Procedure for the Prevention and Detection of the Misuse of Financial Products and Services"; Resolution SV no. 1476/22-08-2011 containing the "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism in Securities Markets"; Resolution no.1719/17-11-2009 "Rules of Procedure for Money Remittance Companies Authorization and Operation"; and Resolution SV no.1477/22-08-2011 "Rules of Procedure for the Prevention and Detection of Money Laundering and the Financing of Terrorism in Credit and Savings Cooperatives", among others that regulate several provisions in compliance with this criterion.

TC229. *Criterion 26.5* Pursuant to the Special Anti-Money Laundering Law, in Chapter IV (Supervision and Regulation of Obliged Subjects), Section 19 (Institutions Supervised by the CNBS): The CNBS will review, verify, control and supervise the supervised institutions based on the provisions contained in this Law and the applicable regulatory framework. To that end, the CNBS will use a risk based supervision methodology. Furthermore, Resolution no. 2043/22-12-2010 approved the Functions Manual and Risk-Assessment Methodology, which states the implementation of the "Money Laundering and Financing of Terrorism Risk Evaluation System" (SERLAFT, for its Spanish acronym), which sets forth the prioritization of the work plan based on residual risks, once the inherent risks and the controls and mitigating factors implemented by the institutions to be supervised have been considered. Moreover, Resolution no. 376/12-03-2012 approved the Risk-Based Comprehensive Supervision Manual for Banks and Financial Companies.

TC230. *Criterion 26.6* Section 14, subsection 5 of the National Commission of Banks and Insurance Law mentions the performance of audits, evaluations and reviews deemed necessary in financial institutions. Additionally, section 26 mentions that the supervisions to be performed in the institutions will be as frequently as deemed necessary.

TC231. *Weighing and Conclusion:* The provisions as regards the regulation and supervision of financial institutions cover all the criteria and characteristics, establishing supervision and regulation authorities, establishing controls of suitability for the officers of entities who request its registration and operation license. Furthermore, based on the legislation, the Commission is granted the necessary powers to conduct risk-based supervisions, as deemed necessary, in accordance with the Supervision Manual. **Recommendation 26 is rated Largely Compliant.**

Recommendation 27 – Powers of Supervisors

TC232. *Criterion 27.1* In addition to what is relevant for the purposes of Recommendation 26, Section 19 of the Special Anti-Money Laundering Law states that the CNBS will review, verify, control and supervise the supervised institutions based on the provisions of said Law and the applicable regulatory framework. As regards TF, Section 47 of the Law against the Financing of Terrorism sets forth that the CNBS will perform surveillance, control and regulation of the obliged subjects and other obliged parties not supervised for this matter.

TC233. *Criterion 27.2* Section 14, subsection 5 of the Law of the CNBS mentions the performance of audits, evaluations, inspections and reviews deemed necessary in the financial institutions. In addition, subsection 1 of Resolution 1820 of the CNBS on the Methodology of Money Laundering and Financing of Terrorism Risk Units (URLAFT) requires that Superintendencies implement a risk-based supervision model, which should include off-site evaluation, visit planning, off-site review and report structure, in order to integrate a solution to the ML/TF risk management. This enables the possibility of carrying on a review in financial institutions' facilities.

TC234. *Criterion 27.3* Chapter IV "Supervision, Accounts and Reports" of the CNBS Law establishes the obligation of financial institutions to submit all their documentation. Particularly, Section 26 establishes that supervised institutions are hence bound to provide access to the personnel of the Superintendency to inspect their accounts, and all their books and documents proving their operations.

TC235. *Criterion 27.4* Section 22 of the Special Anti-Money Laundering Law states that Obliged Subjects who fail to comply with the imposed provisions will be sanctioned with a fine of one hundred (100) to five hundred (500) of the highest monthly minimum wages of the area where the non-compliance occurred, based on the severity thereof, calculated by each breach or non-compliance.

TC236. *Weighing and Conclusion:* The law and regulation thereof grant supervision powers to the CNBS in terms of AML/CFT, as well as the power to impose non-compliance sanctions. **Recommendation 27 is rated as Compliant.**

Recommendation 28 – Regulation and Supervision of DNFBPs

TC237. *Criteria 28.1 – 28.2* Section 10 "Obligations" of the Law for the Regulation of Designated Non-Financial Businesses and Professions states the need for registration of all the obliged subjects, including casinos. Moreover, Section 13 establishes that DNFBPs will receive the annual operation permit from the competent institution. In the case of casinos, the competent authority is the CNBS.

TC238. Sections 10 to 14 of the Law for the Regulation of Designated Non-Financial Businesses and Professions establishes the obligations of obliged subjects to register, update information and the processes to grant the annual operation permit. Additionally, CNBS Resolution no. 1537 considers that the entities engaged in games of chance should also develop good governance and ethics policies, and that they should cooperate with the authorities when requested. Section 1 of the Law for the Regulation of DNFBPs states within the purpose and scope of the Law, the responsibility of the CNBS for supervision, surveillance and compliance with the anti ML/TF measures by the DNFBPs.

TC239. *Criterion 28.3* As mentioned above, Section 1 of the Law for the Regulation of DNFBPs establishes that the CNBS will be in charge of supervising compliance with the ML/TF prevention and combat measures for obliged subjects.

TC240. *Criterion 28.4* Regarding corporate governance, Section 10 of the Law for the Regulation of DNFBPs includes the registration and information update obligations with the CNBS and the CNBS Resolution no. 1537 develops the corporate governance related provisions. On the other hand, and as for Casinos, Section 1 of the Law for the Regulation of Designated Non-Financial Businesses and Professions sets forth the functions of the CNBS to supervise the obliged subjects on this matter, including DNFBPs; however, as per the provisions above, it is not clear as it seems to contradict the anti-ML Law. Additionally, Section 25 of the Law for the Regulation of DNFBPs is applicable, which although it has a range of fines it does not seem to cover a wide range of proportionate and dissuasive sanctions. Furthermore, the Law itself states that, for the purposes of imposing sanctions, the relevant regulation should be issued, which was not available at the time of evaluation.

TC241. *Criterion 28.5* Section 20 of the Special Anti-Money Laundering Law regarding DNFBPs supervision establishes that Regulatory Entity of DNFBPs should regulate, supervise and control them. This supervision should be carried out based on the organization, structure, resources and complexity of the DNFBPs operations, and a risk-based management is required. In spite of the fact that this is established in the Special Anti-Money Laundering Law, as mentioned above, it is not clear who is the supervisor in terms of ML/TF and, in this case, if the provisions of this section are applied.

TC242. *Weighing and Conclusion:* Honduras has a legislation that provides the regulation and supervision of DNFBPs, which was published and became effective shortly before this Mutual Evaluation. In this regard and considering the provisions of the Law, there are still pending aspects to be covered, which are subject to the regulation to be issued for full implementation of the Law. **Recommendation 28 is rated Partially Compliant.**

Recommendation 34 – Guidance and Feedback

TC243. *Criterion 34.1* Despite the fact that supervisors and the FIU may issue the regulation towards obliged subjects, it is not clear whether they can offer feedback on the compliance with the directives set to all the obliged subjects.

TC244. *Weighing and Conclusion*: There are no regulations or measures through which supervisors and the FIU can provide feedback on compliance with the directives. **Recommendation 34 is rated Non-Compliant.**

Recommendation 35 – Sanctions

TC245. *Criterion 35.1* The sanctions applicable to obliged subjects and other entities for non-compliance with their AML/CFT obligations are included in different regulations. In general terms, Section 22 of the Special Anti-Money Laundering Law states that those supervised institutions which fail to comply with the obligations imposed by the Law will be sanctioned by the Commission with a fine from one hundred (100) to five hundred (500) of the highest monthly minimum wage of the area where the breach occurred, based on the severity thereof. The forgoing without prejudice to the criminal liability derived from the committed offense. Apparently, these sanctions would be too low to encourage appropriate compliance with their obligations. Said provision also establishes that, in case of recidivism by the obliged subject, the fine will double the amount set.

TC246. Fines will be imposed by the CNBS to the institutions supervised thereby, and communicated to the other obliged subjects by the FIU, based on the provisions of Section2 of the Special Anti-Money Laundering Law and Sections 25 and 26 of the Law for the Regulation of Designated Non-Financial Businesses and Professions. In addition to the fines imposed, Section 42 of the Special Anti-Money Laundering Law establishes the administrative, civil and criminal liability of obliged subjects' officers or employees, while Section 43 refers to the liability of the legal person, which will be sanctioned with a fine equal to 100% of the laundered amount, in case of committing or facilitating the offenses set in said law for the first time; in case of recidivism, the fine will be for an equal amount, but the legal person will be definitely cancelled or closed.

TC247. As regards TF, Decree no. 241-2010, contained in the Anti-Money Laundering Law, states that the sanctions imposed to legal entities will be fines from one hundred and seventy (170) to two hundred and fifty five (255) minimum wage, besides the sanctions to the legal person, which include the suspension or withdrawal of the authorization to exercise certain professional activities, closure of the establishment(s) used to commit the offense, dissolution and liquidation of the legal person, loss of objects and crime proceeds, as well as the payment of the procedural expenses; the obliged subjects in breach will have to pay a fine from twenty (20) to five hundred (500) minimum wage, depending on the severity of non-compliance, based on Section 78. NPOs are subject to fines for the same amounts, as well as to the prohibition to perform

activities for a period of up to five (5) years and its dissolution. These sanctions seem to be proportionate and dissuasive.

TC248. In addition to the previously described laws, Resolution GE no. 450/19-03-2012 approved the "Regulations on Sanctions to be imposed to Supervised Institutions", which states the procedure to sanction the institutions to which it refers. In general terms, the procedure consists of the identification of an infringement, after which the Superintendency of the Commission relevant to the obliged subject should prepare a report detailing the non-compliance, the extenuating or aggravating circumstances, if any, and the sanction to be imposed, which is notified to the supervised institution in order for the latter to submit the disclaimers deemed pertinent. Said disclaimers, if received, are sent to the offices for their evaluation and for the preparation of a draft Resolution, which should include the opinion of the Legal Advisory Office. If the subject sanctioned does not submit disclaimers, it should be stated in the report submitted. Once the resolution regarding the sanction is issued, the subject sanctioned may submit an Appeal for Reversal to the Commission within the following ten (10) business days through its legal representative. Pursuant to Sections 21, 24, 34, 37, 40, 43 and 50 of said Resolution, failure to comply with the Anti- Money Laundering Law and the Law against the Financing of Terrorism will be considered a serious infringement (or very serious in the case of remittance companies), stating a fine from ten (10) to one hundred (100) minimum wage, applicable to the institutions of the financial system, insurance and reinsurance institutions, private organizations of financial activity development, issuers and traders of credit cards, bureaux de change, general deposit warehouses and remittance companies, respectively. With the coming into force of the Special Anti-Money Laundering Law, the fines related to non-compliance with the relevant provisions will be from one hundred (100) to five hundred (500) minimum wages.

TC249. Said regulation is not the only one that makes reference to the sanctions for obliged subjects; Section 43 of Resolution LA no. 869/29-10-2002, Section 28 of Resolution no. 1423/15-08-2011, Section 29 of Resolution SV no. 1476/22-08-2011 and Section 29 of Resolution SV no. 1477/22-08-2011 include sanctions consistent with those contained in Decree no. 45-2002, which was repealed with the coming into force of the Special Anti-Money Laundering Law, since it replaces the fines established in said regulations. Furthermore, several regulations in terms of AML/CFT ambiguously state that the identified non-compliances will be sanctions under the terms of the Law. Notwithstanding the above, there is currently a discrepancy in the laws and regulations regarding the implementation of sanctions, which should be solved with the regulation of the Special Anti-Money Laundering Law.

TC250. *Criterion 35.2* Section 42 of the Special Anti-Money Laundering Law specifically states that the Board of Directors' members, Legal Representative, General Manager, as well as other obliged subjects' officers and employees, will have administrative, civil and criminal liability for the actions or omissions that are contrary to the Law or other relevant provisions.

TC251. *Weighing and Conclusion:* Several laws of the Honduran legal framework establish a range of sanctions from the application of fines to the cancellation of licenses, suspension to perform certain functions and the liability of the members of legal entities. With the coming into force of the Special Anti-Money Laundering Law, higher fines were implemented. However, the sanctioning procedure still needs to be strengthened for DNFBPs and NPOs. **Recommendation 35 is rated Partially Compliant.**

VII. LEGAL PERSONS AND STRUCTURES

Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons

TC252. *Criterion 24.1* Section 14 of the Commercial Code sets forth the requirements to organize a company, while Sections 380 to 384 refer to the obligation to publish the information in the Public Trade Registry. However, the Code does not require updating the information in the Public Trade Registry, therefore, there seems to be no mechanism to reliably know the beneficial ownership of these legal entities. Moreover, Section 17 states that "companies not registered with the Public Trade Registry that externalize as such with third parties will have legal capability whether they appear in a public deed or not".

TC253. *Criterion 24.2* Honduras has developed a National Risk Analysis with the support of the Inter-American Development Bank. This analysis identifies that there exists the possibility to organize companies that do not need to be registered or be created through a notary public, making them very vulnerable to be used for the commission of ML/TF offenses. Additionally, it is acknowledged that although there is legislation for registration of the other legal entities, it is not reliable and the information contained in the public registry is not updated. In the risk analysis, this sector is identified as risky.

TC254. *Criterion 24.3* Chapter III of the Commercial Code "Public Trade Registry" defines that the Registry will consist of a registration book for individual traders and a registration book for corporate traders. Particularly, Sections 391 to 395 specify what should be registered and cover the requested criteria. The companies registered under Section 17 of the same code should comply with the registration with the Public Trade Registry, as well as with the Chamber of Commerce, as per Section 384 of the Commercial Code; however, since there are not enough controls, they might not do it.

TC255. *Criterion 24.4* Section 136 of the Commercial Code allows for nominative and bearer titles. Likewise, Section 137 requires that companies keep records of the nominative shares and records of the nominative shares that turn into bearer shares. However, there are no additional requirements for bearer shares. In addition, based on Section 490 of the Code, nominative shares may be transferred through a blank endorsement that can be filled out by any holder with his/her name, a third party's name, or left blank, which means an obstacle to the knowledge of shareholders.

TC256. *Criterion 24.5* Sections 389 to 395 of the Commercial Code explain what should be registered before the public registry. Particularly, Section 394 requires registering changes in companies, not only regarding their ownership, but also regarding the issuance of shares and changes to the by-laws, among others. Moreover, Section 380, which includes the minimum aspects to be registered, requires the registration of the modifications made. However, it is not clear whether this is information is accurate and timely updated, besides the possibility to transfer shares by blank endorsement or to the bearer. Furthermore, the foregoing does not apply to unregistered companies, according to Section 17 of the Commercial Code.

TC257. *Criterion 24.6* As mentioned above, the changes of ownership of companies should be registered before the public registry. Additionally, Section 14 of the Anti-Money Laundering Law requires all the financial institutions and DNFBPs to update their data in the registry each year before February 15th, or after the annual meeting is held. Nevertheless, the requirement for the other companies and structures that are not obliged subjects is not clear. In the Commercial Code, there is no clear requirement to keep the information on beneficial ownership updated by the companies before the Trade Registry and the Chamber of Commerce, and it only requires registering the ownership changes therein.

TC258. Section 7 of the Special Anti-Money Laundering Law defines the due diligence procedures and states that obliged subjects should identify the beneficial owner and the legal persons and other structures, in such a way that the ownership, property and control structure of their customer is understood. Furthermore, the CNBS has issued some regulations for banks and insurance and reinsurance institutions with the requirement to identify the beneficial owners of their customers, among which Resolution UIF no. 066/11-01-2012 is highlighted, which extends the possibility to know and keep updated the information on beneficial owner of several legal structures.

TC259. *Criterion 24.7* As mentioned above, with the Anti-Money Laundering Law, it is possible for the public registry to have accurate and updated information of all the obliged subjects on their beneficial owners. In turn, it is possible to obtain information for the banking, insurance and pension sectors on the beneficial owners of the customers to which they provide this service through them. However, it is not possible to have updated and accurate information of all the legal structures.

TC260. *Criterion 24.8* In the case of obliged subjects, Section 9 of the Anti-Money Laundering Law states that they should appoint an individual as compliance officer, who should respond to the authorities' requests, including information on their customers' beneficial owner.

TC261. *Criterion 24.9* Section 445 of the Commercial Code states that traders and their heirs or successors must keep books of their business in general, for their duration and up to five years after liquidation of all businesses and commercial transactions. Additionally, Section 8 of the Special Anti-Money Laundering Law requires that obliged subjects keep during any transaction or business relationship and, at least, for five years after termination thereof, records of information and documentation required in this Chapter, which enable to be reconstructed.

TC262. *Criterion 24.10* The Honduran Trade Registry is public; however, pursuant to the Commercial Code, registration is performed in the administrative center of the departments or judicial sections, meaning that although the authorities can obtain the information, this might not occur in time. Nevertheless, for the information in possession of obliged subjects, Section 29, paragraph two of the Special Anti-Money Laundering Law states that the FIU will serve as a means for the Public Prosecutor or the competent Jurisdictional Body to obtain the information deemed necessary in the investigation and prosecution of offenses established therein. This information may be obtained faster.

TC263. *Criteria 24.11 – 24.12* Honduras allows for nominative and bearer shares and lacks mechanisms to prevent them from being used for ML/TF. In addition, it is possible to transfer the ownership of shares by mere endorsement.

TC264. *Criterion 24.13* For the regulation governed by the Commercial Code, Section 384 establishes that the failure of a trader to register will be penalized with a fine ten times higher than the amount of the registration fee it would have had to pay. As for obliged subjects, Section 22 sanctions those who fail to comply with the imposed provisions as follows: they will be sanctioned with a fine from one hundred (100) to five hundred (500) of the highest monthly minimum wage of the area where the breach occurred, based on the severity thereof and calculated by each breach or non-compliance. In case of recidivism, the sanction will be two times the aforementioned fine.

TC265. *Criterion 24.14* Honduras may provide wide cooperation and, considering that the trade registry is public, it would be understood that foreign authorities may have access to it. However, information is hardly accessible, even for local authorities. In the case of shares, since Honduras has no regulation for their identification, it cannot provide assistance in this regard due to lack of information. As mentioned above and

with regards to Recommendations 37 and 38, Honduras can provide wide cooperation in terms of ML, predicate offenses and asset forfeiture, including sharing information on beneficial ownership that may have access through obliged subjects; in case of terrorism and its financing, it can do it if within the framework of a criminal investigation.

TC266. *Criterion 24.15* As established in the relevant analysis for Recommendations 37 and 38, Honduras has extensive powers to cooperate but lacks the specific monitoring mechanisms.

TC267. *Weighing and Conclusion:* The Honduran legal framework has some provisions relevant to the information that should be included in the public registries. Nevertheless, the legislation was not found to be adequate to force legal entities to keep the information updated in such registries. Additionally, the existence of companies that obtain legal capability without being registered, the existence of bearer shares and their possibility of nominative shares to be transferred through mere endorsement are measures established in the Law and which imply deficiencies to obtain updated and reliable information on legal entities' beneficial ownership. Likewise, the possibility established in the recent legislation to organize a company without registration and without the involvement of a notary public constitute deficiencies that should be addressed. **Recommendation 24 is rated Non-Compliant.**

Recommendation 25 – Transparency and Beneficial Ownership of Other Legal Structures

TC268. *Criterion 25.1* Section 952 of the Commercial Code only authorizes banks to perform Trust transactions, which are obliged subjects and, in this regard, should implement all the measures mentioned in the above recommendation applicable to obliged subjects. Particularly, Section 17 of the Special Anti-Money Laundering Law states that, in case of trusts, the supervised institutions should require the relevant certifications proving the organization and effectiveness of companies, as well as the identification of their signatories, proxies, directors and legal representatives, in order to properly establish and document the actual trust owner or beneficiary, either direct or indirect. This service is subject to risk management and the CDD process. Furthermore, Section 8 requires that obliged subjects keep records of the required information and documentation during the effective term of any business transaction or relationship and for, at least, five (5) years after termination thereof.

TC269. *Criterion 25.2* Section 8 of the Special Anti-Money Laundering Law on Record Keeping states: "1) To keep records of the required information and documentation during the effective term of any business transaction or relationship and for at least five (5) years after termination thereof; 2) To keep records of the transactions exceeding the amounts set by the Central Bank of Honduras (BCH), for at least five (5) years after termination thereof; and, 3) The records referred to in subsections 1) and 2) may be kept in magnetic form, photocopy, photographic copy, negatives or any other reproduction means, once the five (5) year term has elapsed." Moreover, Section 24 on the Submission of Transactions Records sets forth that the transactions records subject to report to the FIU should be kept in magnetic form, photocopy, photographic copy, negatives or any other reproduction means for, at least, five (5) years.

TC270. *Criterion 25.3* Section 952 of the Commercial Code only authorizes banks to perform Trust transactions. Therefore, the transactions that exceed the threshold set for banks should be reported as transactions, pursuant to the procedures established. In a regulatory manner, Section 30 of Regulation 869/2002 of the CNBS states that, in the case of trusts, supervised institutions should require the relevant certifications that evidence the organization and effectiveness of companies, as well as the identification of

their signatories, and properly establish and document the actual owner or beneficiary, either direct or indirect.

TC271. *Criteria 25.4 – 25.5* Section 47 of the Special Anti-Money Laundering Law on Banking, Professional or Tax Secrecy establishes that for the purpose of applicability of this Law and safeguarding the fundamental rights of the person, the banking, professional or tax secrecy shall not be cited. Additionally, Section 29, paragraph two of the same Law establishes that the FIU will serve as a means for the Public Prosecutor or the competent Jurisdictional Body to obtain the information deemed necessary in the investigation and prosecution of crimes typified therein. All the information that may be timely accessed includes that on the beneficial ownership, as per Section 17 on trusts.

TC272. *Criterion 25.6* Honduras may provide extensive cooperation and, considering that the trade registry is public, it would be understood that foreign authorities could have access to it. However, information is hardly accessible, since it is decentralized, even for local authorities. Based on the analysis of Recommendations 37 and 38, Honduras can provide extensive cooperation in terms of ML, predicate offenses and asset forfeiture, including the sharing of information on trusts' beneficial owners for being obliged subjects.

TC273. *Criteria 25.7 – 25.8* Since trusts may only be carried out by banks, all the sanctions for non-compliance set in the financial institutions regulation apply. Section 22 of the Special Anti-Money Laundering Law states that the Obliged Subjects that fail to comply with the imposed provisions will be sanctioned with a fine from one hundred (100) to five hundred (500) of the highest monthly minimum wage of the area where the non-compliance occurred, based on the severity thereof, calculated by each breach or non-compliance. In case of recidivism, the sanction will be two times the aforementioned fine. On the other hand, Section 6 of the Law against the Financing of Terrorism includes a range of broader sanctions that are dissuasive and proportionate, but are only applicable to cases of terrorism or TF.

TC274. *Weighing and Conclusion:* In Honduras the Law establishes that only banking institutions may perform trust transactions, therefore they are covered in many aspects that are applicable to banks in terms of AML/CFT. Even though the relevant laws set a range of sanctions for non-compliance, they are not the same in ML and TF. **Recommendation 25 is rated Largely Compliant.**

VIII. INTERNATIONAL COOPERATION

Recommendation 36 – International Instruments

TC275. *Criterion 36.1* The Honduran Government is signatory of the Vienna Convention (December 1991), the Palermo Convention (October 2003), the United Nations Convention Against Corruption (Merida Convention) included in the Honduran internal legislation through its publication in *La Gaceta* on April 20th 2005, the Convention for the Suppression of Financing Terrorism (November 2002) and the Inter-American Convention against Terrorism (September 2004).

TC276. *Criterion 36.2* Although all the conventions have been ratified, they are not fully implemented, particularly as regards aspects related to extradition (see Recommendation 39), cooperation for acts of terrorism and TF, that is not a predicate offense for ML (see Recommendation 37).

TC277. *Weighing and Conclusion:* The Honduran State is signatory of the relevant Conventions for international cooperation purposes in the prevention and combat of ML/TF; however, it does not have the optimum mechanisms to apply the provisions of said Conventions. **Recommendation 36 is rated Largely Compliant.**

Recommendation 37 – Mutual Legal Assistance

TC278. *Criterion 37.1* Section 81 of the Special Anti-Money Laundering Law on the "Power to Request and Provide International Assistance", states that Competent Jurisdictional Bodies, the Public Prosecutor, the BCH, the CNBS and the other competent authorities will cooperate with their counterparts from other countries, implementing the appropriate measures, in order to request and provide assistance related to the prevention, investigation and prosecution of the money laundering offense, in accordance with the Law, through the Memoranda of Understanding, the Conventions, Treaties, and Agreements subscribed and ratified by Honduras, according to the limits of its powers and based on reciprocity. It is clear that Honduras can provide extensive cooperation in terms of ML and predicate offenses. Nevertheless, it is not clear whether the legal provisions are applicable to those offenses not included, in accordance with Criterion 3.2, generally framed within those "…without economic or legal cause or justification of its origin."

TC279. As regards TF, Section 34 of the Law against the Financing of Terrorism expresses the power of the competent authorities to request and provide international legal assistance in order to facilitate the necessary investigations or judicial actions regarding the crimes set forth in this Law, establishing that international legal assistance may be provided or requested to competent authorities from other countries, based on the legal regulations, using the international instruments subscribed and ratified as support of the exchange requests. However, the regulatory framework makes no reference to the existence of mechanisms to cooperate in terms of terrorist financing given the absence of a ratified international instrument.

TC280. *Criterion 37.2* Both the Special Anti-Money Laundering Law in Section 81 and the Law against the Financing of Terrorism in Section 34 establish that the request shall be processed through the central authority and shall be subject to the requirements set in the Convention or Agreement invoked. In urgency situations, the request may be submitted through any means, but it should be confirmed in writing, following the procedures established. The response to the request may be provided by this same way.

TC281. The Honduran authorities state that for the Vienna Convention purposes, the central authority is the Attorney General of the Republic, for the Palermo Convention is the Secretary of the State in the

Departments of Human Rights, Justice, Interior and Decentralization, for the Merida Convention and the Inter-American Convention Against Terrorism the central authority is the Supreme Court of Accounts; however, a central authority is not identified for the implementation of the Convention for the Suppression of TF and for the Central American Convention for the Prevention and Repression of ML/TF and Related Crimes, and it is not clear which is the central authority in case of absence of a treaty.

TC282. As regards the processes of request execution, by means of Agreement no. FGR-02-2015, the International Agreements and Affairs Unit of the Public Prosecutor was created, which will be in charge of processing International Legal Assistance requests. However, said Agreement does not establish the procedures to be followed by the Unit to prioritize and answer said requests, or related to the existence of a case management system to monitor the progress of requests.

TC283. *Criterion 37.3* Section 83 of the Special Anti-Money Laundering Law defines that the legal assistance requests may be denied if they are not submitted by a competent authority, as per the legislation of the requesting country, or if they are not submitted in accordance with the procedure set in the laws. As to TF, Section 37 of the Law against the Financing of Terrorism establishes as a reason to reject international legal assistance that the facts referred to in the request are not subject to a criminal proceeding. The other reasons relate to extradition and are further explained in the section relevant to Recommendation 39. As a consequence, in no event are the restrictions to provide assistance unreasonable or inappropriate.

TC284. *Criterion 37.4* As mentioned above, the reasons to reject legal assistance do not include tax matters or secret or confidentiality reasons, in compliance with this criterion.

TC285. *Criterion 37.5* For treaties in which the Public Prosecutor is the central authority, the confidentiality of the information is applied under the terms of the Criminal Procedure Code, and in case said provision is breached, the individual may be prosecuted for secret violation and disclosure. However, the confidentiality processes are not clear for the Secretary of States' officers in the Offices of Human Rights, Justice, Interior and Decentralization, and of those who process other assistance requests both within the framework of a treaty, and in the absence thereof.

TC286. *Criterion 37.6 – 37.7* In the legislation, it seems that double criminality does not exist as a requirement or restriction for international cooperation purposes.

TC287. *Criterion 37.8* The wide range of investigation techniques documented in Recommendation 31 may be used to respond to a cooperation request, without any restriction whatsoever.

TC288. *Weighing and Conclusion:* Even though Honduras has a legal framework that enables to provide cooperation without undue restrictions, it is not clear which the central authorities are for all the relevant agreements and treaties. In this connection, as the legislation does not enable the identification of said central authorities, it is not possible to know which are the confidentiality provisions as regards confidentiality that are applicable for the reception of cooperation requests. Furthermore, the legislation or regulations do not establish the process for the prioritization and process of legal assistance requests received from foreign countries. **Recommendation 37 is rated Largely Compliant.**

Recommendation 38 – Mutual Legal Assistance: Freezing and Confiscation

TC289. *Criterion 38.1* As mentioned in Recommendation 37, Honduras may provide cooperation in terms of ML/TF, including the implementation of confiscation measures included in the Anti-Money Laundering Law and in the Law against the Financing of Terrorism. Moreover, Section 79 of the Asset Forfeiture Act, states that the competent jurisdictional bodies, the Public Prosecutor, the BCH, the CNBS and the other competent authorities, using mechanisms such as fully applicable memorandum of understanding, conventions, treaties and international agreements, can request and provide mutual cooperation or legal assistance to other countries, as provided for in the Act, including the identification, freezing, seizure or confiscation of laundered assets, proceeds of crime, instruments used or intended to be used for ML/TF and predicate offenses, and property of corresponding value.

TC290. *Criterion 38.2* Section 5 of the Asset Forfeiture Act on the characteristics of the action, explains that forfeiture is of public order, autonomous and independent of any other action under the terms set in the Act, whether in case of criminal action(s) initiated simultaneously with the asset forfeiture or from which this latter has resulted or in which it originated. It is of jurisdictional nature, real character, asset content, and is managed as a special process following the procedure set in this Law. This action lies in property, products, instruments or incomes, without differentiating who has the possession, the property or ownership thereof. The foregoing is also applicable in order to respond to cooperation requests.

TC291. *Criterion 38.3* As mentioned above, Section 79 of the Asset Forfeiture Act states that competent jurisdictional bodies, the Public Prosecutor, the BCH, the CNBS and other competent authorities, using mechanisms such as fully applicable memoranda of understanding, conventions, treaties and international agreements, can request and provide mutual cooperation and legal assistance to other countries, as provided for in the Act. Therefore, the Honduran State can cooperate extensively, including in terms of cooperation of actions intended for seizure and confiscation with other countries.

TC292. As regards the administration of property seized and confiscated, Section 7 of Decree no. 51-2014, on the Complementarity of the Laws, decrees that all the property on which the preventive, precautionary, securing or preventive measure is established by the Public Prosecutor or the competent Judicial Authority in proceedings related to organized crime, where seizure is necessary, should be immediately made available to the OABI for their guard, custody and administration; to that end, the OABI should mandatorily observe the provisions of the Anti-Money Laundering Law, the Asset Forfeiture Act, the Law Against the Financing of Terrorism and any other applicable regulation regarding the Administration of Property Seized and Confiscated.

TC293. *Criterion 38.4* Section 78 of the Asset Forfeiture Act, as amended by Section 88 of the Anti-Money Laundering Law, expressly prohibits resources from being used with purposes other than those stated therein. This section mentions the possibilities of distribution and destination of the property subject to forfeiture and makes no reference to the possibility to share this property with other countries. Although the authorities mentioned that there is the possibility for the National Defense and Security Council to establish mechanisms for the sharing of confiscated property, these powers or mechanisms are not included in any regulation, circular or document.

TC294. *Weighing and Conclusion:* Honduran authorities have a legal framework that enables cooperation in terms of asset identification, as well as the implementation of measures, whether precautionary measures, confiscation or asset forfeiture. Nevertheless, the laws do not include the possibility of sharing the property, although the authorities said that this possibility does exist. **Recommendation 38 is rated Largely Compliant.**

Recommendation 39 – Extradition

TC295. *Criterion 39.1* Section 39 of the Law against the Financing of Terrorism states that the offenses included in said Law will give rise to active or passive extradition. In addition, Section 79 of the Special Anti-Money Laundering Law, on international cooperation, states that the offenses of money laundering and figurehead are extraditable offenses.

TC296. Section 313, subsection 4 of the Constitution of the Republic of Honduras decrees that the Supreme Court of Justice will have the following powers: "4) To be aware of the causes of extradition and the other to be judged under International Law." The Supreme Court of Justice has implemented a case management system with responsibility and efficiency, with processes based on the principles that ensure the due prosecution of extraditable persons, in compliance with the reasonable legal terms, which is included in a Ruling issued by the Supreme Court of Justice, published in the Official Gazette on June 11th 2013. The Judge appointed to deal with the extradition cause will examine it and, through a grounded ruling must order the arrest of the offender, who must be notified of the submitted extradition request and his/her rights. It is important to note that paragraph eight establishes that along with the offender, all the objects found in his/her possession related to the offense will be handed in, as well as everything that may serve as evidence.

TC297. Section 37 of the Law against the Financing of Terrorism explains the reasons why international assistance may be denied and states that cooperation will be denied: "1. If there are grounded reasons to believe that the Mutual Legal Assistance request, in case it refers to extradition for terrorist offenses or offenses provided in this Law, or in case of mutual legal assistance related to those same offenses, is submitted in order to prosecute or punish an individual on grounds of race, religion, nationality, ethnical origin and political opinions, or that performing what was requested might jeopardize the situation of such individual for any of those reasons; 2) In the event of an extradition request submitted by the requesting country regarding an individual already judged and prosecuted in Honduras for the same offense to which the extradition request refers; 3) If the facts included in the request are not subject to a criminal proceeding. Situations that meet the standard. In the case of money laundering, there seem to be no cases of denial other than due process.

TC298. *Criterion 39.2* Legislative Decree no. 269-2011, as amended by the addition of Section 102 of the Constitution of the Republic, states that no Honduran may be extradited nor surrendered by the authorities to a foreign State, except for cases related to the offense of trafficking of narcotic drugs, in any of its typologies, terrorism and any other illicit act of organized crime, provided that there is a treaty or extradition agreement with the requesting country. Furthermore, as mentioned above, the Special Anti-Money Laundering Law widened the possibility of extradition for the offenses of money laundering and figurehead. As a consequence, Honduras allows the extradition of its nationals for reasons of terrorism, TF, drug trafficking, organized crimes, money laundering and figurehead offenses.

TC299. *Criterion 39.3* Within the limited possibilities for extradition, there is no restriction due to double criminality.

TC300. *Criterion 39.4* Currently, Honduras has no simplified extradition mechanisms for all the possible cases, only through the Central American Treaty on Arrest Warrants and Simplified Extradition Procedures, applicable to the signatories of the treaty (Central American countries), which has been signed by Honduras.

TC301. *Weighing and Conclusion:* Honduras has regulations that allow the extradition to other countries for offenses of terrorism, TF, organized crime, ML and figurehead; as well as a procedure established for the

judges appointed to that end to be aware of the matter and determine the applicability or inapplicability of the extradition. However, the procedures are not very clear, especially for simplified extradition. **Recommendation 39 is rated Largely Compliant.**

Recommendation 40 – Other Forms of International Cooperation

TC302. *Criterion 40.1 -40.2* Section 81 of the Special Anti-Money Laundering Law states that competent Jurisdictional Bodies, the Public Prosecutor, the BCH, the CNBS and the other competent authorities should cooperate with their counterparts of other countries, implementing the appropriate measures in order to request and provide assistance related to the prevention, investigation and prosecution of the money laundering offense and related offenses, in accordance with the Law, through the Memoranda of Understanding, Conventions, Treaties and Agreements subscribed and ratified by Honduras, according to the limits of its powers and based on the principle of reciprocity. Section 38 of the Law against the Financing of Terrorism includes the possibility of requesting and providing administrative assistance to competent authorities of other countries.

TC303. There is no legal limitation to use efficient cooperation means. Moreover, Section 32 of the Special Anti-Money Laundering Law enables, exceptionally in cases of flagrancy or when the measure is necessary to prevent the escape of an offender, the disappearance of evidence, the loss or concealment of property, proceeds or instruments of ML and TF offences, the Public Prosecutor to obtain, through the FIU, the necessary information to implement securing measures. Considering the cooperation powers allowed for by the Law, it would be understood that the same could be applied to urgent cooperation requests framed within the same conditions defined in this Section.

TC304. In the specific case of the FIU, by means of Resolution DPI no. 1550/13-08-2013, the CNBS approved the Procedures Manual of the FIU, which establishes a special procedure to process international cooperation requests, and which includes the possibility of requesting obliged subjects the information related to individuals and legal entities in order to identify, freeze, seize and confiscate property originated from ML and TF. The communications between the FIU and obliged subjects are held through a Financial Interconnection System of the CNBS, which is a secure channel that ensures the proper treatment of the information. Likewise, the characteristics to be met by the information and the procedure to be followed from the reception of the information to the response are established.

TC305. In case of supervision authorities, the instrument through which international information exchange has been performed is the Multilateral Memorandum of Information Exchange and Mutual Cooperation for Consolidated and Cross-Border Supervision among the members of the Central American Council of Superintendencies of Banks, Insurance and Other Financial Institutions, which includes Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Dominican Republic. Likewise, there are bilateral memoranda related to consolidated supervision, information exchange, or technical assistance with the following countries: Costa Rica, Nicaragua, Panama, Colombia, the Netherlands Antilles, Guatemala and Mexico. In case of the Police and the DEI, specifically as to their customs functions, there is no documentary evidence regarding the procedures to develop mechanisms for the execution, prioritization and transmission of cooperation requests and their safekeeping.

TC306. *Criterion 40.3* Section 81 of the Special Anti-Money Laundering Law enables competent authorities to cooperate through memoranda, treaties or agreements. The FIU has subscribed Memoranda of Understanding with nineteen (19) countries, in addition to the Regional Memorandum of Understanding to

fight against Money Laundering and the Financing of Terrorism among the Financial Intelligence Units (Colombia, El Salvador, Dominican Republic, Guatemala, Costa Rica, Nicaragua and Honduras). Likewise, supervision authorities have signed instruments at a Central American level with the aforementioned countries. Nevertheless, there is no information on the signing of memoranda of understanding by authorities of other nature.

TC307. *Criterion 40.4* There is no information on mechanisms to offer feedback to the requesting authorities on the use of the information provided.

TC308. *Criterion 40.5* The Law does not establish restrictions related to the exchange of information or cooperation for financial intelligence purposes. In turn, the Procedures Manual of the FIU, and specifically the procedure to handle international requests, states that the requests should be performed using the Secure Network of the Egmont Group, as well as following the form and guidelines set by said Group to that end, which is not considered a restrictive or unreasonable condition.

TC309. *Criterion 40.6* The Memorandums signed by the FIU include a clause that states as follows: "The competent Authorities will not allow the use or disclosure of any information or document obtained from the relevant authority for purposes other than those established herein, unless the prior consent of the authority which provided the information is obtained." However, it is not clear whether the instruments signed by other institutions, such as supervision authorities, contain similar provisions.

TC310. *Criterion 40.7* As for the Police, Section 22, subsection f) of the Organic Law of the Honduran National Police establishes that they will keep the information related to matters being investigated confidential. Furthermore, they should treat the information according to the Criminal Code and the Code of Criminal Procedure. Moreover, Section 87 of the Special Anti-Money Laundering Law ensures that the FIU, Public Prosecutor and CNBS' officers and employees are bound to keep the secrecy and confidentiality of the information; failure to comply with this prohibition will give rise to a breach of confidence. Regarding the DEI's officers, Section 78, subsection 9 of the Special Labor Regime of the Administrative, Tax and Customs Career establishes that they should keep the "necessary reserve and discretion, as well as the confidentiality of confidential administrative matters, which disclosure may jeopardize the Executive Directorate of Revenue, its employees or officials…"

TC311. *Criterion 40.8* Section 82 of the Special Anti-Money Laundering Law explains some of the proceedings that may be requested or provided to competent authorities of other countries, through the mutual legal assistance, with regards to the offenses established in the Law and other applicable laws, and particularly includes the carrying out of raids, inspections or seizures, examination of objects and places, among others. However, there are no provisions that show the DEI also has these powers among its customs control duties.

TC312. *Criterion 40.9* As mentioned in criteria 40.1 and 40.2, the Special Anti-Money Laundering Law allows for an extensive range of cooperation for ML and predicate offenses. Particularly, Section 30, subsection 6) enables the FIU to provide cooperation on the requests submitted by counterpart entities of other countries.

TC313. *Criterion 40.10* Section 81 of the Special Anti-Money Laundering Law grants the FIU specific powers to request and provide assistance. Even though it is not clear whether the assistance that may be provided includes feedback regarding the use of the information or assistance received, there appear to be no legal limitations on this regard.

TC314. *Criterion 40.11* Based on Section 50 of the Law against the Financing of Terrorism, the FIU, safeguarding the constitutional rights, may request information to obliged subjects and any natural or legal person in order to perform the duties granted by the Law, including the exchange of information with foreign counterparts. A similar provision is included in Section 31 of the Special Anti-Money Laundering Law.

TC315. *Criteria 40.12 -40.13* Section 81 of the Special Anti-Money Laundering Law empowers the competent Jurisdictional Bodies, the Public Prosecutor, the BCH, the CNBS and other competent authorities to cooperate with their counterparts of other countries, implementing the appropriate measures, in order to request and provide assistance related to the prevention, investigation and prosecution of the money laundering offense and related offenses, in accordance with the Law, through the memoranda of understanding, conventions, treaties and agreements subscribed and ratified by Honduras, according to the limits of its powers and based on the principle of reciprocity. The foregoing is supplemented by the National Commission of Banks and Insurance Law which, in Section 15, enables the members of the Commission, its officers and employees to lift the confidentiality of the papers, documents and information of supervised institutions only to comply with legal mandates or provisions, in the case of obligations arisen from international agreements on the exchange of information entered into by the Commission with counterpart institutions and, particularly, those provided to the BCH. In addition, for the purposes of cooperation, exchange of information and consolidated supervision, the CNBS has signed different memoranda of understanding with Central American counterpart bodies.

TC316. *Criterion 40.14* As mentioned above, Section 81 of the Anti-Money Laundering Law enables, in general terms, an extensive power to cooperate in terms of ML and other related offenses for the competent authorities, including the CNBS; but it is not clear whether supervisors can cooperate as regards terrorism and its financing. Additionally, the procedures to cooperate in other subjects are not clear at all, such as the exchange of regulations, prudential information, financial institutions' information and procedure of AML/CFT, CDD information, la DDC, customers' files, transaction account and information sampling.

TC317. *Criterion 40.15* As commented regarding Recommendation 27, Chapter IV of the Law of the CNBS, on the Supervision of Accounts and Reports, it includes the obligation of financial institutions to submit all their documentation. Particularly, Section 26 establishes that supervised institutions are hence bound to provide access to the personnel of the Superintendency to inspect their accounts, and all their books and documents proving their operations. Likewise, paragraph 1 of Resolution no. 1820 of the CNBS on the Methodology of Money Laundering and Financing of Terrorism Risk Units (URLAFT) requires the Superintendencies to implement a risk-based supervision model, which must include off-site evaluation, visit planning and on-site review. Based on that, they are empowered to carry out the supervision in the facilities of financial institutions. There are no apparent limitations for the application of the above mentioned powers for the provision of international assistance.

TC318. *Criterion 40.16* Section 15 of the National Commission of Banks and Insurance Law enables the members of the CNBS, its officers and employees to lift the confidentiality of the papers, documents and information of the supervised institutions only to comply with legal mandates or provisions and with obligations arisen from international information exchange agreements entered into by the Commission with counterpart institutions. As already stated, the CNBS has signed several instruments in terms of cooperation with supervisors in Central America.

TC319. *Criterion 40.17* As previously mentioned, Section 81 of the Special Anti-Money Laundering Law empowers the competent Jurisdictional Bodies, the Public Prosecutor, the BCH, the CNBS and other competent authorities to cooperate with their counterparts of other countries, implementing the appropriate measures, in order to request and provide assistance related to the prevention, investigation and prosecution

of the money laundering offense and related offenses, in accordance with the Law, through memorandums of understanding, conventions, treaties and agreements subscribed and ratified by Honduras, according to the limits of its powers and based on the principle of reciprocity. The foregoing includes intelligence, identification and tracking of assets that are product and instrument of the offense. Honduras participates in the Asset Recovery Network of the GAFILAT, where information is exchanged with foreign counterparts.

TC320. *Criterion 40.18* As mentioned in criterion 37.8, the Honduran legislation enables the application of an extensive range of investigation techniques. In turn, Honduras is member of the INTERPOL since 1974, and has created a Special Division that depends on the National Directorate of the National Police.

TC321. *Criterion 40.19* As mentioned in the above criteria, Honduras has no restrictions to create joint investigation teams or to sign memorandums of understanding and treaties on different issues.

TC322. *Criterion 40.20* Section 81 of the Special Anti-Money Laundering Law establishes that the requests must be processed through the central authority and must be subject to the requirements established by the convention or agreement invoked. In urgent situations, the request may be submitted through any means, but must be confirmed in writing, following the procedures established. The request response must be provided by this same way. Therefore, in urgent cases, the exchange of information is permitted in an indirect manner.

Weighing and Conclusion: The Honduran legislation has powers and provisions for the relevant authorities to provide an extensive range of international cooperation though means other than the judicial or legal path. In this connection, the powers of the FIU and the different superintendencies enable to obtain information in order to cooperate and they have current instruments to carry out the exchange of information and other types of cooperation, within the scope of the Special Anti-Money Laundering Law. However, it is not clear whether it is possible to provide cooperation through other means as regards terrorism and its financing, and there are no provisions to provide feedback to counterparts with which the exchange or cooperation is carried out. **Recommendation 40 is rated Largely Compliant.**