



Anti-money laundering and counter-terrorist financing measures

Guinea

NOVEMBER 2023

**Mutual Evaluation
Report**





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

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Executive Summary

1. This report presents a summary of the Anti-money Laundering and Countering the Financing of Terrorism (AML/CFT) measures in force in Guinea at the time of the on-site visit conducted from March 20th to April 5th, 2023. It analyses the level of compliance with the 40 Recommendations of the Financial Action Task Force (FATF) and the effectiveness of Guinea's AML/CFT regime and proffers recommendations on how the regime could be strengthened.

Key Findings

- a) During the period under review, Guinea made considerable efforts to improve the quality of its national response to money laundering and terrorist financing. The country has adopted a new AML/CFT&PF law, laying the foundations for an effective AML/CFT regime. At the institutional level, Guinea has also undertaken a number of reforms to strengthen the powers and responsibilities of certain competent authorities and has set up a Court for the Repression of Economic and Financial Offences (CRIEF), as well as an agency for the management and recovery of seized and confiscated assets (AGRASC). However, the recent nature of most of these legal and institutional initiatives implied that their impact on the effectiveness of the overall system was unclear as at the time of the on-site visit.
- b) The effective and efficient implementation of the AML/CFT regime in Guinea is fundamentally limited by the low banking rate in the economy, the predominant use of cash, the pre-eminence of the informal sector, the vastness of the land borders and prevalent corruption.
- c) The overall understanding of money laundering and terrorist financing risks in Guinea is poor. It is precisely based on the national risk assessment, the report of which has still not been widely disseminated or backed by an action plan, three years after it was conducted. Some reforms have been implemented based on a roadmap developed by the FIU following the NRA but considered as fragmentary and embryonic by the Assessment Team.
- d) National cooperation and coordination of AML/CFT activities are not robust enough. Although a national authority has been established to map out an inter-agency cooperation and coordination mechanism adapted to the country's context and risk profile, no initiative has been taken in this direction. The development and effective implementation of an action plan to mitigate the risks identified at the end of the NRA strongly depends on the challenges to be resolved in terms of inter-agency cooperation and coordination. Furthermore, with the recent appointment of the members of the national coordination committee and the lack of a national strategy emanating from the NRA, the domestic response to ML/TF/PF is yet to be articulated and coordinated.
- e) The system for producing, enriching and making use of financial intelligence in Guinea is essentially based on the FIU. The latter uses several relevant sources of information to develop its analyses and produce its reports. However, apart from the judicial authorities, few LEAs actually use financial intelligence including when they are investigating predicate offences such as corruption, tax fraud, customs fraud, illicit drug trafficking, etc. The FIU is not yet a member of the Egmont Group of FIUs, which adversely affects its swift and unhindered access to financial intelligence held by its foreign counterparts.
- f) The system of detecting and communicating false declarations or non-declaration of cash and bearer negotiable instruments is defective and almost dysfunctional. In the context of

a country with vast borders that are difficult to monitor, this mechanism could have been an enriching source of information for the FIU and other LEAs in the detection of ML or TF cases.

- g) Although Guinea has investigative services and courts capable of identifying ML cases, conducting investigations and securing convictions, ML-related investigations and prosecutions are rare due to lack of prioritization, inadequate resources and appropriate training.
- h) The confiscation of the proceeds and instrumentalities of crime is yet to become a criminal policy priority. A few confiscations of the proceeds of certain predicate offences have been recorded, but do not sufficiently reflect the country's risk profile. No ML/TF-related confiscation has been obtained. The creation of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC), which complements the State Judicial Agency, is a significant step forward, although yet to be operational.
- i) The prevention of terrorism and its financing is not the subject of any appropriate national policy and strategy. Furthermore, this issue is unknown to most stakeholders, which adversely impacts on the coordination of sectoral responses in terms of Suspicious Transaction Reports (STRs), Targeted Financial Sanctions (TFS) and protection of Not-for-profit Organizations (NPOs).
- j) With regard to ML preventive measures, banks are the virtual exclusive contributors to the STRs filed to the FIU, which significantly limits the financial sector's capacity to act as the country's first line of defence against ML/TF-related abuses. Furthermore, the fact that a significant portion of the populace have no account with any financial institution or via any mobile money provider reduces the FIs' potential to detect suspicious ML/TF activities. In addition, DNFBPs are the weak link in the AML/CFT chain in Guinea. Their contribution to the reporting activity and due diligence measures is insignificant, due to the low level of administrative supervision and regulation of the most crucial entities in this sector such as the real estate and dealers in gems and precious metals.
- k) Bank supervision is particularly well structured in Guinea. Indeed, the BCRG, which is the competent authority in this area, deploys risk-based supervision that has been evolving to fully and entirely take the AML/CFT component on board. With regard to the other sub-sectors, including the insurance, foreign exchange bureaus, MFIs and EMIs, the risk-based approach is virtually non-existent. The impact of supervisory measures on the compliance of FIs remains limited for a number of reasons including the lack of sanctions and inadequate resources. Regarding DNFBPs, supervision is still at the development phase and no large-scale measure has been taken since the FIU was designated as supervisory authority.
- l) The transparency of legal persons and legal arrangements is constrained by the various structural challenges and the poor understanding of the ML/TF risks linked to such entities. Besides, the key stakeholders (i.e., APIP and Office of the Commercial Court) that are supposed to be involved in the collection, updating and keeping of basic and beneficial ownership information of legal persons are not aware of the issues. And the country does not impose sanctions for non-compliance with the relevant obligation either.
- m) The use of international cooperation in AML/CFT is still insignificant. The country has no mechanism or adequate resources for the management and monitoring of incoming or outgoing requests for mutual legal assistance and extradition.

Risks and General Situation

2. The Guinean authorities conducted their very first NRA during the period from February 2019 to November 2020. Three (03) years after this exercise was conducted, the report has yet to be adopted. According to the draft report of this NRA, threats related to corruption and misappropriation of public funds, drug trafficking, tax fraud, forgery and use of forgeries, wildlife trafficking, smuggling of migrants and smuggling are at a high level.
3. The country indicates that, due to porous borders, the predominance of the informal economy and the high prevalence of cash transactions, some critical sectors of the economy, in particular real estate, land, mining, transport, gambling establishments and the sale of used vehicles, more easily attract the resources generated by the commission of the predicate offences for money laundering purposes.
4. Furthermore, recent data on financial inclusion¹ reveal that in Guinea, access to basic financial services and support from financial institutions in terms of granting loans to individuals and businesses at low interest rates, is very limited. Coupled with the predominance of cash, financial exclusion generates favorable conditions for ML/TF in Guinea.
5. The ML threat mainly arises from criminal activities committed in the country, as the proportion of ML cases involving offences committed abroad is generally low according to the statistics provided by the country.
6. Based on its NRA, Guinea considers the TF risk as "medium", heavily weighting the fact that there are no active terrorist groups or individual terrorists operating in the country and that no terrorist acts have so far been recorded in the country. However, the assessment team concludes that the level of risk is 'high' as revealed by the threats and vulnerabilities presented in the draft NRA report.

Overall level of Compliance and Effectiveness

7. Since the adoption of its first-round MER in 2012, Guinea has adopted and implemented a range of legislative, administrative and institutional reforms to align its AML/CFT/PF framework with relevant international standards. On the legislative front, a new legal framework was adopted in 2021: The Anti-money Laundering and Counter financing of Terrorism Law L/2021/0024/AN. This law largely takes into account the successive revisions of the FATF standards and strengthens Guinea's legal arsenal with regard to the obligation to assess ML/TF risks, preventive measures, risk-based supervision of all reporting entities, combating proliferation financing and confiscation.
8. However, there are still gaps in the Guinea's technical compliance framework. There is no national AML/CFT policies, mechanisms and procedures for the immediate implementation of targeted financial sanctions, and an assessment of the NPO sector with a view to identifying those most exposed to TF risks. Guinea also needs to improve its regulatory framework with regard to beneficial ownership of legal persons and the definition of Politically Exposed Persons (PEPs), maintaining comprehensive statistics, and national and international cooperation.
9. Significant improvements in the country's institutional framework include the establishment of the Financial Intelligence Unit (CENTIF), the National Anti-Corruption Agency (ANLC), the National Gendarmerie Headquarters for Judicial Investigations (DCIJ), the Court for the Repression of Economic and Financial Offences (CRIEF), the Agency for the Management and Recovery of Seized or Confiscated Assets (AGRASC) and the Advisory Commission on Administrative Freezing (CCGA). The last two institutions are yet to be operational.
10. Overall, a low level of effectiveness has been achieved in all eleven (11) areas covered by the FATF standards.

¹ Global Findex, 2021

Risk assessment, coordination and policy design (Chapter 2; IO.1, R.1, 2, 33 & 34)

11. Guinea has taken the necessary steps to identify and assess ML/TF risks between February 2019 and November 2020. However, the report resulting from this exercise is still awaiting adoption by the competent authorities. The issue of consistency and comprehensiveness identified in the draft NRA report, as well as the lack of methodological rigour and depth in certain analyses, have a negative impact on the findings contained in this document and ultimately do not provide the Guinean authorities with a solid basis for a very good understanding of the ML/TF risks to which their country is exposed. Apart from the NRA, which was the national mechanism through which the Guinean authorities sought to identify, assess and understand their ML/TF risks, no other complementary means were used for the same purpose. In view of the preceding, the Assessment Team considered the level of understanding of ML/TF&PF risks in Guinea as generally low.
12. Three years after preparing the NRA report, Guinea is yet to develop its national strategy taking into account the identified risks. However, as a prelude to the development of this strategy and with a view to commencing the proactive implementation of the recommendations contained in the provisional NRA report, the FIU has defined a roadmap for the period spanning 2020-2023. This roadmap, which the Assessment Team considers as fragmentary and embryonic, somehow serves as a tool for prioritizing the urgent AML/CFT actions to be taken. It targets a series of measures relating to strengthening the legal and institutional framework, developing the capacities of the relevant stakeholders, improving the law enforcement system through the application of sanctions, and promoting international cooperation.
13. With no national AML/CFT strategy and risk mitigation action plan, the investigative authorities intervene at operational level without prioritizing their activities or using any ML/TF risk-based approach. The same deficiency is observed with the prosecutorial authorities, which do not give any priority to the judicial handling of ML/TF cases. Similarly, in terms of monitoring and supervision, the BCRG conducts its missions using the risk-based approach only within the banking sector.
14. The AML/CFT CNCA, which is the national AML/CFT coordination and cooperation body established by the new AML/CFT Law L/2021/024/an, is not yet operational, the decree specifying its powers, composition and operation having been adopted at the end of the ONV. However, a limited number of operational cooperation frameworks do exist between certain structures and the FIU, among LEAs in charge of intelligence and among those involved in the fight against organized crime, although such frameworks are still not very dynamic. Consequently, cooperation and coordination among national stakeholders involved in AML/CFT/PF are still weak.

Financial intelligence, ML investigations, prosecutions, and confiscations (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29-32)**Use of financial intelligence (Immediate Outcome 6)**

15. The FIU plays a central role in the production, enrichment, and enhancement of financial intelligence, thanks to its access to several sources of information and its internal IT processing system. No other competent authority actively participates in the effort to produce financial intelligence in Guinea. Apart from the Court for the Repression of Economic and Financial Crimes (CRIEF) which regularly consults and uses financial intelligence and other relevant information collected by the FIU in its investigations, the other Law Enforcement Authorities (LEAs) scarcely use it when conducting investigations into the proceeds and instrumentalities of crime linked to ML, related predicate offences and TF.
16. Almost all the STRs received by the FIU are filed by banks. Although there has been an upward trend over the years, the number of such STRs still seems low in relation to the dynamics and volume of activities of the reporting entities and the level of threats posed by ML/TF in the country. This is coupled with the issue of the quality of the STRs, given the relatively high number of cases closed.

17. The FIU only disseminates reports to prosecutorial and trial authorities. The prosecutorial authorities have appreciated the quality of the financial intelligence produced by the FIU, which meets their operational needs. Subsequently, the prosecutorial and trial authorities refer cases to the FIU at the investigation stage, by means of letters rogatory, for further investigations on the courts' handling of such reports. However, no ML-related conviction has been handed down by these courts based on the FIU's report disseminations. Similarly, the FIU does not spontaneously disseminate financial intelligence to other competent authorities, particularly those specializing in the fight against targeted predicate offences (corruption, tax fraud, customs fraud, illicit drug trafficking, etc.).
18. Furthermore, on consideration of the disseminated reports, detection covers only a tiny fraction of the range of predicate offences with high and medium ML threat levels. Furthermore, based on its disseminated reports, the FIU has not conducted any ML/TF trends' analysis based on the STRs with a view to sharing with reporting entities practical knowledges on emerging methods and techniques.
19. In terms of information and financial intelligence sharing, cooperation between the FIU and the specialized authorities in the fight against targeted predicate offences is relatively timid, as evidenced in particular by the lack of spontaneous information exchanges between them. Furthermore, the FIU is yet to become a member of the Egmont Group of FIUs, which has a negative impact on the implementation of international cooperation and prosecution of predicate offences to ML/TF of a transnational nature.

ML Investigation and Prosecution (Immediate Outcome 7)

20. The Republic of Guinea has a legal and institutional framework enabling the competent authorities to effectively investigate and prosecute money laundering and its predicate offences. Within the country's judicial police, there are specialized units capable of working to identify potential ML cases. These are the Criminal Investigations Department (DCPJ), the Office for the Repression of Economic and financial Crimes (ORDEF), the Central Anti-Drug Office (OCAD) and the Judicial Investigations Department (DCIJ). For a long time, these various units have been limited to conducting classical criminal investigations, taking very little interest in the money laundering aspect, which does not appear to be a priority in the Guinean law enforcement system. The investigative authorities have limited knowledge of the issue. In addition to this challenge, these authorities are grappling with inadequate human and financial resources.
21. On the whole, the cases handled by the investigative authorities are to a lesser extent in line with the main threats to which the country is exposed. Similarly, most prosecutorial authorities have relatively little knowledge of AML issues. The cumulative result of all these difficulties has been very few investigations and prosecutions for money laundering. However, the Court for the Repression of Economic and Financial Offences (CRIEF), which has only recently come into existence, has been painstaking in prosecuting money laundering cases, resulting from the offences of misappropriation of public funds and corruption referred to it. Several cases are pending, while very few have been brought to a successful conclusion. For the most part, the cases targeted for prosecution concern self-laundering, as laundering by third parties appears to be of little concern to the judicial authorities.
22. Only the FIU has had the full capacity to conduct financial investigations resulting in reports on money laundering cases that have been referred to the criminal courts. In addition to handling financial intelligence, the FIU investigators were given full powers under the AML/CFT Act of 2021 to conduct investigations in the same way as criminal investigation officers. This latitude has given the magistrates of the various criminal courts, in general, and of the CRIEF in particular, the possibility of referring matters to the FIU for the purposes of much more extensive additional investigations.

Confiscation (Immediate Outcome 8)

23. The Guinean legal system provides the competent authorities with adequate tools for the seizure and confiscation of criminal assets, assets of corresponding value, instrumentalities used or intended to be used to commit ML/TF or predicate offences, in both domestic and international cases. The institutional framework has been strengthened with the creation of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC), which complements the State Judicial Agency.
24. However, the confiscation of criminal assets is not listed as a criminal policy priority for the competent authorities in their efforts to combat ML/TF and the predicate offences. There are no directives or circulars on the identification, seizure and confiscation of criminal assets to assist the LEAs in their respective tasks. The latter are poorly equipped, trained and sensitized on the issue.
25. During the period under review, a few confiscations relating to certain predicate offences were recorded, but they hardly reflect the main risks identified by the country. No ML/TF confiscations were recorded. The same applies to confiscations relating to false declarations at the border. The customs authorities are not very familiar with ML/TF issues and do not notify the FIU of cross-border movements of cash and bearer negotiable instruments that have been falsely declared or undeclared. The few seizures made by customs end up in plea bargaining. As at the end of the on-site visit, AGRASC was still not operational.

Terrorism and Proliferation financing (Chapter 4; IO.9, 10, 11; R.1, 4, 5-8, 30, 31 and 39.)**TF Investigations and Prosecutions (Immediate Outcome 9)**

26. The Law enforcement authorities have the power to investigate and prosecute cases of terrorist financing. However, they lack experience and sufficient human, material and financial resources to identify, investigate and prosecute terrorist financing activities effectively. This justifies the low proportion of terrorist financing investigations and prosecutions conducted, given the country's risk profile.
27. The courts have prosecuted a few cases of terrorist financing but have not handed down any convictions. Consequently, the effectiveness, proportionality and dissuasiveness of the convictions could not be assessed. Furthermore, the country does not provide evidence of the implementation of alternative measures to put an end to terrorist financing where a conviction cannot be obtained. Furthermore, it has no strategy for combating TF or a strategy for combating terrorism that includes terrorism financing.

Preventing terrorists from collecting, transferring and using funds (Immediate Outcome 10)

28. Guinea has established a legal and institutional framework for the application of targeted financial sanctions (TFS) related to TF. The CCGA, which is in charge of implementing these TFS, is yet to be operational. For now, there are no mechanisms and procedures for the immediate implementation of targeted financial sanctions related to TF. The supervisory authorities of FIs and DNFBPs have also not issued any guidelines to assist and facilitate the effective implementation of TFS related to TF by reporting entities.
29. NPOs are supervised and monitored by the National Directorate for the Regulation and Promotion of Non-Governmental Organizations and Associations (DNARPROMA) and the General Secretariat for Religious Affairs (SGAR). These supervisory authorities do not apply risk-based supervision. Besides, no study has been specifically conducted to identify sub-sets of NPOs which are vulnerable to TF.

Proliferation Financing (Immediate Outcome 11)

30. Guinea has a legal and institutional framework for the national implementation of targeted financial sanctions against the financing of the proliferation of weapons of mass destruction. The fact that the National Advisory Commission on Administrative Freezing (CCGA), which is the authority in

charge of implementing targeted financial sanctions (TFS), is yet to be operational, and the very recent nature of this mechanism makes it difficult to understand how CPF can be addressed in Guinea.

31. The dissemination of sanction lists to persons and entities likely to hold funds, assets and other resources seems ineffective. This is evidenced by the fact that most reporting entities do not receive the sanction lists from the competent authority, even though some FIs, including subsidiaries of large foreign banking groups, use screening software that automatically integrates such lists.
32. No measure to identify the funds of persons linked to the financing of proliferation has been taken in Guinea.

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

33. Understanding the ML/TF risks and AML/CFT obligations of reporting entities varies from one financial sector to another.
34. Financial institutions in Guinea, especially those belonging to international or regional groups (banks, microfinance institutions and EMIs), have a good understanding of their AML/CFT obligations and their ML/TF risks. They carry out an internal assessment of ML/TF risks, even though the levels of sophistication vary.
35. However, the adoption of a risk-based approach to the implementation of AML/CFT preventive measures is still in its nascent stages and does not yet fully take into account the results of the NRA. Reporting entities are experiencing some difficulties in implementing effective customer due diligence measures, including verification of beneficial ownership identity, identification of PEPs, implementation of targeted financial sanctions. These difficulties largely depend on the shortcomings identified in the technical compliance analysis (ref. R6, 7, 9, 10, 12 and 24).
36. Other FIs, particularly foreign exchange bureaus and Money Transfer systems (MTS) for which ML/TF risks are deemed to be high, have a very limited understanding of their obligations and their ML/TF risks.
37. The application of internal controls and the implementation of customer due diligence vary from one sub-sector to another but are generally more robust in FIs belonging to international groups. Overall, the accuracy, completeness and reliability of KYC information is generally not guaranteed due to the lack of centralized databases, inadequate addressing systems and the prevalence of forgery. On the other hand, the country's recent initiative to introduce a unique identification number is a major step forward.
38. Reporting activity, which is dominated by banks, remains low whereas the ML/TF risks associated with the sector are deemed to be medium-high (ref. paragraphs 71-72, 99 and 434).

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

39. The BCRG has regulatory measures (processes, procedures) to prevent criminals or their associates from holding or controlling these FIs. However, the lack of a national register of beneficial ownership undoubtedly impacts the completeness, accuracy and reliability of the data collected.
40. The BCRG has demonstrated a fair understanding of the risks to which banks are exposed. Supervision of the banking sector is implemented through a risk rating system introduced in 2013 that includes ten criteria, one of which concerns AML/CFT. This system evolved in 2022 towards the implementation of a specific ML/TF risk matrix, developed with the support of the IMF. This approach is designed to enable the supervisor classify banks according to their risks and to carry out risk-based supervision. Its understanding of the ML/TF risks to which the other FIs are exposed is considered as poor.
41. In addition to off-site inspections, thematic AML/CFT inspections were conducted on certain electronic money issuers, banks and insurance companies. These various inspections enabled the supervisor to identify shortcomings in the implementation of AML/CFT obligations and to make

appropriate recommendations. However, although a range of administrative sanctions are available for non-compliance with AML/CFT legal or regulatory obligations, there has been no evidence to date of the effective application of such sanctions against any FI or manager.

42. The BCRG has conducted training initiatives for the various reporting entities in respect of their AML/CFT obligations in order to improve their level of compliance. It also published Directives in 2023 to specify the methods of implementation of the AML/CFT law, which particularly relate to the risk-based approach, the rules for monitoring electronic transfers and thresholds for the systematic reporting of certain transactions to the FIU.
43. On the whole, the impact of these actions varies from one FI to another, with banks, large-scale MFIs and EMIs demonstrating a good understanding of ML/TF risks and AML/CFT obligations, while the understanding of other FIs is gradually improving.

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

44. Basic information on business legal persons do exist at two levels; at the APJ (APIP) through the One-Stop Shop and in the RCCM held at the registry of the Conakry Commercial Court. However, this information does not appear to be accessible to the public or to the investigative authorities without delay because the APIP and RCCM databases are not interconnected. Besides, the RCCM uses a hybrid system of electronic and manual archiving, which does not guarantee that the information is secure, up to date or reliable. For other types of LP particularly non-profit organizations such as associations, basic information is collected at different levels using a decentralization record-keeping policy, which is not synchronized or centralized. There is no mechanism in place to trace the actual beneficiaries of LPs and LAs in Guinea. And in any case, the basic information collected is not satisfactory, accurate, up-to-date and accessible without delay by the competent authorities.
45. Furthermore, Guinea has not assessed the ML/TF risks to which the various types of legal persons in the country are exposed. This affects the quality of stakeholders' understanding of the vulnerabilities associated with this sector.
46. The Assessment Team notes that the RCCM database contains only basic information on legal persons. With no beneficial ownership information or a specific register for this purpose, the implementation of customer due diligence measures by reporting entities is still grappling with challenges. To date, no sanctions have been reported for failure to communicate information in the event of any change in the life of the legal person.

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

47. Guinea's legal and institutional framework makes provision for it to cooperate constructively with third countries without delay. The country is a party to the main international conventions constituting cooperation instrumentalities. It has also signed bilateral and multilateral agreements for the exchange of information. This cooperation involves the widest possible mutual legal assistance and other forms of cooperation between FIUs and law enforcement authorities (LEAs). However, with regard to money laundering and its predicate offences, Guinea provides international cooperation below expectations, considering the threats the country is grappling with. Indeed, the country has received several requests for mutual legal assistance, but very few have been responded to. Conversely, the competent authorities have issued few requests for mutual legal assistance despite the many criminal cases handled. Nonetheless, these LEAs have largely used the police cooperation channels with Interpol Guinea NCO as an interface, to request for mutual assistance from their foreign counterparts and provide same. The Guinea-FIU has also acted as a vehicle for international cooperation in requesting and receiving information and intelligence during criminal investigations and prosecutions.
48. On the whole, Guinea has not demonstrated its ability to fully implement constructive and timely international cooperation in the fight against money laundering and its predicate offences. There are a number of reasons for this, including the lack of clearly defined mechanisms for managing

and monitoring both the requests for mutual legal assistance received and those issued by Guinea. Besides, most of the LEAs are yet to understand or take on board the international cooperation dimension in handling criminal lawsuits for which they are responsible. The common denominator of all these challenges is the lack of human and financial resources allocated to the various stakeholders directly involved in the fight against money laundering.

Priority Actions

The Guinean authorities should:

- a) Take appropriate measures to promote financial inclusion, reduce informality in all operational sectors covered by FIs/DNFBPs and introduce an ML/TF risk-based approach in border controls. These measures should make it possible to mitigate the contextual factors which have a negative impact on AML/CFT&PF in Guinea, thanks to the traceability of transactions and involvement of as many stakeholders as possible in the implementation of the domestic regime.
- b) Update the NRA report within the timelines stipulated by law, taking into account all relevant sectors, using all relevant sources of data and statistics, and carrying out in-depth sectoral analyses.
- c) Take appropriate measures to strengthen the systems designed to produce and maintain high quality statistics needed to guide the decision-making process, the efficient allocation of resources and assess the impact of AML/CFT&PF policies and interventions.
- d) Provide the national coordinating committee with adequate human, technical and financial resources to enable it achieve its mandate. The national coordinating committee should as a matter of priority develop the national AML/CFT strategy based on identified and emerging risks, with an implementation action plan.
- e) Organize a vast campaign designed to popularize the relevant legislations, including the new AML/CFT&PF law to help all stakeholders take ownership of them with a view to their implementation. This campaign should be supported by publication of such legislations in all relevant digital media (websites, intranets, etc.) in order to guarantee their accessibility to the general public.
- f) Conduct specific and sectoral assessments of ML/TF risk linked to NPOs, PMCJs, VAs/VASPs, the real estate sector, foreign exchange dealers, gems and precious metals sector, the independent legal professions sector and other areas of current and emerging risks. The findings of these various assessments should be accompanied by action plans and disseminated to all stakeholders.
- g) Develop an awareness and compliance manual for DNFBPs to equip them to implement their AML/CFT obligations. This initiative should be preceded by a national census of all stakeholders involved in AML/CFT/PF operating in this sector and the establishment of a centralized database that can be updated.
- h) Conduct ML/TF typology studies linked to the main predicate offences with a view to helping reporting entities (FIs, DNFBs and VASPs) to better understand ML/TF red flag indicators and report suspicious transactions to the FIU.
- i) Take appropriate measures to establish a national register of beneficial owners of legal persons and legal arrangements accessible at varying degrees to the competent authorities and the general public. These measures should take into account the need to synchronize and completely computerize the existing databases at the APIP and RCCM.
- j) Develop a specific criminal policy in AML/CFT that would, in all criminal cases, prioritize the identification of criminals and their assets with a view to confiscating all proceeds and

instrumentalities of crime with the ultimate aim of dispossessing criminals of the proceeds of crime. This policy should be designed to promote financial intelligence and systematize asset investigations, parallel financial investigations and joint investigations into terrorism and its financing.

- k) Take adequate measures designed to promote the use of international cooperation in AML/CFT. Such measures should take on board the sensitization of competent authorities (LEAs, FIU, Supervisory authorities) on available formal and informal cooperation tools, and how to formulate a clear and specific management procedure for mutual legal assistance and judicial requests and define a system for the management and monitoring of such request, including prioritizing their execution.
- l) Map out a national policy for tooling, training and capacity building for all competent authorities in AML/CFT based on prior and ongoing consultation of operational needs. This initiative should be accompanied by a strategy designed to retain skills and promote local expertise through a training of trainers system.

Effectiveness and Technical Compliance Ratings

Table 1. Effectiveness Ratings

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

Explanatory note: Effectiveness ratings may represent a level of High Effectiveness - HE, Substantial Effectiveness - SE, Moderate Effectiveness - ME, or Low Effectiveness - LE.

Table 2. Technical Compliance Ratings

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	PC	C	C	C	PC	PC	NC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	PC	C	PC	PC	LC	LC	LC	PC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	LC	LC	PC	PC	LC	C	PC	LC	C
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	LC	PC	PC	LC	C	LC	LC	LC	LC

Explanatory note: Technical compliance ratings may be: C - Compliant, LC - Largely Compliant, PC - Partially Compliant or NC - Non Compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarizes the AML/CFT measures in force in Guinea as at the time of the on-site visit. It analyses Guinea's level of compliance with the 40 Recommendations of the Financial Action Task Force (FATF) and the effectiveness of its AML/CFT framework and proffers recommendations on how this framework could be strengthened.

This assessment is based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. It was conducted on the basis of information provided by the country and obtained by the assessment team during its on-site visit to the country from 20th March to 5th April 2023.

The evaluation was conducted by an Assessment Team comprising:

- Ms Oumou Fadima Traoré, Supervisor at the Central Bank of West African States (BCEAO), Headquarters - Senegal - (Financial Expert)
- Mr Mor NDIAYE, Director General of the Office National de Recouvrement des Avoirs Criminels (ONRAC) of Senegal - (Legal Expert)
- Mr Talaka MAWAMA, Attorney General at the Tribunal de Grande Instance de Lomé (TGI), Togo (Legal expert)
- Mr. Philippe Dodo ATSE, Deputy Director of Economic Investigations, Economic and Financial Police Directorate, Côte d'Ivoire (Operational expert)
- Mr. Ibrahim, BANIA MAMADOU, Secretary General of FIU-Niger (Financial Expert)

With the support of the GIABA Secretariat, represented by:

- Mr. Karnon Lofigué, Non-Financial Entities Officer ;
- Mr. Komi Dayo , Expert - Evaluation & Compliance;
- Mr Idrissa Ouattara, Research Assistant

The report was reviewed by:

- Mr. Brice Kokou ALLOWANOU, Head of the Economic and Financial Brigade - DGPR, Benin
- Ms Ana Cristina Dos Santos Gonçalves Paulino, Principal Inspector Food and Economic Security Authority - ASAE, Portugal;
- Mr. Layttie Abdou AZALI, Director of Budget and General Administration, Central Bank of the Comoros, Union of The Comoros
- The FATF Secretariat.

Guinea had already been subjected to a Mutual Evaluation conducted by GIABA in 2012, in accordance with the FATF 2004 Methodology. The 2012 Mutual Evaluation Report has been published and is available at <http://www.giaba.org>.

That mutual evaluation concluded that Guinea was Compliant (C) on 01 Recommendation, Largely Compliant (LC) on 07 Recommendations, Partly Compliant (PC) on 14 Recommendations and Non-Compliant on 26 and Not Applicable (NA) on 01 Recommendation. The country was placed in the expedited regular follow-up process (Annual report) after the MER was adopted in November 2013.

CHAPTER 1. MONEY LAUNDERING AND TERRORIST FINANCING RISKS AND CONTEXT

49. The Republic of Guinea, a French-speaking country in south-western West Africa, covers an area of 245,857 km². It is a coastal country with 300 km of Atlantic coastline, midway between the Equator and the Tropic of Cancer between latitudes 7°05 and 12°51 north and longitudes 7°30 and 15°10 west. It is bordered by the Atlantic Ocean to the west, Sierra Leone and Liberia to the south, Côte d'Ivoire and Mali to the east and Guinea Bissau, Senegal and Mali to the north. It has four (4) natural regions, namely **Lower Guinea** (or Maritime Guinea), which is open to the Atlantic Ocean and backed by the Fouta Djallon massif, **Central Guinea** (Fouta Djallon area), which is located in the central region of the country and occupies almost a third of the national territory, **Upper Guinea**, which is located in the north-east of the country and watered by the River Niger and its many tributaries, and **Forest Guinea**, occupying the south-east of the country.

50. Maritime Guinea covers all marine and coastal ecosystems. The country is heavily dependent on maritime transport, which accounts for almost 95% of its foreign trade². In addition to its two main seaports, namely the Port of Conakry³ (main business port) and the Port of Kamsar (mineral port), the Republic of Guinea has a number of small secondary harbors and landing jetties.

51. **Administratively**, Guinea is divided into seven administrative regions plus the city of Conakry (the capital), which has the special status of a decentralized local authority. Each administrative region is made up of a variable number of prefectures. In total, there are 33 prefectures, 38 urban communes (including 6 in Conakry) and 302 rural communes.

52. Since 5th September 2021, the country has been governed by a National Committee for Recovery and Development (CNRD), which emerged from a military coup d'état and is in charge of the exercise and functioning of public powers on the basis of a Charter implemented as a fundamental law during the transition period.

53. **Politically**, Guinea is a Republic with a President elected by the people as Head of State for a six-year term. This period, initially set at 05 years, was modified in 2020 by the adoption of a new constitution, which was also dissolved on September 5th, 2021, after the CNRD seized power. Previously, **legislative power** was vested in a single-chamber parliament made up of 114 MPs elected by the people for a five-year term. Since September 5th, the National Transition Council (CNT) has acted as the National Assembly.

54. In terms of **economic growth and development**, Guinea has many natural assets, including significant hydrological (Africa's "water tower") and agricultural potential, and a subsoil that is very rich in minerals⁴. However, its economy remains relatively undiversified and structurally vulnerable to external shocks, particularly commodity shocks: (i) the contribution of the agricultural sector to GDP is relatively modest (23% on average), despite the fact that this sector employs almost 52% of the working population; (ii) the secondary sector (35% of GDP) is mainly dominated by mining activities which, along with bauxite, gold and diamonds, account for an average of 85% of the country's exports; energy is also a strategic sector, both for the investments underway and for its knock-on effects on other activities: the SOUAPITI dam, one of the four (4) flagship projects for Guinea, has been completed and has been in operation since June 2021 with an installed capacity of 550MW. Finally, (iii) the tertiary sector (46% of GDP) is driven by trade, transport, telecommunications, real estate and business services. According to the results of the 2014 General Census of Population and Housing (RGPH), the resident population of Guinea is estimated at

² In fact, Guinea imports most of the equipment, materials and manufactured products it needs for its development and for consumption by its people, as well as its products on foreign markets, by sea. This maritime trade is mainly carried out through the active participation of shipping companies from the North (the European continent and the Mediterranean).

³ The Port of Conakry, Guinea's only commercial port, handles most of the cargo generated by the country's foreign trade.

⁴ Bauxite: the world's number 1 reserve with 25% of the stock and the world's 2nd largest producer (after Australia), 3 billion tonnes of iron reserves, 700 tonnes of gold and 30 to 40 million tonnes of carats of proven diamond reserves.

11,233,034. This includes the following ethnic groups: Peulhs, Malinkés, Soussous, Koniankés, Guerzés, Toucouleurs, Diakankés, Bagas, Nalous, Mikiforès, Kissis, Tomas, Manons, Konos, Badiarankés, Bassaris, Koniaguiss, Landoumas, Lélés, Foulakoundas, Tomamanians, Kourankos and Djallonkés.

55. Despite these assets, Guinea's socio-economic indicators remain weak. With a GDP of USD 17.6 billion in 2021 according to the IMF, Guinea is at the bottom of the HDI ranking, occupying 178th place out of 189 countries in 2019⁵. The economy is still largely informal, accounting for an estimated 41.5% of GDP and 96% of jobs in 2019. In addition, life expectancy at birth will be 61 years in 2020.

56. On the **judicial front**, power is exercised through the Supreme Court, the Court of Auditors, the Courts of Appeal, the Tribunals and the specialized jurisdictions. The judicial system of the Republic of Guinea comprises the following ordinary courts:

- The Supreme Court is the highest jurisdiction of the State in administrative and judicial matters. The Supreme Court is the highest court of the State in administrative and judicial matters. It rules by way of appeal in cassation or annulment on judgements and rulings handed down at last instance by the lower courts and relating to administrative and judicial disputes;
- Two (2) Courts of Appeal, one in Conakry with jurisdiction to hear appeals against decisions handed down by lower courts in Lower Guinea and Middle Guinea, and the other in Kankan with jurisdiction over Upper Guinea and Forest Guinea;
- Twenty (20) Courts of First Instance (TPI) with jurisdiction in civil, administrative, correctional and criminal matters. These courts are located in the main towns of the administrative regions and in some of the country's prefectures;
- Sixteen (16) Justices of the Peace with extended jurisdiction, which will gradually be transformed into TPIs with the ongoing reform of the judicial services.

57. The country also has a number of specialized courts, including: juvenile courts (one for each TPI, with the exception of the special Conakry area, which has only one for the 3 TPIs in the area), a labour court, a Commercial Court, a military court, a court for the repression of economic and financial offences and an audit court.

58. At **community level**, the number of regional and international organizations to which Guinea is affiliated is estimated at 260, including: the Economic Community of West African States (ECOWAS), the African Union (AU), the United Nations (UN) and its specialized agencies (WFP, UNIDO, UNICEF, WHO, WTO, UNHAS, UNDP, etc.), the International Monetary Fund (IMF), the World Bank (WB), the International Committee of the Red Cross (ICRC), the Intergovernmental Action Group against Money Laundering in West Africa (GIABA), the Francophone International Organization (OIF), the International Organization for Migration (IOM), the Organization for the Development of the Senegal River (OMVS), the Organization for the Development of the Gambia River (OMVG), Plan International Guinea (PIG), the International Criminal Police Organization (ICPO-INTERPOL), etc. It is also a member of the West African Monetary Zone (WAMZ) and has observer status with the Inter-African Conference on Insurance Markets (CIMA).

ML/TF risks and preliminary identification of higher-risk areas

ML/TF Risks

59. Based on documents provided by the Republic of Guinea, public reports, and discussions with stakeholders during the on-site visit, the assessment team notes that the risk of money laundering in Guinea is high. Indeed, the country's criminogenic environment remains strongly dominated by the **major predicate offences generating the most illicit proceeds in Guinea**, such as corruption (including embezzlement of public funds), forgery, fraud, drug trafficking, environmental crime, tax evasion, smuggling of goods, computer hacking, trafficking in counterfeit and expired products, smuggling of

⁵ According to the authorities, just under half of Guineans (44%) live below the national poverty line, estimated at GnF13,679/person/day (\$2) in 2019.

migrants, and trafficking in firearms. The ML threat essentially stems from criminal activities committed in the country, as the proportion of ML cases involving offences committed abroad is generally low, according to the statistics provided by the country.

60. Between 2015 and 2019, the cumulative value of assets generated by the commission of these offences is significant in Guinea. It amounted to GNF 347,970,852,797; €42,040,342.68 and US\$7,930,372.46. This amount was estimated at 0.5% of Guinea's GDP in 2021. During the same period, forgery and corruption were the main sources of illicit enrichment in Guinea.

61. Due to porous borders, the predominance of the informal economy and the high preponderance of cash transactions, certain sectors of the economy, in particular real estate, land, mining, transport, gambling establishments and the used car trade, for which the legal and institutional framework has significant loopholes, attract more easily the resources generated by the commission of the predicate offences present in the country. Furthermore, with the country's reliance on cash and other alternative payment methods (e.g. Hawala and mobile banking), as well as the large size of the unbanked population⁶, the ML/TF preventive and repressive system is generally grappling with challenges of transparency and traceability of funds flows.

62. With regard to terrorist financing, the assessment team notes that the risk of terrorist financing in Guinea is high. Indeed, in the West African sub-region, particularly in Mali, Burkina Faso, Niger and Nigeria, populations are frequently the victims of terrorist attacks by the very active terrorist organizations or groups that are based there, particularly BOKO HARAM, AQIM, MUJAO, KATIBA MACINA, etc. Of course, Guinea has never experienced such attacks. Although Guinea has never experienced any terrorist attacks, this does not rule out the likelihood of the presence in the country of NPOs, entities, individuals or groups of individuals carrying out activities intended to finance terrorists based in the above-mentioned countries.

63. The low detection capacity for TF, largely due to the unknown sources, methods and techniques of terrorism financing as well as inadequate protection of NPOs confirm the possibility of funds being raised in Guinea (or abroad) and channeled from Guinea via charitable NGOs as part of the financing of terrorist activities. The Guinean intelligence services also recognize the threat of violent extremism hanging over the country and appropriately conduct special supervision of faith-based associations. The country therefore recognises that its vulnerabilities to TF are based on the same contingencies as those identified for ML.

Country risk assessment and identification of higher risk areas

64. The Republic of Guinea conducted its first ever National Risk Assessment (NRA) from February 2019 to November 2020 using the World Bank tool. The NRA report is awaiting adoption. This exercise was conducted under the supervision of a National Coordinator appointed by Ministerial Order with a team of 70 members divided into six thematic groups namely: national threat, national vulnerabilities; banking sector vulnerability; insurance sector vulnerability; vulnerability of other financial institutions and risks related to financial inclusion products; vulnerability of Designated Non-Financial Businesses and Professions (DNFBPs).

65. This process has involved a wide range of public and private AML/CFT stakeholders in an intensive and collaborative manner, including self-regulatory organizations, law enforcement agencies, supervisors, reporting entities and other stakeholders. The working groups used a combination of quantitative and qualitative approaches, in order to put the analysis of threats and vulnerabilities on an objective basis while multiplying the sources of information likely to consolidate and complete the risk assessment.

⁶ According to data from Global Findex (2021), 70% of the population do have no bank account. These data include the percentage of adults aged 15 and above having an account with a financial institution or via a mobile money provider.

66. The various working groups were based on a review of documents, including the 2012 mutual evaluation report on Guinea, the follow-up reports on the national AML/CFT system and the annual activity reports produced by the FIU. Questionnaires were sent to stakeholders as part of a nationwide consultation to collect data for the various variables.

67. The NRA also analysed the threat and vulnerability for each product or sector, and then conducted a cross-assessment to deduce the level of risk corresponding to the three rating levels: low, medium or high. The mitigation measures put in place were also taken into account in order to assess, on the same scale, the level of residual vulnerability presented by each product, service or operation.

68. In preparation for the on-site visit, the Assessment Team identified several areas requiring further attention. To achieve this, they analysed the documents presented by the Guinean authorities and took note of open-source information on Guinea's risk profile. Consequently, the following topics were identified as requiring attention during discussions with national AML/CFT stakeholders during the on-site visit:

- **Understanding of AML/CFT risks and implementing a coordinated approach to risk-based actions and policies** - in particular the quality of the authorities' risk identification and analysis process (i.e. the quality and relevance of the information and data used and the level of involvement of relevant stakeholders), the strategy for implementing the mitigating measures contained in the provisional report, AML/CFT and anti-corruption collaboration efforts among the various competent authorities, allocation of resources for the identified risks mitigation plan, and the effectiveness of AML/CFT operation coordination activities (including effective information sharing on timely basis).
- **Use of financial intelligence in Investigations and Prosecutions in relation to the country's threats and risk profile** - particularly how investigative authorities (Police, Gendarmerie, and Criminal Investigation Officers) detect and investigate ML acts, the effectiveness of these investigations and their consistency with the country's risk profile, the speed of access to relevant financial intelligence and other necessary information by the competent authorities, the level of resources (including financial investigation tools) available to the authorities, and the extent to which the FIU and prosecutorial authorities exchange financial intelligence in the context of criminal lawsuits and other necessary information with their foreign counterparts.
- **Detecting TF activities and Combatting TF** - including the understanding of TF risks by all sectoral stakeholders (including competent authorities) as well as the measures taken to identify and initiate TF cases in order to ensure a satisfactory investigation, the level of operability and effectiveness of the National Advisory Commission on Administrative Freezing (CCGA), and especially the efforts made to protect NPOs and avoid their being misused for TF purposes.
- **Effectiveness of risk-based supervision in the main sectors identified as most exposed to ML/TF** - in particular the tools and mechanisms used by BCRG⁷ and FIU to assess the ML/TF risks posed by the high-risk sectors and entities they monitor/supervise, and the extent to which this understanding is taken into account in adapting regulations, as well as the frequency, intensity and scope of on-site and remote controls, the adequacy of resources to exercise risk-based control or supervision for AML/CFT purposes, taking into account the size, complexity and risk profiles of the sectors/entities monitored or supervised respectively.
- **Implementation of preventive measures in identified high-risk sectors and entities** - including the extent to which high-risk sectors/entities understand their AML/CFT obligations and ML/TF risks in order to put in place appropriate ML/TF risk mitigation policies, controls and systems, as well as the extent to which supervisors, particularly in the banking sector, understand the level of exposure of that

⁷ IMF staff provide assistance to authorities in their transition to risk-based supervision of anti-money laundering and counter-terrorist financing, under the auspices of the BCRG. <https://www.imf.org/-/media/Files/Publications/CR/2021/French/1GINFA2021001.ashx> Page 25

sector to ML/TF risks, in particular in relation to PEPs, and their ability to identify beneficial ownership.

- **Transparency of legal persons in relation to ML and TF** - including the level of understanding by competent authorities of the risks associated with business legal persons, the extent to which basic information about legal persons, and information about beneficial owners, is available, accurate, up to date and accessible without delay by competent authorities.
- **Use of cross-border transportation of cash and bearer negotiable instrumentalities** - the mechanism deployed to ensure the detection of cross-border physical transportation of cash and bearer negotiable instrumentalities, including the reporting and/or communication system in place, but also the extent of national coordination and international cooperation.
- **Implementation of AML/CFT requirements and financial inclusion** - in particular the extent to which the implementation of AML/CFT measures does not lead to financial exclusion and whether the country applies simplified/enhanced due diligence exemptions to encourage financial inclusion.

Items of specific importance (materiality)

69. The Republic of Guinea is one of the smallest economies in the world. The total income generated in the country in 2021 amounted to EUR 1,005 per capita, or EUR 13.61 billion for the country as a whole, placing Guinea 165th among the richest countries in the world, if GDP per capita is calculated on the basis of purchasing power parity⁸.

70. In 2020, despite the impact of the COVID-19 pandemic and the political tensions that have arisen, the economy maintained a high growth rate estimated at +6.4%, due to the entry into production of two new bauxite companies, more effective gold production and the resurgence of Chinese demand. Economic growth in 2021 slowed down to +4.2%, reflecting the relatively very moderate growth rate of the mining sector (+11.2% in 2021, as against +36.9% in 2020), which remains the key growth catalyst. Guinea's economic outlook is generally positive: growth is expected to accelerate over the period spanning 2022-2024, rising from 4.8% to 6.3% over the period.

71. In terms of the financial sector's share to Guinea's development, banking sector operations were characterised by weak financing of the economy, particularly investments. By end 2017, in the banking sector, customer deposits amounted to GNF 13,077 billion, (\$1,541,933,196), representing more than 75% of the sector's resources and 90% of which were fixed deposits (66% of term deposits and 24% fixed savings deposits). Deposits were mainly obtained from private residents, with individuals accounting for 54%, private companies 34% and individual entrepreneurs 9%.

⁸ <https://www.donneesmondiales.com/afrique/guinee/economie.php>

72. The structure of credit to the private sector reflects the clear dominance of short-term credit and the prevalence of financing for the tertiary sector. Indeed, it is estimated that around 84% of the total credit granted by banks to the Guinean economy consists of short-term credit. Long-term loans used to finance productive investments, which generate economic growth, therefore represent only a minute fraction of the total financial sector’s lending to the Guinean economy.

73. Furthermore, the Guinean private sector is dominated by informal operations, like in other countries in the region. This informality is generally characterized by a lack of tax registration of companies or a failure to register in the business register. In fact, access for businesses to the structures in charge of formal business is even more difficult⁹ in the Province, where the cohabitation of, or even competition between the informal and formal sectors is even pushing some formal businesses to the informal sector, due to limited incentives, lack of information and the inefficiency of tax collection, encouraging tax avoidance. A study conducted by the Agency for the Promotion of Private Investments (APIP) in 2016 revealed that 73% of businesses with a capital of less than GNF 65 million (around \$7,664) stated that they had neither a trade register nor a tax registration number, compared with none for businesses with a capital of more than 2 billion.

74. The proportion of DNFBPs struggling with informality, as is the case with FIs, is very significant in Guinea. Indeed, a large majority of dealers in gems and precious metals operate clandestinely or informally. The same obtains for the real estate sector and arts and antique vendors. Subjecting these actors to AML/CFT in a predominantly cash-based economy is bound to face challenges relating to funds flow traceability.

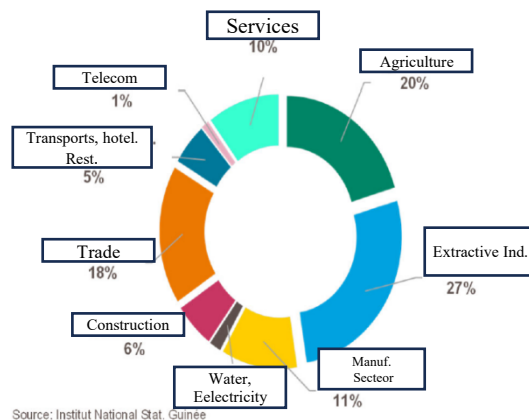
75. The microfinance sector is highly concentrated, but competition should increase in the coming years with the entry of new MFIs, while the distribution of insurance products is growing, particularly for life products, even though there is still considerable room for improvement. Three insurance companies out of the eleven that comprise the Guinean market shared more than 70% of the market in 2017, with a turnover of GNF 356.18 billion (around \$41,978,739). Life products still accounted for a small share of premium income in 2016 and 2017 (around 20%) but have been growing faster since 2011 than the fire, accident, miscellaneous risks and transport (IARDT) products.

76. Financial services via telephones or mobile banking have been developing and diversifying at a steady pace in Guinea since 2013. This activity, which is intended to strengthen financial inclusion in the country, only concerns basic financial services for now (cash withdrawals and deposits into a specific electronic account, money transfers, bill payments, etc.), with account top-up and cash withdrawal operations in the majority.

Structural Elements

77. Since its independence in 1958, the Republic of Guinea, like some other African countries, has experienced periods of political instability marked by military mutinies and the overthrow of the constitutional order. This is due, among other things, to the poor governance of the elites, leading to higher levels of corruption and weaker democratic institutions, rules of governance and the rule of law.

Guinea: Percentage of Sectors in GDP (%GDP, 2021)



⁹ To alleviate this problem, the APIP has deployed competent regional branches to organize formalization campaigns and a mobile bus for campaigns to formalize informal structures. Radio and TV spots are broadcast in national languages and on rural radios encouraging the informal sector to become formal .

78. In terms of good governance, the country recognises that corruption is entrenched in the Guinean economic system, which is not without consequences for the country's economic and financial health. In fact, according to the 2017 report by the National Anti-Corruption Agency, revenue derived from corruption in Guinea stood at an average of about GnF 600 billion each year. Besides, the country is ranked 148th of the most corrupt countries in the world in Transparency International's 2022 ranking.

79. In terms of security, instability and armed banditry in neighbouring countries pose a risk to Guinea, particularly in terms of terrorism and organized crime. Inter-community conflicts resulting from alluvial gold mining and animal transhumance are also contextual factors that determine the overall security in Guinea.

80. Nevertheless, the country has on several occasions deployed strategic planning tools, including "Guinea Vision 2010", the 2011-2015 Five-Year Development Plan and more recently "Vision 2040 for an emerging and prosperous Guinea", which have played a major role in managing development.

81. Since its first-round evaluation in 2012, the AML/CFT system in Guinea has recorded remarkable developments, including: (i) the operationalisation of the FIU placed under the supervision of the Ministry of Economy and Finance; (ii) the adoption of a new AML/CFT law in August 2021 which introduced major reforms such as placing the FIU under the supervision of the Central Bank of the Republic of Guinea (BCRG) to strengthen its operational efficiency ; (iii) the creation of a Court for the Repression of Economic and Financial Offences; (iv) the attribution of the status of Judicial Police Officer to FIU investigators to improve, among other things, the quality and usefulness of the reports transmitted to the Attorney General, and most importantly; (v) the provision of a new headquarters for the FIU with amenities that largely meet international standards. **These recent developments create a more or less dynamic context for AML/CFT in Guinea.**

Other contextual elements

82. Unlike the other French-speaking member countries of ECOWAS, which are subject to a certain number of Community legislative and regulatory instrumentalities and directives because they belong to the UEMOA zone, the Capital Market Authority (AMF)¹⁰ or the Inter-African Insurance Market (CIMA), the financial and banking industry in the Republic of Guinea is based on its own legal and institutional architecture. Nor does it have a financial centre such as the Regional Stock Exchange (BRVM), or any kind of "connection" to the vast regional grouping comprising the stock exchanges of Nigeria, UEMOA and Ghana. On the other hand, the country is a member of the West African Monetary Zone (WAMZ), whose ultimate aim is to create a single currency.

83. In December 2022, the country organized a national workshop to validate the draft law on the stock exchange at the Central Bank of the Republic of Guinea (BCRG). This initiative by the Guinean authorities, which is part of the private sector modernization support project financed by the African Development Bank (AfDB) to help Guinea implement monetary and financial reforms, is a crucial step in the process of modernizing the financial infrastructure and improving governance in the banking and microfinance sectors, in particular by setting up a reporting system for supervising banks and microfinance institutions.

84. With regard to the **business climate**, Guinea ranks lower on the World Bank's governance indicators than its neighbours (Senegal, Côte d'Ivoire and Mali in particular). The weak legal framework, red tape and corruption continue to weigh heavily on the business climate¹¹. This notwithstanding, the trend in business start-ups in Guinea has been rising in recent years. It rose from 8,482 in 2018 to 15,616 in 2022¹². Guinea is also a gateway to West Africa, bordering the Republics of Senegal, Guinea Bissau,

¹⁰ Formerly called CREPMF

¹¹ World Bank country fact sheet, 2021.

¹² APIP-GUINEA

Mali, Sierra Leone, Liberia and Côte d'Ivoire. This gives investors the opportunity to reach a market of 64 million consumers.

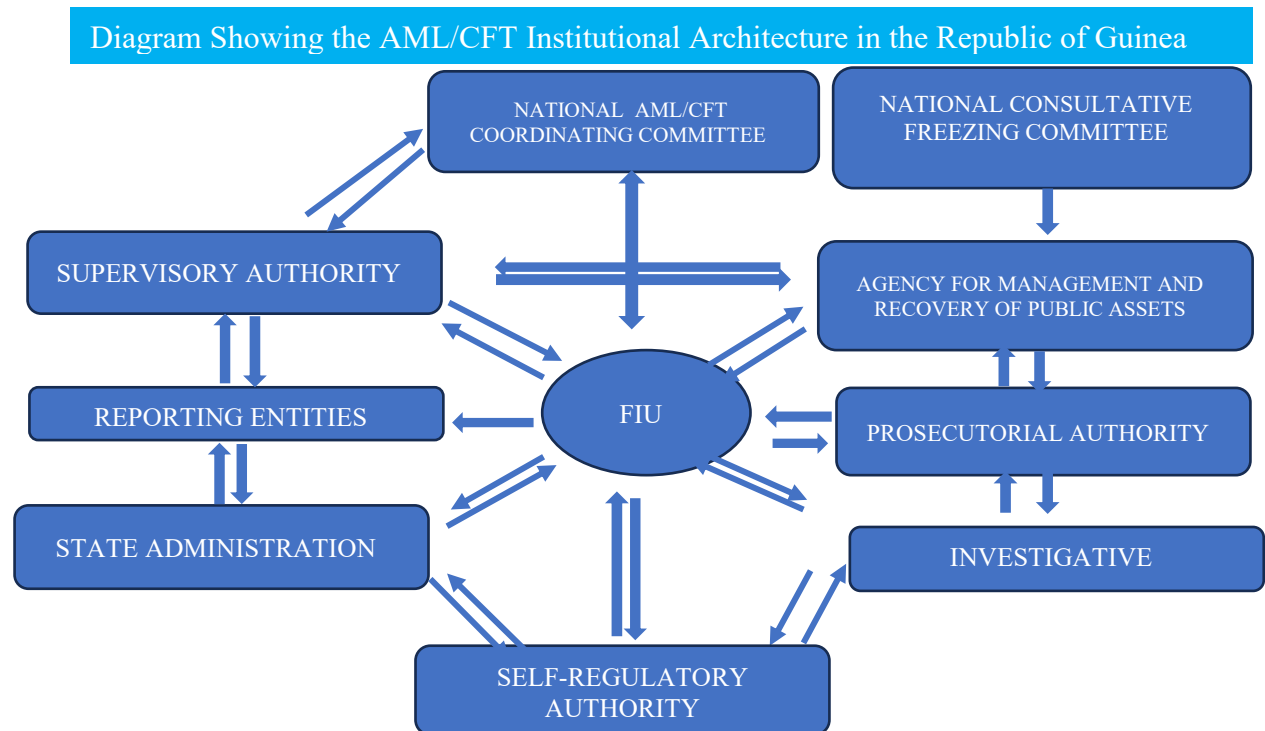
AML/CFT Strategy

85. The Republic of Guinea intends to adopt a national AML/CFT strategy and an action plan to implement the ML/TF risks identified. To achieve this, in March 2023 the country set up a national coordination committee to develop a national policy in accordance with the provisions of its new AML/CFT law. In the meantime, the country relies mainly on the expertise and resources of the FIU and Central Bank to ensure the concerted and coordinated implementation of AML/CFT risk mitigating measures at national level.

Legal and institutional framework

86. The AML/CFT system in Guinea is based on a strengthened legal framework and a reformed institutional architecture with a set of structures, bodies and institutions that carry out their activities in a complementary manner. Among the legislation that has a direct impact on the prevention and repression of AML/CFT in the country are the 2021 AML/CFT Act, the Anti-Corruption and Related Offences Act (2017), the Inclusive Financial Institutions Act (2017), banking regulations (2013), the Customs Code, the Penal Code and the Code of Criminal Procedure (2016), the Insurance Code (2016), the General Tax Code (2015) and the relevant BCRG Directives.

87. As for the institutional mechanism, it includes the competent structures and bodies that carry out activities related to the detection, prevention and repression of the predicate offences and money laundering and terrorist financing offences.



Source: GUINEA-FIU (2023)

88. As demonstrated in the diagram above, the mechanism is managed by players from the public and private sectors. For the public sector, there is:

- The National Coordination Committee (CNC-AML/CFT&P) created by decree on 5 April 2023 with the task, among others, of coordinating national ML/TF risk assessment efforts and developing national AML/CFT policies that take account of the risks identified.

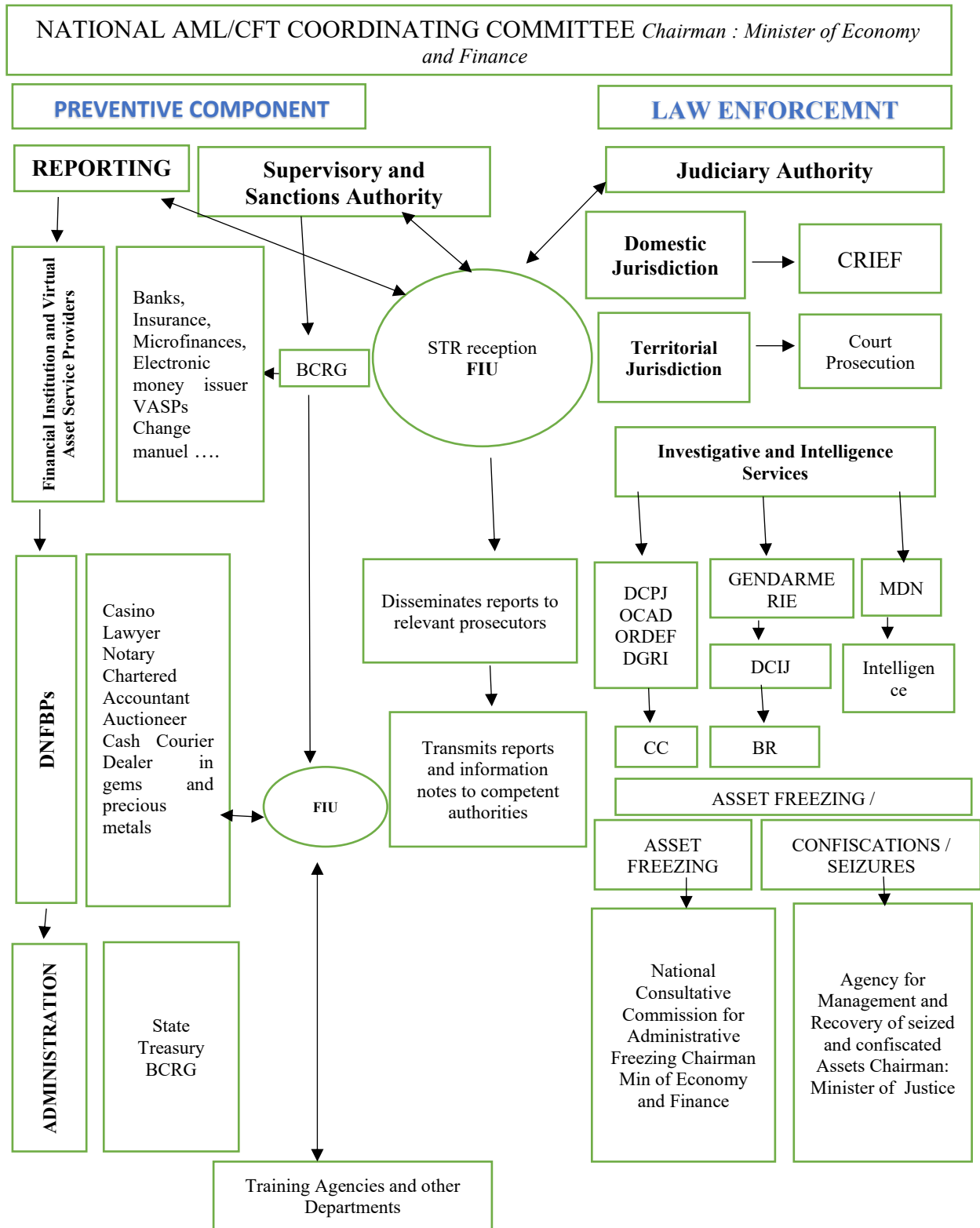
- The Financial Intelligence Unit (FIU), which is in charge of receiving, analyzing and processing information to establish the origin of transactions or the nature of operations that are the subject of suspicious transaction reports.
- Investigative authorities (Police, Customs, Gendarmerie, OCAD, ORDEEF, ANLC).
- Prosecutorial authorities (Courts and Tribunals).
- Supervisors of Reporting Entities (BCRG).
- The National Advisory Commission on Administrative Freezing, set up to implement the administrative freezing of funds, financial resources and assets of terrorists, those who finance terrorism and terrorist organizations.
- The FIU Correspondents: fourteen (14) of these are appointed by order of the Minister of the Economy and Finance and have taken an oath with the members of the FIU.
- Self-regulatory bodies such as the National Chamber of Notaries, the Council of Chartered Accountants Association and the Bar Association.

89. In the private sector, we note the reporting entities. Under the new AML/CFT Act, reporting entities are natural or legal persons who, in the course of their business, carry out, control or advise on transactions involving deposits, exchanges, investments, conversions or any other movement of capital or goods. The Public Treasury, the BCRG, financial institutions, designated non-financial businesses and professions are reporting entities under the AML/CFT in Guinea. They constitute the country's front line of defence against ML/TF.

90. In addition, the Inspectorate General of Finance, the Inspectorate General of State, the State Judicial Agency and the recently created Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) also play a role that impacts on economic and financial health and, consequently, AML/CFT in Guinea.

91. The operation of the AML/CFT regime in Guinea is summarized in the diagram below:

Diagram showing how the AML/CFT regime functions in Guinea



Source: GUINEA-FIU 2023
Financial Sector, DNFBBPs and VASPs

92. On the basis of its document review and, especially, the face-to-face interviews held during the on-site visit, the assessment team ranked the financial sector, DNFbps and Virtual Asset Service Providers (VASPs), taking into account their respective sizes, relative importance and significance in terms of the impact of the ML/TF risks to which they could be exposed, compared with other jurisdictions in the ECOWAS region and worldwide. The Assessment Team used such a ranking to inform their conclusions, weighting the positive and negative points of the AML/CFT regime's implementation more heavily when it came to sectors of very high importance compared to sectors of low importance. This approach is applied throughout the report, but more specifically for preventive measures (chapter 5) and control/supervision measures (chapter 6).

Very high weighting

93. **Real estate sector:** The real estate sector is of vital importance to the Guinean economy because of the magnitude of the monetary transactions involved. The Guinean authorities consider the frequency of residential, business and agricultural assets transactions, sometimes conducted by a single estate agency, to be alarming. These transactions involve large sums of money, the origin of which is seen as dubious because most of the investments are financed outside the banking system, and therefore not traceable. There are no reliable statistics on the number of assets and land agencies and/or developers in Guinea. However, it is estimated that there are 155 assets agencies operating in the country. The real estate sector's lack of awareness of its AML/CFT obligations, the fact that the country's economy is essentially based on the informal sector and cash payments, and the ease with which individuals can acquire real estate without being subject to the due diligence obligation are all factors that make the real estate sector attractive to criminals and consequently vulnerable to ML/TF. Furthermore, the designation of a supervisory authority for this sector is only very recent in Guinea. In this regard, the assessment team has decided to attach very high importance to this sector in view of the high ML/TF risk associated with it.

94. **Notaries:** these are public officers empowered to receive deeds and contracts to which the parties must or wish to give the authenticity attached to acts of public authority, and to ensure their date, keep their deposit, issue grosses and copies. He can also formalize the purchase or transfer of real estate, the creation or incorporation of companies and other socio-economic entities. In 2023, the Chamber of Notaries of Guinea had forty (40) registered notaries. Notaries provide services to a variety of clients, including incorporation of companies, purchase or sale of property, property liquidation, etc. This sector is also grappling with the challenges of lack of statistics, weak supervision and risks of corrupting public officials. Considering these vulnerabilities and the very close link between the real estate and notaries, the Assessment Team gives a very high weighting to Notaries.

95. **Dealers in precious stones and metals:** the mining industry remains the key sector of the Guinean economy. Over 80% of export earnings come from the sale of mining products (gold, bauxite, diamonds). Guinea has the world's largest reserves of bauxite and ores used to manufacture aluminium. In 2019, it will become the world's second largest producer behind Australia (ahead of China)¹³. More than 500 companies operate in this sector¹⁴, which generates almost 1/3 of government revenue. However, alluvial gold mining and diamond mining represent a major risk due to their low level of organization and formalization. Because of the very low level of supervision of this sub-sector, it is easier for financial criminals to launder their illicit income by buying gold and diamonds in cash from gold miners and diamond merchants and exporting these precious metals and stones across land borders¹⁵. In addition and given the links between widespread corruption in Guinea and the conditions under which securities are granted, the assessment team ranks dealers in precious stones and metals as an area of very high importance.

High weighting

¹³ World Bank country fact sheet, 2022

¹⁴ Source: Mine Development Centre (CPDM)

¹⁵ Draft NRA Report, pg. 153

96. **Microfinance Institutions and EMIs:** Recent data from GLOBAL FINDEX on the state of financial inclusion in Guinea reveal that the level of financial inclusion has increased not as a result of banking institutions or decentralized financial systems, but as a result of the digital financial services on offer, with almost 4.5 million accounts opened in 2019 for an adult population of 6.4 million, including 2.2 million accounts counting only active e-money accounts. Furthermore, the Guinean financial landscape consists of 16 microfinance institutions and 5 e-money issuers with total assets estimated at GNF 1,516 billion (\$178,754,357) and GNF 1,400 billion (\$165,076,583) in December 2021¹⁶.

97. Although a new law has been passed by the Guinean authorities on Inclusive Financial Institutions (IFIs) to better structure and professionalize microfinance and the distribution of electronic money, the assessment team identifies this sector as an area of high importance, given the prevalence of forgery and the use of forgeries among the predominant predicate offences in the country and also, the low level of understanding of AML/CFT measures by Microfinance Institutions (MFIs) and EMIs in Guinea.

98. **Manual Foreign Exchange Bureaus:** any natural or legal person incorporated under Guinean law may open one or more foreign exchange bureaus on national territory under the conditions determined by the Directive of 29 March 2011. To date, forty-four (44) foreign exchange bureaus¹⁷ have been licensed and are in operation. The business of these private economic operators is essentially foreign exchange, which consists of: (i) buying and selling banknotes or traveller's cheques in foreign currencies against the national currency; (ii) buying and selling banknotes or cheques in foreign currencies against other foreign currencies. Given the deficiency in supervision and regulations governing the activities of foreign exchange bureaus, which has led to the proliferation of a number of unlicensed but very active foreign exchange bureaus and agents, as well as the lack of customer due diligence on the part of formal actors and considering the prevalence of cash in the Guinean economy, the assessment team has assigned a high weighting to this financial sub-sector.

99. **Banking sector:** The banking sector in Guinea is underdeveloped. At the end of 2021, there were eighteen (18) banking institutions with total assets estimated at GNF 37,282 billion (\$4,395,989,402)¹⁸. The eight largest institutions (ECOBANK, SG Guinée and BICIGUI, ORABANK, VISTA BANK, BPMG, AFRILAND and UBA) accounted for 80% of market share at that date, with the top three alone accounting for almost 50% of the sector's assets and deposits and 52% of loans. However, business banks contribute most to the reporting of suspicious transactions¹⁹. Consequently, financial criminals prefer to place large sums of money derived from various offences in the financial system, particularly the banking system. Although, fortunately, banking institutions have a relatively effective warning system and internal AML/CFT system compared with other financial institutions, the high number of suspicious transactions reported by banks and the volume of the amounts involved are sufficient evidence that the banking sector is regularly used to launder a significant proportion of the proceeds of crime in Guinea. Consequently, the assessment team weights the banking sector as highly important.

100. **Remittance companies:** money transfers are commonplace in Guinea. As in most developing countries, they represent an important source of external financing for Guinea, due to the large Guinean community living abroad, estimated at 23.3% of the Guinean population according to a World Bank report published in 2019. Money transfer financial institutions are private structures whose business involves money transfer operations on behalf of residents in accordance with foreign exchange regulations. These money transfer operations are carried out without creating specific accounts in the name of the payer or beneficiary. According to the final report of the BCRG survey on remittances published in 2019, remittances (R) received in 2017 are estimated at USD 108.1 million, of which 61% go through formal channels and 39% through informal channels. The resources remitted came mainly from European Union countries (43.9%), ECOWAS (31.9%), the United States (12.2%) and other countries (12%). Remittances

¹⁶ Aggregated Data, BCRG (2023)

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ GUINEA-FIU

from Guinea to other countries were estimated at USD 17.01 million in 2017, 66% of which went through formal channels and 90% of which were in cash.

101. At the end of 2019, the total number of licensed money transfer establishments in Guinea was 139. The NRA notes a proliferation of informal money transfer companies that are very active in the field, evade taxation and naturally ignore customer due diligence measures. The ML/TF risk seems high in this sub-sector because of the deficiency in supervision and, above all, the unreliability²⁰ of identification documents. The Assessment Team paid greater attention to this issue.

Moderate weighting :

102. **Casinos and gambling:** Gambling is not very impressive in Guinea. There are only three (03) physical gaming rooms in the country whose licenses are valid until at least 2025. Although this sub-sector was not analysed in depth in the national risk assessment conducted by the country, it nevertheless appeared that the clients of gambling companies are not identified when they carry out their gambling operations. Only a few winners, generally those of large prizes, are identified. According to gambling developers²¹, systematic identification of players could have a negative impact on the sector, as most customers do not want to be identified. They deliberately conceal their identity in order to gamble because of socio-cultural and religious constraints. Nevertheless, the country's political commitment to protecting this sector from financial abuse was recently reflected in the creation in January of the Gaming and Related Practices Regulatory Authority (ARSJPA), whose mandate includes combating money laundering. Similarly, the FIU, designated as the supervisory authority for all DNFBPs (including gambling establishments), has undertaken efforts to improve its knowledge and understanding of this sub-sector. In view of the above, the evaluation team gave it moderate weighting.

103. **Insurance companies:** The insurance sector has been marked by the arrival since 2010 of six (06) new companies, namely Union of Insurance companies in Guinea (U.A) which has become SUNU ASSURANCES, COLINA Guinée which has become SAHAM ASSURANCES, African Insurance and Reinsurance Company (SAAR), MICARE and LANALA Assurances (IARDT/VIE). This brings the number of licensed insurance companies to sixteen (16)²², compared to seven (7) before 2010. This development can be explained by the introduction of attractive regulations for insurance companies.

104. As regards the distribution network, in addition to the companies, the Guinean market is served by one hundred and thirty-eight (138) intermediaries duly registered, including sixty (60) brokers and seventy-eight (78) general agents. However, all of the brokers and more than half of the general agents are based in Conakry²³.

105. This sub-sector is not very vulnerable due to an undiversified type of products offered to customers. However, despite the existence of the insurance code, chapter 3, article 413 of which refers to AML/CFT, there is a lack of staff training in this area and a virtual absence of an internal AML/CFT control system in insurance companies. In this respect, the assessment team gave a certain attention to this sub-sector.

Low weighting

106. **Virtual Assets/Virtual Asset Service Providers:** the assessment team gave a low weighting to VASPs, because the low number of STRs involving cybercrime or cyber-enabled fraud. Besides, the use of the Internet is still marginal in Guinea²⁴.

²⁰ To mitigate this problem, the country has undertaken reforms with regard to biometric ID cards (national identity card, driving license, passport, birth certificate, work permit). Since January 2023, financial institutions have been requiring the new biometric documents for all transactions at their counters, following an instruction from the central bank.

²¹ Draft NRA Report, pg. 142

²² Aggregated data, BCRG

²³ BCRG, Monetary, Financial and External Statistics Bulletin, 2020 (pages 19-20)

²⁴ Guinea has the following figures: 13.68 million inhabitants. 3.15 million Internet users. 2.40 million active users on social networks, according to Community Managers of Africa (2022).

107. The Table below presents the structure of financial institutions in Guinea with a few missing data

Table 1.1: Structure of financial institutions in Guinea

Financial Institutions	Number	Total Balance Sheet in billions of GNF (in 2021)	Total Balance Sheet in Billions of USD (in 2021)*
Commercial Banks	18	37 282	4 090 571
Microfinance Institutions	16	1 516	166 335
Insurance Companies	16	1 053	115 535
Hire-purchase Companies	1	132	14 483
Electronic Money Institutions	5	1 400	153 608
Brokers	60	177	19 420
Forex Bureaus	44	-	-
Transfer companies	56	-	-
Total	156	41 560	4 559 952
DNFBPs	Nombre	Total de bilan en GNF (en 2021)	Total de bilan en USD (en 2021)
Notaries	40	-	-
Auctioneers	06	-	-
Lawyers	+/- 100	-	-
Dealers in gems and precious metals	+/- 50	-	-
Casinos	03	-	-
Cash couriers	03	-	-
Accountants, Chartered Accountants and External Auditors	52	-	-
Real Estate Agents	+/- 100	-	-
Company and Trust Service Providers	-	-	-
Sports Agents and Sports Promoters	-	-	-

Source : FIU/BCRG

Preventive measures

108. Preventive measures relating to ML/TF in Guinea are essentially based on the implementation of the new AML/CFT Law No. L/2021/024/AN. This law requires FIs, DNFBPs and VASPs to comply with FATF requirements (Rec. 9 to 23). Moreover, the country's legal system opts for a fairly flexible and wide-ranging reporting obligation. In particular, it includes security companies, sports agents and sporting events, cash carriers, antique and art dealers, business introducers to FIs, operators of voluntary sales of furniture at public auction, trust service providers, etc., as well as any other natural or legal person designated by the national AML/CFT coordination committee. Breaches of the obligations by reporting entities are liable to sanctions under Articles 109 and 110 of the aforementioned Act.

109. Although the Assessment Team did not note the application of simplified measures in favour of financial inclusion, there are nonetheless financial inclusion products with low ML/TF risk for which the BCRG has implemented measures to simplify account opening by citizens, while setting a ceiling on transaction amounts for a given period. These include deposits, withdrawals, business payments, money transfers, etc.

110. With regard to terrorism financing, the poor knowledge of the TF concept and inadequate understanding of TF risks, including those linked to NPOs, adversely impacts on the capacities of the reporting entities to file suspicious transactions related to TF. STRs. Regarding the implementation aspect of TFS, the Guinean system provides for the obligation to freeze without delay all assets of designated persons or entities. No provision explicitly requires that the implementation of targeted financial sanctions under the relevant United Nations Resolutions (1267) be subject to prior domestication into the country's legal system. Nor is there any implementation mechanism or procedure that would make the implementation of freezing contingent on any form of notification. Besides, FIs belonging to large groups have the tools they need to access the sanctions lists immediately and implement them directly.

Legal persons and Legal arrangements

111. The OHADA Uniform Act is the legal basis for the creation of legal persons in the Republic of Guinea. It allows for the creation in the country of legal persons such as sole proprietorships (EI), public limited companies (SA), limited liability companies (SARL), simplified joint stock companies (SAS) and economic interest groups (GIE). As presented in the Table below, the Guinean authorities indicate a greater tendency to set up sole proprietorships (+69%), no doubt because of the advantages offered by this option, including rapid and simplified formation, low formation costs, the possibility of setting up without drawing up articles of association, the flexibility of the flat-rate system and less restrictive operation. Businesses in Guinea can be set up through the one-stop shop of the Private Investment Promotion Agency (APIP). It was set up to simplify and facilitate the procedures involved in setting up a business.

Table 1.2 Types of Business Companies that can be Incorporated in Guinea

Legal Form	Types of business companies that can be incorporated in Guinea									Aggregate
	2014	2015	2016	2017	2018	2019	2020	2021	2022	
BL	0	0	0	0	1	1	0	1	1	4
BR	0	0	0	0	1	2	0	0	1	4
GIE	22	63	48	31	54	55	72	60	113	518
IND	2145	3272	6754	6214	5553	7081	7478	9979	10803	59279
SA	49	85	113	128	96	100	74	99	71	815
SARL	792	1427	1852	2346	1515	1717	1704	2188	2248	15789
SARLU	2	28	1	0	1110	1404	1488	2064	2133	8230
SAS	0	0	0	0	33	41	42	80	61	257
SASU	0	0	0	0	1	15	25	30	57	128
SAU	0	0	0	0	46	34	30	30	44	184
SCI	0	0	0	0	8	7	6	13	10	44
SCP	0	0	0	0	1	3	4	1	1	10
SUCC	19	36	46	61	63	68	52	75	74	494
Aggregate	3029	4911	8814	8780	8482	10528	10975	14620	15617	85756

Source- APIP

112. The characteristics of legal persons operating in Guinea are presented in the table below:

Table 1.3 Characteristics of the types of legal persons operating in Guinea

TYPES OF COMPANIES	BENEFITS	DISADVANTAGES
Economic Interest Grouping (GIE)	<ul style="list-style-type: none"> - A GIE can be set up without any initial capital. - The formalities involved in setting up an GIE are fairly flexible - Flexibility in organizational structure and operation. 	<ul style="list-style-type: none"> - The GIE is not set up to make profits - Weak credibility with third parties, especially banks - GIE members are jointly and severally liable for the GIE's debts.
Sole proprietorship (IND)	<ul style="list-style-type: none"> - Quick and simple incorporation formalities - Low formation cost - No need to develop Articles of Association - Incentive and very flexible flat-rate scheme - Less restrictive to operate 	<ul style="list-style-type: none"> - Confusion of assets (personal and professional) in the event of bankruptcy, the entrepreneur may be sued out of his personal assets by the company's creditors;

		<ul style="list-style-type: none"> - Weak credibility with partners (banks, suppliers, customers, etc.) - Difficult access to credit
<u>Public limited company (Société Anonyme) / Private limited company (Société Anonyme Unipersonnelle) (SA/SAU)</u>	<ul style="list-style-type: none"> - Highly credible with third parties thanks to rigorous management - Ability to raise large amounts of capital through public biddings - Limited liability (shareholders are only liable up to the amount of their contributions) - The possibility of paying up only a quarter of the capital for cash contributions at the time of formation - Shareholders may be non-traders and minors may be shareholders - Possibility of issuing securities (shares or bonds) that may be listed on the stock exchange - Shares may be sold freely (unless an approval clause is included in the Articles of Association) 	<ul style="list-style-type: none"> - Obligation to go through a notary to register articles of association drawn up under private signature - Minimum share capital (GNF 140,000,000/\$16,508) is fairly high - Contributions in kind are prohibited - Incorporation and operating costs are high - Administration is very cumbersome (Managing Director or Board of Directors, in some cases, statutory auditors, etc.) - Rigorous accounting system
<u>Limited Liability Company / Single Shareholder Limited Liability Company (SARL/SARLU)</u>	<ul style="list-style-type: none"> - Simplified management - The minimum share capital is freely determined by the partners - Contributions in kind may be made - Liability is limited (partners are only liable up to the amount of their contributions) - The procedure for drawing up the Articles of Association is more flexible - The partners have the possibility of closely controlling access by new partners to the company's capital - The company may continue to exist in the event of the death of one of the partners or the managing partner (unless otherwise stipulated in the articles of association) - Partners may be minors - Conversion to other forms of company possible - Possibility of paying up only half the capital at the time of formation. 	<ul style="list-style-type: none"> - Operating formalities - Formalism of incorporation - Unsuited for certain very important activities (banking and insurance) - Cannot submit public biddings - Cannot issue securities - Shareholders are not free to sell their shares (the sale of shares is subject to strict formalities).
<u>Simplified Joint Stock Company/Single Shareholder Simplified Joint Stock Company (SAS/SASU)</u>	<ul style="list-style-type: none"> - There is no minimum share capital. It can be variable, which makes it easier for new investors to join the company during its lifetime. - Flexible organization (contractual freedom) - The only mandatory body is the chairman - Allocation of preference shares - Non-traders can be partners, as can minors - Flexibility of operation 	<ul style="list-style-type: none"> - Contractual freedom means that the articles of association must be carefully drafted by a notary to comply with public policy rules and limit the risk of conflict between partners. - Public bidding are prohibited.

Source: APIP

113. All these legal persons are required to register with APIP. Basic information on the creation and types of legal persons is available to the public through the legal gazettes, on site or on the APIP website "synergui.apipguinee.com" or in the RCCM kept by the Chief Registrar of the Commercial Court, which only records changes made after the creation of the company.

114. The AML/CFT Law in Guinea provides a legal framework applicable to legal arrangements. However, no measure has been taken to identify legal arrangements, including trusts, operating in Guinea.

Institutional Monitoring and Supervisory Arrangements

115. In terms of monitoring and supervision, the BCRG remains the supervisory authority for financial institutions and Virtual Assets Service Providers (VASPs). Supervision of the banking sector is implemented through a risk rating system introduced in 2013 that includes ten criteria, one of which relates to AML/CFT. A draft implementation matrix specifically for ML/TF risks has been in preparation since 2022 with the support of the IMF. No measure designed to regulate VASPs has been taken.

116. The Central Bank is organized into eight (8) Departments, including the Department for the Supervision of Financial Institutions directly involved in the monitoring and supervision of Financial Institutions, including in the area of AML/CFT. The Department for the Supervision of Financial Institutions includes the Banking Supervision Division, the Insurance Supervision Division and Division for the Supervision of Inclusive Financial Institutions. These various Divisions are in charge of monitoring credit institutions (Banks, specialized financial institutions, leasing companies, etc.), insurance companies

and brokers and inclusive financial institutions (Microfinance, EMIs, MVTS and postal financial services) and money transfer companies. They study the licensing application files and ensure the proper functioning of said institutions through off-site inspection activities and on-site inspection missions. The BCRG has a Department of Credit and Foreign Exchange in charge of regulating the foreign exchange sector, but which is yet to implement a strategy for supervising this sector focused on AML/CFT. No measures have been taken to ensure a better understanding of ML/TF risks linked to foreign exchange.

117. The BCRG has a total staff strength of 28 Inspectors mainly focusing on monitoring the reporting entities under its supervision, and more particularly to the training of inspectors in AML/CFT, the regular organization of thematic inspection missions in relation to money laundering and terrorist financing. Since the VASPs were placed under the aegis of the BCRG, the organization, functioning and resources of the BCRG have not significantly developed to meet the new supervision requirements of this sector.

118. With regard to DNFBPs, Decree D/2022/0587/PRG/CNRD/SGG confers on the FIU the power of regulation and monitoring in AML/CFT. To implement this new mandate, the FIU has established a department in charge of the regulation and supervision of DNFBPs, appointed a Head of Department, organized gradual recruitment of staff in charge of supervision, and establishment a DNFBP database. The supervision mechanism for this sector was in the deployment phase as at the time of the on-site visit.

119. Other relevant supervisory and regulatory authorities include the Gaming and Related Practices Regulatory Authority (ARSJPA), LONAGUI, the National Mining Commission, the National Directorate for the Regulation and Promotion of NGOs and Associative Movements (DNARPROMA), the General Inspectorate of Finance, etc. Apart from the ARSJPA, the other relevant regulatory authorities include the Ministry of the Economy, Finance and Industry. With the exception of the ARSJPA, whose mandate includes powers specifically related to AML/CFT, the other supervisory bodies exercise more prudential supervision or supervision focused on good governance.

120. There are also self-regulatory bodies in Guinea, particularly for the independent legal and accounting professions, including the National Chamber of Notaries, the Council of the Association of Chartered Accountants and the Bar Association, whose powers do not explicitly include AML/CFT aspects either.

121. Table 1.4 below shows the legal texts governing each profession and its supervisory authority for each category of DNFBP.

Table 1.4: Supervisory authorities of DNFBPs and self-regulatory bodies of independent legal and accounting professions

DNFBPs	Supervisory Authorities	Legal Text of its Designation	Self-regulatory bodies for independent legal and accounting professions
Real estate companies, real estate agents and real estate brokers	Ministry of Urban Planning, Housing and Regional Planning (Directorate of	Housing and construction code	N/A
Dealers in precious stones and precious metals	Ministry of Mines and Geology (Directorate of	Mining Code	National Expertise Office
Dealers or organizers of sales of works of art and antiques	Ministry of Culture, Tourism and Crafts (Directorate of	Unknown	N/A
Gambling and gaming service providers	LONAGUI, till March 2023	Unknown	N/A
	ARSJPA since March 2023	Decree regulating the operations of the Authority	Autorité de Régulation du Secteur des Jeux et Pratiques Assimilées
LONAGUI	Ministry of Economy and Finance (Directorate of	Unknown	N/A
Certified Public Accountants	Ministry of Economy and Finance (Directorate of	Law No. 2015/021/AN Modifying the Order creating the Association of Chartered Accountants.	National Association of Chartered and Licensed Accountants

		Order A/2001/001263/MEF/SGS of 30 March	
Lawyers	Ministry of Justice and Human Rights (Directorate of	Law L/2004/014/AN adopting and enacting the law reorganizing the legal profession in the Republic of Guinea	Bar Association
Notaries	Ministry of Justice and Human Rights (Directorate of	Notary Law in Guinea	Association of Notaries
Auctioneers	Ministry of Justice and Human Rights	Order No. 4022 MJ of July 12, 1986 regulating the operations of Auctioneers	Chamber of Auctioneers
Cash couriers	Ministry of Security and Civil Protection	Decree D/2020/216/PRG/SGG regulating the operations of private security companies or companies	N/A
Security companies	Ministry of Security and Civil Protection	Decree D/2020/216/PRG/SGG regulating the operations of private security companies or companies	N/A
Sports agents and promoters of sporting events	Ministry of Youth and Sports (Directorate of	Unknown	N/A
Trust and company service providers	Unknown	Unknown	N/A

Sources: FIU, relevant Ministries and Departments

122. With regard to legal persons, their supervision involves a dual mechanism run by the Registry of the Commercial Court of Conakry and the Private Investment Promotion Agency (APIP). The powers of these two institutions are described in detail in the review of FATF Recommendations 24 and 25.

International cooperation

123. Guinea's legal and operational framework provides a solid basis for international cooperation regarding AML/CFT. Indeed, the country is a party to several cooperation mechanisms in the area of criminal policing between ECOWAS member states, ICPO-Interpol, the West African Central Prosecutors and Authorities Network (WACAP), the West African Inter-Agency Recovery Network (ARIN-WA) and the FIU Forum of GIABA member States. Besides, the FIU has signed cooperation agreements for the exchange of information with the FIUs of certain GIABA Member States, in particular Burkina Faso, Côte d'Ivoire, The Gambia, Sierra Leone, Liberia, Niger, Cape Verde and Togo.

124. However, despite this openness, Guinea does not make sufficient use of the international cooperation channels available for the exchange of information between international financial intelligence units. To mitigate this deficiency, the FIU has initiated the process of joining the Egmont Group in 2021 in order to have access to this institution's intelligence platform.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1 Key Findings and Recommended Actions

Key Findings

- a) Guinea has a poor understanding of the ML/TF risks to which the country is exposed. Although the NRA helped them to know the major ML/TF threats and understand how the latter interact among them, the Assessment Team notes that this understanding is not sensitive to cross-border flows, as well as the methods and techniques used to launder the proceeds derived from the major threats such as corruption and embezzlement of public funds. Furthermore, with regard to the inclusive, comprehensive, relevant and consistent nature of the NRA's findings, there are significant deficiencies that are negatively impacting on detailed understanding of the sectoral threats and vulnerabilities.
- b) The handling of ML/TF risks by domestic policies and activities improved more or less by the end of the NRA but is still fundamentally constrained by a poor understanding of risks. As a prelude to the development of a national AML/CFT/PF strategy, Guinea has embarked on reforms designed to enhance its legal framework, consolidate the powers and responsibilities of certain competent authorities and institute a Court for the Repression of Economic and financial Crimes (CRIEF). However, due to the lack of a risk mitigating action plan and a national AML/CFT/PF strategy, the various actors intervene at operational level without using any ML/TF risk-based approach. Besides, no resource allocation policy has been developed to take the identified risks on board.
- c) The Guinean economy is dominated by the intensive use of cash and informal activities. Under these conditions, the lack of threshold on the cash used in the settlement of purchase/sale transactions in sectors with high levels of ML/TF risks could undermine national efforts in terms of risk mitigation.
- d) The Guinean AML/CFT legal system provides, in the interest of financial inclusion, for the implementation of enhanced due diligence measures in higher risk scenarios and simplified due diligence measures in low-risk scenarios. However, while for certain financial inclusion products and services, the exemptions provided for apply to certain types of customers, the simplified and enhanced due diligence measures provided for by the AML/CFT Law L/2021/024/an are not correlated with the findings of the NRA.
- e) Apart from the FIU and BCRG, the objectives and activities of the competent authorities and the self-regulatory bodies have not been updated following the national risk assessment. However, the Assessment Team notes a fair amount of efforts on both sides since the conduct of the NRA, although the absence of an action plan and national policy makes it difficult to correlate these actions with the risks identified and policy developments. Similarly, several institutions created following the recommendations of the NRA and the FIU roadmap systematically include specific AML/CFT objectives, missions and powers. However, the recent nature of these initiatives means that it is not possible to conclude whether the risk-based approach is effective in the areas covered by these new institutions and agencies.
- f) The CNCA-LBC/FT which is the national coordination and cooperation body in AML/CFT, instituted by the new AML/CFT Law L/2021/024/an, is not yet operational. The Decree specifying its responsibilities, composition and functioning was adopted by the end of the on-site visit. This failure of the CNCA-LBC/FT has a negative impact on coordination and cooperation among all national structures involved in AML/CFT. It should be noted that there are formal or informal cooperation frameworks between the FIU and certain competent authorities, between the FIU and bank compliance officers, among competent authorities operating in intelligence and, finally, among those involved in fight against organized crime. However, all these cooperation frameworks are fragmentary and poorly equipped.

- g) Apart from the national workshop to validate the draft NRA report, which brought together representatives of the public, private and NPO sectors and served as a platform for exchanging and sharing the report's conclusions, the AML/CFT sensitization actions conducted either by the BCRG or FIU have proven insufficient to enable private sector professionals have a good understanding of the ML/TF risks to which the country as a whole, and their activities in particular, are exposed, with a view to mainstreaming the AML/CFT culture. In addition, the understanding of risks by the private sector is affected by the non-dissemination of the NRA's findings, as well as the inadequacies identified in this report.

Recommended Actions

The competent authorities are urged to:

- a) Update the NRA report, taking into account all sectors with all the statistical data, strictly using the World Bank's assessment methodology for all sectors and carrying out in-depth sectoral analyses.
- b) Develop, based on the updated report, an ML/TF risk mitigating action plan, indispensable for the implementation of any risk-based approach.
- c) Map out and implement a mechanism for the dissemination of the updated NRA's findings to all stakeholders.
- d) Map out and implement a resource allocation policy using a risk-based approach. Such an approach should prioritize high-risk sectors and public agencies and structures in charge of combating TF, ML and their predicate offences as identified in the NRA.
- e) Conduct typology studies on major ML offences and high-risk sectors in order to provide competent authorities and the private sector with a detailed understanding of the methods and trends used to launder the proceeds of crime in Guinea.
- f) Take appropriate measures to strengthen systems for producing and maintaining high quality statistics in order to guarantee the availability and accessibility of relevant data for risk assessment, typology studies and other AML/CFT&PF-related research.
- g) Set a threshold of amount(s) to be used in the settlement of all transactions carried out in the real estate, land and mining sectors through the financial sector.
- h) Equip the CNC-LBC/FT&PF with adequate human, financial and material resources to enable it to develop and implement a national AML/CFT&PF strategy within the shortest possible time based on the risks identified. The Committee's membership should also be expanded to include the relevant stakeholders in AML/CFT&PF.
- i) Include modules on AML/CFT in the curricula of professional schools in finance, economics, law and the judiciary, as well as in training schools for the Police, Customs, Gendarmerie, Tax and Treasury, to ensure that future professionals have access to basic knowledge in this area.
- j) Map out and implement, under the leadership of the CNC-LBC/FT&P, a legislative or regulatory mechanism for interagency collaboration and cooperation in the prevention and repression of TF, ML and their predicate offences. Such a mechanism should provide for frequent meetings and real-time exchange platforms.
- k) Strengthen cooperation between AML/CFT authorities and those in charge of financial inclusion, coupled with the implementation of financial inclusion policy and strategy linked to AML/CFT by conducting a comprehensive assessment of the money laundering and terrorist financing risks related to financial inclusion. This strategy should make it easier for informal operators to access financial products and services and limit the systematic recourse to cash transactions.

125. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant to the assessment of effectiveness in this section are Recommendations 1, 2, 33 and 34, and some elements under IO.15.

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

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

126. The Republic of Guinea is one of the smallest economies in the world and the banking sector is underdeveloped²⁵. On the other hand, the contribution of informal activities to GDP is very significant in the country, as is the case in the region. This informality is generally characterized by a lack of registration of companies or a failure to register them for tax purposes, thereby encouraging tax evasion. The mining industry remains the driving force behind the Guinean economy²⁶. Yet it, too, is struggling with illegal and clandestine gold mining in the South-Eastern part of the country. Consequently, the AML/CFT issue is taken very seriously by the Guinean authorities, who have demonstrated this recently by adopting a series of legal and institutional reforms.

127. As a result of this political momentum, Guinea has for the first time identified and assessed the ML/TF risks to which it is exposed. This process was conducted from February 2019 to November 2020 under the auspices of the National Technical Committee for Monitoring GIABA Activities (CTNSAG), a permanent structure created by Decree No. D/2015/048/SGG of 02/04/2015 and established by Order No. A/2015/5900/MEF/SGG of 04/11/2015 and comprising relevant AML/CFT stakeholders. It consisted, upstream, of the establishment of a strong team of seventy (70) members and divided into six (6) thematic groups.

128. On the whole, the NRA process mobilized most of the public and private stakeholders involved in AML/CFT, namely, self-regulatory bodies, law enforcement agencies, supervisors, reporting entities and other relevant stakeholders. However, several sub-categories of DNFBPs were not covered by the analysis, including gaming and gaming service providers, dealers in works of art and antiques, cash couriers as well as sports agents and promoters. Similarly, the exercise did not take into account legal persons and legal arrangements. Furthermore, due to lack of statistics and quantitative data, the working groups used their perception as a basis in the analyses of the threats and vulnerabilities. These deficiencies impact negatively on the Guinean authorities' understanding of risks.

129. Several factors affected the NRA process and the quality of its findings, namely: the COVID-19 pandemic; the lack of financial resources needed to conduct the assessment; and the political context with the legislative, referendum and presidential elections slated for 2020.

Money Laundering

130. The analysis of the national ML threat was based primarily on data from the Law Enforcement Agencies (LEAs) relating to offences and convictions as well as cumulative statistics collected from FIU, highlighting the predicate offences that have generated significant assets in Guinea, although not all cases have resulted in convictions.

131. On this basis, threats relating to corruption and embezzlement of public funds, drug trafficking, tax fraud, forgery, wildlife trafficking, smuggling of migrants and fraudulent smuggling were assessed as high. Threats related to product counterfeiting, cybercrime and the illicit trafficking of small arms were assessed as medium high. Surprisingly, maritime crime was not included anywhere in the NRA, despite

²⁵ Op. cit.

²⁶ Ibid.

the fact that the Gulf of Guinea is reputed to be the epicentre of maritime piracy in the world. Besides, the country is heavily dependent on maritime transport, which accounts for almost 95% of its foreign trade.

132. The level of threat linked to tax fraud has therefore only been assessed based on a mere perception, despite the availability and accessibility of statistical data from the Tax Department (DGI). Given the country's risk profile and the loss of public resources caused by this type of offence, the report would be more relevant if its analyses are based on official statistical data.

133. Furthermore, the analysis of the threat posed by the trade in counterfeit goods, is superficial, as no statistical data have been used to support the analysis before concluding that the level of threat is medium-high. The same for the analysis of threats on cybercrime, illicit trafficking in small arms and light weapons (SALW), customs fraud and smuggling of goods (cigarettes, fuel, used vehicles, expired foodstuffs, pirated products, counterfeit medication and alcohol).

134. With regard to national vulnerability to ML, the vulnerability factors identified are particularly related to the large size of the informal sector, the predominant use of cash in transactions, porous borders, lack of a reliable database on beneficial ownership, lack of reliable statistics in most public entities and inadequate supervision of compliance with foreign exchange regulations. Vulnerability factors also include the low capacity of the Law Enforcement and judicial authorities, in terms of material and financial resources and specialization in AML/CFT issues.

135. The major factors in charge of minimizing national vulnerability to ML are the comprehensive definition of the money laundering crime, the relevance of asset forfeiture laws, the robustness of the customs regime on cash and bearer negotiable instruments, the effectiveness of national cooperation, the level of financial integrity and availability of independent audit. However, the ratings for the effectiveness of national cooperation as well as the level of financial integrity are apparently inconsistent with the country's situation. Indeed, in addition to the arguments presented in support of a "medium-high" rating, the Assessment Team is of the opinion that a significant proportion of the limitations of the NRA conducted, particularly in relation to the failure to use available statistics in the analyses carried out on ML threats relating to tax and customs fraud, smuggling, cybercrime, illicit trafficking in SALW, etc., could be largely attributed to the challenges of inter-agency cooperation and national coordination.

136. With regard to the level of financial integrity, the NRA notes a lack of rigour in the enforcement of the legislation governing public finances, thus encouraging the misappropriation of public funds. Furthermore, the ML threat related to corruption and misappropriation of public funds has been rated as high. From this viewpoint, the ratings on the effectiveness of national cooperation and financial integrity should be downgraded to ensure consistency with the country's real situation.

137. Furthermore, Guinea's conclusions on the levels of national ML threat and vulnerability are not clearly presented in the draft report. The same applies to the national ML risk level. This could hamper the competent authorities' overall understanding of the risks and the development of an appropriate national strategy. However, based on the exchanges that transpired during the on-site visit, the national level of ML risk is reasonably considered as high by national stakeholders and the national level of TF risk unreasonably considered as medium on the grounds that no terrorist acts have so far been perpetrated in Guinea.

138. With regards to sectoral threat analysis, the draft report does mention that environmental crime can include wildlife trafficking, illegal logging, illegal fishing, dumping and trafficking of waste, including hazardous and toxic substances, as well as illegal mining and trafficking of minerals, in particular precious metals and stones. However, the assessment of the related threat level focused solely on the threat posed

by wildlife trafficking. Given the importance of the mining sector in Guinea²⁷, the analysis could have specifically highlighted the level of threat associated with illegal mining, particularly of precious stones and metals. More importantly, the analysis of the threat posed by illegal trafficking in wildlife species should be supplemented by an analysis of the threat posed by illegal trafficking in wild flora species, as Guinea also has enormous natural potential, such as savannahs and open and dense forests, which timber producers or loggers could exploit illegally. The same applies to the analysis of illegal, unreported or unregulated (IUU) fishing, given Guinea's extensive coastline.

139. Still with regard to the sectoral ML threat, the analysis did not cover all the sectors subject to the AML/CFT/P. In fact, microfinance institutions, electronic money issuers, NPOs and a large proportion of designated non-financial businesses and professions (DNFBPs): independent legal professionals (lawyers, notaries, bailiffs and auctioneers), independent accountants (chartered accountants, statutory auditors, etc.), gambling providers (casinos, National Lottery Company (LONAGUI), etc.) and trust and financial company service providers, money carriers, sports agents and events operators were not included in the ML threat analysis. This is despite the fact that these sectors are also important and highly exposed to the ML risk. The threat analysis should be extended to all these sectors to ensure Guinea has a good understanding of the ML risks to which it is exposed.

140. With regard to vulnerabilities, the analysis of the various components of the financial sector (banks, insurance companies, MFIs, money transfer companies and foreign exchange bureaus) was based on assessments of a series of twelve (12) input variables. However, with the exception of the level of vulnerability of MFIs, assessed at 0.4 ("medium-low vulnerability"), the levels of vulnerability of the other components of the financial sector were not assessed on the basis of the ratings assigned to the twelve (12) input variables. In some cases, the ratings assigned to the input variables are not consistent with the arguments developed.

141. Furthermore, the analysis of the vulnerabilities of the DNFBPs lacks rigour. Indeed, without having assessed the vulnerability levels of each profession, the draft report highlighted the ML/TF risk levels of each profession based on a simple perception, unlike the other sectors whose vulnerabilities were analysed based on the input variables. It is therefore established that the World Bank's previously announced methodology was not meticulously followed.

Terrorism Financing

142. The draft NRA report does not reveal any case of terrorist acts or transit of terrorist groups through Guinea. However, the banking and mining sectors have been identified as threatened by the TF. For example, part of the outgoing financial flows through the financial sector could be used to finance terrorist acts, individual terrorists or terrorist organizations, given the predominance of cash. In addition to the financial sector, alluvial gold mining is also becoming a source of concern. The alluvial gold mining area of Mandiana and Siguiri is experiencing an influx of foreign nationals from Mali, Burkina Faso, Ghana, Senegal and elsewhere. Insofar as the proceeds of these operations are transferred to the various countries through informal channels, the possibility of all or part of these proceeds being used for TF purposes cannot be ruled out²⁸. In the light of the above, Guinea concludes that there is a **medium level of threat** from terrorist financing.

143. In addition, not only does the NRA conclude that the level of the external threat of money laundering in Guinea is "high"²⁹, but it also establishes that the country's vulnerabilities with regard to TF

²⁷ The Guinean mining sector is of great importance to the national economy, particularly in terms of income and employment. The country has considerable and diversified mining potential, and the sector contributes in many ways to State and local budgets (pages 19-20 of the Draft NRA Report).

²⁸ Draft ML/TF NRA Report, pages 47 and 49.

²⁹ Draft ML/TF NRA report, page 46.

are based on the same contingencies identified with regard to ML, coupled with certain aggravating factors such as the absence of supervision of NPOs with respect to CFT, the lack of understanding by the supervisory authority (DNARPROMA) of its CFT obligations, the failure to identify the sub-sets of NPOs most exposed to TF, etc. Nor does the legal and institutional framework for this sector meet the effectiveness targets set out in the FATF standards.

144. In the light of the foregoing, the Assessment Team is of the opinion that the TF risk is rather high in Guinea. Furthermore, the Guinean authorities met during the on-site visit based their perceptions of TF risk on sources (legal or illegal) of financing, ignoring other more important risk factors in the country's context such as the volume of cross-border cash and BNI flows, funds delivery channels, facilitation and supply networks as well as techniques in using such funds. Their understanding of the notion of 'financing' does not take into account travels, accommodation, logistics, training, etc.

145. Definitely, the Assessment Team identified significant deficiencies in the NRA, namely: the non-involvement of certain key stakeholders in the process and lack of methodological rigour and depth in certain analyses. These deficiencies undermine the quality, relevance and overall consistency of the NRA's conclusions. However, the report has neither been adopted by the relevant authorities nor widely disseminated, apart from the sharing of the sectoral reports with the members of the thematic groups and the national validation workshop for AML/CFT stakeholders (in January 2023).

146. This notwithstanding, the AML/CFT culture of certain competent authorities such as the FIU and BCRG, as well as their active involvement in the conduct of the national risk assessment, provided them with a uniform understanding of and correct information on the major ML threats, and how they interact with each other. They perceive the real estate, notary, mining, banking and manual foreign exchange licensed sectors as the channels through which funds derived from corruption and misappropriation of public funds are laundered in Guinea. This understanding is compliant and consistent with the NRA's findings. These authorities are fully aware of the factors undermining the fight against economic and financial crime and the key areas of vulnerabilities. However, this understanding does not include external threats of ML, nor the methods and techniques that can be used to take advantage of certain specific deficiencies in the Guinean system. Their assessment of TF threats is primarily based on the sources of financing and ignores some crucial factors such as the channels likely to be used to move or route funds including facilitation and supply networks.

147. On the basis of these weaknesses, the Assessment Team concludes that the understanding of ML/FT risks of Guinean authorities is poor.

2.2.2. National policies and measures to address identified ML/TF risks.

148. The provisional national risk assessment report provides a broad overview of Guinea's ML/TF threats and vulnerabilities. However, the country is yet to develop an action plan designed to mitigate the identified ML/TF risks. There are plans to develop a national AML/CFT strategy. As a prelude to this project, and with a view to commencing the proactive implementation of the recommendations contained in the provisional NRA report, the FIU has established a roadmap for the period spanning 2020-2023. This roadmap, which is in fact a tool for prioritizing the urgent AML/CFT actions to be taken, targets a series of measures designed to strengthen the legal and institutional framework, develop the capacities of the relevant stakeholders, improve the law enforcement system through the application of sanctions, and promote international cooperation. However, this roadmap unilaterally established by the FIU, pending the adoption of the NRA report, proves to be a very embryonic substitute for the action plan to be developed to mitigate all the risks identified, which is essential for implementing the risk-based approach. It should be noted that since the establishment of the FIU in 2015, Guinea has not implemented any national AML/CFT strategy.

149. Notwithstanding the lack of a national AML/CFT policy or strategy, Guinea is firmly committed, through the FIU's initiatives, to the implementation of the national AML/CFT priorities identified in the above-mentioned roadmap.

150. In terms of legal reforms, the results achieved include the adoption of a new AML/CFT Law merging the AML and CFT, as well as the review of the Penal Code and the Code of Criminal Procedures in order to criminalize as many predicate offences as possible, the proceeds of which are likely to be laundered, and to take into account all forms of terrorist financing, such as the financing of a terrorist individual or fighter and the financing of a terrorist group or organization. More importantly, the new Law has designated the FIU as the authority in charge of monitoring and supervising the DNFBPs. The same Law also sets out the requirements of the Ministry of Territorial Administration with regard to the supervision and monitoring of NPOs, in order to prevent their being misused for TF purposes.

151. In the same vein, the Guinean authorities have carried out several reviews of the Tax Code and the Customs Code, with a view to effectively combating tax and customs fraud and improving the collection of tax revenues.

152. Furthermore, given the prevalence of cash in the transaction circuit, Guinea has set a minimum threshold of one hundred and fifty million (150,000,000) Guinean francs (17,374\$) above which reporting entities are required to systematically report cash transactions to FIU. Special measures have also been taken to closely monitor certain transactions with a view to mitigating inherent ML/TF risks. For example, Guinea has also set a minimum threshold of one hundred and fifty million (150,000,000) Guinean francs (17,374\$) above which reporting entities are required to systematically report their wire transfer transactions to the FIU. Similarly, the monetary authorities have set transaction thresholds for transactions carried out on electronic mobile money accounts. However, for the time being, these systematic declarations are not being processed by the FIU. Under these conditions, the lack of a threshold on the cash used for the settlement of purchase/sale transactions in sectors with high levels of ML/TF risks may facilitate the laundering of the proceeds of crime. This is particularly the case in the real estate, land and mining sectors. Purchase/sale transactions of used vehicles are also affected by this same concern, to the extent that the draft NRA report mentioned used vehicles among the products that are being smuggled and which generate huge illicit income, both in Guinea and abroad.

153. In terms of institutional reforms, Ordinance No 2021/0007/PRG/CNRD/SGG of December 2nd, 2021 established the Court for the Repression of Economic and Financial Offences (CRIEF), with a view to streamlining judicial procedures particularly relating to the processing of ML/TF cases. Similarly, a National Agency for the Management and Recovery of Seized and Confiscated Assets has been created, the directors of which have been appointed by Decree.

154. In terms of strengthening the powers and responsibilities of the competent authorities, the FIU's investigative staff have been given the status of Criminal Investigation Officer and Criminal Investigation Agent, which enables them to initiate criminal lawsuits. By Decree No. 0094/PRG/SGG/2021 of 11th November 2021, the Guinean authorities also created the National Gendarmerie Headquarters in charge of Criminal Investigations (Central Criminal Investigations Department), a body with national jurisdiction in charge of ML/TF intelligence and enforcement, illicit drug trafficking and organized crime. In the same vein, by Order A/2022/0058/PRG/MDN/DC, the Government created the Gendarmerie in charge of Mines and Geology, a specialized unit of the Gendarmerie Nationale in charge of verifying the existence of documents authorizing the establishment and operation of mining sites and quarries. The powers of the State Judicial Officer (AJE) have also been extended, with a special mechanism to facilitate appeals and processing of complaints.

155. Although the level of impetus given to the AML/CFT roadmap by the FIU is not relevant enough to form the basis of a national policy, this initiative has nevertheless succeeded in prompting participation and commitment at senior public service and political level. The changes made to the country's AML/CFT

system following validation of the NRA's thematic and sectoral group reports are fully in line with the recommendations made. However, the assessment team notes that the lack of an action plan to mitigate the ML/TF risks identified and the lack of a national AML/CFT strategy are to a very large extent undermining the country's capacity to structure its national response to the ML and TF issue. In other words, the way ML/TF risks are treated by national AML/CFT policies and activities requires significant improvements.

2.2.3. *Exemptions, enhanced and simplified measures*

156. The legal basis for Guinea's AML/CFT provides, in the interest of financial inclusion, for the implementation of enhanced due diligence measures in higher risk scenarios and simplified due diligence measures in lower risk scenarios. In this regard, the country has exempted financial products or services provided to certain types of customers (mobile money, prepaid payment cards, deposit accounts, term deposit accounts, express accounts, microinsurance, etc.) from the obligation to apply normal or constant due diligence measures³⁰. However, while for certain products and services in the financial inclusion package, the exemptions provided for apply to certain types of customers³¹, the enhanced and simplified due diligence measures prescribed in the AML/CFT Law L/2021/024/an establishing the AML/CFT are not correlated to the NRA findings.

2.2.4. *Competent authorities' objectives and activities*

157. In Guinea, the objectives and activities of the competent authorities and the self-regulatory organizations have essentially not been updated following the national risk assessment. However, the assessment team notes a fair amount of effort on both sides since the NRA, although the lack of an action plan and national policy makes it difficult to correlate these actions with the identified risks and policy developments. Similarly, several institutions created following the NRA recommendations and the FIU's roadmap systematically include specific AML/CFT objectives, mandate and powers. However, the recent nature of these initiatives implies that it is not possible to conclude whether the risk-based approach is effective in the areas covered by these new institutions and agencies.

158. **Supervision:** In terms of AML/CFT supervision and monitoring under the RBA, the BCRG is only performing in the area of banks but deficient in the other segments of the financial sector. Specifically, banks are required to complete an annual AML/CFT questionnaire, which enables the BCRG to assess the management of ML/TF risks in the banking sector and to plan its on-site supervision activities accordingly. Furthermore, since 2019, it has been implementing reforms with the assistance of the International Monetary Fund (IMF), to strengthen its bank supervision and control mechanism using the risk-based approach (RBA). This supervision tool will eventually consist of an ML/TF risk matrix and action planning based on this matrix.

159. Due to the recent designation of the supervisory and regulatory authorities for DNFBPs (FIU), the ML/TF risk-based approach is yet to become a reality for the non-financial sector. Besides, the Assessment Team note that the FIU is gradually taking action with a view to setting up, in the short term, a system for supervising DNFBPs based on the ML/TF risks identified. It has conducted activities within this framework, for which it has received technical assistance from the IMF (see analysis of IO3).

160. **Investigations and Prosecutions:** Since the first-round mutual evaluation, Guinea has made tremendous efforts to create several specialized units to combat economic and financial crimes. Thus, in

³⁰Article 31, paragraph 2 of the AML/CFT Law.

³¹ Due to the high level of ML/TF risk of the financial inclusion product called "mobile banking", the exemptions linked to the threshold measures taken by the BCRG in its use only apply to members of the network of distributors of the issuer, legal persons under Guinean private law for which the procedures relating to KYC have been carried out and to legal persons under Guinean public law (page 102-103 of the Draft NRA Report).

addition to the specialized units in charge of combating predicate offences, such as the National Agency for Combating Corruption and Promoting Good Governance (ANLC), the Central Anti-Drug Office (OCAD), all the defence and security forces have specialized departments for combating economic and financial crime (the National Gendarmerie's Central Investigations Department, the Mines and Geology Gendarmerie, the Office for the Repression of Economic and Financial Crime, the Anti-Fraud Brigade). The number of LEA staff strength has been beefed up accordingly since the national risk assessment. These units consolidate the efforts made by the defence and security forces, in particular the territorial research brigades of the National Gendarmerie, the Criminal Investigations Department, the Customs Service, etc. Operationally, they have achieved encouraging results in the fight against the ML predicate offences (see IO.7). However, due to the poor understanding of risks, lack of expertise in financial investigations, the Law Enforcement Authorities have not necessarily prioritised the most threatening ML predicate offences in the country.

161. Similarly, the magistrates of the district courts and the Special Court, which is the CRIEF, barely have a basic understanding of AML/CFT issues. This situation does not facilitate the prioritized processing of AML/CFT cases.

162. Furthermore, in the absence of a national AML/CFT strategy and a risk mitigation action plan with a view to implementing an RBA, the LEAs intervene at the operational level without prioritizing their activities on the basis of ML/TF risks. The same deficiency can be observed in the trial authorities, who do not prioritize the processing of ML/TF cases. Furthermore, although the competent authorities have recently adopted a criminal policy to guide law enforcement efforts, it does not include any specific AML/CFT elements. In the absence of an AML/CFT risk mitigation action plan, the Assessment team also questions the mechanism by which Guinea would prioritise the risk-based approach in its AML/CFT/PF resource allocation policy.

2.2.5. National coordination and cooperation

163. The development of AML/CFT policies is the exclusive responsibility of the AML/CFT/P-CNC established in 2021 and whose powers, composition and functioning were set by Decree (see R.2). Previously, national coordination of AML/CFT policies and activities was the responsibility of the National Technical Committee for Monitoring GIABA Activities. Although this Committee comprised a wide variety of key stakeholders in the national system, it had no formally defined mechanisms for coordinating the implementation of AML/CFT activities. Nor did it have a budget or head office for it to be fully functional. The Assessment Team also noted that most of the members of this Committee had retired, although no instrument had been adopted to replace them. In any case, the cooperation and national coordination system essentially centred around the AML/CFT/PF-CNC is still at its deployment phase.

164. On the operational front, the new law provides for obligations to share information between FIU and the supervisory authorities, professional bodies and national representative bodies. Thus, when in the performance of their duties, the supervisory authorities and professional bodies discover facts likely to be linked to money laundering or terrorist financing or non-compliance with the listed reporting requirements, they must inform the FIU, which, where appropriate, processes the information as if it were a suspicious transaction report. In this regard, the FIU has signed an institutional partnership with the National Anti-Corruption Agency (ANLC) and taken steps to formalize a framework for cooperation with the State Judicial Agency. It has also set up a framework for consultation with the banks' compliance officers, with three (03) meetings a year (January, May and November) to discuss all AML/CFT-related issues. It also has informal discussions with the judicial authorities (prosecutors, investigating judges) in charge of AML/CFT proceedings. The FIU also organizes informal meetings with certain reporting entities (central bank, Guinean bar association, notaries).

165. Similarly, there are operational and more or less dynamic cooperation frameworks between LEAs operating in the same sector. Indeed, the Guinean Intelligence Community, which is a framework for

cooperation between all the country's intelligence services, and the Anti-Crime Brigades Coordination Service, which is a structure for coordinating the units involved in the fight against organized crime, illustrate Guinea's achievements in this area.

166. Notwithstanding these efforts, the Assessment Team noted critical deficiencies in national cooperation. While the legal framework authorizes joint investigations by relevant investigation units involved in the fight against money laundering, no cases of joint investigations could be reported by the Guinean authorities. In addition, the Code of Criminal Procedure allows the Attorney General or the territorially competent investigating Judge to set up temporary units made up of judicial police officers, customs officers and agents when certain categories of offences are being prosecuted, in particular offences against the financial interests of the State, customs offences, tax offences and other related offences. Nor has the country demonstrated the proper implementation of these frameworks.

167. Furthermore, despite the national dimension of the NRA, several self-regulatory bodies consider their level of involvement in this exercise to be limited, due to a lack of communication. The Assessment Team note that national coordination and cooperation among stakeholders involved in Anti-money Laundering and Counter Financing of terrorism in Guinea are still poorly articulated. The evidence is that the FIU unilaterally developed an AML/CFT roadmap for the period spanning 2020-2023 as a prelude to the development of the national AML/CFT strategy. The non-involvement of other AML/CFT stakeholders in the development of this national AML/CFT steering instrument is sufficient proof of the deficiency in national coordination and cooperation.

168. In addition, the assessment team notes that BCRG does not systematically share with FIU the findings of its on-site AML/CFT inspections. Such information could be used to facilitate meetings between FIU and the Compliance Officers of banks and other financial institutions. It also noted the lack of cooperation between the relevant stakeholders on the transparency of the beneficial ownership of legal persons and arrangements, in particular APIP and the Commercial Court of Conakry.

169. Most of the entities involved in AML/CFT do not see the merits of a national cooperation and coordination mechanism in this area, each one taking care to avoid any outside interference or undue interference in its area of competence. This situation, resulting from a poor understanding of AML/CFT issues, also impacted the data collection process during the NRA, particularly information sharing between the DGI and the thematic group in charge of tax fraud threats.

170. On the whole, and in the light of the foregoing, the assessment team concludes that Guinea's mechanism for national cooperation and coordination requires radical improvements, particularly at the policy level.

2.2.6. Private sector's understanding of risks

171. The FIU organized a national workshop to validate the draft NRA report, which brought together representatives of the public, private and NPO sectors. Ninety-seven (97) participants were in attendance. In particular, the private sector representatives came from FIs and DNFBPs. Furthermore, apart from the participation of certain representatives in the NRA exercise, in recent years FIU has organized AML/CFT sensitization and training sessions for reporting entities in the private sector (dealers in precious metals and stones, lawyers, notaries, financial institutions) and NPOs, with a theme focusing on the damaging effects of ML/TF on the national economy. However, these sensitization activities proved inadequate to give private sector professionals a good understanding of the ML/TF risks. Besides, they did not cover all categories of reporting entities in the private sector.

172. In recent years, BCRG has conducted sensitization sessions for certain categories of FIs and has taken measures to compel them to implement their AML/CFT due diligence obligations. For example, manual foreign exchange bureaus that have not identified their customers and the origin of their funds are prohibited from making cash deposits with banks.

173. Furthermore, the Assessment Team notes that the legal requirement that makes it mandatory for managers of private entities to ensure regular sensitization and training of their staff on ML/TF risks and AML/CFT due diligence measures is not sufficiently addressed during sensitization and training sessions with the private sector.

Conclusion on IO.1

174. Guinea has demonstrated a poor understanding of the money laundering and terrorist financing (ML/TF) risks to which it is exposed. Indeed, although the NRA has enabled certain competent authorities to identify the main ML/TF threats, and to understand how they interact with each other, their understanding is not sensitive to external ML threats, or methods and techniques that can be used to launder the proceeds of corruption, misappropriation of public funds and drug trafficking which constitute the main threats. The same is true for TF, the risk of which is only perceived from the viewpoint of financing sources. This poor understanding of ML/TF risks impacts the implementation of the risk-based approach at all levels.

175. Although positive efforts are being deployed in terms of national policies and coordination, such moves are recent and the poor understanding of the risks in Guinea has a negative impact on these measures. These efforts include legal and institutional reforms, strengthening the powers of the FIU and other LEAs as well as capacity development through training of certain actors operating in high ML/TF risk areas such as dealers in gems and precious metals as well as notaries and authorized foreign exchange dealers.

176. However, the Assessment Team is of the opinion that given the significant deficiencies identified in the NRA with regard to its inclusive, comprehensive and consistent nature, and the poor understanding of ML/TF risks as well as the non-implementation of adequate mitigating measures in high-risk areas, the Guinean system requires fundamental improvements.

177. **Guinea is rated as having achieved a Low level of effectiveness on IO.1.**

CHAPTER 3 – LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a. The FIU plays a central role in the production, enhancement and use of financial intelligence. To enrich the initial financial information contained in the STRs with a view to conducting a financial analysis, the FIU draws on several sources of information, including the databases of FIs, DNFBPs, other private and public entities and information held by the competent foreign authorities through their FIUs. However, the customs authorities' failure to communicate information on seizures of cash and BNIs at the country's borders deprives the FIU of a relevant source of information. Besides, the insignificant contribution from the DNFBP sector and the vast majority of non-bank FIs to the reporting activity negatively impacts the production of financial intelligence.
- b. The FIU is the main centre for disseminating financial intelligence and receiving requests for information from the LEAs. Thus, it spontaneously disseminates its financial intelligence to the prosecution authorities, mainly the three courts of first instance of Dixin, Kaloum and Mafanco as well as the CRIEF which make adequate use of it to develop evidence and trace proceeds of crime. On the other hand, the use of the FIU's products by the other competent authorities is very limited. The latter hardly request for such information in their investigations on proceeds of crime linked to ML, relevant predicate offences and TF. Although the CRIEF which is the major beneficiary of reports disseminated by the FIU, appreciates the quality of the reports it receives. However, no case of conviction or confiscation has been recorded based on these reports.
- c. Due to the growing volume of STRs, the STR analytical and processing software no longer meets the expectations of the financial analysts.
- d. Few strategic analyses and typologies linked to the major ML threats have been conducted to allow reporting entities file suspicious transaction reports, and the competent authorities to more easily detect ML or TF cases.
- e. Only banks file almost all the STRs to the FIU, as the other reporting entities fail to do so. Although the number of STRs has revealed an overall upward trend over the period spanning 2018-2023, their cumulative total of two hundred and sixty-three (263) is still very low compared with the dynamics of the operations undertaken by reporting entities and the levels of ML/TF threats in the country. Besides, the relatively high average rate of classified STRs raises the issue of the quality of these STRs. Similarly, no TF-related STR has been filed to the FIU.
- f. Generally, cooperation between the FIU and competent authorities is relatively timid, resulting in a lack of spontaneous exchanges of information on offences between them.

Immediate Outcome 7

- g. Guinea has a criminal law policy with a strategy for preventing economic and financial crime. However, it does not explicitly make AML/CFT a priority.
- h. Most of the ML cases detected are the work of the FIU which has the requisite tools to investigate such cases, when it receives an STR. On the whole, ML cases detected are never subject to

investigation and criminal prosecution.

- i. The investigative and prosecutorial authorities do not systematically use parallel financial investigations. This is largely due to lack of financial investigation tools and inadequate human and financial resources. Most of the ML cases detected are the work of the FIU, which has the necessary tools to investigate such cases once STRs have been filed.
- j. The judicial authorities have not secured any convictions for ML. Numerous ML cases correlated with acts of misappropriation of public funds, illicit enrichment and money laundering are currently pending before the CRIEF, some of which are at the trial stage.
- k. The Guinean legal framework provides an opportunity for the criminal courts to implementing alternative measures to criminal sanctions, by opting for common law criminalization. However, no alternative measures have so far been implemented.

Immediate Outcome 8

- l. Guinea has a sound legal framework that provides for the seizure and confiscation of ML/TF predicate offences. The legal framework also provides for the confiscation of assets of equivalent value, instrumentalities of the offence, as well as the sharing of the proceeds of crime with their foreign counterparts. However, these provisions are yet to be implemented by the stakeholders involved due to their limited understanding of AML/CFT issues.
- m. The criminal policy document encourages those involved to identify criminal assets from the outset of the investigation for the purpose of seizure. However, this practice is not systematic. The lack of expertise of the LEAs in conducting financial investigations prevents the identification and tracking of the proceeds and instrumentalities of crime or assets of equivalent value, with a view to confiscation.
- n. The establishment in 2022 of AGRASC as a central mechanism for the recovery and management of seized and confiscated assets is a major step forward in the AML/CFT system. It is supposed to help instill the culture of seizure and confiscation in the investigative, prosecutorial and judicial authorities and, beyond that, ensure better management of assets of all kinds and their recovery while enhancing their value. However, this new agency is not yet operational. Guinea is not very active in enforcing asset seizure measures. The seizures made very recently in the context of proceedings that are still in progress are small and fragmented in terms of results. They do not cover personal and real estate assets abroad.
- o. The customs authorities do not have a good knowledge of AML/CFT issues. They do not have sufficient resources (technical, human) or adequate skills to carry out their AML/CFT duties.
- p. The seizures made by the customs authorities at borders during their inspection mission systematically end up in plea bargaining, which explains why there are no confiscation orders in customs matters.
- q. The lack of consistent and diversified statistics on confiscations relating to high-risk offences demonstrates the ineffectiveness of the confiscation regime in Guinea and makes it impossible to assess the consistency between the outcomes of confiscations and national AML/CFT policies and priorities.

Recommended Actions

Immediate Outcome 6

- a. The FIU should deepen its STRs analyses and processing, so as to spontaneously disseminate its

financial intelligence to all the competent authorities involved in the detection of TF and major ML threats, namely, the National Anti-Corruption Agency, the Directorate General of Customs, the Directorate General of Taxes, the Central Anti-Drug Office, the Anti-Fraud Brigade and Criminal Investigations Department.

- b. Guinea should organize training and sensitization activities for Law enforcement authorities, including the FIU, as well as judicial authorities on the use of financial intelligence for the purposes of tracking the proceeds of crime and evidence gathering.
- c. Guinea should combine its resource specialization policy with a strategy to develop skills and expertise in AML/CFT, particularly in areas of high ML/TF risk, and equip all specialized units (OCAD, ORDEF, ANLC, CRIEF, etc.) with the requisite modern equipment to conduct parallel financial investigations.
- d. The FIU should raise awareness among all reporting entities with a view to improving the quality of the STRs. This issue could be discussed at meetings of the consultative framework between the FIU and the banks' compliance officers and during training and sensitization workshops for other reporting entities.
- e. On the basis of the STRs processed, the FIU should carry out ML/TF typology analyses on new ML/TF trends and methods and share them with the reporting entities and competent authorities with a view to sustaining suspicious reporting and ML and TF detection.
- f. The FIU should revamp its cooperation with the National Anti-Corruption Agency, the Customs Department, Tax Department Central Anti-Drug Office, Anti-Fraud Brigade and the Criminal Investigations Department to ensure the LEAs level of commitment is commensurate with the country's risk profile.
- g. The financial authorities (Customs and Tax) should ensure that files on customs and tax offences are forwarded to the FIU as predicate offences to ML and should systematically forward information and statistics on border cash seizures to the FIU.
- h. The FIU should continue to provide training for its staff, with a view to strengthening its capacity on a long-term basis, particularly to carry out sophisticated financial analyses and investigations and modernize and strengthen its IT tools.

Immediate Outcome 7

- i. The competent authorities should ensure criminal policy is reviewed to specifically include AML/CFT as a priority and systematize parallel financial investigations to support efforts at detecting, tracing and neutralizing the proceeds and instrumentalities of crime.
- j. Prosecutorial authorities should proactively investigate and prosecute all identified ML cases, consistent with the country's ML threats, so as to obtain effective, proportionate and dissuasive convictions of ML perpetrators.
- k. The competent Guinean authorities should provide initial and ongoing training for all stakeholders in the criminal justice system, in this case police officers and judges, on AML/CFT issues, including AML/CFT standards, ML techniques, the detection of ML cases, financial investigations, and the identification and seizure of the proceeds of crime.
- l. The competent authorities should allocate adequate financial resources to the investigative and prosecutorial authorities and provide them with sufficient qualified staff specialized in financial investigations.
- m. The Guinean judicial authorities should endeavour to implement alternative measures in cases

where it is impossible to obtain a criminal conviction in criminal proceedings for ML. The LEAs could then use common law qualifications (illicit enrichment, receiving stolen goods, etc.) or non-conviction-based confiscation measures.

Immediate Outcome 8

- n. Strengthen the capacities of LEAs through outreach, sensitization and training activities on AML/CFT issues, with particular focus on seizures and confiscations. These training initiatives should therefore focus on asset investigative techniques and the use of international cooperation to identify and trace the proceeds and instrumentalities of crime. Increase awareness among investigative and judicial authorities.
- o. Operationalize the AGRASC by providing it with a headquarters and adequate human, technical and financial resources to enable it to play its central role in the management and recovery of criminal assets and supervision of other stakeholders involved in the confiscation process.
- p. Allocate adequate resources and strengthen the capacity of the customs service and other LEAs to deal with cross-border movements of cash and BNIs, particularly at land border check points.
- q. Promote statistics keeping on seizure and confiscation and establish appropriate infrastructure for this purpose.

178. The relevant Immediate Outcomes assessed in this section are IO.6-8. The relevant Recommendations for the assessment of effectiveness under this section are R.3, R.4 and R.29-32.

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

179. All the analyses contained in this Immediate Outcome must be read in conjunction with the challenges identified in Immediate Outcomes 1 and 3 relating to operational cooperation.

3.2.1. Use of financial intelligence and other information

180. In Guinea, the LEAs, other than the judicial authorities, resort very little to financial intelligence and other information as part of their investigations into the proceeds of crime relating to ML, the predicate offences and TF; not only is this use not systematic and sometimes does not cover a wide range of available sources of information, but it is grappling with limited resources to incorporate the use of financial intelligence in traditional criminal investigations. Financial intelligence and other information enable the judicial authorities, who make full use of it, to gather proof or circumstantial evidence of predicate offences or ML/TF. Indeed, in Guinea, the FIU and LEAs have the legal power to collect financial, administrative, civil and criminal information contained in databases or automated files managed by public and private entities, with a view to establishing evidence and tracing the proceeds of crime linked to ML, related predicate offences and TF. In the same vein, they may also request for information from civil society, such as NPOs and other associatory movements. However, in practice, unless some partnership is concluded between two or more public entities, the FIU and the other LEAs do not have direct access to the databases held by other public and private entities and the civil society. They send information requests to all other public and private entities and civil society structures automatically or as and when necessary.

181. The investigative authorities hardly request for or receive financial information (e.g. reports from STRs, CTRs, declarations of bearer negotiable monetary instrumentalities) as part of their investigations into the proceeds of crime related to the ML, the predicate offences and TF. Few strategic analyses have been carried out to support activities of reporting entities and enable the competent authorities to identify probing ML cases.

FIU

182. The FIU plays a central role in the production, enhancement and use of financial intelligence. In this respect, it uses several sources of information. To enhance the initial financial information contained in the STRs with a view to conducting a financial analysis, FIU's major source of information is the financial sector, which holds financial information on customers. It also requests information from the DNFBBs that manage databases tracking the transactions they carry out as part of their business relations with customers (see Table 3.1). In addition, FIU requests information contained in the databases of other LEAs, such as the CDJP, the Gendarmerie Nationale, the DCPF, and the judicial authorities, in particular the Dixin and Kaloum courts of first instance and the CRIEF, in order to enquire about the criminal record of the person or persons involved. The analysis of account movements and the under-pinning economic transactions requires the FIU, in its efforts to enhance financial intelligence, to request for tax and customs information managed by the two main financial authorities (DGD and DGI) as well as information on financial transactions carried out with the Treasury.

183. It also requests information stored in the BCRG's database, in particular information relating to legal obligations regarding foreign exchange in the context of financial relations with foreign countries and in the Trade and Personal Assets Credit Register (Registre du Commerce et du Crédit Mobilier - RCCM) managed by the Commercial Court, which contains information on legal persons and structures as well as their managers.

184. As part of its investigations, the FIU also uses information held in the databases of other public administrations (APU), such as CPDM, APIP, DNARPROMA and LONAGUI. In the same vein, the FIU requests for information stored in the databases of certain LEAs specialized in the fight against well-targeted predicate offences, in particular ANLC and OCAD. Similarly, it requests information from the databases of companies that provide essential public services, in particular the electricity company and mobile telephone companies (MTN, ORANGE, CELLCOM, etc.).

185. As soon as it receives the STRs, the FIU automatically checks in its own database for possible connections with previous STRs; although it is not sophisticated, it serves as a basis for checking for possible connections between the new STRs received and the previous ones. In addition, the FIU's financial intelligence is enhanced by relevant investigations conducted. In this regard, the FIU has three (3) investigators with the status of criminal investigation officers (OPJ), two (2) of whom are from the Gendarmerie Nationale and one (1) from the Police Nationale.

Table 3.1: FIU Information Requests on Private entities over the Period Spanning 2018-March 2023.

YEARS	STRUCTURES	TYPES OF INTELLIGENCE	NUMBER OF REQUESTS
2018-March 2023	Financial Institutions	Information on transactions, account balances, financial relations, preventive seizures.	1,116
	Notaries	Identity of owners and/or any transfers, transactions or creation of legal persons for the benefit of natural persons under investigation, etc	02
	Law Firms	Identity of owners, any transfers relating to vehicles, recovery of debts or rent for the benefit of individuals under investigation, etc.	00
	Bailiffs	Identities of owners, possible transfers relating to vehicles, recovery of debts or rent for the benefit of individuals involved, etc.	00
	Experts		00
	Real Estate Companies	Identities of owners, assets transactions or rental of buildings to individuals under investigation, etc.	00
	Gambling/Gaming Companies		00
	Electricity supply Company	Connection holder for the purpose of identifying the owner of a building	01

Water Supply Company	Connection holder for the purpose of identifying the owner or occupant of a built-up assets	01
Mobile Phone Operator	Number holders and any communications	
Other Private Entities		02

Table 3.2: FIU's Statistics on Information requests sent to LEAs and other Public Entities 2018-end march 2023.

Entities requested	2018	2019	2020	2021	2022	2023
DCPJ	03	02	08	05	10	01
DCIJ-GN	00	00	00	00	03	
Investigative Unit of the Gendarmerie	00	04	05	01	01	
DCPF	02	03	03	01	05	
ORDEF	04	04	02	02	07	
TPI	03	06	02	01	00	
CRIEF	00	00	00	00	00	
OCAD	02	01	03	01	03	
Intelligence Services	02	04	01	02	01	
ANLC	00	00	00	00	01	
MM Geologie	01	00	00	00	01	
APIP	00	01	01	03	10	03
TCC	00	05	02	07	08	
CAC	00	00	00	00	00	
Transport	02	02	00	03	07	
DGI	05	05	04	04	12	
DGD	01	02	02	01	04	
Lands Department	05	01	00	04	05	
Other	02	02	01	01	04	04
Total	32	42	34	36	82	08

186. To ensure prompt responses to its information requests, legal provisions have been taken to designate correspondents within several public services and competent authorities. Similarly, the relevant provisions of the AML/CFT Act require all reporting entities to respond to FIU's information requests within a maximum of one week³². However, in practice, banking institutions take longer to respond to the FIU's information requests.

LEAs

187. Like the FIU, CRIEF and some courts have access to a variety of sources of financial intelligence and other information. Although there is no mechanism to guarantee them direct access, they use their power to request such information held by national authorities and private sector entities by way of requisition. However, the lack of statistics or practical cases to illustrate the use of such information does not allow the Assessment Team to assess the extent to which such information is used.

188. The other investigative, customs and tax authorities consult and, to a lesser extent, use financial intelligence and other relevant information, with a view to establishing evidence of predicate offences or tracing the proceeds of economic and financial crime, such as corruption, misappropriation of public funds (DDP) and associated offences. These authorities include the Criminal Investigations Department (DCPJ), the Headquarters of the National Gendarmerie Criminal Investigations Department (DCIJGN), the Customs Department (DGD), the Tax Department (DGI), the Kaloum High Court (TPIK) and CAC. The State General Inspectorate (IGE) also reportedly uses financial intelligence to bolster the evidence of its findings during public finance management audits of public and semi-public entities in receipt of state

³² See Article 47 of Ordinary Law L/2021/024/an establishing the AML/CFT

resources. Among the main sources of information used by these authorities are the databases of the FIs, including the BCRG, and those of the major financial authorities, namely the DGTCP, the DGI and the DGD. However, the country provided no evidence for the Assessment Team to evaluate the extent to which such measure was applied. In any cases, the Assessment Team conclude that the use of FIU products is very limited, except in the case of letters rogatory or supplementary investigations. Even in these situations, the country did not provide any evidence of the comprehensive use of all available sources of information and financial intelligence.

189. Due to the low response rate from banks, most of these LEAs go through either the BCRG or FIU channels, or through informal channels, to gather banking information. This cumbersome process could act as a disincentive to the optimal use of financial intelligence. It has been established that FIs do not give priority to requests for financial information from LEAs. However, the latter have a reasonable obligation to diligently conduct all investigations assigned to them. Grappling with this “without delay” constraint, the LEAs could, as a result of such harassment, give priority to other sources of information or use financial information in a piece-meal manner, during their investigations. Such an option would lead to a marginalization of financial information, with a negative impact on the tangibility of the findings of the investigations conducted by these authorities. Under these conditions, it is incumbent on the LEAs to make the FIs aware of their legal right to access all sources of private information during their investigations and the sanctions provided for in the event of non-compliance with this obligation.

190. Most of these competent authorities do not keep statistics on requests for financial intelligence that they issue out to other public and private entities.

3.2.2. Reports received by competent authorities.

191. Over the period spanning 2018-2023, the number of suspicious transaction reports (STRs) increased from thirty-five (35) in 2018 to ninety-five (95) in 2022. At the end of March 2023, the FIU had received 13 STRs, bringing the cumulative total to two hundred and sixty-three (263) STRs over the entire 2018-2023 period. On the whole, there was an upward trend in the number of STRs filed over the period, although there was a decline in 2020 and 2021. The reporting activity of banks is the most dynamic compared with that of other reporting entities in the financial and non-financial sectors. Furthermore, the DNFBPs are failing in this regard. In fact, only one STR from a DNFBPs was recorded in 2019 over the entire period under review. This situation could partly be attributed to the lack of AML/CFT inspections and lack of understanding or even awareness of their reporting obligations.

192. It should also be noted that the number of STRs from the banking sector is still low given the dynamism of their activities and the sector's medium-high level of AML/CFT risk.

Table 3.3: Statistics on Developments on STRs filed to the FIU

Year	2018	2019	2020	2021	2022	January – March 2023
Number of STRs filed to the FIU	35	50	31	42	92	13

Source: FIU

193. During the same period, seventy-two (72) reports resulting from the STRs were spontaneously disseminated to other competent authorities, including the Criminal Investigation Department (Direction Centrale de la Police Judiciaire). The spontaneous dissemination rate of STRs stood at 23.4%.

194. The rate of classified STRs varies from 40% in 2019 to 65.7% in 2018. Over the period 2018-2023, out of a cumulative number of two hundred and sixty-three (263) STRs, one hundred and seventeen (117) STRs were classified, i.e. an average rate of 44.5% of classified STRs. This relatively high rate of classified STRs raises the issue of the quality of the STRs submitted by the banks. When dealing with a doubtful transaction, reporting entities are obliged to seek additional information in order to remove the

doubt. It is only when the doubt persists after the additional information has been obtained, or when the customer is unable to provide it, that the reporting entity must immediately send an STR to the FIU. Generally, banks do not request for additional information.

Box 3.1: Narrative Fact of a Case of a Classified STR

Facts

Mr K, a student in the Republic of Guinea, has been doing business with Bank X since February 2023 where he holds a current account. In May 2023, he paid in GNF 300,000,000 (\$35,374) followed by two consecutive withdrawals of 150,000,000 GNF (\$17,687) each during the same month in 2023. After several unsuccessful attempts to contact the customer, the bank deemed it necessary to file a suspicious transaction report.

Outcomes/Conclusion

After analysing the bank statement and with the exception of the one transaction for which the STR was issued, there was no activity suggesting the commission of a money laundering offence or the financing of terrorism.

The investigations also revealed that the customer was a student who was in the process of putting together a file to obtain a visa to study in a Western country. In the course of completing this formality, he had received this sum from his business parents as proof of his financial capacity. Consequently, this amount of GNF 300,000,000 (\$35,374) was paid in and withdrawn for the sole purpose of securing a Bank Certificate and his bank statement to complete his file. As soon as these documents were obtained, all the funds were withdrawn in two transactions.

The report was filed in the database.

Source : FIU

Table 3.4: Statistics on Dissemination of STRs

Year	STR filed to the FIU	Disseminated Reports	Classified STRs	STRs sent to other Investigating Services	STRs being Processed	Rate of Classified STRs
2018	35	02	23	10	-	65.7%
2019	50	05	20	25	-	40%
2020	31	08	13	10	-	41.9%
2021	42	12	20	10	-	47.6%
2022	92	21	41	17	13	44.6%
2023	13	-	-	-	13	-
Total cumulé	263	48	117	72	26	44.5 %

Source: FIU

195. To ensure that suspicious transaction reports are submitted without delay, the FIU in 2023, established an online suspicious transaction reporting system called "DOSNET". This platform enables reporting entities to report suspicious transactions by directly entering all the information required to identify a suspicious transaction. The FIU has also ensured the protection of the platform with a security system. Encrypted accounts are allocated to each reporting entity, who accesses them using a code that can be changed on a monthly basis. Currently, this project, which is in its trial phase, covers all local banks. The system has boosted the reporting activities of banks, which no longer need to go to the FIU with physical files. Consequently, the system should lead to a mechanical improvement in STR statistics. It is

planned to extend the system to other reporting entities gradually, by the end of 2024. During this transition period, both STR dissemination media (physical medium and DOSNET) will be used.

196. However, the implementation of the obligation to systematically report cash transactions is still weak. This is due to the recent adoption of the relevant implementing legislation³³. Similarly, at the end of the on-site visit, the Ministry in charge of Territorial Administration had not yet issued the Order 34, setting the threshold amount above which NPOs must systematically inform the FIU of any donation they receive in cash, including in foreign currency, under the provisions of paragraph 2 of Article 65 of the new Law. Under the same Paragraph 65 of the new Law, the FIU has not made available to NPOs any indicators that are likely to raise doubts about the origin of the donated funds.

197. The Customs administration receives declarations on cross-border physical transportation of cash and bearer negotiable instrumentalities from travelers. As part of the implementation of its obligations, Customs also seizes cash (see Table 3.17: Foreign a currency seizure IO. 8).

198. To be able to carry out these analyses, processing of STRs and strategic reports, the FIU relies on a staff strength that has increased considerably in 2023, consistent with the significant increase in the volume of its activities. Thus, in relation to the new recruitments made in 2022, the FIU’s staff strength increased from nineteen (19) in 2021 to twenty-nine (29) in 2023. Five (5) multidisciplinary senior managers with professional experience ranging between six (6) and nine (9) years, are in charge of the first hand STRs analysis and processing. Three senior IT managers with professional experience ranging from four (4) to thirteen (13) years, are in charge of the management and security of FIU's IT equipment.

199. As part of their capacity building, FIU staff participate in national and regional AML/CFT training workshops. In total, over the period 2018-2023, the FIU staff participated in thirty (30) training workshops on various themes related to financial analyses, investigative techniques, supervision, etc. The number of beneficiaries per workshop varied from one (1) to eight (8).

3.2.3. Adequacy of FIU’s Analyses with the Operational needs of Competent Authorities

200. The FIU remains the major hub for the dissemination of financial intelligence and the receipt of requests for financial intelligence information from LEAs. Thus, FIU disseminates its financial information spontaneously and in total confidentiality, to the criminal prosecution authorities, including the three courts of first instance of Dixin, Kaloum and Mafanco as well as the CRIEF. Upon receipt of these reports disseminated by the FIU, the aforementioned courts initiate investigations. They are assisted by OPJs from the National Gendarmerie, the National Police, the ORDEF, the DCIJGN and the DCPJ.

201. As indicated in Table 3.5, over the period 2018-2023, at the end of its analyses and treatments of STRs, FIU disseminated forty-eight (48) comprehensive reports to the prosecutors of the three courts of first instance (Kaloum, Dixinn and Mafanco) and the CRIEF. During the first quarter of 2023, FIU did not disseminate any reports to the courts, twenty-six (26) STRs being processed. The table below gives the breakdown of these reports by courts and by year. These forty-eight (48) reports cover forty-eight (48) STRs out of a total of two hundred and sixty-three (263) STRs received over the period 2018-2023.

Table 3.5: Number of Reports disseminated to Courts over the period spanning 2018-2023

Year	Numbrer of Reports disseminated	Courts			
		TPI Kaloum	TPI Dixinn	TPI Mafanco	CRIEF
2018	02	-	02	-	
2019	05	-	05	-	

³³ Directive No. 111/DGSIF/DSB of 11 January 2023 of the Governor of the BCRG sets the threshold for reporting cash transactions at one hundred and fifty (150) million Guinean francs.

³⁴ Ordinary AML/CFT Law L/2021/024/AN

2020	08	05	02	01	
2021	12	07	01	04	
2022	21	12	03	01	05
2023	-	-	-	-	-
Total	48	24	13	06	05

Source: FIU

202. However, with the increasing volume of STRs, it would be good for the FIU to acquire a sophisticated IT system for processing reports, equipped with complex features for optimal use of reports, that would facilitate consultations, cross-checks and data extractions.

203. A review of the reports disseminated to the prosecutors of the three Conakry High Courts reveals that the predicate offences detected during the analysis and processing of STRs are, in terms of frequency; corruption, fraud, misappropriation of public funds and drug trafficking. The Assessment Team also noted the lack of processed TF-related STRs. Even if no cases of terrorist attacks have occurred, given the terrorist tensions that persist in some border countries, it would be beneficial for Guinea to strengthen its TF prevention measures, especially as the commission of this offence does not require the mobilization of large financial resources.

204. The number of detected predicate offences is deemed to be low when compared to the range of predicate offences to ML with threat levels rated as high or medium-high. Furthermore, out of fifteen (15) cases relating to corruption and misappropriation of public funds, the FIU has not disseminated any case file to the National Anti-Corruption Agency to enable it to initiate investigations into corruption and misappropriation of public funds. The same applies to case files on drug trafficking and fraud, some of which should undoubtedly be disseminated to the Central Anti-Drug Office and the Criminal Investigations Department.

205. The forty-eight (48) comprehensive reports forwarded to the prosecutors of the four aforementioned jurisdictions were used to initiate criminal lawsuits. Forty-eight (48) files were examined and investigated for ML, six (6) files tried have resulted in dismissals and forty-two are under investigation.

206. The Assessment Team notes that no ML conviction has yet been secured as a result of the reports disseminated by the FIU.

207. The Law Enforcement Authorities met appreciated the quality of the financial intelligence produced by FIU and stated their adequacy to their operational needs regarding ML investigation and prosecution and predicate offences.

208. Similarly, investigative and prosecutorial authorities send financial and other information requests to the FIU for investigative purposes. These authorities include the Kipe Investigation Unit, the Central Directorate for Judicial Investigations of the National Gendarmerie, the National Anti-Corruption Agency, the Office for the Prevention of Economic and Financial Crime, the Court for the Prevention of Economic and Financial Offences.

209. In addition, the High Courts and CRIEF refer to the FIU, during the investigation phase, in the form of a letter rogatory, for it to carry out additional financial investigations necessary for the processing of its reports it had previously disseminated to them. This approach has the advantage of enabling FIU, which is better equipped for financial investigation, to collect and gather evidences to be made available to these jurisdictions. It can thus contribute to reducing the number of dismissals for lack of tangible evidence.

210. However, the Assessment Team noted that the FIU does not spontaneously disseminate its financial information to the National Anti-Corruption Agency, the Customs Department, the Tax Department and the Central Anti-Drug Office, the Anti-Fraud Brigade. Consequently, most competent

authorities do not make substantial use of the financial intelligence produced by the FIU in their efforts to combat predicate crimes. This non-dissemination limits the possibilities of these competent authorities to investigate such offences. All these deficiencies identified reveal that the financial information produced by the FIU is not sufficiently enriched. As a result, its operational analyzes are still somewhat laconic and need to be deepened.

211. Singularly, the FIU has not disseminated any case file on tax fraud to the Tax Department. This result is inconsistent with the country’s context country where the ML threat related to tax evasion is high. Indeed, the FIU has received at least twenty (20) STRs on legal persons. An in-depth analysis of the tax situation of these legal persons could have facilitated the preparation of reports on indications of tax evasion, given the country’s context.

Table 3.6: Statistics on STRs involving Legal Persons from 2018 to August 2022

Year	Total STRs	Legal Persons	NGOs/Associations
2 018	35	04	
2 019	50	05	
2 020	31	01	
2 021	42	01	01
2 022	92	09	
Total	250	20	1

Source: FIU

Table 3.7: Statistics on Information Requests Disseminated to the RCCM

Year	Requests Disseminated	Request Received
2018	06	05
2019	09	07
2020	03	01
2021	03	02
2022	10	07
2023	05	04
Total	22	16

Source : FIU

212. Furthermore, the Assessment Team discovered that the FIU in its reports disseminated to judicial authorities, does not carry out, any analysis of ML/TF typologies on new ML/TF trends and methods, with a view to sharing them with reporting entities. On the other hand, it does carry out operational analyses, and has indicated that it also carries out strategic analyses whose reports would be transmitted to certain authorities, for decision-making.

Box 3.2: Example of Money Laundering case detected from STRs processed by the FIU.

ML-Linked to Corruption

Facts

WG is a complex arrangement group with branches in other sectors of the Guinean economy and whose general administrator is a PEP, who was a senior executive in the administration, appointed by decree with a monthly salary of seven million Guinean francs (GNF 7,000,000 /\$825).

The WG group has business relations with local bank1, bank2 and bank3. One of the branches A1 of the WG group has two accounts in the bank1 (GNF and USD account). A1 makes a transfer of several billion to another PEP, which arouses suspicions of bank1 which asks to justify the transaction. As he/she unable to justify this transaction, bank1 files an STR to FIU. After processing of the STR by the FIU, it appears that almost all the contracts obtained by the group

and its branches engage in overcharging, the payment of bribes to public officials, the exercise of lucrative private activities by a civil servant, the illegal taking of interest by the PEP as a civil servant, within the framework of his/her remits he/she has actually performed, to ensure the supervision or monitoring of a private company, or to conclude contracts of any kind with a private company or to formulate an opinion on such contracts, or to propose directly to the competent authority decisions relating to transactions carried out by a private company or to form an opinion on such decisions.

Money Laundering Evidences:

Transfer of approximately US\$ 1,000,000 to the account of a PEP.

Conclusion

From the analysis of the transactions carried out on the bank accounts of the various companies, which accounts have recorded credit and debit transactions, it appears that the origin of the amounts that channelled through them was not justified, given the unusual nature of all the transactions that are incompatible with the status of public officer of the founder of WG.

This PEP pays huge sums into the accounts of the State authorities and uses the facilities provided for by his status as a senior executive to obtain contracts for the supply of rolling gears. In practice, he diverts material and equipment intended for public administration services. Worst still, he engages in business activities incompatible with his status as a public officer. In the light of the foregoing, this PEP is obliged to justify the source of the funds that have passed through these various accounts and, above all, to clarify how he has been using them in order to specify their lawfulness.

The FIU concluded that there were serious and consistent presumptions that these sums of money are derived from one or more predicate offences.

Source : FIU

213. Furthermore, the Assessment Team noted that cooperation between the FIU and the National Anti-Corruption Agency, the Directorate General of Customs, the Directorate General of Taxes, the Central Anti-Drug Office, the Anti-Fraud Brigade and the Criminal Investigations Department is relatively timid, resulting in a lack of spontaneous exchanges of information on the underlying offences between them.

3.2.4. Cooperation and exchange of financial information or intelligence; confidentiality

214. FIU and the other competent authorities shall cooperate in the reciprocal exchange of information. To facilitate this cooperation, FIU has correspondents or focal points in several departments of the public administration, however, the exchange of information with these correspondents is not done via dedicated and secure channels.

215. Over the period 2018-2023, FIU sent two hundred and thirty-four (234) information requests to the investigation, prosecution and law enforcement authorities as well as to other bodies of the APU. (See Table 3. 2)

216. Over the same period, the competent authorities and other structures of the public administration transmitted thirty-one (31) requisitions to the FIU.

Table 3.8 Number of information requests from national competent authorities to the FIU for the period spanning 2018-2023

Year	Number of Information Requests	Requesting Department	Reason
2018	02		
2019	02		
2020	06		
2021	08		
2022	08	DCIJ-GN	Bank Account Analysis Request

		DCPJ	Verification of bank accounts
		Ministry of Trade	Inquiry financial information
			Information on a company incorporated under Guinean law
2023		Special Investment Funds.	Verification of the origins of a foundation.
	05	ANLC.	Bank Information Request
		BCRG	Request for Due Diligence on a company governed by German law
		BR Matam	Bank Statement Request
Total	31		

Source : FIU

217. However, the customs administration does not communicate to the FIU statistics on cross-border physical transport reports of cash and bearer negotiable instruments and related incidents (See Table 3.17: Foreign currency seizure RI. 8).

218. The Precious Metals Anti-Fraud Brigade is a support service of the Ministry of Mines and Geology whose role is to research and detect fraud in precious materials in the context of their exploitation, marketing, import and export. Moreover, it seizes these precious metals and stones during its checks at the precious metals and stones buying/selling counters in the event of non-compliance with the legislation in force. However, these statistics also not been communicated to the FIU.

219. The FIU's exchanges with its partners are done with respect for the principle of confidentiality prescribed in the AML/CFT Law. To ensure the protection of its data and guarantee confidentiality, the FIU has a security policy contained in a security policy and procedures manual, adopted by the President and implemented under the supervision of a Chief Security Officer. Unlike the provisions of the AML/CFT Law, only the FIU President was sworn in before the Court of Appeal. However, the other members and staff of the FIU have each signed a Privacy Statement, they are made aware of confidentiality issues and rules and procedures for access to information are applied. Only computer specialists have access to the FIU database. In addition, in the STRNET system, each financial analyst has an STR access code that is only assigned to them. Similarly, in order to guarantee the confidentiality of information, physical STRs are sent to FIU, either by bank compliance officers or by FIU investigators. Their oath of office is administered pursuant to the procedures and operating procedures in force at the FIU, which guarantee confidentiality. In any event, no case of disclosure of confidential information has been identified.

220. For physical protection and access to the premises, the FIU has security officers (national gendarmerie and national police). These officers apply security and control measures inside and outside the FIU office premises, screening and checking people and vehicles and verifying removable devices. The office premises are under video surveillance. These measures contribute to ensuring the physical and data protection of the FIU.

221. Within the framework of international cooperation, the FIU uses information held by the competent authorities of other countries or jurisdictions to enrich financial intelligence. To facilitate the collection of information at international level, the FIU has concluded cooperation agreements with other financial intelligence units (FIUs), pending its membership of the Egmont Group of FIUs worldwide. Currently, the seven (7) bilateral agreements concluded and the application of the principle of reciprocity in the exchange of information among FIUs allow the FIU to collect foreign information to enrich its financial intelligence. Indeed, the FIU is yet to become a member of the Egmont Group of FIUs which is essential for the promotion of its international cooperation in AML/CFT.

222. As indicated in the table below, over the period spanning 2018-2023, the FIU received eighteen (18) international information requests and responded to sixteen (16), representing a response rate of 88.9%.

Tableau 3.9 : Statistics on information requests received from counterpart FIUs from 2018 to end of March 2023

N°	Country	N° of Request received	N° of Resposes sent	Rate
1	France (Tracfin)	01	01	100%
2	Mali	02	02	100%
3	Sénégal	06	04	70%
4	Niger	02	02	100%
5	Burkina-Faso	01	01	100%
6	Guinée- Bissau	01	01	100%
7	Sierra Leone	01	01	100%
8	Ghana	01	01	100%
9	Gabon	01	01	100%
10	Malaisie	01	01	100%
11	Côte d'Ivoire	01	01	100%
Total		18	16	88,88%

Source: FIU

223. Over the same period (see table 3.10 below), the FIU sent one hundred and forty-two (142) requests for information to foreign FIUs and received only two (2) replies, i.e., a response rate of 1.4%. This very low response rate can be explained by the absence of formal cooperation agreements duly signed with these foreign FIUs. Failure to use international information could have a negative impact on the quality of the financial intelligence produced by the FIU.

Table 3.10: Statistics of requests for information to foreign FIUs, 2018-2023.

SN	Country	No. of Request sent	No. of Responses Received	Response Rate
1	France (Tracfin)	36	01	2,77%
2	Mali	36	01	2,77%
3	Sénégal	35	-	-
4	Côte d'Ivoire	35	-	-
Total		142	02	1,38%

Source: FIU

Conclusion on IO.6

224. The FIU plays a central role in the production, enrichment and enhancement of financial intelligence. To enrich the initial financial information contained in the STRs, with a view to carrying out a financial analysis, the FIU uses several sources of information, consisting of databases of public and private entities. However, it does not spontaneously disseminate its financial information to investigative authorities, such as the National Anti-Corruption Agency, Customs Department, Tax Department, Central Anti-Drug office, Anti-Corruption Office, Anti-Fraud Brigade, the Central Criminal Investigations Department.

225. Furthermore, although it is the main source of financial intelligence, the FIU is rarely used by investigative authorities including the ANLC and OCAD, customs and tax authorities, except when they embark on supplementary investigations during the criminal investigation opened by the CRIEF or the General Prosecutor's Office. Only the CRIEF and certain courts exhaustively use all the sources of information available for the purposes of investigations into economic and financial offences, including the FIU's products.

226. Investigative authorities, other than the CRIEF, rarely request for the FIU's products during their investigations into ML, related predicate offences and TF. Besides, a few strategic analyses and typologies have been carried out to support the activities of the reporting entities and allow the competent authorities to identify new ML/TF trends, develop evidence during ML/TF investigations and prosecutions and trace the proceeds of crime.

227. In addition to the cooperation challenges identified under Immediate Outcomes 1 and 3, the Assessment team notes that the lack of exchange of information between the Customs and FIU on the physical cross-border transportation of cash and BNIs in a country with a low rate of banking population, significantly impacts the capacity for timely production of high-quality information.

228. **Guinea is rated as having achieved a Low level of Effectiveness on IO.6.**

3.3. Immediate Outcome 7 (Money Laundering Investigations and Prosecutions)

3.3.1 Identification and Investigation of ML cases

229. ML detection cases are generally the work of the FIU which processes them and prepares reports. However, these reports are not effectively followed by the law enforcement authorities.

230. Guinea has a legal and institutional framework for the identification and investigation of ML cases. On 24th May 2022, it adopted its criminal policy³⁵, devoting the first strategic pillar to the fight against crime, delinquency and impunity. Item 3.1.2 of this pillar on prosecution of crimes against assets, emphasizes on the criminal response to be given by the courts to acts of crime, whether it is delinquency or organized crime or more generally all crimes against assets. This response will take into account the financial and patrimonial dimension of the offending acts. Therefore, it is recommended that the courts develop patrimonial and financial investigations, in order to seize, beyond the original offence, all the profits generated including illicitly constituted assets. In this regard, complex cases will systematically give rise to investigations into the assets and resources of the defendants, in order to carry out, if necessary, seizures and then confiscations. However, the crime strategy does not include ML prosecutions as a priority.

231. In Guinea, there are services in charge of conducting criminal investigations in general. Some of them, in addition to conducting general investigations, specialize in economic and financial investigations. They are:

- The Criminal Investigations Department (DCPJ) which has an Economic and Financial Investigations Division (DEEF)
- The Economic and Financial Crimes Prevention Office (ORDEF) which mainly deals with investigations for alleged misappropriation of public funds, corruption, illicit enrichment.
- The Central Criminal Investigations Department (DCIJ) of the National Gendarmerie, with the Central Agency for the Prevention of Economic and Financial Crime being in charge of criminal cases relating in particular to embezzlement, misappropriation and money laundering.

232. These various investigative agencies work in a relative complementarity in AML; but this inter-agency cooperation is not dynamic. Essentially, ML cases are detected by the FIU through the STRs

³⁵From January 19 to 22, 2022, the Guinean Ministry of Justice and Human Rights organized a national conference on justice, at the end of which a criminal policy document was adopted. This document takes stock of the current state of criminal justice, specifies its foundations and directives, and defines its strategic pillars, as well as its implementation and monitoring-evaluation mechanism.

produced mainly by financial institutions. The 2021 Anti-money laundering law gave the FIU additional powers in financial investigations. Like criminal investigation officers, the FIU has the possibility of conducting investigations into ML cases detected after processing STRs received. But in practice, after processing the STRs, proven ML cases are captured in confidential reports which are filed to the territorially competent State Prosecutors for prosecution. Thus, based on the STR, the FIU conducted several investigations which generated reports filed to the State Prosecutor at the Kaloum High Court and more recently to the special CRIEF prosecutor (See Table 3.5).

233. The Assessment Team noted that over the period spanning 2018 to 2022, the detection of ML cases developed significantly, evolving from very scarcely perceptible during 2018-2020 to moderately perceptible during 2021-2022. This rising trend is certainly the result of the national risk assessment initiated in 2019 and the training of certain magistrates, criminal investigation officers and the FIU staff who have contributed to the sensitization of the main stakeholders involved in AML/CFT.

234. Alongside the processing of the various STRs, the FIU conducts asset investigations on people suspected of perpetrating criminal activities linked to ML. The findings of such investigations are captured in the report sent to the courts.

235. With regard to the detection of ML cases by criminal investigation units, generally, when investigators are informed of serious offences, they conduct investigations in search of the evidence, identification of the alleged perpetrators, co-perpetrators, accomplices and ensure their possible arrest. The parallel financial investigation that may lead to the detection of ML cases does not appear to be a concern. The investigations focus only on the criminal aspect (illicit drug trafficking, migrants’ smuggling, corruption, misappropriation of public funds). Very rarely, criminal investigation units have conducted parallel financial investigations that have resulted in ML cases. Thus, in 2022 for example, out of a range of predicate offences known by the DCPJ services likely to generate revenue (Table 3.11), only one ML case was identified due to lack of parallel financial investigations. In this regard, all the investigators of these investigative units have acknowledged that they are poorly equipped in terms of ML. The momentum of investigative authorities is also hampered by the lack of resources, including financial resources allocated to them. Also, the few trained and skilled OPJs and APJs in financial investigations in general and in ML in particular, are not most often permanently in their positions.

Table N°3.11: Criminal Investigations without ML Identification in 2022

<i>Item No.</i>	<i>Offences</i>	<i>Number</i>	<i>ML Case Identified</i>
1	Breach of trust	18	00
2	Fraud	24	00
3	Theft, aggravated theft	11	00
4	Forgery and use of forged documents	01	00
5	Corruption, money laundering, misappropriation of public funds	09	01
5	Destruction of private assets	06	00
7	Misappropriation of public funds, illicit enrichment	05	00
8	Terminal breakage	03	00
09	Migrants’ smuggling:	08	00
10	Scam	08	00
11	Assault	01	00

Source : DCPJ

236. Like investigators, magistrates as a whole are very poorly equipped to deal with AML/CFT issues. This deficiency makes them very un-proactive in determining directives to be given to CID officers in terms of gearing procedures towards parallel financial investigations that may lead to ML cases. Similarly, the lack of human and financial resources is a hurdle to the implementation of the country's criminal policy, even though it is very recent.

237. Despite the difficulties encountered here and there, the Assessment Team noted that the investigative authorities, even if not for the purpose of detecting the ML offence, have used certain special investigative techniques when they deem it necessary, including tracking and controlled delivery. The latter technique was used in the human trafficking case of a little girl who was to be sent to Morocco by traffickers from Sierra Leone via Guinea.

Box 3.3: Narrative of a tailing and controlled delivery case in human trafficking case.

A Sierra Leonean girl, aged 10, was taken in Sierra Leone under unclear conditions by a gentleman of the same nationality in order to bring her to Morocco. The NCB-Interpol Conakry of Guinea was contacted by its counterpart in Sierra Leone. Thus, all land and air borders were informed, and the identity and photo of the girl made available. It was under these conditions that the suspect was arrested with the girl at the Kouremale border with the Republic of Mali.

The suspect was arrested and handed over to Interpol-Guinea by the Kankan Regional Police Directorate for human trafficking and migrants' smuggling.

When asked about the facts, the suspect stated that this girl should join her mother in Morocco for them to travel together to Europe (France) while all the girl's biological parents were in Sierra Leone. As a matter of fact, he collected this girl from her parents under the pretext of giving her better education in Conakry (Guinea). He eventually admitted that he was transporting the girl to Morocco on behalf of a host family.

Outcomes

Finally, the girl and the suspect were handed over to the Sierra Leonean police to continue with the investigations.

Source: DCPJ

238. Increasingly, therefore, investigation and prosecution authorities are responding proactively in ML-related cases. This is the case, for example, of an investigation conducted by the DCPJ into suspected cases of misappropriation of public funds and related offences, including money laundering. Indeed, at the end of 2022, the State Prosecutor at the Kaloum Court of First Instance referred the matter to the DCPJ for investigation and proceedings relating to misappropriation of public funds, illicit enrichment, corruption involving one hundred and eighty-eight (188) senior officials of the Guinean administration; the investigation is still ongoing. These facts had been reported to the Special CRIEF Prosecutor; the latter, after analysis and having taken into account the disputed interest of the case, considered that it fell within the jurisdiction of the Kaloum High Court. Eventually, the specified facts were referred to this court. Through the investigations conducted, the CID officers sought to understand whether the people involved in these alleged embezzlements of public funds converted or concealed the criminal assets obtained through such embezzlements. This capacity of the CID to act is a very welcome practice in the detection of ML cases.

239. The National Anti-Corruption Agency (ANLC) also participates in investigations into corruption and associated offences and therefore in the detection of ML cases. Its mission is to develop and monitor the implementation of the national policy on good governance and to conduct activities for the prevention, detection and punishment of corruption and related practices. Although this Agency does not have the power to conduct investigations like criminal investigation officers, cases of corruption and misappropriation of public funds are reported to it. It had conducted some relevant investigations, but no ML case was detected.

Box N° 3.4:

a) Case of investigation without ML Detection

In 2020, during an armed robbery in downtown Kaloum (Almamyia) at the home of one of the major forex traders, a Presidential bodyguard was killed. The investigation conducted by the DCPJ led to the arrest of

a dozen bandits with weapons of the PMAK and TT30 types and knives (knives and crowbars). Among these bandits were owners of high-end vehicles, a school and a nightclub. These people were brought before the Kaloum court for aggravated robbery and murder.

b) Case Investigation with ML Detection

In 2022, on the instructions of the CRIEF Special Prosecutor, the Economic and Financial Investigations Division of the DCPJ conducted an investigation into alleged misappropriation of public funds, illicit enrichment, money laundering, corruption and complicity against the Minister of Public Works and his accounting officer. The investigation established that in a public procurement done out over the counter in the rental of a 6-storey building in Kaloum on behalf of the said ministry, an amount of 5,614,000,000 GNF (just over \$700,000) was misappropriated by the Minister and his Accountant. The investigation resulted in the arrest of a total of 7 people who were brought before the CRIEF special prosecutor. This case is still pending before the said Court.

3.3.2. Consistency of types of ML activities investigated and prosecuted with the country's threat and risk profile

ML prosecutions

240. The national risk assessment notes that offences of corruption, fraud and misappropriation of public funds are the most common offences committed in the country. These offences are therefore related to money laundering. The thing is that investigations and prosecutions are conducted without any priority objective in line with the country's threats and risk profile. Guinea reports having conducted investigations mainly for the offences of embezzlement of public funds, fraud, corruption, forgery and use of forgery, cyber fraud and others.

Table 3.12: Predicate Offences Investigated in 2021

N°	Predicate Offences	Total
1	Breach of trust	9
2	Fraud	20
3	Theft, aggravated theft	6
4	Forgery and use of forgery	4
5	Abduction	1
6	Migrants' Smuggling:	11

SOURCE: DCPJ

241. An analysis of the statistics provided (see Table 3.12) by the Guinean competent authorities reveals that, to a large extent, the predicate offences identified as the major threats have been investigated. Unfortunately, very few of these investigations have detected ML cases. Only the processing of the various STRs filed led to the production of reports referred to the various jurisdictions.

242. The few cases of investigations conducted were prosecuted to the barest minimum. Nevertheless, the Assessment Team noted that most of the ML reports disseminated to the various prosecutors' offices were prosecuted, even though they did not result in any conviction. It should be noted that many of these reports have long remained lethargic. Thanks to the creation of the CRIEF, a large portion were referred to it, which actively investigated them. However, the judicial authorities met could not provide any relevant statistical data.

Table 3.13: ML-related Investigations and Prosecutions

Predicate Offences	Number of Reports Disseminated	Percentage
Misappropriation of public funds	21	63.64%
Tax avoidance and tax evasion	05	15.15%
Tax fraud and bribery	04	12.12%
Complicity in misappropriation of public funds	01	3.03%
Forgery	01	3.03%

Forgery, use of forgery and cybercrime	01	3.03%
Total	33	100%

SOURCE: GUINEA-FIU

Table 3.14: Number of criminal investigations for money laundering activities

Year	2018	2019	2020	2021	2022
Number of ML-related criminal investigations	01	01	0	0	0
Number of ML-related prosecutions	01	0	0	0	0

SOURCE: FIU

Consistency with Risks

243. On the whole, the offences investigated and prosecuted are, to some extent, consistent with the country’s risk profile.

- *Money laundering linked to corruption.*

244. The NRA has identified corruption as one of the major ML threats in Guinea. While this offence has been severally investigated and prosecuted in recent years, for a long time it has not received adequate preventive response. Many corruption and ML-related proceedings are currently pending at the CRIEF and other criminal courts.

- *Money laundering through scams including cyber fraud*

245. Scam in all forms is also at the top of the key ML threats in Guinea. This offence has been severally investigated and prosecuted. But no investigation and prosecution of this offence related to money laundering has resulted in convictions.

- *Money laundering through misappropriation of public funds*

246. Misappropriation of public funds, which is the corollary of corruption and one of the major threats to ML in Guinea, has long been fairly punished, but for some time now has been the subject of intense efforts, resulting in numerous investigations and prosecutions. The ordinary courts and the CRIEF have concurrent jurisdiction. Where the interest in dispute exceeds one billion (1,000,000,000) Guinean francs (slightly more than \$125,000), the CRIEF has jurisdiction; the ordinary courts only deal with this offence where the interest in question exceeds this amount. Several convictions have been handed down by the CRIEF for this predicate offence without underpinning the ML offence.

247. Drug trafficking, another big threat in Guinea, has virtually never resulted in any prosecution for ML.

3.3.3. Types of ML cases prosecuted

248. As mentioned above, the investigations conducted by the investigative authorities mainly relate to predicate offences to ML, including embezzlement of public funds, fraud, corruption, forgery and use of forgery and cybercrime. To a lesser extent, investigations focus on ML. Where large sums are involved, parallel investigations should be initiated. Once the investigations have been conducted, the relevant procedures are forwarded to the territorially competent State Prosecutor's offices for further action. The territorially competent prosecutor has the latitude either to open a judicial investigation if he considers that the offence being investigated is a crime, or to opt for an immediate appearance before a trial court if he considers that the facts constitute a blatant offence, or finally dismiss the case if he considers that the facts do not constitute any offence or that they are time-barred. The Assessment Team unfortunately notes that in most complex investigations involving huge sums of money, parallel investigations are not necessarily initiated.

249. The FIU, through these various reports prepared based on the processed STRs, provides information to the criminal legal proceedings. Before the creation of the CRIEF, when the prosecutors of

the basic courts received a report, they were required to open a judicial investigation. And within the framework of this judicial investigation, the investigating judge has the possibility of referring the matter to the criminal investigation department by way of letter rogatory in order to take action in search of the truth or take provisional measures. If the case referred to it has a transnational dimension, he has the possibility of requesting for international criminal assistance; thus, he can contact any foreign counterpart by international letter rogatory in order to carry out some investigations, either in search of the elements of proof, or for the identification of the assets which are proceeds of the crime for purposes of seizure;

250. The Guinean courts have initiated very few prosecutions for ML. Also, the few cases for which they have initiated criminal lawsuits have not resulted in any conviction for ML. This deficiency is partly due to the lack of proactivity on the part of the prosecutors and the fact that they are poorly equipped for AML cases. The judicial authorities of the Conakry Court of Appeal nevertheless indicate that in 2022, the Kaloum Court of First Instance secured a conviction against a person for acts of cyber scam, extortion of funds and money laundering, with no proof provided of the said decision.

Box 3.5 : Money Laundering resulting from Cyber scam.

In 2022, a man called MSD, an apprentice driver, originally from the city of Koundara, in Guinea, returning to his hometown, after a long stay in a country neighboring Guinea, embarked on cybercrime activities for self-sustenance. He therefore created a Facebook account and posed as a woman named A B. For the purposes of this venture, he uploaded several photos of a physically attractive woman from an Instagram account and sent invitations to several mature men, who responded to the said invitations. This ignited intimate conversations between MSD acting under the identity of AB and his victims, during which he proposed to the latter to maintain carnal relations by video mode.

It was with this identity that he managed to film his victims whom he later blackmailed by demanding for a monthly payment ranging from 500 and 1000 US dollars or else he would expose their nudity in broad daylight on social networks. The various amounts collected were used by the cybercriminal to set up several projects: purchase of a minibus for public transport, a car for personal transport and the construction of a video club and a bar. These amounts are estimated at more than 50,000 dollars.

Exposed, the named MSD was summoned, then brought before the court of first instance of Kaloum for the above-mentioned facts. He was sentenced to five (05) years of imprisonment and 500,000,000 GNF fine (\$59,000).

251. For a long time, all Guinean courts were handling all sorts of ML-related offences. There were no courts specialized in these types of offences. To compensate for this lack of specialization, a jurisdiction called "Court for the Repression of Economic and financial Crimes" (CRIEF) was created pursuant to Order No./2021/007/PRG/CNRD/SGG of December 02, 2021. This court is in charge of the fight against financial crime, particularly corruption and embezzlement of public funds. The prosecution function at this court is ensured by the special prosecutor appointed by Decree after consultation with the superior council of the judiciary. Since it became operational in early 2022, this court has been laborious in the repression of economic offences with their corollary, ML. In the space of a little over a year, the special prosecutor at this court has initiated several prosecutions for acts, among others, of embezzlement of public funds, illicit enrichment and money laundering. The said court has already handed down several convictions for predicate offences, but not a single one for ML.

252. Currently other cases of embezzlement of public funds, illicit enrichment and money laundering are being tried before the CRIEF. One of them involves a former Director General of the Guinean road maintenance fund who embezzled public funds, enriched himself illicitly and laundered those funds. This case is still pending before the court.

Table 3.15: Types of offences Prosecuted and Convictions

SN	Jurisdiction	Offence	Sentence	Convict
01	TPI Kaloum	Embezzlement of public funds	05 years imprisonment	PEP
02	TPI Kaloum	Embezzlement of public funds	05 years imprisonment	PEP
03	TPI Kaloum	Embezzlement of public funds	10 years imprisonment	PEP
04	CRIEF	Embezzlement of public funds and illicit enrichment	5 years imprisonment and 12 billion GNF (1,414,942\$ confiscated	National civil servant

Source: GUINEA-FIU

Box 3.6: Case of Conviction for Predicate Offence and Acquittal for ML

On 17th November 2021, the head of the legal and judicial affairs department of the Financial Intelligence Unit (FIU) reported a man named X for acts of money laundering, corruption of public officials, embezzlement of public funds and illicit enrichment before the State Prosecutor at the Kaloum High Court, following a letter of transmission of the dissemination report N 0039/11/CG/021. In support of this report, he stated that with regard to the penultimate paragraph of Article 1 of the AML Law No. L/2006/010/AN in the Republic of Guinea, Mr. X, a Politically Exposed Person, Guinean State official and former Administrative and Financial Director of a Public Institution, took advantage of the advent of the new authorities on 5th September 2021, to carry out transactional movements on five (5) bank accounts (ordinary savings) opened with Bank Y).

He then estimated the total amount of these cumulative deposits at GNF 12,721,368,250 (approximately \$1,500,000) which the authorities noted on the deposit transactions conducted by X and which constituted, according to them, a serious reason for suspicions, as to the legality of the origin of the said funds, considering the person's professional activity.

By introductory indictment No. 266 / PR / TPI / K / 2021 dated 20th November 2021, the State Prosecutor at the Kaloum High Court opened an investigation against the aforementioned.

By means of material incompetence order No. 019/2022 of February 2, 2022, the Senior investigating judge of the said court, although designated for this purpose, had withdrawn in favor of CRIEF.

Following transmission letter N°00076/2022 dated February 3, 2022, from the State Prosecutor at the Kaloum High Court, the Special Prosecutor at the CRIEF, by introductory indictment N°009/PPS/CRIEF/2022 of February 07, 2022, seized the Investigating Division of the said Court for the purpose of informing on the facts of money laundering, corruption of public officials, embezzlement of public funds and illicit enrichment against Mr. X.

The Preparatory Directive resulted in referral to the CRIEF Tribunal. The latter found Mr. X not guilty of the offence of money laundering and thus acquitted him from prosecution for an unconstitutional offence on this count. On the other hand, it found him guilty of the offences of embezzlement of public funds and illicit enrichment and sentenced him to 10 years' imprisonment and a fine of GNF 25,442,737,500 (\$3,000,000). The court also ordered the confiscation of the suspect's assets.

253. Incidentally, it appears no conviction for ML, either third party laundering or self-laundering, has been delivered. This lack of convictions for ML is the sign of an ineffective judicial response to the main threats Guinea is facing.

3.3.4. Effective, proportionate and dissuasive nature of sanctions meted out for ML

254. The statistical data provided by the Guinean authorities do not mention any convictions for ML. Under such conditions, the Assessment Team could not assess the extent to which the sanctions meted out on natural or legal persons convicted of ML are effective, proportionate and dissuasive. On the other hand, the Assessment Team notes that the various courts in the country have secured convictions for some predicate offences to ML, particularly embezzlement of public funds. In the example cited in Box N°3.6, the CRIEF imposed a sentence of 10 years' imprisonment and a fine of GNF 25,442,737,500 (\$25,442,737,500) for acts of embezzlement of public funds and illicit enrichment. The court also ordered the confiscation of the suspect's assets and ordered him to pay the Guinean State the sum of GNF 50,000,000,000 (\$5,895,592) as compensation for the damages incurred.

255. The Kaloum High Court delivered three (03) sentences ranging from 3 to 10 years of imprisonment for predicate offences to money laundering. The verdicts thus delivered are in line with the seriousness of the facts which have been the subject of the proceedings. Most of those convicted are politically exposed persons. In addition to these custodial sentences which seem severe enough because of the seriousness of the acts of which the suspects are accused, heavy fines have been imposed. These fines are intended to tap into the pockets of these criminals who are now deprived of their financial capacity to undertake new criminal activities, even if they were to regain their freedom; these decisions undoubtedly constitute a strong signal for any persons who might be tempted to commit the same offences.

3.3.5. Implementation of alternative measures

256. The 2021 Guinean AML/CFT Law enshrines the principle of non-conviction-based confiscation. Based on this provision, the judicial authorities may resort to alternative measures where, in cases of prosecution for ML, it has not been possible to secure a conviction; this could be so either because it is difficult to administer the evidence, or because the presumed suspect or co-suspect could not be identified. Thus, common law charges could be applied to the facts subject to prosecution. The prosecuting judges or even the trial courts would have the possibility of doing some re-qualifications in concealment or illicit enrichment as provided for by the Guinean Penal Code.

257. In Guinea, situations are meted out where a person who has embezzled public funds or who has acquired property resulting from corruption that cannot be proven, has tried to use nominees or straw men. In such a case, where lawsuits have been instituted against the person and his/her guilt for acts of corruption and money laundering cannot be established, he/she may be charged with the offence of illicit enrichment. Similarly, the persons in whose names the property acquired illegally is prosecuted and sentenced for acts of concealment.

258. However, the Assessment Team noted that none of the two alternatives (illicit enrichment and concealment) has so far been implemented by any of the Guinean courts. Similarly, the Guinean authorities are yet to implement the alternative non-conviction-based confiscation measure, although provided for by law. It would be of interest to the competent Guinean authorities to implement these alternative measures, as it is clear that corruption constitutes one of the main threats of money laundering and that it is difficult to prove this offence which, in reality, is very insidious.

259. Also, Guinean law provides for the possibility of plea-bargain in several areas. This obtains in cases of tax, customs and environmental crime. Indeed, for offences of tax evasion or tax evasion, the general tax code offers the tax administration the possibility of dealing with the reporting entity in question. Thus, once the plea bargain is duly concluded, the criminal lawsuits may be abandoned; the same applies to the customs administration. The same plea-bargain right is granted to the Forestry administration, which can have criminal lawsuits terminated once a financial plea bargain has been concluded between this administration and an offender under the law governing the protection of the environment and forest

resources. Pursuant to this law, several cases of offences that could lead to criminal prosecution for predicate offences and ML, have certainly not been legally prosecuted.

Conclusion on IO.7

260. Guinea has a legal framework that provides for the identification of potential cases of money laundering for investigation purposes. There are specialized units within the criminal investigation department that can carry out investigations in this regard (DCPJ, ORDEF, OCAD, DCIJ). For a long time, these different units limited themselves to carrying out only criminal investigations, taking very little interest in the AML dimension, which does not appear to be a priority in the Guinean law enforcement system. On the whole, the cases known to the investigation services do not sufficiently reflect the main threats to which the country is exposed.

261. The Assessment Team notes that only the FIU had the full capacity to conduct financial investigations which resulted in reports on money laundering cases referred to the criminal courts. In addition to processing financial intelligence, the FIU investigators have been given full powers by the AML/CFT law of 2021 to conduct investigations like criminal investigation officers. This latitude has offered the magistrates of the various criminal jurisdictions in general and of the CRIEF in particular, the possibility of seizing the latter for the purposes of much more extensive investigative cases.

262. The effectiveness of ML investigations and prosecutions is hampered by the LEAs' poor understanding of AML/CFT issues, failure to prioritize parallel financial investigations and inadequate human and financial resources. In this regard, the country's system requires fundamental improvements.

263. **Guinea is rated as having achieved a Low level of effectiveness on IO.7**

3.4. Immediate Outcome 8 (Confiscation)

3.4.1. Priority given to the confiscation of proceeds and instrumentalities of crime and assets of equivalent value

264. Guinea has made the seizure and confiscation of proceeds and instrumentalities of crime and property of equivalent value a global priority since the adoption of the 2021 AML/CFT law, which gives investigative and prosecution authorities a robust and comprehensive legal framework in this area. This legal framework allows for the confiscation of: property belonging to defendants during criminal lawsuits as well as property held by third parties involved in criminal activity, proceeds of ML or predicate offences held by the defendants or by third parties, including income or other benefits derived from such proceeds; as well as instrumentalities used or intended to be used for ML or predicate offences held by the defendants or by third parties. It further provides for the confiscation of assets of equivalent value during criminal lawsuits or assets held by third parties to the criminal activity. The country's legislation also covers precautionary freezing.

265. The competent authorities may also exercise the powers conferred on them for the seizure and confiscation of property constituting the proceeds of crime, or used for terrorism financing, or intended to be used or allocated to the financing of terrorism, terrorist acts or terrorist organizations.

266. In January 2022, Guinea developed a criminal policy document which sets out the general guidelines and priorities for action by the Government (see Para 230). However, the Assessment Team notes that these guidelines have limits as only complex cases will systematically lead to investigations into

the assets and resources of the parties involved, in order to proceed, where necessary and appropriate, to seizures, then to confiscations.

267. Over the 2022-2023 period, out of 414 orders issued by the CRIEF in connection with the 83 cases it received, 36 orders related to precautionary seizures. These seizures related to cases of corruption of public officials and embezzlement of public funds. The Assessment team notes that the assets seized, for the most part, relate to the object or instrumentality of the offence. No data was provided on seizures/confiscations of indirect proceeds and proceeds of crime located abroad. Besides, there were no ML-related confiscations.

268. With the recent nature of the General Directive, Guinea has not been in a position to demonstrate that the thrusts of this criminal policy document have been integrated into the activities of all the prosecutorial authorities. Indeed, the exchanges reveal that the investigative and prosecutorial authorities have demonstrated poor understanding of asset investigations. The principle of identifying and locating proceeds and instrumentalities of crime or assets of equivalent value is yet to be embedded in their operational procedures. This is reflected in the prevailing low statistics on confiscation (see analysis in 3.3.2 and 3.3.3).

269. Structurally, Guinea's recovery system, which was mainly based around the State Judicial Agency, was strengthened in 2022 with the creation of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC). The FIU through administrative freezing and financial investigations contributes to the identification and location of assets. However, although the creation of AGRASC represents real progress in Guinea's freezing, seizure and confiscation system and despite the country's commitment to making offences unprofitable, this structure is yet to be operational. As at the end of the on-site visit, only the members of its Board of Directors had been appointed.

270. In terms of international cooperation, Guinea is very inactive in soliciting its foreign counterparts to identify assets of criminals abroad. The country is a member of the ARINWA Network, an informal cooperation network for the detection, identification and recovery of assets, bringing together the 15 ECOWAS countries, Sao Tome and Principé and the Comoros Islands. However, the country is yet to make use of the opportunities offered by this network to deal with any case related to the predicate or ML offence.

271. During the period under review, Guinea did not demonstrate that it placed particular emphasis on sensitization and training actions, on the importance and relevance of confiscation to dispossess criminals of assets derived from predicate offences to ML/TF, including ML/TF, on the administration and management of seized assets and on international cooperation in asset management. The country has also not provided evidence demonstrating the human or financial resources mobilized for the purposes of confiscation.

272. In a nutshell, the Assessment Team notes that despite the robustness of Guinea's regime, a policy of identification, location, seizure and asset confiscation is yet to be systematized and implemented by all the investigation agencies and courts, for all profit-generating offences and more particularly for those considered to be risky by the country, particularly corruption, embezzlement of public funds, fraud and drug trafficking.

3.4.2. Confiscation of proceeds and instrumentalities of crime, and assets of equivalent value, in connection with predicate offences committed in the country and abroad and proceeds transferred to other countries.

Provisional measures

273. Under provisional measures, Guinea's legal framework allows it to resort to provisional measures of freezing (to prevent the dissipation of assets) and seizure. The data received from the country only

covered the 2022/2023 financial year. The said precautionary measures mainly concerned the freezing of funds of former dignitaries of the regime prosecuted for alleged acts of corruption, embezzlement of public funds or illicit enrichment. This explains why thirty-six (36) precautionary seizure orders were issued by CRIEF in the ongoing proceedings.

274. For the identification of criminal bank assets, the judicial authorities of CRIEF regularly contact the FIU, which the magistrates of the ordinary jurisdictions and other investigative authorities do not too often do. However, the detailed statistics were not made available to the Assessment Team to enable them to get an on the whole idea of the nature of the assets seized, which according to the competent authorities consist mainly of bank accounts.

275. For the financial year 2022, the State Judicial Agency indicates, for the alleged cases of embezzlement of public funds and illicit enrichment, that a total amount of fifty-three billion five hundred million (GNF 53,500,000,000 /\$6,308,284) was seized as a precautionary measure, pending a court verdict.

276. The country indicates that seizures have also been made by the water and forest service in cases for which investigations have focused on illicit timber trafficking, without however providing annual statistics.

277. In terms of prosecuting drug trafficking offences by Customs during the period under review, total seizures stood at 63, including 18 for cocaine and 30 for Indian hemp. However, given the country’s context and the risk profile, these seizures can be considered to be very low. No data has been received from OCAD regarding its national drug seizure efforts.

278. The country could not provide any data or consolidated statistics on seizures by predicate offence. The Assessment Team notes a real problem with the centralization of relevant data/statistics at national level.

279. Guinea’s 2021 AML/CFT Law also provides for the preventive freezing of a transaction by the FIU, even before the opening of a criminal investigation. Through this power and based on the STRs it receives, the FIU can stop the execution of financial transactions for a period of 3 days. The country, as shown in Table 3.16, provided the relevant statistics but their analysis reveals that the volume of administrative freezing made so far by the FIU is still low.

Table 3.16: Funds frozen on the FIU’s Initiative

	2018	2019	2020	2021	2022	2023
Nombre des transactions bloquées	-	01	-	-	07	02
Valeur de transactions en GNF/\$	-	350 000000/ 42 000\$	-	-	125.360000000/ 14 800\$	2.400000000/ 283000\$

Source : FIU

280. Created in 2022, AGRASC is still not operational. Guinea has not provided evidence that could establish a follow-up of the proper management and execution of frozen, seized or confiscated assets. Pending the operationalization of AGRASC, it is the State Judicial Agency (AJE) that ensures the recovery of confiscated assets. However, the current capacities of the AJE do not allow it to carry out the execution of all confiscations and guarantee the preservation and effective management of seized assets nationwide. No data or statistics were provided by the AJE. The operationalization of AGRASC should enable Guinea to fill this gap and have a seizure and confiscation manual intended for magistrates and investigators.

281. Although the proceedings initiated by Guinea also concern people who, for the most part, have made investments abroad and particularly in real estate, the country has not demonstrated that it has resorted to international cooperation for the purposes of identifying and seizing such assets, their confiscation and their repatriation or sharing, where applicable.

Confiscation of proceeds of predicate offences committed in Guinea.

282. In addition to the confiscation of the object or instrumentality of the offence, the Penal Code provides for the confiscation of the proceeds thereof and assets of equivalent value. During the period under review, Guinea issued only two confiscation orders for predicate ML offences (embezzlement of public funds and international drug trafficking):

- In the case State Prosecutor and State Judicial Agent v. the former Administrative and Financial Director of the Constitutional Court, the confiscation was ordered through a validation of the provisional measure on seizures relating to five (5) bank accounts for a total amount of GNF 12,721,368,250 (\$1,500,000) and the sale of all the movable and immovable property of the defendant, including his declared compound (see Box 3.6);
- Following a verdict handed down by the Kaloum TPI in connection with international drug trafficking, a decision to confiscate a ship was issued in 2023.

283. Apart from these verdicts, no information was provided in terms of statistics on the total value of criminal confiscations recorded from 2018 to 2023. The country notes that until 2021, seizures intended to lead to confiscation were not a criminal policy priority. Also, since then, most of the procedures that could lead to confiscations are at the investigation or judgment stage.

284. In addition to criminal convictions, Guinea did not experiment during the period under review with the tax recovery of amounts related to the proceeds and instrumentalities of crime. The country indicates with no additional supporting information that it was only in 2022 that the new Code took this aspect into account.

Confiscation of proceeds of predicate offences committed abroad and proceeds transferred to other countries.

285. The Guinean legal framework provides for the confiscation of proceeds of predicate offences committed abroad as well as proceeds transferred to other countries. Despite the robustness of its legal system, and although it is informed that persons prosecuted for the offences of corruption, embezzlement of public funds and drug trafficking, invest in real estate abroad, Guinea has not resorted to international cooperation (formal and informal) to confiscate proceeds and instrumentalities of crime related to predicate offences committed in the country and transferred to another country. Guinea has not received any request from certain countries to search and freeze the proceeds of crime committed abroad, although there are people prosecuted for the offences of corruption, embezzlement of public funds and drug trafficking, who have investments abroad. On the whole, the Assessment Team observe that the competent authorities in Guinea generally do not have the skills and resources required to conclude such procedures internationally.

286. Due to lack of actual data on confiscations of proceeds of predicate offences committed abroad and proceeds transferred to other countries, the Assessment Team have not been able to assess the repatriation and asset sharing aspects.

3.4.3. Confiscation relating to cross-border movements of cash and bearer negotiable instruments falsely declared/undeclared or misreported.

287. Guinea's legal framework for confiscating cross-border movements of cash and bearer negotiable instruments (BNIs) that are falsely declared/undeclared or misreported is solid. Non-compliance with the declaration obligation is monitored by the Customs services (see R.32). The Assessment team notes that apart from the seizures made at the airport, which definitely end in plea bargains, there has been no evidence of seizures at the other border crossings to illustrate that this declaration system is indeed operational.

Money Declaration Obligation

288. At the Ahmed Sékou Touré International Airport in Conakry, in a bid to remind travelers of the obligation to declare cash and BNIs, the customs authorities very recently (during the on-site visit) initiated a permanent awareness-raising campaign through the installation of billboards in French and English at entry and exit points. However, rather than indicating the amount of one hundred million (100,000,000 GNF)/\$11,579, the Assessment Team notes that on the said bill boards, the amount of one million GNF/\$118 is mentioned, which does not comply with the threshold set out in the relevant provisions of the AML/CFT Law. This material error on the billboard should be rectified to avoid confusion in the minds of travellers. It has not been demonstrated that this new tested mechanism does exist at the other border posts, particularly those on land.

289. A new model cross-border currency declaration form, taken under the AML/CFT Act 2021, has been made available to Customs officers and travelers since 31st March 2023 (i.e. 5 days before the end of the on-site visit), with supporting instructions for use.

Customs Control

290. To ensure compliance with obligations in terms of cross-border transportation of cash or BNIs by travelers, customs officers rely on information received from their sources, which are customs informants or their foreign counterparts. They also use profiling for personal detection and random inspection. The Customs indicate that they lack the staff strength and technological means to accomplish their mandate. However, the country indicates that it is in the process of acquiring border scanners to enable it to better detect secret or undeclared currencies in travellers' luggage.

291. The table below shows the currency seizures made by the Customs office at the airport. Its analysis generally reveals, a clear increase in seizures made between 2018 and 2021, which mainly relate to dollars and euros on the one hand, and zero seizures in 2022, on the other. However, these figures are low given the country's context characterized by a high circulation of cash and its risk profile. The analysis reveals that the control system put in place as well as all the subsequent measures are essentially based on the relevant provisions (Art.132 to 423) of the Customs Code. The AML/CFT component is yet to be incorporated into the performance of Customs functions. Thus, no measure has been adopted by the Customs service to determine the nexus between the cash and BNIs seized and ML/TF or associated predicate offences. This situation is partly due to a lack of training and sensitization on the issue of AML/CFT. The Assessment team notes that Customs carries out more inspections at the Conakry airport than at land borders. This is due to the vast expanse of land borders³⁶ and the lack of manpower.

Table 3.17 : Cash seizures made by Airport Customs office (2018-2022)

	2018		2019		2020		2021		2022		Total Nbre of seizures	Total Value of seizures
	Nbre	Value	Nbre	Value	Nbre	Value	Nbre	Value	Nbre	Value		
Dollars US	5	134 265	5	233 882	2	92 620	6	423 785			18	884 552
Attempted Import	1	49 600	1	42 200			1	22 685			3	114 485
Attempted Export	4	84 665	4	191 682	2	92 620	5	401 100			15	770 067
Euro	2	500 ³⁷	4	354 130			4	992 635			10	1 347 265
Attempted Import			1	327 020			3	825 360			4	1 152 380
Attempted Export	2	500	3	27 110			1	167 275			6	194 885
FCFA					2	13 000 000					2	13 000 000

³⁶ The country has 17 entry/exit points

³⁷ Ce faible montant faisait partie d'une saisie qui comprenait plusieurs devises

Attempted Export				2	13000 000				2	13 000 000
Francs guinéens		4	11 675 000						4	11 675 000
Attempted Export		4	11 675 000						4	11 675 000
Livres						1	49 990		1	49 990
Attempted Export						1	49 990		1	49 990
Grand Total	7	13		4		11			35	

Source- Customs

292. The Assessment Team observed a lack of collaboration between the FIU and customs authorities in terms of information sharing on the cross-border physical transportation of cash and BNIs. Customs has never filed a report to the FIU on the currency seizures it made.

Sanctions

293. In the light of the foregoing analysis on border control, although the legal framework provides for criminal sanctions, including seizures and confiscations, the Assessment Team note that all the 35 cash seizures made by customs systematically ended in plea-bargains and therefore no confiscation was recorded. Indeed, in the event of arrest for failure to declare or incorrect declaration, the customs officers systematically apply penalties to the offenders. After payment of this fine, the suspect recovers the funds in dispute. Because of the country’s risk profile characterized by massive cash circulation and predominant predicate offences such as corruption, embezzlement of public funds, drug trafficking, trafficking in protected species and illicit gold mining, this systematic traditional plea-bargain for cash and BNI declaration defaulters is not dissuasive and does not render the offences unprofitable.

3.4.4. Consistency between confiscation results and national AML/CFT policies and priorities

294. As indicated in IO.1, the main ML/TF high-risk offences in Guinea include illicit enrichment, drug trafficking, corruption and embezzlement of public funds. Guinea has not yet defined national AML/CFT policies and priorities. Also, the guidelines of the criminal policy document have not been incorporated into the activities of all the prosecutorial authorities due to a lack of popularization and training. The rare cases presented by the countries in terms of seizures and confiscation are related to embezzlement of public funds and drug trafficking.

295. However, in the light of the foregoing and lack of statistics, centralized, relevant and detailed data on the seizures and confiscations made in Guinea, the Assessment Team could not assess at least the quality and consistency between the results of the confiscations and the country’s risk profile.

Conclusion on IO.8

296. Guinea has a comprehensive legal framework for seizing and confiscating the proceeds of ML/TF offences, as well as assets of equivalent value. However, the seizures and confiscations are not a priority concern for the LEAs. The deficiencies identified in the authorities' capacity to conduct financial investigations prevent them from making full use of the legislative provisions on to identify and locate the proceeds and instrumentalities of crime. Very few cases of confiscation related to high-risk predicate offences have been recorded by the country. The implementation of measures to detect cross-border movements of cash and bearer negotiable instrumentalities is weak in terms of capacity and coverage. The lack of consistent and diversified statistics on confiscations relating to high-risk offences is a testimony of the ineffectiveness of the confiscation regime in Guinea, which therefore makes it difficult to assess the consistency between the results of confiscations and national AML/CFT policies and priorities.

297. **Guinea is rated as having achieved a Low level of effectiveness on IO. 8**

CHAPTER 4. TERRORIST FINANCING AND PROLIFERATION FINANCING

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

- a. During the period under review, the reporting entities did not file any STRs relating to Terrorism Financing (TF). This lack of STRs weakens the FIU's capacity to detect TF cases without delay. for timely detection of FT cases.
- b. Guinea has a sound legislative arsenal and a specialized legal framework to investigate and prosecute TF cases. However, the competent authorities, particularly the DCPJ, ORDEF, DCIJ, OCAD, the Mines Brigade and Kaloum High Court, generally lack the experience, expertise and adequate resources to identify, investigate and prosecute TF activities, including identifying the specific roles of terrorist financiers. These authorities do not work in synergy and do not exchange sufficient CFT-related information. This notwithstanding, some investigations have been conducted by a very small number of these authorities, based on information obtained from open sources, foreign jurisdictions and investigations.
- c. Guinea has never experienced any case of terrorism. It has no national counter-terrorism financing or counter-terrorism strategy that incorporates the TF component.
- d. Guinea has launched two TF-related prosecutions. These cases were opened one after receiving information from an open source, and the other following an investigation conducted by the investigative authorities and referral from the intelligence agencies, after consolidating the foreign jurisdiction's intelligence. For now, only one case has been tried and no conviction has been secured. This performance is not consistent with the country's high TF risk profile. Besides, this lack of conviction makes it impossible to assess the effective, proportionate and dissuasive nature of the sanctions meted out.
- e. Guinea has not provided any evidence of the implementation of alternative measures to interrupt TF where no conviction has been obtained.

Immediate Outcome 10

- f. Guinea has a legal and institutional framework dedicated to the implementation of targeted financial sanctions related to TF. However, this framework is not implemented. The National Consultative Commission for Administrative Freezing (CCGA), the competent authority in charge of implementing TFS related to TF, is not operational.
- g. The mechanism for communicating the lists of TFS to reporting entities (FIs, DNFBPs) and to any person likely to hold assets and resources subject to the sanction is inoperative. No measures have been taken to ensure that the actors concerned receive the sanctions lists. However, some FIs, including banks, subsidiaries of international or regional groups, have direct access to these lists thanks to screening

software and do implement them.

- h. Guinea has not made any designation proposals under UNSCR 1267/1989 and subsequent resolutions. The country also has no national sanctions list under 1373.
- i. NPOs have a very poor understanding of their CFT obligations. They are not sufficiently trained and sensitized to this effect. The regulatory and supervisory authority for NPOs (DNARPROMA) and the General Secretariat for Religious Affairs have limited human and financial resources to perform their functions effectively.
- j. The License issuing authority for NPOs, DNARPROMA, the regional Governors and District Officers are not coordinating their activities and are not cooperating with each other.
- k. The country has not conducted any assessment of NPOs to detect sub-sectors of NPOs that may be misused for TF purposes and take TF risk mitigating measures.
- l. Guinea has not put in place any mechanism designed to identify the origins of NPOs' external funding.

Immediate Outcome 11

- m. The Guinean legal framework related to PF has moderate gaps (see R.7). Furthermore, its implementation is hampered by the lack of appropriate mechanisms and procedures relating to the immediate notification of freezing orders to FIs and DNFBPs.
- n. FIs and DNFBPs do not receive any guidelines or enforcement texts designed to support them in the implementation of TFS related to proliferation. Generally, reporting entities are unaware of their TFS obligations related to PF. Nevertheless, banks, MFIs and EMIs affiliated with international or regional Groups use screening software which allows them to verify whether the persons and entities who are the subject of TFS linked to PF are not part of their usual or occasional customers in order to take the appropriate measures. The other FIs (Forex Bureaus, Insurance Companies, MVTs, etc.) demonstrated poor understanding and do not implement TFS related to PF. DNFBPs have no understanding of their relevant obligations.
- o. No asset belonging to persons designated by the UNSC under TFS on the Democratic People's Republic of Korea (DPRK) or Iran has been identified in Guinea, and therefore no funds or other assets linked to PF have been frozen in the country.
- p. Banks affiliated with international and regional groups have a more advanced understanding of their TFS obligations related to PF and have taken some steps to comply with them.
- q. The Supervisory authorities of FIs and DNFBPs have a good understanding of their TFS obligations related to PF. However, supervision of these entities on issues relating to compliance with their TFS obligations on proliferation is very limited. Similarly, the supervisory authorities have not provided any information on the sanctions meted out in this regard.

Recommended Actions

The Guinean authorities should:

Immediate Outcome 9

- a. Incorporate TF investigations and prosecutions in the national counterterrorism strategy.
- b. Strengthen the capacities of authorities to investigate and prosecute TF through sensitization and training on the various types of TF activities and special investigative techniques and provide these authorities with adequate financial and material resources to improve on the identification and prosecution of cases consistent with the country's risk profile.
- c. Conduct typology studies on TF in order to strengthen LEAs and other competent authorities' understanding of TF indicators and red flags, with a view to supporting them in the implementation of their obligations to report suspicious transactions linked to TF.
- d. Sensitize reporting entities particularly on their obligations to report suspicious TF transactions in order to facilitate the identification of TF cases by the FIU and other competent authorities.
- e. Establish a formal framework for the exchange of CFT-related information between investigative authorities and intelligence agencies.
- f. Sensitize LEAs on their obligation to implement alternative measures where conviction cannot be obtained.

Immediate Outcome 10

- g. Develop and disseminate guidelines for reporting entities for the efficient implementation of TFS related to TF.
- h. Fully operationalize the CCGA and supervisory authorities of NPOs, namely, the DNARPROMA and General Secretariat for Religious affairs, by providing them with adequate human, material and financial resources;
- i. Establish a mechanism for cooperation and exchange of information among the License issuing authorities for NPOs, including a digital platform to capture applications for and issuance of licenses to NPOs nationwide so that all information on them is made accessible to all authorities.
- j. Develop and adopt a training program on TFS obligations for FIs and DNFBPs.
- k. Identify and assess NPOs that could be misused for TF purposes with a view to implementing targeted and proportionate measures on them, in line with their risk level.
- l. Train and sensitize NPOs, including the most vulnerable on their AML/CFT obligations and popularize AMLCFT to all Supervisory authorities.
- m. Put in place a mechanism for the rapid dissemination of sanction lists to all reporting entities, by promoting their transmission by electronic means, so as to guarantee the immediate implementation of TFS related to TF.

- n. Establish an information gathering procedure on the external funding of NPOs to prevent them from being misused for TF purposes.

Immediate Outcome 11

- o. Establish a mechanism for disseminating the sanctions list and ensure that the list is accessible to all reporting entities.
- p. Develop guidelines for FIs and DNFBPs to help them effectively implement targeted financial sanctions related to PF. However, the National Consultative Commission for Administrative Freezing (CCGA) should first be operational to ensure the regime's enhanced effectiveness.
- q. Organize training sessions for FIs and DNFBPs to strengthen their understanding of PF-related risks as well as their relevant obligations. In this regard, they should (i) give priority to sectors likely to have greater exposure to PF and where understanding of the obligation is less and (ii) draw the attention of reporting entities to the implementation of processes of freezing assets subject to sanctions.
- r. Include the CPF theme and asset freezing during off-site and on-site inspections conducted by the BCRG and FIU (DNFBP Supervisory Authority) and mete out sanctions for non-compliance.

298. The Immediate Outcomes relevant to this chapter are IOs.9-11. The relevant recommendations for the evaluation of effectiveness under this section are Rs.5-8.

4.2. Immediate Outcome 9 (Investigations and Prosecutions in Terrorist Financing)

4.2.1. Types of TF activities prosecuted and convictions; consistency with the country's risk profile

299. The NRA noted that the potential threat of terrorist financing remains high, as the country shares a wide border with countries that have been subject to terrorist attacks. These include Mali and Côte d'Ivoire. In the first country mentioned, terrorist groups are well established and very active. Regarding vulnerability to TF, the financial and mining sectors as a whole, as well as the NPO sector, were cited as the most vulnerable. Guinea has no active terrorist groups on its territory. However, these groups operate in neighboring countries or within the region. The TF activities likely to take place on Guinean territory include the collection and movements of funds and goods. In the light of the foregoing and given the non-supervision of certain sectors at risk and the difficulties in identifying TF cases, the TF risk level in Guinea is considered by the Assessment Team as high. (See IO. 1 Section 2.2.1).

300. Under the Guinean legal framework, it is the Kaloum High Court that has national jurisdiction in terrorism and terrorism financing matters. The law enforcement authorities of this court are empowered to prosecute all types of offences, including those related to TF. The current authorities of this tribunal did not participate in the NRA exercise but have a fairly good understanding of CFT, due to the various training sessions some of them have attended. These authorities do not have a financial investigations manual and have not demonstrated any adequate level of understanding of TF risks. This Court does not have adequate human and financial resources.

301. During the period under review, two (2) terrorist financing cases were brought before the Kaloum High Court. The details of these cases are presented below. These cases emanate from an open source for the first, intelligence from other jurisdictions for the second. The first ended in a dismissal while the

second is still being investigated. The types of TF activities prosecuted in both cases are the collection and circulation of funds for HEZBOLLAH JNIM respectively.

Box 4.1: HEZBOLLAH CASE

On 4th March 2022, the Office of Foreign Assets Control (OFAC), a financial supervisory body attached to the Treasury Department of the United States of America, designated AS and Ib.T. financiers of HEZBOLLAH, living in the Republic of Guinea. OFAC believes that AS had made considerable efforts in 2013 to allow KT to have access to members of the Guinean government to obtain a public contract and to have advised him on how to transfer funds abroad.

Ib.T., together with an associate, was suspected of having collected US dollars from their business facilities at the Ahmed Sékou TOURE International Airport in Conakry and bribed the customs officers to smuggle them into some luggages, using his status as Honorary Consul of Country Z in Côte d'Ivoire.

Following this designation, a judicial investigation was opened for money laundering, terrorist financing and complicity. The defendants' bank accounts were seized as a precautionary measure. The production of bank statements had also been ordered. Subsequently, letters rogatory were issued, as well as an international information request. Several executives of the administration interviewed.

The proceedings ended in a case dismissal order. This acquittal was confirmed in an appeal court.

Sources: TPI of KALOUM

302. The second case, still ongoing, emanates from the investigative authorities, precisely from the Criminal Investigations Department (DCIJ). The types of TF activities prosecuted are the collection and movement of funds for terrorist groups.

Box 4.2: CASE OF HERDSMEN

In November 2022, the Defense Intelligence and Military Security Department (DGRDSM), following the consolidation of information received from its counterparts, identified, searched and arrested in Kankan, Siguiri and Mandiana seven (7) individuals known to have rather suspicious links with Malian terrorist circles.

These 7 individuals were subsequently handed over to the Matam Research Brigade for investigation. In its report on the matter, the DGRDSM maintained that this group of people belonged to the BOURA cell, located on the border between Mali and Burkina-Faso, mainly in charge of expanding KATIBA MACINA towards Burkina Faso, Cote d'Ivoire and Guinea. It also specified that the bases of this cell tended to be closer to northern Guinea.

During their hearing by the Gendarmerie, the suspects arrested explained that their presence in Guinea was because of their professional activity in livestock farming. However, the analysis of the results of the telephone inquiries sent to the Post and Telecommunications Regulatory Authority (ARPT) of Guinea enabled the investigation to highlight rather suspicious links between three of the individuals arrested (named AD, MS, BD) and terrorist groups in northern Mali, particularly the executives and other figures of the Jama'at Nusrat al Islam Wal Mouslimin (JNIM).

The investigation concluded that there were clues that could lead to the prosecution of Messrs. AD, MS and BD for terrorist acts.

All 7 suspects involved were presented to the State Prosecutor at the Kaloum High Court for further investigations. The said Prosecutor re-qualified the facts as TF. The authorities of the Kaloum Court met

during the on-site visit indicated that investigations are underway to determine whether their livestock activities are financing these terrorist groups.

303. On the whole, the analysis revealed that these two cases that the types of TF activities prosecuted in Guinea are the collection and movement of funds by foreign persons for the benefit of terrorist groups established in other countries. However, the low number of TF cases (2 cases) prosecuted is not commensurate with Guinea's high TF risk profile.

4.2.2. Identification of TF cases and Investigations

304. Guinea has a solid legal framework for combating the financing of terrorism (see R.5). Guinean authorities indicate that all investigative authorities are competent to conduct TF investigations. These are mainly the Criminal Investigations Department (DCPJ), the Office for the Repression of Economic Crimes (ORDEF)/police, the Central Directorate of Criminal Investigations (DCIJ)/Gendarmerie and the Department of Internal Intelligence (DGRI)/Office of the President. However, the country did not mention the existence of any mechanism for cooperation and coordination of their respective actions in the fight against terrorism financing.

305. The Assessment Team observed that counter terrorism issues are more the responsibility of Intelligence Agencies than the Defence and Military Security Intelligence Department (DGRDSM) and the Internal Intelligence Department (DGRI). In fact, the case with TF indicators as presented in this Immediate Outcome (4.2) emanates from the DGRDSM, which forwarded the case to the Gendarmerie for further investigations. The DGRI, based on the information received from its foreign counterparts, detects TF cases, though it may not be aware. However, such cases are not charged to court, particularly the Kaloum Court, which is the competent prosecuting authority.

306. Ultimately, the Assessment Team note that the essential source for identifying likely TF cases in Guinea is intelligence, which also emanates from other jurisdictions or open sources. This indicates a lack of proactivity on the part of Guinea's investigative authorities in identifying TF cases.

Box 4.3: GSPC Case: The intelligence received reported the presence on Guinean territory of members of the Salafist Preaching and Combat Group (GSPC). The investigations revealed that these terrorists intended to finance their organization through ransoms they would be demanding from the parents of individuals reporting at their base for recruitment for the GSPC. Indeed, they took as hostages all individuals for recruitment.

Box 4.4: DAECH Case: A member of the Islamic State (DAECH), identified as being a recruiter, was staying in Guinea with one of his compatriots, with whom he would had family ties. The investigation conducted by the intelligence agencies revealed that this individual was recruiting on behalf of DAECH. The investigation also revealed that his compatriot, managing a textile store, regularly and informally transferred money to members of DAECH in his country of origin. Both individuals were handed over to their country of origin. These facts have not been brought to justice in Guinea and no feedback has been received from the requesting country.

Sources: DGRI.

307. The analysis of the cases (4.3 and 4.4) presented by Guinea highlights a lack of understanding of the fight against terrorist financing by the investigative and intelligence authorities. Although these cases reveal clear indications of terrorist financing, they were treated solely from the counter terrorism perspective. In the processing of both cases, the DRGI did not seek cooperation from the investigative authorities or any other intelligence authority. Furthermore, it provides no information on the action taken against these alleged terrorists and any assets potentially seized. This lack of cooperation between these intelligence authorities (the DGRI) and the investigative authorities seriously hampers Guinea's capacity to effectively prosecute TF and terrorism in all its forms.

308. The FIU may identify TF cases from the processing and analysis of STRs transmitted by the reporting entities who are scarcely aware of TF issues and typologies. Over the period under review, the Assessment Team noted that the bulk of the STRs were filed by FIs. This lack of TF-related STRs is due to the lack of understanding of the country's high level of TF risk, ignorance of the TF mechanisms and methods linked to the country's context and the risk factors surrounding the massive use of cash as well as the informal sector (Box 4.4). As indicated in IO.8, no declaration of cross-border physical transportation of cash and BNIs by Customs is being transmitted to the FIU or to any other relevant competent authority, which limits the FIU's capacities to identify TF cases that could be prosecuted.

309. The investigative authorities are very unfamiliar with the theme of terrorist financing and automatically link it to the commission of a terrorist act. Besides, most of them are not aware that the notion of terrorist financing includes facilitation and provision (accommodation, provision of services, movement of foreign terrorist fighters, etc.). The lack of financial investigations in terrorism impedes Guinea from updating the sources and channels of terrorism financing to identify and prosecute TF perpetrators in line with the country's risk profile.

310. Various reasons have been given to justify this low proportion of TF cases identified and investigated. These include the lack of a national TF strategy, the LEA's unfamiliarity with the TF theme and poor understanding of TF risks. Guinea's LEAs report that they are not sufficiently organized, oriented, sensitized, trained, and resourced to conduct TF investigations. A lack of specialization in this area was also noted.

4.2.3. Incorporating TF investigations into national strategies and terrorism investigations

311. The Assessment Team noted that Guinea has no counter terrorism strategy. However, the intelligence authorities, in executing their counter terrorism mandate, do develop internal action plans. These plans were not accessible to the Assessment Team, to know whether they have a CFT component. Besides, the Assessment Team note that Guinea has no National AML/CFT Strategy (see para 148).

312. The investigative authorities have conducted an investigation into facts qualified as terrorist acts, following the handing over of the seven (7) individuals by the Defence and Military Security Intelligence Department (DGRDSM). However, the prosecutorial authorities to who took over the proceedings reclassified them as TF acts because they had to do with the collection and transportation of funds for a group of terrorists (BOX 4.2). These authorities have not demonstrated that during this investigation conducted for acts of terrorism, they used relevant TF investigative tools and that they obtained convincing results. This is clear evidence of the lack of training and expertise in TF investigations.

313. The intelligence services have identified the presence of individuals of Guinean nationality within terrorist groups active in neighboring countries, particularly the Islamic State in West Africa, Katiba Macina and JNIM. They are foreign terrorist fighters. They also located a circulation corridor for terrorist fighters in southern Mali, about thirty kilometers from the Guinean border. This relevant information constitutes a serious threat of terrorism in Guinea. The mitigating measures deployed by the competent authorities are essentially information exchange and strengthening of national and regional cooperation in counterterrorism.

4.2.4. Effective, proportionate and dissuasive nature of sanctions meted out for TF.

314. Out of the two lawsuits initiated for TF cases, one ended in a dismissal at the High Court, confirmed at the Court of Appeal. The second was still in progress at the time of the end of the on-site visit. Guinea is yet to mete out any sanction for TF. It is therefore not possible to assess the effective, proportionate and dissuasive nature of such sanctions.

4.2.5. Implementation of alternative measures to interrupt the financing of terrorism where a conviction cannot be obtained.

315. Guinea has a legal and regulatory framework that provides for the implementation of alternative measures to disrupt terrorism financing where it is not possible to obtain a conviction for TF. These measures consist in resorting to prosecution for predicate offences where possible (fraud, breach of trust, smuggling, illicit trafficking in stolen goods, illicit trafficking in arms). They also consist in resorting to non-criminal measures such as asset freezing and dissolution of NPOs. However, Guinea is yet to implement any alternative measures. Thus, for instance in the HEZBOLLAH case, (Box 4) which was dismissed and confirmed at the Court of Appeal, the country made no reference to the use of alternative measures.

Conclusion on IO.9

316. The level of TF risk in Guinea is considered high, while very few investigations prosecutions are conducted in a proactive manner for TF. Furthermore, no strategy has been put in place to prioritize the detection and disruption of funds flow from or to terrorist organizations, terrorist groups and individual terrorists.

317. The STRs filed to the FIU do not come from a variety of sources (only banks) and do not include TF-related elements either. This situation does not facilitate the analysis and identification of TF cases by the FIU. The few TF cases handled by the law enforcement authorities are based on information resulting from investigations initiated for acts of terrorism and TF. These facts are obtained from open sources and foreign intelligence jurisdictions. The TF cases handled by the intelligence agencies are not taken to court.

318. The effective, proportionate and dissuasive nature of the sanctions applied for TF could not be assessed. Indeed, no TF case has ever led to conviction and alternative measures to interrupt TF are yet to be taken.

319. **Guinea is rated as having achieved a Low level of effectiveness on IO. 9**

4.3. Immediate Outcome 10 (TF-related Preventive measures and Financial Sanctions)

4.3.1. Implementation of relevant targeted financial sanctions without delay

320. In the Republic of Guinea, The Minister of Finance is the authority in charge of managing the mechanisms and procedures for implementing the administrative freezing of funds and other financial resources of designated persons and entities under Security council Resolutions (UNSCRs) 1267 and 1373.

321. The CCGA, in charge of assisting the competent authority in the implementation of administrative freezing decisions in terms of designation, exemption, unfreezing was not yet operational at the time of the on-site visit. The Decree establishing the CCGA provides that the members shall be appointed by Order of the Minister of Finance. This Decree is yet to be issued.

322. As indicated in the analysis of Recommendation 6, the legal framework in Guinea provides for the implementation without delay of targeted financial sanctions within the framework of the relevant United Nations Resolutions, namely 1267, following a designation by the UNSC. They are immediately being enforced.

323. With regard to the communication of the sanctions lists to the technical bodies (Ministries of Defence, Security and Finance as well as the intelligence agencies and reporting entities), the country could not prove the existence of any formal mechanism designed for this purpose. Besides, it was observed that neither the FIs nor DNFBPs receive these sanction lists through any channel whatsoever.

324. However, the Assessment team notes that a limited number of FIs, including large-scale banks, EMIs and DFIs have automated screening software that takes on board the updated list of United Nations Security Council Resolutions in real time. This enables them to implement such TFS without delay. This is not the case for other reporting entities, particularly those most at risk (See IO.4). The FIs have a good understanding of TFS. TFS.

325. The vast majority of non-bank FIs and all DNFBPs are not really aware of the existence of TFS regimes, and therefore do not implement them without delay. This situation is attributable to the fact that the BCRG and FIU, which are the supervisory authorities of FIs and DNFBPs respectively, are yet to develop directives, guidance on TFS and guidelines for reporting entities, to help them understand their relevant obligations and implement them effectively. No specific TFS-related training, exchange and awareness-raising activity has been organized for those reporting entities to discuss their relevant obligations. Guinea has not proposed any designation to the United Nations Security Council 1267 Committee in application of UNSCR 1267, despite its terrorist financing risk context. The Consultative Commission on Administrative Freezing (CCGA), the central body in the implementation of TFS, is not yet operational.

326. For now, the country has no national list under UNSCR 1373, notwithstanding its high TF risk profile. Guinea has also not received any request from third countries for the listing of a terrorist person or entity or terrorism financier pursuant to the United Nations Security Council Resolution 1373.

4.3.2. Targeted approach, sensitization actions and surveillance vis-à-vis NPOs presenting a risk of being used by terrorists.

327. The legal framework for NPOs is clearly defined. They are governed by Law L/2005/013/AN of 4th July 2005, establishing the associations' regime. The sector essentially comprises associations, non-financial mutuals, NGOs and foundations. The NPOs met during the on-site visit are mainly civil society organizations and organizations supporting Islam. On the whole, these NPOs have a very limited understanding of the TF risks inherent in their operational sector. This situation is due to the non-assessment of TF risks in the sector and ignorance of CFT. Some NPOs participated in the NRA activities. However, this participation did not increase their level of understanding of TF risks. Their supervisory authority is the Minister of territorial administration and by delegation, the regional Governors and District Officers.

328. Thus, in application of this legal framework, the National Directorate for the Regulation and Promotion of Non-Governmental Organizations and Association Movements (DNAPROMA) is in charge of issuing licenses to NPOs, concurrently with the regional Governors and District officers, who in turn intervene at regional and district levels respectively. It should be noted that the license application procedure requires the following documents: the Statutes and Bye-laws, minutes of the constitutive general meeting, nominative list of the Management team with indication of the full addresses and signatures as well as the action plan. This procedure does not provide for the implementation of preventive TF activities. The issuance of license is subject, among other things, to a fit-and-proper test of the managers, limited to a documentary review and production of documents relating to the sources of funding. This documentary review focuses on the documents provided by the managers relating to the formalities required by law to obtain a license. It does not include any administrative investigation to ascertain the moral reputation of the managers.

329. More specifically, faith-based NPOs are governed by the General Secretariat for Religious Affairs (SGAR). The SGAR has the rank of a ministerial department, and its main function is to implement faith-based State policy. It is responsible for managing faith-based activities, places of worship and inter-religious conflicts. Thus, all faith-based NPOs approved by the Ministry of territorial administration, the competent authority, are required to register with this Secretariat. This registration empowers them to operate and benefit from funding, which comes mainly from abroad. However, the said secretariat has no knowledge of the exact number of licensed faith-based NPOs. Its staff members have not received any AML/CFT training from the FIU or any other institution and organization.

330. Statistics on license applications received and processed are presented below.

Table 4.1: Statistics on License Applications received at the Ministry of Territorial Administration and Decentralization

Year	APPLICATIONS	APPLICATIONS APPROVED	APPLICATIONS REJECTED	UNPROCESSED REQUESTS
2019	1491	503	26	962
2020	1042	378	59	605
2021	968	83	210	675
2022	1076	270	12	794
TOTAL	4 577	1 234	307	3036

Source: Department for Regulation and Promotion of Non-governmental Organizations and Associations (DNAPROMA).

331. The analysis of the above table reveals that from 2019 to 2022, DNAPROMA received 4,577 applications for licenses. Out of this total, 1,234 NGOs and associations were approved over the past four years, representing 80% of the applications processed. No information has been provided on the reasons for the rejection of applications processed during this period, which are estimated at 307. Also, we note certain limitations of the DNARPROMA in the processing of applications for approval; on average 66 % (3036) of requests received have not been processed or are being processed. One of the explanatory factors for this situation is the lack of human resources in this department. The Assessment team is of the opinion that this situation may lead to the proliferation of NPOs operating without license and thus increase the vulnerability of the sector to abuses in the terrorism financing. Indeed, the authorities have indicated that they are aware that a large number of NPOs operating in Guinea are not listed because they are not licensed or continue to operate although the renewal of their license has been rejected, without however indicating the remedial measures taken. In the absence of data from regional and district authorities as well as the General Secretariat for Religious Affairs, the statistics presented above alone cannot provide a real estimate of the landscape of NPOs operating in Guinea.

Identification of risks

332. The Ministry of Territorial Administration, which is the CFT supervisory authority for NPOs, has not yet identified types of NPOs which, due to their activities, are likely present a risk of misuse for terrorist financing purposes. It has not yet integrated the provisions of the AML/CFT Law into its licensing, monitoring-evaluation, surveillance and sensitization activities. This implies that the accomplishment of its missions is not based on a risk-based approach.

333. The competent authorities met indicated that they pay more attention to faith-based Non-profit organizations because they are more exposed to TF, extremism and radicalism and because they are more likely to be able to mobilize funds from abroad the sources and usage of which is difficult to trace. The Assessment Team notes, however, that this analysis is not based on any study or assessment.

334. On the whole, two (2) factors apparently increase the vulnerability of NPOs to terrorist financing. First, there is the lack of cooperation from the three administrative entities in charge of issuing licenses to NPOs. Indeed, these entities do not share information on the NPOs that apply for licensing and the possibility remains open to NPOs whose licenses have been rejected by one of the entities, to seek approval from another entity. The second factor is the inability for the supervisory authority to trace the sources of

financing of NPOs, coupled with a lack of CFT inspections and sanctions. Besides, most national NGOs, associations and foundations do not keep reliable statistics on their activities.

Continuous sensitization

335. The Assessment Team notes that all NPOs in Guinea are very unfamiliar with the issue of Counter Financing of Terrorism, the provisions of the AML / CFT law concerning them in terms of obligations and sanctions meted out for failure to implement the obligations. They are unaware of the risks being of misused for terrorist financing purposes that they may face. Some NPOs met did not participate in the NRA but participated in the workshop to present the findings of this assessment. In spite of all this, their leaders still do not understand the TF risks to which their organizations are exposed.

336. This situation is attributable to the lack of a comprehensive strategy developed by Guinea to raise awareness, educate and encourage NPOs, on their potential vulnerabilities in the face of exploitation for TF purposes, on the one hand, and the measures they must take to protect themselves from such exploitation, on the other.

337. However, a few initiatives were noted by the Assessment Team. The DNAPROMA conducts on a half-yearly basis, and very infrequently, inspection and assessment exercises of NPOs, based on an evaluation sheet, validated by order of the Minister of Territorial Administration. This monitoring-evaluation consists in collecting information on active NGOs. Such information relates the legal and institutional aspect, the strategic plan, programs and interventions, technical capacities and experiences as well as the NPO's human resource base. Supervision is annual and is not done on-site. It is essentially off-site. The sensitization of NPOs is done at their request, either during the organization of their activities, or during the holding of their General Assembly. This sensitization is limited to the general legal framework governing the sector, issuance of accreditation, development of action plans and financial statements, and preparation of annual activity reports. This sensitization does not specifically cover the TF component.

338. In terms of TF-related capacity building, representatives of over thirty NPOs received training on AML/CFT preventive measures organized by the FIU in April 2019 and related documentation. However, this isolated activity was not duplicated with other NPOs. This means that most NPOs are unaware of the AML/CFT legal texts and their relevant obligations.

339. No guidelines and best practices have been developed by the competent authorities for NPOs to help them protect themselves against any exploitation for TF purposes.

Inspections and sanctions

340. It is clear from the exchanges that DNAPROMA and SGAR have little knowledge understanding of the CFT and TF risks linked to the NPO sector and especially of their responsibility in terms of TF-related inspection. Although they did not take part in the NRA, they nevertheless participated in the workshop to present the NRA findings, which eventually created no impact on their relevant supervisory measures.

341. The General Secretariat for Religious Affairs supervises the activities of religious NPOs that operate nationwide. In this regard, it has representatives in each district, sub-district and chiefdom. As part of this supervision, the Secretariat has implemented a well-defined procedure. This procedure requires a request for license prior to carrying out any operation. A license is issued in the form of a written authorization, for new NPOs, or verbal for old NPOs. A report must then be submitted to the Secretariat at the end of the activities. No statistics or data were provided to demonstrate the effectiveness of these measures. This supervision is not based on TF risks and does not aim to prevent the use of faith-based NPOs from being misused for violent extremism purposes.

342. The Secretariat indicated that funding is received from Western donors for Christian NPOs, and Arab donors mainly from the Gulf countries for Muslim NPOs. It added that it has no mechanism to know the exact identity of the donors and their source of funding.

343. The Assessment Team notes that one of the greatest factors impeding the DNAPROMA as well as the General Secretariat for Religious Affairs in performing their functions is the lack of human, technical and financial resources.

344. Generally, the authorities have not shown that they monitor compliance with the implementation of the obligations of NPOs in terms of preventing the terrorism financing. From the foregoing, during the period under review, no TF-related sanction was meted out on any NPO in Guinea. However, we note that one NPO was dissolved for straying from its objectives and failure to submit the documents required for the renewal of its accreditation. The SGAR withdrew the accreditation of two religious' leaders because of their interventions in public, deemed to be radical.

Cooperation and investigations

345. The competent Guinean authorities have not demonstrated the existence of any formal mechanism for cooperation, coordination and exchange of information among all the appropriate authorities and organizations holding relevant information on NPOs.

346. There is no interaction between the supervisory authority for NPOs and the FIU. However, the supervisory authority indicates that it was requested by the investigative authorities, and that it responded to such requests, without however giving more details and evidence to the Assessment Team. Also, as part of the fight against violent extremism, the intelligence agencies affirmed that they have put in place sectoral action plans which have enabled them to identify over thirty fundamentalist and extremist NPOs, as well as a few dormant units. However, these action plans do not incorporate terrorist financing and no supporting document was provided. Furthermore, it was impossible to establish a direct nexus between the requests emanating from the investigative authorities and the identification of fundamentalist and extremist NPOs.

347. No foreign request relating to a suspect NPO was received by Guinea during the period under review.

4.3.3. Deprivation of property and instrumentalities related to TF activities.

348. Guinea has not proposed any designation under Resolution 1373 and has therefore not frozen any funds under this arrangement. Furthermore, the country has not deprived any terrorist individuals, terrorist organizations and terrorist financiers of their resources and means of funding, pursuant to the scheme for the freezing of assets belonging to designated persons and entities under the TFS regime under Resolution 1267 and subsequent Resolutions. Indeed, the country is yet to identify any persons or entities designated by the 1267 and 1988 Committees.

349. The country has recorded TF cases, but only two have been brought to justice. Seizures of funds from bank accounts were made in some of these cases, as well as the closure of a business establishment. These seizures did not concern NPOs but individuals and companies. There has been no confiscation of assets and instrumentalities related to TF activities held by terrorist individuals, terrorist organizations and terrorist financiers, in either criminal or civil lawsuits.

350. The country's judicial authorities have issued seizure orders in the context of a TF case, linked to the financing of HEZBOLLAH (Box 4.1). The DGRI, acting outside the judicial framework, with cooperation from the intelligence agencies, seized the bank accounts of a commercial entity whose owners were suspected of financing the DAECH terrorist group. This possibility of financing international terrorism from Guinea is consistent with the country's high TF risk level.

4.3.4. Consistency of measures with overall risk profile

351. Guinea has not yet applied freezing measures against persons or entities designated by the UNSCR, due to the fact that no designated persons have been detected there holding assets or economic resources. However, the Assessment Team noted that the country has not demonstrated its capacity to enforce UNSCR TFS. This lack of freezing is not consistent with Guinea's TF risk-level, which is generally high.

352. The NRA revealed that the NPO sector is vulnerable to TF. However, no sectoral study aimed at detecting NPOs likely to be misused for TF purposes, with a view to taking appropriate mitigating measures, has been conducted. There is no monitoring of NPOs' external financing, and the control measures taken by the competent authorities are not likely to constitute TF risk mitigating measures.

Conclusion on IO.10

353. Guinea has a legal framework that provides for the implementation of TFS related to TF. However, the National Consultative Commission for Administrative Freezing (CCGA), responsible for the implementation of TFS related to TF is not operational. However, the framework is not being implemented and no TF-related freezing case has been recorded. Furthermore, there is no existing mechanism for the timely transmission or dissemination of sanctions lists to all reporting entities. Only FIs, subsidiaries of international groups, have an understanding of their TFS related obligations to implement TFS related to TF. They receive the sanctions lists instantly, through the software of groups of which they are subsidiaries. The DNFBPs are not aware of the sanctions lists. They have no understanding of the TF risks and their targeted financial sanctions obligations related to terrorism and its financing.

354. With regard to NPOs, the non-identification of sub-sets of NPOs vulnerable to TF constitutes a fundamental obstacle to the protection of this sector and the implementation of appropriate mitigating measures. Although the NRA considers the risk to which this sector is exposed as high, the competent authorities' understanding of risks is inadequate to provide any substantial response.

355. Guinea has seized TF-related assets, but it has not confiscated assets and instrumentalities related to TF activities, to be consistent with the level of TF risk in the country. ...

356. **Guinea is rated as having achieved a Low level of effectiveness for IO. 10.**

4.4. Immediate Outcome 11 (Financial Sanctions related to Proliferation Financing)

357. Guinea maintains diplomatic relations with Iran and North Korea. Indeed, it has accredited the Ambassadors of these two countries on Guinean territory. On the other hand, little information was provided for the Assessment Team to assess the trade relations and the nature of the trade between Guinea and these two countries. No other information was provided for the Assessment Team to assess the PF risks linked to the production of dual-use goods in Guinea.

4.4.1. Implementation of relevant Targeted Financial Sanctions without delay

358. The Guinean legislation provides for the implementation of targeted financial sanctions (TFS) related to proliferation financing by FIs, DNFBPs and VASPs. (Art. 2 of Decree No. D/2023/0096/PRG/CNRD/SGG, Art. 6.27, 20.3 and 44 of the AML/CFT Law N°2021/024/AN). Regarding the effective and immediate implementation of TFS-PF, there is no mechanism for implementing the dissemination to FIs and DNFBPs without delay. Besides, no designated entity or person

operating or transferring funds or assets on Guinean territory has been identified by the competent authorities (see paragraph 333).

359. Furthermore, most of the FIs and DNFBPs told the Assessment Team that they had never received from the competent authority any lists of sanctions relating to PF. However, like the TFS related to TF, those belonging to large international and regional groups rely on a software that already incorporates the sanctions lists and their updates to screen their databases and whether their clientele does not include persons and entities that are the subject of TFS related to PF.

4.4.2. Identification of funds or other assets of designated persons and entities and measures taken with regard to such persons and entities

360. As at the end of the on-site visit, no entity or person covered by the TFS-PF and operating or transferring funds or assets on Guinean territory, has been identified by the competent authorities. Guinea has not demonstrated the implementation of a mechanism designed for the competent authorities as well as the reporting entities to identify the funds or other assets of all persons and entities designated by the United Nations Security Council on proliferation financing.

361. Although certain banks, microfinance institutions and EMIs that are part of international and regional Groups use screening tools that integrate the lists of TFS among others (United States/OFAC, EU, etc.) no case of sanctioned entity for PF has been identified for asset freezing under the relevant UNSC Resolution on PF. Anything that does not ensure the country's ability to identify and freeze assets and assets belonging to persons and entities. Lack of awareness of TFS related to PF by DNFBPs and other FIs (foreign exchange bureaus, insurance companies and MVTs, etc.) also fundamentally hampers the identification of assets and funds held by designated persons and entities.

362. Despite the obligation to implement the administrative freezing order without delay and without prior notification to the persons or entities targeted by the said measure (See. Criterion 7.2), Guinea has not taken any other step to prohibit business transactions with persons and entities from North Korea and Iran who are subject to UNSC sanctions relating to the prevention, suppression and disruption of the proliferation of weapons of mass destruction and its financing.

4.4.3. Compliance with and understanding of obligations by financial institutions, DNFBPs and VASPs³⁸

363. In Guinea, FIs (banks, MFIs and EMIs) subsidiaries of large groups are aware of their obligations with regard to TFS related to proliferation. They are also aware of the obligation to declare all frozen assets in the implementation of TFS related to the fight against PF. In this regard, they implement the freezing measures related to PF thanks to the automated screening software that they have put in place and which takes into account the updated list of the United Nations Security Council Resolutions as well as those of various countries and jurisdictions. However, it has not been established whether the databases are screened with each new publication/update to identify the customers or their beneficial owners subject to TFS-PF.

364. On the other hand, the DNFBPs, the other FIs, including Forex Bureaus, financial companies and MVTs, have no knowledge of the matter and implementation of such measures. The exchanges revealed that some associate the freezing linked to TFS, blocking accounts or seizure of assets ordered by an investigating judge. This situation can be attributed to the lack of training and awareness in this area and the lack of a mechanism for implementing these TFS related to PF.

³⁸ As indicated in IOs 3 and 4, a. No application for license as VASP has been registered. It was therefore impossible for the Assessment Team to assess to what extent VASPs implement satisfactory AML/CFT/PF measures.

365. Discussions with the reporting entities during the on-site visit did not allow the Assessment Team to ascertain whether the training courses included specific modules on PF-related issues. In addition, no guidelines on procedures for implementing TFS have been drawn up by the supervisory authorities.

4.4.4. Supervision and verification of compliance with obligations

366. Although the supervision of FIs by the supervisory authority, in this case the BCRG, does not systematically include the proliferation financing as well as the implementation of the freezing of assets belonging to designated persons, the AML/CFT thematic mission reports revealed that the BCRG verifies that FIs have screening software that incorporates sanctions lists relating to PF and TF.

367. Furthermore, the FIU in its capacity as DNFBP supervisory authority is yet to conducted inspection missions with the said reporting entities in order to ensure the implementation of the obligation's incumbent upon them with respect to TFS related to PF.

368. Generally, the BCRG which is the supervisory authority for FIs, has demonstrated a fair understanding of their TFS obligations related to TF. Indeed, the lack of implementation of TFS related to proliferation financing is due to the lack of an implementation mechanism and inadequate resources for the supervisory authorities to appropriately conduct the required relevant inspections. The FIU, which is the supervisory authority for DNFBPs, is yet to conduct inspection missions on account of its recent designation.

369. Furthermore, it should be noted that prior to the designation of the FIU as the supervisory authority for DNFBPs, in 2021, the supervisory bodies for DNFBPs did not have a good understanding of TFS related to PF.

Conclusion on IO.11

370. Guinea has a legal basis for the implementation of TFS related to proliferation. However, this legal base is not being implemented. Besides, the lack of a specific PF mechanism fundamentally impedes the effective implementation of these TFS related to the fight against the proliferation of weapons of mass destruction. In addition, the lack of formal mechanisms and procedures for designation without delay, lack of guidelines, inadequate PF-related sensitization activities, weak supervision framework and the reporting entities' very limited understanding of their PF obligations prevent Guinea from achieving minimum results in counterproliferation financing. In this regard, the Guinean legal framework requires fundamental improvements.

371. **Guinea is rated as having achieved a low level of effectiveness on IO. 11**

CHAPTER 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

Financial institutions

- a. Generally, FIs in Guinea, belonging to international or regional groups (banks, microfinance institutions and EMIs), have a fairly good understanding of the ML/TF risks inherent in their activities and the relevant AML/CFT requirements. These entities have regularly updated their risk mapping and conducted an internal assessment of the ML/TF risks related to their customers, products and distribution channels and monitor transactions and verify customers.
- b. The other FIs (forex bureaus, insurance companies, MVTs, etc.) revealed a very limited understanding of the ML/TF risks to which their activities are exposed, despite their participation in the NRA. Consequently, they have not put in place any internal policies and procedures adapted to their risks. Besides, they ignore the principles of the risk-based approach.
- c. Although Guinea has started issuing biometric identification documents, most FIs are yet to have access to a reliable identification system for their customers when entering into a business relationship.
- d. With regard to beneficial ownership identification, most of the FIs could not demonstrate the detection of forms of control other than the direct or indirect shareholding of the share capital. In the absence of a national beneficial ownership register, FIs, before entering into a business relationship, use information contained in the Trade and Personal Assets Register (RCCM). The updating of beneficial ownership information during the business relationship has therefore not been systematic.
- e. Although the mechanism for disseminating assets freezing measures and the lack of a national list of domestic and foreign PEPs impact the effectiveness of the system, most of the FIs that are part of international or regional banking groups succeed in applying enhanced due diligence measures with regard to persons or entities subject to sanctions, as well as politically exposed persons (PEPs) by relying on business lists to identify PEPs. The other categories of FIs have no procedures or relevant internal arrangements.
- f. With regard to TFS related to TF and PF, only FIs affiliated to international or regional Groups have demonstrated a good understanding of the relevant requirements and have deployed automated software, which is updated on a regular basis to detect, including during the business relationship, persons designated on the UN sanctions lists. However, this procedure is not applied when entering into a business relationship. Furthermore, the deficiencies identified in Recommendations 6 and 7, as well as under Immediate Outcome 10 on the implementation of UNSC Resolutions 1267 and 1373 negatively impact the effectiveness of FIs (and other reporting entities) in TFS.

- g. Most of the STRs filed with the FIU are not commensurate with the ML risks to which Guinea is exposed. Besides, reporting activity, dominated by banks, remains weak considering the dynamism of their activities and the level of their ML/TF risks.
- h. FIs that belong to international or regional groups have set up compliance departments that are in charge of implementing their internal AML/CFT policies, programs and procedures. However, the number of staff allocated to AML/CFT is inadequate. The implementation of these measures is almost non-existent in the other FIs.

Virtual asset service providers

- i. Although the AML/CFT Law provides for the implementation of preventive measures by VASPs, no text governing the procedures for granting appropriate authorization and/or registration are yet to be developed. To date, no application for license as a VASP has been received. It was therefore impossible for the Assessment Team to assess the extent to which VASPs satisfactorily implement AML/CFT measures.

DNFBPs

- j. The DNFBPs have a poor understanding of the ML/TF risks to which their operations are exposed. In effect, they have not conducted any internal assessment of the ML/TF risks to which their operations are exposed. Also, the NRA's findings were not disseminated up to the end of the on-site visit. As a result, they have not implemented mitigation controls commensurate with the risks of their respective sectors.
- k. They do not have a good understanding of their obligations as reporting entities in AML/CFT, due to the low level of sensitization and inadequate popularization of AML/CFT laws within the sector. Thus, compliance with the requirement in terms of CDD, record-keeping and BO is generally low or even non-existent. However, the category of legal and accounting professionals, because of the ethical and professional conduct requirements attached to the exercise of their respective professions, apply minimum preventive measures aimed at monitoring and documenting their operations. But these are proving to be inadequate and not very consistent with the country's risk profile.
- l. The DNFBPs do not implement enhanced or specific due diligence measures with regard to PEPs, new technologies, TFS related to TF&P and higher-risk countries identified by FATF.
- m. The DNFBPs' reporting activity is negligible. During the review period, only one DNFBP filed one STR to the FIU, which is not consistent with the ML/TF risks in that sector. Overall, DNFBPs, particularly those at high risk, do not understand their reporting obligations. The scanty popularization of AML/CFT texts as well as the recent designation of their supervisory and regulatory authority, namely the FIU, are among other factors responsible for this poor performance.
- n. Generally, DNFBPs have no internal AML/CFT controls and procedures. They have not developed adequate AML/CFT policies and programs to help them achieve compliance in AML/CFT.

Recommended Actions

Guinea should:

- a. Take appropriate measures to address identified technical gaps in preventive measures, particularly with regard to TF, PEPs, new technologies and high-risk countries.

Financial institutions

- b. Ensure FIs have a good understanding of the ML/TF risks and their AML/CFT obligations. FIs should be informed of the findings of the ML/TF risk assessments conducted at national level. The BCRG should ensure that FIs assess the ML/TF risks inherent in their activities and put in place mitigating measures commensurate with the risk level. FIs most exposed to ML/TF risk, such as banks, MFIs and Forex bureaus should be the priority targets of those measures.
- c. Develop and implement continuous training programs adapted to the various categories of FIs to ensure they understand the risks associated with their activities and the satisfactory implementation of preventive measures in AML/CFT. These training programs should primarily cover areas identified as deficient, such as ML/TF risk assessment, CDD, BO, PEP, TFS related to TF and PF.
- d. Develop and implement a mechanism for reporting entities to identify beneficial owners and verify their identity using relevant information obtained from a reliable source. In this regard, Guinea should maintain a of beneficial ownership register (BOR) and make it accessible to all AML/CFT reporting entities and ensure regular data updating.
- e. Ensure FIs allocate the human, financial and material resources necessary for the effective implementation of internal AML/CFT policies, programs and procedures consistent with their size and risk profile.
- f. Take measures to further familiarize all FIs, particularly the high-risk ones, with the obligation to identify and report suspicious activities, including TF-related ones. They should put in place surveillance, transaction filtering, customer profiling and transaction monitoring systems. This should help boost reporting activity in all sectors.

Virtual Asset Service Providers

- g. Continue with efforts to develop the regulatory framework in order to regulate the VA sector. The BCRG should take measures to identify natural and legal persons carrying out VASP activities. Also, a risk assessment should be conducted to assess the impact of VA transactions on the economy.

DNFBPs

- h. Popularize the new AML/CFT Law with all DNFBPs, particularly real estate agents, notaries and dealers in gems and precious metals, so that they understand the extent of their AML/CFT obligation.
- i. Ensure DNFBPs, particularly the high-risk ones, have a good understanding of the nature and level of their ML/TF risks and use the risk-based approach in the implementation of AML/CFT measures.
- j. Provide adequate guidance to these sectors, particularly on CDD and record-keeping obligations, including but not limited to the identification and verification of BO

information and the implementation of Targeted Financial Sanctions related to TF and PF.

- k. Ensure all DNFBPs, particularly those at high risk, AML/CFT policies, controls and procedures, commensurate with their size, their operations and risk profile.
- l. Provide sectoral training for DNFBPs, particularly real estate agents, notaries and dealers in gems and precious metals in order to improve the implementation of suspicious transaction reporting obligations. Also, the authorities should publish guidelines on how to complete and submit suspicious transaction reports to the FIU, including the implementation of TFS related to TF and PF.

372. The relevant Immediate Outcome reviewed and assessed in this Chapter is IO.4. The relevant Recommendations for effectiveness assessment under this section are R. 9-23, and some elements of R1, 6, 15 and 29.

5.2. Immediate Outcome 4 (Preventive measures)

373. Guinea has a solid legal framework for the prevention of ML/TF (see R.9-23) However, legislative and regulatory deficiencies are still outstanding in the non-financial sectors which are obviously exposed to high ML/tf risk levels. These are the real estate, lands and mining as well as used vehicle sales for which there is no threshold for cash transactions. Furthermore, it should be specified that the sectoral legal texts governing and regulating the operations of DNFBPs do not consider the ML/TF component. It should be noted that the country's context is dominated by the massive use of cash, financial exclusion and informal transactions. Several major economic stakeholders are therefore not covered by AML/CFT

374. The assessment team weighted the implementation of preventive measures **very heavily** for real estate agents, notaries and dealers in gems, **heavily** for Microfinance Institutions, EMIs, Authorized Foreign Exchange Dealers, the banking sector and Money Transfer companies. Casinos, and Games of chance and Insurance Companies are weighted **medium** while VASPs and other DNFBPs are weighted **low**. Details on the weighting of each sector can be found in paragraphs 92 to 106 of Chapter 1.

375. The assessment team met with a range of representatives from the private sector, including some self-regulatory bodies for independent professions (e.g. the Bar Association, National Chamber of Notaries and the Council of the Association of Chartered and Licensed Accountants). The assessment team interviewed some relevant officials of commercial banks, representatives of insurance companies, electronic money institutions, foreign exchange dealers, microfinance institutions, dealers in gems and precious metals, gaming establishments as well as law firms, notaries, bailiffs/auctioneers and Chartered accountants.

376. The conclusions of the assessment teams were drawn not only from the interviews held with the aforementioned stakeholders, but also from a sample of representatives of the public sector including the regulatory and supervisory authorities, the FIU, Law enforcement authorities and some supervisory bodies. They also took into consideration a set of documents (policies, procedures, risk mapping, letters, etc.) as well as qualitative and quantitative information provided.

377. During the review period, no VASP operating in Guinea was identified and no license application to operate as a VASP was recorded by the BCRG. It was therefore impossible for the Assessment team to assess the extent to which VASPs satisfactorily implement AML/CFT measures.

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

- **Financial Institutions and VASPs**

378. Understanding of ML/TF risks and AML/CFT requirements varies from one sector to another. Generally, FIs participated in the national risk assessment process during which, in thematic working groups, they assessed the ML/TF risks inherent in their respective sectors. Furthermore, the banks affiliated with the international and regional groups interviewed regularly carry out institutional assessments of their ML/TF risks, unlike other FIs which generally do not take any measures in this regard. All FIs generally have a relatively better understanding of their AML obligations in relation to their specific CFT obligations.

379. **Banks** in Guinea mostly belong to international or regional groups. The compliance practices promoted at Group level have visibly positively impacted the understanding of ML/TF risks of the subsidiaries represented in the country. The Assessment Team noted that indeed, they periodically analyze risks based on risk factors such as (i) customers (including geography), (ii) products, (iii) digital channels and (iii) regulations. They also establish an AML/CFT risk mapping, which is regularly documented and updated based on the AML/CFT policies and procedures and risk assessment models issued by the parent bank, attesting to their binding nature. The involvement of banks in the national ML/TF risk assessment process conducted by the country has somewhat contributed to improving their understanding of the threats and vulnerabilities to which they are exposed. Most of them rightly consider corruption, the preponderance of cash transactions, forgery and use of forgery as sources of ML/TF specific to their sector. However, the Assessment Team observe that this understanding is not uniform for all the banking institutions met.

380. On the whole, banks have a good understanding of their AML obligations. However, they could not demonstrate a perfect understanding and implementation of their obligations relating to the identification of beneficial owners and due diligence measures with regard to PEPs and those relating to the freezing of assets of designated persons or entities within the framework of TF or PF, as well as the traveling rule as required under R.16 on wire transfers.

381. Although it is not certain whether the measures taken by the banks are proportionate to the risks identified by the NRA, the Assessment Team nevertheless noted that almost all of them have internal AML/CFT programs accompanied by training schemes on related topics. Their customer management policies are modulated in line with the assessment of ML/TF risks and are periodically audited internally. They make efforts to apply enhanced due diligence measures, where appropriate, particularly with regard to PEPs for whom they keep regularly updated lists. Furthermore, almost all banks in Guinea have a record-keeping policy with a hybrid archiving system (both manual and computerized). However, the risk factors surrounding the use of the banking sector for ML/TF purposes, mentioned in Chapter 1, further magnify the aforementioned deficiencies.

382. **The large-scale microfinance institutions-MFIs**, affiliated with international and regional groups encountered, also have an adequate and continued understanding of ML/TF risks. Not only do they carry out an internal assessment of the ML/TF risks to which they are exposed, but above all they have risk mapping as well as AML/CFT procedures issued within the Group which are updated periodically (2 years). They also implement enhanced due diligence measures, particularly with regard to PEPs, and have training schemes for their staff on the obligations and risks associated with AML/CFT. On the other hand, the NRA did not significantly impact their understanding of ML/TF risks. Indeed, due to the non-dissemination of the NRA's findings which include significant deficiencies (see IO.1), the Assessment Team noted that the risk mapping has not been updated. Their compliance practices are more or less consistent with the legal and regulatory requirements for KYC/CDD and record keeping.

383. **MFIs of the cooperative and mutualist type**, both medium and small-scale, have demonstrated a limited understanding of ML/TF risks. Admittedly, they implement certain basic measures such as KYC when entering into a business relationship and record keeping, but their familiarity with AML/CFT is recent and results from actions conducted by the supervisory authority (BCRG). Although they participated in the NRA process, these institutions generally have inadequate understanding of the risk factors that apply to their activities, including those related to customer identification. The Assessment Team also

noted, based on the interviews and information provided, that a number of these structures are operating illegally in the country's provincial regions. However, in spite of the statistics provided by the country (see R.13), the magnitude of the phenomenon could not be assessed by the Assessment team.

384. The **foreign exchange bureau sector** demonstrates a very poor understanding of the ML/TF risks it faces as well as a notorious lack of knowledge of its AML/CFT obligations. This sector is struggling with the proliferation of informal structures and the low literacy rate of its leaders. Indeed, the bulk of foreign exchange transactions are conducted through unlicensed agents, who according to a survey conducted in 2021 by the Association of Foreign Exchange Professionals, stood at 3,200 people. Although they are not familiar with the concept of PEPs and the due diligence measures they are required to implement to identify them, professionals in the sector are aware of the risks associated with this category of people and of the fact that the Bureau de Change (BDC) sector in Guinea provides an option not to be subject to identification or amount limitations.

385. **EMIs and money transfer companies** (MTCs) have generally demonstrated a fairly good understanding of risks due to their membership of international groups and the best practices promoted within these Groups. Thanks to their databases on PEPs and the screening software at their disposal, they apply enhanced customer due diligence measures with regard to PEPs as well as TFS linked to TF and PF. They also assess their risk profile when entering into a business relationship and draw up their risk mappings which include the ML/TF risk and train their respective staff and managers on a regular basis. Annual reports on the AML/CFT system and internal control are regularly submitted to the supervisory authority.

386. Apart from MVTS belonging to large groups, the sector is confronted with the flourishing of informal structures with the persistence of alternative fund transfer methods of the 'Hawala' type. **Insurance and brokerage companies**, on their part, revealed poor understanding, or even ignorance of their ML/TF risks as well as their AML/CFT obligations. They have not assessed their ML/CFT risks and do not implement AML/CFT requirements within their structures. The assessment team also identified deficiencies in the application of basic KYC/CDD due diligence such as customer identification through appropriate questionnaires. This situation could be attributed to the lack of staff training in this area and the virtual lack of an AML/CFT internal control system.

387. On the whole, most of the FIs consider TF risk to be low in Guinea but are aware of the threats at the country's borders and the prevailing security context in neighboring countries. This understanding of TF risk appears consistent with the NRA findings which indicate a medium level of risk due to the fact that the country has not yet experienced any terrorist attacks and no funding has so far been identified from or passing through Guinea. However, the analysis of the country's threats and vulnerabilities reveals that this TF risk could be potentially high.

- **DNFBPs**

388. In Guinea, DNFBPs have a poor understanding of the ML/TF risks to which their activities are exposed. Their involvement in the NRA process has not impacted the implementation of their AML/CFT obligations either.

389. Indeed, DNFBPs generally do not have internal AML/CFT mechanisms. Only legal professionals (lawyers, notaries, bailiffs) demonstrated a certain degree of understanding of the AML/CFT law and their relevant obligations. This poor understanding is largely due to the non-popularization of the 39 AML/CFT laws among these reporting entities as well as the recent designation of the FIU as the regulatory and supervisory authority for all DNFBPs in AML/CFT. The lack of supervision of these entities and sanctions are partly in charge of this poor understanding and the non-implementation of their obligations. Also

³⁹The AML/CFT law L/2006/010/AN, L/2019/033/AN and the new AML/CFT law L/2021/0024/AN

identified was the lack of sectoral regulatory texts on AML/CFT, guidelines and lack of sensitization and training actions for DNFBPs.

390. The Assessment team noted that out of all the categories of DNFBPs active in Guinea, casinos, dealers in gems and precious metals, the real estate sector and lawyers seem less informed and less aware of the NRA conducted by the country, as well as the findings of this exercise.

5.2.2. Implementation of proportionate risk-mitigating measures

- **Institutions**

391. In Guinea, the reporting entities are required to apply AML/CFT mitigating measures based on identified AML/CFT risks. The practical application of these mitigating measures is highly dependent on the NRA. However, the report emanating from the NRA has neither been adopted nor disseminated to reporting entities.

392. Nevertheless, FIs belonging to international or regional groups periodically analyze the risks related to their customers and classify their customers according to the degree of risk, based on the Criterion of the customer, the country and the activity. In doing so, they take a number of measures, based on their groups' risk management processes and standards, such as establishing a risk mapping of their customers, in order to determine the intensity of the due diligence measure to be applied depending on the case. These segmentations consider risk factors related to customers, operations, products and services as well as geographical areas.

393. Furthermore, they have a compliance department and officers in charge of AML/CFT. This enables them to implement automated tools to review the identified ML/TF risks and implement proportionate measures aimed at effectively managing and mitigating their risks.

394. The assessment team established that **banks** have procedures for the implementation of enhanced due diligence measures when the customer's ML/TF risk level is high, particularly for PEPs and targeted financial sanctions related to TF and PF. Similarly, these procedures provide for measures to deal with business relationships, operations, products and countries presenting a higher risk and are aligned at the group level with a more restrictive nature than the Guinean regulatory provisions.

395. The reports of the BCRG's on-site inspections conducted between 2020 and 2022 reveal that the banks had to take remedial measures relating to the application of a risk-based approach, the implementation of tools for monitoring transactions and strengthening customer profiling tools. This general observation within the financial sector led the competent authority to enact, in January 2023, Directive No. 109/DGSIF/DSB relating to the terms of application of the RBA. This should help improve the AML/CFT systems of these establishments in line with the risks facing the sector.

396. Generally, banks establish transaction monitoring software that allows suspicious transactions, actions and/or behavior to be identified in order to mitigate ML/TF risks. However, these tools do not always seem to consider enhanced due diligence measures for PEPs and their families, which may reinforce ML/TF. Furthermore, the assessment team noted that most banks do not necessarily apply simplified due diligence measures when the customer or the transaction is low risk. Although they participated in the NRA process, they did not demonstrate that the findings of the exercise were considered in their AML/CFT prevention program, in order to strengthen controls, particularly on transactions with high risk sectors such as manual foreign exchange, real estate and precious metals. This is due to the fact that the NRA report has not yet been adopted, nor disseminated to reporting entities.

397. Medium-scale and small-scale banks have also put in place customer identification and transaction monitoring measures and tools adapted to the level of risk, as well as record keeping measures, in order to mitigate the risks. They have also designated compliance officers in charge of AML/CFT. However, the comprehensive implementation of preventive measures by these institutions has not been demonstrated

due to inaccessibility to the documentation relating to their supervision. In this regard, the Assessment Team can attest to the effectiveness of the ML/TF risk mitigating mechanism for medium and small-scale banks.

398. **The large-scale Microfinance institutions** have established procedures for the implementation of enhanced due diligence measures when the ML/TF of the customer is high, particularly for PEPs and targeted financial sanctions related to TF and PF.

399. They generally have inadequate internal systems and controls to adequately mitigate the ML/TF risks of their activities due to their affiliation with international and regional groups. Most of them classify their customers, products, distribution channels and geographical areas according to the risks in order to put in place mitigating measures to determine the intensity of the due diligence measure to be applied on a case-by-case basis.

400. On the other hand, **medium and small-scale cooperative and mutual MFIs** have not demonstrated the implementation of preventive measures. Furthermore, the findings of the NRA revealed that most of these entities do not have a specific AML/CFT compliance system that more or less incorporates AML/CFT measures. They do not appear to have procedures in place to identify and verify the origin of customer funds. Generally, their level of application of risk mitigating measures is low.

401. **Electronic money institutions (EMIs)** generally have a compliance department that applies AML/CFT internal control policies and procedures resulting in the implementation of mitigating measures that are reasonably proportionate to the level of risks they face. In particular, they identify the customer's profile as soon as they enter into a business relationship using know-your-customer (KYC) software. Similarly, an internal assessment of their ML/TF risks is conducted as well as a classification of customers, distribution channels and geographical areas according to the risks identified in order to implement mitigating measures. The documentation made available enabled the assessment team to observe that the most of them do implement enhanced due diligence measures when the customer's ML/TF risk level is high, particularly for PEPs and related targeted financial sanctions related to TF and PF.

402. However, the outcomes of the inspection missions conducted in 2022 by the BCRG and consulted, reveal that the EMIs do not put in place measures and tools to exercise due diligence in line with the risks identified in the NRA, relating to the possibility for customers to hold several SIM cards and thus carry out transactions, without being identified upstream, particularly when the amount does not exceed the threshold of 4 million GNF (\$472). Besides, these institutions do not systematically collect detailed information on the origin of the funds injected by the sub-agents.

403. **Insurance companies** have not assessed their ML/TF risks internally and therefore do not implement the risk-based preventive measures required in AML/CFT depending on the risk. They assess the customer risk when entering into a business relationship.

404. **The other FIs** (money transfer companies and foreign exchange bureaus) do not apply mitigating measures commensurate with the risks, as they are also unaware of the principles of the risk-based approach. In addition to the reasons mentioned above, an unrepresentative sample of the staff of these other FIs have received little training in AML/CFT.

405. On the whole, FIs put in place mitigating measures resulting from a detailed examination of the ML/TF risk factors related to their activities. To date, no VASP operating in Guinea has been identified and no application for license to operate as VASP has been recorded by the BCRG.

- **DNFBPs**

406. DNFBPs are yet to establish internal AML/CFT systems and have not conducted any internal assessment of their ML/TF risks to which their activities are exposed. In this regard, they do not apply

proportionate mitigating measures to the ML/TF risks. Guinea is grappling with the challenge of getting DNFBPs to domesticate the AML/CFT culture.

5.2.3. Implementation of CDD and Record Keeping Requirements

- *Institutions and VASPs*

407. The vast majority of banks implement customer due diligence measures when entering into a business relationship, but do not update them regularly throughout the duration of the said relationship. In particular, banks belonging to international and regional groups apply more comprehensive due diligence measures than medium and small-size banks, including permanent monitoring. They identify customers and beneficial owners, then establish a profile for each customer based on information collected from customers.

408. The Assessment Team note that regular verification of customer information remains a challenge for FIs in Guinea in general as there is no mechanism for verification of identity documents. Indeed, according to the NRA, apart from the biometric passport, the national identity card and the driving license issued are not secure, to the extent that it is common to see a person holding two (2) identity cards, different national identities issued in two (2) police stations. Although a reliable national identification system has been put in place through biometrics (passport, birth certificate and biometric identity card), FIs can still not verify customer identification information when verifying or entering into a business relationship since the majority of the Guinean populace do not yet have these secure identification documents.

409. Besides, FIs still do not take risk-based measures to ensure the documents, data or information collected from the customer are up to date. The reports of missions conducted by the BCRG, between 2020 and 2022, also revealed that they do not regularly monitor the operations conducted throughout the duration of this relationship to ensure that they are consistent with the knowledge that they have of their customers and business activities.

410. Based on the customer mapping that is updated annually, the banks review and adjust their customer acceptance procedures as well as the degree of specific mitigating measures that should be applied. In some cases, banks have made it clear that they refuse certain business relationships on the grounds that customer-provided know-your-customer (KYC) information is unreliable. However, the reports of thematic missions on AML/CFT conducted between 2020 and 2022 reveal that most of them do not apply the prior approval obligation by the Board of Directors of the AML/CFT procedures of the institution, as well as the due diligence measures with regard to PEPs and those relating to the freezing of assets as part of the implementation of targeted financial sanctions.

411. With regard to the beneficial ownership identification obligation, Guinea is yet to establish the relevant register. Thus, the FIs have recourse, before any entry into a business relationship, to the information contained in the Trade and Personal Assets Registry (RCCM) which includes data relating to the structure of ownership and control via shareholding. However, this database is not regularly updated, and on its own is not sufficient to provide beneficial ownership information, particularly those which go beyond capital control and voting right (see Rec 25). Indeed, the large-scale banks surveyed which are affiliated with international groups generally identify shareholders holding at least 10% of the capital of legal persons as being BOs, in certain risky situations. One of these entities confirmed going beyond capital control and voting rights to identify natural persons who could exercise another form of control over the legal person without explaining its identification techniques and procedures.

412. On the whole, FIs comply with their legal obligations relating to the retention of all documents that should ensure the traceability of all transactions conducted by their customers throughout the duration of the business relationship, as well as transactions during least ten (10) years from the end of the relationship or the completion of the transaction, pursuant to the provisions of the AML/CFT Law. The terms and practices for keeping these documents during the on-site visit, depending on the FIs met, vary

from one institution to another. Thus, banks, large microfinance institutions and EMIs that are part of international and regional groups have a mixed archiving system (digital and physical) for the preservation of their documents. The other FIs (insurance companies, Forex bureaus and MVTs, etc.) make very little use of digital archiving and quite often store their files physically.

- **DNFBPs**

413. The vast majority of DNFBPs identify the customer before entering into a business relationship. The identification measures implemented are mostly less rigorous than those provided for in AML/CFT and are rather guided by the concern for more effective monitoring of their professional activities. The information and documents collected for this identification vary from one profession to another. The independent legal and accounting professions implement their professional obligations to keep all documents relating to identification and all operations conducted in the context of their business relations with customers. However, these measures alone are not enough to identify BOs and refuse to establish a business relationship. No DNFBP implements any particular due diligence measures for the identification and verification of the identity of beneficial owners. They have no formal procedures for refusal due to incomplete information on customer due diligence.

414. Casinos and dealers in precious metals and gems do not apply any AML/CFT customer identification measures, nor do they implement their record keeping obligations. This deficiency in these sectors with a high proportion of ML/TF risk negatively impacts their effectiveness and consequently Guinea's overall AML/CFT system.

415. In particular, dealers in precious metals and gems are required to complete purchase/sales forms for all precious metals and gems and transmit them to the Central Bank on a weekly basis. Compliance with this obligation could not be verified by the Assessment team due to lack of documentation and statistics made available by the BCRG. Furthermore, most DNFBPs apply minimal preventive measures aimed at monitoring operations, which are inadequate in terms of AML/CFT. Specifically, the Bar Association has set up the CARPA which centralizes all the funds received by Lawyers within the framework of their business relations. Consequently, the duration of detention of the funds by lawyers does not exceed seventy-two (72) hours, regardless of the amounts. However, CARPA is experiencing some operational challenges related to the treasurer's lack of management skills. To rectify this dysfunction, the Bar Association has requested for the technical assistance of the Ivorian CARPA Treasurer. The establishment of CARPA is a sound initiative because this instrument would facilitate the implementation of due diligence obligations by Lawyers.

5.2.4. Implementation of enhanced due diligence measures

- **Institutions**

Politically Exposed Persons (PEPs)

416. The actual enforcement of PEP requirements varies across sectors. Thus, banks, large MFIs and EMIs affiliated with international or regional groups have put in place enhanced due diligence measures which mainly concern the identification of PEPs.

417. In order to identify PEPs when entering into a business relationship, they use various sources of information, including media reports and automated business databases in which the lists of PEPs are integrated. This situation is identified in the NRA report which links it to the lack of the national list of PEPs as provided for in the AML/CFT law as well a central database of bank accounts. Indeed, the banks and EMIs themselves prepare internal lists of national PEPs based on the designation Criterion provided for by the AML/CFT law and following a tip-off. However, this mechanism, essentially based on manual monitoring, may have the disadvantage of causing delays in updating these lists or even being incomprehensive. Furthermore, the deficiencies related to the understanding of the definition of a PEP

significantly impacts the effectiveness of enhanced due diligence measures with regard to this category of customers or prospects.

418. Furthermore, the outcomes of the inspection missions conducted between 2020 and 2022 by the BCRG with the major banks revealed that the legal requirement relating to the approval of senior management before entering into a business relationship with any PEP (see criterion 12.1.b), is not always complied with. Indeed, generally, the banks indicate that the overly restrictive definition of PEPs under the law does not allow them to target the close collaborators of the PEPs. In practice, they nevertheless retain the status of high-risk PEPs for customers who no longer occupy the important function in relation to which their PEP status was determined and apply enhanced due diligence measures. However, the assessment team notes that the measures taken by the FIs for the identification of assets and the origin of the funds of the PEPs have not been proven. In this case, none of the STRs relates to PEPs. On analysis, the restrictive definition of the concept of PEPs limiting them to family members of Heads of State, Heads of Government and Royal families (see 12.1a) has a significant impact on the implementation of enhanced due diligence measures for all reporting entities, including FIs.

419. With regard to the other FIs, the implementation of enhanced due diligence measures concerning PEPs has not been demonstrated. Indeed, they have no operational lists of PEPs and seem to refer to the supervisory authority for the provision of this list. Consequently, no enhanced due diligence measures have been put in place by these entities regarding PEPs.

Table 5.1: Statistics of STRs linked to PEPs

YEAR	TOTAL
2018	00
2019	03
2020	03
2021	01
2022	04
2023	03
TOTAL	14

Source: FIU

Correspondent banking

420. Some banks in Guinea practice correspondent banking. These establishments implement specific measures before entering into a business relationship with customer banks, including the collection of information on the activity and controls dedicated to AML/CFT of the customer bank and obtaining management approval. In order to standardize the type of information to be collected prior to entering into a business relationship, the BCRG has issued Directive No. 109/DGSIF/DSB which contains in the Appendix a template questionnaire for cross-border correspondent banking. They also ensure that they do not establish correspondent relationships with shell banks. The assessment team identified a case of rejection by a bank belonging to a large group for failure to provide satisfactory information, following a request issued by a Korean bank to establish a correspondent banking relationship.

New technologies

421. Guinea's AML/CFT law requires FIs to assess the ML/TF risks associated with new innovative products and services in the digital domain prior to their launch on the market. In implementing this requirement, banks in Guinea subject all new products based on new technologies (usually mobile-based offers) to a series of domestic approval processes before they are launched on the market. Indeed, these

innovative products must be approved by General Management and the Regulatory Authority before being launched. A risk assessment including ML/TF is one of the control points before giving an opinion of no objection for the launch.

422. The BCRG also capped the amounts for transactions conducted by EMI products, ranging from GNF 50 million a day (46,000) to GNF 200 million a month (\$24,000 a month), with a view to controlling ML/TF risks related to their use. However, in practice, it is frequently observed that users use methods to circumvent these thresholds due to the inadequacies of the control and transaction monitoring measures put in place by these operators. By way of illustration, a customer has the option of holding several accounts at the same time. For now, there is no rigorous control system for compliance with the regulatory thresholds set for the use of these products by customers.

423. The other FIs have not demonstrated the implementation of measures for the assessment of ML/TF risks related to new technologies (innovative products and services).

Wire transfers

424. On the whole, large-scale banks and MFIs that are part of international groups have procedures and tools in place at group level to ensure all the information required concerning the originator and the beneficiary is complete and accompany the transfer. Cases where information is missing are alerted and such information is always searched before the transaction is executed. In which case, they refrain from carrying out the transaction. However, the Assessment team was not aware of any case of rejection due to incomplete information.

425. **Money transfer companies** also have enhanced due diligence measures to ensure wire transfers include the required information on the originator or the beneficiary. Otherwise, the transaction is cancelled. However, like large-scale banks and MFIs, they did not provide any statistics on rejected transfers due to incomplete information. Consequently, the Assessment Team cannot attest to the adequacy of the enhanced due diligence measures put in place by these FIs with regard to wire transfers.

Table 5.2: Number of STRs relating to wire transfers and other means of payment

Year	Total STRs	Wire transfers	Checks	Cash withdraw	Cash payments	Others
2018	35	05	02	03	15	10
2019	50	06	01	01	11	31
2020	31	05	03	02	08	14
2021	42	15	03	08	05	11
2022	92	15	02	05	30	40
2023	13	00	00	01	03	08
Total	263	46	11	20	72	114

Source: FIU

Targeted Financial Sanctions

426. Regarding the implementation of TFS, banks, large-scale MFIs and EMIs affiliated with international and regional groups have automated screening software that takes on board the updated list of the United Nations Security Council Resolutions as well as those of various countries and jurisdictions, such as that of the United States (OFAC List) and those of the European Union. At the end of the customer identification process, the automated software provides reports where the customer's identity corresponds to a name registered on the aforementioned sanctions lists, which allows the bank to be alerted, and to block the operation immediately. With the exception of FIs that are part of international or regional groups, it has not been established that the databases are screened with each new publication/update to identify the customers or their beneficial owners subject to TFS. However, due to lack of data on cases and the volume of false positives, the assessment team could not assess the effectiveness of the sanctions screening platforms used by FIs.

427. Apart from banks, large-scale MFIs and EMIs affiliated with large international and regional groups, FIs in general do not have a good understanding of their obligations relating to targeted financial sanctions. Indeed, not only do they not distinguish between UNSCR 1267 and 1373 in the context of CFT, but they also do not understand the obligation to communicate to the FIU the measures taken in terms of freezing or prohibitions as well as the amounts involved. Also, the non-operationality of the national mechanism for implementing TFS, the lack of guidelines for FIs on TFS and the lack of awareness are among other factors that explain this poor understanding of TFS (*A detailed analysis of the application of TFS is presented in Chapter 4- IOs.10 and 11*). The BCRG's inspection reports have very little or not all covered the issue of the effective implementation of the financial sanctions targeted by FIs.

Higher risk countries identified by FATF

428. Banks, large-scale MFIs and EMIs that are part of international and regional groups have screening software that allows them to identify countries presenting a high risk according to the FATF, on the one hand, and to check whether their customers or their transactions have no connection with these countries, on the other. They systematically implement enhanced due diligence measures for customers and operations in these countries. The Assessment Team noted that no financial transactions with Iran and North Korea were reported by any FI in Guinea, nor were they subject to an STR. The conclusions of the BCRG mission reports consulted do not show the application by other FIs (mutualist MFIs, foreign Forex bureaus, insurance companies and MVTs) of specific due diligence measures with regard to customers or transactions related to higher risk countries identified by the FATF.

429. To date, no VASP operating in Guinea has been identified and no application for license as a VASP has been recorded by the BCRG.

- **DNFBPs**

430. DNFBPs do not implement UNSC TFS. They have no idea of the concept of TFS and have no procedure in this area. Furthermore, no capacity building workshop on the application of TFS has been organized for DNFBPs in Guinea.

Implementation of Enhanced CDD measures by DNFBPs

431. DNFBPs do not implement enhanced due diligence measures, in accordance with FATF standards. Indeed, as indicated above, DNFBPs have not put in place any internal AML/CFT systems and for the most part, are unaware of their legal AML/CFT obligations which are prerequisites for the implementation of enhanced due diligence.

5.2.5. Reporting obligations and information disclosure.

- ***Financial Institutions (FIs) and VASPs***

432. Suspicious transactions reporting and attempted suspicious transactions are a legal obligation imposed on reporting entities. To date, all banks have implemented procedures to detect suspicious transactions and report them immediately to the FIU. In this regard, they have all designated a Compliance Officer, who is the FIU's focal point who, in case of a suspicious or unusual transaction alert, files a report to the FIU. However, some FIs encountered indicated that the final decision to file a report rest with Senior Management, rather than the FIU's focal point. Such an approach, apart from creating delays, does not guarantee the effectiveness of the AML/CFT system, as other considerations (e.g. business nature, importance of the customer for the required entity) are taken into account before the possible filing of the STR. This increases the risk of disclosure of STRs. Furthermore, the exercise of due diligence measures by banks when establishing business relationships is sometimes characterized by the customer's reluctance to provide all or part of the information relating to KYC, leading to a refusal by the banking institution to validate the business relationship. In the case of cash, no report has ever been made by any reporting entity, including banks, to the FIU for attempted suspicious transactions.

433. Banks often have tools or automated due diligence systems to detect transactions or funds that could be the subject of ML/TF suspicion. Generally, detections of atypical or unusual transactions in the customer's account are made based on automatic alerts.

Table 5.3: Number of suspicious transaction reports sent to FIU per year

Reporting entities	2018	2019	2020	2021	2022	2023 ⁴⁰	TOTAL
Banks	34	49	30	42	92	13	260
Microfinance	0	0	0	0	0	-	0
DNFBPs	0	1	0	0	0	-	01
Other FIs	0	0	0	0	0	-	0
Administration	01	0	01	0	0	-	02
Total	35	50	31	42	92	0	263

434. The table above indicates that in total, two hundred and sixty (260) STRs were sent to the FIU during the period under review (2018-1st quarter 2023). With a percentage of 98.8% of STRs transmitted, banks are the only FIs complying with their reporting obligation for suspicion. The assessment team notes an upward trend in the number of STRs from the banking sector over the period, with a decline in 2020 due to the slowdown in economic activities due to COVID on the one hand, and an increase of nearly 120% of the number of STRs submitted by banks, on the other. All these STRs are related to money laundering. No TF-related STR has been filed to the FIU to date.

435. However, the assessment team notes that in view of the context and the level of ML/TF sector risk considered as medium-high, the volume of STRs emanating from the banking sector is still low. Supervision mission reports generally note a lack of configuration of tools for monitoring and surveillance of risky ML/TF transactions in order to automatically track unusual transactions. The systems in place can be improved by the supervisory authority. The same obtains for the quality of STRs filed. Indeed, FIU statistics reveal that on average 45% of STRs are systematically classified. Also, the exchanges revealed that most FIs do not have the reflex to file reports for attempted suspicious transaction by a customer. They are limited to not establishing the business relationship or executing the transaction. Indeed, the Assessment Team noted that up to 2021, the AML/CFT law did not require reporting entities to report attempted suspicious transactions.

436. On the whole, the STRs received by the FIU are related to the following offences: embezzlement of public funds, tax evasion and corruption, complicity in the embezzlement of public funds, forgery and use of forgery and cybercrime, which are generally related to the risk sectors identified by the country.

437. **Feedback:** since 2021, the FIs have regularly received feedback from the FIU to inform them of the follow-up action on their STRs.

438. **Disclosure:** To ensure the confidentiality of the reporting process and avoid disclosing to customers that an STR has been filed, the banks interviewed have internal procedures and policies on the requisite confidentiality for the communication of information relating to STRs. The front office staff in direct contact with customers is not informed of the monitoring of unusual transactions that he declares to the compliance department, responsible for analyzing such transactions, in order to decide on the need to either file an STR or not. Thus, only the compliance officer and Managing Director are informed of the action taken on the suspicion. The process of transmitting STRs to the FIU is done in a sealed envelope submitted by the designated representative of the reporting entity to the FIU. No problems relating to the non-disclosure and confidentiality requirements of the STRs were raised by the institutions met. Similarly, the inspection reports of the BCRG and FIU do not mention sanctions meted out on any manager or a staff member who disclosed information on any STR. In the light of the foregoing, the Assessment team concludes that there is a good understanding and satisfactory implementation of the non-disclosure obligation. It should be noted that in a bid to strengthen the security of reporting activity, an online

⁴⁰Data for the 1st quarter of 2023

reporting process commenced in December 2022, at the initiative of the FIU. To date, only banks have received the access keys and started using it. The latter find the approach innovative and useful and above all less tedious.

- **DNFBPs**

439. On the whole, DNFBPs are unaware of their reporting obligations because of stakeholders' failure to take ownership of the AML/CFT Law. However, in 2019, the FIU received one (01) STR from a DNFBP, including a legal professional. However, the Assessment Team do not know much about the predicate offence in connection with this single statement received, the profile of the people involved, the quality of the STR received and the follow-up given to this statement.

5.2.6. Internal controls and legal/regulatory requirements impeding implementation.

- **Financial Institutions**

440. Generally, most FIs, with the exception of Forex bureaus, money transfer companies and certain microfinance institutions, have a compliance department in charge of steering the internal AML/CFT system, and carrying out the required due diligence, including filing suspicious transaction reports to the FIU. This function essentially ensures the implementation of due diligence measures, record keeping, designation of compliance officers with the required skills and the assignment of an independent audit function. Furthermore, the FIs belonging to a Group have set up audit schemes and review their procedures on a regular basis and with each regulatory development. However, the human and material resources dedicated to the compliance function are apparently inadequate for most of the FIs. Besides, within certain insurance companies, the compliance function is not dissociated from that of internal audit.

441. Banks, large-scale MFIs and EMIs belonging to international and regional groups generally implement group-level policies and procedures, carry out internal controls and submit their annual internal control reports regularly to the supervisory authority, in line with Directive No. 002/DGSIF/DSB relating to internal control. They also have training programs that they generally organized for staff with AML/CFT responsibilities, but do not systematically include senior managers and members of the Board of Directors.

- **DNFBPs**

442. Generally, AML/CFT internal control measures are not implemented within DNFBPs. No category of DNFBPs has set up a compliance department in charge of implementing internal AML/CFT policies, programs and procedures. Besides, they have not designated any compliance officer who must supervise and assess the internal control operation in AML/CFT. Furthermore, the DNFBPs have not established any training program and regular sensitization of their staff on AML/CFT-related issues.

443. On the whole, DNFBPs fail to implement AML/CFT preventive measures. The lack for a long period of an AML/CFT regulatory and supervisory authority that should issue a clear orientation to professionals in the DNFBP sector and set quantitative and qualitative benchmarks for the implementation of internal AML/CFT systems within these companies is undoubtedly one of the factors in charge of this failure.

Conclusion on IO.4

444. Generally, FIs belonging to major international and regional groups have a good understanding of the ML/TF risks to which their activities are exposed, as well as their AML/CFT obligations.

Consequently, they assiduously implement preventive measures based on the risks, although they sometimes grapple with some challenges in the identification of beneficial ownership, verification of the authenticity of the customer's identity document, implementation of enhanced due diligence measures with regard to PEPs and the implementation of TFS. The other FIs have a poor understanding of the AML/CFT risks to which their respective activities are exposed and an insignificant contribution to the national AML/CFT effort.

445. On the whole, DNFBPs have a poor understanding of the ML/TF risks to which their various activities are exposed. They have not conducted their internal ML/TF risk assessment. Furthermore, they have not put in place their internal AML/CFT systems and therefore do not implement any ML/TF prevention measures, in line with the FATF standards. Besides, over the period spanning 2018-2023, only one DNFBP filed one STR to the FIU. AML/CFT internal control measures are not implemented within DNFBPs. All of these deficiencies negatively affect the effectiveness of Guinea's national AML/CFT system.

446. Against the backdrop of a poorly banked economy where the proliferation of informal activities is not contained by any strong measure, the almost total lack DNFBPs' contribution to the reporting activity and due diligence measures fundamentally hinders the prevention of ML/TF in Guinea.

447. **Guinea is rated as having achieved a Low level of effectiveness on IO. 4.**

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions

- a. The BCRG has a set of policies and procedures to guarantee the fit-and-proper status of both national and foreign promoters, before granting them licenses. The fit-and-proper test carried out relate to the criminal background of shareholders, directors, certain managers and beneficial owners, the source of funds and the requirements of sound reputation and competence. However, only beneficial owners who exercise forms of control relating to shareholding and voting rights are taken into account by the existing control mechanism.
- b. The supervisory authority has not taken specific measures to identify the illegal exercise of activities subject to prior approval in high-risk sectors, such as microfinance, forex dealership and money transfer, in spite the magnitude of informal transactions in these sectors. The lack of coercive measures therefore increases the risks of money laundering and terrorist financing in Guinea.
- c. The BCRG has demonstrated a fair understanding of the ML/TF risks the banking sector is exposed to. This understanding is more limited with regard to other categories of FIs, particularly microfinance, Forex dealers and money transfer, which are the FIs most vulnerable to ML/TF. The programming of inspection missions is mainly focused on prudential supervision, even though one component is on AML/CFT. Furthermore, specific on-site AML/CFT inspections, whether thematic or included in an overall inspection, are rare for the banking sector, insurance companies and EMIs, and even virtually non-existent for other FIs.
- d. The supervisory authority does not have sufficient resources or human capacity to reasonably meet its AML/CFT obligations. The AML/CFT supervisory capacity is low and is not supported with training. The resources allocated to risk-based AML/CFT supervision are inadequate given the fact that the high-risk FIs have a large number of entities, e.g. forex bureaus and EMI were subjected to very few inspections during the review period.
- e. The BCRG is yet to mete out any sanctions on FIs, despite the deficiencies observed during its inspection missions. The impact of the BCRG's inspection missions on FI compliance is reduced by the low number of on-site inspections as well as the lack of AML/CFT sanctions issued by the supervisory authorities.
- f. The supervisory authority rarely conducts training and sensitization activities for the various reporting entities on compliance with their AML/CFT obligations. In 2023 it published Directives to specify the terms of implementation of the AML/CFT law, which relate in particular to the risk-based approach, the rules for monitoring wire transfers and the thresholds for the systematic reporting of certain transactions to the FIU. However, due to the recent nature of these measures, the Assessment team could not assess their impact.

Virtual Asset Service Providers

- g. Although the VASPs are accountable to the AML/CFT law, Guinea has no regulatory texts on the issuance of licenses/registration and for the supervision or monitoring of VASPs in AML/CFT. The country has not conducted any study to understand the ML/FT risks linked to their operations.
- h. VASPs are yet to be subjected to AML/CFT supervision. To date, no VASP operating in Guinea has been identified and no application for license approval as a VASP has been recorded by the BCRG.

DNFBPs

- i. The DNFBP sector is dominated by illegal and informal exercise of activities subject to the prior issuance of an approval or license, particularly within the ones that are most at risk (real estate, precious metals or stones)
- j. Apart from real estate professionals, each category of DNFBP has a supervisory authority/SRB responsible for implementing the legislative and regulatory texts governing the entry requirements and professional practice in the sector. For most of these professions, the exercise of the profession is subject to obtaining an approval or authorization or an operating license to practice. However, in practice, these authorities/SRBs do not strictly verify compliance with the fit-and -proper status of the applicant, particularly those relating to the Beneficial Ownership, to prevent criminals or their associates from owning or controlling such entities.
- k. The FIU has been designated as the AML/CFT regulatory and supervisory authority for DNFBPs by the 2021 AML/CFT Law. Although it coordinated the NRA exercise, it has little understanding of the specific ML/TF risks to which the various categories of DNFBPs are exposed. It has no sectoral and institutional assessment mechanism for ML/TF risks for each category of DNFBPs. It has not conducted any sectoral assessment to better understand the ML/TF risks to which the sectors placed under its supervision are exposed.
- l. Due to this recent designation, the FIU is yet to have the tools to enable it to implement the risk-based supervision approach. Its AML/CFT supervision capacity is weak and is not sufficiently supported by training. Besides, there number of staff assigned to the supervision of the vast set of DNFBPs is inadequate. However, the Assessment team noted that the FIU is gradually undertaking actions with a view to establishing in the short term, a risk-based framework and supervision system.
- m. The FIU is yet to commence AML/CFT supervision, talk less of risk-based supervision. Consequently, no AML/CFT-related sanction has been meted out.
- n. With no AML/CFT supervision and sanctions, it is impossible to assess the impact of supervisory measures on AML/CFT compliance. Besides, for the AML/CFT supervision and regulation of DNFBPs, there is no formal/informal mechanism for cooperation and collaboration between the FIU, self-regulatory bodies and DNFBP supervisory authorities.

Recommended Actions

Financial Institutions

The Guinean supervisory authorities are urged to:

- a. Ensure that all FIs, particularly those in the foreign exchange sector, MFIs and EMIs, are subjected to a licensing and registration process and subject to comprehensive supervision.

- b. Implement a comprehensive mechanism for identifying and verifying the sound reputation of beneficial owners of FIs to prevent criminals and their associates from holding or becoming beneficial owners of a significant share or controlling interest or exercising any management functions in these entities.;
- c. Strengthen the measures for identifying unlicensed foreign exchange dealers, collecting public savings, rapid money transfer and distribution of electronic money by sub-agents and mete out proportionate and dissuasive sanctions on them.
- d. Continue deploying the ML/TF risk-based approach while improving the rating and classification of banks based on their ML/TF risks, which would help establish the objectives, programs, and ML/TF risk-based inspection missions.
- e. In case of non-compliance with the AML/CFT obligations, ensure the implementation and execution of proportionate, effective, and dissuasive disciplinary and pecuniary sanctions for all FIs, particularly those at high risk. Ensure the implementation of remedial measures as well as recommendations issued following on-site/off-site inspection missions.
- f. Allocate adequate human resources to the departments responsible for AML/CFT supervision (DBA, DSA, DSIFI and DCRC) depending on the size and risks of each sector of activity. The supervisory authority would also need to strengthen the capacities of its staff in ML/TF risk-based supervisions.
- g. Provide assistance and information/guidance to FIs, to improve their AML/CFT compliance and understanding of the risks they are exposed to.

Virtual Assets Service Providers (VASPs)

- h. Establish a mechanism for the identifying, licensing/registration and monitoring VASPs as well as an understanding AML/CFT and conducting an assessment of the ML/TF risks to which they are exposed.
- i. Supervise VASP activities based on the identified risks and mete out dissuasive sanctions on all informal and illegal VASPs.

DNFBPs

- j. Expand the scope of licensing and registration requirements to include BOs, which will facilitate a comprehensive assessment of the fit-and- proper criteria for persons occupying senior management positions, holding significant or controlling shareholding, or who are professionally accredited in DNFBP companies.
- k. Adopt measures to identify unlicensed operators operating as real estate agents, dealers in gem and precious metals, and mete out sanctions on them in order to significantly reduce the size of the informal activities conducted locally.
- l. In collaboration with supervisory authorities and self-regulatory bodies, revise the regulatory texts governing DNFBPs' activities, with a view to considering the AML/CFT component, regarding monitoring at the entry of the professions as well as their submission to both on-site and off-site AML/CFT inspection Review of exercises should be prioritized, starting with sectors with high levels of ML/TF risks: real estate professionals, notaries and dealers in precious metals and stones;
- m. Continue complete the comprehensive establishment of a supervision mechanism based on ML/TF risks and undertake the first AML/CFT inspection missions in the medium term. The

FIU should cautiously adjust this system in line with the peculiarities of the DNFBPs, in order to guarantee its effectiveness. Priority should be given to the real estate sector, notaries and dealers in precious metals and stones.

- n. The FIU should provide the training and sensitization of the self-regulatory bodies of the Conduct sectoral assessments of ML/TF risks, in order to better identify the ML/TF risks to which each sub-sector placed under its supervision is exposed and to put in place an adequate risk-based supervision system.
- o. Increase the FIU staff responsible for supervising DNFBPs and ensure they regularly receive training and tools, to enable them adequately monitor the of DNFBPs' compliance with AML/CFT, particularly those at high risk.
- p. Carry out a widespread popularization of the new AML/CFT Law among DNFBPs and intensify awareness-raising and training activities for them, ensuring that DNFBPs with high levels of ML/TF risks, namely real estate professionals, notaries and traders in precious metals and precious stones, are prioritized.
- q. Promote DNFBPs' implementation of their obligations by issuing guidelines, developing compliance manuals to be used by reporting entities, as well as through exchanges of experiences and best practices with a view to promote the domestication of the AML/CFT culture within the DNFBPs.

6.2. Immediate Outcome 3 (*Supervision*)

448. The relevant Immediate Outcome reviewed and evaluated in this Chapter is IO. 3. The relevant Recommendations for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40. As indicated in paragraphs 115 & 116, the BCRG is the prudential and AML/CFT supervisory authority for all FIs operating in Guinea. The regulatory, monitoring and supervision activity is carried out by two (02) Departments, including the Department for the Supervision of Financial Institutions and Credit and Foreign Exchange Department which are directly involved in the licensing process as well as the monitoring and supervision of Financial Institutions, including in AML/CFT.

449. The Financial Institutions Supervision Department comprises the Banking Supervision Division, the Insurance Supervision Division and the Division for the Supervision of Inclusive Financial Institutions. These various Divisions are in charge of monitoring credit institutions (Banks, specialized financial institutions, leasing companies, etc.), insurance companies and brokers and inclusive financial institutions (Microfinance, EMIs, STDA and postal financial services) and money transfer companies. They study the licensing application files and ensure the proper functioning of said institutions through off-site activities and on-site inspection missions.

450. Since 2022, the FIU has been the AML/CFT monitoring and supervisory authority for all DNFBPs operating in Guinea. It carried out an internal reorganization with a view to creating a department in charge of regulating and supervising DNFBPs. This new department does not currently have sufficient staff to effectively perform its function. The supervision mechanism for this sector was in the deployment phase as at the time of the on-site visit.

451. The AML/CFT law subjects VASPs to AML/CFT obligations and designates the BCRG as their supervisory authority in this area. As at the time of the on-site visit, the BCRG had not taken measures to inform the public that VASPs operating or wishing to operate in Guinea must be licensed or registered with it, nor mapped out the terms and conditions for licensing /registration and practice of the profession. No VASP license/registration application has been received by the BCRG. Since the VASPs were placed

under the aegis of the BCRG, the organization, functioning and resources of the BCRG have not evolved significantly to take into account the new supervisory requirements of this sector. Also, Guinea has not taken measures to identify VASPs operating in the country, therefore no inspection activity relating to VASPs could be undertaken by the BCRG.

452. The assessment team weighted the assessment of the effectiveness of supervision more heavily for real estate agents, notaries and gemstone dealers, heavily for Microfinance Institutions, EMIs, Bureaux de Change, the banking sector and money transfer companies, medium for casinos and gaming establishments of chance and insurance companies and low for VASPs and other DNFBPs. Details on the weighting of each sector can be found in Chapter 1.

453. The conclusions on IO.3 are based on the documentation provided by the competent authorities and discussions held with both the supervisory and prudential monitoring authorities and FIU.

6.2.1. Licensing, record keeping and controls preventing criminals and their accomplices from entering the market.

Financial institutions and VASPs

454. The exercise of any financial activity in the Republic of Guinea is subject to obtaining a license duly issued by the Licensing Committee. License is issued based on request submitted by the applicant to the Central Bank of the Republic of Guinea (BCRG) for consideration. Thus, within the Central Bank, there are four (4) Departments in charge of reviewing the applications for license:

- The Banking Supervision Division (DSB) for banks and financial institutions.
- The Insurance Supervision Division (DSA) for stakeholders in the insurance sector.
- The Department for the Supervision of Inclusive Financial Institutions (DSIFI) for Microfinance Institutions, EMIs and Fund Transfer Companies; and
- The Foreign Exchange Control and Regulation Division (DCRC) for manual Forex dealers.

455. Generally, among the constituent elements of the applications for authorization in the financial sector, there are documents providing information on the level of integrity of the applicants. This particularly include the list of shareholders, police clearance, copies of business registration certificate, agreement contracts and certificate of deposits of the minimum capital required in a local bank. This certificate must be accompanied by a notarial deed to certify its authenticity. However, the poor understanding of AML/CFT risks by notaries (see Paragraph 397 and criterion 22.2.d) could have a strong impact on the effectiveness of fit-and-proper test of shareholders.

456. For the analysis of the documents, the BCRG has developed a methodological guide for reviewing all applications for license. The said guide clearly indicates the measures to be taken to ascertain the lawful origin of the funds invested and the fit-and proper status of the shareholders, directors and managers operating or wishing to settle in Guinea. The processing of the application must consider the calibre of the capital contributors /shareholders.

457. With regard to **credit institutions (banks and financial institutions)**, applications are filed to the Central Bank and reviewed by the Banking Supervision Department (DSB), which provides the secretariat for the Licensing Committee. This requires the list of shareholders with indication of the level of shareholding of each, their nationality as well as their address, police clearance less than 3 months old for the natural person applicants, the business register, contract agreements and certification of deposits of the minimum capital required in a local bank. It obtains all the information on the calibre of the persons who provided the capital contribution and, where applicable, on that of their guarantors, as well as their sound reputation. In this regard, the production of the certificate of sincerity of the information transmitted to the License Committee imposed on the Chairman of the Board of Directors and the two main managers,

contributes to strengthening this control system. The same applies to the questionnaire submitted to these executives on the declaration of conflicts of interest and cases of bans issued against them while performing previous functions. The assessment team notes that this obligation does not concern all the other members of the management committee comprising those in charge of the main activities of the institution. No measures are taken by the BCRG to prevent criminals and their accomplices from occupying these positions.

458. Furthermore, the origin of the funds used by capital providers must be clearly established in order to ensure that they do not come from criminal activities. It is therefore up to the applicant to indicate the origin for the three types of funds below: (i) those belonging to the major shareholders, i.e. those holding more than 10% of the capital, (ii) those whose contribution is between 5% and 10%, which must be subject to continuous monitoring and (iii) those whose share is less than 5% to ensure that a minority shareholder does not launder funds of criminal origin within the financial system. Also, the fit-and-proper test only considers the control methods relating to the shareholding and the right to vote. The BCRG procedures pay particular attention to shareholders (legal or natural persons) domiciled in tax havens. This verification is done through the legal documents constituting the shareholders' agreement and the origin of the funds required for the constitution of the company's share capital. Although the BCRG intends to extend this approach to countries presenting a higher risk identified by the FATF, the effectiveness of this approach could be affected by the deficiencies identified in criterion 19.2, in particular the lack of countermeasures proportionate to the risks and applicable to high-risk countries, regardless of any FATF appeal.

459. Where the BCRG receives requests from foreign promoters, the information collected is verified with other counterpart supervisory authorities in order to prevent persons guilty of economic and financial crimes in other countries from obtaining a license and integrating the Guinean financial sector. Licensing is subject to the assent of the supervisory authority of the country of origin, and subject to the latter exercising control on a consolidated basis (Article 13 of the Banking Act). In this regard, the BCRG has signed cooperation agreements with several foreign counterpart institutions, including the BCEAO, Bank Al-Maghrib, BEAC, BCC, Banque de France, BCM, as well as all the WAMZ member countries. No statistical data was provided by the country on the number of verifications made with its foreign counterparts during the period of the evaluation and the follow-up action taken.

460. On the whole, during the period spanning 2018-2023, out of the 13 licensing applications processed by the BCRG, two (02) applications were rejected for the lack of the reference shareholder (Art. 54 of the Banking Act) on the one hand, and the transferee's lack of experience in banking, on the other.

461. In order to continuously monitor the sound reputation and probity of managers and shareholders, credit institutions are required to declare any change to the BCRG for prior approval. During the period under review, out of a total of 141 applications for license submitted by managers and administrators, nine (09) were rejected, representing a percentage of 6%. Non-compliance with the nationality criterion is the most frequently cited reason for rejection. One case of rejection was due to the fact that the applicant was involved in a fraud case pending before a court in Dakar. The country has not received any BNIut relating to a change in the shareholding of a bank.

462. However, Guinea has not provided any evidence that the BCRG has taken measures to ascertain the fit-and-proper status of BOs that could exercise any form of control other than those exercised through capital shareholding. With regard to the issue of beneficial ownership for all FIs, the AML/CFT Law under Article 99 provides that *"the licensing, approval or registration body shall issue the necessary legislative or regulatory texts and implement the procedures required to prevent criminals or their accomplices from holding or becoming the beneficial owners of a significant shareholding or control of any financial institution"*. Against this backdrop, the Assessment Team observed that it would be difficult to identify the beneficial ownership without a national beneficial ownership register (see chapter 7).

463. With regard to of **electronic money issuers, microfinance institutions, insurance companies and manual Forex bureaus**, the BCRG applies the fit-and-proper test for all the shareholders or founding members and directors, in the review of their license application files.

464. The procedure described above for banks and financial institutions is identical to that applied by the BCRG in order to prevent criminals and their accomplices from becoming the beneficial owners or controlling these institutions. The composition of license application files is established by BCRG Directives No. I/DGSIF/DSIMF/001/2012.8 and No. 025/DIEM/RCH/11 governing these activities and providing for the production of information on shareholders, developers, administrators and managers, including their identity as well as their criminal record in order to verify the lack of criminal antecedents. In case of doubt on the good character of those who control or direct the company as well as on the legality of the origin of the funds, the approval is refused to the applicant. During the period under review, out of the 43 applications 41 for approval by managers and administrators, six (06) 42 were rejected, representing a rate of 14% due to non-compliance with the nationality criterion.

465. **Money or value transfer** activity is conducted by credit institutions, EMIs, microfinance institutions and postal financial services. Any legal person governed by Guinean law may carry out this activity provided it is approved by the BCRG as a money transfer institution. The terms of exercise are determined by Directive No. 032/DGEEM/RCH/11 and described in the preceding paragraphs.

466. Upon analysis, the fit-and-proper test procedure for managers and shareholders seems robust but has led to few rejections. The BCRG processes approximately 37 integrity files each year.

467. As presented in Table 6.1, for all FIs, between 2019 and the 1st quarter of 2023, the average rejection rate for license applications is 12.5%. Of the 184 requests to amend the list of managers/directors processed by the BCRG, 15 were rejected for several reasons, namely (i) non-compliance with the nationality criterion (Art. 17 of the Banking Act), (ii) involvement in a fraud case pending before a foreign court; and (iii) non-compliance with the PCA's residency criterion in Guinea (Art. 23 of the Banking Act). Out of an average number of 54 files received by the BCRG each year), 4 are rejected. However, the Assessment team notes that no data was provided by the country on the manual foreign exchange sector which has a high weighting of ML/TF risk. This situation illustrates a low level of mitigation given to this sector of the Guinean economy in terms of regulation and control. The inadequate attention given to this sector thus leads to the proliferation of several forex bureaus and agents operating e in the informal sector in total disregard of their AML/CFT obligations.

Table 6.1: Number of License applications and management and shareholding changes received, processed and rejected by the BCRG between 2022-1st quarter of 2023.

	Types of Application	Applications received	Applications processed	Applications approved	Applications rejected
Banks and financial institutions	Approval	13	13	11	2
	Change Managers / Administrators	141	141	132	9
Insurance	Approval	3	3	3	0
	Change Managers / Administrators	11	11	9	2
IFIs (EMIs, MFIs)	Approval	16	16	14	2
	Change Managers / Administrators	32	32	28	4
Forex dealers	Approval	n/a ⁴³	n/a	n/a	n/a
	Change Managers / Administrators	n/a	n/a	n/a	n/a
Total	Approval	32	32	28	4
	Change Managers / Administrators	184	184	169	15
		216	216	197	19

Source : BCRG

41 11 relate to insurance and 32 to IFIs.

42 2 relate to insurance and 4 to IFIs.

43Na- Not available

Virtual Assets Service Providers (VASPs)

468. Although the VASP sector is subject to AML/CFT requirements under the AML/CFT&P Law, this sector is not being supervised in AML/CFT. As at the time of the on-site visit, according to the country, there were no VASPs registered VASPs. Besides, Guinea has not taken any measure to identify natural or legal persons carrying out VASP operations without being registered.

FIs' conduct of illegal operations

469. The BCRG has not demonstrated that it has a specific monitoring mechanism to detect the illegal activities conducted by FIs in Guinea. However, it shared with the Assessment Team the initiatives taken in this direction by the DGSIF and DGCC, as presented below.

Case 6.1: "GREENTEK BANK- use of the name "bank" without approval from the BCRG

On 21st November 2022, following the publication on "Kalenews.org", an online general information newspaper, the DGSIF was informed that Mrs. X, Vice-Chairman of the entity called "GREENTEK was organizing a press conference in a local hotel on Wednesday, November 23, 2022, to announce the launch of its philanthropic banking activities very soon. After research, the DGSIF discovered that the said structure had not submitted any application for approval to the BCRG and was yet to be registered with the Trade and Personal Property Credit Register (RCCM). "GREENTEK BANK" was therefore acting illegally. A meeting was initiated between the promoter and the competent services of the BCRG to inform him that he was operating illegally by mentioning the word "BANK" in the name of his structure, since he had not received approval from the BCRG. The DGSIF invited him to rectify his false information in two widely read newspapers and suspend his plan to launch his activities. Grappling with the refusal of the person concerned to comply with the injunctions of the Central Bank, the Directorate of Legal Services and Organization (D) of the BCRG forwarded the file to the Office for the Repression of Economic and Financial Crimes (ORDEF) for the purposes of investigation and prosecution. Furthermore, the Central Bank issued a press release to reiterate the prohibition to claim the status of bank without the Bank's authorization and to request the public to refrain from any financial transaction with the entity called " GREENTEK BANK".

No information was provided to the Assessors on the outcome of the case, particularly in terms of collaboration with the FIU, criminal and pecuniary sanctions.

470. With regard to **microfinance institutions**, the BCRG conducted a mission in 8 regions of the country in 2021 to raise awareness and identify illegal structures carrying out microfinance activities. Most were found to be licensed by the Ministry of Territorial Administration only as a company engaged in business activities. After discussions between the BCRG and these illegal structures, the latter were urged to submit applications for approval to the BCRG. None of them has been subject to sanctions despite the violation observed vis-à-vis the regulations. The BCRG also not taken any follow-up action to ensure that these entities subsequently file license applications.

471. The Assessment team notes that in Guinea, **Money transfer and foreign exchange activities** are two regulated sectors characterized by strong cohabitation with informal actors (high prevalence of use of the so-called "Hawala" system and unlicensed money changers). However, no mechanism for denouncing or reporting these illicit activities has been put in place by the BCRG to sanitize these two sectors, particularly the manual forex sector which presents a high ML/TF risk. The implementation by the supervisory authority of the recommendations of the NRA should provide an opportunity to supervise this sector and raise awareness among its players.

DNFBPs

472. The FIU has been designated by the AML/CFT Law No. 2021 as the regulatory and supervisory authority for DNFBPs in AML/CFT. Prior to this designation up the on-site visit, apart from the real estate

professionals, who are operating with no administrative supervision, each category of DNFBP has a supervisory authority responsible for the enforcement of the legislative and regulatory texts governing the sector's profession, include inspection at the entry of the profession, professional practice as well administrative off-site and on-site inspections. In addition to these supervise authorities, some professions are affiliated with self-regulatory bodies (SRBs) which also ensure compliance with the rules governing the exercise of these professions, including compliance with the codes of ethics and professional conduct of these professions. These are mainly the independent legal and accounting professions. All of these authorities have sectoral regulatory texts relating to the control of entry to the profession, which set the requirements and Criterion for granting licenses or operating permits. These texts also set out the off-site and on-site administrative inspection procedures of the DNFBPs as well as the on-site inspection frequencies. However, these sectoral regulatory texts governing the activities of DNFBPs do not consider the AML/CFT aspect.

473. For most of these professions, the exercise of the profession is subject to obtaining an approval or authorization or an operating license to practice. The list of documents that must constitute the license application file is specified in the sectoral regulatory texts and considers the fit-and-proper Criterion of the applicant(s). Singularly, morality investigations duly conducted by the competent services (Police, Gendarmerie, special intelligence services) and requests for foreign information, including through international cooperation, concerning foreign applicants, are necessary to ensure the strict compliance with the Criterion of sound reputation and probity by the applicant. However, the supervisory authorities as well as the self-regulatory bodies of the independent professions do not seek the assistance of these competent services in this context. It is therefore established that in practice, these authorities do not rigorously verify compliance with the fit-and-proper Criterion by the applicant.

474. Furthermore, most of these authorities do not verify the origin of the funds that the applicant wishes to invest to practice in the profession, in order to ensure their legality. With regard to this preventive measure, which is of crucial importance in AML/CFT, some authorities have considered that its implementation is the responsibility of the Agency for the Promotion of Private Investments (APIP), which is in charge of supporting applicants in the process of setting up their businesses. The impossibility for the supervisory authorities to verify the origin of the capital that the applicant wishes to invest in his business constitutes for the Assessment Team a fundamental deficiency.

475. Similarly, the regulatory and supervisory authorities do not take any action to identify the beneficial owners, especially in terms of business creation. This deficiency is exacerbated by the non-existence of a beneficial ownership register in Guinea.

476. With specific regard to dealers in gems and precious metals, no strict Criterion are considered in the procedures for issuing licenses for the purchase/sale of gems and precious metals. The National Expertise Bureau (BNE) of diamonds, gold and other precious metals, which is the supervisory authority, is not involved in the process of establishing counters for the purchase of diamonds, gold and other precious metals. The BNE requires a certificate of sale duly established by the counter before any assessment is done. Furthermore, the origin, weight and value of the precious stone must appear on the sales certificate. Particularly, for diamond sales, prior to evaluation, the diamonds are photographed with the Kimberley process certificate coupon and another coupon on which the area of origin of the diamonds is marked, as recommended by the Kimberley process. Furthermore, the BNE pays particular attention to the financial capacity of the applicant, without any verification of the origin of its funds. In this regard, the applicant wishing to create a gold buying/selling counter is required to open an account with an FI.

477. In the light of the foregoing, it is still possible, to a large extent, for financial criminals to become beneficial owners of DNFBPs.

Table 6.2: Issuance of licenses for the sale of diamonds, gold and other precious metals

YEARS	2018	2019	2020	2021	2022
NUMBERS OF LICENCES ISSUED OMBRE D'OCTROIS DE LICENCES	51	59	57	56	67

Source: BNE

478. It is worth highlighting that there is a total lack of activities to be undertaken by the supervisory authority for real estate professionals (real estate companies and real estate agents). Indeed, most real estate companies and real estate agents currently operate informally. Besides, they have not been placed under the supervision of any authority. This situation is partly responsible for the high level of ML/TF risk to which this sector is exposed.

479. It is true that the FIU in its capacity as the regulatory and supervisory authority for DNFBPs in AML/CFT by the AML/CFT Law No. 2021, had a dialogue with the supervisory authorities of certain professions on the procedures for the AML/CFT component to be considered in the verifications for access to the profession. However, these initiatives only serve as the commencement of regulation of this sector.

6.2.2 Understanding and identification of ML/TF risks by supervisory authorities

Financial institutions

480. In Guinea, the BCRG supervises all licensed financial institutions. Its understanding of the ML/TF risks is mainly based on the national risk assessment in which it played a leading role, as well as those on the typology studies carried out by GIABA at the supranational level. However, because of the deficiencies identified in the NRA and the lack of other complementary assessments, the Assessment team concludes that there is a moderate understanding of the risks for the bank category of FIs and poor understanding for the others, based on the control measures and actions implemented during the period under review.

481. With regard to the banking sector, the BCRG has been implementing a risk-based supervision approach since 2013, by establishing a prudential risk rating system based on ten Criteria, one of which is related to AML/CFT. Generally, the AML/CFT criterion is weighted at 2 on a scale of 10. However, the rating system does not consider the sectoral ML/TF risks identified during the NRA, thereby impeding the identification of fairly adequate ML/TF risk profiles.

482. In a bid to improve its understanding of ML/TF risks in the financial sector, the BCRG, with the support of the IMF, began the process of developing a ML/TF risk matrix in 2018. To achieve this, it has developed a methodology for assessing risks in terms of money laundering and terrorist financing. This support, which was interrupted in 2020 due to the Covid-19 pandemic, resumed in 2022 and expected to facilitate the development of a risk matrix specific to ML/TF and ultimately classify banks according to their risk profiles and action plans based on this classification. As at the end of the on-site visit, no ML/TF risk matrix was fully operational as it was at the experimental stage. All BCRG Departments responsible for supervising other financial sectors are members of the Ad hoc Committee (BCRG/FMI) set up and will draw from this exercise to develop an appropriate methodology for their respective sectoral activity.

483. Practically, the BCRG is based on the results of the analyses of the AML/CFT questionnaires (QLB) 44. Indeed, banks are required to provide information on the QLB on an annual basis. The first section of the questionnaire relates to the bank's inherent ML/TF risks, while the second section covers risk factors related to customers, products and services, distribution channels and geographical areas. The analysis of the questionnaire is done manually in order to integrate qualitative information drawn from internal control reports and other sources. This does not guarantee the reliability of the outcomes and to have an all-time consolidated view of the level of risk facing the sector.

44 The answers to the questionnaire must be sent to the Banking Supervision Department (BCRG) before May 31 each year.

484. Based on the inspection mission reports and some elements of the annual AML/CFT questionnaire sent by the banks, the ratings are done by the inspection department on documents. Where the outcomes of this rating system define a risk profile and classify the banking institutions based on their degree of exposure to global risks, this profiling is however not specific to AML/CFT. This approach does not allow the supervisory authority to take relevant national and sectoral ML/TF risks into account, including the findings of the NRA, in its supervision strategy.

485. With regard to other types of FIs (MFIs, EMIs, Forex bureaus, insurance companies and MVTs), the supervisory authority does not have a mechanism for identifying ML/TF risks. It has not yet put in place a rating and classification methodology to develop ML/TF risk profiles and to understand the risks in these sectors. Although useful, the participation of the Departments of the supervision of these sectors in the NRA has still not provided them with an in-depth understanding of the money laundering and terrorist financing risks within each sector.

486. On the whole, the BCRG did not mention any interaction with the FIU or any other competent authority that could hold relevant information. The Assessment Team note, therefore, that the lack of a framework for collaboration and cooperation between the BCRG and the FIU is an obstacle to improving understanding the ML/TF risks to which FIs are exposed.

VASP

487. Although the AML/CFT law subjects VASPs, the BCRG has not put in place measures to identify and understand the ML/TF risks to which VASPs are exposed. The supervisory authority met indicates that it has not yet registered or identified any VASP operating in Guinea.

DNFBPs

488. The supervisory authorities of DNFBPs have a poor understanding of the ML/TF risks to which the sectors placed under their supervision are exposed. Indeed, the regulatory texts governing DNFBP activities do not take the AML/CFT component into account. From this viewpoint, these supervisory authorities do not understand the AML/CFT obligation. Added to this are the challenges relating to the NRA, a wide dissemination of the report of which could have given these supervisory authorities some understanding and basic tools on the ML/TF risks to which the sectors placed under their supervision are exposed. The same applies to self-regulatory bodies (SRBs) of the independent legal and accounting professions. These SRBs have a poor understanding of ML/TF risks. Indeed, no SRB has conducted a sector assessment in order to know the ML/TF threats and vulnerabilities specific to its sector. The lack of training and sensitization of these SRBs on AML/CFT in the accomplishment of their missions also explains their poor understanding of the ML/TF risks inherent in their respective sector of activity.

489. The FIU was recently designated as the regulatory and supervisory authority for DNFBPs. Although its active involvement in coordinating the NRA exercise helped it to understand the ML/TF risks linked to DNFBPs, as well as its regular participation I GIABA's typology workshops, the Assessment team is of the opinion that this understanding is too broad and superficial. Besides, the NRA has some deficiencies. (see chapter 1).

490. For now, the FIU does not have adequate resources or tools to enable it implement the risk-based supervision approach. Also, apart from the NRA which has gaps, and the typology studies carried out by GIABA at the supranational level, no specific assessment has ever been carried out in Guinea to enable the FIU have a detailed understanding of the ML/TF trends and methods across the DNFBPs.

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

Financial Institutions

491. The BCRG could not demonstrate that its on-site or off-site inspections of the BCRG are systematically based on ML/TF risks and that the ML/TF risk-based assessment methodology developed is fully used by the inspectors.

492. Generally, the BCRG organizes various types of on-site inspection missions with the institutions under its supervision: general inspection without AML/CFT component, general inspection with AML/CFT component and AML/CFT thematic inspection. These inspection programs have been based since 2013 on a prudential risk rating system based on ten (10) Criterion, one of which concerns AML/CFT. Although this approach evolved in 2022 towards the development of a matrix specific to ML/TF risks, this is still in the experimental phase. It should eventually enable the supervisory authority to classify banks on a specific AML/CFT methodology and to carry out supervision fully based on ML/TF risks, especially since it has an internal policy and procedures for the organization of on-site ML/TF inspection missions.

493. The assessment team notes that the on-site inspection program is conducted on an annual basis and developed according to the overall risk rating identified and monitoring priorities. Regarding its inspection program, the BCRG prepares a list of reporting institutions presenting a “high” level of prudential risk. The time of the last audit and the status of implementation of previous BCRG recommendations are also considered to define the annual audit program. Thus, between 2018 and 2022, the BCRG conducted on-site inspection missions exclusively dedicated to AML/CFT with certain FIs.

494. Generally, the inspections focused on verifying the existence of the AML/CFT system, customer identification procedures, internal control procedures, implementation of risk mapping, prevention and detection of ML/TF and the conduct of periodic inspections. It should be noted that the on-site inspections program for MFIs, EMIs, insurance companies and MVTs is based on the outcomes of the offsite inspections and time of the previous on-site inspection. It is not yet based on a risk-based approach to ML/TF. In this regard, as indicated in the table above:

- The **banking sector** recorded three (03) on-site inspection missions exclusively dedicated to AML/CFT over the last two years. Following each of these missions, recommendations were proffered to improve their systems with very specific timelines. Letters would be regularly exchanged with these banks to ensure the status of implementation of these recommendations.
- In **the insurance sector**, two (2) thematic AML/CFT missions were conducted in 2021. Recommendations were proffered for the implementation of the AML/CFT system on the one hand and the improvement of the existing system, on the other.
- In 2021, the DSIFI also conducted a targeted AML/CFT on-site inspection mission within an **MFI**. The implementation of the recommendations resulting from this mission resulted in the improvement of the AML/CFT system within this structure as well as the transmission of its annual report on AML/CFT in accordance with the regulations.
- With regard to **EMIs**, a targeted AML/CFT inspection mission conducted in 2022 within the two (2) structures representing 99% of the market share made assessed the level of compliance of these entities and proffered recommendations which to date have either been implemented or in the process of being implemented.
- From 2020, the supervision of **money transfer institutions (ETDA)** has been the remit of the DSIFI. One (1) ETDA was the subject of AML/CFT inspection mission, the conclusions of which led to recommendations.

- Furthermore, the assessment team identified, based on the documentation made available that the inspections conducted with the high-risk sector of **Forex bureaux** over the said period focused mainly on the monitoring of foreign exchange transactions and identification of illegal structures. Despite the high ML/TF risks in this sector, the on-site inspection mission did not include AML/CFT supervision.

495. On the whole, the Assessment Team identified a low number of inspection missions conducted by the BCRG with all the FIs, given the level of ML/TF risk to which these sectors are exposed. (See Chapter 1). The BRCG's supervision strategy has been focusing more on FIs of systematic importance at the detriment of other categories of FIs which could also have some deficiencies in their AML/CFT systems. Thus, a significant number of FIs at risk of ML/TF were not inspected during the review period. Given the context and level of ML/TF risk to which FIs are exposed, the BCRG should adjust the frequency and scope of its supervision of banks, based on the risks. More particularly, great attention should be paid to the inspection of the manual foreign exchange sector given its high level of ML/TF risk.

Table 6.3 Type of Inspection by Categories of Financial Institutions

Type of Inspection by Categories of Financial Institutions		2018	2019	2020	2021	2022	Total
Banks	General inspection with AML/CFT Component	0	0	0	0		0
	AML/CFT thematic inspection	0	0	1	1	1	3
MFI	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	0	1	0	1
Insurance companies	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	0	2	0	2
Foreign exchange bureaux	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	0	0	0	0
MVTS	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	0	1	0	1
EMIs	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	0	0	2	2
TOTAL	General inspection with AML/CFT Component	0	0	0	0	0	0
	AML/CFT thematic inspection	0	0	1	5	3	9

Source –BCRG

496. On the whole, the analysis of the supervision reports reveals that very little attention is paid to the identification of suspicious transactions that should have been declared to the FIU during inspections.

497. In the light of the foregoing, the assessment team notes that the BRCG is facing major challenges relating to the availability and lack of human resources for the inspection on one hand, and staff capacity building on risk-based supervision of ML/TF risks, on the other.

498. This situation greatly reduces its capacity to effectively supervise all categories of FIs and impedes it from determining the level of implementation of ML/TF risk mitigation within FIs and identifying without delay those areas and institutions that need more attention and setting priorities. The quality of training is crucial for the effectiveness of a risk-based approach to AML/CFT supervision. Within the BCRG, these training actions are necessary at all levels of the organizational chart, from front-desk supervisory staff to line managers.

Table 6.4: Number of officers in charge of inspections by department

	2018	2019	2020	2021	2022	2023
DSB	11	11	11	11	10	9
MVT	10	10	10	9	9	7
DSIFI	8	8	7	7	7	6
DCRC	3	3	3	3	6	6
Total	32	32	31	30	32	28

Source-BCRG

VASP

499. The country has not reported any off-site (i.e. on-site) AML/CFT inspection or analytical measures.

DNFBPs

500. After a reorganization of its services, the new organogram of the FIU has a department in charge of supervising DNFBPs. The said department, at the time of the on-site visit, comprised only three (3) executives. The assessment team finds this number inadequate in view of the diversity and number of DNFBPs in Guinea. The FIU plans to initiate a process of recruitment and capacity building in supervision with effect from year 2023.

501. Due to its recent designation as the regulatory and supervisory authority for DNFBPs in AML/CFT, the FIU has not conducted any AML/CFT-related off-site or on-site inspection. On the other hand, the assessment team noted that the FIU is gradually undertaking actions with a view to establishing a risk-based supervision system in the short term. It enjoys the technical assistance of the IMF. It was against this backdrop that it participated alongside the BCRG in an online training program on risk-based supervision, led by the IMF.

502. Furthermore, the FIU has established a database of DNFBPs. It has started developing a procedure for authorizing the operation of casinos, taking into account the AML/CFT aspect. It also discussed with LONAGUI, the former supervisory authority for casinos and games rooms, on the modalities for onboarding the AML/CFT component in the requirements to access the profession.

503. In addition, the FIU has developed three (3) guidelines on customer identification, the suspicious transactions reporting obligation and the administration of the reporting form. Added to this are the awareness-raising activities for several DNFBP representatives and contact meetings with dealers in gems and precious metals as well as SRBs of notaries and chartered accountants organized by the FIU.

6.2.4. Effective, proportionate and dissuasive remedies and sanctions**Financial Institutions**

504. Supervisory authorities have a range of criminal, civil and administrative and criminal sanctions that they can mete out on natural and legal persons for failing to comply with AML/CFT requirements in Guinea.

505. The inspection missions conducted by the BCRG between 2020 and 2022 with banks, EMIs, insurance companies and MVTS, identified significant violations of the regulations. This relates to the lack of an internal system defining the procedures for customer identification, profiling, implementation of due diligence measures with regard to PEPs, implementation of internal audits, suspicious transactions reporting and training.

506. Following these inspections, the BCRG sends a letter to the inspected entity inviting it to implement the recommendations in order to resolve the deficiencies identified in terms of AML/CFT within the framework of an action plan with a very precise timeline. However, the Assessment Team are not certain about the effective implementation of the recommendations contained in these inspection reports or the follow-up measures taken by the BCRG to ensure this implementation.

507. The assessment team finally notes that the BCRG has opted for the implementation of remedial measures focusing on education and sensitization at the detriment of meting out sanctions, despite the significant AML/CFT violations observed. The impact of this approach could not be established. Generally, the supervisory authority systematically stated that it preferred this so-called “academic” approach in the implementation of the recommendations emanating from the inspection mission.

Consequently, no AML/CFT-related disciplinary or pecuniary sanction has been meted out to date. This approach fundamentally limits the overall effectiveness of the AML/CFT system.

508. Consequently, the Assessment team concludes that the implementation by the supervisory authority of effective, proportionate and dissuasive sanctions for violations of AML/CFT obligations is yet to become a reality in Guinea.

VASP

509. To date, no VASP operating in Guinea has been identified and no application for license as a VASP has been recorded by the BCRG.

DNFBPs

510. No AML/CFT inspection has been conducted within the DNFBPs. Consequently, no AML/CFT sanction has been imposed.

6.2.5 Impact of supervisory measures on compliance

Financial Institutions

511. The impact of supervision measures on the compliance of FIs in Guinea is mixed. Indeed, the implementation of the risk-based approach is still a challenge. In the banking sector where it has been more or less adopted, the supervisory authority's understanding of ML/TF risks needs significant improvements. Furthermore, not only are the on-site inspections not conducted at a reasonable frequency, due to a lack of human resources, but the implementation by the FIs of the recommendations emanating from these on-site inspections within the set timelines, particularly those relating to preventive AML/CFT measures, has not been demonstrated. Nevertheless, the Assessment Team notes a substantial improvement in the number of STRs filed by the FIs to the FIU during the period under review, even though it is still low in view of the heavy weighting of the sector. They also note the adoption of AML/CFT policies and procedures by most banks as well as the training of compliance staff.

512. In summary, the Assessment Team concludes that the impact of the BCRG's supervisory actions on FI compliance is reduced. Implementation of the relevant sanctions for violations of AML/CFT obligations could have had a satisfactory impact on the compliance of a large number of FIs.

VASPs

513. As indicated above, no measures have been taken by the BCRG for the VASP sector. Consequently, the impact and quality of the inspections could not be assessed.

DNFBPs

514. The FIU conducted training and awareness-raising sessions for some DNFBPs. However, these sessions proved to be insufficient to create a significant impact on the compliance of the DNFBPs, even though at the end, one DNFBP filed one STR to the FIU.

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

Financial Institutions

515. The BCRG issues Directives and Circulars to specify the terms and conditions for the implementation of the AML/CFT Law by the FIs under its supervision in order to enhance the reporting entities' understanding and implementation of their AML/CFT obligations.

516. Since its participation in the NRA, the BCRG has taken measures to promote understanding of ML/TF risks by reporting entities and improve their level of compliance with AML/CFT obligations. Accordingly, it published the following three Directives in 2023:

- Procedures for the implementation of the risk-based approach (Directive No. 109/DGSIF/DSB) to be implemented by all FIs.
- Rules for monitoring wire transfers (Directive No. 110/DGSIF/DSB) to be implemented by FIs.
- Thresholds for the systematic reporting of certain transactions to the FIU (Directive No. 111/DGSIF/DSB) applicable to all reporting entities.

517. In this regard, the Assessment Team noted that Directive 109/DGSIF/DSB provides details on the mitigating measures to be implemented for each category of FI, in accordance with the Law. It provides, among other things, for the transmission of a report on the implementation of the internal AML/CFT system established by the FIs to the supervisory authority, which must include several pieces of information that would deepen its understanding of ML/TF risks and enhance the effectiveness of the ML/TF risk matrix currently being implemented. These include, among other things, training activities, FI's resources allocated to AML/CFT, risk mapping, implementation of the risk-based approach and outcomes of the inspections conducted on compliance with the procedures.

518. In 2021, the supervisory authority organized a workshop to sensitize banks on AML/CFT obligations, in which twenty-nine (29) compliance officers participated.

519. Although meetings with the Professional Bankers' Associations, Microfinance institutions, EMIs and Forex bureaus are organized with the BCRG, the Assessment Team were unable to assess their periodicity and ensure the AML/CFT is discussed there.

520. In addition to these initiatives, there is a no mechanism designed for all financial sector players to draw inspiration from good practices observed during the thematic inspections conducted by the BCRG.

Table 6.5: Training and sensitization organized by the BCRG

Types of Entity	Banks	MFI	EMI	Insurance Companies	MVTS	Foreign exchange Bureaus	Approved MP counters	Medias Actors
2018	Ateliers	0	0	0	0	0	0	0
	Participants	0	0	0	0	0	0	0
2019	Ateliers	0	0	0	0	0	0	0
	Participants	0	0	0	0	0	0	0
2020	Ateliers	0	0	0	0	1	0	0
	Participants	0	0	0	0	30	0	0
2021	Ateliers	1	1	0	0	1	0	0
	Participants	29	50	0	0	20	0	0
2022	Ateliers	1	0	1	0	1	1	0
	Participants	35	0	6	0	15	15	0
2023	Ateliers	1	0	0	0	0	1	1
	Participants	21	0	0	0	0	25	25

Source: BCRG

VASP

521. As indicated earlier, no measure has been taken by the BCRG for the VASP sector.

DNFBPs

522. Since the designation of the FIU as the regulatory and supervisory authority for DNFBPs, after the creation of a department in charge of supervising DNFBPs, the FIU has been implementing sensitization and training activities for lawyers, notaries, chartered accountants, auditors, casinos as well as dealers in gems and precious metals. Furthermore, it has been exchanging with the administrative authorities of

certain professions on the procedures for taking the AML/CFT component into account in the verification for access to the profession. The FIU has also developed three guidelines for DNFBPs.

523. The Assessment Team noted that there was no formal/informal mechanism for cooperation and collaboration between the FIU and the self-regulatory bodies of the independent legal and accounting professions. The establishment of such a mechanism is essential to enable the FIU to fully involve self-regulatory bodies in the implementation of its risk-based supervision activities. This mechanism should also enable independent legal and accounting professionals to improve their understanding of their AML/CFT obligations and the ML/TF risks to which their activities are exposed.

Conclusion on Immediate Outcome 3

524. In Guinea, the Financial Sector Supervisory Authority carries out appropriate controls to prevent criminals or their associates from entering the market. They require the production of documents proving the fit-and-proper status of persons wishing to practice the profession. However, the exercise of illegal activities by FIs escapes its control given the magnitude of the informal sector in the country's economy. The lack of mechanisms designed to detect the illegal or informal exercise of activities subject to authorization undermines the BCRG's capacity to prevent criminals or their accomplices from clandestinely infiltrating the market.

525. The supervisory authority's understanding of risks lacks consistency and uniformity for the entire financial sector. Indeed, this understanding is based on NRA which has some deficiencies, as well as on the typologies conducted at supranational level by GIABA. Based on this understanding, the BCRG has been gradually implementing the risk-based approach to the banking sector since 2022 following the implementation of the ML/TF risk matrix developed with the IMF. However, because of the inadequate human resources needed to conduct on-site and off-site AML/CFT inspections, coupled with the improper implementation of sanctions for violations by FIs, the impact of the inspection activities on the FIs' compliance is still negligible.

526. With regard to the DNFBPs and VASPs, supervision is to a large extent, at an embryonic stage, and lacks the ML/TF risk-based approach. This situation negatively impacts the reporting activity of a critical portion of reporting entities deemed at high ML/TF risk. Guinea's supervisory regime requires fundamental improvements.

527. **Guinea is rated as having achieved a Low level of effectiveness on IO.3.**

CHAPTER 7. LEGAL PERSONS AND LEGAL ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

- a. The national ML/TF risk assessment conducted in 2019 did not cover legal persons or legal arrangements established in the country. The authorities in charge of company incorporation and management of the Trade and Personal Assets Credit Register (RCCM) were also not involved in this exercise. Therefore, measures to mitigate the risks that would be specific to each type and category of legal persons in the country could not be taken.
- b. Information on the creation and types of legal persons is contained in the Uniform Act on the OHADA General Business Law and is accessible to the public. The one on legal persons are contained in the RCCM. This information is stored and archived at two levels. Electronically at the APIP, as a one-stop shop for information provided at the time of incorporation and manually for changes made after incorporation at the RCCM held by the Commercial Court.
- c. The public has access to basic information through legal notices, on-site or on the APIP website “synergui.apipguinee.com”. However, the lack of centralization of all this basic information in a single, interconnected computerized system makes this access difficult for the public (timely) and compromises their record keeping as well as their reliability.
- d. The authorities in charge of incorporating legal persons in Guinea and maintaining the RCCM, as well as certain independent legal professions concerned, namely notaries and lawyers, have a poor understanding of the risk incurred by legal persons and legal arrangements.
- e. In Guinea, legal persons are governed by the OHADA Uniform Act with a number of obligations for the creation and maintenance of registers, which constitute a first line of defence against misuse for ML purposes. However, no measure aimed at preventing the abusive use of bearer shares in private companies has been taken.
- f. There is no BOR and information on the BO of legal persons is not collected.
- g. The Law enforcement authorities have access to basic information but not beneficial ownership information because of the non-existence of a BOR and non-collection of BO information.
- h. The legal framework provides for civil, administrative and criminal sanctions for violations of obligations by legal persons, but their implementation has not been demonstrated.
- i. Although the criminal liability of legal persons is legally enshrined in Guinea, in particular through AML/CFT Law No. 2021, the Law enforcement authorities are not inclined to using information held by the APIP and RCCM on LPs and Las due to a poor understanding of ML/TF risks and failure to take ownership of the AML/CFT system.

Recommended Actions

The Guinean authorities should:

- a. Urgently disseminate the AML/CFT law to the various legal persons, investigative authorities, judicial authorities, Registry staff in charge of the RCCM, the APIP, FIs and DNFBPs. Training and sensitization campaigns should be organized as soon as possible with these stakeholders.
- b. Conduct a specific ML/TF risk assessment on commercial legal persons, associations and foundations established in the country as well as legal arrangements and take appropriate measures to mitigate such risks.
- c. Take measures aimed at guaranteeing the accessibility of information on legal persons by the public or the competent authorities, as the case may be, by ensuring the interconnection of the RCCM deployed at the One-stop shop of which the APIP is the custodian and the RCCM held at the Court of Commerce as well as the computerization of hard copies stored at the Commercial Court.
- d. Provide the RCCM held at the Commercial Court with sufficient resources to properly perform its functions.
- e. Establish the obligation to monitor the quality of the assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.
- f. Ensure that FIs and DNFBPs meet their obligations to keep information collected on trusts or trusts for the purpose of identifying the beneficial owner and to ensure that it is accurate, up-to-date and accessible at the opportune time.
- g. Ensure that public limited companies maintain a register of registered securities issued by these companies at their headquarters and that it contains information relating to transfer, conversion, pledge and sequestration operations. In case of violation, sanctions should be meted out.
- h. Put in place a legal framework that explicitly requires trusts to declare their status to FIs or DNFBPs when establishing the business relationship.
- i. Implement proportionate and dissuasive sanctions, of a criminal, civil or administrative nature, applicable to trusts for failure to meet their obligations.
- j. Develop a legal framework requiring companies to provide information on their beneficial owners.
- k. Create a BOR with up-to-date information accessible to competent authorities without delay.
- l. Ensure that the basic information maintained in the RCCM is accurate and up to date.
- m. Guinea should implement measures to avoid the misuse of bearer shares in private companies.
- n. The Guinean authorities should carry out sensitization and training activities for actors in charge of incorporating legal persons and maintaining company records, given their limited understanding of the ML risk linked to any abuse they may be subjected to as company structures and the non-implementation of due diligence obligations by the authorities in charge of incorporating and keeping information on legal persons.

528. The relevant Immediate Outcome reviewed and assessed in this Chapter is IO.5. The relevant Recommendations for the effectiveness assessment under this section are Rs.24 and 25, and some elements of Rs.1, 10, 37 and 40.

7.2 Immediate Outcome 5 (Legal Persons and Arrangements)

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

529. The legal persons that can be established in Guinea are either business companies, economic interest groups (EIG) or associations. For companies, these include sole proprietorships, public limited companies, limited partnerships, limited liability companies, simplified joint stock companies, branch and variable capital companies, civil companies and cooperatives. (See Chapter 1). In Guinea, like in other OHADA member countries, the creation of the various commercial legal persons as well as any successive modifications of their statutes, legal forms are governed by the OHADA Uniform Act on Business Companies and Economic Interest Grouping of 30th January, 2014.

530. The OHADA Uniform Act on General Business Law requires member countries to make accessible all information on the creation and types of legal persons existing in the country. This information can be consulted freely in the journals of legal notices, on-site or on the APIP website "synergui.apipguinee.com" or at the RCCM held by the Chief Registrar of the Commercial Court, which saves only the modifications made after the creation of the company.

531. In Guinea, to ensure the public accessibility of information, the APIP was set up by Decree n° D /2014/029/PRG/SGG of 10th February 2021, which acts as a one-stop shop for investors through an wire platform for creating a business and collecting the information needed to create a company in one place and within 72 hours, called SyNERGUI : <https://www.invest.gov.gn/page/legal-and-fiscal-framework>). This platform is designed for creating a company records legal information and is interconnected with the General Tax Department (DGI).

532. Thanks to its one-stop shop, the APIP offers a single point of entry for all business incorporation procedures. However, not all basic information is accessible to the public because this platform is not interconnected with the RCCM held at the Conakry Commercial Court, and the subsequent modifications made to the company and which are considered within this jurisdiction, are not passed on to the APIP. Conversely, the information collected at the APIP is not shared with the custodian of the RCCM at the Commercial Court. This situation reduces public access to information held by the Chief Registrar. Anyone wishing to access this information must physically go to the office of the chief clerk to submit the request.

533. In addition to business companies and GIEs, there are other types of legal persons in Guinea. These are associations and foundations. The latter, including foreign ones, are governed by Law L/2005/013/AN of 4th July 2005, which outlines the requirements for their creation. Thus, the Minister of Territorial Administration and Decentralization (MATD), through his competent services, receives the files which must include an application, the statutes, the minutes of the constituent General Assembly, the byelaws and detailed action plan of the association or foundation. After these formalities have been completed, the authority issues the license authorizing the creation. These entities are supervised and monitored by the MATD and all modifications to their statutes are recorded and updated accordingly. All of this information is held manually with the MATD and can be consulted on-site at the appropriate time. However, certain deficiencies identified in the analysis of IO.10 relating to NPOs have a negative impact on the transparency of associations and foundations in terms of accessibility of basic information. Indeed, a good number of NPOs are not listed because they are not licensed or continue to operate although the renewal of their license has been rejected.

534. With regard to legal arrangements, Guinea is yet to ratify the Hague Convention on the law applicable to trusts, but the texts in force in Guinea provide for the creation of legal arrangements such as trusts. Although the Guinean authorities have noted that there are no legal arrangements in Guinea, it is not impossible for a person living in Guinea to manage the ownership of present or future assets, rights or securities, on behalf of a third party, or for the ownership of present or future assets, rights or securities in

Guinea to be managed as a consortium or trust. With no precise and verifiable data on the existence or otherwise of legal arrangements in Guinea, it is difficult to assess whether information on their creation and their categories is available and even less whether it is accessible to the public.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities related to legal persons.

535. Guinea conducted its very first national risk assessment between February 2019 and November 2020. The report resulting from this exercise is yet to be adopted by the competent authorities. The findings contained in this report reveal that the country has identified sectors vulnerable to ML/TF (banks, insurance, DNFBPs, financial inclusion and financial institutions sub-sectors), but has not conducted and analyzed specific and in-depth ML/TF risks associated with legal persons. (Cf. pages 70 to 156 of the NRA Report). However, certain vulnerabilities are identified here and there in the NRA concerning legal persons, and in a fragmented manner. Besides, the findings of this exercise have not been disseminated to all stakeholders.

536. The assessment team notes that the PIPA-centric corporate transparency system is not accompanied by an ML/TF risk-based approach. Indeed, the Guinean authorities have not provided evidence that some degree of due diligence is conducted to verify the identity of shareholders or partners of legal persons or even the source of their capital through databases held by other competent authorities. Nevertheless, the APIP ensures that during the creation formalities, additional information is required if deemed incomplete in the file, subject to rejection, in line with the provisions of the Uniform Act.

537. With no specific risk assessment on commercial legal persons and no other measures taken, and considering the risks of ML/TF, the Assessment Team could not realistically assess to what extent the authorities are aware of the potential vulnerabilities related to the misuse of commercial legal persons and legal arrangements for ML or TF purposes. Furthermore, statistics on the number of legal persons registered or established in the country and owned or controlled by non-residents were not provided.

538. In terms of sanctions, no binding measure has been taken by the Commercial Court in violation of the formalities inherent in the keeping or making available of certain information on legal persons during the period under review. Besides, the few sanctions meted out by other structures on certain registered legal persons are not reported to the RCCM held at the Commercial Court.

539. Furthermore, even where the information provided at the time of the creation of the legal person and the context of the related files, is computerized, it was noted that the registrations or subsequent modifications including withdrawal decisions, were not computerized. These subsequent modifications are not considered in the platform APIP either.

540. This piecemeal computerization established another challenge in the physical archiving of records kept at the RCCM of the Commercial Court (TC) and kept in containers, which does not guarantee their accessibility and security. This observation is coupled with the lack of sensitization and training of the authorities in charge of the RCCM on AML/CFT issues. The RCCM interconnection project between the TC and the APIP, which has been underway for 2 years now, is yet to be completed, and the APIP has still not facilitated the deployment of its software at the TC.

541. Besides, the lack of a specific assessment of the ML/TF risks linked to legal persons means that not all vulnerabilities have been identified, particularly those linked to the anonymity of partners for partnerships, especially SCI and shareholders for capital companies, especially where shares are transferred with no obligation to declare to the RCCM those established by bearer shares, or the use of intermediaries by the real holder of the shares.

542. Furthermore, the authorities in charge of collecting information on legal persons and law enforcement authorities do not have a good understanding of the ML/TF risk to which legal persons are exposed.

543. Besides, even though the criminal liability of legal persons is enshrined in the Guinean legislations, particularly by the AML/CFT Law No. 2021, the Law enforcement authorities conduct few investigations and prosecutions directed against legal persons established in the country and which can be misused for ML or TF purposes due to a poor understanding of ML/TF risks and failure to take ownership of the AML/CFT system. The few investigations and prosecutions conducted mainly relate to predicate offences to ML/TF.

544. Furthermore, the FIU did not carry out a strategic analysis on the basis of the STRs it received in order to identify and assess the ML/TF methods and trends through legal persons in ML/TF.

545. Besides, even though the NRA took NPOs into account, which were inappropriately included in the DNFBPs section, the actors of the associations and foundations, especially private ones, do not have a good understanding of the risks associated with these sectors. Against this backdrop, the situation of associations, consequently of their high number and the conditions under which licenses are issued, remains the most worrisome (see R.8).

546. The Assessment Team noted that depending on the location or establishment of the association, requests for licenses can be made at a district, regional or national level. This poses the real problem of supervising these associations and coordination at the national level in the sense of establishing real and quantified data on these associations as well as their understanding of the ML/TF risks.

7.2. 3. Implementation of measures aimed at preventing the misuse of legal persons and arrangements for ML/TF purposes

547. In Guinea, like other member countries of OHADA, legal persons are subject to a general obligation of transparency. The OHADA Uniform Act on Business Companies and Economic Interest Groups (AUDSC - GIE), revised on 30th January 2014, provides for modern and flexible measures applicable to them. These rules are broken down into general provisions common to all forms of Business Companies (the constitution of Business Companies and EIGs and the publicity measures surrounding it, the operation of each of these forms of business company, the status of corporate officers, criminal offences likely to be committed by these managers, the tools for controlling the life of the company) and in special provisions relating to each form of company (Individual company, General partnership (SNC), Simple limited partnership (SCS), Limited liability company (SARL), Public limited company (SA) and Simplified joint stock company (SAS).

548. Guinea has established the One-stop Shop at the APIP which centralizes the creation of legal persons and collects information on legal persons, including the company name, proof of their incorporation, legal form, address, registered office, share capital, list of Executive officers and members of the Board of Directors, the lifespan of the company, the auditors and which information is kept at the RCCM. However, it has not been demonstrated, in accordance with the Uniform Act, that companies keep basic information as well as all deliberations relating to the company at their headquarters. This is also the same observation with respect to public limited companies with regard to the register of registered securities issued by the company, which is supposed to contain the information on transfer, conversion, pledge and sequestration operations.

549. Due to lack of interconnectivity of this platform with the RCCM held at the Conakry Commercial Court, the subsequent modifications made to the company and which are taken into account at the level of this jurisdiction, are not passed on to the APIP. Conversely, the information collected at the level of the APIP is not shared with the custodian of the RCCM at the level of the Commercial Court. Furthermore, the Assessment Team could not assess whether bearer shares are registered for both public and private

companies, even though the relevant provisions provided for in the OHADA Uniform Act only require it for public companies.

550. Admittedly, the FIU has received STRs involving legal persons, but it has not conducted any strategic analysis based on this submission to identify and assess the ML/TF risks and vulnerabilities of legal persons. With no statistics on the number of legal persons registered or established in the country, owned or controlled by non-residents, the Assessment Team could not ascertain whether the legal persons established in the country are subject to special supervision.

551. Ultimately, though Guinea's AML/CFT L/2021/024/AN of 17th August 2021 provides for due diligence measures aimed at preventing the use of legal persons and legal arrangements for ML/TF purposes, the country has not demonstrated its effective and efficient implementation.

7.2.4. Timely access by relevant competent authorities to satisfactory, accurate and up-to-date information on all types of legal persons established in the country and their beneficial owners.

552. The competent authorities do not have direct access to all basic information on legal persons operating in the country. Indeed, this information on the creation and types of legal persons collected is kept at two levels: at the APIP for information on legal persons at the time of creation and by the chief clerk of the Conakry Commercial Court for subsequent changes within the company. Even though the OHADA Uniform Act on General Business Law provides for public accessibility to this information, Guinea still does not have an RCCM that centralizes all information on the life of the company since its inception. The file at creation is automated at the APIP and interconnected with the National Tax Department and not with the Commercial Court and does not consider subsequent modifications within the company.

553. With regard to associations, private foundations and NGOs, information on their structures, administrators, members, budgets and goals, are supposed to be centralized at the Ministry of Territorial Administration in charge of issuing incorporation licenses. However, due to the non-centralization of basic information on especially associations which may be established at national, regional or district level, the competent authorities have difficulties in accessing such information.

554. The Assessment Team noted that the competent authorities, including the Law enforcement authorities (police, gendarmerie, prosecutors, presiding magistrates), and other stakeholders (lawyers, notaries and financial institutions), with a very limited frequency, use information contained in the RCCM in the performance of their functions.

555. However, with no beneficial ownership identification mechanism and a dedicated register, these authorities do not have access to the relevant information. The only information they have access to is the one held by banks; the assistance of the State Prosecutor is often needed to achieve this.

556. With regard to access to the database of bank accounts held by FIs for research purposes, the latter provide investigative and especially prosecution authorities, including investigating judges, with information on the accounts in order to determine those relating to beneficial ownership. Similarly, in AML/CFT, the State Prosecutor's office may directly request for the lifting of banking secrecy, the disclosure of the bank account statement, the freezing of accounts and the blocking of frozen accounts.

557. Basic information on legal persons operating in Guinea is shared between the APIP for information on legal persons at the time of creation and the RCCM held by the chief clerk of the Conakry Commercial Court with regard to subsequent changes within the Company. None of these entities conducts controls to ensure that the information provided at the time of the incorporation of the companies includes beneficial ownership information.

558. The information on legal persons held by the chief clerk of the Commercial Court is stored manually in archives kept in different places, including in containers, which does not guarantee the security of the registers. These archives are kept and managed manually without an automated management tool. The Assessment Team identified the existence of a World Bank-funded project which is currently being implemented with computer equipment and servers already delivered, and still ongoing.

559. Furthermore, the information collected at both APIP and RCCM does not include beneficial ownership information. The ongoing computerization process of the RCCM held at the TC and/or its interconnection with the One-stop Shop and the National Tax Department (DNI) will contribute to the centralization of all information on a given company and will improve public access to this information. This situation, which records some delays in the transmission of information, makes it difficult or even impossible to implement the obligation of sharing strings of information with the competent authorities or with the public for those intended for it.

560. The NRA revealed that Guinea now has a reliable national identification system through the biometric passport, on one hand, and the introduction of the birth certificate as well as the biometric identity card, on the other. However, the majority of the populace are yet to have these secure documents; the classical system is still in force. In addition to the lack of interconnectivity between existing databases (RCCM, Tax Identification Number, Passport, etc.), it was noted that most of the civil status documents, the nationality certificate and the criminal record. This state of affairs does not guarantee the completeness, accuracy and reliability of the information collected.

561. Legal persons are required to submit to the Chief Registrar of the TC documents relating to every change in the life of the company, directors, stakeholders and beneficiaries, in order to update the register kept at the RCCM in accordance with the OHADA Uniform Act. On the other hand, legal persons are not required by law to update the information contained in the RCCM. Thus, the OHADA Uniform Act requires each State party to legislate to map out the sanctions for the criminal offences it contains. Guinea has legislated to this effect, but it has not been demonstrated that legal persons comply with the obligation to update their registers. In fact, no sanction has been recorded for possible violations of the obligations to update these registers. It is therefore unlikely that the information held in the RCCM is accurate and up-to-date.

562. Furthermore, Article 10 of the AML/CFT Law provides for the obligation for all reporting entities to identify the beneficial owner or ultimate beneficial owner. However, the NRA reveals that the APIP in charge of the creation and registration of companies in Guinea, collects information on the leaders (directors and managers) in accordance with the provisions contained in the OHADA texts and not information on shareholders or associates of legal persons.

563. In practice, the information collected is computerized by the APIP and kept in a database accessible, on request, to the notaries who participate in the creation of companies, the commercial court, the National Tax Department and the Customs Department but not to the public, as required by FATF recommendation 24. This public only has access to the directory called “directory of private companies in Guinea” via the “synergui.apipguinee.com”, website which contains only basic information on all the companies established in the country.

564. BO information is therefore not systematically collected in Guinea. Only FIs and DNFBPs are required to collect such information when they enter into a relationship with the customer. There is also no Beneficial Ownership Register (BOR). However, the competent authorities, including Law enforcement authorities, may, by virtue of their power of requisition, request for and obtain information held by the FIs/DNFBPs within the framework of implementing due diligence measures or held by the legal persons themselves.

565. At the BCRG, the Licensing Committee (Articles 45 to 48 of Law L/2013/060/CNT of 12th August 2013 on banking regulations), which is not a department of this Central Bank, but a multi-disciplinary

entity in charge of granting licenses in the financial sector, analyses the file submitted. For joint-stock companies, the list of shareholders is requested to have the names of the BOs. It should be noted that in Guinea, most banks are subsidiaries. At this level, in reviewing the application for approval, to search for and identify the BO even without a BOR, the reference shareholder who holds a minimum of 20% of the shares is identified based on a request for cooperation with foreign States. However, the elements attesting to the use of international cooperation have not been provided to the Assessment Team.

566. Where there are new local shareholders, within the framework of identifying the BO, the control is undertaken with the notaries who are required to conduct the AML/CFT audit. For the leaders, the audit is conducted based on two conditions: one on competence and the other on sound reputation (criminal record, oath of honor of the PCA to confirm the veracity of the information provided and sharing of any new subsequent changes. The methodological guide and questionnaire in the Appendices contain the procedure to be followed and the information requested.

567. FIs and DNFBPs, as part of their customer due diligence obligation, are required to identify their customers, including legal persons and legal arrangements as well as BOs. However, the statistics provided by Guinea relate only to the financial sector. Statistics on the non-financial sector were not provided, which impedes the Assessment Team from adequately assessing on a double scale, the varying levels of effectiveness with regard to customer due diligence across the financial and non-financial sectors.

568. Furthermore, there has been no evidence of interaction between the FIU and FIs as well as the DNFBPs, through regular exchanges or sensitization campaigns as to the need for these reporting entities to pay particular attention to suspicions related to legal persons. Nor has it been demonstrated that the competent authorities, in particular those of investigation and prosecution, share basic information with their counterparts on the beneficial owners of legal persons established in the country. In any case, basic information on legal persons is not aggregated and there is no beneficial ownership register in the country.

569. With regard to other types of legal entities, particularly non-profit organizations such as associations and civil companies, basic information on these entities is kept in a disaggregated manner nationwide following a records decentralization policy. Deficiencies related to their identification and supervision (see IO.10) undermine the competent authorities' capacity to obtain satisfactory, accurate and up-to-date information on associations without delay. In any case, the Guinean competent authorities are not inclined to seek such information, due to their poor understanding of the ML/TF risks linked to this sector.

570. In a nutshell, the system put in place in Guinea does not guarantee access by competent authorities, in a satisfactory and without delay, to basic information and accurate up-to-date BO information on all types of legal persons incorporated in the country.

7.2.5. Timely access by relevant competent authorities to satisfactory, accurate and up-to-date information on legal arrangements and beneficial owners

571. Like commercial legal persons, Guinea's legal framework does not require legal arrangements, particularly trusts, to provide their beneficial ownership information. The Guinean legislation only provides for the specific obligation for the Trust to maintain basic information on the service providers to the Trust, particularly their accountants and tax advisers. However, FIs and DNFBPs are required to keep the information collected on trusts for the purpose of identifying the beneficial owner, to ensure its accuracy and update it without delay.

572. The extant legislations in Guinea provide for the creation of legal arrangements such as trusts even though the country has not ratified the relevant Hague Convention. However, the Assessment Team note that there are no legal arrangements in Guinea. Since trustees must be FIs or DNFBPs, the implementation of the measures specifically incumbent on them as trustees is normally monitored by their supervisory authority, which is the FIU. However, it has not been demonstrated that such diligence is being applied.

573. On the other hand, legal professions such as notaries or lawyers, could carry out fiduciary activities. In these circumstances, the AML/CFT Law requires them, as trustees, to keep all information about their customers, keep information about the beneficiaries of the foreign trusts and the parties to the trust. Financial institutions, when entering into a business relationship with parties to a trust, are also required to obtain information about them.

574. In any case, it is common ground that both the competent authorities and the reporting entities have limited knowledge of the administration of legal arrangements, including trusts. These authorities do not seek to have access to information on legal arrangements.

7.2.6. Effective, proportionate and dissuasive nature of sanctions

575. The OHADA Uniform Act outlines the offence, including those related to non-compliance with obligations by legal persons and left to the States to mete out the relevant sanctions. Each OHADA Member State is thus required to enact relevant laws aimed at defining such sanctions. Guinea has achieved this through Article 893 of the Criminal Procedures Code in application of Article 43 of the AUDCG for example.

576. However, the country has not produced any statistics demonstrating the imposition of a sanction either for fraudulent execution by a legal person of any of the formalities provided for by the OHADA Uniform Act, or for failing to update in the RCCM all the basic information contained therein or when a company fails to keep its share register at its registered office.

577. Furthermore, the statement of the measures prohibiting management and personal insolvencies, which could exist and be delivered by the correctional, civil or commercial courts, excluding disciplinary sanctions, was not provided to the Assessment Team. In any case, it is common ground that the RCCM did not record such measures.

578. On the other hand, the License Committee at the BCRG, in reviewing the applications submitted to it, recorded a case of rejection, based not on a violation of the AML / CFT system but on facts of fraud for which the applicant was allegedly accused based on the information transmitted by the foreign authorities of a neighboring country at the request of the Central Bank. Guinea also reported a case of license withdrawal published in the Official Gazette in accordance with the regulations.

579. Apart from the aforementioned cases, the supervisory authorities of the other sectors (DNFBP, securities market) have not applied any sanctions for cases of violation of the Criterion of availability and rapid access to adequate, accurate and up-to-date basic information on beneficial ownership and legal arrangements.

580. With no appropriate sanctions meted out, it is impossible to assess their effective, proportionate and dissuasive nature.

Conclusion on IO. 5

581. The Guinean authorities have not demonstrated understanding of the ML/TF risks to which legal persons, especially commercial ones, are exposed to. Consequently, the measures or mechanisms implemented to ensure the transparency of legal persons and legal arrangements, from their creation to their dissolution, are strictly limited to the OHADA requirements. Although these facilitate compliance with the FATF requirements to a lesser extent, they do not seem sufficient to prevent LPs and LAs from being misused for ML/TF purposes.

582. In any case, the transparency of LPs and LAs in Guinea is limited to a very large extent by the poor understanding of ML/TF risks, the lack of appropriate mitigating measures, and above all the

competent authorities' difficulty to access satisfactory, accurate, up-to-date and timely basic and BO information of LPs and LAs. In a country with a high TF risk, the impossibility of using accurate and reliable information on non-profit organizations for the detection, investigation and prosecution of TF is a serious gap.

583. In addition, Guinea's AML/CFT system in terms of transparency of LPs and LAs requires the effective application of practices such as the exclusion of incapacitated persons, bans from practicing, the justification of the origin and use of funds, the complete identification of members and managers, the beneficial ownership declaration requirement, the fit-and-proper test and the production of supporting documents, which are fundamental improvements.

584. **Guinea is rated as having achieved a Low level of effectiveness on Immediate Outcome 5.**

CHAPTER 8 INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

- a. The lack of international cooperation in Guinea is generally not very dynamic and constructive, although its geographical situation strongly exposes the country to transnational crime. In fact, the country has no mechanisms for managing statistical data related to international cooperation and for monitoring the processing of requests received, which significantly impacts the execution of requests for mutual assistance without delay.
- b. Guinea records a low rate of requests for mutual legal assistance during investigations and prosecutions for ML and predicate offences, as the international cooperation dimension has not been made a priority by the criminal policy.
- c. Guinea provides and solicits, to some extent, other forms of constructive international cooperation provided by investigative authorities with their foreign counterparts through BCN-INTERPOL and other regional police cooperation channels. However, this information exchanged through these channels is not specifically related to ML/TF. Also, the non-membership of the FIU to the Egmont Group considerably limits international cooperation in AML/CFT.
- d. In terms of identification, seizure and confiscation of criminal assets located abroad, cooperation among competent counterpart authorities abroad, whether formal or informal, is very limited, despite Guinea's risk profile.
- e. International cooperation in the identification and exchange of basic and beneficial ownership information on legal persons and legal arrangements is non-existent. No request has been issued by the country in this regard; similarly, the country has never been requested to provide information on legal persons and legal arrangements.
- f. The competent authorities (supervisory authority, LEAs, Customs and Tax officials) AML/CFT actors in general and criminal Law enforcement authorities in particular, lack the human and financial resources, which negatively affects the implementation of constructive international cooperation.

Recommended Actions

Guinean authorities should:

- a. Develop a specific AML/CFT criminal policy making it a priority to resort to formal and informal international cooperation.
- b. Strengthen the legal framework for cooperation through bilateral and multilateral agreements to coordinate seizure, freezing and confiscation actions, or dispose of confiscated assets. This legal framework should define a mechanism for managing assets frozen or seized or that have been confiscated and, if necessary, disposing of them.

- c. Conclude formal cooperation agreements with the FIUs and speed up the process of the FIU's membership of the Egmont Group of FIUs.
- d. Develop a clear and specific procedure for managing mutual legal assistance request and define a system for managing statistical data related to international cooperation and monitoring these requests, prioritizing their execution and considering factors related to the nature of the offence in question and the persons involved.
- e. Sensitize, train and equip competent authorities (supervisory authorities, LEAs, customs and tax officials), to make optimal use of international cooperation with a view to detecting, investigating and prosecuting criminals and their assets.
- f. Take adequate measures to systematize international cooperation in ML/TF investigations and transnational crime in general, in order to detect, locate and confiscate the proceeds of crime in line with the country's risk profile.
- g. Map out effective regimes, mechanisms or circuits to facilitate and enable direct, rapid and constructive exchanges of information between non-peer authorities.
- h. Allocate adequate resources to the various actors involved in the fight against ML/TF.

585. This Immediate Outcome relates mainly to Recommendations 36 to 40 as well as some elements of Recommendations 9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

586. The Republic of Guinea is exposed to high ML/TF risks. The transnational nature of the major categories of predicate offences identified in the NRA and the international ramifications that ML/TF cases quite often present mean that international cooperation is essential in order to make Guinea a place where criminals have little interest in carrying out their activities, saving their income or taking refuge. Furthermore, Guinea is a gateway to West Africa and borders with the Republics of Senegal, Guinea Bissau, Mali, Sierra Leone, Liberia and Côte d'Ivoire⁴⁵; hence the need for such international cooperation.

8.2.1. Providing mutual legal assistance and extradition in a constructive and timely manner.

587. The analysis of the statistical data provided by Guinea reveals that the country provided very little cooperation during the review period. Practically, nothing was done from 2019 to 2021; most of the requests received by the country cover the period spanning 2022 to 2023. The remarkable thing about all these assistance requests received is that only one ML-related case and no TF or PF-related.

- ***Mutual criminal legal assistance***

588. Guinea is a party to several international conventions on various matters, including the Vienna Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, the United Nations Palermo Convention against Transnational Organized Crime, the Merida Convention against Corruption and the Convention on Terrorism Financing. It has also entered into regional agreements and has undertaken, through its FIU, to exchange information and intelligence with some of its counterparts worldwide (France, Mali and Senegal). Within the framework of these Conventions and agreements, the

45Op.cit.

country undertakes to cooperate as and when requested to do so. Mutual legal assistance requests are transmitted through the diplomatic channel to the Ministry of Justice, Keeper of the Seals, Minister of Human Rights through the Ministry of Foreign Affairs and Guineans in the Diaspora. The requests received are analyzed by the Department of Criminal Affairs and Grace. This Department, after analysis, transmits them to the appropriate judicial services, in this case, the Conakry or Kankan Court of Appeal of Conakry for execution through the two general prosecutor's offices. The judicial authorities to whom the requests are addressed are either the territorially competent State Prosecutor of a base court or the special prosecutor attached to the CRIEF, or an investigating judge territorially competent within the framework of an international letters rogatory. If the mission is intended for a prosecutor, the latter may, if he deems it useful, request the Criminal Investigations Department for the purpose of executing the tasks specified in the request.

589. Missions conducted within the framework of mutual legal assistance requests are conducted in compliance with the professional secrecy as required by the case. However, the Assessment Team notes that the transmission of correspondence from the Ministry of Foreign Affairs and Guineans in the Diaspora to the Ministry of Justice and Human Rights is not accompanied by specific confidentiality measures. Similarly, no specific channel is used in the transmission of requests to the judicial authorities, as the letters are dispatched ordinarily without being explicitly stamped “confidential”. Even though the Assessment Team did not identify any proven cases of violation of confidentiality, the mode of transmission of mutual criminal legal assistance files does not provide the necessary relevant guarantees.

590. The assessment team notes that no time limit is required for the execution of cooperation requests. This lack of timeline causes delays as identified in the processing of requests, which sometimes obliges the requesting countries to follow up with the Guinean authorities for this purpose. Also, some requests are simply ignored for lack of adequate follow-up. Only professional conscience leads certain judicial authorities to execute requests received with relative diligence.

591. The authorities of the central administration of justice indicate that they received a total of 38 mutual legal assistance requests over the period spanning 2018 to 2022, of which only one received a response (see Box 1 below). Therefore, it is not possible to establish whether Guinea provided constructive cooperation in the area of mutual legal assistance during the period under review. For a country whose economy is extroverted and therefore subject to real ML threats and other forms of crime, the low rate of execution of requests has a negative impact on the effectiveness of international cooperation.

592. The Guinean authorities attribute this low rate of execution of mutual legal assistance requests to the fact that they are sometimes provided with little information. Also, the magistrates in charge of their execution are very little equipped on international cooperation and seldom provide feedback to the central administration on the action taken with regard to the requests they are dealing with.

Box 8.1: Cases of mutual legal assistance requests executed.

By letter rogatory No... of 17th September 2020, the French judicial authorities (vice-president in charge of the investigation of the Pointe-à-Pitre judicial court) issued an international letter rogatory to the address of the judicial authorities. The purpose of the request was to hear, as a witness, a lawyer from the Guinean Bar, who had previously assisted one of his customers in drafting a contract. The customer in question was facing criminal charges with two other people, for acts of money laundering and participation in a criminal association with a view to preparing an offence. The request was received by the prosecutor's office of Mafanko-Conakry 3 on 9th April 2021; on 21st December 2021, the investigating judge of the court of first instance of the said jurisdiction effectively handled the case by hearing the lawyer through a questionnaire developed by the Presiding Magistrate. Incidentally, the return mail to the French Embassy in Guinea was not received until 4th November 2022, i.e. almost a year after the execution of the mission.

- **Extradition**

593. Guinea has a legal framework that organizes the extradition regime with the principle of non-extradition of Guinean nationals. Extradition requests are also transmitted through the diplomatic channel with a view to referral to the courts. The decision to extradite or not rests with the investigative supervision court. The Guinean authorities indicate that the country did not formally receive any request for extradition during the period under review. The country is a member of ECOWAS and a Party to the 2003 ECOWAS Criminal Police Cooperation Agreement. Under this Agreement, the Law enforcement authorities can hand over persons suspected of having committed offences to their counterparts in the other countries of the ECOWAS region, when required to do so.

594. From the above analysis, it implies that Guinea provides judicial cooperation below expectations, given the threats the country is grappling with. This low rate of execution is partly due to the lack of follow-up on requests, the low training capacity of the Law enforcement authorities as well as inadequate human and financial resources allocated to them. The Assessment team therefore concludes that mutual legal assistance and extradition in Guinea are not provided in a constructive and timely manner.

8.2.2. Request for timely mutual legal assistance and extradition related to ML, predicate offences and TF.

595. Whether in terms of mutual legal assistance or extradition relating to ML and its predicate offences as well as TF, Guinea did not issue a single request during the review period.

- **Mutual legal assistance**

596. On the whole, Guinea has made very few mutual legal assistance requests from foreign countries, although several predicate offences with international ramifications have been the subject of criminal prosecution. Guinea indicates that since the creation of the Economic and Financial Offences Repression Court (CRIEF) in December 2021, mutual legal assistance request have been sent to foreign countries in the context of prosecuting persons suspected of having committed the offences of money laundering, embezzlement of public funds and corruption. However, there are no statistical data available to ascertain the nature of such requests, the countries requested and the periods of such requests. The CRIEF judicial authorities indicated that they had requested from the judicial authorities of a country in the West African sub-region, information on a person who had committed offences outside Guinean territory and invested in real estate in Guinea. This case illustrates a typical case of self- laundering offence.

597. Although the Guinean legal framework provides for the possibility of concerted actions in the identification, seizure and confiscation of criminal assets located abroad, the Assessors did not note any cooperative action in this direction. The Guinean authorities have not reported any case of transnational crime that has generated significant profits, the processing of which required mutual legal assistance. This situation could also be attributed to the fact that in terms of mutual legal assistance, very few requests have been issued by Guinea, in spite of the country's risk profile. This lack of dynamism was also observed in informal cooperation, while investigations were conducted by the police for illicit drug trafficking, migrants' smuggling, forgery, use of forgery, use of counterfeit documents and others presenting foreign elements.

598. On analysis, Guinea has not demonstrated optimal use of international cooperation in ML/TF, which is not in line with its risk profile.

Extradition

599. Guinea has indicated that it has not issued any formal extradition request. This implies that in all the cases handled by its jurisdictions, there has been no need to seek from another country the extradition

of persons suspected of having committed any offence against Guinean law or sentenced for this purpose. However, the findings of the NRA have reported on the real cross-border threats to which Guinea is exposed.

8.2.3. Request for and provision of other forms of international cooperation for AML/CFT purposes.

600. In addition to its legal framework, Guinea has signed bilateral and multilateral agreements which enables the country to position itself in the hub of formal and informal international cooperation. The country is a Party to the Criminal Police Cooperation Agreement between ECOWAS countries. The BCN-INTERPOL and other sub-regional organizations bringing together the judicial police are at the forefront of this cooperation. Guinea is also a member of the World Customs Organization (WCO), the West African Network of Central Authorities and Prosecutors (WACAP), the Inter-Agency Asset Recovery Network for West Africa (ARINWA) and the FIU Forum of GIABA Member States. The FIU is a has submitted its application for admission to the EGMONT Group, which would offer it a wide range of cooperation options.

601. All cases recorded by the country during the review period, and which required recourse to these other forms of cooperation, were only related to predicate offences, most of which were identified by the NRA as major threats to the country. However, this informal cooperation has rarely focused on ML/TF/PF cases.

Law enforcement authorities

602. Within the framework of criminal cases they handle, under the cooperation agreement in Criminal Police matters among ECOWAS countries, the Guinean investigative authorities may request their foreign counterparts to cooperate in the apprehension of suspects and hand them over. The Guinean police authorities have indicated that they have used this form of cooperation to some extent to solicit from their counterparts in neighboring countries the surrender of certain wanted suspects. In the same vein, they have collaborated with their foreign counterparts in apprehending and handing over wanted suspects. In addition to the police-to-police surrender, the police authorities have provided and obtained information in relation to criminal lawsuits. The assistance thus solicited and offered focused much more on the search for and apprehension of suspects, rarely on the identification of assets produced from crime. This cooperation mainly uses the ICPO/INTERPOL channel through Guinea's BCN/IINTERPOL. Thus, Guinea has received several requests for assistance from various African and European countries. This assistance focused much more on letters rogatory, and to a lesser extent, on the execution of warrants of arrest or Interpol red notices. Conversely, the Guinean police authorities have requested the assistance of their foreign counterparts in the context of letters rogatory on offences relating to fraud, illicit drug trafficking, migrants' smuggling, kidnapping and others.

603. The Guinean prosecutorial authorities have made very little use of the informal WACAP and ARINWA networks of which they are members. However, these various networks constitute shortcuts in the collection of information and intelligence on persons subject to prosecution and criminal assets subject to seizure. The judicial authorities considered that these networks do not function properly.

604. Guinea's National Anti-Corruption Agency is a member of the Network of Anti-Corruption Institutions in West Africa (NACIWA). As such, this Agency uses this network to exchange information relating to the fight against corruption in general. In 2018, the National Anti-corruption Agency (ANLC) was contacted by the Malaysian authorities on a case of corruption in a company incorporated under Malaysian law. The request was sent to the FIU for processing, but to date no results have been obtained.

605. Also, the Guinean special services interact with their foreign counterparts especially in the sharing of information on the fight against money laundering, terrorism financing and terrorism itself.

- **FIU**

606. The Guinea-FIU is at the hub of financial intelligence and therefore has the possibility of soliciting from foreign FIUs, any information needed in criminal lawsuits. In this regard, it has signed several cooperation agreements with international FIUs.⁴⁶ These agreements are mainly based on the exchange of financial information. The Guinea-FIU issued about 90 information requests abroad relating to natural persons. Some of these requests emanated from CRIEF, which has used its channel to obtain information in the context of legal proceedings. The analysis of the statistical data reveals that from 2015 to 2022, the FIU submitted information requests mainly from its counterparts in the West African sub-region on ML cases. Guinea indicates that on the whole, these requests have received satisfactory responses without indicating the timeframe within which the responses were obtained. All this information obtained through the various international exchanges has enabled the Guinea-FIU to better process its various cases opened on the STR database and even to initiate new procedures.

607. Under the cooperation agreement, the Guinea-FIU received from 2017 to 2022 four (04) information requests from TRACFIN, Mali-FIU and Senegal-FIU. All of these requests were for information on the economic environment of the persons involved and the identification of movable and immovable assets belonging to them. The offences related to these requests were corruption, embezzlement of public funds, abuse of authority, forgery and use of forgery and tax evasion. The Guinean authorities indicated that they have provided the information requested.

608. On the whole, Guinea has relatively solicited the cooperation of its foreign counterparts but offered very little. However, this cooperation seems to be limited to the area of mutual requests without incorporating the dimension of spontaneous sharing of information.

- **Customs and tax authorities**

609. Guinea is a member of the World Customs Organization (WCO). In the fight against customs offences (fraud, smuggling and others), the customs authorities have requested their counterparts who are members of this organization to provide useful information for this purpose. However, the Assessment Team note that the customs services are not very keen about the ML/TF dimension. Thus, the various information obtained through this channel actually added no value to the investigations with a view to detecting cases of ML/TF. Also, the Guinean tax authorities do interact with their counterparts in foreign countries, but without directly informing the criminal chain in its law enforcement actions.

610. Guinea is a member of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. But the tax and customs authorities have not been able to take sufficient advantage of its membership of this Forum for the exchange of tax information.

- **Supervisory Authority (BCRG)**

611. In the Republic of Guinea, the Central Bank of the Republic of Guinea (BCRG) is the Supervisory Authority for all financial institutions. Within the framework of international cooperation, it has signed agreements with its counterparts in the West African sub-region, in Africa and worldwide, for the exchange of information and intelligence. With the Central Bank of West African States (BCEAO), it maintains privileged relations in the provision and supply of information which it shares, as and when necessary, with the FIU and investigative authorities. It has been doing likewise with its counterparts in other areas of Africa. However, statistical data were not available to support the implementation of this cooperation in terms of requests for relevant information, to measure the country's effectiveness in this area.

⁴⁶ Côte d'Ivoire, Senegal, Togo, Ukraine, etc.

8.2.4. Cooperation on Identification and Exchange of Basic and Beneficial Ownership Information on Legal Persons and Arrangements

612. The mechanism for identifying and exchanging basic information and beneficial ownership information of legal persons and legal arrangements is analyzed in detail in chapter 7. The RCCM, APIP and Registry of the Commercial Court occupy a crucial place in this arrangement. Guinea indicates that the FIU for now has not issued any information requests on legal persons and legal arrangements from its foreign counterparts, although it has sometimes received STRs involving legal persons. On the other hand, a foreign FIU sent an information request on a legal person. In this case, it was the Sierra Leone-FIU that contacted its counterpart in Guinea in February 2020 following a suspicious report on a transfer received and not justified from Guinea amounting to US\$ 999.975. The transfer was made from the account of a company established in Guinea to the account of a subsidiary of the same company in Sierra Leone. This information request was dealt with satisfactorily by Guinea, and the results of the analysis were sent back to the requesting country in the same year.

613. The assessment team nevertheless notes that the information relating to legal persons held by the RCCM does not make it possible to easily identify the beneficial owners of these companies. Indeed, the basic information on legal entities operating in Guinea is concurrently held by the APIP for information on legal persons at the time of creation and the RCCM held by the Chief Registrar of the Conakry Commercial Court on the subsequent changes in the company. None of these entities carries out verifications to ensure that the information provided when incorporating companies includes beneficial ownership information. This deficiency reduces Guinea's capacity to provide high quality cooperation with its foreign counterparts in the identification and exchange of basic and beneficial ownership information on legal persons and legal arrangements.

Conclusion on IO. 2

614. Cooperation between Guinea and its foreign counterparts in TF, ML and its predicate offences does exist, but not developed enough. It turns out to be more dynamic and constructive in cases of predicate offences than in ML/TF cases.

615. In most of the cases where the country requests or provides cooperation, formally or informally, the lack of information on the outcome of these cases impedes the Assessment Team from assessing the quality of assistance received or provided. In terms of identification, seizure and confiscation of criminal assets located abroad, international cooperation is almost non-existent despite Guinea's risk profile.

616. The Guinean authorities have also failed to demonstrate their capacity to seek and offer international cooperation in identifying and exchanging basic and beneficial ownership information on legal persons and legal arrangements.

617. **Guinea is rated as having achieved a Low level of effectiveness on IO.2**

APPENDIX A - TECHNICAL COMPLIANCE

1. This Appendix provides a detailed analysis of Guinea's compliance with the FATF 40 Recommendations. It does not include descriptive texts on the country's situation or risks but stresses the analysis of the technical Criterion of each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

2. Where FATF requirements and domestic laws or regulations remain unchanged, this report refers to the analysis conducted as in the previous 2009 Mutual Evaluation Report which is available at the following address: www.giaba.org.

RECOMMENDATION 1: RISK ASSESSMENT AND IMPLEMENTATION OF RISK-BASED APPROACH

The requirements contained in this recommendation were introduced in 2012 following the revision of the FATF Standards. They were therefore not assessed during the First Round of Mutual Evaluation of the Republic of Guinea.

Country Obligations and Decisions

Criterion 1.1 - Guinea has established the assessment of ML/TF risks as a fundamental element in the establishment of a national strategy aimed at mitigating them (Art. 14 of Law L/2021/024/AN). In this regard, the country has endeavoured to assess the risks of money laundering and terrorist financing to which it is exposed.

This process, which was entirely conducted using the World Bank tool and with the technical assistance of GIABA, involved several the relevant stakeholders in the public and private sectors involved in AML/CFT, as well as all the competent authorities. It involved the setting up of thematic working groups and using a combination of quantitative and qualitative approaches, in order to carry out the analysis of national and sectoral threats and vulnerabilities on an objective basis, using all available sources of information.

Although the report of this exercise is still provisional, the process itself has allowed the country to know the high-risk areas and sectors requiring increased attention and those requiring less attention. However, the assessment Team notes that the NRA did not include maritime crime despite its relevance to the Guinean economy and the country's reputation as an epicenter of maritime piracy. Besides, due to the lack of relevant statistical data, the analysis of risk factors linked to ML and TF was mainly based on the perception of stakeholders. Furthermore, the NRA avoided important entities in view of the country's context, namely legal entities and legal arrangements and several sub-categories of DNFBPs.

Criterion 1.2 - In Guinea, the National AML/CFT Coordinating Committee (CNC-LBC/FT) is the authority in charge of coordinating and updating the national risk assessment (Art. 12 of AML/CFT Law). It is also mandated, among other things, to develop national AML/CFT policies, taking into account the risks identified, and to review them periodically, as well as to promote cooperation and coordination among competent authorities for the development and implementation of AML/CFT policies and activities (Art. 13 of AML/CFT Law). The powers, composition and functioning of the CNC-AML/CFT are specified in Decree D/2023/0093/PRG/CNRD/SGG (Ats. 2 and 3).

Criterion 1.3 - The Guinean legal system on AML/CFT stipulates that: "the national risk assessment shall be reviewed every 3 years or as and when necessary" (Art. 14, al. 5. of law L/2021/024/ AN).

Criterion 1.4. - According to the provisions of the AML/CFT law (Art.14, al.3), the findings of the national risk assessment shall be disseminated to all stakeholders involved in the anti-money laundering regime and terrorist financing, including competent authorities, regulatory and supervisory authorities, self-regulatory bodies, financial institutions, Virtual Asset Service Providers and Designated Non-Financial Businesses and Professions. Since the country is yet to effectively adopt the NRA report, the Assessment Team is not in a position to assess how the findings of this assessment should be disseminated to the stakeholders. There is also no formal document providing for the mechanisms to be

used to disseminate the NRA findings to the competent authorities and the private sector.

RISK MITIGATING MEASURES.

Criterion 1.5 - The requirement to apply a risk-based approach, based on the understanding of risks, to allocate resources and implement measures to prevent or mitigate money laundering and financing of terrorism, is enshrined in the Guinean legal system (Art.14, al.2, of AML/CFT law). However, since the draft NRA Report has no Action Plan, the Assessment Team cannot assess the extent to which the action plan resulting from such an exercise prioritizes the areas identified as high ML/TF risk in the country. Nor is there at this stage any funding plan for the activities recommended in the NRA or a budgetary policy to ensure that resources will be allocated in the spirit of a risk-based approach.

Criterion 1.6 (a and b) – Indeed, no category of FI, DNFBP or VASP is exempted from the application of some of the FATF Recommendations in Guinea.

Criterion 1.7

- (a) Financial institutions and Designated Non-financial Businesses and Professions (DNFBPs) are required to implement enhanced due diligence measures, including enhanced measures, in addition to the due diligence measures provided for under Articles 25 and 26, where factors indicating a higher money laundering have been identified by the national risk assessment (Art.31, par. 1 of AML/CFT Law).

Criterion 1.8 - Financial institutions and DNFBPs may apply simplified due diligence measures compared to the due diligence measures referred to under Articles 25 and 26, where factors indicative of a lower risk of money laundering and terrorist financing or low are identified, through a satisfactory analysis of the risks. Simplified measures are suitable for lesser or lower risk factors but are not acceptable where there is suspicion of money laundering or terrorist financing or in specific higher-risks cases. The legal system requires FIs and DNFBPs to justify to their supervisory authorities that the due diligence measures they are implementing are commensurate with the ML/TF risks identified (AML/CFT Law, Article 31. paragraph 2).

Criterion 1.9 - The supervisory authorities are required to ensure FIs and DNFBPs comply with their obligations pursuant to R.1 (Article 98, paragraph 1 of AML/CFT Law). Indeed, the BCRG is designated as the regulatory and supervisory authority for FIs and VASPs in AML/CFT (AML/CFT Law, Arts. 95 and 97), while the FIU is designated as the regulatory and supervisory authority of DNFBPs in AML/CFT (AML/CFT Law, Art. 96). However, for DNFBPs, which have no specific supervision mechanisms and procedures, the Assessment Team are not certain whether the requirements for entry, exercise and monitoring of the various professions in this sector are regulated to take account of this obligation. Besides, there is no text obliging the self-regulatory bodies, including the Bar, the Chamber of Notaries and Association of Chartered and Licensed Accountants, to ensure that members of their respective corporate entities implement their obligations under Recommendation 1.

OBLIGATIONS AND DECISIONS OF FINANCIAL INSTITUTIONS AND DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

Risk Assessment

Criterion 1.10 - The Guinean legal system requires FIs to take measures to identify and assess their ML/TF risks (Art. 21, al. 1, of AML/CFT Law). In this regard:

- (a) FIs are required to document their risk assessment (AML/CFT Law, Art. 21). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.
- (b) FIs are required to consider all relevant risk factors before determining the overall risk level and the level and type of appropriate measures to be applied to mitigate those risks (AML/CFT Law, Art. 21). Under the provisions contained under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.
- (c) FIs are required to update these assessments (AML/CFT Law, Art. 21). Under the provisions

contained under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.

(d) FIs are required to have appropriate mechanisms in place to provide competent authorities with information on their risk assessment (AML/CFT Law, Art. 21). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation. However, no mention is explicitly made of the obligation to communicate this information to self-regulatory bodies, such as the national associations of legal and accounting professions.

Risk Mitigating measures.

Criterion 1.11 - (a, b and c)

(a) FIs are required to have policies, controls and procedures, approved by senior management, designed to manage and mitigate identified risks (AML/CFT Law, Art. 22). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.

Criterion 1.11 (b) FIs are required to monitor the implementation of these controls and strengthen them where necessary (AML/CFT Law, Art. 22). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.

Criterion 1.11 (c) FIs are required to take enhanced measures to manage and mitigate these risks, when higher risks are identified (AML/CFT Law, Art. 22). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation.

Criterion 1.12 - Where the financial institution meets its obligations identified under Article 21 paragraph 1, it may take simplified measures to manage and mitigate the risks in situations where the identified risks are low, except in cases where there is a suspicion of money laundering or terrorist financing. In this case, they shall provide justification to the Central Bank of the Republic of Guinea that the extent of the measures is appropriate to such risks (AML/CFT Law, paragraph 2 Art. 22). Under Article 56 of the same Law, DNFBPs are also required to comply with this obligation. However, the deficiencies identified in 1.9 and 1.10 have a negative impact on this sub-criterion..

Weighting and conclusion

The AML/CFT legal framework, to some extent, meets the requirements of FATF Recommendation 1. However, there are moderate deficiencies relating to the lack of consistency, comprehensiveness and relevance of the NRA's conclusions. Besides, the country is yet to map out the mechanisms to be implemented to disseminate findings of the NRA to the AML/CFT stakeholders. In addition, lack of an action plan with a risk-based resource allocation limits the country's response to this Recommendation.

Guinea is therefore rated Partially Compliant (PC) on Recommendation 1.

RECOMMENDATION 2 - NATIONAL COOPERATION AND COORDINATION

During the previous evaluation in 2012, Guinea's legal system was rated NC for reasons relating to the lack of a formal national AML/CFT coordinating mechanism, the non-existence of the FIU which should be the hub for the implementation of the key AML/CFT activities and the lack of coordination to formulate policies and implement these activities.

Criterion 2.1 - A National Anti-Money Laundering and Counter Terrorist Financing Coordinating Committee has been established, in charge of developing national AML/CFT policies (Art. 13-3 AML/CFT Law). But in the current state, no national AML/CFT policy emanating from the national risk assessment process has been put in place. No action plan has been officially adopted either, apart from a projection made by the FIU. The lack of a national AML/CFT policy and a general guidance document designed to incorporate the identified risks constitutes a major deficiency with regard to this criterion.

Criterion 2.2– Law L/2021/024/AN of 2021 under Article 12, provides for the National Coordinating

Committee (CNC-LBC/FT/P) for the fight against money laundering and the financing of terrorism and proliferation, in charge, among other things, of:

- Promoting cooperation and coordination among competent authorities for the development and implementation of AML/CFT policies and activities. These efforts should be implemented at both the operational and policy-making levels and extended to the fight against the financing of the proliferation of weapons of mass destruction.
- Developing national policies against money laundering and of terrorism financing taking on board the risks identified and reviewing them on a regular basis.

This structure replaces the National Technical Committee for Monitoring GIABA Activities established by Decree 048/PRG/SGG of 2nd April 2015, which was repealed by the new AML/CFT law (Art. 153 L/2021/024/AN of 2021). The powers, composition and functioning of the CNC-LBC/FT&P are specified in Decree D/2023/0093/PRG/CNRD/SGG of 5th April 2023.

Criterion 2.3 - The development of AML/CFT policies is the exclusive responsibility of the CNC-AML/CFT&P established recently (in 2021). Previously, the national coordination of AML/CFT policies and activities fell within the purview of the National Technical Committee Monitoring GIABA Activities. Although it comprised of a wide variety of key players in the national system, this committee had no formally defined mechanisms to articulate the coordinated implementation of AML/CFT actions. At the operational level, the new law provides for obligations to exchange information between FIU and supervisory authorities, professional associations and national representative bodies (Art. 84 AML/CFT Law of 2021). Thus, in the performance of their duties, where the supervisory authorities and professional associations discover facts likely to be linked to money laundering or the financing of terrorism or non-compliance with the outlined reporting obligation, they inform the FIU which, where applicable, treats them as suspicious transaction reports. In any case, the national cooperation and coordination system essentially focusing on the CNC-AML/CFT/PF is still in its deployment phase. However, the law makes no provision for the operational coordinating mechanism between the law enforcement authorities and the other competent authorities (e.g. Tax, customs, etc.).

Criterion 2.4– Even though the legislative framework provides for a coordination and cooperation system focused on the CNC-AML/CFT&P (Art. 13.4 AML/CFT Law of 2021) and which covers proliferation financing, the Decree of 5th April 2023 establishing the powers, composition and functioning of the said committee, on the other hand, does not include the key players in the fight against proliferation financing.

Criterion 2.5 - The Republic of Guinea’s legislative and regulatory framework provides for data protection and respect for a privacy system (Articles 13.6, 84 and 148 of the AML/CFT law of August 11, 2021, Articles 47 and 48 of the Anti-cyber law of 28th July 2016). These provisions require the various competent authorities to respect personal data and privacy within the framework of the cooperation as recommended by R.2. Thus, the unauthorized collection and use of personal data are criminalized.

Article 47 of the Anti-cyber law provides for the creation by regulation of the Personal Data Protection Authority. However, there is no mechanism provided for cooperation, coordination among competent AML/CFT authorities, in order to ensure compatibility of AML/CFT provisions with data protection and privacy rules. The effective participation of the future Personal Data Protection Authority in the activities of the AML/CFT&P CNC could be envisaged.

Weighting and conclusion

Guinea has an inadequate legislative framework for national cooperation and coordination. Admittedly, a National Coordinating Committee has been established, the composition and functioning of which were recently set by Decree of 5th April 2023, but this Committee is yet to define a coordination and cooperation mechanism both in terms of policymaking and operational issues. The country also does not have national AML/CFT policies or any national cooperation framework involving CPF actors. Furthermore, and although there is a legislative and regulatory framework that ensures data protection and privacy, no mechanism has been developed to ensure that AML/CFT stakeholders and those in

cyber security cooperate and coordinate as stipulated by the requirements of this criterion. The deficiencies identified with regard to this Recommendation are moderate.

Guinea has therefore been rated Partially Compliant (PC) on Recommendation 2.

RECOMMENDATION 3 - MONEY LAUNDERING OFFENCE

In the previous MER, Guinea was rated Partially Compliant with the requirements of Recommendation 3 (ex Rec.1 and 2). The main deficiency identified related to the non-coverage of certain serious predicate offences such as: piracy, migrants' smuggling, terrorist financing, insider trading and market manipulation. Since then, Guinea has strengthened its AML/CFT system by adopting and enacting laws to address this gap.

Criterion 3.1 - Guinea has ratified the Vienna and Palermo Conventions which criminalize ML. Indeed, its legal provisions criminalize the conversion or transfer, acquisition, possession or use by any person of assets derived from a crime or an offence or from participating in a crime or an offence or for the purpose of concealing or masking the nature, origin, location, movement or real ownership of assets or rights (Art. 7 AML/CFT Law L/2021/024/AN of 17th August 2021, Article 499 of law 2016/L/059/AN establishing the Penal Code of 26th October, 2016). Guinea's AML/CFT law gives the ML offence a fairly broad definition and thus complies with criterion 3.1.

Criterion 3.2– The Guinean criminal law describes all crimes and offences as predicate offences to ML. This broad approach covers each of the designated categories of offences included in the FATF Glossary (Art. 7 and 6.17 of AML/CFT Law, Art. 499 of Penal Code).

Criterion 3.3-

(a , b, c) Guinea has not adopted the threshold method (see criterion 3.2)

Criterion 3.4 - The money laundering offence applies to all types of assets, regardless of their value, representing the direct and indirect proceeds of a crime or offence. The notion of asset in Guinean law is broad and includes all assets whatever their nature, including virtual assets (Art. 6.15 and 6.64 of AML/CFT Law).

Criterion 3.5 – The AML/CFT Law provides under Article 7 point 2, for possible conviction for ML where a conviction cannot be secured for any predicate offence. This is a relevant provision which enshrines the principle of the autonomous ML offence.

Criterion 3.6- . The Guinean law criminalizes predicate offences to ML even if their constitutive acts are committed outside its territory provided these acts are qualified as offences when committed on national territory (Articles 6.41, 7- 2.3 and Article 116 of AML/CFT Law No. 0024). The national courts therefore have jurisdiction to hear offences committed outside the national territory (Article 116 Law No. 0024 AML/CFT).

Criterion 3.7 The ML offence applies to persons committing the predicate offence. Guinea's legal system enshrines self-laundering of the proceeds of predicate crimes by the perpetrator of the said offences. (Article 7-2.4 of AML/CFT Law No. 0024).

Criterion 3.8 - The intentional element and knowledge of the facts required to establish proof of the money laundering offence can be inferred from objective factual circumstances (Article 7 paragraph 3 of the AML/CFT Law No. 0024).

Criterion 3.9 - Guinea's legal framework in relation to criterion 3.9 provides for proportionate and dissuasive sanctions. Money laundering is classified as a serious offence and sanctioned as such. Article 112 of the AML/CFT Law of 2021 refers to the repressive provisions of the Penal Code of 2016. Thus, under the terms of Article 112 of this code, natural persons guilty of a money laundering offence are punished with a imprisonment of 3 to 5 years and a fine equal to three times the value of the assets or funds on which the laundering operations were conducted. The law provides for cases of worse sentences. Money laundering is liable to 10 years' imprisonment and a fine equal to five times the value of the assets or funds on which the money laundering operations have been conducted, when it is committed:

- In a usual manner or by using the facilities derived from the exercise of a professional activity.

- In an organized gang (Art. 502 of the Penal Code).

Where the duration of the custodial sentence incurred for the predicate offence is greater than the duration of the sentence incurred for the ML of the proceeds or funds generated by this offence, money laundering is punishable by the sanctions attached to this offence (Art. 503 of the Penal Code of 2016). Additional sanctions are provided for under Articles 507 and 508 of the Penal Code.

Criterion 3.10 – Guinea’s legal framework therefore provides for dissuasive and proportionate sanctions against legal persons guilty of ML. Legal persons found guilty of ML are punished with a fine equal to five times the value of the fines provided for natural persons, whether or not these persons have been convicted as perpetrators or accomplices of the ML offence (Art. 114 of the AML/CFT Law of 2021). They are also liable to civil and administrative sanctions (Art. 111 of AML/CFT law and Art. 514-4) of Penal Code): (i) permanent ban or for a maximum of 5 years from exercising directly or indirectly certain business activities; (ii) placement under judicial supervision for a maximum period of 5 years; (iii) closure for a maximum period of 5 years of establishments used to commit the offence; (iv) dissolution.

Also, the Guinean law provides that a legal person may be held liable, where the lack of control of the natural person referred to in paragraph 1, makes possible the commission of the offence of money laundering or terrorism financing for the benefit of the said legal person by a natural person subject to its authority (Art. 114.3).

Criterion 3.11 – The Guinean law criminalizes participation in acts of conversion or transfer, disguise or concealment, acquisition, possession or use of assets derived from criminal activities as well as any other association, agreement, attempt or complicity in providing assistance, aid or advice with a view to the commission of any of these acts (Art. 7-1.d of AML/CFT Law). Although the Guinean AML/CFT Law does not explicitly criminalize the facilitation of the commission of the money laundering offence, this notion, which is similar to complicity in the commission of an offence in general, is enshrined in the Penal Code.

Weighting and conclusion

Guinea’s legal framework criminalizing ML is consistent with the requirements of Recommendation 3.

Guinea is rated Compliant (C) on Recommendation 3

RECOMMENDATION 4: CONFISCATION AND PROVISIONAL MEASURES

Guinea was rated Partially Compliant in its first report with regard to the requirements of this Recommendation. The main deficiencies related to the lack of adequate prerogatives to trace the origin of the funds subject to confiscation, the assets indirectly linked to the proceeds of crime were not explicitly indicated in the law, the principle of deposit without notification was not covered by law.

Criterion 4.1-

(a) . Guinea's legal framework provides for both natural and legal persons, the possibility of confiscating laundered assets belonging to defendants during criminal lawsuits as well as assets held by third parties engaged in criminal activity. (Art.6.15 and 10 of AML/CFT Law No. 2021/024/AN of 17th August 2017 and Articles 507 and 509 of the Criminal Procedure Code.)

However, there is a material drafting error under Article 10 of the AML/CFT Law No. 2021/024/AN of 17th August 2021 with regard to the provisions of the Criminal Procedure Code referred to, including Articles 836 to 839 and 863 to which this Article refers, which relate to extradition and the processing of personal data. It is rather Article 1007 of the CPC which is the relevant provision.

(b) . Guinea's legal framework provides for the possibility of confiscating the proceeds of money laundering or predicate offences held by defendants or third parties, including funds or other benefits derived from such proceeds.

The same applies to the confiscation of instrumentalities used or intended to be used for money laundering or predicate offences held by the defendants or by third parties. (Article 10 paragraph 2 of the AML/CFT Law No. 2021/024/AN of 17th August 2021).

(c) . Guinea’s legal framework provides, for both natural and legal persons, the possibility of confiscating all assets constituting the proceeds of TF, those used for TF, those intended to be used for the financing of terrorist acts or terrorist organizations and those allocated to the TF, to the financing of terrorist acts or terrorist organizations. (Paragraph 3 of Articles 10 and 112 of AML/CFT Law No. 2021/024/AN of 17th August 2017, Articles 507 and 509 of the Penal Code.

(d) . The confiscation of assets of equivalent value during criminal lawsuits or held by third parties with criminal activity, is provided for by the legal framework. (Article 10 paragraph 4 of AML/CFT Law No. 2021/024/AN of 17th August 2017).

Criterion 4.2

(a) . In Guinea, the prosecutorial authorities have the power to identify, trace and estimate the assets subject to a confiscation measure. Indeed, the prosecutorial authorities, including the State Prosecutor, investigating judge or criminal Investigation officers with authorization, may require the assistance of any qualified person to carry out the acts necessary for the seizure of movable, immovable, divided or undivided assets. These authorities may request for any information relating to the assets of the suspect or convict by the banking institutions, the State authorities or others in order, if necessary, to take any useful measure on the assets which may be subject to confiscation. (Art. 168 and 947 of the CPC).

(b) Freezing or seizure measures may be ordered by the Guinean competent authorities to obstruct any transaction, or any transfer or disposal of assets subject to a confiscation measure. (Art.168 of the CPC). Furthermore, once the criminal seizure has been ordered, it leads to the suspension or prohibition of any civil enforcement proceedings on the asset seized from the date of the irreversible order of the seizure. (Art 950 of the CPC)

(c) Once the criminal seizure has been ordered, it entails suspension of prohibition from all civil proceedings for execution on the seized asset once the seizure has been challenged (Article 950 of CPC). In other words, legally, no measure, including civil action, can compromise the country's capacity to freeze, seize or recover assets subject to a confiscation measure.

Furthermore, the supervisory authorities of FIs and DNFBPs may, during their inspection missions for compliance with their AML/CFT obligations (Art.6.7 of AML/CFT Law 2021), without prejudice to criminal sanctions, may mete out administrative (fines) and disciplinary (warnings, reprimands, etc.) sanctions on reporting entities that violate their obligations, including ordered seizure or freezing measures. Also in Guinea, the misappropriation of seized or confiscated property constitutes an offence (Art.734 CP).

(d) The 2021 AML/CFT Law also has specific provisions applicable to these matters. (Art. 76-1, 104 to 108).

A special procedure is applicable to the investigation, prosecution, and adjudication of crimes and offences relating to organized crime and delinquency, including drug trafficking, human trafficking, pimping, fraud, counterfeit currency including money laundering provided for under Articles 499 and 502 of the Penal Code (Art.873 and 874 of the CPC).

Criterion 4.3- The rights of bona fide third parties are protected by law (Art. 948 of the CPC) even after termination of the public action or death (Art. 108 of AML/CFT Law).

Criterion 4.4 - An agency for the management and recovery of seized or confiscated assets has been established in Guinea. The Agency is a public administrative establishment placed under the joint supervision of the Minister of Justice and Minister of Budget. It is in charge of ensuring the management of assets, whatever their nature, seized or confiscated or subject to a provisional measure during criminal lawsuits entrusted to it. It also centralizes the management of all funds seized during criminal lawsuits.

The agency ensures that the support fund is added to the revenue derived from the confiscation of movable or immovable assets of persons found guilty of drug trafficking offences. The AGRASC may dispose of the seized assets. The agency may also make contributions to the State intended to finance the fight against delinquency and crime (Art. 964 of the Criminal Procedure Code (Art. 298 to 338 of Decree D/2022/0514/PRG/CNRD/SGG stipulating the rules for enforcing the provisions of the Criminal Procedures Code.)

Weighting and conclusion

Guinea's legislative and regulatory system with regard to seizure and confiscation is entirely consistent with the Recommendation's requirements.

Guinea is rated Compliant (C) on Recommendation 4.

RECOMMENDATION 5: TERRORIST FINANCING OFFENCE

During its first-round evaluation, Guinea was rated Con-compliant with the requirements of SR II due to the non-criminalization of terrorist financing.

Criterion 5.1- In line with the provisions of Article 2 of the Convention on Terrorism Financing, the Republic of Guinea has criminalized terrorism financing (Art. 8.1 and 6.1 AML/CFT Law). Guinea has criminalized all the acts mentioned in the conventions attached as Annexes to the TF Convention (Article 6.1 of AML/CFT Law)

Criterion 5.2- TF is criminalized as any act committed by a person who, by any means whatsoever, directly or indirectly, deliberately provides, raises or manages funds and other assets, or attempted to provide, raises or manages funds or other assets with the intention of having them used or with the knowledge that they will be used in whole or in part, by an individual terrorist, a terrorist fighter or a terrorist organization with a view to committing terrorist acts (AML/CFT Law Art. 8.1). Guinea applies the terrorist financing offence even if the funds and other assets were not actually used to commit or attempt to commit one or more terrorist acts or are not linked to one or more specific terrorist acts (AML/CFT Law Art. 8.4).

Criterion 5.2 bis- Guinea has criminalized the fact of financing the travel of persons who travel to a State other than their State of residence or nationality, with the intention of committing, organizing or preparing acts of terrorism, or in order to participate therein or to provide or receive training in terrorism (AML/CFT Law Art. 8 b).

Criterion 5.3- Guinea extends the terrorist financing offence to all assets (AML/CFT Law Art. 6.15), to all funds (AML/CFT Law Art. 6.35) and to all funds and other assets (AML/CFT Law Art. 6.36), whether they are tangible or intangible assets, replaceable or otherwise, movable or immovable assets or goods, or whether they are financial or virtual assets or economic resources (AML/CFT Law Article 8.a). The Guinean legislation does not indicate whether these assets, funds and other assets must have a legal or illegal origin. This lack of restriction suggests that the terrorist financing offence is constituted, whether the assets, funds and other property are of a legal or illegal nature.

Criterion 5.4- Under Guinean law, the terrorism financing offence is constituted even if there is no link between the funds and other assets with one or more specific terrorist acts or it is established that these funds and other assets have not been used in the commission or attempted commission of one or more terrorist acts (AML/CFT Law Art.8.4).

Criterion 5.5- Guinean legislation allows that the mental element and knowledge of the facts required to establish proof of the terrorist financing offence can be inferred from objective factual circumstances (AML/CFT Law Art. 8.5).

Criterion 5.6- The criminal sanctions applicable to terrorism financing are proportionate and dissuasive. Terrorism financing, with regard to natural persons, is punishable by a prison sentence of five (05) to twenty (20) years and a fine equal to at least five times the value of the goods or funds to which the transactions relate (AML/CFT Law Art.112.2). Furthermore, Guinean law does not provide for suspended sentence.

Criterion 5.7- The Guinean legislator has adopted the criminal liability of legal persons, and the applicable sanctions are the fine, which is equal to five times the value of the fines provided for natural persons (AML / CFT Law Art. 114.1), and additional sanctions, including final ban or for a maximum of 5 years to exercise directly or indirectly certain commercial activities, placement under judicial supervision for a maximum period of 5 years, permanent closure for a period of 5 years and dissolution (AML/CFT Law Art. 114.4). Furthermore, administrative sanctions, specifically administrative fines, are applied to FIs, DNFBPs and VASPs by the supervisory authority (AML/CFT Law Art.110). This liability of legal persons does not exclude that of natural persons (AML/CFT Law Art.114.2). Accordingly, these sanctions are proportionate and dissuasive.

Criterion 5.8

Criterion 5.8 (a)- Guinea has criminalized the attempt to commit a terrorist financing offence (AML/CFT Law Art. 8.2).

Criterion 5.8 (b)- Guinea has criminalized participation as an accomplice in a terrorist financing offence (AML/CFT Law Art. 8.1.c), as well as aiding, inciting or advising someone with a view to committing an attempt to finance terrorism or facilitating its execution, and punishes these acts in the same way as if the offence was committed (AML/CFT Art. 8.2).

Criterion 5.8 (c) - Guinea has criminalized the act of organizing the commission or instructing others to commit a terrorist financing offence or attempted offence (AML/CFT Law Art.8 1.d).

Criterion 5.8 (d) - Guinea criminalizes participation in an association or conspiracy to commit a terrorist financing offence by a group of persons and sanctions such participation in the same way as if the offence was committed (AML/CFT Law Art. 8.3).

Criterion 5.9- In Guinea, the terrorist financing offence constitutes a predicate offence to money laundering (AML/CFT Law Art.6.17).

Criterion 5.10- In Guinea, the terrorist financing offence extends to acts committed in another country or territory and applies to any natural or legal person and to any legal arrangement that is incorporated in the Republic of Guinea, even if the act was not committed there (AML/CFT Law Art.4). It implies that terrorism financing is punished in Guinea, even if the terrorist acts have occurred or will occur in another country, or even if the terrorists or terrorist organizations are located abroad.

Weighting and conclusion

All the criteria are met.

Guinea is rated Compliant (C) on Recommendation 5.

RECOMMENDATION 6: TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

In its previous MER, Guinea was rated Non-compliant on Special Recommendation III, due to the lack of legal text to determine the freezing modalities; lack of a comprehensive system to ensure the enforcement of Resolutions 1267 and 1373; lack of a clear and effective procedure to give effect to initiatives taken in other countries.

Criterion 6.1

Criterion 6.1 (a) The Minister of Finance of Guinea, in his capacity as Chairman of the National Consultative Commission for Administrative Freezing (CCGA), is the authority in charge of proposing designations of persons or entities to the United Nations Security Council Committees 1267/1989 and 1988 (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.6).

Criterion 6.1 (b) Targets for designations under the UNSCRs are identified by recommendation to the Minister of Finance, who forwards the request for designation to the National Advisory Commission on Administrative Freezing for final decision (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.4).

However, Guinea does not indicate whether the designation proposals must be made based on the Criterion established by the UNSCRs.

Criterion 6.1 (c) - The country has no standards of proof to decide on whether or not to propose a designation to the 1267/1989/and 1988 Committees.

Criterion 6.1 (d) The National Advisory Commission for Administrative Freezing (CCGA) is in charge of monitoring the procedures and templates for registration on the lists adopted by the 1267 and 1989 Committees. However, no mechanism requires the CCGA to follow these registration procedures and templates, and Guinea has not mentioned any practical monitoring examples.

Criterion 6.1 (e) - Guinea has not made any legal provision for the collection of relevant identification information on the persons, groups, companies and entities proposed for designation and required information, the drafting of a detailed statement of the reasons for designation and the disclosure or otherwise of its status as a designating State when Guinea proposes names to the 1267/1989 Committee. Guinea has not mentioned any case or practical example relating to this criterion.

Criterion 6.2

Criterion 6.2 (a) The Minister of Finance of Guinea is the authority in charge of proposing the designation of persons or entities that meet the designation criteria of the UNSCR 1373 on the initiative of the country itself or the request of a third country.

Criterion 6.2 (b) - The designation targets under the UNSCR 1373 are identified by recommendation to the Minister of Finance, who forwards the request for designation to the National Advisory Commission on Administrative Freezing for final decision. This recommendation is made by the Ministers of Justice, Foreign Affairs, Territorial Administration and Decentralization, National Defence, the Governor of the Central Bank and Intelligence Agencies (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.4). However, Guinea does not indicate whether proposals for designation should be made based on the Criterion established under UNSCR 1373.

Criterion 6.2 (c)- According to Guinean legislation, the Minister of Finance, which is the competent authority, is in charge of giving effect without delay, as a provisional measure, on the request for administrative freezing of another country where there are reasonable grounds to suspect or believe that a natural or legal person is a terrorist, terrorism financier or terrorist organization (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.6). However, these provisions do not explicitly state whether these are natural persons or entities that meet the UNSCR 1373 criteria.

Criterion 6.2 (d) - The country has no standards of proof to decide on whether or not to propose a designation under UNSCR 1373. Besides, Guinea has not indicated whether or not the designations are subject to the existence of criminal lawsuits.

Criterion 6.2 (e)- No legal provision requires the authorities to provide congruent information for the identification of a designated person or entity, as well as specific information supporting its decision, when another country is being asked to give effect to actions taken under the freezing mechanisms in Guinea.

Criterion 6.3

Criterion 6.3 (a) - No legal provision defines the powers, procedures or mechanisms likely to allow the CCGA to collect or solicit information in order to identify the persons and entities who meet the conditions for designation, based on reasonable grounds, or for which there is a reasonable basis to suspect or believe that they meet these criteria.

Criterion 6.3 (b)- In Guinea, there is no mechanism or procedure for intervening *ex parte* against a person or entity that has been identified and whose designation or proposal for designation is under consideration.

Criterion 6.4-

The Guinean legal system provides for the implementation of TFS without delay. Within the framework of this implementation, the legal framework stipulates that with under Resolution 1267, the expression

“without delay” means a timeline of not more than 24 hours, following a designation by the UNSC or its relevant Sanctions Committee including Committees 1267 and 1988 (Art 6.68 AML/CFT Law). Under the provisions of the above-mentioned Article, the designation by the United Nations Security Council or its relevant sanctions committees triggers the obligation to freeze without delay in Guinea. The TFSs under Resolution 1267 are immediately enforceable.

With regard to Resolution 1373, the law provides for implementation without delay and clearly stipulates that the expression “without delay” means the moment at which there are reasonable grounds or a reasonable basis to suspect or believe that a person or entity is a terrorist, finances terrorism or is a terrorist organization. In this regard, the trigger element of the implementation of TFS without delay is the designation at national level, either on the country’s own initiative, or at the request of a third country (AML/CFT Law Art 6.68 -Decree N°D/2023/0096/PRG/CNRD/SGG, Art.6-7. Thus, based on the deliberation of the CCGA referred to by the Minister of Finance, Chairman of this Commission, the Chairman of the CCGA, by administrative decision, orders the freezing of all funds without delay. This freezing order is notified by the Chairman of the Commission without delay to the persons and entities concerned and to any other person likely to hold funds or other assets belonging to the said persons and entities (Art. 4- 6 and 16 -Decree N°D/2023/0096/PRG/CNRD/SGG). However, the CCGA which conducts the deliberations on the basis of which domestic-level designations are made is yet to be operational.

Criterion 6.5

Criterion 6.5 (a) - The Minister of Finance notifies the administrative freezing decision without delay to the persons and organizations mentioned under Article 5 of the Counter Financing of Terrorism Law, as well as to any other person likely to hold funds or other assets belonging to the persons or entities concerned (Decree No. D/2023/0096/PRG/CNRD/SGG, Art.16). The application of the administrative freezing order must take place without delay and without prior notification to the persons or entities targeted by the said measure (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.7). There is provision for freezing without delay and without prior notification to the persons or entities targeted by the freezing measure, by the FIs, DNFBPs, virtual assets service providers and any other person likely to hold funds or other assets belonging to the persons or covered entities. The expression “any other person” must, even without specifications, be understood as any natural or legal person. This obligation to enforce the freezing measures also stems from Article 21 of Decree N°D/2023/0096/PRG/CNRD/SGG which provides that all persons or organizations mentioned under Article 5 of the Counter Financing of Terrorism Law, or any other person holding or receiving funds or other assets on behalf of a customer who is the subject of a freezing measure, are required to immediately implement the freezing order and inform the Minister of Finance immediately.

Criterion 6.5 (b)- Funds to be frozen include funds and other assets, as well as movements or transfers of funds owned, controlled or held wholly or jointly, directly or indirectly by the persons or entities targeted by the administrative freezing measures. They also extend to funds and other assets originating from or generated by funds or other assets owned or controlled, directly or indirectly by the aforementioned persons or entities (Decree N°D/2023/0096/PRG/CNRD/SGG, Art. 15). However, the Guinean legal framework does not provide for the implementation of administrative freezing measures to the funds or other assets of persons and entities acting on behalf of or on the directives of the designated persons or entities.

Criterion 6.5 (c) - In Guinea, it is strictly prohibited for AML/CFT reporting entities or any other person to directly or indirectly make funds or other assets subject to freezing available to any person or entity targeted by the administrative freezing measure (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.22). This strict prohibition also extends to the provision of services (CFT Law, Art.29). It should be noted that the Guinean system does not formally indicate that the strict prohibition targets both nationals and any person or entity located on the territory. This prohibition, with regard to services, is too broad, since it concerns all services, of whatever nature. Furthermore, the "strict" nature of the prohibition could prevent the implementation of any license, authorization or notification to the contrary. Furthermore, Guinea does not extend the prohibition on the provision of economic resources, as well as funds and other goods or financial services and other related services, directly or indirectly, wholly or jointly, to

entities owned or controlled directly or indirectly by designated persons or entities, and to persons and entities acting on behalf of or at the direction of designated persons or entities.

Criterion 6.5 (d) - The Minister of finance notifies without delay the administrative freezing decision to the persons and organizations mentioned under Article 5 of the law relating to the fight against the financing of terrorism, as well as to any other person likely to hold funds or other assets belonging to the persons or entities concerned (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.16) . These are persons and entities accountable to AML/CFT. The Minister publishes, in the Official Gazette, in a widely circulated newspaper and on the website of the Ministry of Finance, the updated list of persons and entities affected by an administrative freezing decision. Guinea has not developed any guidelines for FIs and DNFBPs on the efficient implementation of administrative freezing decisions. Guinea has not mentioned any designation case that could be used to determine the timelines within which the TFS are disseminated.

Criterion 6.5 (e)- FIs and DNFBPs holding or receiving funds or other assets on behalf of a customer subject to a freezing measure are required to immediately implement the freezing order and inform the Minister of Finance (Decree N°D/2023/0096/PRG/CNRD/SGG, Art. 21). However, there is no provision requiring these entities to report attempted transactions involving frozen funds.

Criterion 6.5 (f) - The Guinean legal framework does not provide for the protection of bona fide third parties (FIs, DNFBPs), when implementing their obligations in terms of targeted financial sanctions related to terrorism financing.

Criterion 6.6

Criterion 6.6 (a) - Guinea indicates that any person may file a formal appeal to the CCGA against an administrative freezing order. Where the challenge relates to an order issued pursuant to a UNSC Resolution, it must comply with the appropriate procedure provided for in the UN Resolutions framework (Decree N°D/2023/0096/PRG / CNRD /SGG, Art.18). Guinea alludes to the adequate procedure provided for in the UN Resolutions framework, without making it public and without indicating how the country is implementing it. This implies that the country has not formally established, under UNSCRs 1267 and 1989 and all subsequent resolutions, procedures allowing any natural or legal person who no longer meets the designation Criterion and whose funds and other financial resources have been frozen, to submit a delisting request to the 1267/1988 or 1989 Committees.

Criterion 6.6 (b)- *The* CCGA is in charge of reviewing requests for delisting and releasing funds and other financial resources as well as requests for review made by third countries to annually revise the national list and rectify detected or reported errors (Art.2, 17-20, Decree N°D/2023/0096/PRG/CNRD/SGG).

Criterion 6.6 (c) - Any person or entity targeted by a freezing measure may appeal to the competent court in administrative matters. Without prejudice to this action, he/she may file an appeal to the Minister of Finance. The Minister makes the decision within one month. If no decision has been taken during this period or if it has been negative, the person may bring his action before the competent court in administrative matters (Decree No. D/2023/0096/PRG/CNRD/SGG, Art. .18) The court with jurisdiction in administrative matters is the Administrative Chamber of the Supreme Court (Supreme Court Law, arts. 1 and 36). As Guinea's legal system does not provide for restrictions, these non-contentious and judicial remedial measures are open to persons and entities designated under UNSCR 1373.

Criterion 6.6 (d)- Guinea does not have procedures in place to facilitate the review by the 1988 Committee, based on the applicable guidelines or procedures adopted by the said Committee, including those of the focal point mechanism put in place by the UNSCR 1730.

Criterion 6.6 (e)- Guinea does not have procedures in place to inform designated persons and entities of the possibility of appealing to the Office of the UN Ombudsman in charge of requests for de-listing from the Al- Qaeda in accordance with UNSCRs 1904, 1989 and 2083.

Criterion 6.6 (f)- No procedure has been developed, much less open to the public, to allow unidentified

persons and entities, bearing the same name or a name similar to that of a person or designated entity, who have inadvertently been affected by a freezing mechanism, to request for the release of their funds or other assets.

Criterion 6.6 (g)- Guinea has not provided any mechanism or guidelines for communicating to FIs and DNFBPs the decisions to delist from the sanctions lists, for them to take the appropriate measures to make frozen funds or other assets available.

Criterion 6.7- The Minister of Finance may authorize, under the conditions he deems appropriate, any person or entity that has been the subject of an administrative freezing measure of its funds or other assets, on his/her request, to have a monthly sum of money, fixed by ministerial decree, intended to cover, within the limits of the available funds, for a natural person, current expenses of the family home or, for a legal person, expenses to pursue an activity compatible with the public order requirements. The amount may also cover legal assistance costs or exceptional costs. All costs must be justified in advance (Decree N°D/2023/0096/PRG/CNRD/SGG, Art. 19) The Guinean system, not targeting a particular UNSCR, should be considered for implementation under UNSCRs 1267, 1373,1452 and any subsequent resolutions thereof.

Weighting and conclusion

Moderate gaps were identified in the implementation of targeted financial sanctions related to terrorism and its financing. Indeed, Guinea has certainly established a national advisory commission on administrative freezing (CCGA), and designated an authority in charge of proposing designations to the 1267/1989 and 1988 committees, as well as under UNSCR 1373 and mentioned the implementation of TFS without delay, but it has not put in place adequate procedures and mechanisms, particularly with regard to the identification of persons and entities meeting the criterion for designation based on reasonable grounds, delisting and release of funds and other assets of designated persons and entities. Guinea has provided for the immediate notification of administrative freezing orders, but has not developed any guidelines for the effective implementation of these orders by FIs and DNFBPs.

Guinea is rated Partially Compliant (PC) on Recommendation 6.

RECOMMENDATION 7: TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

During Guinea's first-round evaluation, the country was not assessed against the requirements contained in this recommendation because they were introduced in 2012 following the revision of the FATF standards.

Criterion 7.1 - The Guinean legislation provides for the implementation of targeted financial sanctions (TFS) related to proliferation financing without delay (Art. 2 of Decree No. D/2023/0096/PRG/CNRD/SGG, Articles 6.68, 20.3 and 44 of AML/CFT Law No. 2021/024/AN). This legal framework is identical to the one provided for the implementation of 1267 and subsequent ones on terrorism financing.

Criterion 7.2 - The Minister of Finance of Guinea is the authority in charge of implementing asset freezing measures in his capacity as Chairman of the National Advisory Commission for Administrative Freezing (CCGA) (Art. 3 of Decree/No. D/2023/0096/PRG/CNRD/SGG). The other competent authorities in charge of implementing and enforcing TFS related to proliferation are also involved in accordance with the relevant legal framework (Art.3 and 24 of Decree/N°D/2023/0096/PRG/CNRD/SGG).

(a) - The natural and legal persons in Guinea are required to immediately implement the freezing order and inform the Minister of Finance without delay (Art. 16 and 21 of Decree No. D/2023/0096/PRG/CNRD/SGG). The administrative freezing order should be issued without prior notification to the persons targeted by the said measure (Decree N°D/2023/0096/PRG/CNRD/SGG, Art.7).

(b) – Apart from assets belonging to persons and entities acting on behalf of, or at the direction, of persons or entities subject to the sanctions, the administrative freezing measure extends to

all funds or other assets subject to this sub-criterion. It is also enforceable against creditors and third parties who may invoke rights over the assets concerned (Art 15 of Decree No. D/2023/0096/PRG/CNRD/SGG).

(c) - It is forbidden for any person and body referred to under Article 5 of the AML/CFT Law from directly or indirectly making funds or other assets subject to the freezing procedure available to the person or entity concerned by the administrative freezing measure. However, this provision does not formally involve other natural or legal persons living on Guinean territory (Art 22, Decree No. D/2023/0096/PRG/CNRD/SGG) as well as the other deficiencies mentioned in criterion 6.5.c.

(d) - The Minister of Finance, in his capacity as competent authority in administrative freezing matters, notifies without delay, the freezing decision to the persons and organizations mentioned under Article 5 of the AML/CFT Law and to any other person who may be holding funds or other assets belonging to designated persons and entities. The legal framework also provides for the publication in the Official Gazette, in a widely circulated newspaper and on the website of the Ministry of Finance, of the updated list of persons and entities affected by an administrative freezing decision (Art. 16 of Decree No. D/2023/0096/PRG/CNRD/SGG). However, no particular mechanism has been provided for referral to the Minister of Finance, who is the competent authority to order freezing decisions once the list of sanctions is issued by the Security Council as well as the automated procedure for publication on the website put in place. This procedure does not make it possible to assess in practice the immediate nature of the referral to the Minister. Furthermore, no guidelines designed to help FIs and DNFBPs in the proper implementation of administrative freezing decisions have been developed to date.

(e) - Natural or legal persons, entities and organizations must provide the competent authority, particularly the CCGA, with any information on frozen accounts and amounts (Art. 20.6 of Law No. 2021 /0024/AN). However, this obligation does not cover attempted suspicious transactions. On the other hand, the FIs are required to file a suspicious transaction report in case of doubts on the legality of the transactions to the FIU (Art. 45.1 of AML/CFT Law n°2021/0024/AN).

(f) - Guinea has not adopted any measures to protect the rights of bona fide third parties in the context of implementing the requirements of Recommendation 7.

Criterion 7.3 - The BCRG and FIU, in their capacity as supervisory authorities for FIs and VASPs as well DNFBPs, have been empowered to supervise them and ensure they comply with the requirements of Recommendation 7. (AML/CFT Law n°2021/0024/AN, Art.95). In this regard, the BCRG and FIU, in their capacity as supervisory authorities of FIs and DNFBPs respective, have powers to mete out disciplinary, administrative and financial sanctions (Law n°2021/0024/AN of AML/CFT, Arts. 109 and 110) in PF. Similarly, FIs and VASPs are required to comply with every Directive issued by the CCGA on TFS (Art 25 of AML/CFT Law) subject to sanctions provided for under Articles 109 and 110 of the AML/CFT Law and 23 of Decree No. D/2023/0096/PRG/CNRD/SGG). However, unlike the BCRG, the FIU, recently designated as supervisory authority for DNFBPs, is yet to commence that exercise.

Criterion 7.4 -

(a) - The country has not established procedures that would allow listed individuals and entities to address their request for de-listing to the Focal Point established in accordance with UNSCR 1730. There is also no provision for the individuals and entities to be informed of their rights to contact the Focal Point directly.

(b) - No mechanism or procedure has been defined to allow persons and entities with the same name or a name similar to that of a designated person or entity, who, inadvertently, may have been affected by a freezing mechanism (case of a “false positive”), to request for the release of their funds or other assets.

(c) - The Minister of Finance may authorize , under the conditions he/she deems appropriate, any person or entity who/which has been the subject of an administrative freezing measure of his/her/its

funds or other assets, at his request, to have a monthly sum of money, fixed by ministerial decree, intended to cover, within the limits of available funds, for a natural person, the current expenses of the family home or, for a legal person, the expenses for him to pursue an activity compatible with the public order requirements. The amount may also cover legal assistance costs or exceptional costs. All costs must be justified (Art. 19 and 22 of Decree No. D/2023/0096/PRG/CNRD/SGG).

(d) - No mechanism has been put in place to communicate to the FIs and DNFBPs, the decisions to delist from the sanctions lists and release funds. Nor are there defined guidelines to enable them take the necessary steps to make the frozen assets and resources available.

Criterion 7.5 -

(a) The Guinean law does not have procedures that allow the addition to accounts frozen in accordance with Resolutions 1718 or 2231 of interest or other amounts due on these accounts or payments due under contracts within the counter-proliferation framework.

(b) The Minister of Finance of Guinea, in his capacity as the competent authority in matters of administrative freezing of funds, may authorize designated persons and entities to use frozen accounts, to pursue a compatible activity with the public order requirements. The amount may also cover legal assistance costs or exceptional costs. All costs must be justified (Art. 19 and 22 of Decree No. D/2023/0096/PRG/CNRD/SGG). However, the Decree does not provide for prior notification to the UNSC of the decision, ten working days before such authorization.

Weighting and conclusion

There are moderate gaps in Guinea's legal framework for the implementation of targeted financial sanctions related to proliferation financing, on account of the country's risk and context. Although the Guinean legislation provides for the implementation of targeted financial sanctions related to proliferation financing, such implementation without delay is hampered by the lack of appropriate mechanisms and procedures for the notification of freezing orders to FIs and DNFBPs without delay.

Guinea is rated Partially Compliant (PC) on Recommendation 7.

RECOMMENDATION 8: NON-PROFIT ORGANIZATIONS (NPOs)

In its first-round MER, Guinea was rated Non-compliant with the requirements of Recommendation 8 (ex SR VIII) due to deficiencies identified in the supervision and monitoring of NPOs, and the existing legal regime did not include provisions to prevent the misuse of NPOs for terrorist financing purposes; the supervisory authority did not have precise information on the size of the NPO sector, which affected the effectiveness of controls; NPOs and supervisory authorities were not aware of the risks of money laundering and terrorist financing.

Criterion 8.1

Criterion 8.1.a- NPO operations are governed by Law/2005/013 establishing the Associations Regime and AML/CFT Law. The country provides for the use of information obtained from the territorial administration, tax authorities, the FIU, prosecutorial authorities and the intelligence agencies to identify the peculiarities and types of NPOs. Guinea has not identified which subset of NPOs falls within the definition adopted by the FATF, the ones at risk, identified the peculiarities and types of NPOs which, because of their activities or their characteristics, are likely to be exploited for terrorist financing purposes.

Criterion 8.1. b- Guinea has not identified the nature of the threats posed by terrorist entities on NPOs that pose risks, as well as how terrorists exploit these NPOs.

Criterion 8.1.c- Guinea has not examined the relevance of the measures concerning NPOs likely to be exploited for TF purposes, in order to take proportionate and effective measures to deal with the risks identified, while the NRA revealed that the NPO sector is vulnerable to TF due to their lack of CFT-based supervision.

Criterion 8.1.d- Guinea has not periodically reassessed the NPO sector.

Criterion 8.2

Criterion 8.2.a- The Minister of territorial administration must put in place clear policies to promote the accountability and integrity of non-profit organizations, so as to strengthen the public trust in their management and operation (AML/CFT Law Art.63, paragraph 1). These clear policies are yet to be defined and implemented.

Nevertheless, every NPO is required to be registered in the register of associations and NPOs, and the registration request must indicate the corporate name and purpose, and include the surname, first names, address and telephone number of the person in charge of managing the operations of the NPO, in particular the President, the vice-president, the secretary general, members of the board of directors and the treasurer (AML/CFT Law Art.61). Registration of NPOs is likely to enhance public confidence in their operations.

Criterion 8.2.b- The Minister of territorial administration is required to carry out sensitization and educational campaigns to encourage and deepen knowledge within non-profit organizations and the donor community on the vulnerabilities and potential risks of being misused for terrorist financing purposes, as well as the measures to be taken to protect themselves from such misuse (AML/CFT Law Art.63 paragraph 2). There is no information on sensitization and education campaigns.

Criterion 8.2.c- The Minister of Territorial Administration should work with non-profit organizations to develop best practices to address terrorist financing risks and vulnerabilities, and to thus protect these organizations against any misuse for terrorist financing purposes (AML/CFT Law Art.63 paragraph 3).

There is no indication that Guinean authorities are working with NPOs to clarify and promote best practices in preventing the risk of terrorist financing.

Criterion 8.2.d- The Minister of territorial administration is required to encourage non-profit organizations to carry out their operations through regulated financial circuits whenever they can (AML/CFT Law Art.63 paragraph 4).

It has not been established whether measures have been taken to encourage non-profit organizations for this purpose.

Criterion 8.3- Guinea provides for measures to be taken by the Minister of territorial administration, to promote risk-based supervision or monitoring in order to establish risk mitigating measures for NPOs likely to be misused for terrorist financing purposes (AML Act Art.64 paragraph 1). However, no examples of supervision or monitoring measures based on terrorist financing risks are available.

Criterion 8.4

Criterion 8.4.a- The Minister of territorial administration is the designated authority to supervise and monitor the implementation of the of NPOs' obligations in AML/CFT with a risk-based approach (AML/CFT Law Art.64 paragraph 2). Guinea did not provide any information on the performance of this monitoring.

Criterion 8.4.b- The Minister of territorial administration is the competent authority to mete out effective, proportionate and dissuasive sanctions for any violation committed by NPOs or persons acting on their behalf (AML/CFT Law Art.64 paragraph 3). The sanctions likely to be imposed on NPOs are of a disciplinary, administrative and criminal nature (AML/CFT Law Art.68).

Criterion 8.5

Criterion 8.5.a- Guinea has not taken measures to ensure cooperation, coordination and exchange of information between the appropriate competent authorities and organizations holding relevant information on NPOs.

Criterion 8.5.b- Law enforcement authorities within the framework of their general competence can investigate NPOs (Art.9 et seq. of the of Criminal Procedure Code). Guinea has not provided information to establish that the country has specific powers to investigate NPOs suspected of being

misused for terrorist financing purposes or by terrorist organizations or of actively supporting terrorist activities or organizations.

Criterion 8.5.c- NPOs are required to keep a register of all donations in the form of funds, including in foreign currency, or other securities received for an amount or a counter-value equal to or greater than one amount to be determined by ministerial Decree. The register must contain information relating to the full coordinates of the donor, the date, the nature and the amount of the donation. The register must be kept for a period of ten (10) years and provided on request to all authorities in charge of monitoring NPOs as well as, on request, to criminal investigation officers (AML/CFT Law Art. 65 paragraph 1).

NPOs are required to make available to the competent authorities all information relating to their administration and management, including those concerning their finances and activities, when the request is made (AML/CFT Law Art.65 paragraph 3).

Criterion 8.5.d- The Minister of Territorial Administration informs the competent authorities without delay when he suspects or has good reason to suspect that an NPO is being misused for terrorist financing purposes, is exploited as a means of financing terrorism, conceals or obscures the clandestine diversion of funds initially intended for legitimate purposes (AML/CFT Law Art.67). Guinea does not provide the media through which this information should be conveyed quickly. Besides, the country has not provided information to indicate that there is a mechanism to deal with suspicions provided by the general public or a foreign authority.

Criterion 8.6- Guinea has designated the Minister of territorial administration as the authority in charge of responding to international information requests on NPOs suspected of financing terrorism or supporting it by any other means (AML/CFT Law Art.66 paragraph 1). However, Guinea has not defined appropriate procedures to respond to these requests.

Weighting and Conclusion

There are major deficiencies particularly relating to the non-identification of NPO subsets likely to be misused for terrorist financing purposes, sensitization, and education of NPOs on TF issues, risk-based supervision or monitoring of NPOs for CFT, depending on the country's risk profile, a cooperation and coordination mechanism for the exchange of relevant information on NPOs, and appropriate procedures to respond to international requests concerning suspected NPOs involved in TF.

Guinea is rated Non-Compliant (PC) on Recommendation 8.

RECOMMENDATION 9: PROFESSIONAL SECRECY LAWS OF FINANCIAL INSTITUTIONS

During the 2012 mutual evaluation, Guinea was rated PC on Recommendation 9 (ex R.4) with regard to certain deficiencies, including the lack of clear provisions to ensure professional secrecy does not hinder the exchange of information among financial institutions as and when required, and among various national law enforcement authorities. Since then, the country has taken measures to improve the quality of its legal framework in line with the FATF requirements.

Criterion 9.1 - - Access to information by competent authorities - Notwithstanding any legislative or regulatory provisions to the contrary, FIs cannot invoke professional secrecy to refuse to comply with the obligations provided for in Law No. 2021/0024/AN (Art.3 of this Law). In particular, professional secrecy cannot be invoked against the BCRG or judicial authorities acting in the context of criminal lawsuits (Art.126 of Law No. 2021/0024/AN) by credit institutions (Art. 43 and 69 of the Banking Act), IFIs (Art. 50 and 70 of Ordinary Law L/2017/031/AN) and insurance companies (Art. 315 of Law No. L/2016/034 /AN establishing the Insurance Code). Similarly, credit institutions or their employees cannot be prosecuted for disclosing information protected by professional secrecy when implementing their suspicions reporting obligations and disclosing information to the Central Bank (Art.85 of the Banking Act).

Information exchange among competent authorities at national level – The FIU can exchange with the national authorities (Art.75. 2.d of Law n°2021/0024/AN) and the supervisory authorities, professional

orders and bodies national representatives (Art.84 of Law No. 2021/0024/AN).

Exchange of information between the competent authorities at the international level - The BCRG, FIU as well as customs authorities can exchange, subject to reciprocity and confidentiality, with all the FIUs and foreign supervisory authorities in charge of AML/CFT, subject to professional secrecy obligations equivalent to those to which they are also legally bound (Art.148, 149 and 150 of Law No. 2021/0024/AN and Art.83 of the Banking Act).

Exchange of information between FIs - The AML/CFT Law No. 2021/0024/AN provides that financial institutions may use an FI to implement customer due diligence measures and play the role of business information provider, without prejudice to the ultimate liability for compliance with the said obligations incumbent upon them (Articles 52 and 53). There is therefore an adequate legal basis to waive confidentiality obligations and allow the sharing of information as required by Recommendations 13, 16 or 17.

Weighting and conclusion

Guinea's AML/CFT legal system has no deficiencies with regard to the requirements of this recommendation.

Guinea is rated Compliant (C) on Recommendation 9.

RECOMMENDATION 10: CUSTOMER DUE DILIGENCE

During its first-round Mutual Evaluation in 2012, Guinea was rated NC on Recommendation 10 (ex R.5) Among the key deficiencies identified were: ignorance of due diligence obligations with only banks complying with these obligations, lack of obligation to verify identification data using reliable and independent sources; extremely limited identification requirements, especially for beneficial ownership. Since then, Guinea has strengthened its AML/CFT legal and institutional arsenal by adopting new texts.

Criterion 10.1 - The Guinean legal system prohibits FIs from keeping anonymous accounts and keeping accounts in manifestly fictitious names (Article 24 of AML/CFT law).

Implementation of Customer due Diligence

Criterion 10.2 - In Guinea, FIs are required to undertake customer due diligence measures when:

- (a) they establish business relationships (AML/CFT Law, Art. 25.1);
- (b) they carry out occasional transactions above the threshold set by the Directive issued by the Governor of the Central Bank, including in situations where the transaction is executed in a single instalment or in several instalments which are apparently linked. This threshold is set at GNF 10,000,000 (ten million Guinean francs)/ \$1179 (Art. 8 al. 3 of Directive n°109/DGSIF/DSB of 11th January 2023, issued by the Governor of the Central Bank).
- (c) they carry out an occasional wire transfer transaction above the threshold set by Directive of the Governor of the Central Bank, including when there are several transactions below the threshold which appear to be linked (AML/CFT Law, Art. 25.3). However, Directive No. 111/DGSIF/DSB of 11th January 2023 issued by the Governor of the Central Bank, setting the minimum threshold for reporting incoming and outgoing wire transfers to the FIU at GNF 150,000,000 (one hundred and fifty million Guinean francs) \$17,687 or its equivalent in any currency listed on the foreign exchange market in the Republic of Guinea, does not fully meet the requirements of this sub-criterion.
- (d) there is a suspicion of ML/TF, regardless of any exemption or threshold provided for (AML/CFT Law, Art. 25.4).
- (e) they doubt the veracity or relevance of the customer identification data previously obtained (AML/CFT Law, Art. 25.5).

CDD measures required for all customers.

Criterion 10.3- In Guinea, FIs are required to identify the customer, whether permanent or occasional and whether it is a natural or legal person or a legal arrangement, and to verify their identity by means of documents, data or information obtained from reliable and independent sources (AML/CFT Law, Art. 26.1).

Criterion 10.4 - The Guinean legal system requires FIs to verify that any person claiming to act on behalf of the customer is authorized to do so and to identify and verify the identity of this person (AML/CFT Law, Art. 26.2). However, the word “should” has been omitted from the provision, making it confusing.

Criterion 10.5- The Guinean AML/CFT legislation defines beneficial owner as the natural person or individual who ultimately (i) owns or controls the customer and/or (ii) the natural person on whose behalf a transaction is made or a business relationship is established. Also included in this definition are persons who ultimately exercise effective control over a legal person or a legal structure (AML/CFT Law, Art. 6). In this regard, FIs are required to identify the BO and take reasonable steps to verify his/her identity using relevant information or data obtained from a reliable source, so that the financial institution has the assurance that it knows who the beneficial owner is (AML/CFT Law, Art. 26.3).

Criterion 10.6- Under the provisions of Guinea's AML/CFT Law (Art. 26, para. 4), FIs are required to understand, and where appropriate, obtain information on the purpose and intended nature of the business relationship.

Criterion 10.7 - Financial institutions are required to exercise constant due diligence with regard to the business relationship, and in particular to:

- (a) undertake a careful review of the transactions conducted throughout the duration of this business relationship, in order to ensure they are consistent with the knowledge they have of their customers and the business activities as well as the risk profile of these customers, which includes, where applicable, the origin of funds and other assets (AML/CFT Law, Art. 26.5a).
- (b) ensure the documents, data or information obtained in the exercise of the due diligence duty remain up to date and relevant. This implies reviewing the existing elements, particular for the categories of customers presenting higher risks (AML/CFT Law, Art. 26.5b).

Specific due diligence measures required for legal persons and legal arrangements.

Criterion 10.8- For customers who are legal persons, legal arrangements or persons acting for a legal arrangement, financial institutions must understand the nature of the legal person or legal arrangement, its activities as well as its ownership and control structure. (AML/CFT Law Art. 27.1).

Criterion 10.9 - For customers who are legal persons or legal arrangements, FIs must identify and verify the identity of their customer through the following information:

- (a) the name, legal form and certificate of existence (AML/CFT Law, Art. 27.2a).
- (b) the powers that govern and bind the legal person or legal arrangement as well as the names of the relevant persons holding management positions in the legal person or legal arrangement (AML/CFT Law, Art. 27.2b).
- (c) the address of its registered office and, if different, that of one of the main places of business (AML/CFT Law, Art. 27.2c).

Criterion 10.10 - For customers who are legal persons, the financial institution must identify and take reasonable measures to verify the identity of the beneficial owners by obtaining the following information:

- (a) The identity of the natural persons who ultimately hold a controlling interest in the legal person (AML/CFT Law, Art. 27.3a). This is any person who owns or controls at least 10% of the shareholding if the customer is a legal person classified as high risk, in the case of a legal person rated at medium or low risk from 25% of equity stake or control.
- (b) Whether there are doubts as to whether the persons having a controlling interest are the beneficial owners, or whether no natural person exercises control through participation, the

identity of the natural persons, exercising control of the legal person or legal arrangement by other means (AML/CFT Law, Art. 27.3b).

- (c) **& d** where no natural person is identified in the context of the implementation of paragraphs (a) or (b), the identity of the relevant natural person who occupies the position of senior manager (AML/CFT Law, Art. 27.3c).

Criterion 10.11 For customers who are legal arrangements or who act for a legal arrangement, the financial institution must identify the beneficial owners of the legal arrangement and take reasonable measures to verify the identity of these beneficial owners using the following information:

- (a) For trusts, the identity of the settlor of the trust, the trustee(s), the protector if any, the beneficiaries or class of beneficiaries and any other natural person ultimately exercising effective control over the trust, including through a control/ownership chain (AML/CFT Law, Art. 27.4.a). However, the country makes no mention of the obligation to obtain reliable information on the beneficiaries where are designated by characteristics or a particular category (See footnote number 37 relating to this sub-criterion).
- (b) for other types of legal arrangements (such as trust), the identity of persons occupying equivalent or similar positions as those listed in point a) above.

Due diligence for beneficiaries of life insurance contracts

Criterion 10.12 [Mostly Met] Financial institutions must implement the following due diligence measures vis-à-vis the beneficiaries of life insurance contracts and other insurance-related investment products, where these beneficiaries are identified or designated:

- (a) Record the names of the beneficiaries, in the case where they are natural or legal persons or legal arrangements identified by name (AML/CFT Law, Art. 28.a);
- (b) Obtain sufficient information on the beneficiaries so that the Financial Institution has the assurance that it will be able to establish their identity at the time of the payment of the benefits where the beneficiaries are designated by characteristics or are designated by categories or by other means (AML/CFT Law, Art. 28.b). However, the provision does not specify that this legal obligation of the FIs applies where the beneficiaries are designated by characteristics or by category or by other means.
- (c) In cases where the identity of the beneficiaries must be known when the benefits are paid (AML/CFT Law, Art. 28.c).

Criterion 10.13 Financial institutions must take into account the beneficiary of the life insurance contract as a relevant risk factor when determining whether enhanced due diligence measures are applicable. Where the financial institution determines that the beneficiary who is a legal person or legal arrangement presents a higher risk, the enhanced due diligence measures it takes must include reasonable measures to identify and verify the identity of the beneficial owner at the time payment of benefits (AML/CFT Law, Art. 28.c).

Verification Timing

Criterion 10.14 - (a, b and c)- FIs must verify the identity of the customer and BO before or during the establishment of a business relationship or the performance of transactions in the case of occasional customers (AML/CFT Law, Art. 29). On the other hand, the possibility of completing this verification after the establishment of the business relationship is not explicitly provided for by the Guinean legal system. The exemption according to which "the verification can be done during the establishment of the business relationship where the ML/TF risk is effectively managed and where this is necessary so as not to interrupt the normal exercise of the activity" mentioned in this sub-criterion is not considered in the provision of Article 29.

Criterion 10.15 - There is no legal provision in Guinea that explicitly requires FIs to adopt risk management procedures regarding the conditions under which a customer will could benefit from the business relationship before verification.

Existing customers

Criterion 10.16- Financial institutions must apply due diligence measures vis-à-vis existing customers based on the magnitude of the risks they represent and must implement due diligence measures relating to existing relationships without delay, considering the existence of prior customer due diligence measures and when they were implemented, as well as the relevance of the information obtained (AML/CFT Law, Art. 29).

Risk-based approach

Criterion 10.17 - Financial institutions must implement enhanced due diligence measures, including enhanced measures, in addition to the due diligence measures provided for under Articles 25 and 26, where factors indicating a risk of money laundering and terrorist financing more are identified by the national risk assessment (AML/CFT Law, Art. 31 paragraph 1). This is particularly obtains for: (i) transactions with customers who are not physically present; (ii) transactions promoting anonymity or involving products promoting anonymity. Enhanced due diligence measures must also apply to any particularly complex transaction or transaction involving unusually high amount or which does not appear to have any economic justification or lawful purpose. In this case, the FIs must obtain information from the customer on the origin of the funds and the destination of such funds as well as the purpose of the transaction and the identity of the beneficiary. Furthermore, Article 9 of Directive No. 109/DGSIF/DSB of 11th January 2023 issued by the Governor of the Central Bank specifies enhanced due diligence for customers assessed as presenting a higher risk.

Criterion 10.18- Financial institutions may apply simplified due diligence measures compared to the due diligence measures referred to under Articles 25 and 26, where factors indicative of a lower or lower risk of money laundering and terrorist financing are identified, through a satisfactory risk analysis.

Simplified measures are suitable for lesser or lower risk factors but are not acceptable where there is a suspicion of money laundering or terrorist financing or in specific cases of higher risks (AML/CFT Law, Article 31 paragraph 2). However, no legal text outlines the simplified due diligence measures compared to the constant or normal due diligence measures that FIs are required to implement.

Inability to comply with customer due diligence obligations.

Criterion 10.19- Where the FI cannot comply with the obligations relating to due diligence measures:

- (a) It is prohibited from opening the account or executing the transaction and from establishing or *continuing* the business relationship. If it has already been established, it must put an end to it (AML/CFT Law, Art. 32.1 and 2). And
- (b) Furthermore, the FI must file a suspicious transaction report (STR) to the Financial Intelligence Unit (AML/CFT Law, Art. 32.3).

Customer Due Diligence and Disclosure

Criterion 10.20- In cases where financial institutions suspect that a transaction relates to money laundering or terrorist financing, and can reasonably believe that by performing their due diligence they would alert the customer, they can choose not to complete this procedure and must instead file a suspicious transaction report (AML/CFT Law, Art. 32.3).

Weighting and conclusion

Guinea's AML/CFT legal framework considers the legal requirements of Recommendation 10 to a very large extent. However, some minor deficiencies were identified. The country makes no mention of the obligation to obtain reliable information on the beneficiaries where they are designated by particular characteristics or category (See footnote number 37 relating to sub-section -criterion 10.11). The provisions of Art. 28.b of the AML/CFT Law do not specify that this legal obligation of the FIs applies where the beneficiaries are designated by characteristics or by category or by any other means. Furthermore, no legal text lists the simplified due diligence measures compared to the constant or normal due diligence measures that FIs are required to implement. At least, Directive 109 issued by the

Governor of the Central Bank on the procedures for the implementation of the AML/CFT law by FIs does not meet this requirement.

Guinea is rated Largely Compliant (LC) on Recommendation 10.

RECOMMENDATION 11: RECORD KEEPING

During its first-round Mutual Evaluation in 2012, Guinea was rated PC on Recommendation 11 (ex R.10). The main deficiencies identified related to the lack of details on the nature and availability of records to be kept by the financial institutions. Since then, Guinea has strengthened its legal system to comply with the new FATF requirements.

Criterion 11.1- Without prejudice to the provisions prescribing more stringent obligations, FIs must keep for a period of ten (10) years, from the end of the business relationship or the date of the occasional transaction: (i) all necessary records relating to national and international transactions (AML/CFT Law, Art. 54.1).

Criterion 11.2- Without prejudice to the provisions prescribing more stringent obligations, FIs must retain for a period of ten (10) years, from the end of the business relationship or the date of the occasional transaction: (ii) all documents obtained as part of customer due diligence measures, ledgers and business correspondence as well as the results of any analysis carried out (AML/CFT Law, Art. 54.1).

Criterion 11.3 The documents relating to the transactions should be sufficient to allow the reconstruction of individual transactions in order to provide, if necessary, evidence in any relevant criminal prosecutions (AML/CFT Law, Art. 54.2).

Criterion 11.4- FIs must promptly make available to the competent authorities, when requested, all information obtained as part of customer due diligence measures and documents relating to the relevant transactions (AML/CFT Law, Art. 54.3). Specifically, the Law on Banking Regulations in the Republic of Guinea provides that credit institutions are required to provide, at the request of the Central Bank, information, clarifications, justifications and documents deemed useful for the review of their situation, their risk assessment, and more generally all information and all documents necessary by the Central Bank in the exercise of its powers. Furthermore, professional secrecy is not enforceable against the License Committee, the Central Bank, or the judicial authority engaged in criminal lawsuits (AML, Art. 69).

Similarly, by virtue of Article 68 of the Law regulating inclusive financial institutions (IFIs) in the RG, the Central Bank is empowered to request for the disclosure of all documents, statistical statements, reports and all other information necessary for the exercise of its powers. The latter shall provide, at the request of the Central Bank, all information, clarifications, justifications and documents deemed useful in particular for the review of their situations, their risk assessment and establishment of the list of payment incidents (IFI Law, Article 69).

Insurance companies, on their part, are required to provide their supervisory authority, on request, with all information and clarifications deemed necessary. Professional secrecy cannot be invoked to either the License Committee or insurance supervisory authority, or judicial authority engaged in criminal lawsuits (CA, Art. 315).

Weighting and conclusion

Guinea's AML/CFT system provides a comprehensive legal basis for the requirements of this Recommendation. Indeed, no deficiency has been identified in its texts, in terms of record keeping.

Guinea is rated Compliant (C) on Recommendation 11.

RECOMMENDATION 12: POLITICALLY EXPOSED PERSONS

During its first-round Mutual Evaluation in 2012, Guinea was rated NC on Recommendation 12 (ex R.6). Among the key deficiencies identified were the non-implementation through internal procedures; despite the BCRG Directive 1/001/2003, staff did not refer to the hierarchy before opening accounts for

PEPs as well as the non-verification of the source of PEPs' funds. Since then, Guinea has reviewed its legal framework to improve the quality of its national response to ML/TF issues.

Criterion 12.1

(a) Under its new AML/CFT law (Art. 6.62), Guinea defines Politically Exposed Persons (PEPs) as natural persons who hold or have held: (i) important public positions in Guinea or abroad, such as Heads of State and Heads of Government, members of royal families, high-ranking politicians and Parliamentarians, Ministers, Managing Directors, State structures and Heads of Institutions, Directors, etc. (ii) important functions within or on behalf of an international organization, including members of senior management, in particular, directors, deputy directors and members of the Board of Directors and all persons exercising equivalent functions; (iii) family members of Heads of State, Heads of Government and royal family (falling under categories a and b identified); (iv) any other persons who are intimately related to these aforementioned categories of persons, either by business relations or by any other relation.

Based on this definition, FIs must put in place risk management systems to determine whether the customer or the beneficial owner is a politically exposed person (AML/CFT Law, Art. 35).

(b) FIs must obtain authorization from senior management before establishing or continuing, if it is an existing customer, such business relationships with such persons (AML/CFT Law, Art. 36.1).

(c) FIs must take reasonable measures to establish the origin of wealth and the origin of funds and other assets of customers and beneficial owners identified as politically exposed persons (AML/CFT Law, Art. 36.2).

(d) FIs must ensure enhanced ongoing monitoring of the business relationship (AML/CFT Law, Art. 36.3).

Criterion 12.2 (a, b, c and d)

(a) The definition of PEP described in the previous criterion includes national PEPs and persons holding an important position in an international organization (AML/CFT Law, Art. 6.62). FIs must put in place risk management systems to determine whether the customer or the beneficial owner is a politically exposed person (AML/CFT Law, Art. 35).

(b) The same provisions of the AML/CFT Law are valid for this sub-criterion, namely Art. 36.1 for point b).

(c) The same provisions of the AML/CFT Law are valid for this sub-criterion, namely Article 36.2 for point c).

(d) The same provisions of the AML/CFT Law are valid for this sub-criterion, namely Article 36.3 for point d).

Criterion 12.3- The provisions of Article 6.62.3 remain valid for this criterion, but the latter have only targeted family members of PEPs falling under category a and b, i.e. family members of Heads of State, Heads of Government and royal families. From this point of view, the enhanced due diligence measures for FIs provided for in 12.1 and 12.2 may be impacted by the limitation of their implementation scope to family members of the above-mentioned two categories of PEPs, while the family members of the other categories of PEPs have been excluded from this scope.

Criterion 12.4- With regard to life insurance contracts, financial institutions must, latest when benefits are paid, take reasonable measures to determine whether the beneficiaries of the contract and/or, where applicable, the beneficial owners of the beneficiary of the contract are politically exposed persons. Where higher risks are identified, financial institutions should: (i) inform senior management prior to benefit payment; (ii) carry out an enhanced review of the entire business relationship with the contract holder; and (iii) consider filing a suspicious transaction report (AML/CFT Law, Art. 37).

Weighting and conclusion

On the whole, Guinea has a solid legal basis for the requirements of this recommendation. However, this legal system targeted only family members of two categories of national PEPs. The exclusion of family members of several categories of PEPs from the scope of application of the specific due diligence measures applicable to PEPs could negatively affect the effectiveness of the said measures. This deficiency is considered as moderate given the country's socio-economic context riddled with a high level of corruption and embezzlement of public funds.

Guinea is rated Partially Compliant (PC) on Recommendation 12.

RECOMMENDATION 13: CORRESPONDENT BANKING

During its first-round mutual evaluation in 2012, Guinea was rated NC on Recommendation 13 (ex R.7). The main deficiencies identified in that report were mainly related to the lack of (i) clear and precise obligations in the AML Law, on the management of correspondent banking except in the Appendix to the Law; (ii) obligation to gather information on the customer institution; (iii) and the obligation to seek authorization from senior management before entering into a correspondent banking relationship.

Since then, Guinea has undertaken legislative reforms consistent with the new FATF requirements.

Criterion 13.1 - Financial institutions are required, with respect to cross-border correspondent banking relationships and other similar relationships, to:

- (a) Collect sufficient information on the respondent institution to fully understand the nature of its activities and to assess, based on publicly available information, its reputation and the quality of the supervision to which it is subject, including whether the respondent institution has been the subject of any investigation or measures by a supervisory authority in matters of money laundering or terrorist financing (AML/CFT Law, Art. 39. 1.a).
- (b) Assess the controls of the AML/CFT system put in place by the respondent institution (AML/CFT Law, Art. 39. 1.b). In this regard, the correspondent banking relationship should be established on the basis of an Appendix appearing in Directive n° 109/DGSIF/DSB of 11th January 2023 (Art. 7 al. 6 of Directive n° 109 /DGSIF/DSB of 11th January 2023).
- (c) Ensure the decision to establish a correspondent banking relationship is taken by a member of the executive body or any person authorized to do so by the executive body (AML/CFT Law, Art.39.1.c).
- (d) Clearly understand the respective liabilities of each institution in terms of AML/CFT (AML/CFT Law, Art.39.1.c).

Criterion 13.2- (a, b)- With regard to clearing accounts, FIs must have assurance that the correspondent (AML/CFT Law, Art.39.2):

- (a) Has applied due diligence measures to its customers with direct access to correspondent bank accounts; and (AML/CFT Law, Art.39.2.a);
- (b) Can provide the relevant information relating thereto, at the request of the correspondent bank (AML/CFT Law, Art. 39.2.b).

Criterion 13.3- FIs are prohibited from establishing or continuing a correspondent banking relationship with shell banks. FIs must ensure that correspondents do not authorize shell banks to use their accounts (AML/CFT Law, Art. 40).

Weighting and conclusion

Guinea's AML/CFT system provides a comprehensive legal basis for the requirements of this recommendation.

Guinea is rated Compliant (C) on Recommendation 13.

RECOMMENDATION 14: MONEY OR VALUE TRANSFER SERVICES

During the 2012 mutual evaluation, Guinea was rated NC on Recommendation 14 (ex SR VI) due to the lack of regular monitoring of money or value transfer services (MVTs) in AML/ CFT, administrative and disciplinary sanctions as well as ignorance of national AML/CFT regulations. Furthermore, MVT services were not subject to the Counter Financing of Terrorism law. To correct these deficiencies, the country has improved its AML/CFT system to comply with the requirements relating to money or value transfer services by enacting AML/CFT Law 0024 AN-2021 and adopting Directive No. 032/DGEEM/ RCH/11 regulating the activity of money transfer institutions in the Republic of Guinea.

Criterion 14.1 - In Guinea, the money or value transfer service is provided by FIs (credit institutions, EMIs, microfinance institutions, postal financial services and other IFIs). Any legal person governed by Guinean law may carry out this activity provided it is approved by the BCRG as a money transfer institution. The terms of operation are determined by Directive No. 032/DGEEM/RCH/11 (Article 3). Furthermore, Article 100, paragraph 1 of the AML/CFT Law No. 2021/0024/AN states that no one shall engage in the professional money or value transfer activity if he has not obtained approval or license from the BCRG.

Criterion 14.2 - The mechanism for detecting natural or legal persons engaged in MVT services without license is based on the formal prohibition of engaging in such activities (Art. 100, para. 1 of the AML/CFT Law). However, the country has not taken any measures to identify them or to mete out proportionate and dissuasive sanctions on such people.

Criterion 14.3 - The BCRG, within the framework of its functions in terms of supervising FIs, has the power to audit all establishments involved in money transfer operations, including for AML/CFT purposes (Art.23 of the Directive No. 032/DGEEM/RCH/11).

Criterion 14.4 - MVT service providers using agents are required to maintain a list of its agents which is accessible to the competent authorities of the countries in which the money or value transfer services provider and its agents are operating (Art. 100, para. 3 of Law No. 2021/0024/AN).

Criterion 14.5 - Money or value transfer service providers using agents must include those agents in their AML/CFT programs and monitor their agents' compliance with such programs (Art. 50.2 of Law No. 2021/0024/AN).

Weighting and conclusion

Guinea's AML/CFT system provides an essential legal basis for regulating money or value transfer services in line with the FATF requirements. However, there are moderate deficiencies, including the fact that no measure or mechanism designed to identify natural or legal persons operating illegally has been taken.

Guinea is rated Partially Compliant (PC) on Recommendation 14.

RECOMMENDATION 15: NEW TECHNOLOGIES

During its first-round Mutual Evaluation in 2012, Guinea was rated NC on Recommendation 15 (ex R.8). The MER rightly mentioned that the Guinean legal system was vague and incomprehensive, and only aimed at natural person customers. Since this evaluation, Guinea has taken appropriate measures to improve its legal and institutional framework, and to strengthen the powers of the Central Bank in the supervision and monitoring of financial institutions through the passing of Law No. 2021/0024/ AN on AML/CFT.

New Technologies

Criterion 15.1 - The Guinean legal framework provides for the conduct of a national risk assessment

in order to identify and assess the ML/TF risks to which the country is exposed, including those that may result from the development of new products and new business practices, including new distribution mechanisms, and from the use of new or developing technologies in connection with new products or pre-existing products (Law n°2021/0024/AN of the AML/CFT, Article 14, al.1). Similarly, FIs are required to identify the ML/TF risks in connection with new technologies, new products and new business practices (Art. 23, al.1, of the AML/CFT Law).

Criterion 15.2 (a) and (b) - FIs must assess ML/TF risks prior to the launch or use of new products, practices and technologies and take appropriate measures to manage and mitigate such risks (AML/CFT Law n°2021/0024/AN Art 23).

Virtual Assets and Virtual Asset Service Providers

Criterion 15.3

(a) - The consideration of VAs and VASP activities in the national risk assessment is not effective, although explicitly provided for by Guinea's legal framework (Art. 14.1 of AML/CFT Law

(b) - Admittedly, the risk-based approach is enshrined in the Guinean legal framework (Art. 14.2 of AML/CFT Law No. 2021/0024/AN and Directive No. 109/DGSIF /DSB). However, the latter cannot be implemented without a risk assessment linked to VAs and VASPs.

(c) - The legal framework requires VASPs to take appropriate measures to identify, manage and mitigate their risks in accordance with all the criteria 1.10 and 1.11 (Articles 21 to 23 -AML/CFT Law No. 2021/0024/AN, Art. 58).

Criterion 15.4 - In Guinea:

(a) - Legal persons may not exercise the professional activity of virtual asset services without having obtained the approval or license from the BCRG, subject to disciplinary, administrative or pecuniary sanctions (Law n°2021/0024/AN of the AML/CFT, Art. 101). However, there is no provision that requires natural person exercising the activity of VASP to be licensed or registered in the jurisdiction where he/she is established.

(b) - The approval, licensing or registration authority or body, in this case the Central Bank of the Republic of Guinea, takes the legislative or regulatory measures, and implements the necessary procedures to prevent criminals or their accomplices from holding or becoming the beneficial owners of a significant shareholding or control of any financial institution or VASP or from holding any management position therein (AML/CFT Law n°2021/0024/AA, Art. 99). However, no provision explicitly defines the measures or procedures to be implemented within this framework regarding VASPs.

Criterion 15.5 - The Central Bank of the Republic of Guinea takes measures to identify legal or natural persons carrying out VASP activities without being registered (AML/CFT Law n°2021/0024/AN, Art. 101, par 2) and metes out sanctions on them. However, no measure or mechanism has been specifically defined by the country.

Criterion 15.6

(a) - VASPs are subject to regulation and monitoring for compliance with AML/CFT obligations by the BCRG using a risk-based approach (AML/CFT Law n°2021/0024/AN, Articles 97 and 98 and Directive No. 110/DGSIF/DSB). However, the risk-based supervision approach and tools relating to the VASP sector have not been explicitly defined.

(b) - The Guinean AML/CFT legal framework mandates the BCRG to regulate and supervise VASPs. consequently, the Central Bank has the powers to supervise and mete out disciplinary and pecuniary sanctions with on VASPs, including the power to withdraw, restrict or suspend the license, as and when necessary (AML/CFT Law n ° 2021/0024/AN, Articles 97, 08_ indent 4, 101, 109 and 110).

Criterion 15.7 - The BCRG may issue Decrees, Directives or Guidelines aimed at ensuring a good understanding of the AML/CFT obligations for VASPs (AML/CFT Law No. 2021/0024/AN, Art. 98,

al. 1, 2 and 7). However, the latitude given to the BCRG to take such measures reduces the scope of this provision. Besides, there is no other provision to ensure feedback from competent authorities and supervisory authorities in accordance with Recommendation 34 to assist VASPs in the implementation of national AML/CFT measures, particularly to detect and report suspicious transactions.

Criterion 15.8 -

(a) - The BCRG, in its capacity as supervisory authority, is empowered to mete out disciplinary sanctions on any VASP, for violation of AML/CFT obligations, without prejudice to criminal or other sanctions incurred, and based on the seriousness of the default (Art.109, of the AML/CFT Law). These sanctions include, among other things, warning, reprimand, banning of operations, suspension of directors, the suspension and which can go as far as the temporary ban of the directors from performing their functions in the sector concerned during a fixed period as well as the withdrawal of license. Financial sanctions vary from 50 to 100 million GNF (\$6000 to 12,000) for legal persons and 10 to 50 million GNF (\$1,200 to 6,000) for natural persons.

(b) - The BCRG may mete out disciplinary sanctions on members of the Board of Directors and senior management of VASPs ranging from warnings to dismissal or replacement of members of the Board and senior management (Art.109, al.1).

Criterion 15.9 -

(a) - With regard to Recommendation.10 VASPs are required to apply customer due diligence measures for amounts greater than or equal to 10 million GNF (approximately \$1,200) (Art.59.2 of AML/CFT Law No. 2021/0024/AN, Art. 19. Directive n°110/DGSIF/DSB).

(b) - *With regard to Recommendation 16* – For virtual asset transfers:

(i) VASPs must comply with all the obligations of Recommendation 16 in the countries where they carry out their activities, directly or through their agents (Art. 19, Directive n°110/DGSIF/DSB). They also have the obligation to make this information available to the FIU of the countries concerned (Art.20.b, Directive n°110/DGSIF/DSB). Although the AML/CFT Law n°2021/0024/AN in its definition of VASPs (Art.6.63) mentions activities of custody or administration of virtual assets or instrumentalities allowing the control of virtual assets, there is no obligation to immediately make this information available to the beneficiary's VASP or its FI.

(ii) VASPs are required to collect basic information about the originator and beneficiary of the VA transfer, including serial payments and cover payments, in order to allow traceability of all wire transfer transactions, for transmission to the appropriate parties when requested (Art. 41, 42 and 43 of AML/CFT Law No. 2021/0024/AN and Art. 20.a of Directive No. 110/DGSIF/DSB) and made available to the FIU and the FIUs of the countries concerned all the information on the operation (Art. 43.2.b, Law n°2021/0024/AN on the AML/CFT and Art. 20.b of Directive n°110/ DGSIF/DSB). However, there is no provision for the beneficiary's VASP to obtain and keep information on the originator.

(iii) VASPs are subject to all the requirements of Recommendation 16 in the countries where they carry out their activities, directly or through their agents (Art. 19, Directive n°110/DGSIF/DSB). The approved structures are required to apply without delay, in accordance with criterion 16.18, the freezing measures and the prohibitions on the provision or use of funds to or from a person subject to a freezing measure pursuant to R.6 AML/CFT Law No. 2021/0024/AN, Art. 44).

(iv) Financial institutions are subject to the same obligations as VASPs for any transaction conducted on behalf of a customer, including when sending or receiving a transfer of virtual assets on behalf of a customer (Law AML/CFT n°2021/0024/AN, Art.41 to 44).

Criterion 15.10 - - Regarding Criterion 6.5 e) and 7.2 e), VASPs are required to implement without delay the Directives of the National Advisory Commission for Administrative Freezing relate to targeted financial sanctions, in accordance with decisions of the United Nations Security Council

(AML/CFT Law No. 2021/0024/AN, Art.44) and are required to comply with any directives issued by the CCGA in TFS, subject to sanctions provided for under Articles 109 and 110 of the AML/CFT Law. In this regard, the BCRG, in its capacity as supervisory authority for FIs and VASPs, supervises them and ensures that they comply with the requirements of Recommendation 7 (Criterion 7.3). Furthermore, VASPs are notified of the competent authority's decision to administratively freeze VASPs without delay in accordance with criterion 6.5.d. However, no procedure is provided for with regard to the dissemination of lists of designated persons and entities (criteria 6.6.g and 7.2.d and 7.4.d).

Criterion 15.11 - The Guinean legal framework on international cooperation applies in the context of VA/VASP-related activities. The BCRG, which is the supervisory authority for VASPs, has a legal basis for exchanging information with their foreign counterparts on money laundering, all predicate offences associated with it and terrorism financing (Law n°2021/0024 /AN of the AML/CFT, Art. 115).

Weighting and conclusion

The Guinean legal system does not provide for measures relating to identification and/or registration of VASPs as well as assessment of ML/TF risks resulting from activities related to AVs and VASP activities or operations, in accordance with a risk-based approach. Similarly, the gaps identified under criteria 15.4 b, 15.9 iii and 15.10 are moderate deficiencies with regard to the requirements of this recommendation.

Guinea is rated Partially Compliant (PC) on Recommendation 15.

RECOMMENDATION 16: WIRE TRANSFERS

Guinea was rated NC on Recommendation 16 (ex SRVII) during its previous mutual evaluation on the grounds that the rules applicable to wire transactions in force in the country only concerned money laundering. Since then, Guinea has strengthened its legal arsenal by adopting new laws, including the AML/CFT law, BCRG Directive No. I/DGSIF/DSIMF /007/2018 relating to Anti-Money Laundering Counter Financing of Terrorism (AML/CFT) applicable to Inclusive Financial Institutions (IFI), Regulation No. 095/2021/BCRG on the BCRG's requirements for international transfers in favour of its counterparties and finally the Directive on the rules governing wire transfers in the Republic of Guinea.

Originator's financial institutions

Criterion 16.1 – The Guinean legal framework provides that FIs must ensure, regardless of the amount, that all cross-border and domestic wire transfers, a minimum of GNF 10 million (about \$1,000) including serial payments and cover payments, are always accompanied by basic information on the originator and beneficiary (AML/CFT Law No. 2021/0024/AN, BCRG Directive No. I/DGSIF/DSIMF /007/2018 of the IFIs and Directive No. 110/DGSIF/DSB).

Criterion 16.1 (a) – FIs are required to obtain and verify originator information, i.e., full name, account number (when used to carry out the transaction) or a unique transaction reference number, its address (or national identification number, or place and date of birth), as well as the name of its FI if necessary (Art. 4.a, Directive No.110/DGSIF/DSB).

Criterion 16.1 (b)- They must also obtain the name of the beneficiary and their account number when it is used to carry out the transaction or a unique reference number (Art. 4.b, Directive n°110/DGSIF/DSB).

Criterion 16.2 - Article 41 of AML/CFT Law No. 2021/0024/AN 0024/AN/2021 requires FIs to ensure that the basic information on the originator and the information on the beneficiary of wire transfers, including serial payments and cover payments, are immediately available to allow traceability of all wire transfer transactions. FIs are required to include the originator's account number or the unique transaction reference number (Art.5, Directive n°110/DGSIF/DSB).

Criterion 16.3 (a) and (b) - Guinea does not apply any threshold for the implementation of Criterion 16.1.

Criterion 16.4 - Nevertheless, the AML/CFT Law stipulates that FIs must ensure that the information

on the originator and the beneficiary for any cross-border transfer is systematically collected and immediately available, whether there is a suspicion of ML/TF or not. (Art. 41 of AML/CFT Law No. 2021/0024/AN). The obligation to verify the accuracy of such information must be conducted where there is a suspicion of ML/TF (Art.7, Directive n°110/DGSIF/DSB).

Criterion 16.5 - In Guinea, FIs are required to verify the basic information on their originating customers as mentioned for the transfers they make, whether national or cross-border transfers (Art. 41 of the AML/CFT Law No. 2021/0024/AN). Thus, with regard to national transfers, the FI of the originator must ensure that the information produced is compliant and made available to the FI of the beneficiary and the authorities concerned (Law enforcement) (Art.8 , Directive No. 110/DGSIF/DSB). The IFIs are also required to identify the customer when opening the account, using a digital copy of the identity document and photograph (Art. 16, BCRG Directive No. I/DGSIF/DSIMF /007/2018 for IFIs).

Criterion 16.6 – In Guinea, FIs must ensure that basic information on their originating customers for the transfers they carry out is collected and immediately available whether they are national or cross-border transfers (Article 41 of AML/CFT Law No. 2021/0024/AN and Article 9, Directive No. 110/DGSIF/DSB). Furthermore, the Law enforcement authorities may, by requisition, obtain from FIs information on the accounts of natural or legal persons without delay, without bank secrecy being enforceable against them (see criterion 31).

Criterion 16.7- FIs are required, without prejudice to provisions prescribing more stringent obligations, to keep all information collected on the originator and the beneficiary for a period of ten (10) years, from the end of the business relationship or the date of the occasional transaction, including all the necessary documents relating to national and international transactions (Art.54 of the AML/CFT Law No. 2021/0024/AN and Art.10 , Directive No. 110/DGSIF/DSB).

Criterion 16.8 – In Guinea, the originator's FI must not execute wire transfers if they do not comply with the requirements set out in Criterion 16.1 to 16.7 (Art.11, Directive no. 110/DGSIF/DSB).

Intermediary financial institutions

Criterion 16.9 - FIs acting as intermediaries are also concerned by the provisions set out in criterion 16.1 insofar as they carry out cross-border and national transfers (Art.41 of Law no. °2021/0024/AN of the AML/CFT and Art.12, Directive n°110/DGSIF/DSB).

Criterion 16.10 – The Intermediate FI has a legal obligation to keep for at least ten (10) years all information received from the Originator's FI or another Intermediate FI where technical order limits impede the transmission, for domestic transfers, of all requisite information on the originator or beneficiary contained in the corresponding cross-border wire transfer. (Art. 13 of Directive No. 110/DGSIF/DSB and Cf. analysis Criterion 16.7).

Criterion 16.11 – FIs must apply effective procedures to identify cross-border wire transfers where required originator or beneficiary information is missing or where factors indicative of higher ML/TF risk are identified (Art.31, indent 1, AML/CFT Law No. 2021/0024/AN and Art.14 of Directive No. 110/DGSIF/DSB).

Criterion 16.12 - FIs are required to take reasonable steps or have risk-based policies to reject or suspend wire transfers when they do not include required originator or beneficiary information, as well as the appropriate follow-up actions (Art.15 of Directive n°110/DGSIF/DSB).

Beneficiary financial institutions

Criterion 16.13 – The beneficiary's FI must have effective procedures, which may include post-clearance or real-time monitoring, to detect cross-border wire transfers lacking the requisite originator or beneficiary information (Art.16 of Directive n°110/DGSIF/DSB).

Criterion 16.14 – The beneficiary's FI is required to verify the identity of the beneficiary where this has not been done previously, or where such information has not been kept in accordance with Recommendation 11, for any wire transfer of 10 million Guinean francs or its equivalent in any currency listed on the foreign exchange market (Art.17 of Directive n°110/DGSIF/DSB).

Criterion 16.15 - As mentioned in the analysis of criterion 16.12, FIs must have policies and procedures based on ML/TF risks (Art.31, indent 1, Law n°2021/0024/AN of AML/CFT and Art.18 of Directive n°110/DGSIF/DSB).

Money or Value Transfer Service Operators

Criterion 16.16 - Money or value transfer service providers must comply with all the obligations set out in Recommendation 16 in the countries in which they operate, directly or through their agents (Art.43.1, AML/CFT Law No. 2021/0024/AN and Art. 19 of Directive No. 110/DGSIF/DSB).

Criterion 16.17 -

- (a) Beneficiary and intermediary payment service providers must take into account all information on the originator or the beneficiary as a factor in assessing whether a suspicious transaction report should be made (Art.43.2.a , AML/CFT Law No. 2021/0024/AN and Art. 20.a of Directive No. 110/DGSIF/DSB).
- (b) Beneficiary and intermediary payment service providers must file a suspicious transaction report in the countries concerned by the suspicious wire transfer, and provide the FIU of the countries concerned with all the information on the transaction (Art. 43.2.b, AML/CFT Law n°2021/0024/AN and Art.20.b of Directive n°110/DGSIF/DSB).

Implementation of targeted financial sanctions

Criterion 16.18 - FIs must take freezing measures, without delay, and respect the prohibitions on carrying out certain transactions on behalf of a customer who is the subject of a freezing measure, and are required to immediately implement the freezing order (see criterion 6.5 (e)) and inform the Minister of Finance (Art. 23, Decree n°2015/191/PRG/SGG; Art. 44, Law n°2021/0024/AN of the AML/CFT and Art.21 of Directive n°110/DGSIF/DSB). However, Guinea has not put in place any mechanism to communicate to FIs decisions to delist from sanctions lists as well as for the implementation of targeted financial sanctions related to proliferation financing.

Weighting and conclusion

Apart from deficiencies related to the implementation of TFS, the Guinean legal system largely meets the requirements of Recommendation 16.

Guinea is rated Largely Compliant (LC) on Recommendation 16.

RECOMMENDATION 17: RELIANCE ON THIRD PARTIES

Guinea was rated NC in Recommendation 17 (ex R.9), and rightly so as there were no clear and comprehensive requirements in the country's legal framework for recourse to third parties in AML/CFT. Furthermore, insurance brokers, though only then subject to and bound by the due diligence obligation, did not meet this requirement. Since its last evaluation in 2012, the Republic of Guinea has strengthened its legal arsenal, in order to comply with the obligations relating to this recommendation, through the promulgation on 17th August 2021, of the AML/CFT law on in the Republic of Guinea and the 'Directive on the modalities for the implementation by Financial Institutions of the Anti-money Laundering and Counter Financing of Terrorism Law.

Criterion 17.1 (a, b, c)- FIs may use third parties to meet their customer due diligence obligations provided for in points 1) to 4) of Article 26 of the AML/CFT Law or to play the business provider role, without prejudice to the final liability of complying with the said obligations incumbent on them (AML/CFT Law, Art. 52). In addition to the obligation to take special and enhanced measures with regard to the FI they are using, FIs using a third party must also:

- (a) Obtain from the third party all necessary information on customer due diligence measures (AML/CFT Law, Art. 53 al.1).
- (b) FIs must also take measures to ensure that the third party can provide, on request and without delay, a copy of the identification data and other customer due diligence-related documents (AML/CFT Law, Article 53 par.1);

- (c) Ensure that the third party is subject to regulation and subject to supervision or monitoring, and that it has taken measures to comply with the customer due diligence obligation as well as the record keeping obligations, in accordance with the provisions of the AML/CFT Law (AML/CFT Law, Art. 53 al.1).

Criterion 17.2 - FIs must consider all available information on the country's risk level where the third party is located and must take specific and enhanced measures to prevent ML/TF when assessing whether the FIs that they plan to use are subject to due diligence obligations and implement equivalent AML/CFT obligations (AML/CFT Law, Art. 52 al. 3). However, the terms and conditions for the implementation of these particular and enhanced measures have not been specified.

Criterion 17.3 - (a, b, c) - Where a financial institution uses a third party that is part of the same financial group, the conditions established by this Article shall be considered to be satisfactory in the following circumstances:

- a) The group applies, in accordance with the AML/CFT Law, due diligence measures on customers and PEPs, record keeping obligations and programs to combat money laundering and the financing of terrorism (AML/CFT Law, Article 53(2)).
- b) The implementation of these customer due diligence measures, record keeping obligations and AML/CFT programs is monitored at group level by a competent authority (AML/CFT Law, Art. 53 al. 2);
- c) Any risk linked to a higher risk country is satisfactorily mitigated by the group's AML/CFT policies (AML/CFT Law, Art. 53 al. 2).

Weighting and conclusion

Guinea's legal system is satisfactory with regard to the requirements contained in this recommendation. However, the methods of implementing these specific and enhanced measures to prevent ML/TF are yet to be determined.

Guinea is rated Largely Compliant (LC) on Recommendation 17.

RECOMMENDATION 18: INTERNAL CONTROLS AND FOREIGN BRANCHES AND SUBSIDIARIES

During its first-round mutual evaluation in 2012, Guinea was rated PC on Recommendation 18 (ex R.15 and R.22). The lack of control was one of the main deficiencies identified in its system at the time. Since then, the country has adopted new legislations, including the AML/CFT law of 17th August 2021 and Directives on internal control applicable to FIs, to strengthen its AML/CFT system with regard to the requirements relating to this Recommendation.

Criterion 18.1 - (a, b, c and d) - Under the provisions of Article 50 of the AML/CFT Law, financial institutions are required to develop and implement programs to combat money laundering and terrorist financing that take on board the risks of money laundering and terrorist financing as well as the of the business activity dimension, which include the following policies, procedures and internal controls:

- a) Compliance control systems and the designation of a compliance officer at management level (AML/CFT Law, Art. 50 al. 1).
- b) Procedures guaranteeing staff recruitment in line with the Criterion requirement (AML/CFT Law, Art. 50 al. 1);
- c) An ongoing staff training program; and (AML/CFT Law, Art. 50 par. 1).
- d) An independent audit function to test the system (AML/CFT Law, Art. 50 al. 1).

Criterion 18.2 - (a, b and c) - Under the above provisions, financial institutions that are part of a financial group must implement, at group level, anti-money laundering and anti-terrorist financing programs that apply and are adapted to all their branches and most of their subsidiaries. In addition to

the measures provided for in the previous Article, these programs shall also include:

- (a) Policies and procedures for sharing the information required for the purposes of customer due diligence and the management of the money laundering and terrorist financing risk (AML/CFT Law, Art. 51).
- (b) Providing customer, account and transaction information from branches and subsidiaries, compliance, audit and anti-money laundering and anti-terrorist financing functions at group level. This information should include data and analysis of transactions or activities that are seemingly unusual (where such analysis has been conducted). Similarly, where relevant and appropriate for risk management, branches and subsidiaries should also receive this information, from the group's compliance functions (AML/CFT Law, Art. 51).
- (c) Guarantees regarding the confidentiality and use of the information exchanged, including guarantees to prevent disclosure (AML/CFT Law, Art. 51).

Criterion 18.3- No provision explicitly requires financial groups in Guinea to ensure that their branches and subsidiaries, which are mostly foreign, implement AML/CFT measures compliant with those of Guinea, where the host country's minimum AML/CFT requirements are less binding than those of Guinea, to the extent permitted by the host country's laws and regulations.

Furthermore, the Guinean financial groups are not required to implement appropriate complementary measures to manage ML/TF risks and inform the Guinean supervisory authorities, where the host country does not allow for the appropriate implementation of AML/CFT measures compliant with those of Guinea.

Weighting and conclusion

Guinean legislation covers most requirements for internal controls and foreign branches and subsidiaries. However, Guinea's current legislation does not contain any provision requiring Guinean financial groups to implement the specific requirements set out in C.18.3. Due to the non-existence of Guinean financial groups with foreign branches and subsidiaries, the Assessment team considers these gaps to be minor. Recommendation 18 is considered largely compliant.

Guinea is rated Largely Compliant (LC) on Recommendation 18.

RECOMMENDATION 19: HIGHER RISK COUNTRIES

During its first-round Mutual Evaluation in 2012, Guinea was rated PC on Recommendation 19 (ex R.21) on the grounds that its legal framework did not provide for effective mechanisms aimed at informing financial institutions of AML/CFT deficiencies in other countries and that there was no proposal for countermeasures to be applied against countries that do not comply with the FATF Recommendations. Since this evaluation, Guinea has resolved these deficiencies by adopting a new AML/CFT law and many other legislations.

Criterion 19.1 - Guinean law requires financial institutions to apply enhanced due diligence measures, proportionate to the risks, in their business relationships and transactions with natural and legal persons, including financial institutions, and the legal arrangements of countries for which the FATF urges this to be done (Art. 38 point 1 of the AML/CFT law of 2021). The IFIs pay particular attention to transactions carried out with countries, territories and/or jurisdictions declared by the FATF as non-cooperative. In this regard, the list of these countries/territories and jurisdictions is regularly updated and communicated to the staff in charge of AML/CFT within the IFI (Art.12 of BCRG Directive No. I/ DGSIF/DSIMF /007/2018 on Anti-money Laundering and Counter Financing of Terrorism (AMKL/CFT) standards applicable to Inclusive Financial Institutions (IFIs).

Criterion 19.2 - Guinean law requires FIs to apply countermeasures proportionate to the risks, in their business relations and transactions with natural and legal persons, including financial institutions and legal arrangements of countries for which the FATF urges for this to be done and for countries that are determined by the National Coordinating Committee. These countermeasures shall be determined by Directive of the Governor of the Central Bank (Art. 38 point 2 of the AML/CFT law of 2021). However, the indicated countermeasures are yet to be determined.

Criterion 19.3 - There are no measures designed to ensure FIs are informed of concerns raised by deficiencies in the AML/CFT systems of other countries.

Weighting and conclusion

The Guinean legal system requires financial institutions to apply enhanced due diligence measures, proportionate to the risks with regard to customers established in a country representing a higher risk. Therefore, the law requires these financial institutions and legal arrangements to apply proportionate countermeasures against the countries for which the FATF urges this to be done. Such countermeasures should be applied to high-risk countries regardless of any FATF appeal. However, there are no measures aimed at informing FIs of concerns raised by deficiencies in the AML/CFT systems of other countries. The countermeasures mentioned by law are yet to be determined. The Guinean legal system thus has moderate gaps in compliance with R.19.

Guinea is rated Partially Compliant (PC) on Recommendation 19.

RECOMMENDATION 20: SUSPICIOUS TRANSACTIONS REPORTING

During its first Mutual Evaluation in 2012, Guinea was rated PC on Recommendation 20 (ex Rec.13 and SR IV). Among the deficiencies identified, mention may be made of the failure to consider attempted suspicious transactions, the lack of due diligence measures required of reporting entities with regard to PEPs, as well as the lack of obligation to verify the nature and origin of the funds in their possession. Since then, Guinea's legal framework has improved significantly, particularly with the enactment of its new AML/CFT law.

Criterion 20.1- Where a financial institution suspects, or has reasonable grounds to suspect, that funds and other assets are the proceeds of or may be associated with criminal activity or have a connection with terrorism financing, it shall, immediately and on its own initiative, file a suspicious transaction report to the FIU (AML/CFT Law, Art. 45). Furthermore, under Article 76 of Law No. 0041/2017/AN on the Prevention, Detection and Repression of Corruption and Assimilated Offences, without prejudice to the legal provisions relating to money laundering and terrorism financing, banks, financial institutions and credit institutions shall immediately inform the Financial Intelligence Unit (FIU) of all suspicious transactions detected at their level.

Criterion 20.2- FIs must report all suspicious transactions. Attempted suspicious transactions must also be reported. Furthermore, the law does not provide for any minimum amount for filing a transaction or attempted transaction report (AML/CFT Law, Art. 45). In this regard, under Article 44, the FIs transmit the STRs according to a reporting template developed by the FIU. Similarly, Article 87 of the AML/CFT Law specifies the conditions for filing STRs to FIU. These filings are made in accordance with the directives established by the FIU.

Weighting and conclusion

Guinea's legal framework requires financial institutions to immediately report suspicious transactions to the FIU under the conditions described by the standards, including attempted suspicious transactions.

Furthermore, Guinea has transmitted the directives of the FIU, relating to the conditions and procedures for the filing of STRs under Article 87 of the AML/CFT Law, the procedures for analyzing and processing STRs as well as the suspicious transaction reporting template.

Guinea is rated Compliant (C) on Recommendation 20.

RECOMMENDATION 21: DISCLOSURE AND CONFIDENTIALITY

Criterion 21.1- In Guinea, it is not possible to initiate any civil or criminal action against an FI, its managers and employees, or to mete out any professional sanction on them, when they report their suspicions to FIU in good faith (Art. 91, para. 1 of the AML/CFT Law/0024/AN/2021).

This protection remains guaranteed in all circumstances, even if suspicious report is filed without proof of the predicate crime having been established or the illegal act which was the subject of the suspicion having actually been committed (Art. 91, al. 2. of AML/CFT Law /0024/2021/AN).

Criterion 21.2- The Guinean legal framework prohibits financial institutions and their managers and employees from disclosing the fact that a suspicious transaction report or information relating thereto has been filed to the FIU (AML/CFT Law /0024/AN/2021 Art. 49). They are required to respect the confidential nature of the report as provided for by the said law.

Weighting and conclusion

Guinea has a strong legal framework with regard to the requirements contained in Recommendation 21.

Guinea is rated Compliant (C) on Recommendation 21.

RECOMMENDATION 22: DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS: CUSTOMER DUE DILIGENCE

Guinea was rated NC on this Recommendation (ex R.12) on the grounds that the DNFBPs were not aware of their obligations, and that there were no specific procedures that could enable them apply customer due diligence measures, keep records and identify the beneficial owners. Since then, the country has taken new measures to improve its legal regime in this area and strengthen the involvement of DNFBPs in AML/CFT.

Criterion 22.1- DNFBPs and required by State authorities to comply with the due diligence obligations provided for under Articles 21 to 27 and 29 to 36 of the AML/CFT Law (AML/CFT Law, Art. 56 al. 1). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion.

(a) Casinos – With regard to casinos, the first paragraph of this Article applies when their customers carry out financial transactions equal to or greater than thirty million (30,000,000) Guinean francs or a threshold established by the supervisory authority . Casinos must ensure that they can establish a link between the information resulting from the exercise of their due diligence obligation and the transactions carried out by the customer in this casino (AML/CFT Law, Art. 56(2)).

(b) Real estate agents - Paragraph one of this Article applies to real estate agents when they are involved in the purchase or sale of fixed assets for their customers. Customer due diligence measures must be applied with respect to the purchaser and seller of such assets (AML/CFT Law, Art. 56 al. 3). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion.

(c) Dealers in Gems and Precious Metals - Paragraph 1 of this Article applies to dealers in gems and precious metals, when transacting with a customer in cash equal to or greater than one hundred and fifty million (150,000,000) Guinean francs s or a threshold established by the supervisory authority (AML/CFT Law, Art. 56 par. 4). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion

(d) Independent legal and accounting professionals –Lawyers, notaries and other independent legal and accounting professionals are considered as DNFBPs when they prepare or carry out transactions for their clients relating to activities listed in criterion 22.1(d) (AML/CFT Law, art. 6.29, A1.6). They are therefore required to comply with the customer due diligence obligations provided for by R.10 (AML/CFT Law, art. 56 par. 1). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion

(e) Trust and company service providers - For trust and company service providers, paragraph 5 of Article 56 exactly outlines the activities mentioned in this sub-criterion, under which they are required to observe the due diligence obligations provided for under Articles 21 to 27 and 29 to 36 of the AML/CFT Law (AML/CFT Law, Art. 56 par. 5). The deficiencies in the

provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion.

Criterion 22.2- Designated non-financial businesses and professions and relevant State authorities must comply with the obligations provided for under Articles 38, 45 to 50 and 52 to 56 of the Law AML/CFT (AML/CFT Law, Art. 57). This provision covers record keeping obligation.

Criterion 22.3- DNFBPs are required to apply the specific due diligence obligations with regard to PEPs provided as for under Article 36 of the AML/CFT Law (AML/CFT Law, Art. 56 al. 1). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion

Criterion 22.4 - DNFBPs are required to apply the obligations relating to new technologies provided for under Article 23 of the AML/CFT Law (AML/CFT Law, Art. 56 par. 1).

Criterion 22.5- DNFBPs are required to apply the obligations provided for under Article 52 of the AML/CFT Law in case of recourse to third parties (AML/CFT Law, Art. 57 al. 1). The deficiencies in the provisions of Arts. 26.2, 27.4.a and 28.b and 31 Para.2 of the AML/CFT Law identified under Recommendation 10 are also valid for this criterion

Weighting and conclusion

The Guinean legal system, to a large extent, incorporates the requirements of Recommendation 22. However, the deficiencies of some of the provisions of the AML/CFT Law identified under Recommendations 10, 12 and 17 are also valid for this Recommendation.

Guinea is rated Largely Compliant (LC) on Recommendation 22.

RECOMMENDATION 23: DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS: OTHER MEASURES

Guinea was rated NC on Recommendation 23 (ex Rec. 16) during its 2012 evaluation. The deficiencies identified in its MER then included, among others, the lack of STRs conducted by the DNFBPs, the non-existence of internal controls within the DNFBPs, the non-designation by DNFBPs of an officer in charge of AML/CFT issues, the lack of training programs for the benefit of DNFBP staff, as well as the lack of obligation for DNFBPs to pay particular attention to their business relations and their transactions with legal persons and financial institutions residing in countries which do not apply or inadequately apply the FATF recommendations. Since then, the country has tried to make up for these deficiencies through law L/2021/024/AN of 17th August 2021.

Criterion 23.1- DNFBPs and State authorities concerned must comply with the obligations provided for under Articles 38, 45 to 50 and 52 to 56 (AML/CFT Law, Art. 57 al. 1). In this regard, the suspicious transaction reporting obligations established in Recommendation 20 apply legally to all designated non-financial businesses and professions, in each of the circumstances provided for in points a , b and c . Furthermore, the Guinean legal system explicitly provides that lawyers, notaries, other independent legal professionals and accountants acting as independent professional lawyers are not required to report suspicious transactions if the corresponding information has been obtained: (a) when assessing the legal situation of their customer or; (b) when performing their duty of defence or representation of the customer in the context of legal or administrative proceedings, arbitration or mediation (AML/CFT Law, Art. 57 par. 2).

Criterion 23.2- DNFBPs and State authorities concerned must comply with the obligations provided for under Articles 38, 45 to 50 and 52 to 56 (AML/CFT Law, Art. 57 al. 1). In this regard, the internal control obligations established in Recommendation 18 legally apply to DNFBPs, to each of the situations provided for in 23.1. However, the deficiencies identified in the analysis of R.18 also impact, in the same proportions, the compliance of DNFBPs with the requirements of this criterion.

Criterion 23.3- DNFBPs and State authorities concerned must comply with the obligations provided

for under Articles 38, 45 to 50 and 52 to 56 (AML/CFT Law, Art. 57 al. 1). In this respect, the obligations relating to countries presenting a higher risk set out in Recommendation 19, legally apply to DNFBPs, in each of the situations provided for in 23.1. However, the deficiencies identified in R.19, relating to the availability of countermeasures, also impact, in the same proportions, the capacity of DNFBPs to implement the requirements of this criterion.

Criterion 23.4- It is prohibited, subject to the sanctions provided for AML/CFT Law reporting entities to inform the owner of the sums or the author of any of the transactions reported as suspicious or to third parties other than the supervisory authorities, of the existence and content of a report filed to the FIU and to provide information on the action taken on the said report (AML/CFT Law, Art. 94 para. 2).

Weighting and conclusion

Although the Guinean legal system has made notable progress in respect of the requirements of R.23, minor gaps identified under Recommendations 18 and 19 need to be resolved.

Guinea is rated Largely Compliant (LC) with Recommendation 23.

RECOMMENDATION 24-TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS

During the first-round evaluation in 2012, Guinea was rated partially compliant because the RCCM did not provide information on beneficial ownership, particularly when the shareholder is an apparent holder (nominee). Similarly, although access to the RCCM is reserved for the general public including the competent authorities, the non-computerization of the RCCM may impede obtaining adequate information without delay, in addition to the fact that there are no specific provisions aimed at preventing legal persons empowered to issue bearer shares from being misused for ML/TF purposes.

Criterion 24.1- The OHADA Uniform Act relating to the law of Business Companies and Economic Interest Groupings (AUSGIE) adopted in Ouagadougou on 30th January 2014, constitutes the legal framework for the incorporation of Business Companies, the form, content, name and purpose of the Business Companies (public limited companies, limited liability companies, simple and individual limited partnerships, GIE). The procedures for creating these legal persons are fully outlined in the AUSGIE (Art. 4 to 39 of the AUSGIE).

Furthermore, the private investment promotion agency (APIP-GUINEA) established by Decree D/2014/029/PRG/SGG, of 10th February 2021, provides for the functions of a one-stop shop for investors. It is responsible, among other missions, for facilitating the registration of companies in the RCCM and methods of obtaining and keeping basic information, publicity formalities by depositing an instrument or document at the Commercial Court registry or the formalities conducted at the RCCM. The public has access to the directory of companies established in Guinea at Elles with the APIP but also through the electronic business creation platform called SyNERGUI : <https://synergui.apipguinee.com/fr>). Information on modifications or changes in the life of the company is held at the RCCM of the Conakry Commercial Court Registry. The two systems are not interconnected. However, the methods for obtaining and keeping beneficial ownership information are not provided for.

For associations and NGOs, Law No. 2005/013 of 4th July 2005 constitutes the legal framework governing these categories of legal persons, particularly Articles 3 to 9, 17 to 28 of this law.

Criterion 24.2- – In Guinea, the money laundering and terrorist financing risks associated with the various categories of legal entities incorporated in the country are yet to be assessed.

Basic information

Criterion 24.3- The Trade and Personal Property Register (RCCM) established by the AUDCG is kept at the Commercial Court registry to receive basic information on legal persons (Art. 256-2 of the AUSCGIE and 46 at 65 of the AUDCG). This information relates to the company's name, proof of

incorporation, legal form, address, registered office, share capital, list of executive officers and members of the Board of Directors, the duration of the company, auditors, etc. (Art. 4 to 39 of the AUSGIE). However, Guinea has set up the One-stop Shop at the APIP which centralizes the creation of legal persons. The national RCCM register held at the Commercial Court Registry which contains this information is publicly available (<https://www.tc-conakry.gov.gn/RCCM/RCCM>); (Art.34-3 and 36 paragraph 4 of the AUDCG) but only records the changes made to the life of the company once established; the RCCM held at the APIP centralizes the information collected at the time of creation but is not interconnected with the register held at the Commercial Court. This information is also available in the Regional Register held at the Common Court of Justice and Arbitration of Abidjan and is publicly accessible (Art. 78 of the AUDCG).

Criterion 24.4- Information on legal persons (company name, legal form, address and registered office, etc.), the names of partners or shareholders, managers, directors, Managing Directors, the category of social shares or shareholding as well as their distribution, voting rights, are specified in the Articles of Association of these legal persons (Art. 37 to 71 AUSGIE) and kept at the RCCM (Art. 34 to 47 of the AUDCG). Companies are also required to keep basic information as well as all deliberations relating to the company which are also captured in reports archived at its head office (Art. 11, 134 to 136 of the AUSGIE). A register of registered securities issued by the company is kept at the head office of each public limited company and contains information relating to transfer, conversion, pledge and sequestration operations (Art. 746-1 of the AUSGIE).

Criterion 24.5- The Clerk of the Commercial Court seconded to the APIP in charge of the Trade and Personal Property Register ensures, under his responsibility, that all legal formalities are completed at the time of the application for registration and declaration and verifies whether the information provided is consistent with the supporting documents. If he notices inaccuracies or encounters difficulties in accomplishing his mission, he can summon the applicant or the declarant to collect all explanations and additional documents (Art. 66 of the AUDCG). Any person required to complete any of the formalities prescribed above, and who has refrains from doing so, or who conducts the formality by fraud, shall incur the sanctions provided for under Article 893 of the Penal Code, issued in application of Article 893 of the Penal Code, issued in application of the Uniform Act on General Business Law (Art.43 of the AUDCG)

Only the RCCM held at the Commercial Court registry receives requests for amendments, additional and secondary comments on basic information on legal persons including the cessation of activity during the month the business was formally registered, to be published in a newspaper authorized to publish legal announcements (Art. 32, 52 to 54 of the AUDCG). The AUSGIE also provides that in case there is an increase or reduction in the share capital in addition to the publication of this information through a legal information Bulletin, a certified true copy of the notarized declaration of subscription and payment attached as Appendix to the RCCM for amendment of the Articles of Association and transformation of the company, should be deposited at the Commercial Cour Registry (Art.264 of the AUSGIE).

Beneficial ownership information

Criterion 24.6

(a)-The legal framework does not require companies to provide their beneficial ownership information. This information is not systematically available at the RCCM either.

(b)- FIs and DNFBPs, due to customer due diligence measures, prior to establishing any business relationship or carrying out transactions with occasional customers, are required to collect beneficial ownership information (Art.26.3, 29, 56 and 59 of AML/CFT law n°2021-0024 of 16th June 2021).

(c)- Since there is no mechanism for the collection of beneficial ownership information, competent authorities can only obtain this information from FIs and DNFBPs when the latter properly implement their due diligence obligations. However, this information is limited only to the beneficial owners of the legal persons that are customers of these reporting entities.

Criterion 24.7 - FIs and DNFBPs are required to ensure the accuracy of information on their customers, including beneficial owners, and to update it throughout the business relationship (Art.26.3, Art. 26.5 and Art.56 and 59 of AML/CFT law n° 2021-0024 of 16th June 2021). However, this information only relates to the customers of these FIs and DNFBPs. Other legal persons are under no obligation to collect, let alone update, beneficial ownership information relating.

Criterion 24.8- (a) and (b) - FIs and DNFBPs, including their directors, Management and staff, are required to cooperate with the supervisory and prosecutorial authorities, and provide any other form of assistance. The obligation to cooperate also applies to third parties that FIs and DNFBPs have called upon to carry out some of their activities (Art.55 and 57 of AML/CFT Law No.2021-0024 of 16th June 2021). This cooperation requirement with the competent authorities to identify the BO is limited to companies subject to the obligations to combat money laundering and terrorism financing and therefore does not cover all other types of companies.

(c) - No other measures have been identified by the country.

Criterion 24.9 – The AUSGIE does not explicitly provide for the obligation of keeping information or documents or other records by companies. Only FIs and DNFBPs are required to keep for ten (10) years all identification documents and records and transactions of their customers from the end of the business relationship or the date of the occasional transaction. (Art. 54, 57 and 59 of AML/CFT law n° 2021-0024 of 16th June 2021).

Other requirements

Criterion 24.10 - The power of requisition given to criminal investigation officers, including the investigating judge, allows these authorities to access basic and beneficial ownership information without delay (Art. 78 and 175 of the Criminal Procedure Code) .

FIs and DNFBPs have the obligation to cooperate with the supervisory and prosecution authorities (Art.55, 57, 59 of AML/CFT Law No. 2021-0024 of 16th June 2021.)

Criterion 24.11(a,b,c,d and e)- There are no legislative or regulatory measures intended to prevent legal persons from issuing bearer shares or being misused, particularly for money laundering and terrorist financing purposes. Legal persons may issue bearer shares or stock warrants. Support shares are only convertible into bearer shares after two (2) years. Transferable securities, which take the form of bearer or registered securities, must be registered in a securities account in the name of their owner. The owner of securities forming part of an issue which includes bearer securities, may convert them into a registered securities and vice versa (Art. 744-1, 745,746, 749 of the AUSCGIE).

Criterion 24.12 (a,b and c)- There are no legal texts in force in Guinea to ensure that nominee shareholders ” and “ nominee directors are not misused for ML/TF purposes.

Criterion 24.13- The AUSCGI provides for a penalty payment with joint and several liability of the Management, executives or administrative bodies for failure to comply with the mandatory information on the incorporation of companies or failure to carry out due diligence in case of changes to the Statutes (Art.73,74,75 and 79 of the AUSCGI). The Guinean Penal Code does not provide for sanctions for violations of the obligations to collect basic and beneficial ownership information on legal persons. However, AML/CFT Law No. 2021-0024 of 16th June 2021 provides for such dissuasive and proportionate sanctions to be meted out by the competent authorities, when the FIs or DNFBPs violate their customer due diligence obligations (109 to 114 of AML/CFT Law No. 2021-0024 on of 16th June 2021.)

Criterion 24.14 (a,b and c) - Within the framework of international cooperation, Guinean competent authorities may exchange basic and beneficial ownership information with their foreign counterparts (Art. 76, 88, 115, 124,125, 148 to 150 of AML/CFT Law No. 2021-0024 on of 16th June 2021).

Criterion 24.15- There is no legal obligation or mechanism in Guinea to monitor the quality of the assistance it receives from other countries in response to basic and beneficial ownership information requests or requests for assistance in locating beneficial owners residing abroad.

Weighting and conclusion

The Guinean legal system enshrines the general principle of transparency of legal persons and beneficial owners, but it has many deficiencies. Indeed, Guinea has not identified or assessed, in any way whatsoever, the ML/TF risks related to commercial legal persons, associations and foundations. The country has no integrated mechanism for information held by the APIP and the Commercial Court and for updating the information of the RCCM without delay, or mechanisms for updating beneficial owners information collected and kept in the company's register. There are also no legal or regulatory provisions obliging the country to monitor the quality of the assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

Guinea is rated Partially Compliant (PC) on Recommendation 24.

RECOMMENDATION 25: TRANSPARENCY AND BENEFICIAL OWNERS OF LEGAL ARRANGEMENTS

Criterion 25.1- With regard to legal arrangements, it should be noted that during the first-round evaluation of Guinea, Trusts, as well as similar legal arrangements, did not exist in the Republic of Guinea. There were no regulations applicable to these legal categories.

(a) Guinea does not recognize “trusts” under national law and has not ratified the Hague Convention. However, the legislation provides for the establishment of a “trust”, a concept covered by the definition of “legal arrangement” provided in the FATF Glossary. The trust provides for transfer of assets, rights and securities to one or more trustees who act for a specific purpose for the benefit of one or more beneficiaries. Trustees must, in the trust agreement, identify the settlors, trustees and beneficiaries or the rules used in designating them (Art.27.4 a) of AML/CFT Law No. 2021-0024 of 16th June 2021)

(b) The Guinean legislation does not provide for the specific obligation for the trust to maintain basic information on the service providers rendering services to the trust, particularly their accountants and tax advisers.

(c) As reporting entities to AML/CFT preventive measures, Trusts are required to keep all the above-mentioned information for 10 years (Art. 57 and AML/CFT Law No. 2021-0024 of 16th June 2021).

On the other hand, there is no obligation for professional trustees to keep the information collected, even less so for a period of five years after their involvement in the trust ceases.

Criterion 25.2- Trustees are explicitly required to obtain and maintain accurate and up-dated beneficial ownership information (AML/CFT Law, Art. 26.5; 27 and 29) which should include information to identify all parties to the trust identified in criterion 25.1.

Criterion 25.3- There is no explicit legal or regulatory provision in Guinea requiring trusts to declare their status to FIs or DNFBPs at the time of the business relationship. FIs and DNFBPs must identify the administrators of trusts or any other legal arrangement, even though these reporting entities may receive such information through the implementation of their due diligence measures (Art. 27 of AML/CFT Law No. 2021-0024 of 16th June 2021).

Criterion 25.4 - There is no extant legal or regulatory provision in Guinea that prevents trusts or any other legal arrangement from providing any information on the trust to the competent authorities (domestic and foreign) or from providing financial institutions and designated non-financial businesses and professions, upon request, with information on beneficial owners and trust assets held or managed within the framework of the business relationship.

Criterion 25.5- The power of requisition available to judicial police officers, including the investigating judge, and the legally managed search, allow these authorities to access without delay all basic information, beneficial ownership information, information on the residence of the trustee and any asset

held by FIs and DNFBPs in a business relationship or carrying out an occasional transaction for a trustee (Art. 78 and 175 of the Criminal Procedure Code). FIs and DNFBPs are required to cooperate with the supervisory and prosecutorial authorities (Art.55 and 57 of AML/CFT Law No. 2021-0024 of 16th June 2021. (See analysis C.24.10) .

Criterion 25.6 (a,b and c) - Guinea has taken steps to provide international cooperation regarding information on trusts and other legal arrangements, including beneficial owners, in accordance with R.37 and R.40. It can exchange information with its foreign counterparts. Information may also be exchanged among financial sector supervisory authorities and law enforcement authorities (Art. 47, 51, 72.4, 76, 88, 115, 124, 125,147, 148 to 150 of AML/CFT law n° 2021-0024 of 16th June 2021, and Art 787 to 789 of the Criminal Procedure Code).

These include the possibilities:

(a) - To facilitate access by foreign competent authorities to basic information kept in the registers or held by other national authorities (Art.149 and 150). Specifically, Guinea does not have a register of trusts.

(b)- To exchange nationally available information on trusts or other legal arrangements (76, 84 and 148)

(c) - To use, in compliance with domestic law, the investigative powers available to their competent authorities to obtain beneficial ownership information on behalf of foreign counterparts (Art. 13, 14, 98, 124 and 125 of AML/CFT Law No. 2021-0024 of 16th June 2021, 787 to 789 of the Criminal Procedure Code).

Criterion 25.7 a and b - In Guinea, there is no legal framework which provides that trustees are legally liable for any violation of their obligations, and that they are subject to proportionate and dissuasive sanctions, of a criminal or civil nature or administrative, applicable for non-compliance with their obligations, particularly for failure to obtain and disclose information provided for in criterion 25.1 or the disclosure of inaccurate or incomplete information to FIs and DNFBPs.

Criterion 25.8 - Proportionate and dissuasive sanctions, of a criminal, civil or administrative nature, are applicable to FIs and DNFBPs for non-compliance with their obligation to make available to the competent authorities, without delay, any relevant information, including on trusts (109 to 114 of AML/CFT Law No. 2021-0024 16th June 2021.). However, there is no legal or regulatory provision in Guinea to ensure the application of proportionate and dissuasive sanctions (criminal, civil or administrative) for non-compliance by trustees with the obligation to make available information on trusts to the competent authorities, without delay.

Weighting and conclusion

FIs and DNFBPs are required to keep all information collected on trusts for the purpose of identifying the beneficial owner, to ensure its accuracy and to update it without delay. On the other hand, in Guinea, there is no legal obligation for professional trustees to keep all information collected, for a period of five years after their involvement in the trust ceases. There is no explicit legal framework in Guinea requiring trusts to declare their status to FIs or DNFBPs at the time of the business relationship. However, the legal framework provides that trusts are legally liable for any violation of their obligations, or that they are subject to proportionate and dissuasive sanctions, of a criminal, civil or administrative nature, applicable for non-compliance with their obligations.

Guinea is rated Partially Compliant (PC) on Recommendation 25.

RECOMMENDATION 26: REGULATION AND SUPERVISION OF FINANCIAL INSTITUTIONS

Guinea was rated largely compliant on this Recommendation during the 1st round evaluation. The key deficiency identified was related to effectiveness.

Criterion 26.1- Guinea has designated the BCRG as the authority in charge of regulating and monitoring compliance with AML/CFT requirements for all FIs (Art. 95 of AML/CFT Law No. 2021/0024/AN),

including:

- Credit institutions;
- Inclusive financial institutions (Microfinance Institutions, Electronic Money Institutions and Posta Financial System);;
- Money transfer companies;
- Forex bureaus and insurance companies.

The Central Bank supervises credit institutions, insurance companies, micro-finance institutions and other financial institutions (Article 25 of the Law on the Statute of the Central Bank).

Market entry

Criterion 26.2 -All FIs in Guinea are subject to a licensing requirement to be issued by the BCRG. Specifically:

- For credit institutions and IFIs: they are approved by the License Committee to carry out their operations (Art. 12 of the Banking Regulations Law and Article 11 of the IFI Ordinary Law No. L/2017/031/AN);
- For insurance companies: the provisions of Article 226 of the Insurance Code state that the licenses of insurance companies shall be approved by the License Committee;
- For money or value transfer institutions: the BCRG issues a license in accordance with Article 3 of Directive No. 032/DGEEM/RCH/11;
- For forex dealers: Any legal person governed by Guinean law wishing to engage in money transfer transactions in the Republic of Guinea must imperatively be authorized by the Central Bank (Article 3 of Directive No. 025/DG /EEM/RCH/11 on Forex bureaus).

Furthermore, nobody is permitted to create or continue to operate shell banks in Guinea (AML/CFT Law No. 2021/0024/AN, Art. 102). In addition, the provisions of the Banking Regulations Law specifically prohibit establishing or maintaining a correspondent banking relationship with a shell bank or establishing or continuing relations with foreign financial institutions which authorize shell banks to use their accounts (Art. 31.5).

Criterion 26.3- Guinea has taken certain legislative or regulatory measures to prevent criminals or their accomplices from holding a significant stake or control of any FI or from occupying a management position therein:

- **For credit institutions:** As part of the licensing application procedure, the BCRG is required to obtain all information on the quality of the people who contributed to the share capital and, where applicable, on that of their guarantors. Indeed, the Banking Regulation Law, under Article 38, provides that any person convicted particularly for crime leading to a final sentence of a criminal nature or for several offences cannot (i) be 47a member of a Board of Directors of any credit institution, directly or through an intermediary, to administer, (ii) direct or manage in any capacity whatsoever any credit institution or have the power to sign on its behalf. The prohibition enacted also applies in for conviction, bankruptcy or dismissal delivered by a foreign jurisdiction (Article 39 of the Banking Act). Similarly, the requirements for managers to operate within credit institutions are defined by Article 3 of Directive No. 032/DGSIF/DSB, which establishes the list of documents and information constituting the application for licensing as credit institutions, including an extract of police clearance dating at least three (03) months back.

The BCRG certifies the fit-and proper status as well as the competence of Managing Directors and Administrators (Art. 17 and 23 of the Banking Act). It may nullify the continuation of the tenure of

⁴⁷ Crime, forgery and use of forgery in private, commercial or banking entries, theft, fraud and breach of trust, bankruptcy and fraudulent bankruptcy, embezzlement of public funds, extortion of funds or securities, issuance of dud cheques, concealment of assets obtained with the help of these offences, irrevocable removal for disciplinary reasons, from a profession, regulated, with no rehabilitation, money laundering or financing of terrorism

managers and directors when they no longer meet the fit-and-proper test requirements or suspend them (Banking Act, Art. 22, paragraph 2). In addition to these checks, any change in the shareholding exceeding ten percent (10%) of the capital or voting rights held by the same natural or legal person or by related parties, conducted directly or through an intermediary, is subject to the authorization of the Central Bank (Banking Act, Art. 20, paragraph 3). However, credit institutions are not required to report changes of management to the BCRG within a given timeline.

- **For IFIs:** Like FIs, the IFI Law prohibits any natural or legal person who has been the subject of a final conviction for one or more of the offences listed under Article 32, from being a member of an administrative body of any IFI, either directly nor through an intermediary, administer, direct or manage an IFI, or have the power to sign on its behalf. These prohibitions also apply when the conviction, bankruptcy, dismissal, suspension or resignation was issued abroad (IFI Law, Art. 36). In this regard, the BCRG obtains all information on the quality of the promoters and, where applicable, on that of their guarantors, as well as on the sound reputation and experience of the persons called upon to direct, administer or manage the inclusive financial institution. (Act on IFIs, Articles 12, 17. paragraph 1. 2nd bullet and 30). IFIs are also required to apply for authorization to the BCRG for any change in the shareholding structure of the credit institution (IFI Law, Art. 28).
- **For insurance companies:** the Insurance Code prohibits persons who have been convicted of attempted or complicit offences referred to under Article 37, first paragraph, from becoming a shareholder, executive officer or director of an insurance company. In this regard, the fit-and-proper status of persons engaged in the profession of general agent or insurance broker is verified (Article 342). Furthermore, any change in the shareholding entailing a change exceeding 10% in the ownership of the insurance company's capital must be submitted for approval to the BCRG.
- **For money or value transfer institutions:** Directive No. 032/DIEM/RCH/11 outlines, under Article 12, the various convictions including violations of banking regulations that prevent a legal person from becoming a shareholder, social manager or administrator of any money transfer institution. In case of a change of manager, the institution must apply for a new license based on the final discharge issued by the Board of Directors of the Bank to the outgoing manager. However, neither the sound reputation nor the integrity of the directors are subject to verification. Besides, this Directive does not contain any provision relating to persons holding a significant and controlling interest.
- **For foreign exchange dealers:** Directive No. 025/DIEM/RCH/11 contains fit-and-proper requirements that must be met as part of any application for license (Article 7). It specifies other requirements related to sound reputation such as exclusion for conviction and the skills of natural persons or managers (Art. 13).

For all FIs, Article 99 of the AML/CFT Law provides that "the approval, licensing or registration authority or body shall take the legislative or regulatory measures and implements the necessary procedures to prevent criminals or their accomplices from owning or becoming the beneficial owners of a significant interest in or control of any financial institution".

Risk-based approach to supervision and monitoring

Criterion 26.4 – Financial institutions should be subject to:

(a) - For FIs subject to the Core Principles: Supervision on a consolidated basis is provided for by the Banking Regulation Law of 2013, particularly under Articles 13, 56, 64, 68, 82, and 83, in accordance with the relevant fundamental principles of AML/CFT. Articles 14.2, and 98-paragraphs 3 and 4 of the AML/CFT Law of 2021 provide that the BCRG's inspections or supervision be conducted based on the ML/TF risk.

For insurance companies: Group-wide supervision of insurance companies is provided for in the Law on the Insurance Code of the Republic of Guinea of 2016 under Article 375.

(b) - *All other FIs*, including money or value transfer service providers and forex dealers, are subject to inspections on compliance with AML/CFT obligations by the BCRG (Law n°2021/0024 /AN of

the AML/CFT, Art. 95). Articles 98-paragraph 3 and 4, and 14.2 of the AML/CFT Law of 2021 provide that the BCRG's inspections or supervision shall be conducted based on the ML/TF risk of the respective sectors.

Criterion 26.5 a(b) and (c) - A provision formalizes the obligation for the BCRG, as the AML/CFT supervisory authority of FIs, to carry out its inspection mission in accordance with the risk-based approach (AML/CFT Law No. 2021/0024/AN, Art. 98, indents 3 and 4, 103 and 14.2). The findings of the national risk assessment allow supervisory authorities to apply the risk-based approach (AML/CFT Law No. 2021/0024/AN, Art 14.2). **Criterion 26.6** – Article 98.3 of the AML/CFT Law provides that the BCRG shall continuously update its assessment and understanding of ML/TF risks as well as the internal policies, controls and procedures of the entities and sectors under its jurisdiction. However, there is no specific requirement on the obligation to review the assessment of the compliance risk profile, an FI or a financial group, neither on the occurrence of significant events or developments in the management and operations of the FI or financial group are grounds for regularly reviewing the AML risk profile.

Weighting and conclusion

Guinea has designated the BCRG as the supervisory authority for FIs. In a bid to strengthen the FIs' compliance with AML/CFT requirements. The identification of beneficial owners of FIs and the risk-based approach to ML/TF are taken into account as part of the supervision or monitoring of FIs. With the exception of money and value transfer companies, the regulatory provisions relating to the verification of the integrity of directors as well as beneficial ownership identification apply to all FIs. Similarly, there is no specific requirement to review the assessment of the non-compliance risk profile of any FI or financial group on a regular basis.

Guinea is rated Largely Compliant (LC) on Recommendation 26.

RECOMMENDATION 27: POWERS OF SUPERVISORY AUTHORITIES

In its previous evaluation, Guinea was rated PC. To correct these deficiencies, new regulatory provisions have been taken to strengthen the power of these authorities.

Criterion 27.1 - The BCRG has powers to inspect financial institutions. Indeed, the supervisory authority to supervise them and uses these powers to ensure that they comply with their AML/CFT obligations. (Article 98 of Law No. 2021/0024/AN; Article 25 of the BCRG Statute; Article 68 paragraph 1 of the Banking Act; Article 56 of the IFI Law). Similarly, it can mete out a range of disciplinary and financial sanctions (Art. 109 and 110).

Criterion 27.2 – The BCRG has supervisory powers and implements them in order to ensure compliance by the requisite entities with AML/CFT requirements (Article 98, paragraph 2 indent 4 of Law No. 2021/0024/AN). In this regard, it may conduct any off-site and on-site inspections with FIs (BCRG Statute, Art. 25; AML/CFT Law No. 2021/0024/AN, Art. 98, al. 1, indent 4; Banking Act, Art.68, al.2 ; Article 50 paragraph 3 of the Law on IFIs and Article 373 of the Insurance Code).

Criterion 27.3 - The provisions of Article 103 of Law No. 2021/0024/AN empowers the BCRG to require the production of any information needed to monitor compliance with AML/CFT obligations. This power of the BCRG in terms of producing information or obtaining access to information for supervision purposes is not conditional on obtaining a court decision (Art.103-2- Law n°2021/0024/AN).

Indeed, the BCRG, within the framework of its off-site inspection, can require the disclosure of any document or any information that it deems useful, within the stipulated timelines, in the form and on the medium that it deems appropriate (Statute of the BCRG, Article 25 Law No. 2021/0024/AN of the AML/CFT, Article 98, paragraph 1, indent 4 Banking Act, Article 68, paragraph 2 Article 50 paragraph 3 of the IFI Act). The BCRG also has the power to verify at any time through off-site and/or on-site all operations relating to the insurance and reinsurance activity. In this regard, it may require the production of any information or documents that may be useful for the exercise of their supervisory power in

AML/CFT (Article 373 of the Insurance Code).

Criterion 27.4 - The BCRG, in its capacity as FI supervisory authority, has the power to impose sanctions as defined under the analysis of R.35 for non-compliance with AML/CFT obligations. This includes a range of sanctions, both disciplinary (warning, reprimand, etc.) and pecuniary, including the power to withdraw, limit or suspend the financial institution's license. (see R.35 for more details).

Weighting and conclusion

The Guinean legal system does not present any gap with regard to the requirements of this recommendation.

Guinea is rated Compliant (C) on Recommendation 27.

RECOMMENDATION 28: REGULATION AND SUPERVISION OF DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

During the 2012 mutual evaluation, Guinea was rated NC with regard to the AML/CFT deficiencies identified in the casino and gaming establishment sector, due to the lack of a competent authority in charge of monitoring and ensuring compliance with AML provisions by DNFBPs, lack of verification and control within DNFBPs based on the AML/CFT provisions. These deficiencies were largely resolved by law L/2021/024/AN of 17th August 2021.

Casinos

Criterion 28.1 -

(a) - In Guinea, the opening of a casino is subject to the prior and express authorization of the Minister of Economy and Finance, after the assent of LONAGUI, (Art. 4, Order N° A /2001/001263/MEF/SGS, Law No. L/2016/037/AN on cyber-security, Article 62, paragraph 1). This authorization is made by Decree. With regard to online casinos (subject to AML/CFT obligations), Article 62 of law L/037/AN of July 28, 2016 relating to Cybersecurity and the Protection of Personal Data provides that the organization of gambling on wire communications networks, is placed under a system of strict state rules and regulations, implying the provision of a license or prior authorization for any activity of this nature. However, no indication has been provided on the authority in charge of this prior authorization.

(b) - Article 99 of AML/CFT Law No. 2021/0024/AN indicates that the authorities or the licensing, authorization or registration body shall take legislative measures or regulations and implements the necessary procedures to prevent criminals or their accomplices from holding or becoming the beneficial owners of a significant shareholding or control of a DNFBP, or from occupying a management position in it. According to Order No. A/2001/001263/MEF/SGS regulating casinos in Guinea (Articles 4 and 5), the opening requirements relate only to the minimum cost in investment and working capital (from 250,000,000 Guinean francs). The Decree also indicates the full identity of the beneficiary. However, the Guinean authorities have not explicitly defined the verification points (particularly the fit-and-proper test) on which LONAGUI and all other competent authorities rely to give an assent before the opening of a casino. With all of this documentation provided, the Assessment Team could still not assess the country's compliance with the requirements of this criterion.

(c) - In Guinea, the FIU is required to regulate and monitor compliance with AML/CFT obligations by Casinos as DNFBP reporting entities (AML/CFT Law No. 2021/0024/AN, Art. 96).

Designated non-financial businesses and professions other than casinos.

Criterion 28.2 and 28.3 - the FIU is the regulatory and supervisory authority for all DNFBPs in AML/CFT (AML/CFT Law No. 2021/0024/AN, Art.96 and 98). In this regard, all categories of DNFBPs are subject to the FIU's AML/CFT monitoring mechanisms.

Criterion 28.4 -

(a) The FIU has the necessary powers to perform its functions, including the conduct of off-site and on-site inspections, without professional secrecy being invoked, and using a risk-based approach, to ascertain compliance with the obligations provided for by this law and other legal enforcement instrumentalities, without having to obtain the prior consent of the institution or entity or the authorization of any other authority (AML/CFT Law n°2021/0024/AN, Article 98, par.1).

(b) The Law provides that the DNFBP supervisory authority, in this case, the FIU, shall take measures to prevent criminals or their accomplices from holding or becoming beneficial owners of a significant shareholding or control of any DNFBP or to hold a management position therein (AML/CFT Law No. 2021/0024/AN, Art. 99).

On the whole, In addition to the provisions of Article 99 of the AML/CFT Law, Guinea has not provided information (in particular the texts governing the requirements for access to the profession of the respective DNFBPs) which ensures that there are requirements or measures in place to adequately prevent criminals or their accomplices from acquiring the status of licensed professional, or holding a significant or controlling interest, from becoming the beneficial owners of such interest, or to hold any management position in a designated non-financial business or profession or to be beneficial owners of a significant or controlling interest in such DNFBPs.

(c) The FIU has the power to impose sanctions for non-compliance with AML/CFT obligations by entities or professionals under its supervision (AML/CFT Law No. 2021/0024/AN, Art. 109 to 111) (See analysis Rec.35 for more details).

All designated non-financial businesses and professions

Criterion 28.5 (a) and (b) - The findings of the national risk assessment allow the supervisory authorities to apply the risk-based approach (AML/CFT Law n°2021/0024/AN, Art 14.2, 14.3 and 14.4). Indeed, AML/CFT Law No. 2021/0024/AN provides that the FIU has the power to supervise DNFBPs in AML/CFT using a risk-based approach (Article 98, paragraph 1, indent 4). The FIU is in charge of supervising DNFBPs using the risk-based approach in its off-site and on-site processes and inspection procedures (Art.24 of Decree No. D /2022/0587/PRG/CNRD/SGG of 15 December 2022). In this regard, their supervision must be conducted (i) by determining the frequency and scope of inspections of DNFBPs based on an understanding of the risks, (ii) taking into account their characteristics, in particular their diversity and number and (iii) taking into account the risk profile and degree of discretion granted to them (Art.23.3 of Decree No. D /2022/0587/PRG/CNRD/SGG). However, the implementation of the risk-based approach is hampered by the non-adoption of the national risk assessment report which has still not been disseminated to the stakeholders.

Weighting and conclusion

Guinea has not provided any information covering beneficial ownership to ensure that there are requirements or measures to adequately prevent criminals or their accomplices from becoming beneficial owners of significant shareholding or control in these DNFBPs. Furthermore, no category of DNFBPs has yet been subject to AML/CFT inspection in Guinea. Accordingly, the deficiencies identified in this regard are moderate.

Guinea is rated Partially Compliant (PC) on Recommendation 28.

RECOMMENDATION 29: FINANCIAL INTELLIGENCE UNITS (FIUs)

During the previous evaluation in 2012, Guinea was rated NC on ex R.26, among other things, on the following points:

- Article 19 of the AML instituted an FIU. Its organization and functioning are provided for under Article 23, but yet to be implemented.
- Non-designation of FIU members.

Criterion 29.1- The Financial Intelligence Unit (FIU) serves as the national centre for the receipt and analysis of suspicious transaction reports on money laundering, related predicate offences and financing of terrorism (AML/CFT Law, art. 76 par. 1). Furthermore, the FIU disseminates spontaneously and

on demand, all information and results of its analysis to the relevant competent authorities (AML/CFT Law, Art. 76 al. 7 and Art. 90 par. 1). Such dissemination must be done through dedicated, secure and protected channels (AML/CFT Law, Art. 90 par. 1).

Criterion 29.2 (a, b) – The FIU acts as a central agency for receiving disclosures from reporting entities. In this regard, it receives:

- (a)** Suspicious transaction reports from reporting entities (AML/CFT Law, Art. 76 par. 1);
- (b)** Reports on : (i) cash transactions of a value equal to or greater than a certain threshold , set at one hundred and fifty (150) million Guinean francs; (ii) wire transfers from abroad of a value equal to or greater than a certain threshold, set at one hundred and fifty (150) million Guinean francs ; (iii) on the advice of the National Coordinating Committee, all transactions originating in or destined for a country identified by a Public Statement of the Financial Action Task Force as a high-risk jurisdiction or any other country designated at domestic level (AML/CFT Law, Art. 46, Directive n° 111/DGSIF/DSB of 11th January 2023 issued by the Governor of the Central Bank, Art. 2).

Criterion 29.3 (a, b)

(a) The FIU may request the disclosure of information held by those reporting entities to the AML/CFT Law, even without a prior report from the reporting entity concerned, as well as by any legal or natural person, likely to enrich its analysis (AML/CFT Law, Art 76 par. 3). Furthermore, the FIU immediately processes and analyzes all the information collected and, where necessary, requests for additional information from the informant, other reporting entities, even if the latter have not filed any prior report on the person or the transactions which is the subject of report, from foreign Financial Intelligence Units as well as from all competent national authorities. These requests are made based on the functions of the FIU outlined under Article 76 of the AML/CFT Law, Art. 88). Similarly, the FIU may request that documents kept, in application of the provisions of Article 54 of the AML/CFT Law, be disclosed, regardless of how they are being kept and within the time limits it sets (AML/CFT Law, Art . 93 par. 1).

(b) The FIU may request for the disclosure of the widest possible range of financial and administrative information and information from law enforcement authorities necessary for the proper execution of its functions. Also covered are information from open or public sources, relevant information collected and/or kept by or on behalf of other authorities and, where applicable, all trade-related data (AML/CFT Law, Art. 76 al. 4). Furthermore, the FIU may request that the records kept, in application of the provisions of Article 54 above, be disclosed to it. regardless of the medium used for their conservation and within the time limits that it sets. The FIU also receives, at the initiative of the State Departments, territorial communities, State Institutions, all the information necessary for the accomplishment of its mission or obtains same them upon request. The judicial authority, financial jurisdictions and criminal investigation officers may disclose to the FIU any information on their own initiative for the same purpose. (AML/CFT Law, Art. 93).

Criterion 29.4(a, b)

(a) The FIU carries out operational analyses by using any information available and which can be obtained in order to identify specific targets, follow the trace of activities or particular operations and to establish the links between these targets and the possible proceeds of a crime, money laundering, predicate offences and terrorism financing (AML /CFT Law, Art. 76 par. 5) . The results of these analyses are disseminated to the competent authorities.

(b) The Guinean legal system authorizes the FIU to carry out strategic analyses by using any information available and which can be obtained, including data provided by other competent authorities, in order to identify trends and patterns in money laundering and terrorist financing (AML/CFT, Law, Article 76 para.6)). As at the time of the on-site visit, a strategic analysis had been carried out, although its end-use was deemed unsuitable by the Assessment team.

Criterion 29.5 - The FIU disseminates, spontaneously and on request, all information and the results of

its analyses to the relevant competent authorities (AML/CFT Law, Article 76(7) and Article 90(1). Article 90 specifies that this dissemination must be ensured via dedicated, secure and protected channels.

Criterion 29.6(a, b and c)

- (a)** The AML/CFT law provides for the security and confidentiality of information transmitted to the FIU, including procedures for its processing, storage, dissemination, protection and consultation (AML/CFT Law, Art. 75.10. a).
- (b)** The AML/CFT law provides that the FIU shall protect the information it receives by ensuring that its staff members have the necessary access authorization and understand their liability with regard to handling and dissemination of sensitive and confidential information (AML/CFT Law, Art. 75.10. b). This obligation also concerns staff members of other competent authorities on secondment to the FIU (AML/CFT Law, Art. 80).
- (c)** The AML/CFT law provides that the FIU shall protect the information it receives by limiting access to its facilities and information, including its computer systems (AML/CFT Law, Art.75.10.c). Indeed, access to FIU information and facilities is restricted and regulated. Security agents ensure physical access to the Unit's facilities 24 hours a day. Besides, there are surveillance cameras to enhance physical security. Only IT professionals have access to the FIU's database. In addition, in the online reporting system called "DOSNET", each financial analyst is given a code to access the STRs.

Criterion 29.7 (a, b, c and d)

- (a)** The FIU, as an independent administrative authority, operates independently in decision-making. The decision to analyze and request for sensitive and additional information as well as to disseminate the results of its analyses to other Departments and competent national authorities is left at its sole discretion (AML/CFT Law, Art. 75 par. 1 and 2). It should be noted that the President of the FIU is appointed by Decree signed by the President of the Republic. He is also required to take an oath before taking office.
- (b)** The FIU has the power to conclude agreements or decide independently to collaborate with other competent national authorities or with foreign counterparts (AML/CFT Law, Art. 75.2. d).
- (c)** The FIU is an independent administrative authority placed under the supervision of the Central Bank of the Republic of Guinea (BCRG). It has essential functions provided for by the AML/CFT Law, distinct from the Central Bank of the Republic of Guinea (AML/CFT Law, Art. 7 5 .2.a).
- (d)** The FIU is financially autonomy and has the power to mobilize the necessary resources to exercise its functions, on a case-by-case or systematic basis, and free from any undue influence or interference, be it political or administrative or from the private sector, likely to compromise its operational independence (AML/CFT Law, Art. 7 5 .2.e). It makes independent budget requests to the BCRG.

Criterion 29.8- According to the competent Guinean authorities, an application for membership has been submitted to the Egmont Group (EG), without however specifying the date of submission of the application and the current stage of that application. With no evidence to support this assertion, the Assessment Team consider this criterion as not met.

Weighting and conclusion

Generally speaking, Guinea has a legal framework that incorporates the requirements of Recommendation 29. However, Guinea did not provide the Assessment Team with any proof of its application for membership to the EG, let alone a document retracing the reforms it has implemented, with a view to fast-tracking its membership to the EG.

Guinea is rated Largely Compliant (LC) on Recommendation 29.

RECOMMENDATION 30: RESPONSIBILITIES OF LAW ENFORCEMENT AUTHORITIES

In the previous MER of 2012, Guinea was rated NC on R.30 (ex R.27). The key deficiencies identified were as follows: (i) lack of criminal prosecutorial authorities designated to specifically deal with ML offences; (ii) lack of specialization of magistrates and police officers on ML issues.

Criterion 30.1 - In the Republic of Guinea, the criminalization of crimes and offences is essentially organized by the Criminal Procedure Code. This Code has assigned to each player in the penal chain respective attributions. Thus, investigations are conducted by criminal investigation officers who are in charge of identifying crimes, offences and violations, gathering evidence and seeking and apprehending perpetrators, co-perpetrators and accomplices with a view to meting out sanctions on them. The criminal investigation department acts under the direction of the State Prosecutor, under the supervision of the general prosecutor and under the control of the investigation control court (Art. 9, 10 and 12 of law L/2016/060/AN of October 26, 2016 on the Criminal Procedures Code). The action of judicial police officers is thus supervised by the State Prosecutor, the general prosecutor and the investigation control chamber, which constitute the designated criminal prosecutorial authorities. This framework should ensure satisfactory investigations of ML, associated predicate offences and TF.

All cases including ML and TF are investigated by criminal investigation officers. Traditionally, criminal investigations are conducted by various criminal investigation units including the Criminal Investigations Department (DCPJ), the Office for the Repression of Economic and Financial Crimes (ORDEF). More recently, according to Decree 0094/PRG/SGG/2021 of November 11, 2021, a Central Criminal Investigations Dept, abbreviated as DCIJ, was established in order to pilot and coordinate the operations of the criminal investigation officers of the National Gendarmerie. This Dept has specialized attached agencies, including: (i) the Central Agency against economic and financial crime, which is in charge of legal cases relating particularly to embezzlement, financial malpractices and money laundering; (ii) and the Central Anti-Drug Agency against drug trafficking, more specifically the dismantling of national and transnational criminal networks (Art. 6 Decree 0094/PRG/SGG/2021 of 11th November, 2021).

In terms of investigation and more particularly ML/TF, the FIU has host of investigators, Investigation officers and Agencies who perform the functions attached to their positions in accordance with the provisions of Articles 9 and following of the Criminal Procedure Code (Art. 105 AML/CFT Law of 2021). During every proceedings open for ML/TF, the FIU may present brief oral or written observations (Art. 104 AML/CFT Law of 2021). Also, a jurisdiction called "Court for the Repression of Economic and Financial Crimes" (CRIEF), was established according to Order N°/2021/007/PRG/CNRD/SGG of 2nd December 2021. This court is in charge of combating financial crime, particularly corruption and embezzlement of public funds. The prosecution function at this court is ensured by the special prosecutor designated by Decree based on the opinion of the Superior Council of the Judiciary (Art. 16 N°/2021/007/PRG/CNRD/SGG of 2nd December 2021).

Criterion 30.2 - In principle, the investigators of the various criminal investigation units do not just limit themselves to the facts for which the case is referred to them; they have the power to investigate any act qualified as a crime or offence (Art. 9 of the Criminal Procedures Code). When they are seized of a precise fact, they carry out their investigations on this fact without being strictly limited to it. They therefore have the possibility of carrying out incidental investigations. With regard to ML/TF cases, when investigators conduct investigations into an offence related to ML or TF, they have the possibility of opening a parallel investigation which can make it possible to identify and track the assets generated through the commission of the predicate offence. Joint investigations can also be conducted by different judicial various criminal investigation units (Art. 33 al 4 and 5 CPC). This may be the case for customs and tax authorities (Art. 33 and 34 CPC). The ordinary procedural law does not exclude the possibility for any investigator, whether from the police, gendarmerie, customs services or tax authorities or any other department, to carry out an incidental investigation, including a parallel financial investigation, as part of an investigation into a predicate offence. Guinean law also does not exclude the possibility for the investigative authorities to entrust a financial investigation opened on a predicate offence to

another entity for more effective follow-up.

Criterion 30.3 - The Guinean legal framework provides an opportunity for competent authorities to identify, track and take precautionary measures on all assets likely to be the proceeds of crime. Thus, for the opening of an investigation, the investigating judge may, ex officio or at the request of the civil party or State Prosecutor, order seizures, freezing and all other protective measures on the assets of the accused and all those derived from crimes, in particular money laundering, terrorist financing, drug trafficking, piracy, pedophilia, human trafficking and hostage taking (Art. 168 CPC). In this regard, the investigators may, ex officio, on the requisition of the State Prosecutor or the order of the investigating judge, require any public or private administration, any financial institution to provide any information on the assets of any person suspected of having committed an offence related to ML or TF (Art. 175 CPC).

Criterion 30.4 - In addition to the officers invested with a usual criminal investigation function, there are bodies carrying out the criminal investigation missions occasionally. This is the case of the FIU which, like the investigation services, conducts financial investigation by analyzing and enriching the information it receives. It carries out or requests the criminal investigation officers of the police or gendarmerie to carry out an investigation into the social, economic and financial environment or an asset investigation in order to identify and track assets suspected of being the proceeds of a crime, thus contributing to the administration of proof of an offence (Art. 76-1, 2, 3 and 5 of the AML/CFT Law of 2021). Other departments such as the tax and customs services, carry out occasional investigation missions. Thus, tax officials have a right to carry out inspection and seizure for the investigation of direct tax offences (Art. 1084 General Tax Code). The same applies to customs officers who are empowered by law to identify customs offences, identify perpetrators and accomplices and carry out seizures related to these offences (Art. 86-2).

Criterion 30.5 - The National Anti-Corruption Agency (ANLC) is a structure attached to the Office of the President by Decree D/2012/132/PRG/SGG on the organization of the Presidency of the Republic. Its mission is to develop and monitor the implementation of national good governance policy and to conduct activities for the prevention, detection and repression of corruption and related practices. The National Anti-Corruption Agency (ANLC) does not have the power to carry out ML/TF investigations as criminal investigators do. Article 96 of Law No. 0041/2017 /AN of 4th July 2017 on the prevention, detection and repression of corruption and similar offences provides that “any person may report acts of corruption and similar offences to the State Prosecutor or the National Anti-corruption body”.

This report is forwarded to a criminal investigation officer for investigation.

The preliminary investigation report developed by the criminal investigation officer is sent exclusively to the territorially competent State Prosecutor”.

Weighting and Conclusion

The Guinean legal and institutional system meets the criteria of this Recommendation.

Guinea is rated Compliant (C) on Recommendation 30.

RECOMMENDATION 31: POWERS OF LAW ENFORCEMENT AND INVESTIGATIVE AUTHORITIES

In its first-round MER, Guinea was rated Partially Compliant on ex Recommendation 28 because of the deficiencies identified in the conduct of investigations and the lack of the FIU which impeded the conduct of appropriate ML/TF-related investigations.

Criterion 31.1 - The law enforcement authorities have powers to access documents held by FIs, DNFBPs or any other natural or legal person, during investigations into ML, TF and associated predicates offences. These powers allow them to implement the following coercive measures:

a) The production of documents held by FIs, DNFBPs and other natural or legal persons (This information is obtained by investigators and magistrates through requisitions: CCP art.78).

b) Searching people and premises (CCP art.68 to 76 and 102, Anti-corruption law art.107 and 108, Customs Code art.81 and 82).

c) The Collection of testimonies (CPP art.81 and 82)

d. Seizure and obtaining evidence of the offence. This seizure applies to papers, documents, computer data, cash, ingots, effects, securities or other objects (CPC Art. 68 to 78, Anti-corruption law Art .107 and 108, Anti-Terrorism Law Arts.29 and 43), seizure and shipment of goods (Customs Code Arts. 80.1 and 83.1).

Criterion 31.2 - The investigative authorities (Police, Gendarmerie, Customs), with the authorization of the State Prosecutor or acting on letters rogatory, and the Investigating Judge, may use investigative techniques adapted to investigations into ML, associated predicate offences and TF, including:

- (a)** Undercover operations and investigations under a pseudonym (CPC Art.877 to 884, Anti-Corruption Law Art.129, Anti-terrorism Law Art.37, Customs Code Art.86-2).
- (b)** Interception of telephone calls and interception of correspondence sent through telecommunications (CCP Art.79, 175 and 902, Cybercrime Law Art.101 and 102)
- (c)** Access to computer systems by interception of information from a computer system or processing of personal data (Through requisitions: CCP Art.78, 79 and 175) and by capturing computer data (Following a rational order by the investigating judge: CCP Art.902).
- (d)** Surveillance and controlled delivery (CCP Art.874 to 876, Anti-Corruption Law Art.129, Anti-terrorism Law Art.37, Customs Code Art.86-1).

Criterion 31.3.

Criterion 31.3.a- Guinea has mechanisms in place to determine without delay whether natural or legal persons hold or control accounts. Indeed, the investigative authorities (Police, Gendarmerie, Customs) and the judicial authorities, can through requisitions, obtain from FIs information on the accounts of natural or legal persons without delay, without invoking the bank secrecy (CPC Art.78).

Criterion 31.3.b- / The investigative authorities (Police, Gendarmerie, Customs) and judicial authorities have the possibility of identifying assets without prior notification of the owner, through requisitions (CPC Art.78 and 79).

Criterion 31.4- Investigative authorities (Police, Gendarmerie, Customs) and judicial authorities, investigating ML, associated predicate offences and TF, can obtain all relevant information held by the FIU through simple request (AML/CFT Law Art. 76.7). The FIU can spontaneously transmit information to these authorities (AML/CFT Law Art.76.7).

Weighting and conclusion

Guinea is rated Compliant (C) on Recommendation 31.

RECOMMENDATION 32: CASH COURIERS

During the previous mutual evaluation, Guinea was rated non-compliant because, although there was a reporting system in place, its sole purpose was to monitor the implementation of foreign exchange regulations. The disclosure of information on the origin and use of cash that was done was exclusively meant for the detection of customs offences. These deficiencies have been resolved.

Criterion 32.1- Guinea has opted for a declaration system for cross-border transportation of cash and bearer negotiable instruments (BNIs) at the entry or exit points of the national territory, where the amount of such cash is equal to or greater than one hundred million (100,000,000) Guinean francs or approximately \$11,579. A written declaration should be made at the border posts by the carrier using the designed for this purpose. This declaration is required for all cross-border physical transportation, travellers, courier or freight. (Art. 69.1 of AML/CFT Law No. 2021-0024 of 16th June 2021.)

Criterion 32.2, a, b and c- - In Guinea, any person entering or leaving the national territory holding cash or bearer negotiable instruments (BNIs), of an amount equal to or greater than one hundred million (100,000,000) Guinean francs, i.e. approximately \$11,579, is required to make a correct and comprehensive written declaration at the border posts by completing the form designed for this purpose

(Art. 69.2 of AML / CFT Law No. 2021-0024 of 16th June 2021.)

Criterion 32.3- The requirements of this sub-criterion are not applicable in Guinea insofar as the declaration system is the option chosen for the country (See analysis of criterion 32.1).

Criterion 32.4- In case of any false declaration of cash or BNI or failure to make such a declaration, the Customs services may require and obtain from the bearer, additional information concerning the origin of the cash or BNIs as well as how they are intended to be used (Art. 71.1 °.a of AML/CFT law n° 2021-0024 of 16th June 2021).

Criterion 32.5- The Guinean law provides for sanctions against persons who provide false declaration or fail to declare. Conservative measures may be taken, including customs detention for a period of 30 to 90 days (Art 71.1 of AML/CFT Law No.2021-0024 of 16th June 2021). Funds or BNIs may be seized or confiscated (Art 73; 10; 11 AML/CFT law of 16th June, 2021). Administrative fines can also be imposed ranging between 50 and 100 million (approximately 5,800 USD to 11,600 USD) (Art 73; art 110 AML/CFT law of 16th June 16, 2021); without prejudice to other customs fines. These sanctions are proportionate and dissuasive.,

Criterion 32.6- In Guinea, all the information collected relating to a false or missing declaration, including cash declarations of an amount equal to or greater than one hundred million (100,000,000) Guinean francs, i.e. approximately 11,579 \$, must be communicated to FIU as soon as possible and at the latest 15 days after the date on which this information is obtained. On the other hand, for suspicion of money laundering or terrorist financing or for retention of cash or bearer negotiable instruments, this transmission should be made as soon as possible. It is expected that this provision will be made electronically to ensure the effective and secure exchange of information. (Art.72.5 of AML/CFT Law No.2021-0024 of 16th June, 2021)

Criterion 32.7 - In Guinea, to facilitate national coordination within the meaning of the implementation of Recommendation 32, the customs services may share the information collected within the framework of the control of cash or bearer negotiable instruments with immigration authorities, tax authorities, police investigation authorities and any other relevant authority. However, this information is only communicated at the request of the authorities referred to above. (Art.72.1 and 71.3 of AML/CFT Law No.2021-0024 of 16th June 2021).

Criterion 32.8 (a and b)- Customs authorities can stop or detain for a period of 30 to 90 days any cash or BNIs for suspicion of ML/TF, false declaration or predicate offence (Art 71.1 of AML/CFT Law No.2021-0024 of 16th June 2021). They may also, under the same conditions, seize cash or BNI pursuant to Article 10 of the aforementioned law.

Criterion 32.9

In Guinea, to ensure cooperation and international criminal assistance, customs authorities are required to keep all information collected on the cross-border transportation of cash or BNIs.

- (a)** for any declaration of cash of an amount equal to or greater than one hundred million (100,000,000) of Guinean francs or approximately \$11,579, false declaration, suspicion of ML/TF or where such cash or BNIs are linked to any predicate offence (Art 71.1 of AML/CFT Law No.2021-0024 of 16th June 2021)
- (b)** False declaration (Art 71.1 and 71.4 of AML/CFT Law No.2021-0024 of 16th June 2021).
- (c)** AML/CFT Law No. 2021-0024 of 16th June 2021 Arts. 71.1 and 71.4).

Criterion 32.10- The information collected through the declaration systems in Guinea should be shared electronically in principle and exceptionally by confidential mail to ensure its security and in no way limit payments relating to the exchange of goods and services between countries and the free movement of capital (Art. 71.4 and 74 of AML/CFT Law No.2021-0024 of 16th June 2021)

Criterion 32.11- In Guinea, persons involved in cross-border physical transportation of cash or BNIs related to ML/TF or the predicate offences are subject to disciplinary sanctions (reprimand, warning, certain prohibitions on exercising functions in the business sector, etc.), (Art. 109 of AML/CFT Law No.2021-0024 of 16th June 2021) administrative sanctions (fine which may range from 10 million to 1

billion depending on whether the suspect is a natural or legal person (Art. 110 of AML/CFT Law No.2021-0024 of 16th June 2021) and criminal sanctions (imprisonment of 3 to 5 years and a fine equal to three times the value of the assets or funds involved in the money laundering operations) including the additional penalty of confiscation of all or part of the convicted person's assets (Art.112 to 114 of AML/CFT Law No.2021-0024 of 16th June 2021), 499 to 406 of the Penal Code). The prison sentence may be up to 10 years and a fine equal to five times the value of the assets or funds to which the money laundering operations, when it is committed, in a usual way or by using the facilities provided by the exercise of a professional activity or in an organized gang. These sanctions provided for are proportionate and dissuasive.

Weighting and conclusion

The AML/CFT Law No. 2021-0024 passed on 17th August 2021 enabled Guinea to rectify the legal limits related to the physical transportation of cash and BNIs. Entry and exit declarations are now compulsory. However, the information collected by the Customs services within the framework of monitoring the cross-border transportation of cash and bearer negotiable instruments, is transmitted only at the request of the competent authorities.

Guinea is rated Largely Compliant (LC) on Recommendation 32.

RECOMMENDATION 33: STATISTICS

Criterion 33.1

The legal framework in Guinea provides for the keeping of comprehensive statistics on issues relating to the effectiveness and efficacy of their AML/CFT system. This includes statistics on:

- (a)** STRs received and disseminated: The Guinean legal framework provides that FIU shall prepare and keep statistics on the number of suspicious transaction reports received, the monitoring of these reports, including the number of reports disseminated and the percentage of reports leading to an investigation, where necessary, and statistics on the number of requests for exchange of information with its FIU counterparts formulated, received, rejected (Art.16 of AML/CFT Law No.2021-0024 of 16th June 2021). Since its inception, the FIU has been periodically keeping comprehensive statistics on the STRs received and disseminated.
- (b)** Investigations into money laundering and terrorist financing, prosecutions and convictions related to money laundering and terrorist financing: the Ministry of Justice, Ministry of security, National Gendarmerie and Customs, should prepare and maintain relevant statistics on the number of cases investigated, persons prosecuted and convicted for ML and TF. (Art.18 of AML/CFT Law No.2021-0024 of 16th June 2021);
- (c)** Frozen, seized or confiscated assets: the Ministry of Justice, Ministry of security, National Gendarmerie and Customs, are required to keep statistics on the value in francs of frozen, seized or confiscated funds and assets, confiscation and repatriation/sharing of funds, assets and values, including in the context of value confiscation without criminal non-conviction-based confiscation through international cooperation (Art.18 of AML/CFT Law No.2021-0024 of 16th June 2021);
- (d)** Mutual legal assistance or other international requests for cooperation sent and received: the Ministry of Justice of Guinea prepares and maintains statistics on the number of requests for international legal assistance and extradition, or other international requests for cooperation received from foreign judicial authorities and those sent out by Guinean judicial authorities (Art.15 to 19 of Law No. 2021-0024 on AML/CFT of 17th August 2021).

The mechanism in Guinea provides for these statistics to be closed on 31st of each year and communicated to the FIU and the National Coordinating Committee before 31st January of the following year, or upon request. However, the country did not provide data on the actual keeping over the last four years of statistics related to the sub-criteria (b, c, d). The Assessment Team cannot therefore ascertain their availability and their consistent and comprehensive nature.

Weighting and conclusion

The FIU periodically keeps comprehensive statistics on all STRs received and disseminated. Regarding investigations, prosecutions and convictions, frozen, seized and confiscated assets, on mutual legal assistance and other AML/CFT-related requests for international cooperation sent out and received. However, we note that no comprehensive statistics have been kept periodically, as provided for by the AML/CFT law.

Guinea is rated Partially Compliant (PC) on Recommendation 33.

RECOMMENDATION 34: GUIDANCE AND FEEDBACK

During the 2012 mutual evaluation, Guinea was rated NC on R25 with regard due to the deficiencies identified relating, among other things, to the non-existence of the FIU, which had not yet been established and the effectiveness feedback related to the processing of STRs filed by certain banks to the BCRG.

Criterion 34.1- Guidelines – Each supervisory authority has the power to issue guidelines or other forms of communication aimed designed to assist FIs and DNFBPs in clarifying the scope of the obligations emanating from the AML/CFT Law and other enforceable means (Art.98.2 of AML/CFT Law No. 2021/0024/AN).

- **For FIs** – The Central Bank may issue any regulatory text, including particular in the form of Directives with which credit institutions are required to comply (Art.56 of Banking Act). In this regard, it has published Directives which relate to reporting and information obligations in order to support credit institutions, IFIs, insurance companies and money transfer institutions pursuant to AML/CFT Law N°2021/0024/AN de la (Directive N°I /DGSIF/DSIMF/007/2018 applicable to IFIs; I Directive n°109/DGSIF/DSB; Directive n°110/DGSIF/DSB and Directive n°111/DGSIF/DSB setting the thresholds for declarations). In addition to these Directives, the supervisory authority has not demonstrated that it produces guidelines designed to assist financial institutions in the implementation of national AML/CFT measures, particularly in detecting and reporting suspicious transactions.
- **For DNFBPs** – In retrospect, up to August 2021, DNFBPs were not supervised by any supervisory authority or an AML/CFT SRB. The AML/CFT Law No. 2021/0024/AN passed in 2021 provides that the FIU shall be the regulatory and supervisory authority for all DNFBPs (Article 96). To date, it has not issued any guidelines to all DNFBPs. However, the FIU has published information on AML/CFT obligations on its website to support whistleblowers. They reiterate the obligations in terms of due diligence, suspicious transaction reporting, record keeping and implementation of an internal AML/CFT system as well as the declaration form.

Feedback – Articles 84 and 90.3 of the AML/CFT Law No. 2021/0024/16 provide for feedback from the FIU to help financial institutions and designated non-financial businesses and professions in the implementation of national policies and AML/CFT obligations, and, in particular, in detecting and reporting suspicious transactions. It must carry out periodic studies on developments in the techniques used for ML/TF purposes, as well as periodic assessment reports on the declarations collected.

Although the BCRG has published the AML/CFT Law No. 2021/0024/AN on its website, the feedback mechanism or sensitization meetings/trainings organized for FIs in compliance with AML/CFT obligations are yet to be established by the country.

On the whole, the information provided by the country does not make for the assessment of Guinea's compliance with the requirements of this criterion.

Weighting and conclusion

The Guinean legal framework allows the supervisory authorities, namely the BCRG and FIU, to distribute regulatory texts to the reporting entities on compliance with AML/CFT requirements as a form of support to them. In this regard, Directives have been issued by the BCRG for FIs. However, it has not yet developed any guidelines for DNFBPs. Furthermore, the competent authorities, supervisors and self-regulatory bodies do not provide feedback to FIs and DNFBPs. There are moderate deficiencies

with respect to the requirements of this recommendation.

Guinea is rated Partially Compliant (PC) on Recommendation 34.

RECOMMENDATION 35: SANCTIONS

During the 2012 mutual evaluation, Guinea was rated PC on R. 17. The deficiencies identified were related to the effectiveness in the effective implementation of the obligations relating to sanctions prescribed by Law as well as the difficulty in assessing the effective, proportionate and dissuasive nature of those sanctions, for non-implementation.

Criterion 35.1 –

With regard to Recommendation 6 - Article 44.2 of the AML/CFT Law No. 2021/0024/AN provides for sanctions for non-compliance with the administrative freezing measures of funds or other assets to be applied to any natural or legal person or designated entity, in accordance with UNSCRs (1267 and 1373). Administrative and disciplinary sanctions accompanied by fines can be imposed by the CCGA as well as the supervisory authorities (109, 110 - the AML/CFT Law n°2021/0024/AN). Pecuniary sanctions for failure to freeze assets without delay vary according to the type of institution (FI, DNFBP) ranging from a minimum of 10 million GF (approximately €1,200) for individuals to a maximum of 100 million GF (around €11,800) for DNFBPs. Criminal sanctions are also provided for (Art. 112 to 114 of Law No. 2021/0024/AN) in accordance with Articles 499, 506, 507 and 509 of the Penal Code for natural and legal persons. The pecuniary sanctions are published 5 working days after the day on which the person concerned was informed of the decision (Art.111 of Law n°2021/0024/AN). Given the wide range of sanctions provided for by the texts of the Law for violation of AML/CFT obligations, the sanctions can be considered as proportionate and dissuasive.

With regard to Recommendation 8, the AML/CFT Law No. 2021/0024/AN provides, under Articles 62 and 64, that the Minister of Territorial Administration is in charge of supervising NPOs on AML/CFT in Guinea. As such, it may impose disciplinary, administrative and/or criminal sanctions for non-compliance with AML/CFT obligations (Art 64.3, 64.4 and 68, AML/CFT Law No. 2021/0024/AN. However, the regulatory text defining the range of sanctions to be applied, including the freezing of accounts, dismissal of trustees, fines, withdrawal of licenses and approvals and delisting from registers has not been provided for by the country.

Under Recommendations 9 to 23, Guinea has a wide range of disciplinary and criminal sanctions for any violation by financial institutions and DNFBPs of AML/CFT obligations.

For FIs – The Central Bank of Guinea (BCRG), in its capacity as supervisory authority for FIs, including banks, financial institutions, inclusive financial institutions (IFIs) (Microfinance Institutions, electronic money institutions and postal financial system) and insurance companies, may impose administrative and disciplinary sanctions (Arts. 109 and 110 of AML/CFT Law No. 2021/0024/AN; Arts. 89 and 91 - Banking Regulation Law; Article 123 of the IFI Law; Articles 414 to 433 of the Insurance Code). Disciplinary sanctions include, among other things, warnings, reprimands, disqualifications, suspension of managers, suspension and possibly even withdrawal of licenses.

Fines may also be imposed instead of or in addition to disciplinary sanctions for offences related to the AML/CFT regulatory provisions (Art. 110) ranging from a minimum of 50 million GF (approximately €5,900) for individuals to a maximum of 1 billion GF (approximately €117,900). Criminal sanctions are also meted out on natural and legal persons, including FIs and DNFBPs (Art. 112 to 114 - AML/CFT Law No. 2021/0024/AN). Furthermore, the specific texts of the Cyber-security Law (Cap. IV) and of Law No. 0041/2017 (Art. 58) on the prevention, detection and repression of corruption and similar offences have provided for financial sanctions relating to AML/CFT offences.

Sanctions are published 5 working days after the day on which the person concerned was informed of the decision (Art.111 AML/CFT Law No. 2021/0024/AN). Given the wide range of sanctions provided for by the texts of the Law for violation of AML/CFT obligations, the sanctions can be considered proportionate and dissuasive.

For DNFBPs – DNFBPs were not supervised by any AML/CFT supervisory authority until the adoption of the AML/CFT Law No. 2021/0024/AN which provides that FIU shall be the regulatory and supervisory authority for all DNFBPs (Article 96). In this capacity, it may impose disciplinary and administrative sanctions for AML/CFT offences committed by DNFBPs (Art. 109 and 110 - AML/CFT Law No. 2021/0024/AN). Disciplinary sanctions may also be recommended by the FIU for approval by the authorization or registration authority or body. Criminal sanctions are also meted out on natural and legal persons, including FIs and DNFBPs (Art. 112 to 114). Sanctions are published 5 working days after the day on which the person concerned was informed of the decision (Art. 111 – AML/CFT Law n°2021/0024/AN).. Given the wide range of sanctions provided for, they can be considered as proportionate and dissuasive.

Furthermore, the specific texts of the Cyber-security Law and Law No. 0041/2017 on the prevention, detection and repression of corruption and similar offences (Art. 58) have provided for financial sanctions for AML/CFT-related offences.

Criterion 35.2 - The sanctions for violation of AML/CFT obligations referred to in recommendations 6 and 8 to 23 and specified in criterion 35.1 are applicable not only to FIs and DNFBPs under the supervision of the BCRG and FIU respectively, but also to members of the administrative body and senior management, for any violation of their AML/CFT obligations (Art. 109 to 110 of Law No. 2021/0024/AN).

Weighting and conclusion

Guinea's AML/CFT legal framework provides for the application by the BCRG and the FIU, as supervisory authorities of FIs and DNFBPs respectively, of administrative and disciplinary sanctions against FIs, DNFBPs and their managers who do not comply with AML/CFT obligations. On the other hand, the lack of ranges of administrative sanctions specific to NPOs and relating to CFT obligations are minor deficiencies in the implementation of preventive measures, considering the country's context and risks.

Guinea is rated Largely Compliant (LC) on Recommendation 35.

RECOMMENDATION 36 - INTERNATIONAL INSTRUMENTS

For this Recommendation, equivalent to ex R.35 and SR I, Guinea was rated PC on the grounds that it had not yet implemented the United Nations Convention for the Suppression of Terrorism Financing, although it has ratified it and has already drafted a bill on Counter Financing of Terrorism, which is in the process of being finalized. Furthermore, the criminalization of the financing of terrorism provided for in the OAU Convention on the Prevention and Combating of Terrorism, as a "terrorist act" did not comply with the requirements of the United Nations Convention for the Suppression of terrorism financing.

Criterion 36.1 - Guinea acceded to the Vienna Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances on 27th December 1990 and ratified it on 27th March 1991. It is a Party to the United Nations Palermo Convention against Transnational Organized Crime (9th November 2004), the Merida Convention against Corruption (ratified on 29th May 2013 and signed on 15th July 2013) and the Convention on the Financing of Terrorism (signed 16th November 2001 and acceded to on 14th July 2003).

Criterion 36.2 –Guinea has fully implemented the four United Nations Conventions as provided for. Thus, in order to domesticate these international instruments, the following texts have been adopted:

- Law 98/036 of December 31, 1998 on the 1998 Penal Code
- Law L/2015/013/AN/ on the Customs Code
- Law L/2016/059/AN of October 26, 2016 on the Penal Code
- Law/2016/060/AN of October 26, 2016 on the Code of Criminal Procedure
- Law L041/2017/AN of August 17, 2017 on the fight against corruption
- AML Law L2006/010/AN in the Republic of Guinea
- CFT Law L/2014/010/AN

- AML/CFT Law L024/2021/AN of 17th August 2021
- Cyber-security and Personal Data Protection Law L/2016/037/AN of 28th July 2016, in the Republic of Guinea

In order to ensure the efficient implementation of these various laws, regulatory texts have been adopted for their enforcement.

Weighting and conclusion

Guinea is party to the Vienna, Palermo, Mérida Conventions and the Convention on the Financing of Terrorism. The country has fully implemented these international instruments by adopting laws and regulations. All of the offences provided for in these legal instruments have been criminalized.

Guinea is rated Compliant (C) on Recommendation 36

RECOMMENDATION 37 - MUTUAL LEGAL ASSISTANCE

Guinea was rated partially compliant on R.37 (ex R.36 and SR. V) during the previous evaluation in 2012. The main deficiencies identified were the lack of specific mechanisms designed to avoid conflicts of jurisdiction in determining the place of seizure and the fact that the AML/CFT law had not yet been adopted, no mutual legal assistance measure targeting a TF offence could be implemented, due to lack of legal basis.

Criterion 37.1 - Guinea's legal and institutional framework enables the competent authorities to ensure the widest possible international cooperation in the fight against money laundering, the predicate offences associated with it and the financing of terrorism (Art. 115 Law L/2021/024/AN of 17th August 2021). The acts of mutual assistance likely to be taken by the competent authorities are indicated: investigations (searches and seizures, hearing of witnesses), prosecutions and related procedures such as the delivery of court documents and other relevant documents (Art. 124 Law L/ 2021/024/AN of 17th August 2021). In all matters, the law provides for the modalities governing international criminal assistance (Art. 785 and following of the CPC). Guinea's legal system provides an adequate framework for mutual legal assistance in ML/TF cases and other related offences. However, this law does not provide clear procedures for the country to provide mutual assistance without delay.

Criterion 37.2 - Requests for mutual assistance from Guinean judicial authorities and intended for foreign judicial authorities are filed through the Ministry of Justice. Requests for mutual assistance from foreign judicial authorities and intended for Guinean judicial authorities are filed through diplomatic channels (785 of the CPC). In accordance with the Decree on the attribution and organization of the National Directorate of Criminal Affairs and Grace, the National Director performs the functions of the central authority with the UNODC. This authority, in principle, is in charge of ensuring the effective transmission and execution of these requests. However, there are no clear procedures for prioritizing and ensuring diligent execution of mutual assistance requests received; besides, no adequate system for monitoring requests has been put in place. The Guinean legal system thus reveals significant deficiencies that can impact the diligent execution of mutual legal assistance request.

Criterion 37.3 - Mutual legal assistance is not prohibited and is not subject to unreasonable or unduly restrictive conditions.

Criterion 37.4 -

- (a)** Tax issues in the Republic of Guinea cannot be the basis for refusal to execute any request for mutual assistance. Besides, these issues are not among the cases giving rise to the possibility of refusal to execute a mutual legal assistance request (Art. 126 AML/CFT Law).
- (b)** Professional secrecy is only enforceable when the relevant information has been obtained under circumstances covered by professional legal secrecy or privilege (Art. 126 al. 2 and 27 AML/CFT Law).

Criterion 37.5- Guinea's legal framework prescribes the confidentiality of mutual legal assistance request. The competent authority is required to maintain secrecy regarding the contents of a request and the documents produced, as well as the very fact of mutual assistance. Where it is not possible to execute

the said request without disclosing this secret, the Guinean competent authority informs the requesting State which decides, in this case, whether to maintain the request or not (Art. 127 AML/CFT Law).

Criterion 37.6 - Guinean law does not explicitly provide for dual criminalization as a requirement to execute a request for mutual legal assistance. But this requirement may be deduced from Article 5 of the new Guinean Penal Code which stipulates that “no one shall be punished for a crime or for an offence, the elements of which are not defined by law”.

Criterion 37.7

Where dual criminality is required, the legal qualification becomes irrelevant, the most important thing being that Guinea criminalizes the act which is the basis of the offence and qualifies it as a crime or offence (Art. 798 para 2 CCP).

Criterion 37.8 –

- (a)** - The competent authorities, including investigators or judicial authorities (prosecutor, examining magistrate) seized of a request for mutual assistance, have the same powers granted to them by Guinean procedural law. Thus, they can request for any documents, including financial records, and search and seize information, documents or evidence (including financial documents) held by financial institutions or other legal or natural persons, and collect testimonies (Art. 128-135 AML/CFT Law of 2021).
- (b)** - They also have the possibility of using special investigative techniques such as infiltration, surveillance, investigation under pseudonym once it is in line with the internal system, in response to a direct request sent by foreign judicial authorities or criminal lawsuits to their national counterparts (Art. 876-884 of the CPC).

Weighting and conclusion

Guinea's legal and institutional framework allows it to provide the widest possible range of mutual legal assistance. There is a designated central authority in charge of mutual legal assistance. However, there are no procedures for prioritizing and ensuring diligent execution of mutual assistance requests received. Similarly, no adequate monitoring system for the processing of mutual assistance requests has been put in place. There is no explicit provision to clarify that dual criminality, where required, does not apply where the request does not involve coercive actions.

Guinea is rated Largely Compliant (LC) on Recommendation 37

RECOMMENDATION 38 - MUTUAL LEGAL ASSISTANCE: FREEZING AND CONFISCATION

During the 2012 Mutual Evaluation, Guinea was rated PC on R.38 because the country did not have funds for the management of seized assets and there was no mechanism for coordinating the seizure and confiscation initiatives with other countries. To resolve these deficiencies and thus improve its legal system in this area, Guinea has adopted various texts.

Criterion 38.1 - (a -e) - In the Republic of Guinea, the competent authorities have the power to take measures in response to requests from foreign countries to identify, freeze, seize or confiscate: assets laundered, proceeds, instrumentalities used or intended to be used for money laundering, predicate offences or financing of terrorism, as well as assets of equivalent value (Articles 123 and 134 of Law L/2021 /024/AN of 17th August, 2021).

Criterion 38.2 - Guinean law provides for the possibility for a court to order non-conviction-based confiscation. This may be the case where the court establishes the existence of an offence, but its suspect cannot be convicted because he is unknown, on the run or deceased (Art.11 Law L/2021/024/AN of 17th August 2021). Preparatory precautionary measures (seizure, freezing) could also be taken in the context of requests for cooperation based on non-conviction-based confiscation procedures.

Criterion 38.3 - The Palermo Convention to which Guinea is a party, serves as the basic text in the coordination of seizure and confiscation orders with various countries (Article 13 point 6 of Palermo Convention).

- (a) The country has not reported any bilateral or multilateral agreements allowing for such coordination.
- (b) -There are also no mechanisms to manage frozen or seized assets or that have been confiscated or to determine how they should be disposed of.

Criterion 38.4 - Guinea enjoys confiscated assets on its territory at the request of foreign authorities, unless an agreement concluded with the requesting State decides otherwise (Art. 37 Law L/2021/024/AN of 17th August 2021 and Art. 154 of Law L/2017/041/AN of 4th July 2017 on the prevention, detection and repression of corruption and similar offences

Weighting and conclusion

Guinea has a legal and institutional framework that grants broad powers to the competent authorities to take all appropriate actions diligently, in response to requests from foreign countries, to locate, identify and place in the hands of justice all proceeds of crime, with a view to their confiscation. This framework allows for the provision of assistance where a request for assistance is based on non-conviction-based confiscation procedures in circumstances where the offender is deceased, absconding, absent or unknown. However, Guinea has not entered into any agreement with other States to coordinate seizure, freezing and confiscation measures, or to dispose of confiscated assets. There is also no mechanism for managing frozen, seized assets or confiscated assets and, where necessary, disposing of them.

Guinea is rated Largely Compliant on Recommendation 38.

RECOMMENDATION 39 - EXTRADITION

Guinea was rated LC on R.39 during the previous Mutual Evaluation in 2012, on the grounds that the law made extradition conditional on the dual criminality of the money laundering offence and that Guinean nationals were not subject to extradition. Since then, Guinea has strengthened its AML/CFT system by adopting and enacting several legislations.

Criterion 39.1 –

- (a) - Extradition in the Republic of Guinea follows the regime determined by the Criminal Procedures Code (Art. 795-847). It is granted provided the act for which it is requested is punishable by Guinean law with a criminal or correctional penalty (Art. 798 CPC). ML and TF constituting serious offences as defined by Guinean law may justify extradition.
- (b) - Guinean law prescribes clear procedures for the execution of extradition requests (Art. 795-843 of the CPC, Art. 142-147 AML/CFT Law). Also, the law provides for emergency or simplified procedure which allows the requesting State to directly seize the Guinean General Prosecutor with territorial jurisdiction (Art. 818 CPC, Art. 143 AML/CFT Law of 2021). Compliance with these procedures should be sufficient to ensure the timely execution of extradition requests. However, there is no clearly established system allowing priorities to be established in the management of extradition cases, as and when necessary.
- (c) - Like in the case of mutual legal assistance, Guinea's legal regime for extradition does not subject the execution of requests to unreasonable or unduly restrictive conditions.

Criterion 39.2 - a), b) Guinean law does not allow the extradition of Guinean nationals (Art. 799-1 CPC). However, for refusal of extradition, the case is referred to the competent Guinean courts so that proceedings can be instituted against the person for the offence prompting the request (Art. 147 AML/CFT Law of 2021).

Criterion 39.3 - Dual criminality is a condition for the execution of any extradition request (Art. 796 CPC, 142 par.2 AML/CFT Law). However, it is not necessary for the requesting country to classify the offence in the same category or use the same terminology to designate the offence as long as the acts constituting the offence overlap (Art. 42 AML/CFT Law of 2021).

Criterion 39.4 - Guinea has simplified procedures allowing the competent authorities to urgently execute extradition requests (Art. 143 AML/CFT Law of 2021, Art. 821 – 829 CPC). The simplified procedure allows the requesting State to send an extradition request directly to the competent General Prosecutor of Guinea, with copy, for information, to the Minister of Justice. The same may obtain in an

emergency situation. In this case, the General Prosecutor may order the provisional arrest of a person wanted for the purpose of extradition (Art. 818 CPC). Also, among ECOWAS countries, there is a simplified extradition procedure which allows for speedy execution of requests (Art. 821-829 CPC).

Weighting and conclusion

Guinea's legal and institutional framework allows it to execute without undue delay all extradition requests received from foreign countries concerning persons convicted of ML/TF or associated predicate offences. There are clear procedures for the execution of extradition requests. However, there is no case management or request prioritization system in place. In any case, the law provides for a simplified extradition procedure allowing the requesting State to address its request directly to the competent Guinean judicial authority.

Guinea is rated Largely Compliant (LC) on Recommendation 39.

RECOMMENDATION 40: OTHER FORMS OF INTERNATIONAL COOPERATION

Guinea was rated Non-Compliant on Recommendation 40 during the first-round MER because of the deficiencies identified in the international cooperation mechanism, particularly the lack of Counter Financing of Terrorism Law which hinders any cooperation in the area of Terrorism Financing and the lack of FIU which impedes cooperation with the FIU's counterparts.

General principles

Criterion 40.1- The competent authorities, including the FIU, the financial sector supervisory authorities, customs and investigative authorities (Police and Gendarmerie), may grant without delay, the widest possible international cooperation, subject to reciprocity, in cases of money laundering, associated predicate offences and terrorist financing. These exchanges of information are possible both spontaneously and on request (AML/CFT Law Art.115 and Anti-corruption Law Art.120).

In accordance with the ECOWAS Convention on criminal policing or based on the red notice issued by the IOPC/Interpol, Guinea can quickly and spontaneously grant the widest possible range of international cooperation.

Information requests may pass through the IOPC/Interpol for an emergency, for acts of corruption or similar offences.

Criterion 40.2

Criterion 40.2.a- The competent Guinean authorities base their international cooperation on the following legal bases: international conventions, bilateral agreements, including the one signed with Ukraine, the AML/CFT Law, Articles 115, 118 and 150, The Law on the Suppression of Terrorism, Article 53, the Anti-corruption Law Article 117 and the Banking Regulation Law, Article 83.

Criterion 40.2.b- The competent authorities may cooperate directly with their counterparts by any means of rapid transmission, leaving a written or materially equivalent record. They can also cooperate through the IOPC/Interpol, in case of emergency (AML/CFT Law, Art. 118 and Ant-corruption Law, Art. 142), and the WCO, of which Guinea is a member.

Cooperation is also implemented through formal cooperation agreements. For example, the Guinea-FIU has signed several cooperation agreements with its counterparts in the West African sub-region and Ukraine.

Criterion 40.2.c- Competent authorities have clear and secure circuits, mechanisms or channels to facilitate and enable cooperation, but they are inadequate. The Law enforcement authorities, namely the Police and National Gendarmerie, use the Secure I-24/7 network for exchanges between National Central Offices/Interpol. The Guinean customs authorities use the secure ASYCUDA WORLD network to cooperate with their counterparts. However, the FIU and supervisory authorities do not have secure circuits, mechanisms or channels to facilitate and allow the exchange of information, although this exchange is provided for by the various texts (AML/CFT Law Art. 88 and 98 and Banking Regulation Law Art.83).

Criterion 40.2.d- Guinea has not demonstrated that it has clear procedures for prioritizing and executing information requests without delay.

Criterion 40.2.e- Guinea has provided specific procedures for the protection of information received within the framework of cooperation. These procedures include the conditions for accessing and disseminating information, as well as confidentiality requirements (AML/CFT Law, Articles 148, 149 and 150). These procedures are also prescribed by the statutes of the ICPO/Interpol and WCO.

Criterion 40.3- The Guinea-FIU has the power to conclude agreements or to decide independently to collaborate with foreign counterparts (AML/CFT Law Art.75. 2.d). Supervisory authorities also have the power to enter into bilateral agreements authorizing the exchange of information (AML/CFT Law Art.149 al.3). Other competent authorities cooperate with their counterparts through international networks such as Interpol and the WCO, of which Guinea is a member.

It should be underscored that the texts cited do not mention negotiations and signatures of bilateral or multilateral agreements or arrangements at the opportune time.

Criterion 40.4 - The Guinean system does not provide for mechanisms for timely feedback of information on request, from the requesting competent authorities to the requested competent authorities, regarding the use and usefulness of the information received.

Criterion 40.5

Criterion 40.5.a- Tax issues are not included in the cases of refusal to execute mutual legal assistance requests adopted by Guinea (AML/CFT Law Art. 126 and Anti-corruption Law Art. 118).

Criterion 40.5.b- The professional secrecy of FIs and DNFBPs cannot constitute grounds for refusing to execute a mutual legal assistance request (AML/CFT Law Art. 126 al.2 and Corruption Law Art. 119 al.2). Similarly, the competent Guinean authority maintains secrecy on the request for mutual legal assistance, on its contents and all documents produced as well as the very fact of the mutual assistance (art. 126 al. 2 and 27 AML/CFT Law).

Criterion 40.5.c- The mutual legal assistance request may be refused when the facts to which it relates are the subject of criminal lawsuits or have already been the subject of a final court decision on Guinean territory (AML/CFT Law Art.126. d).

Criterion 40.5.d- The mutual legal assistance request may be refused when it does not come from a competent authority according to the legislation of the requesting State or it has not been transmitted regularly, without considering the nature or the civil, administrative or judicial status of the requesting authority (AML/CFT Law Art.126.b).

Criterion 40.6- The information received by the FIU from its foreign counterparts can only be used for the purposes for which has been provided and cannot be transmitted or disseminated to another authority or to another executive service of the State or used for other purposes than without the prior approval of the FIU that provided it (AML/CFT Law Art.148 al.1). With regard to supervisory authorities, the information communicated by their foreign counterparts cannot be used for purposes other than those related to Anti-money Laundering and Counter Financing of Terrorism (AML/CFT Law art 149 par.2).

Such measures are not provided for in the context of exchanges of information between the criminal Law enforcement authorities and their foreign counterparts.

Criterion 40.7 - The information exchanged between the FIU and the supervisory authorities with their foreign counterparts is subject to confidentiality. The FIU protects the information it receives by adopting rules relating to the security and confidentiality of the information held, including procedures for their processing, storage, dissemination, protection and consultation (AML/CFT Law Art.76 .10.a).

However, Guinea did not provide any information on the adoption of such rules.

The Guinean legal system provides that the FIU may refuse to communicate information to its foreign counterparts if the latter are not subject to obligations of professional secrecy equivalent to those which it is legally subject to or if the processing of the information communicated does not guarantee an adequate level of protection in accordance with the provisions of the Personal Data Protection Law

(AML/CFT Law Art.148 al.3).

Investigative and prosecutorial authorities use secure international channels, but they cannot refuse to provide information to their requesting foreign counterparts, even if the latter cannot protect them.

As for the supervisory authorities, they can exchange information with their foreign counterparts subject to confidentiality (AML/CFT Law Art.149 par.2).

Criterion 40.8- – The FIU can formulate requests on behalf of a foreign counterpart and to exchange with their foreign counterparts all the information that could be obtained if these requests were made internally, subject to reciprocity (AML/CFT Law art .148 par.2). Nevertheless, the FIU may refuse to communicate information to the counterpart FIUs if this communication undermines sovereignty or national interests, security or public order (AML/CFT Law Art.148 par.3).

The Law enforcement authorities may, in view of the provisions of the Code of Criminal Procedure and international channels for the exchange of information, formulate requests on behalf of their foreign counterparts and exchange with them all the information thus obtained.

The supervisory authorities, on their part, can exchange information with their foreign counterparts (AML/CFT Law art 149 par.1). However, there are no legal provision for the possibility for these authorities to file information requests on behalf of these counterparts.

Exchange of information among FIUs

Criterion 40.9- The FIU enjoys a legal basis to cooperate with foreign FIUs, regardless of their nature, in cases of money laundering, associated predicate offences and financing of terrorism (AML/CFT Law Art. 75.2. d and 148). Furthermore, the FIU can exchange information on request or on its own initiative and can refuse to exchange same in certain cases.

Criterion 40.10- Guinea's legal system does not formally indicate that FIU must provide feedback to foreign FIUs on the use of the information provided and the results of the analysis conducted based on this information, and no examples of feedback were made known to the Assessment Team.

Criterion 40.11.a- The FIU has the power to exchange with foreign FIUs, all the information that it is likely to consult or obtain directly or indirectly (AML/CFT Law Art. 75. 2. d, 76.7 and 148).

Criterion 40.11.b- The FIU has the power to exchange with foreign FIUs, all the information that it is likely to consult or obtain directly or indirectly at the national level, subject to reciprocity (AML/CFT Law Art. 148 par.2).

Exchange of information among financial sector supervisors

Criterion 40.12- The financial sector supervisory authorities have a legal basis to cooperate with their foreign counterparts, mainly to exchange information on supervision for AML/CFT purposes, or relevant in this respect (AML/CFT Law Art.149 par. 1).

Criterion 40.13- The financial sector supervisory authorities can exchange with their foreign counterparts any information to which they have access at national level, particularly information held by FIs (AML/CFT Law Art.98).

Criterion 40.14

Criterion 40.14.a- The Guinean legal system indicates that within the framework of the powers of the supervisory authorities, the Central Bank exchanges with its foreign counterparts, all the information to which it has access at national level (AML/CFT Law Art.98). This results in a lack of specification of the nature of information likely to be exchanged.

Criterion 40.14.b- The Central Bank can exchange with its foreign counterparts relevant information on the evolution of the prudential and risk monitoring systems of the subsidiaries established in the country, and on the situation of the parent companies of these subsidiaries with regard to these systems (Banking Regulations Law, Art.83 par.2).

Criterion 40.14.c- The Guinean legal system indicates that within the framework of the powers of

the supervisory authorities, the Central Bank exchanges with its foreign counterparts, all the information to which it has access at national level (AML/CFT Law Art.98). These exchanges must be in a position to be extended, in view of the AML/CFT Law, to all internal AML/CFT information and procedures of financial institutions, on customer due diligence, customer files, sample accounts and operations, even if there is no formal specification.

Criterion 40.15- The Central Bank of Guinea may, at the request of its foreign counterpart, conduct on-site inspection in subsidiaries or branches (AML/CFT Law par.4). It may transmit information to the authorities in charge in other countries of licensing or supervision of credit institutions, subject to reciprocity (Law Regulating Banking, Art. 83).

The Central Bank of Guinea may, within the framework of bilateral agreements providing for a reciprocity regime, authorize the supervisory authorities of a foreign credit institution to conduct on-site inspection over its subsidiary established on the national territory for the purpose of promoting the effective supervision of groups (Banking Regulations Law, Art 82 par.1 and Art. 83 par.2). This inspection can be conducted jointly with the Central Bank (Banking Regulation Law, Art.82 par.2 and AML/CFT Law Art.149 par.4).

Criterion 40.16- No legal provision requires supervisory authorities to obtain the prior approval of their foreign counterparts before using information obtained from them for supervisory or other purposes. Furthermore, no law requires these authorities to disclose such information.

Exchange of information among law enforcement authorities

Criterion 40.17- Law enforcement authorities can exchange information to which they have access at national level with their foreign counterparts for intelligence or investigation purposes in the context of ML, TF or associated predicate offences, including for the purpose of identifying and tracing the proceeds and instrumentalities of crime (AML/CFT Law Art. 124 and 135). To achieve this, these authorities conduct all investigative actions (gathering of testimony or confessions, searches, seizures, examination of objects and places) and exchange the information obtained with their counterparts. These exchanges can be done through several networks including the ICPO/Interpol, ARINWA (Inter-agency Network for Asset Recovery for West Africa), WACAP (Network of Central Authorities and Prosecutors of West Africa Against Organized Crime) and WAPIS (West African Police Information System).

Criterion 40.18 - Law enforcement authorities may use their powers, including techniques to obtain information on behalf of their foreign counterparts, unless the competent authority of the requesting State has requested that it should be done according to a particular form compatible with Guinean legislation (AML/CFT Law, Art. 128). In this regard, they can collect testimonies, interview people, search and make seizures in order to obtain information on behalf of their counterparts. Furthermore, the restrictions on use that may be imposed by the law enforcement authorities are contained in the Statutes of the ICPO/Interpol. The ICPO/Interpol Secretariat has a data processing unit which reviews the information received from the Member States to ensure that it is protected and that, before any dissemination, as restrictions on use imposed by the law enforcement authorities have provided the said information.

Criterion 40.19- The law enforcement authorities may set up joint investigation teams comprising criminal investigation officers and national customs officers and staff in order to conduct investigations in a cooperative manner (Criminal Procedure Code, Art. 33 par.4). The ICPO/Interpol can provide the police of its member countries with an investigation and support unit to investigate organized crime jointly and on an Ad hoc basis.

Access to bilateral or multilateral cooperation agreements would create an opportunity to conduct an analysis of international joint investigations.

Exchange of information among non-counterpart authorities

Criterion 40.20- The indirect exchange of information, within the framework of AML/CFT, between the competent authorities and non-counterpart authorities, is not explicitly provided for by the Guinean legal framework.

Weighting and conclusion

The FIU, law enforcement authorities, customs authorities as well as the supervisory authorities, have the possibility of granting the widest possible international cooperation in ML/TF and predicate offences either spontaneously or on request. Precise procedures for the protection of information received within the framework of cooperation are provided for. Law enforcement authorities can use their powers, including techniques, to obtain information on behalf of their foreign counterparts. Mechanisms, circuits and channels of cooperation do exist, but prove to be inadequate. Indeed, the Guinean system does not provide for any timely feedback mechanism on the use and usefulness of the information received by the competent authorities. Furthermore, there is no legal provision requiring the supervisory authorities to obtain the prior approval of their foreign counterparts before using the information obtained from them for supervisory or other purposes. Besides, Guinea has not defined any effective devices, mechanisms or circuits to facilitate and enable direct, swift and constructive exchanges of information among non-counterpart authorities.

Guinea is rated Largely Compliant (LC) on Recommendation 40.

Technical Compliance Summary – Key Deficiencies

Appendix Table 1. Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) Justifying the Rating
1. Risk assessment and implementation of risk-based approach	PC	<ul style="list-style-type: none"> • The lack of a mitigating action plan for the risks identified in the NRA limits the obligation to allocate resources based on the understanding of the risks; • There are no provisions specifying the mechanisms to be used to disseminate the findings of the NRA to AML/CFT stakeholders.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • The National Coordinating Committee, whose composition and functioning were recently set by Decree of 5th April 2023, has not yet defined any mechanism for coordination and cooperation, both in terms of policy development and at operational level. • The country also does not have national AML/CFT policies or any national cooperation framework involving CPF actors. • The legislative and regulatory framework that ensures data protection and respect for privacy has not provided for any mechanism to ensure that AML/CFT stakeholders and cyber security stakeholders cooperate and coordinate in the spirit of the requirements of this criterion.
3. Money Laundering Offence	C	<ul style="list-style-type: none"> •
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> • All criteria are met.
5. Terrorist financing offence	C	<ul style="list-style-type: none"> • All criteria are met.
6. Targeted financial sanctions related to terrorism and terrorist financing	PC	<ul style="list-style-type: none"> • The Guinean system does not provide for the application of evidence in the area of reasonable reasons or reasonable grounds or reasonable basis by the authority in charge of proposals for the designation of persons or entities. • The country has not made any legal provision for the collection of relevant identifying information on individuals, groups, companies and entities proposed for designation. • The country's legal framework does not provide for the application of administrative freezing measures to the funds and other assets of persons or entities acting on behalf of or at the direction of the designated persons or entities. • The country does not provide protection for bona fide third parties when implementing their TFS obligations related TF. • No procedure is defined to allow persons or entities bearing the same name or the same denomination as a designated person or entity and whose assets and other resources are frozen Consequently of this homonymy, to request the unfreezing of said assets and resources. • The lack of a mechanism and guidelines for communicating decisions to reporting entities for delisting from sanction lists.
7. Targeted Financial Sanctions Related to Proliferation	PC	<ul style="list-style-type: none"> • Although Guinea has designated the National Consultative Commission for Administrative Freezing (CCGA) as the body in charge of implementing proliferation financing freezing measures, no procedure or mechanism has been put in place to date. • The CCGA is not operational.

8. Non-profit Organizations	NC	<ul style="list-style-type: none"> • The country has not identified NPOs that may be misused for terrorist financing purposes. • Non-identification of the nature of the threats posed by terrorist entities on NPOs presenting risks. • The country has not conducted any sensitization and educational activities for NPOs on the potential risks of being misused for TF purposes. • NPOs are not subject to specific risk-based supervision and monitoring measures. • No national cooperation and coordination mechanism for the exchange of relevant information on NPOs has been put in place. • The country has not defined any appropriate procedures for responding to international requests on NPOs.
9. Financial Institutions' Secrecy laws	C	<ul style="list-style-type: none"> • All criteria are met.
10. Customer Due Diligence	LC	<ul style="list-style-type: none"> • The country has measures relating to customer due diligence. However, Guinea does not mention the obligation to obtain reliable beneficial ownership information where they are designated by specific characteristics or category. • Furthermore, there is no legal text that outlines the simplified due diligence measures compared to the constant or normal due diligence measures that FIs are required to implement.
11. Record Keeping	C	<ul style="list-style-type: none"> • All criteria are met.
12. Politically Exposed Persons	PC	<ul style="list-style-type: none"> • No requirement for FIs to apply to family members of all types of PEPs and persons closely associated with them the relevant obligations of criteria 12.1 and 12.2.
13. Correspondent Banking	C	All criteria are met.
14. Money or Value Transfer Services	PC	<ul style="list-style-type: none"> • No measure or mechanism designed to identify natural or legal persons operating illegally has been taken.
15. New Technologies	PC	<ul style="list-style-type: none"> • The country has not provided for obligations for the identification and/or registration of VASPs as well as assessment of ML/TF risks resulting from VA-related activities and VASP activities or operations, in line with a risk-based approach. • Besides, no mechanism for the immediate implementation of targeted financial sanctions linked to the financing of proliferation as well as the requirement for the retention of information on the originator by the VASP of the beneficiary have been put in place.
16. Wire Transfers	LC	<ul style="list-style-type: none"> • The country's legal framework largely meets the requirements of this recommendation. However, Guinea has not put in place any mechanisms to communicate to FIs decisions for delisting from sanctions lists as well as for the implementation of targeted financial sanctions related to proliferation financing.
17. Reliance on Third Parties	LC	<ul style="list-style-type: none"> • FIs must take into account the information available on the risk level of the country where the third party is located and must take specific and enhanced measures to prevent ML/TF. However, the terms of application of these specific and enhanced measures have not been specified.
18. Internal Controls and Foreign Branches and Subsidiaries	LC	<ul style="list-style-type: none"> • No provision requires Guinean financial groups to ensure that their foreign branches and majority foreign-owned subsidiaries apply AML/CFT measures consistent with those of Guinea, where the minimum AML/CFT obligations of the host country are less binding than that of Guinea, to the extent the laws and regulations of the host country permit. • Guinean financial groups are not required to apply additional appropriate measures to manage ML/TF risks and to inform the supervisory authorities of Guinea, if the host country does not allow appropriate implementation AML/CFT measures consistent with those of Guinea.
19. Higher-risk Countries	PC	<ul style="list-style-type: none"> • There are no measures to inform FIs of concerns about deficiencies in AML/CFT systems in other countries. • The countermeasures mentioned by the law are yet to be determined
20. Suspicious Transactions Reporting	C	<ul style="list-style-type: none"> • All criteria are met
21. Disclosure and Confidentiality	C	<ul style="list-style-type: none"> • All criteria are met.

22. Designated Non-financial Businesses and Professions: Customer due diligence	LC	<ul style="list-style-type: none"> Deficiencies identified under Recommendations 10, 12 and 17 are also valid for Rec.22
23. Designated Non-financial Businesses and Professions: other measures	LC	<ul style="list-style-type: none"> The legal framework includes measures relating to the requirements of this recommendation. However, some minor gaps identified in Recommendations 18 and 19 have a negative impact.
24. Transparency and Beneficial Ownership of Legal Persons	PC	<ul style="list-style-type: none"> No beneficial ownership information in the Trade Register Guinea has not assessed the ML/TF risks associated with the various categories of legal persons No mechanism in place to ensure nominee shares and nominal directors are not misused No mechanism in place for timely updating of basic and beneficial ownership information No mechanism in place to monitor the quality of assistance received from other countries in response to requests for basic and BO information
25. Transparency and beneficial owners of legal arrangements	PC	<ul style="list-style-type: none"> No obligation for trusts to declare their status to FIs or DNFBPs at the time of the business relationship. Lack of sanctions applicable to trustees for non-compliance with the obligation to make information on trusts available to the competent authorities, without delay
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> The supervisory authority has not taken any measures designed to monitor the fit-and-proper status of beneficial owners who could exercise any form of control other than those exercised through shareholding AML/CFT supervision of FIs is not conducted using an ML/TF risk-based approach. Although this approach evolved in 2022 towards the implementation of a matrix specific to ML/TF risks, this is still at the experimental stage.
27. Powers of Supervisory Authorities	C	<ul style="list-style-type: none"> All Criteria are met.
28. Regulation and supervision of Designated Non-financial Businesses and Professions	PC	<ul style="list-style-type: none"> Guinea has not put in place measures to adequately prevent criminals or their accomplices from becoming beneficial owners of a significant stake or control in these DNFBPs. No category of DNFBP has yet been subject to AML/CFT inspection in Guinea.
29. Financial Intelligence Units (FIUs)	LC	<ul style="list-style-type: none"> The Guinea-FIU is not a member of the Egmont Group and has not provided any evidence of its application or the status of the procedure for joining the EG.
30. Responsibilities of Law Enforcement Authorities	C	<ul style="list-style-type: none"> All criteria are met.
31. Powers of Law Enforcement Authorities	C	<ul style="list-style-type: none"> All criteria are met.
32. Cash Couriers	LC	<ul style="list-style-type: none"> Lack of satisfactory coordination among competent authorities on issues relating to the implementation of Recommendation 32
33. Statistics	PC	<ul style="list-style-type: none"> Failure to keep comprehensive and periodic statistics on investigations, prosecutions and convictions, frozen, seized and confiscated assets, mutual legal assistance and other international requests for cooperation sent and received in AML/CFT
34. Guidance and Feedback	PC	<ul style="list-style-type: none"> The FIU is yet to guidelines for DNFBPs. Competent authorities, supervisors and self-regulatory bodies do not provide feedback to FIs and DNFBPs.
35. Sanctions	LC	<ul style="list-style-type: none"> The country is yet to map out a range of sanctions specific to NPOs for non-compliance with AML/CFT obligations, including the freezing of accounts, dismissal of trustees, fines, withdrawal of licenses and approvals and removal from the registers.
36. International instruments	C	<ul style="list-style-type: none"> Guinea's legal and institutional framework complies with this Recommendation.

<p>37. Mutual Assistance</p> <p>Legal</p>	<p>LC</p>	<ul style="list-style-type: none"> • There are no procedures for prioritizing and ensuring diligent execution of mutual legal assistance requests received. • No adequate monitoring system for the processing of mutual legal assistance requests has been put in place. • There is no explicit provision to clarify that dual criminality, where required, does not apply where the request does not involve coercive measures
<p>38. Mutual Assistance: freezing and confiscation</p> <p>Legal</p>	<p>LC</p>	<ul style="list-style-type: none"> • Guinea has not entered into any agreement with other States to coordinate seizure, freezing and confiscation measures, or to dispose of confiscated assets. • There is also no mechanism for managing frozen, seized or confiscated assets and, where necessary, disposing of them.
<p>39. Extradition</p>	<p>LC</p>	<ul style="list-style-type: none"> • There is no case management system and clear procedures for the diligent execution of extradition requests. • There is no request prioritization system. •
<p>40. Other forms of International Cooperation</p>	<p>LC</p>	<ul style="list-style-type: none"> • Investigative, prosecutorial, Supervisory and Intelligence authorities have the possibility to grant the widest possible international cooperation in ML/TF cases and predicate offences either spontaneously or upon request. • There is no legal provision requiring supervisory authorities to obtain prior authorization from their foreign counterparts before using information obtained from them for supervisory or other purposes. • The country has not established effective arrangements, mechanisms or channels to facilitate and enable direct, swift and constructive exchanges of information among non-counterpart authorities.

Glossary of Acronyms

AGRASC	Agency for the Management and Recovery of Seized and Confiscated Assets
AJE	State Judicial Officer
AMF	Capital Market Authority
AML/CFT	Anti-money Laundering and Counter Financing of Terrorism
AML/CFT Law	Anti-money Laundering and Counter Financing of Terrorism Law
ANLC	National Anti-Corruption Agency
APBEF	Professional Association of Banks and Financial Institutions
APIP	Agency for the Promotion of Private Investments
APJ	Criminal Investigation Officer
APU	Public Administrations
AQIM	Al-Qaeda in the Islamic Maghreb
ARINWA	Inter-Agency Asset Recovery Network for West Africa
ARPT	Post and Telecommunications Regulatory Authority
AUSGIE	OHADA Uniform Act relating to the law of Business Companies and Economic Interest Groupings
BAD	African Development Bank
BCC	Central Bank of Congo
BCEAO	Central Bank of West African States
BCM	Central Bank of Morocco
BCN-Interpol	National Central Bureau-INTERPOL
BCRG	Central Bank of the Republic of Guinea
BdC	Bureau de Change
BEAC	Banque des États de l'Afrique centrale
BM	World Bank
BNE	National Expertise Bureau
BNI	Bearer Negotiable Instrument
BO	Beneficial Owner
BOR).	Beneficial Ownership Register
C	Compliant
CAC	Conakry Appeal Court
CARPA	Lawyers' Pecuniary Payment Fund
CCGA	Advisory Commission on Administrative Freezing
CDD	Customer Due Diligence
CFT	Counter Financing of Terrorism
CIMA	Inter-African Conference on Insurance Markets
CIMA	Inter-African Conference on Insurance Markets
CNCA-LBC/FT	National AML/CFT Coordination and Cooperation Committee
CNRD	National Committee for Recovery and Development
CNT	National Transition Council
CPDM	Mines Development Centre
CPP	Criminal Procedure Code
CRIEF	Court for the Repression of Economic and Financial Crimes
CTNSAG	National Technical Committee for Monitoring GIABA Activities
CTR	Cash Transaction Report
DCIJ-GN	National Gendarmerie Headquarters for Criminal Investigations
DCPF	Border Police Headquarters
DCPJ	Criminal Investigations Department
DCRC	Foreign Exchange Control and Regulation Division
DGD	Customs Department
DGI	Tax Department
DGRDSM	Defence Intelligence and Military Security Department
DGRI	Department of Internal Intelligence

DGTCP	Public Accounting Directorate General
DNAPROMA	National Directorate for the Regulation and Promotion of Non-Governmental Organizations and Association Movements
DNFBPs	Designated Non-financial Businesses and Professions
DNI	National Tax Department
DPRK	Democratic People's Republic of Korea
DSA	Insurance Supervision Division
DSB	Banking Supervision Division
DSIFI	Department for the Supervision of Inclusive Financial Institutions
ECOWAS	Economic Community of West African States
ECOWAS	Economic Community of West African States
EDD	Enhanced Due Diligence
EMI	E-money issuers
EUR	Euro
FATF	Financial Action Task Force
FI	Financial Institution
FIU	Financial Intelligence Unit
FTF	Foreign Terrorist Fighters
GDP	Gross Domestic Product
GIABA	Intergovernmental Action Group against Money Laundering in West Africa
GNF	Guinean Franc
GSPC	Salafist Preaching and Combat Group
HDI	Human Development Index
IARDT	Fire, accident, miscellaneous risks and transport
ICRC	International Committee of the Red Cross
IFI	Inclusive Financial Institution
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organization
IO	Immediate Outcome
IOM	International Organization of Migration
JNIM	Jama'at Nusrat al Islam Wal Mouslimin
KYC	Know your Customer
LC	Largely Compliant
LEA	Law Enforcement Authority
LONAGUI	National Lottery Company
MATD	Minister of Territorial Administration and Decentralization
MdJ	Ministry of Justice
MEF	Ministry of Economy and Finance
MER	Mutual Evaluation Report
MFI	Microfinance Institution
ML	Money Laundering
MoAE	Ministry of Foreign Affairs
MVTS	Money and Value Transfer Service
NBFI	Non-bank Financial Institution
NC	Non-compliant
NGO	Non-governmental Organization
NMPP	Dealers in Precious Metals and Stones
NPO	Non-profit Organization
NRA	National Risk Assessment
OCAD	Central Anti-Drug Office
OFAC	Office of Foreign Assets Control
OIF	Francophone International Organization
OMVG	Organization for the Development of the Gambia River

OMVS	Organization for the Development of the Senegal River
OPJ	Criminal investigation officers
ORDEF	Office for the Suppression of Economic and Financial Crimes
PC	Partially Compliant
PCA	Chairperson of the Management Board
PEP	Politically Exposed Person
PIG	Plan International Guinea (PIG)
PM	Precious Metal
QLB	AML/CFT questionnaires
R	Recommendation
RBA	Risk-based Approach
RBS	Risk-based Supervision
RBS	Risk-based Supervision
RCCM	Trade and Personal Assets Register
RGPH	General Census of Population and Housing
RINLCAO	Network of Institutions Fighting against Corruption in West Africa.
SARL	Limited liability company
SARLU	Single person private company
SAS	Simplified joint stock company
SASU	Simplified single shareholder company" (
SAU	Private limited company
SCI	Patent-holding companies,
SCP	Professional civil companies
SCS	Simple limited partnership
SGAR	General Secretariat for Religious Affairs
SNC	General partnership
SRB	Self-regulated Body
STR	Suspicious Transaction Report
TCC	Conakry Commercial Court
TF	Terrorism Financing
TFS	Targeted Financial Sanctions
TPI	Courts of First Instance
TPIK	Kaloum High Court
TRACFIN	France-FIU
UEMOA	West African Economic and Monetary Union
UNCAC	United Nations Convention against Corruption
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
VAPS	Virtual Assets Service Providers
WACAP	West African Central Prosecutors and Authorities Network
WAPIS	West African Police Information System
WCO	World Customs Organisation

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Mutual Evaluation Report of Guinea

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