



Anti-money laundering and counter-terrorist financing measures

Republic of Benin

MAY 2021

**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.

For more information about GIABA, please visit the website: www.giaba.org

This document and/or any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city, or area.

This assessment was adopted by GIABA at its May 2021 Plenary meeting.

Citing reference:

GIABA (2021), Anti-money laundering and counter-terrorist financing measures – Benin, Second Round Mutual Evaluation Report, GIABA, Dakar

© 2021 GIABA. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Application for permission to disseminate, reproduce or translate all or part of this publication should be made to GIABA, Complexe Sicap Point E Av Chiekh A. Diop, X Canal IV 1er Etage Immeuble A, BP 32400, Ponty Dakar (Senegal). E-mail: secretariat@giaba.org

Table of Contents

LIST OF TABLES.....	4
LIST OF BOXES.....	5
EXECUTIVE SUMMARY	6
KEY FINDINGS	6
RISKS AND OVERALL SITUATION.....	9
OVERALL LEVEL OF EFFECTIVENESS AND TECHNICAL COMPLIANCE.....	10
PRIORITY ACTIONS	19
RATINGS FOR EFFECTIVENESS AND TECHNICAL COMPLIANCE	21
MUTUAL EVALUATION REPORT.....	23
PREAMBLE	23
CHAPTER 1. MONEY LAUNDERING AND TERRORIST FINANCING RISKS AND CONTEXT	25
1.1 ML/TF RISKS AND SCOPING OF HIGHER-RISK ISSUES.....	25
1.1.1. <i>Overview of ML/TF Risks.....</i>	25
1.1.2. <i>Country’s Risk Assessment & Scoping of Higher Risk Issues.....</i>	26
1.2 MATERIALITY	28
1.3 STRUCTURAL ELEMENTS.....	29
1.4 BACKGROUND AND OTHER CONTEXTUAL ELEMENTS	30
1.4.1. <i>AML/CFT Strategy</i>	<i>30</i>
1.4.2. <i>Legal & Institutional Framework.....</i>	<i>30</i>
1.4.3. <i>Financial Sector and Designated Non-Financial Businesses and Professions (DNFBPs).....</i>	<i>33</i>
1.4.4. <i>Preventive Measures.....</i>	<i>38</i>
1.4.5. <i>Legal persons and arrangements.....</i>	<i>39</i>
1.4.6. <i>Supervisory arrangements.....</i>	<i>39</i>
1.4.7. <i>International cooperation.....</i>	<i>41</i>
CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION	43
2.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	43
2.2. IMMEDIATE OUTCOME 1 (RISK, POLICY AND COORDINATION)	44
2.2.1. <i>Country’s understanding of its ML/TF risks.....</i>	<i>44</i>
2.2.2. <i>National policies to address identified ML/TF risks.....</i>	<i>47</i>
2.2.3. <i>Exemptions, enhanced and simplified measures</i>	<i>47</i>
2.2.4. <i>Objectives and activities of competent authorities.....</i>	<i>48</i>
2.2.5. <i>National coordination and cooperation.....</i>	<i>49</i>
2.2.6. <i>Private sector’s awareness of risks</i>	<i>50</i>
CHAPTER 3. LEGAL REGIME AND OPERATIONAL ISSUES.....	52
3.1 KEY FINDINGS AND RECOMMENDED ACTIONS.....	52
3.2 IMMEDIATE OUTCOME 6 (FINANCIAL INTELLIGENCE)	56
3.2.1. <i>Use of financial intelligence and other information.....</i>	<i>56</i>
3.2.2. <i>STRs received and requested by competent authorities</i>	<i>62</i>
3.2.3. <i>Operational needs supported by FIU analysis and dissemination.....</i>	<i>64</i>
3.2.4. <i>Cooperation and exchange of information/financial intelligence</i>	<i>66</i>
3.3 IMMEDIATE OUTCOME 7 (ML INVESTIGATIONS AND PROSECUTIONS)	70
3.3.1. <i>Identification of ML cases and investigations.....</i>	<i>70</i>
3.3.2. <i>Consistency of ML investigations and prosecutions with threats and risk profile, national AML policies</i>	<i>73</i>
3.3.3. <i>Types of ML cases Prosecuted.....</i>	<i>75</i>
3.3.4. <i>Effective, proportionate and dissuasive nature of sanctions</i>	<i>76</i>
3.3.5. <i>Implementation of alternative measures.....</i>	<i>76</i>

3.4.	IMMEDIATE OUTCOME 8 (CONFISCATION)	77
3.4.1.	<i>Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective.</i>	77
3.4.2.	<i>Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad ..</i>	78
3.4.3.	<i>Confiscation of falsely or undeclared cross-border transportation of currency and BNI</i>	79
3.4.4.	<i>Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities .</i>	80
CHAPTER 4. TERRORISM FINANCING AND PROLIFERATION FINANCING.....		82
4.1	KEY FINDINGS AND RECOMMENDED ACTIONS	82
4.2	IMMEDIATE OUTCOME 9 (TF INVESTIGATION AND PROSECUTION)	85
4.2.1.	<i>Prosecution/conviction of types of TF activity consistent with the country's risk-profile</i>	86
4.2.2.	<i>TF identification and investigation.....</i>	87
4.2.3.	<i>TF investigation integrated with -and supportive of- national strategies.....</i>	89
4.2.4.	<i>Effectiveness, proportionality and dissuasiveness of sanctions</i>	90
4.2.5.	<i>Alternative measures used where TF conviction is not possible (e.g. disruption)</i>	90
4.3.	IMMEDIATE OUTCOME 10 (TF PREVENTIVE MEASURES AND FINANCIAL SANCTIONS)	90
4.3.1.	<i>Implementation of targeted financial sanctions for TF without delay.....</i>	90
4.3.2.	<i>Targeted approach, outreach and oversight of at-risk non-profit organisations</i>	91
4.3.3.	<i>Deprivation of TF assets and instrumentalities.....</i>	92
4.3.4.	<i>Consistency of measures with overall TF risk profile.....</i>	93
4.4	IMMEDIATE OUTCOME 11 (PF FINANCIAL SANCTIONS).....	94
4.4.1.	<i>Implementation of targeted financial sanctions related to proliferation financing without delay</i>	94
4.4.2.	<i>Identification of assets and funds held by designated persons/entities and prohibitions</i>	94
4.4.3.	<i>FIs and DNFBPs' understanding of and compliance with obligations</i>	95
4.4.4.	<i>Competent authorities ensuring and monitoring compliance</i>	95
CHAPTER 5. PREVENTIVE MEASURES.....		97
5.1	KEY FINDINGS AND RECOMMENDED ACTIONS.....	97
	<i>Recommended Actions.....</i>	97
5.2.	IMMEDIATE OUTCOME 4 (PREVENTIVE MEASURES).....	98
5.2.1.	<i>Understanding of ML/TF risks and AML/CFT obligations.....</i>	98
5.2.2.	<i>Application of risk mitigating measures.....</i>	100
5.2.3.	<i>Application of CDD and record-keeping requirements.....</i>	103
5.2.4.	<i>Implementation of EDD measures</i>	105
5.2.5.	<i>Reporting obligations and tipping off</i>	106
5.2.6.	<i>Internal controls and legal/regulatory requirements impeding implementation</i>	108
CHAPTER 6. SUPERVISION		110
6.1.	KEY FINDINGS AND RECOMMENDED ACTIONS.....	110
6.2.	IMMEDIATE OUTCOME 3 (SUPERVISION).....	112
6.2.1.	<i>Licensing, registration and controls preventing criminals and associates from entering the market</i>	113
6.2.2.	<i>Supervisors' understanding and identification of ML/TF risks</i>	114
6.2.3.	<i>Risk-based supervision of compliance with AML/CFT requirements.....</i>	117
6.2.4.	<i>Remedial actions and effective, proportionate, and dissuasive sanctions.....</i>	118
6.2.5.	<i>Impact of supervisory measures on compliance</i>	120
6.2.6.	<i>Promoting a clear understanding of AML/CFT obligations and ML/TF risks.....</i>	120
CHAPTER 7. LEGAL PERSONS AND LEGAL ARRANGEMENTS		122
7.1	KEY FINDINGS AND RECOMMENDED ACTIONS	122
7.2	IMMEDIATE OUTCOME 5 (LEGAL PERSONS AND LEGAL ARRANGEMENTS)	123
7.2.1.	<i>Public availability of information on the creation and types of legal persons and arrangements.....</i>	123
7.2.2.	<i>Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities..</i>	124
7.2.3.	<i>Mitigating measures to prevent the use of legal persons and arrangements</i>	125

7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons	126
7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements.....	127
7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions	127
CHAPTER 8. INTERNATIONAL COOPERATION.....	129
8.1 KEY FINDINGS AND RECOMMENDED ACTIONS.....	129
8.2. IMMEDIATE OUTCOME 2 (INTERNATIONAL COOPERATION)	130
8.2.1. Providing constructive and timely MLA and extradition	130
8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements	131
8.2.3. Seeking other forms of international cooperation For AML/CFT purposes.....	132
8.2.4. Providing other forms of international cooperation for AML/CFT purposes.....	134
8.2.5. International exchange of basic and beneficial ownership information on legal persons and arrangements.....	134
ANNEX I. - TECHNICAL COMPLIANCE	136
RECOMMENDATION 1 - RISK ASSESSMENT AND IMPLEMENTATION OF RISK-BASED APPROACH	136
RECOMMENDATION 2 - NATIONAL COOPERATION AND COORDINATION	140
RECOMMENDATION 3 - ML OFFENCE.....	141
RECOMMENDATION 4 - CONFISCATION AND PROVISIONAL MEASURES	143
RECOMMENDATION 5- TERRORIST FINANCING OFFENCE	145
RECOMMENDATION 6- TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING	147
RECOMMENDATION 7: TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION	151
RECOMMENDATION 8: NON-PROFIT ORGANIZATIONS (NPOs)	154
RECOMMENDATION 9- FINANCIAL INSTITUTION SECRECY LAWS	157
RECOMMENDATION 10- CUSTOMER DUE DILIGENCE	158
RECOMMENDATION 11- RECORD KEEPING	163
RECOMMENDATION 12 -POLITICALLY EXPOSED PERSONS	164
RECOMMENDATION 13 - CORRESPONDENT BANKING.....	166
RECOMMENDATION 14- MONEY OR VALUE TRANSFER SERVICES.....	167
RECOMMENDATION 15 - NEW TECHNOLOGIES	169
RECOMMENDATION 16 - WIRE TRANSFERS	170
RECOMMENDATION 17- USE OF THIRD PARTIES.....	173
RECOMMENDATION 18- INTERNAL CONTROLS AND FOREIGN BRANCHES AND SUBSIDIARIES	173
RECOMMENDATION 19 – HIGHER-RISK COUNTRIES.....	175
RECOMMENDATION 20 - SUSPICIOUS TRANSACTIONS REPORTING	175
RECOMMENDATION 21- DISCLOSURE AND CONFIDENTIALITY	176
RECOMMENDATION 22- DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS: CUSTOMER DUE DILIGENCE.....	177
RECOMMENDATION 23- DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS: OTHER MEASURES ..	178
RECOMMENDATION 24 - TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS.....	179
RECOMMENDATION 25: TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL ARRANGEMENTS.....	182
RECOMMENDATION 26 - FINANCIAL INSTITUTIONS’ REGULATION AND SUPERVISION.....	183
RECOMMENDATION 27- POWERS OF SUPERVISORY AUTHORITIES	187
RECOMMENDATION 28- REGULATION AND SUPERVISION OF DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS	190
RECOMMENDATION 29- FINANCIAL INTELLIGENCE UNITS (FIUs)	192
RECOMMENDATION 30 - RESPONSIBILITIES OF LAW ENFORCEMENT AUTHORITIES.....	195
RECOMMENDATION 31 - POWERS OF LAW ENFORCEMENT AUTHORITIES.....	196
RECOMMENDATION 32 – CASH COURIERS.....	198
RECOMMENDATION 33 - STATISTICS	200
RECOMMENDATION 34 - GUIDANCE AND FEEDBACK.....	200
RECOMMENDATION 35 – SANCTIONS.....	201
RECOMMENDATION 36 - INTERNATIONAL INSTRUMENTS	202

RECOMMENDATION 37 - MUTUAL LEGAL ASSISTANCE	203
RECOMMENDATION 38- MUTUAL LEGAL ASSISTANCE: FREEZING AND CONFISCATION	206
RECOMMENDATION 39 – EXTRADITION	207
RECOMMENDATION 40- OTHER FORMS OF INTERNATIONAL COOPERATION	208
SUMMARY OF TECHNICAL COMPLIANCE – KEY DEFICIENCIES	214
ACRONYMS AND ABBREVIATIONS	221

List of Tables

TABLE 1.1- STRUCTURE, SIZE AND NUMBER OF REPORTING ENTITIES (FIs) [I.O 3&4]	37
TABLE 3.1 NUMBER OF REQUESTS MADE BY THE FIU TO COMPETENT AUTHORITIES FROM 2014-2018	57
TABLE 3.2: REQUESTS MADE BY BEF TO THE FIU AND OTHER AUTHORITIES/REPORTING ENTITIES IN 2017-2018	57
TABLE 3.3: NUMBER OF REQUESTS MADE BY LEAs TO THE FIU FROM 2014-2018	59
TABLE 3.4 - FIU DISSEMINATION BETWEEN 2014 AND 2018 AND THE RESULTS	61
TABLE 3.5: STATISTICS ON REPORTS RECEIVED BY FIU AND PER SECTOR	62
TABLE 3.6. NUMBER OF STRs RECEIVED, ANALYZED, DISSEMINATION, CLOSED AND ACTIVE BY THE FIU, 2014 – 2018	65
TABLE 3.7: DOMESTIC COOPERATION AGREEMENTS SIGNED BY THE FIU	66
TABLE 3. 8: CRIME AND FINANCIAL STATISTICS OF THE ECONOMIC AND FINANCIAL BRIGADE FOR 2018	74
TABLE 3.9: SEIZURE OF DRUGS AND NARCOTICS	78
TABLE 3.10: SUMMARY OF SEIZURES RELATING TO PROSECUTED WILDLIFE AND FORESTRY OFFENCES IN 2016 AND 2017	79
TABLE 3.11: STATISTICS ON CUSTOMS SEIZURES RELATING TO THE DECLARATION OF CROSS-BORDER PHYSICAL TRANSPORTATION OF CASH	79
TABLE 5.1- CASES OF FRAUD INVOLVING BANK STAFF	108
TABLE 6.1.: STATISTICS ON AML/CFT SUPERVISION (FINANCIAL SECTOR) [I.O. 3]	118
TABLE 6.2: STATISTICS ON ADMINISTRATIVE AND DISCIPLINARY SANCTIONS FOR FAILURE TO COMPLY WITH AML/CFT OBLIGATIONS (FINANCIAL SECTOR AND DNFBPs)	119
TABLE 8.1: LETTERS ROGATORY AND MLA REQUESTS RECEIVED BY BENIN FROM 2014 TO 2018 (I.O.2)	130
TABLE 8.2: STATISTICS ON INFORMATION REQUESTS RECEIVED BY THE FIU	134

List of Boxes

Box 3.1: PRACTICAL CASE OF COOPERATION BETWEEN THE FIU AND THE TREASURY AND PUBLIC ACCOUNTING DEPARTMENT.....	67
Box 3.2: ILLUSTRATIVE CASE OF THE EFFECTIVENESS OF NATIONAL COOPERATION LEADING TO THE DETECTION OF THE USE OF LEGAL PERSONS FOR PURPOSES OF CAPITAL FLIGHT AND TAX FRAUD	67
Box 3.3: DETECTION OF ML FROM A PREDICATE OFFENCE (DRUG TRAFFICKING)/ COLLABORATION BETWEEN OCERTID AND BEF IN AML/CFT.....	71

EXECUTIVE SUMMARY

1. This document presents a summary of the anti-money laundering and counter-financing of terrorism (AML/CFT) measures in place in Benin as at the time of the on-site visit (from 25th February to 13th March 2019). It analyses the level of compliance with the FATF 40 Recommendations and effectiveness of the AML/CFT regime in Benin, and proffers recommendations to strengthen this regime.

Key Findings

- a) Benin has improved its AML/CFT system, including the National Risk Assessment (NRA), addressing technical deficiencies in legislation and regulations through the enactment of a new AML/CFT Act, strengthening coordination mechanisms with the establishment of the National AML/CFT Technical Committee (CTN-AML/CFT), strengthening the Financial Intelligence Unit (FIU) and establishing the Brigade on Economic and Financial Crime (BEF) and the Court for the Repression of Economic Crimes and Terrorism (CRIET) to combat economic and financial crimes, including ML, associated predicate offences and TF. Most of these improvements to the system are very recent. While they positively impact Benin's technical compliance and overall effectiveness, it is too early to assess their impact.
- b) Benin has demonstrated a high-level commitment to better understand and mitigate its money laundering/terrorist financing (ML/TF) risk in a coordinated manner. It has an evolving understanding of its ML/TF risks. The November 2018 NRA is a good starting point for expressing ML/TF threats and vulnerabilities at a national level. However, the limited commitment of reporting entities in high-risk sectors (for example, dealers in foreign exchange and decentralised financial service); the lack of supervision of the DNFBP sectors; the absence of comprehensive statistics; the length of the NRA process, the lack of comprehensive assessment of the ML/TF risks of legal persons created in the country, and the lack of a comprehensive description of ML/TF methods, trends and techniques prevents Benin from being able to have a more developed view of its ML/TF risks. Further analysis is therefore needed to ensure a more detailed view of Benin's ML/TF risks.
- c) Benin has made tangible progress to develop a National AML/CFT Strategy and Implementation Action Plan following completion of its NRA to ensure all competent authorities and reporting entities are aware of their roles and responsibilities and contribute to improving the national AML/CFT regime. The CTN-AML/CFT has started implementing the National Strategy and Action Plan to strengthen Benin's overall system, and thus improving effectiveness in some areas. However, it is too early to assess their impact in managing and mitigating risks posed by, for example, electronic money issuers (EMIs), informal foreign exchange dealers and real estate agents.
- d) The cooperation framework is operational and facilitates the fluid exchange of information or intelligence between the FIU, State departments and law enforcement authorities. The CTNAML/CFT is the coordinating body of national AML/CFT policies and all its members from the various sectors involved in AML/CFT are also the FIU's focal points in their respective departments. However, there is a low level of cooperation with the specialised agencies responsible for collecting and processing

intelligence. There is no provision for a cooperation and coordination mechanism in the fight against the proliferation of weapons of mass destruction. There is a low level of collaboration between supervisory authorities and self-regulatory bodies.

- e) Competent authorities (including the FIU, LEAs and intelligence services) have access to a broad range of financial information sources to facilitate the investigation of serious offences. However, financial intelligence is not fully exploited in response to significant risks, including ML, or concerning the identification of proceeds of crime. Access to financial intelligence is impacted by the lack of STRs, including TF-related STRs, from most non-bank financial institutions and DNFBPs, limited access to information produced by customs (reports on the physical cross-border transportation of currency and bearer negotiable instruments) and tax administration, inadequate human and technical resources, the FIU's lack of strategic analysis in ML/TF high risk areas, lack of timelines for making information available to competent authorities, and low level of cooperation between the FIU and certain specialised institutions such as the National Anti-Corruption Commission (ANLC) and intelligence agencies. National cooperation has produced some results related to ML but not TF.
- f) Following the recent enactment of the AML/CFT Act, Benin has adequately criminalised the ML offence. Although there are several opportunities to detect ML, the authorities are not routinely identifying and targeting significant ML cases (for example, those related to drug trafficking, human trafficking, corruption, tax and customs offences) consistent with country's ML risk profile due to lack of resources. Between 2014 to 2018, the BEF identified and investigated 45 ML cases from 430 predicates, with two (02) convictions secured. The low number of ML prosecution is concerning, considering the country's risk profile. Recent ML investigations, supported by increased inter-agency cooperation, training, awareness and resources, suggest that the authorities are placing a stronger emphasis on sophisticated ML risks. However, it has not been demonstrated that the parts of the system (investigation, prosecution, conviction and sanctions) are functioning coherently to mitigate ML risks.
- g) The AML/CFT Strategy does not identify the confiscation of proceeds and instrumentalities of crime as a policy objective. Benin's priority is to train magistrates at the CRIET to achieve confiscation. Powers are not being effectively used to confiscate proceeds and instrumentalities of crime consistent with the risk profile of Benin. There has been no repatriation or sharing of proceeds from offences committed abroad or the transfer of proceeds of offences committed in Benin overseas. While the authorities have applied administrative fines for falsely declared or undeclared currency and bearer negotiable instruments, there has been no investigation to establish the possible links between the amounts seized and TF or ML offences. There is no evidence of enforcement of court confiscation orders and management of confiscated assets.
- h) There are concerns regarding the non-criminalisation of the financing of an individual terrorist and a terrorist organisation for any purpose and the financing of foreign terrorist fighters; non-integration of TF issues in Benin's National Strategy to Combat Radicalisation, Violent Extremism and Terrorism does not integrate TF; absence of a mechanism for centralising, coordinating and processing information produced investigative and intelligence agencies to facilitate the timely access to and use of intelligence on potential TF cases, and lack of resources and training of LEAs. These impede the ability of LEAs to investigate all types of TF and to identify the role played by the terrorist financier. Although Benin has assessed its TF risk as medium-high

which the Assessors believe could be higher, the country is yet to identify, investigate and prosecute any type of TF activity. Two instances presenting suspicions of TF were not substantiated to trigger formal investigations. The authorities focus on the prevention of violent extremism, radicalisation and terrorism. In the absence of investigation and prosecution of TF, it is impossible to determine how CFT efforts further Benin's counter-terrorism strategy, the effective and proportionate nature of the sanctions provided for against natural and legal persons, and the implementation of alternative measures to disrupt TF where it is not possible to secure a conviction.

- i) Generally, Benin is not implementing TF-related targeted financial sanctions (TF-TFS) without delay. Benin lacks a mechanism for transmitting or disseminating the UN Sanctions Lists to all reporting entities without delay. Only FIs and subsidiaries of international groups have a good understanding of TF-related TFS obligations but do not receive the sanctions lists without delay. Awareness of the UN Sanctions List and understanding of TF-TFS obligations are low among small and medium-sized FIs, DNFBPs and NPOs due to the lack of training and sensitisation on the issue. AML/CFT supervision and monitoring are not effective because they do not have a designated authority for DNFBPs. Benin has weak designation procedures and is yet to adopt a National List in furtherance of UNSCR 1373. Benin did not conduct a comprehensive sectoral risk assessment for NPOs with the view to apply focused and proportionate measures on them using a risk-based approach. Benin has also not conducted any deprivation of assets and instrumentalities related to TF activities. The measures taken do not reflect the TF risk profile of the country.
- j) Implementation TFS related to proliferation financing (PF-TFS) without delay is not effective due to the lack of PF powers of the Minister of the Economy and Finance and those of the Advisory Commission on Administrative Freezing (CCGA) do not cover PF aspects, and the absence of an operational mechanism for communicating the Sanctions Lists without delay. The level of awareness of the Sanctions List, as well as understanding and implementation of PF-TFS obligations, are the same as in TF-TFS.
- k) Banks, large DFIs and some insurance companies have a good understanding of their AML/CFT obligations. This understanding has been improved by the dissemination of the NRA's findings on the ML/TF risks identified in the various sectors, internal assessment of the nature and degree of their risks and awareness-raising and training sessions organised for them. The other FIs, particularly the small-scale DFIs and authorised foreign exchange dealers have a low understanding of their risks and AML/CFT obligations. They have not conducted any sectoral risk assessment. Also, DNFBPs have a low understanding of ML/TF risks and their AML/CFT obligations. They have not assessed their specific risks based on the nature and structures of their activities.
- l) Financial supervisors have a developing understanding of ML/TF risks in the areas they supervise based on the findings of the recently adopted NRA. They have recently commenced ML/TF risk-based supervision of banks, large scale DFIs and some insurance companies, to a large extent, and other financial sectors (mainly small scale DFIs and foreign exchange bureaus) to an extremely limited extent, to mitigate those risks. Therefore, the extent of coverage and the frequency of supervision is still a challenge. In the absence of implementation and monitoring statistics, it is impossible to determine the extent to which remedial actions and/or proportionate and dissuasive sanctions have been applied in practice. There has been no supervision of DNFBPs for

AML/CFT compliance because the sector lacks designated AML/CFT supervisory authorities.

- m) Competent authorities (including LEAs) can access beneficial ownership information held by reporting entities along with basic information on legal persons held by the Investment and Export Promotion Agency (APIEX). However, there are concerns regarding the requirement for reporting entities to obtain beneficial ownership information of legal persons, the lack of systematic collection of accurate and up-to-date beneficial ownership information by reporting entities, especially banks, the absence of a verification mechanism to ensure that the Single Tax Identifier (IFU) information is accurate and up-to-date and the lack of monitoring and supervisory measures for certain legal entities which enjoy legal facilities that cover beneficial ownership information. Benin has not conducted a comprehensive ML/TF risk assessment of legal persons created in the country. Although Benin does not recognise trusts, and trust agreements cannot be created in the country, foreign trusts may operate or can be managed in Benin. However, no law imposes any obligation on foreign trustees.
- n) Benin has a legal and conventional framework that enables it to provide and seek a range of services, such as mutual legal assistance (MLA), extradition, intelligence/information to facilitate actions against criminals and their assets at home and abroad. However, Benin did not demonstrate active participation in international cooperation consistent with its risk profile. The country does not have adequate data on MLA and other forms of international cooperation and has executed an insufficient number of the few requests received. Despite its risk profile, Benin has neither received nor requested the extradition of a fugitive for purposes of ML, associated predicate offences and TF.

Risks and overall situation

2. Benin's geographical location makes it a transit country for regional and international trade and exposes it to various offences. The predominance of informal economic activities and the porous nature of its borders create a criminal environment whose main predicate offences identified in the NRA report are: scam (including extortion and breach of trust), cybercrime, offences related to corruption, fraud (tax and customs), smuggling of goods (drugs, cigarettes, wildlife and forest products), human trafficking (including human organs) and trafficking in narcotic drugs and psychotropic substances.
3. Generally, the sectors identified as the most vulnerable to money laundering are the lands and real estate sector, which is a speculative market where significant financial resources of all origins are channelled either for investment (for legitimate funds) or concealment (funds of dubious or illicit origin), and the foreign exchange sector not only because of the very large number of informal actors operating as foreign exchange dealers without supervision or monitoring, but also and particularly because of the very huge volumes of informal transactions in sales or purchases of foreign currency that leave no trace of customers or beneficial ownership.
4. The NRA also identified the increasing number of NPOs/NGOs against the lack of supervisory and monitoring authority, the predominant use of currency by the populace,

money transfer services and electronic money as sources or channels vulnerable to ML/TF.

Overall level of effectiveness and technical compliance

5. Benin has improved its AML/CFT system including the conclusion of its maiden NRA in November 2018, addressing technical deficiencies in legislation and regulations through the enactment of Law No. 2018-17 of 25th July 2018 Relating to AML/CFT Act, the establishment of relevant institutions and units (for example, the FIU, CRIET to combat economic and financial crimes, including ML, associated predicate offences and TF. The CTN-AML/CFT) is responsible for coordinating AML/CFT policies and strategies in the country. Although the elements of an effective AML/CFT are in place, the required frameworks are relatively new and therefore it is too early to assess their impact. Generally, fundamental improvements are needed to demonstrate that the system cannot be used for ML/TF and PF.
6. In terms of technical compliance, the legal framework has been enhanced and is now comprehensive in several areas. However, some issues remain including the criminalisation of TF (R.5), targeted financial sanctions (R.6/7), comprehensive risk assessment of NPOs, identification of beneficial owners (R.10) comprehensive risk assessment of legal persons and enhancing the transparency of beneficial owners of legal persons (R.24), and enhancing the transparency of beneficial owners of legal arrangements (R.25).

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

7. Benin completed the first NRA report in June 2018. The Government of Benin adopted the NRA report in November 2018. The NRA process was inclusive and involved stakeholders from both the public and private sectors. It enabled Benin authorities to identify and understand the ML/TF threats and vulnerabilities to which the country is exposed. At the sectoral level, the reporting entities, particularly banks, large-scale DFIs and some insurance companies, have a good understanding of their ML/TF risks. The other FIs, mainly small-scale DFIs and authorised foreign exchange dealers which have not conducted any institutional risk assessment, have a poor understanding of their risks. The DNFbps have a low understanding of ML/TF risk and their AML/CFT obligations. There is no sectoral assessment of specific risks based on the nature and structures of their activities.
8. During and after the development of the NRA, Benin introduced a range of measures to strengthen its AML/CFT regime. This includes enactment of the AML/CFT Act and regulations to reinforce a risk-based approach, the introduction of beneficial ownership requirements for reporting entities, enhanced interagency coordination, increased FIU capacity, the establishment of the CRIET, and mechanisms to improve ML investigations and international cooperation. While these are important steps, particularly in addressing the deficiencies in technical compliance and improving overall effectiveness, it is too early to assess their impact in mitigating sophisticated risks posed by, for example, EMIs, informal foreign exchange dealers and real estate agents.

9. The objectives of competent authorities are broadly consistent with the evolving national AML/CFT policies (the National AML/CFT Strategy and Implementation Action Plan), except in respect of DNFBPs due to the lack of regulatory and supervisory authorities.
10. The CTN-LBC/FT is the coordinating body of national AML/CFT policies and all its members from the various sectors involved in AML/CFT are also focal points for the FIU in their respective departments.
11. The cooperation framework is operational and, to a good extent, facilitates exchange of information or intelligence between the FIU, government and LEAs. However, there is no provision for any cooperation mechanism to combat PF. Collaboration between the supervisory authorities and self-regulatory bodies is very low.
12. The authorities have disseminated excerpts of the NRA findings to individual sectors with each of them only informed of the risks inherent in their sector while preserving the confidential nature of some sensitive information. The targeted dissemination of the NRA findings has not sufficiently facilitated a shared understanding of the various stakeholders in the private sector.

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

Use of financial intelligence (Immediate Outcome 6)

13. Competent authorities (including the FIU, LEAs and intelligence services) have access to a broad range of financial information sources to facilitate the investigation of serious offences. However, financial intelligence is not fully exploited in response to significant risks, including ML, or the identification of proceeds and instrumentalities of crime or assets of corresponding value.
14. Concerning the cross-border transportation of currency and bearer negotiable instruments (BNIs), the porosity of the borders impede the ability of the Customs services, the FIU and investigative authorities to gather relevant information to assess the trend of illicit cross-border movement of currency and BNIs. For cases detected, Customs seizes all assets involved or concludes a plea bargain with the suspect. In some cases, Customs files a report to the judicial authorities for necessary action. There has been no investigation and prosecution related to falsely declared or undeclared currency and BNI.
15. The FIU uses the information it collects to analyse its STRs. Generally, FIU uses the information it obtains from public authorities, including cross-border declarations, tax and supervisory information to enrich its STR analysis, thereby providing value-added to their quality sometimes resulting in the production of financial intelligence used by some authorities. For instance, the FIU's analysis revealed the use of falsified foreign exchange authorisations from the Treasury by legal persons to withdraw funds via banks fraudulently.
16. The BEF recognises the relevance and usefulness of financial information and intelligence in investigations, particularly those provided by the FIU. However, the BEF

mainly uses the financial intelligence produced by the FIU and other sources to investigate predicate offences and ML-related predicates. There is no financial intelligence prompted investigation related exclusively to ML. In the absence of a formal investigation of TF, it is not possible to determine whether the authorities use financial intelligence in this direction.

17. The FIU has a multidisciplinary team of analysts who produce financial intelligence after processing and analysing the STRs and other information received. The FIU adds value to STRs by seeking additional information from reporting entities, other competent authorities, foreign FIU counterparts, open sources and commercial databases.
18. Following analysis of the STRs, the FIU determines whether the elements of suspicion are sufficient to initiate criminal proceedings. If so, it forwards the financial intelligence to the State Prosecutor. The latter refers the matter to a Presiding Magistrate to initiate legal proceedings. However, none of the casefiles transmitted by the FIU has resulted in a conviction for ML. Prosecution authorities understand the usefulness and relevance of financial intelligence in the prosecution of third parties. However, the Presiding Magistrate requires the use of external expertise and letters rogatory to the CID to further investigate and shed light on certain aspects of the reports processed and filed by the FIU.
19. The lack of FIU-dissemination prompted prosecution raises issues regarding the quality of the financial intelligence disseminated, the capacity (in terms of human resources) and the ability of the prosecutorial authorities to take necessary judicial action on the FIU's disseminations. In terms of strategic analysis, due to lack of sufficient, specialised and competent human resources, the FIU has not conducted any strategic analysis on ML, the most serious predicate offences to ML, TF nor disseminated the results of its analyses to the reporting entities and all competent authorities.
20. The FIU and other competent authorities do cooperate dynamically by exchanging financial intelligence and other types of information through the FIU's focal points, cooperation agreements and the FIU's access to multiple databases. The authorities concretise this cooperation through daily contacts, periodic meetings and formal exchanges of intelligence.
21. The FIU and competent authorities cooperate very well through the members of the CTN-AML/CFT who are also designated correspondents within the government, law enforcement agencies, supervisory authorities and all reporting entities filing STRs and CTRs and any other relevant information. The correspondents have signed agreements with the FIU and other relevant government agents, and meet regularly.
22. There is a low level of cooperation between the FIU and some specialised agencies. For instance the exchange of intelligence between the FIU and ANLC is still very low. The FIU is yet to receive any information on corruption-related ML cases processed and transmitted to the judicial authorities. Also, the FIU exchanges little information with the intelligence agencies which, however, often produce relevant ML/TF information that could be of interest. Due to the sensitivity of the information produced, the FIU does not have direct access to the circuit for sharing information produced by the intelligence agencies.

23. Despite the deficiencies in cooperation with certain specialised structures, national cooperation in Benin has produced results in the fight against fraud and certain forms of Internet-based financial fraud. Half of the FIU's ML case files transmitted to the Prosecutor's office result from cooperation with other competent authorities. The reports filed to the State Prosecutor are still awaiting judicial action. Cooperation is very weak in the area of TF and is yet to produce any result.
24. The FIU has instituted appropriate measures to ensure the security and confidentiality of the information in its possession. The FIU premises are adequately secure to prevent unauthorised access (on video-surveillance and secured round the clock by a detachment of the Republican Police). Staff are subject to confidentiality obligations.

ML offence (Immediate Outcome 7)

25. Following the recent changes, Benin has adequately criminalised the ML offence. Although there are several opportunities to detect ML, the authorities are not routinely identifying and targeting significant ML cases (for example, those related to drug trafficking, human trafficking, corruption, tax and customs offences) consistent with Benin's ML risk profile due to lack of resources.
26. The BEF identifies and investigates ML cases based on the predicate offences that it deals with and predicates referred to it by other specialised agencies OCRC, OCERTID, Central Office against Human Trafficking (newly established), ANLC, Customs and Tax Depts.. Between 2014 to 2018, the BEF identified and investigated 45 ML cases from 430 ML predicates. The types of ML activity investigated by the BEF do not reflect Benin's risk profile. Despite the existence of these investigative structures agencies in handling predicate offences identified by NRA as crucial sources of ML, there is a large gap between the number of investigations into predicate offences and the number of ML investigations. The LEAs, including the BEF lack capacity and resources to investigate all potential ML cases, except self-laundering cases. Also, the BEF does not conduct parallel ML investigation on predicate offences being handled by other specialised agencies.
27. Currently, the authorities do not systematically subject all predicate offences to parallel ML investigations.
28. Benin's prosecutions of the types of ML activity is inconsistent with its risk profile. The country does not prosecute all types of serious predicate offences that generate the most significant quantum of ML proceeds, including tax and customs offences, as well as corruption offences referred by the ANLC. Prosecution for ML-related predicates focuses on the predicate offence instead of the ML offence.
29. The CRIET has recorded two convictions on self-laundering against only natural persons. The CRIET lacks resources to execute its mandate, and it is too early to determine its impact on the prosecution of ML, associated predicate offences and TF. There is no conviction of legal persons for ML. Benin regularly implements alternative measures instead of prosecution and conviction of the ML offence because of the difficulties in gathering evidence as compared to that of the predicate offence and the high levels of sanctions available.

30. The sanctions applied in the two ML convictions were proportionate and dissuasive. Although the AML/CFT Act provides for proportionate and dissuasive sanctions against legal persons convicted of ML offences, Benin has not yet implemented this measure. Consequently, it is not possible to determine the effectiveness, proportionality and dissuasiveness of sanctions applied.

Confiscation (Immediate Outcome 8)

31. The laws of Benin (the Penal Code, Drug Code, Customs Code, Tax Law and the AML/CFT Act) provide for the seizure and confiscation of proceeds and instrumentalities of crime. However, the AML/CFT Strategy does not identify the confiscation of proceeds and instrumentalities of crime as a policy objective. Instead, Benin's priority is to train magistrates at the CRIET to achieve confiscation.
32. Judicial powers are not being effectively used to confiscate property laundered, proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in ML consistent with the risk profile of Benin. Specifically, there has been no repatriation or sharing of proceeds from offences committed abroad or the transfer of proceeds of offences committed overseas and located in Benin or property of equivalent value. Also, in the absence of criminalisation of the financing of individual terrorist and terrorist organisation for any purpose, as well as the financing of a foreign terrorist fighter such a confiscation is not possible.
33. The border control agencies, particularly Customs at the airport, seize undeclared or falsely-declared currencies and are liable to confiscation and administrative fines as the case may be. However, they do not investigate to establish possible links between the amounts seized and TF or ML cases. Similarly, considering Benin's implementation of measures for such a confiscation of currency and other bearer negotiable instruments is still inadequate.
34. The Courts have issued several confiscation orders relating to ML predicate offences, including drug trafficking, Customs and tax fraud, cybercrime and counterfeit medicines. The laws of Benin requires the Judicial Agent of the Treasury and the State Consolidated Fund (Caisse de Dépôts et de Consignation) as well as the court registrars to manage frozen, seized or confiscated assets. However, the court rulings did not demonstrate the effective implementation of the legal confiscation system.

C3. Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

TF offence (Immediate Outcome 9)

35. There are concerns about the supporting details underpinning Benin's conclusion that the level of its TF risk is medium-high. In addition to its vulnerability to TF emanating from its proximity to countries most affected by terrorism in West Africa, Benin did not adequately assess the associated TF vulnerabilities to the NPO sector. Despite the risks, the fight against TF does not seem to be a priority. The measures taken by Benin focus on the prevention of violent extremism, radicalisation and terrorism.
36. The BEF is not adequately resourced in terms of training and human resources to identify and investigate TF. Also, the inadequate criminalisation of TF impacts the ability of

investigators to conduct investigations. Therefore, it failed to identify and conduct relevant investigations to identify the specific role played by terrorist financiers.

37. Benin lacks coordination mechanisms that bring together all the competent authorities responsible for combatting TF to facilitate the timely exchange of information and intelligence.
38. The CRIET is responsible for prosecuting TF cases, but it is yet to record any prosecution or conviction. Benin attributes its lack of prosecution and conviction to the absence of any case of terrorism. It is to be noted that the national strategy to combat radicalisation, violent extremism and terrorism does not integrate TF issues. Also, law enforcement authorities are not adequately resourced in terms of training and human and material resources to be able to identify the various types of TF activities. There is limited analysis of TF in the NRA and t the criminalisation of TF. Therefore, it cannot be said that the absence of prosecutions or convictions is consistent with the country's risk profile.
39. In the absence of TF cases, it is impossible to determine whether the sanctions applied against natural and legal persons convicted for TF offences are effective, proportionate and dissuasive.
40. In the absence of TF cases, it is impossible to determine the extent to which Benin has implemented alternative measures where it is not possible to secure a conviction for TF.

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

41. Benin has designated the Competent Authority for Freezing the funds or other assets of designated persons and entities pursuant to United Nations Security Council resolutions 1267 and 1373. However, Benin is not implementing the freezing requirements under UNSCR 1267 (1999) without delay. There is no mechanism for the transmission or dissemination of the lists to all reporting entities without delay. The dissemination of the lists is done manually through the mail services of the various stakeholders.
42. Except for the designation of the freezing authority, the country is yet to implement the requirements of Resolution 1373, including adopting a domestic list.
43. FIs, subsidiaries of international groups, have a relatively good understanding of their TF-TFS. The sanctions lists are sent to them often, but very late. To resolve these deficiencies, these entities directly access the lists from the UN Security Council's website.
44. Small and medium-sized FIs and DNFBPs are not aware of the sanctions lists, have a weak understanding of TF risks and TF-TFS obligations.
45. The country has not yet conducted any comprehensive sectoral risk assessment to identify the types of NPOs vulnerable to misuse for TF purposes to apply targeted and proportionate measures on them using a risk-based approach. NPOs have a poor understanding of TF risk. They are not sensitised on the issue. The supervision and monitoring of NPOs are not effective in terms of TF.

46. Benin has not implemented any deprivation of assets and instrumentalities related to TF activities belonging to individual terrorists, terrorist organisations and terrorism financiers (through a criminal, civil, and administrative process).

47. Actions taken by Benin do not reflect the TF risks to which the country is exposed.

Proliferation financing (Immediate Outcome 11)

48. Implementation of PF-TFS is not effective. The competent authorities for Administrative freezing powers to implement PF-TFS. Thus, there is no functional mechanism for implementing the freezing requirements, including communicating designation decisions without delay.

49. FIs, banks, large-scale DFIs, insurance companies belonging to foreign groups, have a fairly good understanding of their obligations concerning TFS- PF. However, there is little understanding among small-scale FIs and DNFBPs that have not taken any steps to implement TFS related to PF.

50. The majority of the reporting entities are not aware of the Sanction Lists. The implementation of PF-TFS is limited to FIs, particularly banks, which screen their customers against the Sanctions List.

51. FIs and DNFBPs have not adopted any internal customer due diligence measures for PF. The competent authorities are yet to develop any guidelines for reporting entities, particularly FIs, to facilitate the application of internal due diligence measures for the effective implementation of TF-TFS.

52. Reporting entities have not yet identified any assets or frozen funds or other assets of persons and entities designated under the United Nations Resolutions on proliferation financing.

53. The competent authorities have not supervised and monitored FIs for compliance with their TFS-PF obligations. Since DNFBPs have no supervisory authority, there has been no monitoring to ensure they comply with their TFS-PF obligations.

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

54. All entities in Benin performing activities covered by the FATF standards are required to apply preventive measures under the AML/CFT Act. FIs, particularly banks, DFIs and some insurance companies, have a good understanding of their ML/TF risks and AML/CFT obligations. This understanding is attributed to the dissemination of the NRA, the institutional assessment of the nature and level of their risks, as well as the awareness-raising and training sessions organised for them. Other FIs, mainly small-scale DFIs and authorised foreign exchange dealers which have not conducted an institutional risk assessment, have a poor understanding of their risks.

55. Banks, large DFIs and some insurance companies, following their institutional assessment, have implemented policies (including group-wide ones), internal controls and procedures as well as AML/CFT programs aimed at managing and mitigating their

risks. Other FIs particularly, small-scale DFIs and authorised foreign exchange dealers do not observe these requirements.

56. Banks, large-scale DFIs and certain insurance companies are implementing customer due diligence (CDD), and record-keeping measures. However, access to beneficial ownership information is still a challenge in all sectors. Usually, banking institutions refuse to establish business relationships when they are unable to satisfactorily complete CDD measures. On the other hand, other FIs, mainly small-scale DFIs and authorised foreign exchange dealers, do not comply with these obligations.
57. Unlike other FIs, banks are implementing enhanced or specific measures. Only banks, and sometimes insurance companies, comply with their suspicious transaction reporting obligations linked to ML and TF in case of suspicion regarding the source and destination of funds involved in a transaction. Banks have compliance systems in place to prevent the disclosure of STRs to third parties other than the FIU. Other FIs, particularly small-scale DFIs and SGIs, do not have similar systems due to the lack of understanding of their obligations or reluctance.
58. The NRA highlights some real risks in DNFBPs sector and recommends some sensitisation for all actors in the various businesses and professions in this category of reporting entities. Overall, DNFBPs do not have a good understanding of ML/TF risks and their AML/CFT obligations. They are yet to assess their specific risks according to the nature and structures of their activities. The vast majority of these DNFBPs hardly comply with their ML/TF suspicious transaction reporting obligations. This deficiency undermines the AML/CFT system of the Republic of Benin.
59. The NRA identifies real estate agents as having a high ML/TF risk. However, the licensing process for real estate developers is not strictly regulated. Also, this sector is characterised by informal transactions, thus reducing any due diligence measures aimed at mitigating the identified ML/TF risks.

C.5 Supervision (Chapter 6 – I.O 3; R. 26-28, R. 34-35)

60. There are legislative and regulatory measures in place to prevent criminals and their associates from becoming owners, managers or gaining control of FIs. The authorities carry out the necessary verifications to detect non-compliance with licensing or registration obligations. The control measures apply to all officers, directors and shareholders. However, identification of beneficial ownership is still inadequate among reporting entities.
61. The NRA enabled the authorities to identify ML/TF risks in FI sectors. The authorities have developed sector guidelines and sensitised FIs to promote a good understanding of AML/CFT obligations and identified risks.
62. The financial supervisors supervise banks, DFIs and certain insurance companies through off-site and on-site inspections. Supervision of other financial sectors, particularly small-scale DFIs and authorised foreign exchange dealers, is infrequent and not based on ML/TF risk.

63. Although banks, DFIs and insurance companies are subject to supervision, the authorities have applied few remedial or effective actions, or proportionate and dissuasive sanctions for non-compliance with their AML/CFT obligations.
64. Based on STR statistics, the supervisory authorities did demonstrate that their actions have resulted in greater compliance of banks and, to a lesser extent, DFIs and insurance companies. But this evidence cannot be replicated in other financial sectors where the level of compliance is low.
65. The DNFBP sector comprises various professions, including legal professionals (lawyers, notaries and bailiffs), accounting professionals (chartered accountants and accountants), gambling and betting structures, dealers in precious metals and real estate developers. Market entry for these entities is subject to a legal and regulatory framework. Thus, in the case of legal professionals, they are appointed on completion of a course of study and training and assume office after taking an oath. The same practically obtains for the accounting professions where operating licenses are granted based on sound reputation. Apart from real estate agents who work mainly in the informal sector, gaming and betting structures, and dealers in precious metals and stones are licensed based on well-defined requirements and formalities.
66. There are no designated AML/CFT supervisors DNFBPs. As a result, there has been no inspection to ascertain the implementation of AML/CFT obligations. This deficiency negatively impacts on ML/TF risk management and mitigation measures.

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

67. Benin has not conducted a comprehensive ML/TF risk assessment of legal persons created within its jurisdiction.
68. Benin has no formal platform or mechanism for the collection, preservation and disclosure of beneficial ownership information. Availability and access to beneficial ownership information is almost nil.
69. The RCCM, APIEX and the Single Tax Identifier (IFU) serve as instruments for collecting basic information on the economic operators and entities subject to registration formalities. The IFU is a major innovation and a relevant tool that could be useful in determining the beneficial ownership of legal persons, provided the mechanism guarantees the reliability and credibility of the information gathered, and the registrant is mistaken for the beneficial owner.
70. Benin does not have any alternative monitoring and supervisory measures for certain legal entities (limited partnerships and joint-stock companies, for example) which enjoy legal facilities that cover beneficial ownership information.
71. There is no legal framework governing legal arrangements (for example, Trust, Trust Funds), even though their activities are legally subject to taxation, once the legal arrangement registers the relevant contract with the Tax Administration.
72. Reporting entities are required to obtain beneficial ownership information from legal persons and trustees before entering into a business relationship. Competent authorities

(including LEAs) can access this information along with basic information on legal persons held by the RCCM, APIEX, IFU and reporting entities. However, there are concerns regarding the requirement for reporting entities to obtain beneficial ownership information of legal persons, the lack of systematic collection of accurate and up-to-date beneficial ownership information by reporting entities, especially banks, the absence of a verification mechanism to ensure that the accuracy and currency of information maintained by the IFU.

73. In the absence of any sanctions applied against persons who do not comply with the information requirements, it is impossible to determine the effectiveness, proportionality and dissuasiveness of sanctions applied for AML/CFT obligations.

C.7 International cooperation (Chapter 8 – IO.2; R.36-40)

74. Benin has a very significant legal and conventional framework, which enables it to receive and request, for international cooperation, a range of services, such as mutual legal assistance, extradition, intelligence/information, designed to facilitate actions against domestic and foreign criminals and their assets.
75. The State authorities are cooperating with their foreign counterparts. However, this cooperation is not dynamic because Benin does not provide or receive appropriate and timely assistance to combat ML, its predicate offences and TF.
76. Benin does not extradite its nationals and has not issued any extradition request. Therefore, in the absence of an extradition request on Benin, it is not possible to determine whether it complies with the “extradite or prosecute” principle as prescribed by the AML/CFT Act and its Criminal Procedure Code.
77. The dual criminality requirement is a general principle of law in Benin, which is likely to constitute a serious obstacle to external requests for extradition in the absence of specific bilateral agreements between Benin and its counterparts.
78. Benin did not demonstrate that it uses international cooperation during investigations targeting assets, or to trace or identify assets linked to the illicit activities detected.
79. The country does not have an appropriate legal framework to identify the beneficial owners of legal persons or legal arrangements.

Priority actions

80. In the light of the foregoing overall findings, the priority actions recommended for Benin are as follows:
- a. The political authorities should designate supervisory authorities in charge of designing preventive measures (appropriate and risk-based), fully implementing them and effectively enforcing preventive AML/CFT measures in sectors for which there

are currently no designated supervisory authorities. Benin should conduct more in-depth risk analysis of sectors such as the NPO, real estate, informal foreign exchange operations, electronic money and rapid money transfer as well as commercial legal persons and sub-sectors at risk.

- b. The authorities of Benin should promote and strengthen training policies and programs for all actors in the DNFBP sector to enable them to understand better the risks associated with their professions and implement their CDD and suspicious transaction reporting obligations effectively.
- c. The FIU should carry out strategic analyses by strengthening its specialised and competent human resources, disseminating TF-related information, sharing the results of the analyses with reporting entities and all competent authorities, and stepping up the dissemination of typologies in line with the ML/TF risk profile identified.
- d. The FIU should work with the specialized agencies with which it has a low level of cooperation to identify any weaknesses in cooperation with a view to adopt clear strategies designed to improve the low level of cooperation and information sharing on ML/TF.
- e. The investigative authorities should have a procedural guide to follow in TF cases to gather and use financial intelligence in TF matters. Policy authorities should further strengthen the human and material resources of the BEF, including training the staff in financial investigations, detection of the various types of ML and appropriate investigative techniques, to enable them to identify and investigate all types of ML cases and predicate offences.
- f. The operationalisation of CRIET should be sustained by further strengthening human and material resources, training and specialisation of Magistrates concerning financial investigations, particularly those relating to the investigation of ML cases, to enable them further prosecute all predicate offences and all types of ML.
- g. The competent authorities should ensure the effective execution of the court's confiscation orders. The prosecution of ML/TF offences should include the search and tracing of proceeds of crime located abroad and thus make it possible to deploy the relevant legal instruments applicable to asset repatriation procedures. The judicial and administrative authorities should clarify and strengthen the court ruling enforcement procedures to effectively execute the confiscation orders issued.
- h. The Customs authorities should put measures in place to monitor cross-border movements of currency and BNIs exceeding the prescribed threshold at all land and sea borders. Customs officers should take reasonable measures to ensure currency and BNIs transported are not linked to ML/TF and where such is the case, file the information in the form of STRs to the FIU.
- i. Policy authorities should integrate TF into the national strategy to fight radicalisation, violent extremism and terrorism.
- j. The supervisory authorities should benefit from awareness-raising and training programs on combating proliferation financing, so that they would incorporate PF issues into account in their supervision and monitoring of FIs and DNFBPs.
- k. The financial AML/CFT supervisory authorities should adopt supervision measures for sectors/sub-sectors using the risk-based approach. They should have adequate resources to implement the risk-based approach.

- l. Benin should conduct a comprehensive ML/TF risk assessment associated with each type of legal persons created in the country and implement appropriate measures commensurate with the risks identified. These measures should ensure that accurate and up-to-date beneficial ownership information on legal persons and arrangements is available to a wide range of competent authorities.
- m. The country should establish a system that would guarantee timely access to accurate and updated beneficial ownership information. The databases of the various stakeholders involved in the registration formalities of commercial legal persons (APIex, RCCM, Treasury and Tax Depts.) should provide opportunities for the interconnection of the supervisory, monitoring and investigative authorities, with extensive facilities to consult their updated data, but also to ensure access to the public.
- n. The country should examine the extent of foreign trusts operating or managed in Benin and adopt appropriate risk mitigation measures, including to allow the identification of trustees by reporting entities and relevant authorities.
- o. Benin should improve the quality of its international cooperation, by making greater use of the wide range of services contained in its Agreements and Conventions, such as intelligence, information, mutual legal assistance, extradition, intended to facilitate the actions to be taken against domestic and foreign criminals as well as their assets.

Ratings for Effectiveness and Technical Compliance

Level of Effectiveness: High/Significant/Moderate/Low

IO.1 - Risk, policy and coordination	IO.2 - International Cooperation	IO.3 - Supervision	IO.4 - Preventive Measures	IO.5 - Legal Persons and legal arrangements	IO.6 - Financial Intelligence
Low	Low	Low	Low	Low	Low
IO.7 - Money Laundering investigations and prosecutions	IO.8 - Confiscation	IO.9 - Terrorist Financing Investigation and prosecution	IO.10 - Preventive measures and TF financial sanctions	IO.11 - PF financial Sanctions	
Low	Low	Low	Low	Low	

Level of Technical Compliance: C/LC/PC/NC

R.1 - Risk assessment and application of risk-based approach	R.2 - National cooperation and coordination	R.3 - ML offence	R.4 - Confiscation and provisional measures	R.5 - TF offence
LC	LC	LC	PC	PC

R.6 - TF-related targeted financial sanctions	R.7 - Targeted financial sanctions related to proliferation	R.8 - Nonprofit organisations (NPOs)	R.9 - Financial institutions' professional secrecy laws	R.10 - Customer due diligence
PC	PC	NC	C	PC
R.11 - Record keeping	R.12 - Politically exposed persons	R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies
LC	PC	LC	PC	C
R.16 - Wire transfers	R.17 - Use of third parties	R.18 - Internal controls and foreign branches and subsidiaries	R.19 - Higher risk countries	R.20 - Suspicious transaction reporting
PC	LC	LC	NC	PC
R.21 - Disclosure and confidentiality	R.22 - Designated non-financial businesses and professions: Customer due diligence	R.23 - Designated non-financial businesses and professions: other measures	R.24 - Transparency and beneficial ownership of legal persons	R.25 - Transparency and beneficial ownership of legal arrangements
C	PC	PC	NC	NC
R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervisory authorities	R.28 - Regulation and supervision of designated non-financial businesses and professions	R.29 - Financial Intelligence Unit (FIU)	R.30 - Responsibilities of prosecutorial and investigative authorities
PC	C	NC	C	C
R.31 - Powers of Law Enforcement authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidelines and Feedback	R.35 - Sanctions
C	PC	LC	PC	LC
R.36 - International Instruments	R.37 - Mutual Legal Assistance	R.38 - Mutual Legal Assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation
LC	C	LC	LC	LC

MUTUAL EVALUATION REPORT

Preamble

This report presents the AML/CFT measures in force in Benin at the time of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of its AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by Benin and obtained by the assessment team during its on-site visit to the country from 25th February to 13th March, 2019.

The evaluation was conducted by an Assessment Team comprising:

- Mr. Cheikh Mouhamadou Bamba NIAN, Legal Expert, Director of Legal Affairs and International Cooperation, FIU, Senegal;
- Mrs. Aminata DEMBELE TOURE, Operational Sector Expert, (FIU), Secretary-General, FIU-Mali;
- Mrs. Nénéamy OUEDRAOGO, Law Enforcement Expert, Director of Criminal Investigations Department, Police Headquarters, Burkina Faso;
- Mr. Talaka MAWAMA, Legal Expert, Deputy Prosecutor at Lomé Court, Togo;
- Mr. Sidiki Kourouma, Financial Sector Expert, Inspector-Legal Expert at the Central Bank of the Republic of Guinea;

With the support of the GIABA Secretariat, represented by:

- Mr. Benoît Djaha KONAN, Law Enforcement Officer;
- Mrs Gina WOOD, Legal Officer;
- Mrs. Mariame Ibrahim Touré DIAGNE, Research, Documentation and Publication Officer; and
- Mr. Yacuba Sesay, Interpreter/Translator.

The report was reviewed by:

- Mr Mohamed Lamine CONTE, Director of Banking Supervision at the Central Bank of the Republic of Guinea;
- Mr. Dodo Yapo Philippe ATSE, Police Commissioner, Economic and Financial Police Directorate of Côte d'Ivoire; and
- The FATF Secretariat as a default Reviewer.

Benin had previously undergone a GIABA Mutual Evaluation in 2009, conducted in accordance with the 2004 FATF Methodology. The evaluation conducted from 15th to 30th June 2009 and the eight (8) subsequent follow-up reports have been published and are available at the GIABA website – www.giaba.org.

The Mutual Evaluation concluded that Benin was rated largely Compliant (LC) on 7 Recommendations; Partially Compliant (PC) on 16 Recommendations, Non-Compliant (NC) on 24 Recommendations, and Not Applicable (N/A) on 1 Recommendation. Benin was rated Largely Compliant on 2 out of the 16 Core and Key Recommendations (Recommendation 4, rated LC, and Recommendation 36, rated LC)¹. Following the adoption of its MER in May 2010, Benin was placed under the Expedited Regular Follow-up process and exited from the process in November 2018.

¹ Recommendation 4 rated LC and Recommendation 36 rated LC

CHAPTER 1. MONEY LAUNDERING AND TERRORIST FINANCING RISKS AND CONTEXT

81. The Republic of Benin is located in West Africa around the Gulf of Guinea. The country has an estimated population of 11.2 million (2017 figures), with a coastline of about 125 kilometres along the Atlantic Ocean. It has a surface area of approximately 114,763 square kilometres (Km²)². Its political capital is Porto-Novo although many government offices operate in Cotonou, the main economic centre of the country. Benin is bordered by Niger and Burkina Faso in the North, the Atlantic Ocean in South, Nigeria in the East and Togo in the West. The country's maritime area is approximately 58,152 Km². In 2018, the Gross Domestic Product (GDP) of Benin was estimated at 12.07 billion Euro.
82. Benin is a member of the West African Economic and Monetary Union (UEMOA), the Economic Community of West African States (ECOWAS), the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) and the African Union.
83. Benin is a politically stable and peaceful country, with a democratic system that is based on the principle of separation of powers among the executive, legislature and the judiciary. Under the Constitution, the President of the Republic is the Head of State and Government. The President is the custodian of Executive Power. The President determines and executes the nation's policies and holds regulatory powers.
84. Benin has a single Chamber Legislature, the National Assembly, composed of eighty-three (83) representatives, elected for a 4-year term, which is renewable. The National Assembly holds legislative powers and exercises an oversight function over the executive.
85. Benin is a civil law jurisdiction. The Supreme Court, Appellate Courts (Courts and Tribunals) and the High Court of Justice exercise judicial power. The High Court of Justice has a special jurisdiction and the Supreme Court is the highest court of the State in administrative, judicial and public accounts matters. It also handles cases on local elections. Supreme Court decisions are final. They are binding on the Executive, Legislature and other entities within its jurisdiction. To effectively combat economic and financial crimes, ML and associated predicate offences, terrorism and its financing, Benin established the Court for the Repression of Economic Crimes and Terrorism (CRIET) with the mandate to prosecute and suppress such offences.

1.1 ML/TF Risks and Scoping of Higher-risk Issues

1.1.1. Overview of ML/TF Risks

86. The NRA report is one of the sources of Benin's understanding of its ML/TF risks. The report recognises that Benin's status as a transit point for regional and international maritime and land trade exposes it to various forms of criminal activities. The predominance of informal economic activities and the porous nature of its borders are

² INSEA's statistics

vulnerabilities that are exploited by criminals and their associates to carry out a number of criminal activities identified in the NRA report as the major illicit proceeds generating activities: scam (including extortion and breach of trust), cybercrime, corruption, fraud (tax or customs) and smuggling of goods (counterfeit drugs, cigarettes, wildlife and forest products), maritime piracy, trafficking in human beings (including human organs), drug trafficking. Corruption, smuggling, fraud (in all its forms), cybercrime and environmental offences.

87. The threats of terrorism and its financing in Benin are high because of its immediate external environment, particularly its proximity to Burkina Faso, Niger and Nigeria which have experienced several terrorist attacks. Also, like most ECOWAS Member States, Benin is vulnerable to several forms of transnational organised crimes, the proceeds of which could be used for TF. TF threats also emanate from weak regulation and control of electronic money transfers, physical cross-border transportation of currency, as well as uncontrolled illicit flows. Also, Benin has not conducted a comprehensive TF risk assessment related to the NPOs operating in the country to determine those particularly vulnerable. Consequently, Benin is yet to adopt a policy to appropriately manage and mitigate TF risks.

Financial Institutions (FIs)

88. The NRA identified the banking subsector, which is the largest segment of the financial sector in terms of overall volume of financial transactions in the country, (52.23% of GDP in 2017) to have a medium-high ML risk³, with weak compliance systems and limited knowledge of AML by bank staff. The insurance sector appears to be the least exposed to ML. However, the average vulnerability of this sector to ML may increase rapidly if its overall capacity to combat ML remains low. With regard to the informal foreign exchange operations, they present a high-level of ML/TF risk. Indeed, there is a high number of unlicensed/unregistered foreign exchange dealers conducting informal transactions in sales or purchases in vast amounts of foreign currencies, which leave no trace of customers or beneficial owners. Overall, FIs are not fully aware of their AML/CFT obligations. They often operate without adequate monitoring, supervision or sanctions. There is the need to develop and implement remedial measures to tackle the deficiencies identified in domestic policies and procedures, and AML/CFT supervision and monitoring systems.

Designated Non-Financial Businesses and Professions (DNFBPs)

89. The NRA also revealed that other sectors within the DNFBPs, particularly the real estate sector, have significant ML/TF vulnerabilities.

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

90. , Benin adopted its first national ML/TF risk assessment (NRA) in November 2018. The FIU of Benin coordinated the drafting of the NRA Report under the overall supervision of the Technical Committee on the Fight against Money Laundering and Terrorist

³ According to the NRA p.8

Financing (CTN-AML/CFT) and in consultation with a wide range of other relevant competent authorities and key stakeholders⁴, including law enforcement agents (LEAs), government departments, supervisors, and reporting entities. Benin did not conduct a comprehensive assessment of the ML/TF risk of legal persons and the TF risk of NPOs. The full NRA report is available to competent authorities, while the private sector stakeholders received only their sectoral reports. The NRA is up-to-date.

91. The NRA assessed Benin's inherent ML/TF threats based on 09 predicate offences, and TF threats posed by its neighbouring countries most affected by terrorism and sectoral vulnerabilities. The NRA assessed the threats and vulnerabilities separately and, depending on the variables provided by the World Bank Assessment Tool, rated them high, medium-high, medium or low. It also considered Benin's national context and its impact to the level of national ML/TF vulnerabilities.
92. The key findings of the NRA are that:
 - The highest ML threats are those from corruption, breach of trust, tax fraud, cybercrime, smuggling of goods (drugs, cigarettes, wildlife and forest products) human trafficking (including organ theft) and drug trafficking.
 - TF poses a medium-high threat. Benin's proximity to countries that have experienced several terrorist attacks constitutes important threats.
 - The highest sectoral vulnerabilities are in the real estate and manual foreign exchange sectors.
 - TF risk could rise, mainly based on the growing number of NPO/NGOs and the assumption that TF networks could abuse certain NPO activities for TF. NPOs lack supervisory or regulatory authority.
 - Vulnerability to cash transactions, money transfer services and e-money, is medium-high.
 - Vulnerability of the AML/CFT legal framework law is moderate.
93. Generally, the outcomes of the NRA are reasonable. It identified and assessed the threats and vulnerabilities of the relevant sectors subject to AML/CFT. Although the findings generally appear to reflect the reality, the NRA did not cover all the risks related to the various types of legal persons created in the country. Also, the sources of data for the NRA were limited and, in some cases, unreliable mainly due to the lack of adequate policy for collecting, maintaining and processing relevant data.
94. The Cabinet approved the NRA report on 14th November, 2018 and authorised the development of an action plan to facilitate implementation of the report's recommendations.

⁴ The NRA was a sectoral-based exercise conducted by working groups, comprising AML/CFT stakeholders from public and private sector institutions: law enforcement and prosecution authorities (National Police, National Gendarmerie, Waters and Forestry, Justice, FIU, Customs), supervisory and supervisory authorities (Central Bank, ANSSFD, ANLC, ARCEP), public administration (Revenue, Ports Authority), reporting entities (banks, State Treasury, Insurance, Microfinance, Foreign Exchange, SGI, Chartered Accountants, Notaries, Bailiffs, Lawyers), NGOs and Civil Society.

95. Based on the findings of the NRA, the State authorities have adopted an action plan with seven (07) strategic areas containing several activities, including relevant reforms, dissemination of the new Uniform AML/CFT Act, strengthening of supervision and control policies for reporting entities, capacity building programmes for investigative and prosecutorial authorities, and enhancement of the technical and operational capacities of the FIU.
96. In deciding what issues to prioritise for increased focus, the assessors reviewed material provided by Benin on its national ML/TF risks (as outlined above), and information from reliable third party sources (e.g. reports of other international organisations and open source reports). The assessors focused on the following priority issues:
- *Considering* the number of proceeds generating offences identified by the country, especially corruption, Assessors focused on how these offences are investigated and prosecuted, particularly how the authorities prioritise ML-related investigations and prosecutions, and confiscate the proceeds derived from these crimes.
 - *Considering* the size of the financial sector and the financial products and services being provided, the Assessment team examined the extent to which banks understand their ML/TF risks and implemented measures to manage and mitigate the risks identified by the country or by the banks.
 - *Considering* the prevalence of cash transactions, the large informal sector providing the Hawala kind of financial services in Benin (as highlighted in the 2010 MER and the NRA), the low level of compliance with CDD measures (in the case of mobile money transfers by customers without bank accounts), and the lack of threshold on electronic transactions for certain categories of users (distributors and acceptors), the Assessors sought to ascertain how well regulators monitor the informal sector and minimise the risks associated with cash transactions and mobile money transfers with due regard to financial inclusion.
 - *Considering* the weight of the informal sector in the economy and the geographical location of Benin, as well as the high rate of physical cross-border transportation of cash and seizures by customs, the Assessors focused on national coordination and the effectiveness of border controls and related measures.
 - The Assessors examined the private sector and supervisory authorities' understanding of their ML/TF risks and AML/CFT obligations.
 - Based on the lack of beneficial ownership information (BO information) of legal persons and the ease in concealing the beneficial owners of certain transactions or economic activities due to the absence or lack of access to BO information, the Assessors sought to understand the risks relating to the lack of identification of beneficial owners by Benin and the measures implemented to mitigate the risk.
 - The NRA identified TF risk in the general NPO sector. The authorities did not identify the subset of NPOs which, based on their characteristics and activities, are at risk of TF abuse. The team sought to determine the NPOs' understanding of the risks, and measures implemented by the authorities to ensure effective monitoring of NPOs to protect them from abuse for TF purposes.

1.2 Materiality

97. Benin is not a major international financial centre. The country's geographical position, its maritime commerce which is largely re-export oriented and transit trade to Nigeria⁵ and neighbouring landlocked countries determines the structure of its economy. The tertiary sector accounts for more than 50% of the GDP. Agriculture accounts for around 25% and provides between 45% and 55% of jobs in the country. The informal economy is estimated at 65% of total activity and employs more than 90% of the labour force⁶.
98. Over the last five years, Benin has recorded an average economic growth rate of nearly 5%, attributed to the stability of the domestic environment and a favourable international trade environment. However, this level of economic growth is not enough to offset the population growth rate of more than 3%, which undermines poverty alleviation efforts. The incidence of poverty is estimated at 40.1% in 2015, compared to 36.20% in 2011 and 35.2% in 2009. The 2016 Human Development Index classified Benin among the countries with low human development, ranking 167 out of 188 countries. In the 2018 Doing Business Report, the country was ranked 151st compared to 155th in 2017⁷.
99. FIs and several DNFBPs, except trust and company service providers, operate throughout the country to facilitate financial and business activities. Also, Benin has extended the scope of DNFBPs to cover car dealers because of their higher ML risks, albeit without in-depth analysis. Section 1.4.3 provides further detail on, and the assessment team's weighting of the various sectors.
100. In the UEMOA zone, the rate of the effective use of banking services increased by 0.4 percentage points, from 16.6% in 2016 to 17.0% in 2017. The country has the highest banking rate (27.2%). Benin launched a survey in 2017 to assess the demand for financial services as part of the process for the development of the national strategy for financial inclusion. The findings are expected to provide a clear picture of the status of the use of financial products and services by the general populace.

1.3 Structural Elements

101. Benin is a peaceful country with a stable political system. The country has most of the key structural elements required for an effective AML/CFT system, including political and institutional stability, independent legal profession and judiciary. The national authorities have demonstrated their political will to implement AML/CFT measures as demonstrated in the approval by Cabinet of the NRA report and its recommendations. Also, the country has adopted a national AML/CFT Strategy as a policy document with an Action Plan currently being implemented. Concerning corruption, which is identified as the prevalent predicate offence in the country, the establishment of the National Anti-Corruption Commission (ANLC) in 2011 strengthened the prevention mechanism through awareness-raising but this has not been sufficient to mitigate the problem. Indeed, potential corruption cases referred by the ANLC to the Prosecutor rarely result in prosecution or sanction.

⁵ According to the World Bank, it represents about 20% of GDP: <https://www.banquemonnaie.org/fr/country/benin/overview>

⁶ According to the NRA Report page 50

⁷ According to the Annual UEMOA_BCEAO Report on Financial Inclusion : https://www.bceao.int/sites/default/files/2019-03/UEMOA_BCEAO_Annual_Report_on_the_Status_of_Financial_Inclusion

102. In line with the NRA's recommendations, Benin has established the CRIET as a specialised national court to effectively prosecute ML, associated predicate offence and TF. Since its establishment in August 2018, the CRIET has achieved two (02) ML convictions.

1.4 Background and other Contextual Elements

103. As a member of the West African Economic and Monetary Union (UEMOA), the Inter-African Conference of Insurance Markets (CIMA), the Organization for Business Law Harmonisation in Africa (OHADA), Benin is subject to a number of community legal and regulatory texts and directives of these organisations.

1.4.1. AML/CFT Strategy

104. Benin's national AML/CFT Strategy and action plan are based on the NRA's recommendations, which also emphasise the role of the CTN-AML/CFT. The Strategy aims at strengthening of legal and supervisory frameworks, building the capacity of all AML/CFT institutions, and enhancing cooperation among competent authorities. The Government considers that achieving effectiveness in public administration, which is free from corrupt practices and guaranteeing peace and security remains a significant challenge. Thus, the Government intends to revamp and modernize public administration, manage records effectively, strengthen national security and defence through adequate protection of people and property within the national territory.

1.4.2. Legal & Institutional Framework

105. The AML/CFT Act, adopted in June 2018-in compliance with the 15th July 2015 UEMOA Directive, is the primary AML/CFT legal framework in Benin. The AML/CFT Act is complemented by Directives issued by the BCEAO (for banks), the CIMA Rules (for insurance companies), the CREPMF Directives (for capital market operators), the Revised OHADA Uniform Acts on Commercial Companies and Economic Interest Groups (OHADA-CCG) (for company registration), as well as relevant national laws. Benin has the key institutions required to build an effective AML/CFT system. The country has an independent judiciary comprising The Supreme Court, Appellate Courts, Court of First Instance and the High Court of Justice. Benin's main institutional framework for AML/CFT encompasses the following ministries, departments and agencies:

Policy Co-ordination Bodies

106. The following institutions, agencies and mechanisms are responsible for policy coordination:

- The National AML/CFT Technical Committee (CTN-AML/CFT) coordinates policies and strategies at the national level. Its membership includes the leading AML/CFT Government institutions. The CTN-AML/CFT has access to all relevant information, irrespective of whether professional secrecy protects such information.

- The Financial Intelligence Unit (FIU) coordinates the NRA under the aegis of CTN-AML/CFT. The FIU plays a central role in Benin's cooperation mechanism and has signed several agreements or protocols of cooperation with the key departments of State to strengthen AML/CFT cooperation.
- The Ministry of Economy and Finance (MEF) is the Competent Authority for Administrative Freezing pursuant to Decree n ° 2017-319 of 21st June, 2017.
- The Consultative Commission for Administrative Freezing (CCGA) supports the Administrative Freezing Authority in taking freezing, seizure and confiscation decisions related to terrorist funds and other assets.
- The Investment and Export Promotion Agency (APIEX) is responsible for the creation of legal persons and their registration with the RCCM.

Law Enforcement Authorities

107. The following institutions, departments and agencies are responsible for the enforcement of AML/CFT laws in Benin:

- The CRIET, a special court with national jurisdiction for the repression of economic and financial crimes, including drug trafficking offences, ML as well as terrorism and TF.
- The Republican Police, comprising the Economic and Financial Brigade (BEF), the Central Office for the Suppression of Illicit Drug and Precursor Chemicals Trafficking (OCERTID), the Central Office against Cybercrime (OCRC), Criminal Brigade and INTERPOL are the leading public competent authorities responsible for investigating misdemeanours and complex crimes.
- The BEF, ORCERTID, OCRC, and ML, which are specialised units of the Republican police, are dedicated to the fight against predicate offences and AML/CFT.
- The Customs and Excise Department controls the cross-border movement of persons and physical flows of goods, currency and bearer negotiable instruments. It also combats smuggling and customs fraud.
- The General Directorate of Water and Forests is responsible for the fight against wildlife and forestry offences.
- The National Revenue Authority is responsible for the control of tax offences.
- The ANLC is responsible for the fight against corruption and related crimes in Benin.
- The National Agency for Integrated Management of Border Areas (ABeGIEF) is responsible for the prevention of extremism and radicalisation.
- The Permanent Secretariat against Extremism and Radicalisation, which is mandated to prevent Extremism and Radicalisation.

National Supervisory Authorities

108. The following are the national supervisory authorities:

- The National Assets and Lands Agency (ANDF), regulates and ensures the sound management of the lands and real estate sector.
- The National Agency for Land Transport (ANATT) regulates and supervises the road and rail transport sector.
- The Treasury, on behalf of the Ministry of Finance, supervises foreign exchange bureaus and ensures compliance with foreign exchange regulations governing financial relations with non-UEMOA countries.
- The National Agency for Supervision of Decentralised Financial Systems (ANSSFD) is the supervisory and monitoring authority of Decentralised Financial Services (microfinance sector)⁸.
- The Insurance Department is the supervisory and monitoring authority for insurance companies.

UEMOA Community Supervisory Institutions

109. At the regional level, the following institutions are the competent authorities for supervision of the different sectors:

- The West African Economic and Monetary Union (UEMOA) develops and issues Community Standards and Policies, as well as AML/CFT Directives and Regulations;
- The Central Bank of West African States (BCEAO) regulates credit institutions in the UEMOA zone;
- The UEMOA Banking Commission (CBU) , which is the Supervisory Authority of credit institutions in the WAEMU zone;
- The UEMOA Capital Market Authority (AMF- UEMOA) - formerly CREPMF regulates and supervises the UEMOA Capital Market.

Other Regulatory Institutions

110. Other regulatory institutions include the following:

- The Inter-African Conference of Insurance Markets (CIMA), which is the regulatory body of the insurance market.
- The Regional Insurance Control Commission (CRCA of CIMA), which is the body responsible for the supervision and monitoring of the insurance and reinsurance sector
- The Organisation for Business Law Harmonisation in Africa (OHADA), in charge of publishing business law standards.

⁸ The supervision of the microfinance sector is shared with the Banking Commission

1.4.3. Financial Sector and Designated Non-Financial Businesses and Professions (DNFBPs)

111. This section provides general information on the composition of the financial sector. Not all the financial and DNFBP sectors are of equal importance. The Assessors ranked the sectors based on their relative importance in Benin's context, given their respective materiality and ML/TF risks level. The Assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report, but is most evident in Chapter 6 on I.O.3 and Chapter 5 on I.O.4.

Most important

- a) The banking sector represents about 84% of the total assets of all the FIs in Benin. Despite the high use of cash, the banking sector remains the most important sector in the financial and economic activities because of the many financial services it offers to its customers, portfolio of individuals and legal persons. Benin's licensed credit institutions comprise thirteen (13) national banks and three (03) foreign banks/subsidiaries or branches of foreign banks Benin's banking sector occupies the 5th position in the UEMOA community, after Côte d'Ivoire (31.2%), Senegal (19.1%), Burkina Faso (14.7%) and Mali (12.7%) with a total assets of FCFA 3,486,329 trillion (Euros 5,314,853,046) representing 9.8% of the UEMOA's market share. All banks or branches of approved banks in Benin are subsidiaries of international or regional banking groups, with the market share of international banks dominating that of sub-regional banks. Six (06) large banks (total assets \geq 200 billion) account for 84% of the total assets of the sector. Banking resources in 2017 represented an average of 52.23% of GDP, reflecting the importance of the banking sector in the economy. The NRA rated the ML and TF vulnerabilities of Benin's banking sector as medium-high, due in part to the poor quality of internal AML/CFT policies and procedures and the weak control of banks' financial transactions and the monitoring of suspicious transactions. National banks have strengthened their compliance mechanisms and are rigorously implementing their AML/CFT obligations, resulting in a substantial improvement in the number of STRs submitted by the banks to the FIU.

Highly important

112. The Assessors **weighted the Microfinance institutions, Electronic Money Issuers (EMIs) and Money or Value Transfer Services (MVTs) providers, manual foreign exchange dealers, the real estate sector, dealers in precious metals and stones (DPMS) and car dealers** as highly important in terms of risk and materiality in Benin. The exposure of these sectors to cash transactions and lack of regulation and supervision have increased their inherent risk and materiality.

- b) **Microfinance Institutions:** There are ninety-nine (99) accredited DFS, 18 of which are considered as large-scale because of their level of activity, (with outstanding annual deposits or credits above two (2) billion FCFA (Euros 3,048,968)). They hold more than 90% of the market share of the sector. The population's enthusiasm

for microfinance services (MFS), due both to the geographical coverage and the adequacy of the services (financial and non-financial) provided by the DFS to meet the needs of the population reflects the importance of the sector in the national economy with a total assets of 230,237 billion FCFA (Euros 350,992,640). Despite the existence of a legal and regulatory framework, there is a growing number of microfinance initiatives, some of which are involved in large-scale fraud. Indeed, some of these businesses are operating in violation of regulations, which are uncontrolled and unsupervised, are rather deceptive schemes using the noble business of savings and credit to defraud the populace. To counter these illegal or informal microfinance structures, the Government established the Financial Stability and Sanitation Committee in the Microfinance Sector (CSFASM) to reform the microfinance sector, including systematically identifying and closing illegal structures. Thus, several structures have been closed and their representatives prosecuted and convicted to serve as a deterrent to other persons who wish to engage in such practice.

113. The NRA assesses the ML/TF vulnerability of the DFSFIs sector as high. However, with the dissemination of the findings of the NRA and the different training programmes organised by the Association of Professional Decentralised Financial Systems (APDFS), with the support of the FIU, all large-scale DFIs have set up their AML/CFT compliance frameworks and have started submitting suspicious transaction reports (STRs) to the FIU. On 15 January, 2019, the Minister of Economy and Finance issued Order 048/MEF/DC/DG-ANSSFD/DGA/SP of the Minister of Economy and Finance to prohibit the receipt of applications from unlicensed microfinance outfits. The reform and issuance of Order No. 048/MEF/DC/DG-ANSSFD/DGA/SP resulted from the ICC Service scandal in which the defendant made false applications to the Ministry of Finance for approval of a DFS and used the receipts of the application to attract and defraud a large number of persons. Despite the foregoing, DFS staff lack understanding of AML/CFT requirements.

c) **EMIs and MVTS** activities relate to the issuance of electronic money and rapid money transfer services are fast expanding in Benin, partly because of the development of information and communication technologies, particularly the payment services provided through the mobile telephone. The expansion is partly attributable to the advancement of information and communication technology. In 2017, Benin experienced a substantial expansion of activities of digital financial services, reflected in the growing number of users to 6.57 million in 2017 compared to 4.35 million in 2016.⁹ However, Côte d'Ivoire accounts for a significant share of digital financial services in the Union with 37.9% of the electronic currency accounts, followed by Burkina Faso (13.8%), Mali (13.5%) and then Benin (13.0%). The most common form of e-money in the domestic market is the mobile phone-backed electronic wallet, commonly known as mobile money, which offers account management, transfers, withdrawals, and cash and payment deposits (settlement of purchases, invoices and wages). Western Union, MoneyGram, Ria, Sigué Money Transfer, Coinstar Money Transfer, Money Express, Wari and Small World are the companies that provide money or value transfer services in the country. The NRA identified a significant ML/TF risk linked to the organisation of distribution channels of these digital financial services because EMIs such as banks, DFS or

⁹ BCEAO annual report on digital financial services in the UEMOA zone published in 2017,

EMIs generally rely on networks of agents who lack knowledge of AML/CFT. These financial inclusion products, therefore, seem vulnerable to both ML and TF due to the lack of systematic identification of customers by several distributors and agents.

- d) **Manual foreign exchange sector:** As at 31st December 2017, Benin had seventy-seven (77) licensed foreign exchange bureaus operating in the country. The main currencies traded in Benin's foreign exchange bureaus are the Euro, US dollar, Canadian dollar, Pound Sterling, Swiss franc, the Japanese Yen, the Central African CFA franc, the Ghanaian Cedi and the Nigerian Naira. Although the manual foreign exchange business is regulated, several stakeholders sell and buy foreign currencies in the informal sector in violation of foreign exchange regulations ("black market" traders). They deal in a number of foreign currencies, including the Nigerian Naira and the Ghanaian Cedi. The foreign exchange sector presents a high level of ML/TF risk due to the very high number of informal stakeholders involved in the forex business without control or supervision, and the huge amounts of foreign exchange transactions carried out in cash, which leave no trace of customers or beneficial owners.¹⁰ Following the dissemination of the findings and conclusions of the NRA, the MEF and the National BCEAO Agency for Benin, the sector supervisory and control authorities, organised a two-week (17-31 December 2018) awareness-raising programme on the regulatory provisions for obtaining approval and on AML/CFT measures for foreign exchange dealers in Cotonou, Porto-Novo and Sèmè-Kraké who are not complying with the regulations. The programme, which involved the FIU, identified these informal stakeholders with a view to formalise their activities.
- e) **The real estate sector:** The NRA identifies the real estate sector as a speculative market where significant financial resources of all origins are invested either as legal asset holdings or to conceal fund of dubious or illegal origin. However, there is no information regarding the size and contribution of the real estate sector to the country's GDP. In Benin, it is easy to acquire vast plots of land or to construct luxurious buildings overnight, in total anonymity, or under the guise of a third party. The NRA rated the risk of ML in this sector as high. The Government, aware of these weaknesses, has passed a new law governing lands and real estate. The law provides for the establishment of a land registry, identification, registration and description of land through mapping of the entire national territory on a communal basis, and division into parcels of ownership. The authorities need to properly assess the stakeholders and designate a supervisory authority in order to ensure the effective implementation of AML/CFT measures in this sector.
- f) **DPMS:** Benin's mining industry is not developed, but the major mineral deposits which currently being mined in several parts of the country include gold and building materials: limestone, clays, gravel, lagoon and continental sand, granite, kaolin, marble, silica sands, ornamental stones.¹¹ DPMS in Benin mainly facilitate the importation of raw gold purchased on behalf of their customers who are mostly foreigners from countries in the West African region (for example, Ghana and

¹⁰ Page 8, 2018 NRA

¹¹ Page 131, 2018 NRA.

Burkina Faso) and exportation of the same to foreign destinations, especially Dubai in the United Arab Emirates (UAE) and Brussels in Belgium. Benin has measures in place to regulate the importation and exportation of gold, including pre-departure screening (e.g. verification of weight, quantity, source, destination and documentation) by a joint commission comprising customs, mines, airlines, other agencies at the airport. Although Benin's NRA identifies the smuggling and purchase of precious metals and stones as conduits for ML/TF,¹² the NRA does not assess the DPMS sector to ascertain the depth of the sector's exposure to ML/TF risks. There is no information on the number of DPMS in Benin, as well as the total trade (import and export) value of gold. Additional details on the size and makeup of the sector are unclear. The mining sector is undergoing reforms to ensure the effective monitoring of the gold market and the volume of gold exported through Benin.

- g) **Car dealers:** The NRA notes that significant amounts of proceeds from foreign jurisdictions are being laundered in Benin through this sector. It considers the cash-intensive nature of transactions and the lack of implementation of AML/CFT measures by car dealers as posing a significant external ML threat to Benin.¹³ There is no information or estimates available to determine the size of this sector and the magnitude of the proceeds laundered through this sector nor its contribution to Benin's GDP. Data is also lacking regarding the customer base of car dealers.

Moderately important

114. **Lawyers and accountants** are weighted as being moderately important in terms of risk and materiality in Benin.

- h) **Lawyers:** This sector comprises lawyers, notaries, and bailiffs. Benin's Law Society has 205 lawyers, comprising 188 lawyers registered with the board, 17 lawyers on the list of interns, called trainee lawyers and an honorary lawyer. The Bar Association of Benin has 05 professional civil societies of Lawyers and one association of lawyers. Lawyers often act as agents for their customers in financial transactions with high ML/TF risks. There are 44 notaries, grouped into professional civil societies. In Benin's context, where the land and real estate sector has a high ML risk, notaries play a more significant role in the AML/CFT regime of Benin. Notaries are public and other officers appointed to receive all title deeds and contracts, certify the dates of such deeds and contracts, hold them in safe custody and issue conveyances and certifications. It is also noted that the country has 42 Bailiffs.
- i) **Accountants:** There are 144 accounting professionals, comprising 122 accountants and commissioners, 22 chartered accountants, 75 accounting and audit firms and three (03) accounting firms. There are 12 auction houses. Accountants certify the regularity and authenticity of the financial statements of legal persons.

Less important

¹² Pages 32 and 150, 2018 NRA.

¹³ page 37, 2018 NRA.

115. The **securities and insurance sectors, along with casinos** are weighted as less important based on their materiality and relative ML/TF risk in Benin.

- j) **Securities sector** (SGI, OPC, Guarantors, and other brokers): This sector has eleven (11) stakeholders, including six (06) SGIs, three (03) mutual funds, one (01) business introducer, and one (01) guarantor. With a total asset of 142 million 885 thousand Euros, the sector weighs very little in the financial activities and GDP formation because of their customers' low financial profile.
- k) **Insurance sector:** There are fifteen (15) insurance companies (six (6) Life companies, eight (8) Non-life and one (01) Agricultural Mutual) and six (6) Management and Intermediation Companies. Lack of knowledge of AML/CFT obligations and the absence of suspicious transaction reporting are the main weaknesses in this sector as identified in the NRA report. Awareness-raising sessions organised by the FIU on the NRA's findings have culminated in the establishment of AML/CFT mechanisms and training by insurance companies.
- l) **Casinos:** The casino industry in Benin is relatively small in size. Out of the four (4) licensed casinos, only three are active. In Benin, casinos neither engage in transactions involving large sums nor allow unknown customers to patronise their services. They lack understanding of ML/TF risks and knowledge of their AML/CFT obligations.

116. Table 1.2 below summarises the sizes of the key FIs and DNFBP sectors which exist in Benin, and the numbers of each type of institution, as well as some information relating to the materiality of the sector and the institutions within it.

TABLE 1.1- STRUCTURE, SIZE AND NUMBER OF REPORTING ENTITIES (FIs) [I.O 3&4]

Type of Institution		Number		Number of Agencies	Total Assets (in CFAF million/Euro)
		Sub-total	Total		
Core Principles FIs					
Banks	National banks	13	16	128	3, 486, 329, 5315
	Foreign Banks / Subsidiaries or Branches of Foreign Banks	03			
Securities (Brokers, Dealers and Portfolio Managers)		6	6		
Insurance	Life insurance	6	15	191	161,136,246
	Non- life / other insurance companies	9			
Other FIs					
Microfinance Institutions (Decentralised Financial System)		99		464	230, 237,351
Rural and community banks		0		0	N/A*
FIs (including leasing)		0		0	N/A
Credit cooperatives		0		0	N/A
Mortgage institutions		0		0	N/A
Savings and Loan Companies		0		0	N/A
Foreign exchange bureaus		74		83	N/A
MVTS		13			N/A
Tontine collection establishments		0		0	N/A
Pension and social security funds				N/A	N/A
Others		1		N/A	N/A

Other Electronic Money Institutions	1	41,640	
Management and Intermediation Company (SGI)	5	5	27, 666,42.18
OPC Management Company (SGO)	3	3	1694 2.58
Business Introducers	1	1	N/A
Guarantors	1	1	64367 98.12
DNFBPs			
Casinos	4	4	N/A
Real estate agents	N/A	N/A	N/A
Dealers in precious metals and stones	N/A	N/A	N/A
Lawyers, notaries and other independent legal professionals	205	N/A	N/A
Accountants	Accountants and Commissioners	122	144
	Chartered Accountants	22	
Car dealers	N/A	N/A	N/A

* N/A – Not available.

1.4.4. Preventive Measures

117. Benin's AML/CFT system has undergone significant reforms since the last evaluation conducted in 2009. The AML/CFT Act is the primary legal basis for the AML/CFT obligations of FIs and DNFBPs. It repeals and replaces Act 2006-14 of 31 October 2006 related to the fight against money laundering and Act 2012-21 of 27 August 2012 related to the fight against the financing of terrorism in the Republic of Benin. The Act aligns with the changes made to the FATF standards in 2012 and domesticates the UEMOA Community Directive which extends the provisions and legal instruments of AML/CFT, including TF and PF-related targeted financial sanctions (TFS) under the relevant UNSCRs. The AML/CFT Act applies to the FATF-designated FIs and DNFBPs in Benin, and other sectors, where the ML/TF risks identified so require, through an order issued by the Minister of Finance.

118. In addition to the enabling provisions of the new AML/CFT Act, financial sector regulators and supervisors have taken measures to strengthen the implementation of AML/CFT measures. The BCEAO UEMOA, CIMA and AMF have issued Directives¹⁴ specifying the procedures for the implementation of the AML/CFT Act by FIs, including certain thresholds for cash transactions, cross-border transportation of currency and bearer negotiable instruments (BNIs), terms and conditions for electronic money issuers, among others.

¹⁴ : Directive n° 007-09-2017 on the modalities for implementation by financial institutions of the uniform AML/CFT Act in UEMOA member States; Directive No. 008-09-2017 setting the threshold for the declaration of physical cross-border transport of cash and negotiable bearer instruments; Directive No. 009-09-2017 setting the threshold for the payment of receivables in cash or by bearer negotiable instruments; Directive n° 010-09-2017 setting the threshold for the declaration of cash transactions to the Financial Intelligence Unit. Insurance companies are subject to regulation n° 004 / CIMA / PCMA / PCE / SG / 08 of 4th October 2008 which defines the procedures applicable by insurance organizations in the Member States of the Inter-African Conference on Insurance Markets (CIMA) in the context of the fight against money laundering and terrorist financing. Management and intermediation companies are governed by Directive n° 35/2008 of 23rd November 2009 of the renamed Regional Council for Public Savings and Financial Markets (CREPMF).AMF-UEMOA relating to AML/CFT within the authorised stakeholders on the regional financial market of the UEMOA. In the electronic money sector, BCEAO Directive n° 008-05-2015 governing the requirements and modalities for operation of Electronic Money Issuance Institutions (EMIs) in UEMOA Member States formalizes under Article 26 the AML/CFT obligations of EMIs.

1.4.5. Legal persons and arrangements

119. The OHADA-CCG provides for the various types of legal persons allowed in Benin, including business enterprises. The regulation, which is common to all members of OHADA, is directly applicable to Benin and covers all relevant areas. It provides for various categories of legal persons, including Limited Liability Companies (SARL), Limited Companies (SA), Simplified Joint Stock Companies (SAS) and Economic Interest Groups (GIE). The various types of legal persons often comprise two categories: capital or share companies and partnership or interest companies. The diversity of legal persons requires specific legal regimes which, to some extent, could obscure their transparency. These various legal persons are incorporated through the Company Registration Single Window, (GUFÉ) of the APIEx, which brings together all the departments involved in the registration, and delivers all administrative documents (Notaries, Bailiffs, Ministry of Trade, Revenue Authority, among others).
120. The GUFÉ obtains all information and supporting documents required by the texts relating to the creation of legal persons, their modification, termination and dissolution, the promoters, their associates and representatives and maintains the information in a database. These are available on the APIEx website under the heading "LEGAL ADVERTISEMENTS" and can be consulted at any time. Basic information on legal persons created (corporate name, proof of incorporation, legal form and status, address of the legal persons' head office, the main elements governing its operations and the list of board members) are also recorded in a register of companies held by the competent Commercial Court.
121. The civil law of Benin does not recognise trusts. Article 1130 of the Civil Code of 7th February 1804 (still in force) prohibits future succession agreements. However, the AML/CFT Act requires FIs and DNFBPs, as part of their obligations to identify the customer, shall do everything possible to obtain information on the real identity of the trustee under the provisions of Articles 18 [et seq.] of the AML/CFT Act. The AML/CFT Act also requires trustees to declare their status to FIs and DNFBPs when they act on behalf of their settlors. The requirement also applies when they establish business relationships or conduct occasional transactions above a given threshold (Articles 28 and 29 of the AML/CFT Act).

1.4.6. Supervisory arrangements

Supervision and Monitoring of FIs:

- **Banking sector:** the institutional mechanism for the regulation and supervision of the banking system in Benin is the same for the other UEMOA member States: the Council of Ministers of UEMOA sets the legal and regulatory framework applicable to credit activity; the BCEAO draws up prudential and accounting regulations; the UEMOA Banking Commission, the community banking supervisor, is the body responsible for overseeing the organisation and control of banks and other FIs. On the whole, these institutions have the resources and means to carry out their missions. Articles 72 to 74 of the Banking Act provide for the powers of supervision, control, and regulation of the sector. These powers relate to the licensing and withdrawal of licenses of credit institutions; the supervision of credit institutions and DFS; administrative and

measures against reporting entities or managers; the appointment of a temporary administrator or liquidator for a credit institution. Supervisory programmes are increasingly mainstreaming AML/CFT.

- **Microfinance Sector:** Act 2012- 14 of 21 March 2012 (a UEMOA Community Law) governs the activities of DFIs. Under this law, the National Agency for Supervision of Decentralised Financial Systems (ANSDFS), placed under the supervision of the Minister in charge of Finance in all member States, acts as the regulatory and supervisory body of the sector. The BCEAO, and the Banking Commission are required to supervise any DFS whose outstanding financial deposits or credits exceeds two (2) billion FCFA (Euro 1,524,497.00) for two (2) consecutive years (Art. 44, Act 2012-March). The ANSDFS supervises the other DFSs whose activity levels are below this threshold. Supervision programs are increasingly mainstreaming AML/CFT, and sometimes they are AML/CFT-specific.
- **Authorised Foreign Exchange sector:** The BCEAO conducts periodic inspections and supervision of bureau de change operations, including AML/CFT compliance supervision. It does so by itself or in collaboration with the Ministry of Finance. Activities of traders who carry out manual exchange along side the regulated exchange bureaus constitute a major challenge that undermines this sector.
- **Stock Market:** The AMF is the supervisory and monitoring body of the securities sector. It determines the licensing requirements for SGIs and is authorised to request for the regular production of information, and to determine the content and conditions for producing such information during its on-site inspections (Art. 25 of the Appendix to the General Regulations adopted on 28 November, 1997) . The AMF requires applicants seeking for accreditation to submit a manual of procedures that incorporates AML/CFT measures.
- **Insurance Sector:** The CIMA Code, which was adopted to establish a single harmonised auditing, governs the insurance sector. The CRCA is CIMA’s regulatory body responsible for monitoring and supervising the sector at the Community level. In accordance with the CIMA Regulatory Code, the National Insurance Directorate is responsible for the supervision of insurance companies at the national level. Thus, this Directorate regularly conducts spot and on-site supervisory missions, but this does not prevent the Community body from doing the same in the Member States. Regulation No. 004 / CIMA / PCMA / PCE / SG / 08 of October 4, 2008, which applies to insurance, reinsurance, and insurance brokerage companies, recommends the designation within each organisation of an internal manager in charge of the implementation of AML/CFT programs.
- **Electronic Money Issuance (EMI) and Rapid Money Transfer Services (RMTS):** As the supervisor, the BCEAO sets the conditions and modalities governing financial activities and services in relation to EMI/MVTS. Thus, BCEAO Directives n ° 008-05-2015 governing the terms and conditions of the activities of Electronic Money Institutions, and N° 013-11-2015 relating to the terms of operations of money and value transfer services in the UEMOA member States, regulate these two types of financial services. However, the Regulatory Authority for Electronic Communications and Posts (ARCEP) is responsible for technical supervision relating to the provision of communication services. Benin considers financial services via mobile money as value-added services. Therefore, mobile money operators must submit a declaration of intent/statement of purpose to ARCEP in compliance with Order No. 013 / MCTIC / DC / SGM / CTAP / DGCEP / DRC / SA of 12th February 2016. The Order establishes

the specific terms and conditions for the operation of value-added services in the Republic of Benin.

DNFBPs

122. The supervision and monitoring of DNFBPs is a major challenge for Benin a significant drawback to its AML/CFT regime.
123. The legal and accounting professionals have professional Associations or Organizations (Bar Associations, National Association of Notaries, National Association of Bailiffs, National Association of Auctioneers, Association of Licensed and Chartered Accountants of Benin). These bodies institute discipline and implement the ethical standards governing their professions. However, these professional bodies do not supervise their members for AML/CFT compliance. The remaining DNFBP sectors have the same significant deficiency regarding AML/CFT supervision.

1.4.7. International cooperation

124. Benin faces several ML and TF threats, both internal and external. As set out previously, Benin is a transit country for regional and international maritime and land trade. Benin faces ML threats from smugglers, drug dealers, cybercriminals who may be exploiting the country to launder the proceeds of crimes such as drug trafficking, corruption, cybercrime, counterfeit goods and medicines. Benin also faces significant TF risks due to the free movement of goods and persons in the country as a member of ECOWAS; proximity to countries experiencing terrorist acts and active terrorist organisations; and its role as a transit country for regional and international maritime and land trade. Requests for mutual legal assistance and extradition are processed in line with the AML/CFT Act as well as multilateral and bilateral agreements. Procedures for mutual legal assistance and extradition are done diplomatically through the Ministry of Foreign Affairs. The competent authorities, including the LEAs and FIU, also exchange information with their counterparts. The supervisory authorities also have the legal basis for the exchange of information.
125. Despite its risk exposure, the geographic coverage of both outgoing and incoming requests for MLA and the absence of a request for extradition does not reflect Benin's risk profile as a "source" country for criminal proceeds, especially cybercrime, and potential safe haven for terrorists and financiers of terrorists and terrorist groups. Benin's most significant international partners for incoming and outgoing MLA requests include Switzerland, France, Portugal, Spain, and Cote d'Ivoire.
126. Some of the investigative agencies in Benin are members of global and regional networks and platforms for the exchange of information (including Interpol, World Customs Organisation and the Global Forum on fiscal Transparency).
127. Nevertheless, the various competent authorities have given very little consideration to other forms of international cooperation, particularly the exchange of basic and beneficial ownership information on legal persons and legal arrangements.

128. Formal incoming and outgoing requests for MLA and extradition go through the Department of Civil and Criminal Affairs and Grace at the Ministry of Justice. The Minister of Justice receives and sends requests through diplomatic channels via the Minister of Foreign Affairs. It channels requests to the police or prosecutor to process and execute the requests.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key Findings

- a) The authorities have an average understanding of the ML risks, and a low understanding of TF risks. Benin adopted its first NRA report in November 2018. The limited commitment of reporting entities in high-risk sectors (informal foreign exchange dealers and real estate agents), as well as the lack of supervision of DNFBP sectors, the absence of comprehensive statistics, the length of the NRA process, and the lack of a comprehensive description of ML/TF methods, trends, and techniques impact above all the identification of ML/TF risks in Benin and consequently the comprehensive understanding of those risks.
- b) Benin did not assess the ML/TF risks associated with all types of legal persons created in the country, particularly in high-risk sectors such as real estate, informal manual foreign currency exchange transactions, electronic money and rapid money transfer. Benin did not conduct a comprehensive TF risk assessment of the NPO sector to identify the characteristics and types that may be abused as well as the nature of threats posed by terrorist entities to sector.
- c) Benin has prepared and adopted a National AML/CFT strategy and policy document accompanied by a national action plan to coordinate the effective implementation of measures to manage and mitigate the ML/TF risks identified inclusively and ensure that all supervisory authorities and reporting entities are aware of their role and functions and thus contribute to improving the national AML/CFT system. Although the country has implemented some of the strategic measures provided for in the strategic action plan, it is too early to assess their impact in managing and mitigating the identified risks.
- d) The national AML/CFT strategy does not provide for exemptions for the implementation of enhanced measures in higher-risk scenarios or simplified measures in lower-risk scenarios. Reporting entities only implement exemptions, enhanced or simplified measures provided for by the uniform AML/CFT Act, so these are not based on a risk analysis.
- e) The objectives and activities of most competent authorities are somewhat consistent with the changing national policies, strategies and action plan. Overall, DNFBPs do not have regulatory or supervisory authorities. Those that have are yet to be supervised to align the objectives and activities of the national AML/CFT Strategy based on the risks identified.
- f) The cooperation framework is operational and facilitates the smooth exchange of information or intelligence between the FIU, public administrations and investigation and prosecution authorities. The National Technical Committee (CTN-LBC) is the coordinating body for national AML/CFT policies. Its members are also focal points of the FIU in their respective departments. However, there is a low level of collaboration between supervisory authorities

and self-regulatory bodies.

- g) The NRA findings have been disseminated to all sectors while preserving the confidential nature of some sensitive information. The compartmentalised dissemination of the NRA findings has not sufficiently facilitated a shared understanding of the various stakeholders in the private sector, with each of them only informed of the risks inherent in their sector.
- h) There is no national mechanism for the fight against proliferation financing.

Recommended Actions

- a) As a prelude to the next NRA exercise, the authorities should also conduct a thorough ML/TF risk analysis in the NPO, real estate, legal persons, and on ML/TF threats.
- b) Benin should take steps to ensure that the national AML/CFT strategy accurately deals with the higher and lower ML/TF risk areas identified, and develop monitoring indicators for the implementation of planned actions.
- c) Benin should take measures to ensure that activities of competent authorities are in line with the higher ML risk identified in connection with certain predicate offences, including corruption.
- d) Benin should use the findings of its risk assessment to introduce exemption measures, enhanced due diligence measures for high-risk situations and simplified measures for lower-risk scenarios .
- e) Benin should enhance the domestic cooperation and coordination between supervisors and SRBs by leveraging the CTN AML/CFT or other appropriate channels to regularly and frequently share general information on ML/TF risks, trends and methods and exchange information on how to manage and mitigate those risks.
- f) The competent authorities should further disseminate the findings of the NRA to all authorities and stakeholders concerned so as to develop effective compliance systems that are risk-based, adapted to the practices of each sector, and consistent overall.
- g) Benin should map out an appropriate national PF cooperation mechanism .

129. The relevant Immediate Outcome for this chapter is IO.1. The relevant Recommendations for the evaluation of effectiveness under this section are Recs.1 and 2.

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

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

130. Benin adopted its maiden NRA report in November 2018. Initially launched in 2016, work was relaunched in June 2017 for administrative and financial reasons. The process was inclusive enough, with the participation of stakeholders and key national AML/CFT stakeholders in Benin, including investigative and prosecutorial authorities, supervisory and regulatory authorities and other relevant public services, FIs and DNFBPs). Overall,

the World Bank tools and methodologies used by the NRA task force made it possible to identify and assess the main ML/TF risks in the country through the analysis of threats and vulnerabilities as well as contextual factors both at the national and sectoral levels. Public information sources and relevant reports were exploited to this end, but the task force also turned to alternative data sources (results of survey and interview questionnaires) to compensate for the lack of comprehensive and reliable statistics. This information nonetheless made it possible to conduct the NRA and produce a somewhat coherent report.

131. While the NRA process was well conducted overall, the assessment team has reservations about the accuracy and reasonableness of the findings for the following reasons:
- a. The lack of comprehensive and reliable data, sometimes resulting in a perception assessment;
 - b. The gap in time between the data used and adoption of the report (2016 to 2018);
 - c. The absence of DNFBP supervisory authorities from the NRA process since the latter have not been designated, thereby impacting the quality and completeness of the information analysed on the sector;
 - d. The very limited analysis of the assessment of ML/FT risks linked to legal persons and NPOs;
 - e. The incompleteness of the description of the main ML/TF methods, trends, and techniques.
132. The competent authorities' and reporting entities' understanding of ML/TF risks is based mainly on the NRA findings, with its limitations. The NRA findings were widely disseminated to the competent authorities. However, private sector stakeholders received only the part of the NRA report assessing their sector. This limited dissemination impedes stakeholders' overall understanding of ML/TF risks faced by the country and the government's AML/CFT initiatives to address these risks. Specifically, it would seem that financial sector regulatory authorities and investigative authorities (particularly the BEF) have proper knowledge and understanding of ML/TF risks based on the findings of the NRA and from carrying out their respective supervisory and investigative roles. However, prosecutorial authorities have a limited understanding of ML/TF risks.
133. Understanding of ML/TF risk among reporting entities varies depending on the stakeholder. For instance, in the financial sector, the banking sector has good knowledge and understanding of its risks because some banks have assessed their internal ML/TF risk. The overall level of understanding in the financial sector remains average, while it is very low among DNFBPs, except for independent accounting professionals who have a good understanding of the ML/TF risks facing their professions. The assessment team notes that the overall level of understanding of ML/TF risks in Benin is moderate because of the very recent adoption of the NRA report (04 months before the on-site visit).
134. The competent authorities in Benin have a reasonable understanding of the ML threat, which is mainly driven by scams (including extortion and breach of trust), cybercrime, corruption, tax and customs fraud, smuggling of goods, human trafficking and drug trafficking. They also identified high-risk sectors, such as microfinance, manual currency exchange, electronic money and rapid money transfer and the real estate sector, which could serve as a conduit for laundering the proceeds of crime. However, the NRA does not provide a full picture of the main methods, trends and techniques used to launder the

proceeds of crime, which impacts the perception of investigative and criminal prosecution authorities. Also, the recognised ML methods are rudimentary (self-laundering with the possibility of detecting ML), without any sort of complexity. The NRA also fails to identify the nature and types of ML risks linked to legal persons created in Benin, particularly in a context where Benin's legal framework provides for the creation of commercial companies, limited partnerships and undeclared partnerships, that operate in anonymity.

135. The vulnerability linked to ML is based both on contextual factors such as the predominantly informal economy and the very widespread use of cash, as well as on the deficiencies identified in the country's legal and institutional framework, including the lack of a mechanism for identifying beneficial owners, the lack of supervision of DNFBPs, the lack of a legal framework for the real estate sector, the lack of supervision and virtually non-existent AML penalties, the limited capacity of investigative and criminal prosecution authorities in the freeze/confiscation and ML convictions. These deficiencies largely explain the high rate assigned to national/sectoral vulnerability to ML in the NRA findings.
136. Benin has not suffered any terrorist attacks and is not home to terrorist organisations, resulting in the low score for the assessment of the level of the risk of terrorism. Nevertheless, the NRA considers the overall TF risk to be average. It however appears that the TF assessment is not supported by a sound analysis of trends, sources, products and services that could be misused in Benin. Some potential risks have not been fully assessed and/or properly considered in the weighting used to determine the national TF risk level. This includes the abusive use of DNFBPs, the limited supervision of the cross-border physical transfer of currency and BNIs, the use of electronic currency, money and value transfer as well as the use of shell companies. Similarly, Benin's proximity to countries that are victims of terrorist acts, in particular Nigeria, seems to be discounted, in a sub-regional context marked by porous borders and difficulties of tracing financial flows. More specifically, Benin has not identified the specific category of NPOs most exposed to the risk of TF, even though some of the NGOs operating in the Northern part of the country and whose activities present tendencies linked to religious radicalisation, as well as the issue of terrorism financing through the recruitment of destitute youths living in impoverished areas. While not disputing the actual risk level determined by the NRA, it would help to review all these elements for an update of the TF assessment in the NRA.
137. Generally, the competent authorities, namely criminal prosecution authorities did not demonstrate a good understanding of TF risks. In any case, they do not seem to have a good grasp of the risks, based on the type of approach to managing TF risk in the national policy analysed in the next section. Similarly, investigators, attorney generals and intelligence agencies do not seem to have the requisite skills and knowledge for identifying, investigating, and prosecuting TF when necessary. Investigative authorities should also consider the non-dissuasive nature of penalties relating to the non-declaration/false declaration of the cross-border cash movement and the lack of a mechanism for tracing the possible criminal origin of such cash when it is detected, as factors that can increase TF risks.

2.2.2. National policies to address identified ML/TF risks

138. To a certain extent, Benin's national AML/CFT policies address the ML/TF risks identified. The NRA report itself contains a detailed action plan, with a set of proposals to resolve the deficiencies identified. However, the principal document that organises the ML/TF risk mitigation policy in Benin is that of the National Strategy adopted by the Council of Ministers in November 2018, complete with a budgeted action plan, an implementation timetable, an allocation of tasks and a follow-up plan for its implementation. The strategic plan puts forth numerous measures for properly fixing the vulnerabilities identified in the NRA, such as: conducting parallel financial investigations concerning ML cases, designation of supervisory authorities for DNFBPs, development of ML/TF typologies to ensure better understanding of ML/TF techniques/trends and methods, improving the completeness of data with the different competent authorities, raising the awareness of reporting entities of their AML/CFT obligations, etc. Although national authorities demonstrated that their activities henceforth targeted the TF risks identified, the very recent adoption of the NRA report and of the national strategy document (04 months before the on-site visit) does not yet make it possible to assess the effectiveness of mitigation measures.
139. Regarding the management of the risks identified in respect of some NPOs and activities vulnerable to TF, the assessment team reports that Benin is not planning any response in its national policy. National authorities rather focus their interventions on the causes and manifestations of terrorism, violent extremism and radicalization. They do not appear to take the right measure on the issue of TF risk under the coordination of the Benin National Agency for the Integrated Management of Border Areas (ABeGIEF) set up for this purpose.
140. Several specialised services within the Republican Police are beginning to take keen interest in conducting parallel financial and asset investigations with the investigations into the predicate offences they are handling. The BEF, which has the required expertise in this area, is assisting the other services in financial investigations. Overall, there is the need to strengthen the knowledge and expertise of the specialised units by providing them with training and guidance on the different types of ML, to ensure that they systematically consider, prioritise and pursue all types of ML, including against legal persons where appropriate.
141. The FIU's involvement in several external financing processes led by the country to ensure their security and integrity seems quite relevant in illustrating the impetus from new ways of preventing the abuse of the economy by injecting funds from criminal sources into the public financing channels (for example, the case of the Benin Eurobond).

2.2.3. Exemptions, enhanced and simplified measures

142. The only exemptions in the enforcement of FATF requirements concerns CDD and are analysed in technical compliance with Recommendation 1. They are not informed by the findings of the NRA but rather by the provisions of WAEMU AML/CFT law domesticated by Benin which only covers online payment services in specific circumstances.

143. However, when they adopt enhanced or simplified measures, private sector reporting entities must consider risks, including those identified at the national level. The assessment team noted that the NRA findings were not always used to review ML/TF assessments in the private sector, even when they exist. The recent adoption of NRA action plans and of the national strategy has not made it easier to enforce this requirement either. However, sectoral assessment carried out by the various taskforces, including for the financial sector, are virtually compliant with the NRA findings. It seems that only a few FIs, namely banks, large DFSs and insurance companies, apply the RBA in their activities because of their prudential obligation within the sector. However, DNFBP sector stakeholders are showing signs of a very limited understanding of ML/TF risks and the application of the RBA.

2.2.4. Objectives and activities of competent authorities

144. The NRA set targets such as the development of a strategy and action plan with ML/TF risk mitigation measures. While both documents are coherent and cover the risks identified, indicators are necessary to ensure that the actions continue to be aligned with national AML/CFT policies that are ever-changing with the ML/TF risk identified.

- **Law Enforcement Authorities**

145. The NRA findings highlight several predicate offences the general proceeds in varying amounts, including cybercrime. However, concerted actions by criminal prosecution authorities are not yet aligned with the country's risk profile as concerns prosecution for ML. The handling of corruption cases by the national anti-corruption is a perfect example. No information was provided to assessors on the legal action taken with respect to the thirteen (13) cases investigated and forwarded to judicial authorities. The sharing of information between the FIU and the ANLC remains relatively low.

146. Benin also identified the involvement of a criminal organisation as a major ML threat. As a result, proactive and joint investigations ought to be conducted not only to trace the assets of these groups, but above all to understand how they operate in order to develop a suitable criminal response. However, the actions of criminal prosecution authorities provide no information regarding the steps taken to process this ML offence. The authorities rarely use financial intelligence in investigating crimes, including organised criminal activities. In view of this, there is the need for proactive and joint investigations not only to trace the assets of these groups, but also to understand how they operate in order to develop a suitable criminal response.

147. As part of the risk-based approach to the risks identified in the NRA, general intelligence services do a lot of awareness raising targeting mayors about the fight against terrorism and its financing, including the need to monitor the activities of foreign partners or international organisations involved in community service so as to alert the competent authorities if necessary. To that end, the territorial intelligence service has set up a toll-free telephone number for reporting potential TF cases. The creation of the Republican Police Force has also increased the number of police stations on the national territory and ensure that the forces of law and order are present, especially at-risk border areas. Likewise, as part of anti-cybercrime efforts, cooperation was established between the

OCRC and the FIU to monitor transactions of electronic money operators for CFT purposes.

- **Supervisory and self-regulatory authorities**

148. The BCEAO has prepared a set of directives to guide FIs in the implementation of their AML/CFT obligations, especially concerning the requirements for risk assessment, management and mitigation of risk. They include the establishment of internal procedures to ensure compliance with legal and regulatory provisions, notably the implementation of simplified CDD measures where the identified ML/TF risk is low. Moreover, the seven (07) supervisory exercises conducted by the Banking Commission in Benin between 2015 and 2017 revealed, the following deficiencies for the financial sector, except for banks, large DFIs and some insurance companies: a) the lack of ML/TF risk mapping; b) lack of cooperation; and c) non-compliance with AML/CFT measures. Assessors note that the supervision of the financial sector led by the competent authorities is not based on ML/TF risks. The planning of inspection missions is rather based on the importance of entities or possibility of a significant event occurring (launch of new products for example). Prudential supervision all the same involves appropriate aspects the effectively serve AMLCFT purposes.

149. Regarding the DNFBP sector, it does not yet meet the requirement for supervision, in particular because there is no designated AML/CFT supervisory authority for stakeholders. Their self-regulatory authorities are not organised in this regard either.

150. Banks, large DFSs and some insurance companies provide annual internal ML/TF risk assessment and mitigation information to their supervisory authorities. However, the supervisory authorities are yet to developed any guidelines for monitoring compliance with AML/CFT obligations imposed on reporting entities, particularly small-scale DFIs and insurance companies. Also, the internal policies, controls and procedures for risk management and mitigation put in place by reporting entities do not adequately take on board all the mitigation measures set out in the national AML/CFT.

2.2.5. National coordination and cooperation

151. The main body in charge of coordinating and implementing AML/CFT policy is the CTN-AML/CFT. It involves in a very representative manner all domestic AML/CFT stakeholders in Benin. The CTN-AML/CFT participated in the NRA approval process and coordinated the development of the national strategy as well as the policy document and Benin's AML/CFT action plan. Its members are FIU focal points within their respective structures. The CTN-AML/CFT meets periodically (two regular sessions a year and special sessions when necessary). It monitors the implementation of the recommendations of the NRA and the action plan of the AML/CFT national strategy. It is also a source of proposals for the advisors of public authorities towards the incorporation of relevant AML/CFT guidelines based on the analysis of the international/regional/national context. The assessment team notes that the national AML/CFT cooperation and coordination mechanism based on the CTN-AML/CFT is functioning very well. However, the mechanism does not incorporate CPF.

152. The FIU, in collaboration with its correspondents, plays a central role in the collection and processing of intelligence to foster national cooperation in the area of financial intelligence. Based on its extended right of communication and unenforceability of professional secrecy for its requests, the FIU, as well as the BEF, facilitate the sharing of intelligence gathered. For instance, national cooperation in Benin has produced good results in the fight against fraud and some forms of cyber scam.
153. At the operational level, the fight against terrorism and its financing is partly based on coordination by ABeGIEF, assisted by several surveillance and oversight units within the republican police force in cooperation with other specialised bodies with jurisdiction in their respective missions (BEF, OCERTID and the Crime Squad). This coordination does not quite incorporate the findings of the NRA regarding TF risks in Benin.
154. Benin has established a joint container control unit (UMCC) that comprises the republican police, customs and the water resources and forestry department and provides a forum for inter-agency cooperation; it illustrates the desire to strengthen the fraud, contraband, and illicit trafficking (all manner of weapons, including weapons of mass destruction) prevention mechanism. It would be helpful for UMCC's activities to cover AML/CFT/PF imperatives.
155. The Banking Commission in its capacity as the supervisory authority of FIs does not involve national organisations also active in the supervision of some reporting entities. The same goes for DFS supervisory agency, which is aware of the Banking Commission's supervisory mandate but not involved in it. The situation is the same in Management and Intermediation Companies (M&IC) in which the implementation of the regulation prepared by AMF-UMOA (ex-CREPMF) does not involve BRVM/SEC in activities to supervise AML/CFT reporting entities. Ultimately, there is very little cooperation between supervisory authorities and self-regulatory bodies.

2.2.6. *Private sector's awareness of risks*

156. Following the adoption of the NRA, the sectoral findings of ML/TF risks were disseminated to private sector stakeholders while preserving the confidential nature of certain sensitive information. Based on the risks identified, the FIU organised many awareness sessions for the banking sector, compliance officers, supervisors and the professional association of DFSs on the fulfilment of their AML/ obligations. It also forwarded copies of the report and relevant recommendations on each sector to each supervisory authority.
157. Generally, financial sector stakeholders are well informed about ML/TF risks, unlike DNFBPs. This raises concerns as to whether the DNFBP sector is sufficiently aware of ML/TF threats and vulnerabilities and is ready to deal with the risks identified.

Overall Conclusion on I.O.1

158. Understanding of risks by the authorities is largely based on the NRA findings. The deficiencies identified had an impact on the perception and overall assessment of ML/TF risks. In this case, the NRA neither specifies the nature and type of legal

persons especially vulnerable to ML/TF, nor the NPO category that present ML/TF risks. The recent adoption of the NRA and the national AML/CFT strategy has not made it possible to assess the effectiveness of measures to mitigate the risks identified. It appears that prosecutorial authorities have a limited understanding of specific ML/TF risks, and do not consider the current most serious threats in ML prosecution. Investigative authorities have a good enough understanding of TF risks while the other authorities only have a general awareness of them. In the case of supervisory authorities, understanding of ML/TF risks is also based on the findings of their surveillance activities. Possibilities for exemptions of the application of simplified/enhanced CDD measures are based on risks stemming from the uniform AML/CFT law and not from the findings of the NRA. FIs and DNFBPs except banks, large DFSs and insurers to a certain extent, do not apply the risk-based approach. The objectives and activities of the competent authorities are somewhat consistent with the changing national policies and plans. DNFBPs with no competent designated AML/CFT authorities are not under supervision to align their objectives and strategies with the risks identified. Benin authorities have cooperation and coordination mechanisms at the operational and policy levels to combat ML/TF. Such coordination is non-existent in the area of CPF. While FIs demonstrated good awareness about the findings of the NRA, awareness of ML/TF risks remains quite rudimentary among DNFBPs.

159. Benin has achieved a Low level of effectiveness for Immediate Outcome 1.

CHAPTER 3. LEGAL REGIME AND OPERATIONAL ISSUES

3.1 Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6 (Financial Intelligence)

- a) The FIU has access to a wide range of financial information and other relevant information through requests and direct access to certain databases. It makes this information collected available to other competent authorities on request.
- b) The Treasury, Customs, Tax Administrations and the FIU share a platform for the exchange of information on tax and customs fraud and offences against exchange control regulations and financial relations with foreign countries.
- c) The Economic and Financial Brigade (BEF) can access financial intelligence and other information produced by the FIU and other departments using its legal power to file requisitions and other requests for information. However, depending on the sources, it has limited access to certain types of financial intelligence and other relevant information, such as access to information produced by the Customs and Tax Departments.
- d) The BEF's information requests are mainly related to predicate offences and to some extent, ML. There has been no TF-related information request.
- e) The use in investigations of financial intelligence produced by the FIU and other sources is limited to certain types of investigations. The BEF uses financial intelligence primarily in predicate offence investigations and in ML investigations related to predicated offences. There are no investigations related exclusively to ML and TF in which financial intelligence has been used.
- f) The FIU only started disseminating in 2018 due to the technical gaps in the AML/CFT Act. The FIU has also been grappling with the issue of resources, which impacts on its dissemination capacity. The few disseminations to the Tax administration, State Treasury and Customs, as well as Law enforcement authorities only relate to ML. There has been no TF-related dissemination.
- g) The majority of STRs received by the FIU are filed by banks and sometimes insurance companies and DFIs which produce quality STRs, unlike the vast majority of DNFBCs which hardly file STRs. Cash transaction reports are exclusively filed by banks and other FIs. The other reporting entities do not. Besides, the FIU receives no reports on the physical cross-border transportation of currency and bearer negotiable instruments from Customs.
- h) The lack of human and material resources, including modern analytical tools significantly impedes the FIU's analytical capacity. It does not conduct strategic analyses in high ML/TF risk areas and has not disseminated any typologies. The financial intelligence disseminated to the prosecutorial authorities have not resulted in a conviction for ML.
- i) The FIU cooperates with competent authorities by exchanging financial intelligence and other types of information through designated focal points within the various competent authorities, cooperation agreements and its access to several databases.

- j) Although the national cooperation framework is operational and facilitates the exchange of information or intelligence between the FIU and the other competent authorities, there is no specific timeline obliging the requested competent authorities to communicate the information without delay. There is also a low level of cooperation between the FIU and certain specialised institutions such as the ANLC and intelligence services. However, despite these limitations, national cooperation has produced some results in ML but not in TF.

Immediate Outcome 7 (ML Investigations and Prosecutions)

- a) The BEF does not adequately and sufficiently identify ML cases deriving from the underlying offences under its responsibility, and does not systematically use parallel financial investigations of the predicate offences dealt with by other specialised agencies. Generally, inadequate resources impact investigation of potential ML cases by the LEAs. ML investigations focus only on self-laundering cases.
- b) Investigations related to the types of ML activity do not reflect Benin's risk profile, even though the country has made efforts to allocate resources for the investigation and prosecution of underlying ML predicates identified by the NRA as major threats.
- c) Prosecutions related to the types of ML activity do not reflect Benin's risk profile. The authorities are not prosecuting all serious ML predicate offences, including corruption and tax and customs offences which generate the highest quantum of ML proceeds in Benin. They are more focused on prosecuting the predicate offence rather than ML. Only two convictions for ML have been secured in Benin.
- d) Benin has established the CRIET, a court exclusively established to handle economic and financial crimes and offences, particularly ML, and particularly, to handle these types of cases without delay. However, inadequate capacity and resources are the reasons why the various types of ML are not being prosecuted. Only two convictions for ML have been secured in Benin, both related to self-laundering.
- e) Benin has secured two ML convictions involving natural persons. The sanctions applied in these cases were proportionate and dissuasive. While the AML/CFT Act provides for proportionate and dissuasive sanctions against legal persons convicted of ML offences, Benin is yet to convict any legal person for ML. Consequently, it is impossible for the assessment team to determine whether sanctions applied to legal persons are effective, proportionate and dissuasive.
- f) The judicial authorities have not reported the implementation of any alternative measures where they cannot secure any conviction for ML. The law enforcement authorities give more priority to predicate offences.

Immediate Outcome 8 (Confiscation)

- a) The 2018 AML/CFT strategy does not identify confiscation as a policy target. However, it underscores the need to provide training for magistrates at the CRIET and other LEAs as a priority.
- b) Due diligence is not being implemented for the repatriation or sharing of proceeds or equivalent assets of offences committed abroad. The same applies to the transfer of proceeds or equivalent assets of offences committed in Benin by foreign nationals.

Benin has neither filed any request for the seizure or confiscation proceeds and instrumentalities located abroad, nor received any from foreign authorities.

- c) Despite the implementation of confiscation measures in some cases, the outcomes are not consistent with the ML/TF risks and national AML/CFT policies and priorities.
- d) The border control services, particularly Customs at the airport, seize undeclared or falsely declared currencies and are liable to either confiscation or administrative fines. However, no investigation is conducted to establish the possible links between the amounts seized and possible cases of TF or ML. Similarly, the implementation of measures for the confiscation of cash and other bearer negotiable instruments is still inadequate.
- e) The Benin's legal framework provides for seizure and confiscation of instrumentalities and proceeds of crime. The Courts have handed down several confiscation orders on predicate offences to ML (drug trafficking, customs and tax fraud, cybercrime, counterfeit medicines, etc.). Benin's legislative system also provides that the management of frozen, seized or confiscated assets shall be entrusted to the Judicial Agent of the Treasury and the Consolidated Revenue Fund (Caisse de Dépôts et de Consignation) as well as to the court registrars. However, there was no evidence of effective implementation of the legal confiscation system in court rulings.

Recommended Actions

Immediate Outcome 6

- a) Investigative authorities should have a procedural guide to be consulted in ML and TF cases in order to gather and use the relevant financial intelligence.
- b) The interconnected platform between the Treasury, Customs and Tax Administrations should be extended to investigative authorities in order to allow them direct access to certain types of relevant financial intelligence.
- c) Investigative authorities should receive additional training on how to use financial intelligence in investigations related exclusively to ML and TF.
- d) Law enforcement authorities should systematically file information and financial intelligence requests to the FIU for all predicate offences to ML/TF.
- e) The FIU should raise awareness and provide more training in AML/CFT for the respective supervisory authorities of reporting entities that do not file STRs and CTRs or that do not produce quality STRs, as a means of generating a variety of STRs. It should also sensitise the Customs administration to forward reports on the physical cross-border transportation of cash and bearer negotiable instruments.
- f) The FIU should enhance its analytical capacity by increasing the number of analysts, their training and establishing of a mechanism that combines human analysis with modern and efficient analytical tools.
- g) The FIU should carry out strategic analyses by equipping itself with specialized and competent human resources, disseminating TF-related information, sharing the results of the analyses with the reporting entities as well as all the competent authorities, and increasing the dissemination of typologies based on the ML/TF risk profile identified.
- h) The FIU should work with the specialized institutions with which it has a low level of cooperation to identify any deficiencies in cooperation with a view to adopting clear

strategies designed to improve the low level of cooperation and information sharing on ML/TF.

- i) The FIU should work with all other competent authorities to draft amendments to the relevant laws and make cooperation and timely information sharing mandatory.

Immediate Outcome 7

- a) The human and material resources of the BEF should be further strengthened and all its staff should be trained in financial investigations, detection of various types of money laundering and appropriate investigative techniques, to enable them to identify and investigate all ML cases.
- b) The BEF should simultaneously conduct parallel ML investigation into predicate offences handled by other specialized agencies through good inter-agency coordination and the establishment of joint investigation teams under the leadership of the State Prosecutor so that the other agencies may leverage the expertise of the BEF on ML investigations.
- c) The authorities of Benin should strengthen the capacities of investigation agencies in terms of human resources and training in financial investigations, to ensure parallel ML investigations are commensurate with the high number of threats associated with the multitude of key predicate offences that could generate significant illicit funds.
- d) The operationalisation of CRIET should be ongoing with further strengthening of human and material resources, training and specialization of Magistrates on financial investigations, particularly those relating to the investigation of ML cases, to enable the structure prosecute all predicate offences and all types of ML, consistent with the country's risk profile.
- e) Law enforcement authorities should conduct proactive investigations, give priority to the tracing and gathering of evidence of the ML offence with a view to implementing alternative measures where they cannot secure conviction for ML.
- f) Benin should continue with the capacity building of law enforcement authorities to give priority to ML cases involving legal persons and apply effective, proportionate and dissuasive sanctions to legal persons.
- g) The BEF training programs should be updated and statistically monitored to ensure all staff are covered.

Immediate Outcome 8

- a) Benin should identify the seizure and confiscation of undeclared/falsely declared currency and BNI as a policy objective in its national AML/CFT strategy document.
- b) Benin should continue with the seizure and confiscation of proceeds of crime, consistent with its identified ML/TF risks.
- c) The competent authorities should ensure the enforcement of the court's confiscation orders.
- d) The prosecution of ML/TF offences should include the tracing and location of assets invested abroad, thereby facilitating the deployment of the legal instruments applicable to the asset repatriation procedures.

- e) Customs authorities should put in place measures to control cross-border movements of currency and BNIs exceeding the prescribed threshold at all land and sea borders. Customs officials should take reasonable steps to ensure currency and BNIs transported are not related to ML/TF, and where this is the case, transmit such information in the form of STR to the FIU promptly.
- f) The judicial and administrative authorities (Treasury and Judicial Agency) should clarify and strengthen the procedures for executing court decisions, to ensure the effective implementation of all confiscation orders.

160. The relevant Immediate Outcomes for this chapter are I.O .6-8. The relevant Recommendations for the evaluation of effectiveness under this section are R.3, R.4 and R.29-32.

3.2 Immediate Outcome 6 (Financial Intelligence)

3.2.1. *Use of financial intelligence and other information*

161. Benin has an FIU with access to a wide range of financial and other relevant information and has its database. The Unit enjoys an extended right of communication which allows it to access several sources of information from the public and private sectors. The implementation of this prerogative has created a synergy between the Unit and all State departments, State authorities and institutions as well as any other person holding public office that can share any information that would enrich the STR analysis.

162. The Benin-FIU has direct access to the databases of the Customs and Tax Departments as well as the State Treasury. This is achieved through an interconnected platform between these agencies. The platform was created for the purposes of sharing information to, among other things, combat offences relating to tax fraud, customs and offences against exchange control regulations and financial relations with foreign countries. This interconnection provides a framework for an automated, secure and timely exchange of financial intelligence between the FIU and these authorities. It has facilitated the exchange of information by considerably reducing the number of information requests between the FIU and these departments, hitherto done through written correspondence. It also enables the investigative authorities to easily access information or intelligence from the FIU and other public administrations.

163. Efforts are underway to connect the FIU in the long term to the maximum number of databases. The team believes the expansion of the interconnected platform could be an added advantage to facilitating direct access to certain types of relevant financial intelligence. For departments to which the Unit does not have direct access, a formal request is made by the Unit to those agencies whenever information is needed from them. The FIU has the power to gather information on request via written correspondence to agencies whose databases are not directly accessible. The FIU receives financial and other relevant intelligence from these administrations within 48 hours and often less, depending on the urgency. In departments where the FIU has designated correspondents, requisitions and other information requests filed by the FIU are monitored by these correspondents who ensure adherence to the established timelines and confidentiality. However, even with the presence of the correspondents, there are some delays in responding to the FIU's requests.

164. The Table 3.1 below relating to requests made by the FIU to other competent domestic authorities shows that from 2014 to 2018, the FIU made no requests to these authorities and in 2018, it issued 23 information requests to the competent authorities and received 16 responses.

TABLE 3.1 NUMBER OF REQUESTS MADE BY THE FIU TO COMPETENT AUTHORITIES FROM 2014-2018

Institution	2014		2015		2016		2017		2018	
	Request made	Response received	Req made	Resp rec	Req made	Resp rec	Req made	Resp rec	Req made	Resp rec
BEF	0	0	0	0	0	0	0	0	6	5
General Inspectorate of Finance	0	0	0	0	0	0	0	0	8	8
Treasury Department	0	0	0	0	0	0	0	0	1	0
Directorate of Information and Territorial Surveillance	0	0	0	0	0	0	0	0	2	1
BCEAO	0	0	0	0	0	0	0	0	1	1
Directorate of General Taxes	0	0	0	0	0	0	0	0	3	0
Central Office for the Repression of Cybercrime	0	0	0	0	0	0	0	0	1	0
Interpol	0	0	0	0	0	0	0		1	1
Total	0	0	0	0	0	0	0	0	23	16

165. The BEF can access financial intelligence and other information produced by the FIU and other departments using its legal power to file any requisition or information request. It therefore has the possibility, as and when necessary, of accessing all information and financial intelligence produced by the FIU or any other competent authority.

166. By virtue of its prerogatives in ML/TF, the BEF regularly submits information requests to the FIU, other competent authorities, private commercial structures, including FIs, and other relevant sources for information that it extensively uses in investigations related to ML and predicate offences. In 2017 and 2018, the BEF filed 1,321 information requests to public and private administrations and received 1,013 responses, 310 of which are pending. Some of the requests made by the BEF to public and private sector institutions and the responses received are highlighted in the table below.

TABLE 3.2: REQUESTS MADE BY BEF TO THE FIU AND OTHER AUTHORITIES/REPORTING ENTITIES IN 2017-2018

Institution	No of requests made	No of responses received	No of pending requests
-------------	---------------------	--------------------------	------------------------

Banks	921	734	187
Scholarships/Grants	26	23	3
Tax Administration (DGI)	70	40	30
Treasury	7	2	5
Cotonou registry	15	09	6
National Assembly	2	2	0
MTN Benin	111	70	41
Moov Benin	70	57	13
OCRC	3	2	1
MISP	5	5	0
DCI	21	12	9
Interpol	35	32	3
Centif/FIU	6	5	1
Airport Shouting	6	1	5
DGDDI	13	9	4
Customs Port	3	2	1
DDPR Littoral	6	6	0
Ministry of Planning	1	1	0
Laardt Insurance	1	1	0
Sunu Assurance	1	0	1
Total	1,320	1,013	310

Source : FIU-BENIN

167. BEF underscores that not all of these information requests are explicitly related to ML and TF. These requests are mainly related to other economic and financial investigations as well as asset investigations because the BEF as a body empowered to investigate economic and financial crimes, receives complaints directly from other administrations and also from the citizenry. The information requests are, therefore, mostly related to predicate offences and ML to a certain extent. There is no request for TF-related intelligence.

168. The Customs department gathers financial information from cases of violation of foreign exchange control regulations, particularly cases such as commercial fraud and smuggling. Although it has some invaluable financial intelligence, the Customs department is not empowered to conduct ML/TF investigations. Concerning the cross-border transportation of cash and negotiable bearer instruments, the porosity of the borders explains why much information escapes the Customs services and consequently the FIU and the investigative authorities. For cases detected, the Customs seizes the items in question and or concludes a plea bargain with the offender. In some instances, it files the report to the judicial authorities for necessary action.

169. Despite its legal obligations, Customs is yet to submit a single report on cross-border transportation of cash to the FIU (Statistics on STRs and CTRs received by the FIU and by sector below. See table 3.3). Nevertheless, the FIU made five (5) requests for information to the Customs and received only one (1) response. This deficiency simply implies that the FIU cannot make use of this type of information within the framework of mutual administrative assistance. In some cases where the Customs had filed reports on seizures to the judicial authorities, the latter did not provide any information to the

assessment team on the prosecutions initiated for ML/TF following reports filed by Customs. Besides, the financial intelligence produced on customs offences is not known and used by the AML/CFT investigative services. This deficiency prevents the BEF from making regular use of this type of information during investigations.

170. The tax administration has established an investigation division which is empowered to gather financial intelligence and other information to find evidence of tax offences. The division gathers information on legal persons, their managers, shareholders, and where applicable, their beneficial owners. Once it establishes the tax offence, the Tax administration imposes administrative fines and other tax adjustments. Also, since the administration is not empowered to conduct ML/TF investigations, it refers the matter to the judicial authorities to initiate criminal proceedings. It also shares information with the FIU. However, the financial information produced from tax offences is not known and used by the AML/CFT investigation division.

171. The financial intelligence produced by the Customs and Tax administrations constitute valuable sources which can be used by the FIU and law enforcement authorities. However, these are not accessible and shared among all the competent authorities.

172. The limited access to certain types of relevant information held by the Customs and Tax administrations is a factor which significantly impedes the effective fight against ML/TF. This also explains why the BEF is yet to initiate any ML investigation related to tax and customs cases.

173. Generally, only a few authorities, particularly the BEF and General Finance Inspectorate, submit requests for financial intelligence to the FIU when information is needed in an investigation/operations. The information requests by these agencies only commenced in 2018 as indicated in the table below. There is no evidence that other LEAs made requests to the FIU.

TABLE 3.3: NUMBER OF REQUESTS MADE BY LEAs TO THE FIU FROM 2014-2018

Institution e.g	2014		2015		2016		2017		2018	
	Request made	Response received	Req made	Resp rec	Req made	Resp rec	Req made	Resp rec	Req made	Resp rec
BEF	0	0	0	0	0	0	0	0	6	5
General Finance Inspectorate	0	0	0	0	0	0	0	0	8	8
Directorate of Information and Territorial Surveillance	0	0	0	0	0	0	0	0	2	1
Total	0	0	0	0	0	0	0	0	16	14

Source : FIU-BENIN

174. Concerning the transmission of responses to information requests by LEAs, the authorities met seem to be satisfied with the response timelines, even in the absence of prescribed timelines to provide the requested information. This lack of precise timelines to ensure the requested competent authorities to communicate the information promptly could undermine the effectiveness of the response time. To facilitate prompt response to

information, the investigation agencies follow up on the FIU whenever necessary. This procedure also has its limits because it is dependent on the existing interpersonal relationships between individuals, which may not be ideal and therefore may adversely affect the swift response.

175. Regarding the use of intelligence, the FIU uses the information gathered to support the analysis of STRs. Generally, the information obtained from public authorities, including cross-border declarations, tax and supervision information, are used to enrich STRs, thereby creating value-added. This results in the production of financial intelligence used by some authorities.

176. For instance, financial intelligence produced by the FIU revealed that legal persons use falsified foreign exchange authorisations from the Treasury to withdraw currency via banks fraudulently. In 2019, the Treasury and Public Accounting Department used such information to provide banking institutions with a platform designed to verify the authenticity of documents relating to foreign exchange authorization. Warnings have been issued to banks to bring them back to order as they have carried out foreign currency transfer transactions above 762.25 Euro without the prior approval of the State Treasury, as required by the regulations on external financial relations with non-UEMOA countries. Staff members who accepted bribes were queried and transferred to other departments. The financial intelligence produced by the FIU has also enabled the tax department to adjust taxes. The various reports filed to the Prosecutor are yet to result in any conviction.

177. The BEF recognises the relevance and usefulness of financial information and intelligence, particularly those provided by the FIU, in conducting investigations. However, the BEF generally uses the financial intelligence produced by the FIU and other sources to investigate predicate offences and ML linked to predicate offences. There are no financial intelligence-prompted investigations exclusively related to ML and TF. The statistics in Table 3.4 on disseminations by the FIU between 2014 and 2018 and their outcomes show that the use of FIU's intelligence has so far not yielded any satisfactory results.

- From 2014 to 2018: 49 ML-related investigations together with other offences were carried out, including 17 in 2014, 8 in 2015 and 24 in 2018. There were no ML investigations in 2016 and 2017. During the period under review, Benin only effected two arrests for ML in 2018 prompted by intelligence provided by the FIU.
- From 2014 to 2018, there were no investigations related exclusively to ML triggered by intelligence obtained from the FIU.
- From 2014 to 2018, there were no investigations related exclusively to TF triggered by intelligence obtained from the FIU.

178. The statistics indicate that the investigative authorities made little use of financial intelligence in ML/TF investigations before 2018. AML/CFT actions commenced from 2017-2018, on the arrival of a new management team at the FIU which has deployed some efforts in AML/CFT. However, these efforts cannot resolve all the deficiencies identified prior to 2018. The two arrests made in 2018 are inconsistent with Benin's risk profile, given the relatively easy access to adequate financial intelligence and other information required from the FIU and other public and private departments. For example, in 2017 and 2018 out of the 1,323 information requests the BEF issued to public

and private departments with 1,013 responses received, there is no evidence that they have resulted, for instance, in any arrest for ML.

179. The statistics in Table 3.4 on disseminations by the FIU between 2014 and 2018 and their outcomes also reveal that the FIU disseminations did not commence until 2018, partly due to a deficiency in the former AML/CFT Act, which did not provide for any dissemination mechanism. While the current AML/CFT Act provides for dissemination and which goes as far back as 2018, the FIU's challenges with resources and capacities were a handicap. The few disseminations made only relate to ML. In 2018, the FIU disseminated 6 financial intelligence reports to the BEF, and 8 to the General Inspectorate of Finance based on requests made.

180. The thirty-one (31) proactive disseminations made to the Tax administration led to the detection of documentary and tax fraud and violations of exchange control regulations. For example, the tax administration informed the assessors that following the dissemination of the FIU, they observed that certain economic operators were using accounts opened in the name of their minor children for tax evasion and ML. The tax administration has managed to recover over 3.05 million Euros through tax review exercises, and the criminal proceedings are still ongoing.

181. Generally, in 2018, even though the outcomes of the ML-related disseminations resulted in 24 investigations, 2 arrests and a trial, they did not result in any conviction for ML or confiscations.

182. Concerning TF, the statistics in Table 3.4 show that the FIU is yet to disseminate financial intelligence related to TF, even with the new AML/CFT law which provides for such dissemination. Consequently, there has been no investigation, prosecution and conviction for TF because the interventions of the Benin authorities focus more on the prevention of violent extremism, radicalisation and terrorism.

TABLE 3.4 - FIU DISSEMINATION BETWEEN 2014 AND 2018 AND THE RESULTS

		YEAR					Total
		2014	2015	2016	2017	2018	
(National) Intelligence disseminated	Spontaneously	0	0	0	0	31	45
	On request	0	0	0	0	14	
Agencies/Institutions		Distribution of dissemination at national level					
		2014	2015	2016	2017	2018	Total
Revenue Authorities		0	0	0	0	31	31
General Inspectorate of Finance		0	0	0	0	8	8
Economic and Financial Brigade		0	0	0	0	6	6
		Results of disseminations made by the FIU					
		2014	2015	2016	2017	2018	Total
Investigations prompted by the FIU intelligence							
ML investigations		0	0	0	0	0	0
ML- investigations in connection with Other offences		17	8	0	0	24	49
TF-related investigations		0	0	0	0	0	0
Total		17	8	0	0	24	49
Results of investigations prompted by the FIU intelligence							
Arrests		0	0	0	0	2	2
Sentences		0	0	0	0	1	1
Convictions		0	0	0	0	0	0

Value of confiscations	0	0	0	0	0	0
Others	0	0	0	0	0	0

Source : FIU-BENIN

3.2.2. STRs received and requested by competent authorities

183. All reporting entities are required to report to the FIU their suspicions regarding ML/TF, cash transactions of more than 22, 867 Euros, cross-border movements of cash and negotiable bearer instruments up to 7,622 Euros. The FIU sensitized reporting entities on suspicious transaction reporting. Consequently, FIs and some DNFBPs have gradually acquired an understanding of how to identify and file suspicious transactions to the Unit.

184. The quality and number of STRs filed to the FIU vary from one reporting entity to another. In general, most commercial banks, insurance companies, and large scale DFIs, produce quality STRs compared to DNFBPs. The statistics in table 3.5 below provides an overview of reports received by the FIU from 2015 to 2018:

TABLE 3.5: STATISTICS ON REPORTS RECEIVED BY FIU AND PER SECTOR

SECTOR	2015		2016		2017		2018	
	STR	CTRs	STR	CTRs	STR	CTRs	STR	CTRs
Distribution by type of financial institution								
Commercial banks and financial institutions	314	0	373	0	379	6,514	527	19,038
Decentralized Financial Systems	0	0	2	0	0	0	2	0
Postal Financial Services	0	0	0	0	0	0	0	0
Foreign Exchange (BDC)	0	0	0	0	0	0	0	0
MVTS	0	0	0	0	0	0	0	0
Insurance Companies	0	0	10	0	2	0	3	0
Capital market operators	0	0	0	0	0	0	0	0
Total Report filed by FIs	314	0	373	0	379	6,514	527	19,038
Distribution by type of DNFBP								
Casinos and other gambling services	0	0	0	0	0	0	0	0
Real estate operators/agents	0	0	0	0	0	0	0	0
DPMS	0	0	0	0	0	0	0	0
Lawyers	0	0	0	0	0	0	0	0
Notaries	0	0	0	0	0	0	0	0
Chartered Accountants	0	0	0	0	1	0	2	0
Other DNFBPs	0	0	0	0	0	0	0	0
STRs and CTRs filed by DNFBPs	0	0	0	0	1	0	2	0
Total Number of STRs & CTRs received by FIU	314	0	385	0	382	6,514	534	19,038
Other Reports Received by the FIU								
Cross-border reports made by Customs administration	0		0		0		0	
PEPs Transaction reports	7		7		1		2	
Transaction Reports made by NPOs	0		0		0		0	
STRs received from other sources	0		0		0		24	
Total	7		7		1		26	
Total Reports Received	321		392		6,897		19,598	

Source : FIU

185. An analysis of table 3.5 providing statistics on reports received by the FIU per sector shows that:

- Only commercial banks, insurance companies, and decentralised financial systems are meeting their reporting obligations. These sectors accounted for the majority of STRs received by the FIU from 2015 to 2018. Commercial banks filed 1,593 out of a total of 1,615 STRs received by the FIU which appears consistent with the materiality of the banking sector in Benin based on the volumes and values of transactions processed. Insurance companies and decentralised financial systems filed 15 and 4 STRs, respectively, which appear low.
- The other types of FIs (postal financial services, foreign exchange bureaus, money transfer companies, CMOs) did not file any STR to the FIU within the review period.
- Except for 3 STRs filed by chartered accountants, other DNFBPs did not file STRs to the FIU over the past four years. Given the very high ML risks associated with the DNFBP sector, the non-filing of STRs by this high-risk sector could impact negatively on AML/CFT's national efforts.

186. In general, the main reasons for the low number of STRs and/or non-filing of STRs by some FIs and the DNFBPs include inadequate supervision and monitoring of the sectors and the non-enforcement of sanctions for non-compliance (see IO.3 for details). The low/lack of reporting by some reporting entities (some of which are identified as high risk e.g. real estate agents/sector), limits the scope of information available for the FIU's analysis and also raises concerns about the financial intelligence available to authorities.

187. The STRs received by the FIU are all ML-related. In 2018, the FIU received two (2) STRs on TF which ultimately turned out to be an organised gang scam.

188. As regards cash transaction reports (CTRs), the FIU received them exclusively from Banks in 2017. Total CTRs filed to the FIU increased significantly from 6,514 in 2017 to 19,038 in 2018. The other types of financial institutions and DNFBPs were yet to file cash transaction reports to the FIU. The Unit utilises CTRs when analysing the STRs as an additional valuable source of information on transaction conducted by the subjects of the analysis.

189. The FIU has not received any report on cross-border transportation of cash and bearer negotiable instruments filed by customs, a sector identified as high TF risk. This limits the data and information available to the FIU and could affect its ability to perform effective operational and strategic analysis.

190. The FIU operates a semi-automated reporting system. Therefore, reporting entities have the option of submitting their reports in electronic or hard copy using the reporting forms provided for them in Excel format. The suspicious transaction reporting template designed by the FIU contains all the relevant components for the collection of financial intelligence. The number of STRs received increased steadily during the review period (from 314 in 2015 to 534 in 2018), particularly due to increased filing by commercial banks. The FIU conducted a few awareness campaigns to build the capacity of reporting entities to improve the quality of STRs.

191. This fact notwithstanding, the FIU often has to request for additional information from certain reporting entities that have filed STRs or even from other authorities to complement the information. The FIU provided some awareness-raising campaigns to

increase the capacity of reporting entities to improve the quality of STRs. There are sometimes missing documents that are deemed relevant during the FIU's analysis. Similarly, some transactions identified in account statements or in documents provided by a reporting entity can lead to requests for various documents or supporting documents. These then become the subject of additional information requests to the reporting entity. These additional information requests are sometimes useful in strengthening or enriching the analysis of STRs.

192. The FIU often needing to request additional information and documents from reporting entities that file STRs has not impacted its ability to perform its duties and ability to conduct operational analysis. This is because the members of the STRs review committee of the FIU are able to meet at short notice to review STRs resubmitted by reporting entities. Nonetheless, the FIU has adopted a new STR form which requires more details regarding the reported transactions to enable the FIU to receive detailed information and limit the need to request for additional information to analyse the STRs. The FIU has noted the difficulty being faced by reporting entities in using the new form. Have committed to train the reporting entities to train them on how to use the form.

3.2.3. Operational needs supported by FIU analysis and dissemination

193. The FIU has a multi-disciplinary team comprising analysts who can prepare financial intelligence based on the processing and analyses of STRs and other information received. The STRs acquire some value-added after having been enriched with additional information provided by reporting entities, other competent authorities, the FIU's foreign counterparts, open sources and commercial databases.

194. After analysing the STRs, the FIU determines whether the elements of suspicion are enough to justify the opening of criminal proceedings. If so, it files the financial intelligence to the State Prosecutor. The latter refers the matter to a Presiding Magistrate to initiate legal proceedings. None of the financial intelligence disseminated by the FIU has ever resulted in a conviction for ML. However, the prosecutorial authorities affirm that they understand the usefulness and relevance of financial intelligence in the prosecution of suspects. In any case, the authorities believe that the intelligence filed by the FIU and processed by the Presiding Magistrate require further investigation, special investigative techniques and other penal measures such as external expertise and national and international letters rogatory, to conduct further investigations and shed light on certain aspects. All these procedures require material and financial resources, judges and specialised investigators that are lacking. This limits their capacity to judicially follow up reports from the FIU promptly.

195. In terms of disseminations, the FIU disseminated all its 31 spontaneous pieces of intelligence to tax authorities (see Table 3.6). There has been no dissemination to the ANLC, in relation to corruption or any related offence. Dissemination does not appear to be in line with the higher-risk areas identified by the NRA. Indeed, in the NRA report (p.25), the Table on the main categories of predicate offences of significant importance in Benin, totalling seven, reveals that tax and customs fraud are numerically less significant when compared to other offences such as scam, extortion, breach of trust, cybercrime. In terms of numbers, the seven offences included in the Tables, tax and customs fraud ranked sixth in 2014 and 2015 and fifth in 2016. There is no information

justifying these disseminations on tax fraud, unlike other offences such as scam, extortion, breach of trust and cybercrime which are the most crucial on the digital level and presented in the NRA like the one that affects all sectors of the Benin economy. Overall, this may imply that the FIU has not prioritised its operational analysis in line with the risk profile of the country. The Assessors believe that more proactive and spontaneous disseminations should have been made in relation to the major ML risks in the country.

TABLE 3.6. NUMBER OF STRs RECEIVED, ANALYZED, DISSEMINATION, CLOSED AND ACTIVE BY THE FIU, 2014 – 2018

Year	No of STRs Received	STRs Analyzed	Disseminated
2014	153	17	0
2015	314	28	0
2016	385	9	0
2017	382	1,022	0
2018	532	408	31
TOTAL	1,766	1,484	31

Source: FIU

196. In terms of strategic analysis, the FIU has undertaken a typology study on cybercrime. This study highlights the profile and modus operandi of the perpetrators and the profiles of the victims of these crimes. The FIU has communicated its first findings to the Republican Police and the banks. This study has reportedly enabled the police to carry out large-scale operations to combat cybercrime. The FIU has also conducted a study on document fraud, including tax evasion, and this study helped to raise the awareness of tax authorities to a large extent. The assessment team believe that stakeholder-institutions, including LEAs, reporting entities and policy-makers could benefit from deeper and more frequent strategic analysis, particularly in identified high-risk areas.
197. Benin has implemented adequate measures to ensure the operational independence of the FIU such that the FIU is not subject to undue influence on AML/CFT matters. The Head and members of the FIU are seconded from relevant MDAs, with the official from the Ministry of Finance assuming the position of the Head of FIU for a period of five years, while the rest serve for three years. The Head of the FIU makes final independent decisions on matters regarding the analysis of STRs, request for and dissemination information. The premises and computer systems of the FIU are protected to ensure the security of information. Despite these, the FIU seems to be under-resourced.
198. The FIU has a total staff strength of twelve (12) with only 3 staff dedicated to analysis. The increasing number of STRs being submitted during the last four years (see the Table 3.2), have posed enormous challenges in terms of analytical capacity. The Unit has limited analytical capacity due to inadequately qualified staff which adversely impacts its ability to effectively analyse all the STRs in its database as noted in the table above. The FIU, therefore, needs additional human and financial resources, as well as a more advanced analytical tool in order to strengthen its capacity to carry out operational and strategic analyses, including stepping up the conduct of typologies based on the high-risk ML/TF areas identified. This will help improve the AML/CFT regime in Benin.

3.3.4. Cooperation and exchange of information/financial intelligence

199. The FIU and other competent authorities cooperate by exchanging financial intelligence and other types of information. The exchanges are facilitated through the FIU focal points, cooperation agreements, and the FIU's access to several databases. They concretise their cooperation through daily contacts, periodic meetings and also through formal exchanges of intelligence.
200. The CTN-AML/CFT is operational and regularly holds its periodic meetings. The members represent all the institutions involved in AML/CFT and also incorporates the FIU's correspondents within their institutions. The FIU and the other competent authorities establish cooperation through the correspondents appointed in the government, law enforcement authorities, supervisory authorities and also reporting entities that file the STRs, CTRs and any other relevant information.
201. The FIU has signed cooperation agreements with certain State departments, including the customs, tax, State treasury and general inspectorate of finance, to exchange information and collect relevant statistics. These agreements facilitate the exchange of information which takes place regularly between the FIU and these various departments. Table 3.7 on Domestic Cooperation Agreements signed by the FIU provides an update on such agreements.

TABLE 3.7: DOMESTIC COOPERATION AGREEMENTS SIGNED BY THE FIU

N°	DOCUMENT TITLE
1	Mutual Administrative Assistance Agreement between the FIU and the General Inspectorate of Finance (IGF) on AML/CFT of 1st February 2018.
2	Mutual Administrative Assistance Agreement between the FIU and the Treasury and Public Accounting Department (DGTCP) on AML/CFT of 26 December 2017.
3	MOU between the FIU and Tax Department (DGI) on AML/CFT of 22 November 2017.
4	Mutual Administrative Assistance Agreement between the FIU and the Customs and Excise Department (DGDDI)
5	Mutual Administrative Assistance Agreement between the FIU and the Investment and Export Promotion Agency (APIEX).
6	Cooperation Agreement between the FIU and the INTERPOL National Central Office, Cotonou/BENIN

202. Generally, the national AML/CFT cooperation and coordination mechanism based on the CTN-AML/CFT, all correspondents and focal points, agreements signed between the FIU and other relevant government structures seem to be working very well. However, there is a low level of cooperation and information sharing between the FIU and certain specialised institutions, particularly the ANLC and intelligence services.
203. The low level of cooperation accounts for the lack of exchange of information between the FIU and ANLC. The FIU does not receive information related to ML in corruption cases processed and transmitted to the judicial authorities. Similarly, the FIU also exchanges little information with the intelligence services which, however, often produce relevant information on AML/CFT that could be of interest to the FIU. But the sensitivity of the information produced and its ultimate purpose explains the non-integration of the FIU into the circuit for sharing information produced by the intelligence agencies.

204. Despite the deficiencies in the level of cooperation with certain specialised institutions, national cooperation in Benin has produced results in the fight against fraud and certain forms of financial fraud through the Internet. The reports have been filed with the State Prosecutor and are still awaiting legal action. But it should be noted that the cooperation level is very low in the area of TF and is yet to produce any results.

Box 3.1: Practical Case of Cooperation between the FIU and the Treasury and Public Accounting Department

The Treasury and Public Accounting Department consulted the FIU on the issue of a structure that was conducting an illegal financial activity online, including tontine, microcredit, online trading of currencies with high interest rates up to 540% per year. The FIU processed the information received as a suspicious transaction report.

Investigations conducted on the internet and in the area confirmed the existence of this structure. It had recruited some twenty young people who travelled through the city of Cotonou and surrounding areas, offering the public, through advertising flyers, term deposit transactions with attractive interest rates of monthly 15%; quarterly 75%; half-yearly 210%; annual 540%.

The investigations revealed that it was purely and simply a scam (exclusively via the internet) with a public call for savings. The structure lured the populace, through deceptive and fraudulent tactics, to subscribe to its financial products online in exchange for a very high future remuneration.

The FIU submitted a report to the Prosecutor outlining the findings of the investigation and the suspicions of ML related to the scam activity with a call for public savings. The Prosecutor called on the Economic and Financial Brigade (BBEF), which identified more than 2,000 victims. The promoter of the structure has been arrested and has been in pre-trial detention since November 2018 pending prosecution.

The Director General of the Treasury and Public Accounting Department received feedback on the outcome of the case.

Box 3.2: Illustrative case of the effectiveness of national cooperation leading to the detection of the use of legal persons for purposes of capital flight and tax fraud

This typology resulted from numerous STRs received by the FIU from banks and relating to Limited Liability Companies (LLC) that submit requests for transfer of funds abroad. Given the huge amounts involved (several hundred million) and considering the supporting or available documents, the banks had good reason to suspect that these financial transactions solicited by their customers could be related to ML and they submitted an STR to the FIU.

During the investigations opened on these STRs, the FIU using communication rights and based on its protocols of exchanging information with the central services in the public administration sent information requests to the Treasury, Customs and Revenue Departments to obtain information deemed useful in the verification of documents and records provided to reporting banks by these companies.

The main outcomes which stand out from the crossed analysis and processing of the information received by the FIU are as follows:

- *Applicants submitted falsified Treasury foreign exchange authorizations to banks.*
- *For other (non-falsified) foreign exchange authorization, the bills of lading (or tickets) produced by the applicants to the state treasury as evidence of requests for transfers abroad proved to be false, especially in the used vehicles import sector.*
- *The invoices to be paid by these companies were documents produced in Benin, with no address or telephone contact from the supplier.*
- *The Tax Department was not aware of the business enterprises;*
- *The business enterprises were subjected to the package tax (GST scheme for turnover of less than or equal to 76 224.60 Euros, whereas their actual turnover was well above 76 224.60 Euros, since they require the payment of invoices in amounts exceeding several hundreds of millions or even billions of CFAF. They were taxable under the simplified real regime (where turnover is greater than 50 million but less than or equal to 500 million) or even under the regular regime (turnover exceeding 500 million).*

Furthermore, the financial investigations on the investors of these companies revealed that most banks had private accounts (savings or current accounts) opened in their names and used for their commercial activities, thus preventing the tax authorities from tracing their actual turnover.

Finally, further investigations revealed that most of these investors were expatriates with some nationals as accomplices for the provision of false documents (falsified foreign exchange authorizations).

The findings of the various investigations initiated by the FIU resulted in:

- *Prosecution for tax fraud, currency smuggling and ML at the CRIET Court. The suspects and their accomplices were arrested and held in prison custody pending their trial;*
- *The tax review of the companies concerned.*

RELEVANT REFORMS UNDERTAKEN

This typology disseminated to stakeholders, including the Revenue, Treasury and Customs Departments helped them to understand the methods and techniques of fraud used by some companies to escape taxation and to organize capital flight. The immediate consequence of these developments was the implementation of several reforms, namely:

- *The interconnection of the Revenue, Customs and Treasury departments to facilitate the exchange of information on the financial and physical flows of taxpayers (through verification of the authenticity of bills of lading and customs declarations produced by importers, the requirement of a tax certificate before any foreign exchange authorization for the release of funds, among others). This platform prevents the multiple use of documents or their falsification.*
- *The Treasury has established an automated platform for online verification and authentication by banks, of foreign exchange authorizations issued by the*

Treasury. The use of this mechanism has led to the detection of several other cases of fraudulent practices of this kind.

205. The FIU has taken appropriate measures to ensure the security and a high level of confidentiality of any information in its possession. The office premises of the FIU are sufficiently secure to prevent unauthorised access (video-surveillance and guarded day and night by a detachment of the Republican Police).
206. The FIU keeps all documents, reports and information it receives in secured safes. The FIU has its well-protected database which can only be accessed by authorised officials of the FIU.
207. The members of the FIU and their correspondents take an oath before a competent court before assuming office. Support staff are subject to background checks prior to recruitment. They sign oaths of secrecy, bound by confidentiality rules and are sanctioned in case of violation of professional secrecy. Also, the Benin-FIU's membership of the Egmont Group reflects the application of confidentiality in the exchange of information, which is a key criterion for membership.
208. The FIU has experienced only one case of unauthorised disclosure of information found on the internet. This disclosure entailed the liability of a reporting entity which the FIU identified within 24 hours. As a result, the FIU has taken additional measures to secure the transmission of information. The authorities are also prosecuting the compliance officer and manager of the reporting entity under Articles 66 and 82 of the former AML/CFT Act. The letters of the FIU relating to information are transmitted hand-to-hand by a police officer of the FIU. The FIU stated that there had been no cause for concern in using this mode of transmitting requests.

Overall Conclusion on I.O.6

209. The AML/CFT system, to a certain extent, provides for access to financial intelligence. However, depending on the sources of financial intelligence, the investigative authorities have limited access to certain types of financial intelligence and other relevant information such as those produced by the Customs and Tax administrations. By and large, the use of financial intelligence in investigations is limited to investigations of predicate offences and, to a lesser extent, ML investigations exclusively related to predicate offences. There is no investigation related exclusively to ML and TF prompted by financial intelligence. The FIU's disseminations, on their part, relate exclusively to ML and there is no dissemination on TF.
210. The FIU only receives STRs from banks and sometimes from insurance companies and DFS. The vast majority of DNFBCPs virtually provide no STR. The same obtains for cash transaction reports which come exclusively from banks and other FIs. The other reporting entities do not. The FIU does not receive reports on cross-border transportation of currency and BNIs from Customs either.
211. The inadequacies of human and material resources, including the lack of modern analytical tools, considerably reduces the FIU's analytical capacity. The financial

intelligence disseminated by the FIU to the prosecutorial authorities have so far not resulted in any conviction for ML.

212. Conversely, cooperation between the FIU and the various actors has produced some results on ML but not on TF. There is no specific timeline obliging requested competent authorities to provide the information promptly. There is also a low level of cooperation between the FIU and certain specialised institutions such as the ANLC and intelligence agencies. Based on the country's risk profile, all the deficiencies identified considerably impede an effective fight against ML/TF.

213. **Benin is rated as having a Low level of effectiveness for I.O. 6.**

3.3 Immediate Outcome 7 (ML Investigations and Prosecutions)

3.3.1. *Identification of ML cases and investigations*

214. Benin has an adequate legal framework for the investigation of ML offences. However, the NRA revealed certain deficiencies that impact the identification and investigation of ML. These include the absence of specialised or designated units, inadequate staff training, lack of parallel financial investigation for ML and the lack of national and international cooperation.

215. The NRA report also noted that there were concerns about the independence and integrity of investigators in charge of economic and financial crimes. However, these concerns have, to a large extent, been resolved with the establishment of the Republican Police, which was formed by the amalgamation of the Police and Gendarme forces. The authorities affirmed that the establishment of the new structure led to a considerable reduction of corruption among officers and lessened interference from government officials in investigations on economic and financial crimes.

216. Furthermore, since the adoption of the NRA report and its action plan, the FIU has organised several training workshops for criminal investigators and prosecutors. Also, under the SAMWA Project (an EU-GIABA project), about sixty persons involved in the implementation of AML/CFT measures, including police and customs officers, officers from the forestry division and magistrates, have received training on ML/TF investigation and prosecution techniques.

217. Benin has also incorporated a module on AML/CFT into the training curriculum for Criminal Investigation Officers (CID) of the Republican Police and the career development training courses within the Forestry Division. Benin did not provide any information on the contents and duration of the training modules or the number of officers that have received training. The Action Plan highlights training and the need to continue such training as a priority. Benin is implementing this component of the Action Plan.

218. The BEF of the Criminal Investigation Department is the agency empowered to investigate all economic and financial crimes, including ML. ML cases are initiated by the BEF based on complaints, reports or referrals from the Office of the Prosecutor or Commission of Inquiry, or on its initiative. The BEF identifies and conducts ML

investigations from predicate offences that are being investigated by the agency as well as those referred to it by other specialised agencies. Thus, the BEF handles all the complex ML cases and can also assist other police agencies in processing the ML component during investigations into predicate offences.

219. After the NRA, the BEF increasingly realised the need to prioritise ML/TF. Thus, the BEF's initial workforce of about thirty officers has been strengthened with the creation of an eight-man ML investigation unit that is specialised in investigating ML. Most of the investigators at the BEF have attended training on ML/TF-related investigation and prosecution techniques.

220. These training sessions, though inadequate, have raised the awareness of the investigative authorities on the need to identify and investigate ML cases. The training sessions have impacted the behaviour of investigators who more recently conduct parallel ML investigations when investigating predicate offences. Investigators also apply some special investigative techniques, such as surveillance of bank accounts. However, LEAs have not identified and investigated most of the potential ML cases.

221. Benin has several specialised investigative units within the Republican Police that identify ML cases from predicate offences. The BEF cooperates with these specialised investigation units but rarely conducts parallel ML investigations into the predicate offences handled by these specialised units except where the case file is referred to it. In this regard, the investigative authorities cited a drug trafficking case handled by OCERTID, which was subsequently referred to the BEF by the State Prosecutor to handle the ML component.

Box 3.3: Detection of ML from a predicate offence (drug trafficking)/ Collaboration between OCERTID and BEF in AML/CFT

On 17th July 2018, the OCERTID seized seven hundred and fifty-six (756) grams of heroin and one thousand two hundred and eight (1208) grams of cocaine at the home of couple, TK and AF, in Cotonou.

The investigation led by the OCERTID resulted in the arrest of six (06) individuals. Further investigations revealed that the main suspect, TK, was a member and distributor of a large drug trafficking network in the West African sub-region. She operated with the complicity of her husband and the other accused persons. Also, the authorities seized several other documents relating to her bank accounts and real estate during the investigation. Thus, the BEF was requested to investigate the ML aspect in this case. A team of BEF investigators joined the OCERTID investigators to finalize this case, which resulted in two separate and complementary procedures. This couple and their accomplices were prosecuted and sentenced for drug trafficking.

The State Prosecutor instructed the BEF to continue with the ML investigation, which revealed that the couple had made significant profits from drug trafficking as their commercial activities could not produce such a substantial turnover. The two businesses which the couple established to sell food products and vehicle spare parts, had no accounting, no employees and was not paying taxes.

The asset investigation revealed that the couple had been systematically laundering the illicit proceeds of drug trafficking through investments in real estate in and around Cotonou, Accra and Tema in Ghana. They also invested in gold jewellery, luxury vehicles and lived a lifestyle above the legal revenues from their visible activities. Their accounts were almost empty, with only a few movements. They made more use of cash than banking services in their financial transactions.

At the end of the ML investigation a month later, this couple were arraigned before the Special Prosecutor, CRIET, on charges for tax evasion, non-establishment of financial statements of their institutions and laundering of the illicit proceeds of drug trafficking. Prosecution is ongoing.

222. The above case highlights the value of effective inter-agency cooperation in ML investigation. However, this procedure which primarily obliges the specialised agency to refer a case file to the Prosecutor's office and further requires the investigative judge to decide on whether or not the case should be referred to the BEF, suspends the conduct of parallel ML investigations. This practice, which does not permit direct referral of the cases to the BEF, may result in delays, loss of evidence or even the failure to obtain relevant evidence, given that crucial evidence pertaining to ML could be ignored by investigators from the other specialised agencies that essentially focus on the predicate offence. The authorities explained that the “non-opening” of a parallel investigation by certain police units in charge of the underlying offences result from the constitutional period of custody which is set at 48 hours and renewable by the prosecution for a maximum period of 8 days. As such, police units may sometimes be unable to conduct parallel investigation within this period before the case is transferred to the prosecutor. In such a case, the investigative magistrate, if he finds it relevant, refers the case to the BEF for a parallel investigation. However, in order to achieve efficiency, all LEAs should systematically initiate parallel investigation of ML when conducting investigations into the predicate offence, without the need to refer the case file to the Prosecutor to initiate an ML investigation. Despite this protracted procedure in conducting the parallel investigation of a predicate offence handled by another specialised unit, ML investigations conducted through cooperation between the different investigative agencies are still major achievements.

223. Apart from the Republican Police, Benin is able to identify ML cases through certain specialised services of other competent administrations. These services, although not empowered to conduct ML investigations, collect financial intelligence and other information in order to establish serious predicate offences to ML. These include, for example, the Tax and Customs departments which collect information to establish tax and customs offences. The Tax and Customs authorities are yet to subject tax and customs offences to parallel ML investigation. The authorities deal with these types of offences under the Tax and Customs Code and impose financial penalties such as fines and other tax adjustments for tax offences and seizure or an arrangement (compromise) for customs offences. Despite the possibility of setting up a team of sectoral investigators for complex cases of tax and customs fraud that involve ML, Benin has not yet conducted any joint ML investigation involving the BEF and the Customs or Tax Departments.

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

224. Benin's NRA reveals that offences relating to scam (including extortion and breach of trust) and cybercrime are the most prevalent predicate offences followed by human trafficking, sexual exploitation, drug trafficking, kidnapping and hostage-taking. These, together with offences related to corruption, fraud (tax or customs) and smuggling constitute sources of ML at the domestic level due to the significant illicit financial flows these offences generate. However, despite Benin's efforts to allocate resources for the investigation and prosecution of ML and despite the existence of specialised investigative agencies that deal with the predicate offences which were identified by the NRA as crucial sources of laundered funds, ML investigations and prosecutions are not consistent with the ML threats in the country and do not reflect Benin's risk profile.
225. There is also a considerable gap between the number of investigations relating to predicate offence and the number of ML investigations. Currently, not all predicate offences are systematically subjected to parallel ML investigations. The low number of parallel ML investigations is inconsistent with the high number of threats associated with the multitude of the major predicate offences that could generate significant illicit funds.
226. For instance, the 2018 criminal and financial statistics of the BEF (Table 3.8 below) show that out of about 430 proceeds generating crimes which the agency handled, it conducted only 45 ML investigations, involving an amount totalling 4,095,309.36 Euros with 68 people charged.
227. Generally, the number of ML investigations (45 investigations) is low compared to the number of ML predicate offences (430). There is no information showing that the 45 ML investigations deal with parallel investigations into major predicate crimes such as drug trafficking, cybercrime, human trafficking, corruption, tax and customs offences and some other offences listed in Table 3.8. Benin did not specify the types of predicate crimes that were the subject of parallel ML investigations neither does it specify the types of ML investigated.
228. However, the BEF affirmed that out of the 45 ML investigations conducted in 2018, the courts have secured a single conviction for ML following a parallel investigation conducted on the scam case reported in Box N° 3.4 below:

Box 3.4. Conviction for ML in a Scam Case

Codjo used fraudulent emails and correspondence to obtain approval for and confirm the transfer of an interbank loan in the sum of 381,12 Euros, from bank "A" to bank "B". He transferred the loan amount into the bank account of D Services in bank "B". He also withdrew part of the loan amount (132 630.8 Euros) and deposited part of this amount into bank accounts in banks "C" (33 335.859 Euros) and "D" (7 622 Euros, both in the name of D Services. Kossi opened all the bank accounts at the instigation of Codjo. Codjo used the remaining 91 469 Euro to rent and furnish a house to operate a daycare centre for children, at which he employed Kossi. Both of them were prosecuted and convicted for fraud and ML, and sentenced to 7 and 3 years, respectively. The Court also fined the defendants 1 143 369 Euros each.

The Court ordered Codjo to pay 457 347 Euros and 7 622 Euros as damages and interest to banks " A " and " B ", respectively. The Court also confiscated funds held in the bank accounts on behalf of D Services Company for the benefit of Bank A.

TABLE 3. 8: CRIME AND FINANCIAL STATISTICS OF THE ECONOMIC AND FINANCIAL BRIGADE FOR 2018

OFFENCES COMMITTED IN 2018	NO. OF COMPLAINTS	NO. OF INVESTIGATIONS	NO. OF SUSPECTS	AMOUNTS /VALUE INVOLVED CFAF/ EURO
Breach of trust	98	56	95	CFAF 1,624,515,933 2.476.561,56
Scam	102	66	101	CFAF 15,578,290,995 23.748.980,14
Abuse of office corruption, illicit enrichment	118	76	57	CFAF 4,774,336,578 7.278.437,96
Theft and receiving stolen goods	42	23	53	CFAF 1,173,080,383 1.788.351,67
Forgery and use of forgery in private documents, Customs fraud, Tax fraud	68	45	124	CFAF 2,569,991,959 3.917.932,21
Bank fraud	30	22	53	CFAF 19,456,361,354 14.416.147,32
Bank fraud (fraudulent intrusions)	12	10	31	2,952,108,548 4.500.465,89
Misappropriation and illicit use of public assets	40	37	58	5,251,352,121 8.005.644,35
ML	0	45	68	2,686,343,606 4.095.309,36
Illegal pharmaceutical practice, Drug trafficking Sale of counterfeit drugs Exposure, possession for selling, offering for sale or selling falsified, corrupted or toxic ¹⁵ drug substitutes	0	42	108	173687 Kilograms
Violation of public procurement code		07	7	N/A
Total		430	763	56,266,381,477 85.777.648,9 6

Source: BEF

229. Benin has established the CRIET, a specialised court in the adjudication of economic and financial crimes, including ML. The CRIET has full jurisdiction over economic and financial crimes. The other courts that used to handle economic and financial crime cases have transferred all relevant case files (185 including 25 on ML and 160 on predicate offences) to the CRIET. In respect of the cases, including ML cases transferred to CRIET, investigations are still ongoing. The case files were transmitted to the court in 2018 when it was established, and the court is still in the process of being operationalised as it is yet to be provided with adequate capacity (human resources and specialisation of prosecution authorities) to enable it prosecute ML cases promptly.

230. The predicate offence in one of the two ML cases prosecuted related to scam, which is one of the major ML threats in Benin. Nevertheless, ML prosecutions do not reflect

¹⁵ 173 687 Kilogrammes

Benin's risk profile since the country is not prosecuting ML offences that are linked to the most prevalent predicate crimes particularly those related to corruption, tax and customs offences.

231. Corruption and related practices are offences identified by the NRA as generating the largest amount of illicit proceeds. Since 2017, the ANLC has filed 22 cases on corruption and related practices with the courts, some of which have led to convictions. However, ML was not prosecuted in any of the corruption cases. Perpetrators of corruption and related practices most often, receive only administrative sanctions such as revocations and dismissals. Even where there are criminal proceedings, prosecutors ignore the ML aspect. The same obtains for tax and customs offences which potentially generate huge amounts of illicit proceeds but which are often subject to administrative rather than criminal sanctions, and typically result in the imposition of fines, seizures or plea bargains. Since the NRA, there have been actions aimed at permitting specialised investigation agencies to deal with these predicate offences together with their ML components. These reforms are yet to produce the expected results.
232. Furthermore, there is a variance between the number of ML investigations and the number of cases prosecuted for ML. To date, the number of ML cases prosecuted and adjudicated upon (before and after the establishment of the CRIET) is very low (two ML convictions) when compared to the number of investigations conducted. The CRIET explained that the low level of prosecution was because the old Uniform AML Act did not provide for stand-alone ML. This gap explains why there has been no conviction for this type of ML from 2014 to 2018.
233. Benin focuses more on the prosecution of predicate offences. Typically, the prosecutorial authorities review the relevant evidence in the cases as well as possible penalties before presenting potential ML cases to court. The prosecutor's office always initiates ML cases. However, the judges are inclined to convict for the predicate offences given that predicate offences are often supported with more tangible evidence and typically attract more severe penalties than the ML offence, which is often more challenging to prove. The difficulty in proving the ML offence represents a significant deficiency in awareness, training and specialisation of magistrates. Although the practice of identifying ML and initiating an ML investigation while investigating the predicate offence is a strength that has somewhat been demonstrated by the investigative authorities (especially the BEF), the judicial authorities do not seem to give much priority to the prosecution and adjudication of ML. Given the ML risks identified by the NRA and the considerable number of predicate offences that constitute significant ML threats to the country, assessors surmise that the limited ML convictions signifies some limitations within the prosecutorial and judicial authorities and this also highlights the fact that prosecutions do not reflect the risk profile of the country. However, the two convictions for ML issued by the newly created CRIET reflect the nascent implementation of the obligation to align investigations, prosecutions and judgments with the country's risk profiles.

3.3.3. Types of ML cases Prosecuted

234. Benin is not prosecuting all types of ML cases. The country has only secured two convictions for ML, both pertaining to self-laundering. The case files transmitted by the

FIU and investigative services to the Prosecutor do not explicitly provide details on the types of ML prosecuted. However, most of the ML cases referred to LEAs relate to legal persons (companies) and their managers. The authorities noted that in practice, the investigative and prosecutorial authorities focus more on self-laundering because the new AML/CFT Act criminalises this type of ML which was not covered by the former Act. However, the authorities did not demonstrate any effective prosecution of the other types of ML cases provided for under the former Act.

235. Benin does not have adequate capacity within the various LEAs and other competent authorities to investigate and prosecute all types of ML cases. However, the establishment of the CRIET is a major development. Once fully operationalised, the CRIET can provide information and statistics on the types of ML prosecuted and on convictions. There is the need to train the relevant competent authorities in detecting and investigating all the various types of ML since the choice of any investigative technique may be relevant to the type of ML offence.

3.3.4. Effective, proportionate and dissuasive nature of sanctions

236. Benin's legal framework provides for dissuasive sanctions for the ML offence (see Rec.3). The CRIET imposed 3 years' imprisonment and a fine of FCFA 8,000,000 (12,196 Euros) against a natural person in one of the ML cases. In another case, two persons were tried and convicted for fraud and ML. One person was sentenced to seven years' imprisonment and the other to three years' imprisonment and both were each fined 750,000,000 FCFA (1 143, 363 Euros). One of the perpetrators had to make an additional payment for damages and interest in the amounts of (300,000,000 FCFA (457 345 Euros) and 5,000,000 FCFA (7 622 Euros) to two banks and an asset confiscation order was lodged with the banks. The sanctions imposed in these two cases are effective, proportionate and dissuasive.

237. However, Benin is yet to secure any ML convictions relating to legal persons. Therefore, the assessment team could not assess whether the sanctions stipulated under the AML/CFT law are effective, proportionate and dissuasive in practice.

3.3.5. Implementation of alternative measures

238. The judicial authorities have not reported any case requiring implementation of alternative measures where an ML conviction could not be secured. The investigative authorities give more priority to predicate offences. In the rare cases involving ML, the judicial authorities opt for the prosecution and conviction for the predicate offence, the sanctions of which are often more severe than those for ML. This ensures that the criminal is not easily acquitted when charged with ML given that the ML offence is often more difficult to prove than the predicate offence. Consequently, investigations, prosecutions and convictions focus on predicate offences rather than ML with no opportunity for any alternative measures to be implemented.

Overall Conclusion on IO.7

239. The BEF is the body responsible for the identification and investigation of ML. However, the lack of resources and capacity explains why it cannot deal with all potential cases of ML apart from self-laundering cases. The BEF does not simultaneously conduct parallel ML investigations into predicate offences handled by other specialised agencies. Furthermore, predicate offences are not being systematically subjected to parallel ML investigations by the other LEAs. Although a considerable number of LEAs have been trained, the capacity to deal with potential ML cases is still limited. On the whole, ML investigations do not reflect Benin's risk profile notwithstanding the existence of specialised investigative agencies that handle predicate offences identified by the NRA as important sources of ML.

240. Similarly, prosecutions on ML do not reflect the country's risk profile. Indeed, authorities do not prosecute ML when handling some of the serious predicate offences to ML such as corruption, tax and customs offences, which generate the most substantial proceeds. Besides, in cases where the predicate offences have linkages with ML, authorities focus on the prosecution of the predicate offence rather than ML.

241. Despite the establishment of the CRIET, a court specialised in handling economic and financial crimes, particularly ML, the lack of capacity and resources impedes Benin's ability to prosecute the different types of ML offences. The cases of prosecution and conviction recorded so far relate only to self-laundering. The two ML convictions secured by this Court relate to natural persons. The Court is yet to convict any legal persons for ML. Judicial authorities have not applied alternative criminal justice measures in a case where a ML investigation has been pursued but where it is not possible for justifiable reasons, to secure a ML conviction.

242. Overall, the actions recommended for Benin are being implemented by the country, and as implementation is sustained it is hoped that the rating of this IO would improve gradually.

243. Benin is rated as having a Low level of effectiveness for IO. 7.

3.4. Immediate Outcome 8 (Confiscation)

244. This Outcome is mainly related to Recommendations 1, 4, 32 and also some elements of Recommendations 30, 31, 37, 38, and 40.

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

245. The Treasury Judicial Agency (AJT) deals with final seizures and confiscations apart from drugs and medicines (which the authorities destroy). The State Consolidated Fund manages all funds involved in provisional measures. Where the value of the property can depreciate, the court may appoint the AJT to take custody of the value, pending the end of the proceedings.

246. Benin provides for cash deposit at the Court Registry. However, it lacks civil confiscation and a mechanism for freezing and managing confiscated proceeds. Some

jurisdictional practice reveals that the Presiding Magistrate may issue an order for the management of assets exposed to bad weather. The management aims to preserve assets from faster depreciation (the owners may request for sale and so the asset remains in the custody of the court). The court is required to designate a person who should sell the asset and keep the proceeds of the sale pending the end of the proceedings and the intervention of a court ruling that decides on its final status.

247. This practice has the dual advantage of preserving the value of the asset earmarked for confiscation and protecting the rights of the defendant, especially in the event he/she is discharged by the competent court.

248. Benin lacks structures responsible for the temporary management of confiscated assets. Therefore, there is a weak implementation of enforcement orders issued by the Presiding Magistrate.

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

249. The Law Enforcement Authorities (Customs, Police, Water and Forestry Directorate, among others) have confiscated some assets linked to predicate offences committed in Benin. However, LEAs seize products that constitute the offences (e. g. drugs), but proceeds from offences are rarely seized and confiscated. No assets, property or income related to ML have been seized or confiscated by courts in Benin.

250. Similarly, no requests for seizure or confiscation have been sent by Benin’s authorities abroad or received from foreign authorities.

251. By way of illustration, in 2017, the LEAs in Benin, including the Customs and Police, seized 1,155.29 kg in all categories of narcotics resulting in the prosecution of ninety-six (96) persons (see Table 3.9 below). However, there is no evidence that the authorities identified or confiscated the proceeds of all these cases.

TABLE 3.9: SEIZURE OF DRUGS AND NARCOTICS

PSYCHOTROPIC SUBSTANCES	QUANTITIES SEIZED	
	2016	2017
DRUGS		
Cannabis	814.44 Kg	901.85 Kg
Cocaine	168.99 Kg	45.76 Kg
Heroin	1.96 Kg	10.44 Kg
Methamphetamine	141.52 Kg	146.61 Kg
Amphetamine	0	1.13 Kg
Methadone	0	40.50 Kg
Diazepam	0	18 Tablets
Tramadol	0	5.5 Tablets
Total quantity seized	1,126.91 Kg	1,146.29 Kg and 23.5 Tablets
PRECURSORS		
Ephedrine	295.37 Kg	152.02 Kg
Total quantity seized	295.37 Kg	152.02 Kg
GRAND TOTAL (drugs + precursors)	1,422.28 Kg	1,298.31 Kg and 23.5 Tablets

Total number of persons prosecuted	86 persons	96 persons
------------------------------------	------------	------------

Source: *Benin NRA report.*

252. The Water, Forestry and Hunting authorities involved in AML/CFT have, through sensitisation and training sessions organised by the FIU, enhanced their law enforcement actions to eliminate revenue derived from wildlife and forestry crimes. The crimes include illegal exploitation of wild species, logging and illicit felling of timber, particularly redwood. Between 2014 and 2016, the Water, Forestry and Hunting authorities seized and confiscated several assets relating to wildlife offences in Benin indicating the huge revenue at stake in the smuggling of protected species (see Table 3.10).

TABLE 3.10: SUMMARY OF SEIZURES RELATING TO PROSECUTED WILDLIFE AND FORESTRY OFFENCES IN 2016 AND 2017

Description		Illegal Revenue per Year			Total
		2016	2017		
Illegal Revenue/Sale of seized products		816,996,700	887,542,371		1, 704, 542,071
Wildlife Offences at W Park					
Offences (trafficking in ivory and animal trunks)	Year	Number of offenders	Number of convicts	Duration of sentence	
	2016	18	06	6 months to 3 years imprisonment	18 275,000
	2017	72	58		13 906,000
Recent arrests					
Dates	Place	Number of offenders	Number of convicts	Duration of sentence	Amount
19-02-2019		07	07	24 months	500 000 per person
-	Atakora (Natitingou) District	03	03	6 months imprisonment	200 000 per person

Source: *Water, Forestry and Hunting service*

3.4.3. Confiscation of falsely or undeclared cross-border transportation of currency and BNI

253. The threshold for the declaration of physical cross-border transportation of currency and BNIs is Euros 7,622. Persons are required to declare to the competent Authority (Customs) at the country's entry or exit points, and while travelling to or from a non-UEMOA member State. A person who fails to comply with the threshold and relevant reporting obligation is liable to confiscation and criminal prosecution (Article 460 of the Customs Code).

254. The Customs authorities are disseminating information and raising awareness of these measures among travellers regarding their obligation to declare cash or similar instruments at the various frontiers of the country. Customs carry out regular checks at the border which may lead to seizures, while final confiscation occurs through judicial channels. Table 3.11 below shows Customs statistics on the regularity, frequency and amounts of monies seized in respect of cross-border declaration of currency.

TABLE 3.11: STATISTICS ON CUSTOMS SEIZURES RELATING TO THE DECLARATION OF CROSS-BORDER PHYSICAL TRANSPORTATION OF CASH

	Year		Total Declarations	Value of Declarations	Number of sanctions imposed for non/false declarations	Amounts of foreign currencies seized	Customs Plea bargains (CFA/Euro)	Amounts seized through sanction
Entry Point	2015	0	0	0	0	0	0	0
Exit Point		0	0	0	7	255 999\$ 48 093 €	30 439 702 46 405,5 €	0
Entry Point	2016	0	0	0				0
Exit Point		0	0	0	3	43 400 \$ 27 000 €		0
Entry Point	2017	0	0	0		0	0	0
Exit Point		0	0	0	13	30 000 \$ 4 962 310 € 757 570	16 653 000 25 387,6 €	4 860 980 € 757 570 £
Entry Point	2018	0	0	0	3	270 500 \$ 104 400 €	22 726 854 34 649 €	0
Exit Point		0	0	5 195 785 Euro 2 486 668 \$		0	0	0
Entry Point	2019	0	0		3	0	0	0
Exit Point			162	1 203 870 Euro 2 788 300 \$				0

Source: Benin Customs

255. The seizures involve sums of money coming into or leaving Benin, excluding sums held by travellers in transit who do not cross the country's customs post at the airport. Where Customs suspects a violation of exchange control regulations, it alerts the authorities in the destination country to take appropriate measures on the arrival of the traveller.

256. Failure to comply with the declaration obligation and the currency held is an offence under customs law. It may lead to confiscation of the said sums and additional prosecution before the criminal courts.

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

257. Despite the implementation of confiscation measures, the results are not consistent with the ML/TF risks and national AML/CFT policies and priorities. The policy of systematic repression of predicate offences carried out by the national authorities and the establishment of the CRIET are likely to enhance the effectiveness of ML/TF-related confiscation measures.

258. Confiscation orders for assets belonging to the perpetrators of some of these predicate offences are issued. However, several procedures are underway and could lead to confiscations, as a result of a better understanding of the AML/CFT issues by the actors, including the members of the CRIET. The outcomes are very mixed, considering the novelty of risk awareness and the measures recommended to address them.

Overall conclusion on I.O. 8

259. Benin applies more administrative fines to undeclared or falsely-declared currency and BNIs than confiscation. The country has not adequately been implementing the legal confiscation system in court orders. The authorities have not been implementing due diligence measures for the repatriation or sharing of the proceeds of foreign predicates or the transfer of the proceeds of offences committed in Benin to other

countries. Confiscation is not a priority action in the country's policies and strategies. The judicial and administrative authorities (Treasury and Judicial Agency) should clarify and strengthen the procedures for the effective execution of confiscation orders issued by the courts.

260. Benin is rated as having a Low level of effectiveness for I.O. 8.

CHAPTER 4. TERRORISM FINANCING AND PROLIFERATION FINANCING

4.1 Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

- a. The two STRs with suspicion of TF received by the FIU did not lead to an investigation. Competent authorities (the BEF, Directorate of Territorial Intelligence (DTI) and ABEGIEF) did not demonstrate the ability to identify and investigate TF. The FIU can identify potential TF cases through analyses of STRs filed by reporting entities. The non-reporting by DNFBPs (except for accountants) and the absence (or low reporting by Customs) of declarations of physical cross-border transportation of currency and BNIs impede the FIU's ability to identify TF cases.
- b. The BEF and CRIET lack experience, skills, human resources and strategy to identify, investigate and prosecute TF activities, including identifying the specific roles of terrorist financiers.
- c. Benin has not experienced any case of terrorism. The authorities focus on the suppression of violent extremism, radicalisation and terrorism. The national strategy to combat radicalisation, violent extremism and terrorism does not integrate TF issues. Consequently, there has been no TF-related investigation based on that strategy.
- d. There is no mechanism for centralising, coordinating and processing information produced by the Republican Police, the ABeGIEF and other agencies to facilitate the timely access to and use of intelligence on potential TF cases.
- e. In the absence of TF convictions, it is impossible to assess whether the sanctions are effective, proportionate and dissuasive.
- f. Benin has not implemented alternative measures to dismantle TF when it was not practical to secure a conviction for TF.
- g. Technical deficiencies in the CFT legal framework- in this case the criminalisation for TF of a terrorist individual and a terrorist organisation for any purposes and that of Foreign Terrorist Fighters - impact on the effectiveness of the CFT system.

Immediate Outcome 10 (TF Preventive Measures and Financial Sanctions for Terrorism Financing)

- a) Benin has designated the Competent Authority for freezing. However, the implementation of the sanctions lists under UNSCR 1267 (1999) and 1373 (2001) without delay, is not effective. There is still no mechanism for the timely transmission or dissemination of the lists to all reporting entities. The authorities disseminate the lists manually through the mail services of the various stakeholders.
- b) The designation procedures are weak in law and cannot be implemented to identify assets related to TF without delay. Specifically, Benin lacks an evidentiary standard of proof for deciding whether or not to propose designation; procedures and standard forms to be followed in listing targets in furtherance of the UN Sanctions Regimes; express provisions for identifying targets for designation in respect of Resolution

1373; and provisions for requesting another country to give effect to actions initiated under the freezing mechanisms.

- c) The Ministry of Foreign Affairs receives the sanctions list regularly and transmits it to the Minister of Economy and Finance (State Treasury) which is responsible for its timely dissemination to all reporting entities. The late dissemination of the lists to the reporting entities have also led the FIs, which are subsidiaries of international groups, with a relatively good understanding of their TFS obligations related to TF, to regularly and directly consult sanction lists on the United Nations website.
- d) Small and medium-sized FIs and DNFBPs have a poor understanding of and their obligations regarding TFS linked to terrorism and its financing.
- e) NPOs have a poor understanding of AML/CFT obligations. They are not trained and sensitised on the issue. The supervision and monitoring of NPOs are not effective in terms of AML/CFT. There is no designated authority in charge of supervising and monitoring the activities of these bodies on the receipt and use of the findings received. The supervisory bodies provided for in the regulatory texts have no means of monitoring the AML/CFT dimension.
- f) The country has not conducted any assessment of the NPOs at risk of being misused for TF, and they did not demonstrate understanding of the risks, nor applied targeted and proportionate measures based on the identified risk.
- g) Benin did not demonstrate the capacity to freeze any assets and instrumentalities linked to TF activities belonging to individual terrorists, terrorist organisations and terrorism financiers (through a criminal, civil or administrative process).
- h) The measures put in place by Benin do not reflect the country's TF risks profile.

Immediate Outcome 11 (TFS related to PF)

- a) The implementation of TFS related to proliferation financing without delay is not effective. The powers of the Minister of the Economy and Finance as the competent authority for freezing and those of the Advisory Commission for Administrative Freezing (CCGA) do not cover the aspects of implementation TFS related to PF without delay. Therefore, there is no functional mechanism for the timely implementation of the Sanctions Lists.
- b) The designation procedures are weak in law – in terms of the evidentiary standard, standard forms, identification of targets and request from third countries - and cannot be implemented to identify assets related to TF without delay.
- c) Reporting entities do not implement TFS related to PF despite the obligation for them to do so under the AML/CFT Act. Many reporting entities are not aware of the sanction lists. The implementation of TFS related to PF is limited to FIs, particularly banks, which carry out screening. The other reporting entities are not aware of the sanction lists and do not have sufficient resources to obtain screening software packages.
- d) The reporting entities have not adopted any internal CDD measures in the area of PF. The competent authorities have not yet developed any clear guidelines for reporting entities, particularly FIs, to guide them in the implementation of internal due diligence measures for the effective implementation of TFS related to PF.

- e) The reporting entities have not yet identified any assets or frozen funds or other assets of persons and entities designated under the United Nations Resolutions on PF.
- f) Banks, large-scale DFIs, foreign group insurance companies have a good understanding of their TFS obligations related to PF. However, small-scale FIs and DNFBPs have not taken measures to implement TFS related to PF.
- g) FIs have not been subject to supervision and monitoring by the competent authorities on compliance with their TFS obligations related to PF. Since the DNFBPs have no supervisory authority, there has been no inspection to ensure compliance with their PF obligations.

Recommended Actions

Immediate Outcome 9

- a. Competent authorities should enhance their understanding of TF risks by updating the national TF risk assessment and prioritising the fight against TF and by giving priority to CFT.
- b. The BEF should have sufficient and specialised human resources to identify TF cases and conduct investigations proactively, based on the country's risk profile.
- c. The CRIET should have specialised material and human resources and adopt standard operating procedures for identifying the various types of TF activities in order to prosecute and secure TF convictions.
- d. Benin should revise the national strategy against radicalisation, violent extremism and terrorism to integrate TF elements.
- e. Benin should fast-track the establishment of a coordinating body bringing together all the competent authorities in charge of counter TF to exchange information and intelligence.
- f. Benin should criminalise the financing of a terrorist organisation or an individual terrorist for any purpose, as well as the financing of foreign terrorist fighters.

Immediate Outcome 10

- a) The competent authorities should put in place a mechanism for the rapid dissemination of the sanction lists to all reporting entities, particularly by electronic means, to ensure the effective implementation of TFS on TF without delay.
- b) Benin should continue to sensitise FIs and DNFBPs (particularly for small and medium-scale FIs and DNFBPs) on TFS related to TF to ensure their understanding and implementation of their TF-related TFS obligations.
- c) Benin should designate the competent authority in charge of supervising and monitoring the activities of NPOs in AML/CFT.
- d) Benin should assess and understand the risk of the NPO sector, and identify precisely the types of NPOs that are most at risk of being misused for TF purposes, and apply targeted and proportionate measures on them using a risk-based approach.

- e) The authorities should undertake awareness-raising and popularization activities on the risks of TF for the benefit of the most vulnerable NPOs.
- f) The competent authorities should restrain all assets and instrumentalities linked to TF activities belonging to individual terrorists, terrorist organizations and terrorism financiers.
- g. Benin should amend Inter-Ministerial Order No. 2018-0631MEF / MISP / MAEC / MJL / MDN / 055SGG18 of 22 February 2018 (CCGA Order) to provide for:
 - i) an evidentiary standard of proof for deciding whether or not to propose designation;
 - ii) procedures and standard forms to be followed in listing targets in furtherance of the UN Sanctions regimes;
 - iii) identification of targets for designation in respect of Resolution 1373; and
 - iv) requirements for requesting another country to give effect to actions initiated under the freezing mechanisms.

Immediate Outcome 11

- a) Benin should review the texts on the powers of the Minister of the Economy and Finance as the competent authority for freezing and those of the CCGA to take on board the aspects of implementing TFS related to PF without delay.
- b) Reporting entities should adopt internal CDD measures on PF. Similarly, the competent authorities should develop clear guidelines for FIs and other persons and entities, including DNFBPs that may be holding funds and other targeted assets, on their obligations under the freezing mechanisms.
- c) Benin should conduct awareness-raising and capacity building activities for small-scale FIs and DNFBPs to enable them to have a good understanding of their obligations on PF-related TFS.
- d) All FIs should be supervised and monitored by their supervisory authorities to ensure compliance with their PF-related TFS obligations.
- e) Benin should designate supervisory authorities for DNFBPs to ensure the implementation of their PF obligations. The supervisory authorities of FIs and DNFBPs should be provided adequate resources to achieve effective monitoring and inspection.
- f) The supervisory authorities should be trained and sensitised on the fight against PF so that they can take the issue on board in their monitoring and inspection exercises for FIs and DNFBPs.

261. The relevant Immediate Outcomes for this chapter are I.O.9-11. The relevant Recommendations for the evaluation of effectiveness under this section are R.5-8.

4.2 Immediate Outcome 9 (TF Investigation and Prosecution)

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

262. As noted in the TC Annex, Benin has not criminalised the financing of an individual terrorist and a terrorist organisation for any purpose and the financing foreign terrorist fighters (FTF). The CRIET, established in August 2018 (six months before the on-site visit), is responsible for prosecuting TF cases in Benin. There has been no prosecution and conviction of individuals and groups involved in TF, which is inconsistent with the country's TF risk profile.
263. In the absence of prosecution of TF cases in Benin, it is impossible to determine the types of TF offences the country prosecutes (e.g. collection, movement and use of funds or other assets).
264. The authorities ascribe the lack of TF cases to the absence of terrorist attacks in the country. Benin believes that when a country is the victim of a terrorist attack, the authorities try to understand how the terrorist financed the attack. The Assessors do not share the country's point of view because TF is not necessarily linked to the commission of terrorist acts. LEAs can indeed respond to terrorist attacks by developing a dynamic understanding and sharing TF risks with other competent authorities concerned. However, considering that Benin is surrounded by countries affected by terrorism, absent an attack, vulnerability factors mean that the country can still be used to finance terrorism in other neighbouring countries. The competent authorities can always rely on intelligence from neighbouring countries that have experienced terrorist attacks to identify potential TF cases.
265. Generally, Benin has a limited understanding of its domestic and international terrorism threats and the TF risks associated with those threats. The Assessors based their conclusions on the review of the 2018 NRA, discussions with competent authorities (the BEF, the CRIET, the FIU, National Police, the ABeGIEF, BCEAO), CTN-LBC/FT and the private sector (FIs, DNFBPs and NPOs).
266. As discussed in Chapter 1, Benin has assessed and rated its potential TF risk, based on its threats and vulnerabilities, as medium-high, which does not seem to reflect reality. Benin's TF threats relate to its location in the ECOWAS region where there are several terrorist groups (for example, Boko Haram of Nigeria) and countries that have experienced terrorist attacks resulting in serious fatalities (e.g. Burkina Faso, Niger and Nigeria).¹⁶ While noting that there are no specific terrorist organisations, groups or individuals nor terrorism or TF cases in Benin, the NRA rates the threat of TF as low and medium-high. However, the NRA still acknowledges that there is a TF threat and Boko Haram and other terrorist fighters in Nigeria can potentially use Benin as a sanctuary and a new testing ground for terrorism and TF¹⁷. The NRA lists the following TF vulnerabilities for Benin:
- a) the porosity of its borders with a large migratory flow and various smuggling, currency and other trafficking activities, especially along its border with Nigeria;

¹⁶ Page., 2018 NRA.

¹⁷ Page 150, 2018 NRA

- b) the regional integration agreements that ease border control measures and a severe lack of modern control equipment, resources and vehicles by border surveillance units;
- c) the massive use of cash in transactions and a large number of informal foreign exchange dealers, which do not facilitate the traceability of financial transactions on currencies;
- d) anonymous use with no threshold of money transfer systems exacerbated by their remote exploitation via the internet or mobile phone;
- e) lack of oversight and control of NGO/NPO activities, especially the non-existence of an institutional and regulatory framework to manage their funding. NPOs operating in the northern part of the country whose activities show trends linked to religious radicalisation and TF-related issues through the recruitment of disadvantaged youths living in these impoverished environments.

267. The NRA also identifies cash, especially foreign exchange, agent transfer services, electronic money as the highest risk methods for TF and, to a lesser extent, bank transfers, amid weak regulatory frameworks.¹⁸

268. The NRA does not analyse the nature, sources, likelihood and consequences of the identified vulnerabilities, indicating a lack of holistic understanding of each vulnerability and its impact to assign some sort of relative value or importance to them.

269. Benin has neither conducted a comprehensive sectoral risk assessment to identify NPOs that are likely to be misused for TF purposes nor taken any measures to apply risk-based supervision and monitoring of NPOs vulnerable to TF. The absence of a sectoral risk assessment for NPOs and the lack of policy for the proper management of potential TF aspects of NPOs operating in the northern part of the country constitute a deficiency.

270. These vulnerabilities suggest a high TF risk as they encourage all sources and forms of TF. In this regard, terrorists can use Benin to collect, save, move or make funds or other assets available to terrorists or terrorist organisations in Benin's immediate environment. The vulnerabilities and absence of any strategy to identify the specific types of TF activities, initiate prosecutions, and secure convictions amid repressive structures constitute a deficiency.

4.2.2. TF identification and investigation

271. In general, Benin has inadequate capacity to identify and investigate potential TF cases, should such cases occur. There has been no formal TF investigation. The authorities did not demonstrate a good understanding of TF's effective investigation (e.g. domestic or trans-national provision, collection, movement or use of funds), which is inconsistent with its TF risk profile. The lack of understanding can be explained, in part, by the absence of criminalisation of the financing of an individual terrorist and a terrorist organisation for any purpose; the lack of a common understanding of both domestic and trans-national TF risks among competent authorities; the low number of STRs/CTRs filed by DNFBPs and the absence of reports to the FIU on the physical cross-border transportation of currency and BNIs; the lack of assessment and monitoring of NPOs at

¹⁸ Page 150, 151, 2018 NRA.

risk of misuse for TF; the lack of requisite skills and resources on the part of the authorities; and the absence of strategies to guide the identification of TF cases to be investigated.

272. Despite Benin's TF vulnerabilities, the LEAs focus their efforts on preventing radicalisation, violent extremism, and terrorism. An anti-radicalisation, violent extremism and terrorism committee (CNLRET) was even set up for this purpose, but is yet to be operational. Assessors based their conclusions on discussions with the FIU, the Republican Police, the BEF, ABeGIEF and Benin's statistics.
273. The BEF has the authority to identify and investigate TF cases. For instance, the BEF may identify TF from terrorism cases handled by the Criminal Brigade, which has the authority to investigate terrorism cases. The BEF is yet to identify any potential TF case and conduct relevant investigations to identify the specific role of terrorist financiers. It lacks adequate human resources and training to identify and investigate TF cases. It has neither requested information nor engaged in any form of cooperation with foreign competent authorities on TF matters.
274. The FIU is a significant source of financial intelligence for criminal activities in Benin. It can identify potential TF cases through analysis of STRs filed by reporting entities. Intelligence reports generated from the two (02) TF-related STRs received by the FIU in 2018 did not result in the identification of TF. In 2018, the FIU received two (02) TF-related STRs on funds transferred from countries known to host legal or natural persons that finance radicalisation activities leading to violent extremism or terrorism into the bank account of an NPO "located at the northern part of Benin". Upon investigation, the FIU could not locate the NPO or the infrastructure for which the funds were transferred. Based on the banks' information on the source countries of the funds and modus operandi, the FIU concluded that the funds' recipients could be international organised fraud gangs. The FIU did not dismiss the potential TF connection and forwarded the intelligence reports to the Prosecutor.
275. It should be noted that the FIU statistics do not reflect the TF-related financial intelligence disseminated to the Prosecutor. There is no information regarding whether the FIU obtained information from the source countries' FIUs to undertake its analysis. Consequently, the Assessors question the FIU's ability to identify potential TF cases from STRs filed by reporting entities.
276. The FIU lacks the necessary skills and resources to carry out the initial identification of TF cases. Its ability to identify potential TF cases is also impeded by the fact the DNFBS identified as high-risk do not produce STRs (except accountants) and CTRs, as well as Customs that do not provide any information on the physical cross-border transportation of cash and BNIs. There is no evidence of cooperation between the FIU and its regional and international counterparts, especially those in countries most affected by terrorism (for example, Nigeria, Mali, Cote d'Ivoire, Niger and Burkina Faso) to facilitate or initiate any identification of TF cases.
277. The FIU participates in intelligence coordination sessions, but no information regarding the frequency and outcomes of these sessions is available.
278. The Territorial Intelligence Directorate identifies the TF threats. The ABeGIEF collaborates with intelligence agencies and participates in the sensitisation and

implementation of preventive measures against violent extremism, radicalisation, terrorism and TF. These two agencies focus their efforts on the prevention of violent extremism, radicalisation, and terrorism through intelligence gathering. They are yet to identify any potential TF case thanks to domestic or foreign intelligence.

279. Benin does not have a coordinating body to ensure the exchange of information and intelligence on terrorism and TF between the competent authorities in charge of the fight against TF, particularly the prevention and law enforcement department of the Republican Police, ABeGIEF and the FIU. The authorities are in the process of establishing the intelligence coordination mechanism.

280. The competent authorities link TF to terrorist acts, but there is no evidence of an effective response making the connection between terrorism and TF. Only banks screen their customers against the UN list. However, they are yet to identify or freeze terrorist assets. The lack of oversight of reporting entities for AML/CFT purposes impedes the understanding of TF. It is necessary to ensure that reporting entities identify and report suspicious TF to the FIU.

281. Given the level of TF risk that is deemed to be medium-high in Benin, the fact that potential cases of TF are not identified and investigated is inconsistent with the country's risk profile.

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

282. Benin's national strategy to combat radicalisation, violent extremism and terrorism does not contain TF elements. The 2018 NRA and its conclusions serve as the basis for determining national CFT priorities. Benin's government has approved the National AML/CFT Strategy and Policy, which form the country's principles in preventing TF. The Strategy provides for the reduction of cash transactions and regulation of electronic money to ensure the traceability of economic transactions and avoid the use of payment systems for FT purposes; the strengthening of surveillance and management of borders and border areas, cross-border declaration of currency and BNIs; and the adoption of measures to facilitate the implementation of enhanced due diligence obligation regarding designated persons and entities. These measures can help Benin to prevent terrorists from receiving, moving and using funds. However, the AML/CFT Strategy is silent over the identification and designation of terrorists, terrorist organisations and support networks in line with UNSCR 1373, and the need for LEAs to conduct parallel financial investigations into TF cases.

283. Benin is yet to conduct a formal TF-related investigation. Therefore, it is impossible to determine whether any TF investigation supported any national counter-terrorism strategy. Whilst there has been no designation of terrorists and those who finance terrorism, the designation procedures are weak in law and cannot be implemented to enable the identification of funds or other assets related to TF without delay. For instance, there is no evidentiary standard of proof for deciding whether or not to propose designation. Benin lacks procedures and standard forms to be followed in listing targets in furtherance of the UN Sanctions regimes. It also lacks procedures for identifying targets for designation and requirements for requesting another country to give effect to actions initiated under the freezing mechanisms in respect of UNSCR 1373 (see Rec. 6).

284. . Benin has not designated any individual, group, enterprise or entity in line with UNSC Resolution 1373.

4.2.4. *Effectiveness, proportionality and dissuasiveness of sanctions*

285. The AML/CFT Act provides a range of custodial and monetary penalties that would allow the court to apply proportionate and dissuasive sanctions against natural and legal persons convicted of TF. The courts may double the sentence where the perpetrator commits the offence in a usual manner or is a repeat offender or uses facilities derived from professional activity, or other specified circumstances (see crit. 5.6 and 5.7). In the absence of a conviction for TF, which is inconsistent with Benin's risk profile, it is impossible to determine whether sanctions imposed are effective, proportionate and dissuasive.

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

286. In the absence of investigation and prosecution of TF, it is impossible to determine the extent to which Benin employs other criminal justice, regulatory or other measures to disrupt TF activities where it is not practicable to secure a conviction for TF.

Overall conclusions on Immediate Outcome 9

287. Benin has a limited understanding of the domestic and international threats it faces and their related risks. Benin's criminalisation of TF is not comprehensive because the country has not criminalised the financing of a terrorist individual and a terrorist organisation for any purpose and the financing of foreign terrorist fighters. Combating TF is not a priority. Benin links the fight against TF to the commission of a terrorist attack, which it has not yet experienced. The authorities focus their efforts on the prevention of violent extremism, radicalisation and terrorism. Competent authorities lack adequate skills and resources to identify, investigate and prosecute TF. As a result, there has been no investigation, including identifying the specific role played by TF financiers. TF investigations are not integrated into the national strategy to counter radicalisation, violent extremism and terrorism. The absence of a centralised system for sharing and processing intelligence produced by the relevant agencies and LEAs) constitutes a deficiency in Benin's efforts to combat TF. In the absence of TF cases, it is impossible to determine the effectiveness and proportionality of the sanctions imposed on natural and legal persons and the implementation of alternative measures to dismantle TF activities. Overall, Benin's TF actions are not consistent with its overall TF risks profile. These deficiencies require fundamental improvements.

288. Benin is rated as having a low level of effectiveness for I.O.9.

4.3. Immediate Outcome 10 (TF Preventive measures and Financial sanctions)

4.3.1. *Implementation of targeted financial sanctions for TF without delay*

289. Benin has designated the Minister of Economy and Finance as the competent authority responsible for freezing and established the CCGA. The Ministry of Foreign Affairs regularly receives the list of designated persons and entities that are subject to TFS and shares it with the Minister of Economy and Finance (State Treasury) and the BCEAO. However, there is no effective implementation of TFS without delay. Administrative red tape often leads to delays in the dissemination of new lists and/or updates to existing lists. Furthermore, Benin transmits the lists manually, through the mail services of the stakeholders. While the mechanism for transmitting or disseminating the lists to all reporting entities does not ensure timeliness as required, Benin has not taken any effective measures to guarantee the timely transmission of lists.
290. Moreover, not all reporting entities receive the sanctions lists. Certain entities met, particularly the DNFBPs, were not aware of the existence of these lists or how to access them. Some FIs acknowledged that they often receive the lists but very late, when the list would have become outdated and unusable. The deficiencies in the timely dissemination and receipt of the Sanctions Lists as well as the limited coverage of recipients, therefore significantly impede the timely identification and freezing of funds and other terrorism-related assets.
291. To address the above shortcomings relating to the dissemination of the Lists by the competent authorities, FIs, subsidiaries of international groups, in compliance with their obligations, regularly and directly consult the Sanctions Lists on the website of the United Nations, using screening software packages. However, due to the lack of resources and awareness, small and medium scale FIs and DNFBPs are unable to access and use the Lists and notifications published by the United Nations.
292. Generally, Benin is yet to identify any natural or legal persons targeted by a freezing request, identify any funds or other assets of an individual or entity in the country, and freeze any funds or other assets under the relevant UNSCRs.

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

293. Although the NRA highlights the vulnerability of the NPO sector to TF, the country has not yet conducted any sectoral risk assessment to precisely identify the types of NPOs vulnerable to misuse for TF purposes.
294. Several legal texts impose AML/CFT obligations on NPOs in Benin as they are designated as reporting entities. However, the designation of NPOs as reporting entities is not in compliance with the FATF standards¹⁹ and the texts are not comprehensive enough in terms of AML/CFT. Also, the NPO stakeholders have a poor understanding of their AML/CFT obligations, thus increasing the risk for NPOs to be misused by criminals in illicit activities. To resolve this deficiency, the FIU planned some awareness-raising and training activities on AML/CFT for NPOs, but could not implement the activities due to lack of funding.

¹⁹ The FATF does not require that all NPOs are brought under the AML/CFT framework. Recommendation 8 requires countries to review which NPOs are at risk for TF (not ML) and apply a limited set of measures to protect the sector from abuse by terrorist financiers. It is important that regulations and actions concerning NPOs do not harm the legitimate activities of such organisations.

295. NPOs have no specific body to supervise their activities, especially in the area of AML/CFT. Generally, the authorities are not aware of the sources of funding for NPOs and do not monitor how NPOs manage the funds allocated to them based on their regulations. The weak legal framework and mode of functioning of NPOs also render them vulnerable to misuse for TF purposes.
296. . The regulatory framework for NPOs provides for regular monitoring of their activities, particularly during the issuance, renewal or withdrawal of the Memorandum of Understanding (MoU) and during the implementation of- headquarters agreement signed between international NPOs and the Government. For example, a headquarters agreement requires beneficiary NPOs to produce annual activity reports. However, there is no explicit clause in the agreement on the types of reports to be produced (technical and financial reports, financial statements, among others).
297. Furthermore, NPOs are not required to submit activity reports to the competent national structures in charge of AML/CFT. In this regard, it is possible for foreign NPOs and their branches or national partners, already considered as the most exposed to TF risks, to mobilise and move considerable sums of money often with no audit on either the actual originator or use of the funds. Given the foregoing, the assessors concluded that the rapid growth of NPOs without supervisory and regulatory authorities, the preponderant use of cash by the population, and the large number of foreign exchange dealers in the informal sector, as well as money transfer and electronic currency services, all increase the vulnerability of the NPO sector to TF.
298. Benin has not demonstrated the application of a risk-based approach or proportionate measures to identify those NPOs vulnerable to TF. The country has therefore not provided any descriptions of financing practices of certain types of NPOs through which it could detect TF cases that would require appropriate measures to prevent their misuse for this purpose.
299. The Assessors believe that the poor understanding by stakeholders within the NPO sector of regarding their AML/CFT obligations, the lack of training and sensitisation, the lack of a specific internal body to supervise their own AML/CFT activities, the lack of a designated self-regulatory body to supervise and monitor the activities of NPOs in the area of AML/CFT, the lack of a sectoral risk assessment to identify the types of NPOs that are most vulnerable to misuse for TF and the application of targeted and proportionate measures on them using a risk-based approach, constitute a major deficiency in Benin's AML/CFT system.

4.3.3. Deprivation of TF assets and instrumentalities

300. Benin is yet to deal with any real TF case. It has not carried out any deprivation of TF assets and instrumentalities linked to TF activities belonging to individual terrorists, terrorist organisations and terrorism financiers whatsoever through a criminal, civil, and administrative process. Benin considers its TF risk as medium-high, although the assessors consider that the country should re-rate this risk to reflect the actual TF risks facing the country based on all the threats and vulnerabilities referred to above (IO.9, 4.2.1). All things considered, Benin has not demonstrated that the absence of frozen or confiscated terrorist assets is due to a lack of terrorism cases and terrorist assets in the

country. The assessors believe that the absence of frozen or confiscated terrorist assets may have resulted from inadequate resources and the weak capacity of the LEAs to identify TF cases and conduct investigations. It may also result from the fact that TF is not a priority, as the actions taken by the authorities do not relate to countering TF.

4.3.4. Consistency of measures with overall TF risk profile

301. In the context of Benin, where the country considers the TF risk as medium-high, Benin is yet to identify any natural or legal person targeted by a freezing request, nor has it identified any funds or other assets of individuals or entity in the country or frozen any funds or other assets under the UNSCRs. The country has not carried out any deprivation of assets and instrumentalities linked to TF activities belonging to individual terrorists, terrorist organisations and terrorism financiers.
302. . The country has not explicitly identified, through a sectoral risk assessment, the types of NPOs most exposed to TF risk and has not applied any targeted and proportionate measures on them using a risk-based approach. Although the NRA revealed the NPO sector as the most vulnerable in terms of TF, NPOs have very little knowledge of AML/CFT issues and their vulnerability to TF threats. Many have recognised that it is through the NRA that they understood the risks to which they are exposed and their relevant due diligence obligations. Although the authorities have disseminated the findings of the NRA and are implementing the action plan, they are yet to implement the planned training and supervision actions for NPOs due to the lack of funding.
303. Benin has not implemented any TFS without delay and has not deprived any person or entity of assets and instrumentalities linked to TF activities. Benin has not implemented measures consistent with the overall TF risk level the country.

Overall conclusions on I.O.10

304. Benin has designated the Competent Authority for freezing. However, the implementation of TF-related TFS under UNSCRs 1267 (1999) and 1373 (2001) is not effective. There is still no mechanism for the timely transmission or dissemination of the Sanctions Lists to all reporting entities. Only FIs, subsidiaries of international groups, have a relatively good understanding of their obligations to implement TFS related to TF. They receive the Sanctions Lists albeit late. Small and medium-scale FIs and DNFBPs are not aware of the Sanctions Lists. They do not have a good understanding of the TF risks and their obligations to implement TF-related TFS linked to terrorism and its financing. The same obtains for NPOs which have not been trained and sensitised on the issue. AML/CFT supervision and monitoring are not effective because there is no designated authority for this purpose. The country has also not conducted a comprehensive sectoral risk assessment of NPOs to accurately identify the types of NPOs vulnerable to being exploited for TF purposes to enable it to apply targeted and proportionate measures on them using a risk-based approach. In addition, Benin has not carried out any deprivation of assets and instrumentalities linked to TF activities. In a nutshell, the actions do not adequately reflect the TF risks to which the country is exposed.

305. Benin is rated as having a Low level of effectiveness for I.O.10.

4.4 Immediate Outcome 11 (PF financial sanctions)

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

306. The regulatory provisions, particularly the AML/CFT Act, provide for the implementation of TFS related to PF without delay. But in practice, this implementation is not effective. The powers of the Minister of Economy and Finance as the competent authority for freezing and those of the CCGA do not cover aspects of the implementation of TFS related to proliferation financing (PF). Their power is limited to the freezing of funds and other assets linked to terrorism and its financing. There is no operational mechanism for disseminating the Sanctions Lists to nationals and any persons in the country, including reporting entities and without delay.

307. The AML/CFT Act requires FIs, every person or entity, to freeze the property, funds and other financial resources of the designated persons, without delay. However, the reporting entities are not implementing TFS related to PF. Many reporting entities are not aware of the Sanctions Lists. Only FIs, especially banks, affirmed that they are using a screening software package for this purpose. The other reporting entities do not have adequate resources to use this tool.

308. They have not adopted any internal CDD measures for PF, for example, the adoption of measures to verify before every transaction whether their customers have business relationships or other types of relationships with nationals of the designated countries (Iran and the People's Republic of Korea). There is no measure to monitor operations such as the supply or sale of dual-usage goods or the provision of sensitive services. Given the complex nature of the PF issue, the competent authorities have not yet developed any clear guidelines for reporting entities, particularly FIs, in the enforcement of internal due diligence measures for the effective implementation of TFS related to PF.

309. None of the reporting entities in Benin has any Guidance to develop internal measures for the effective implementation of targeted financial sanctions related to proliferation financing.

310. Overall, PF-related TFS is not being implemented without delay as recommended by the United Nations Security Council Resolutions (1718 and 1737)

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

311. . Not all reporting entities implement PF related to TFS. Even banks using screening software packages are yet to detect any PF case. Therefore, Benin has not identified funds or other assets of designated persons and entities for the freezing of assets under the United Nations Resolutions relating to PF. The Benin authorities have affirmed that they have no particular relationship with the countries identified by the United Nations Security Council as financing the proliferation of weapons of mass destruction (Iran and the People's Republic of Korea). But the assessors were not aware of any regulatory measures taken by Benin to ban exports and imports with these countries.

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

312. PF and the implementation of appropriate measures are a crucial element in the overall AML/CFT regime in Benin. However, most of the stakeholders met did not appear to know or understand PF issues. A good number of the reporting entities acknowledged the need to know and understand the issue of proliferation financing, which seems to be a new and fairly complex area.
313. Financial Institutions such as banks, large-scale DFIs, insurance companies belonging to foreign groups, have a fairly good understanding of their obligations to implement PF-related TFS. Even though there is no supervision for PF, they comply, to a lesser extent, with their obligations in this area because it is part of the overall AML/CFT regime.
314. The other small-scale FIs have a poor understanding of their obligations regarding PF-related TFS. They do not implement any PF-related TFS measures because they have little awareness of PF issues and do not have sufficient resources to access the Sanctions Lists on the United Nations website directly.
315. DNFBPs have a poor understanding and barely implement measures to counter PF. The majority of entities in this sector lack resources to procure some of the tools designed to access the Sanctions Lists. They are virtually unaware of their AML/CFT obligations, including PF. The authorities have not imposed sanctions on reporting entities for failure to comply with AML obligations. Similarly, each of the DNFBP components has an inspection structure, but the inspections do not involve AML/CFT. DNFBPs do not have an AML/CFT supervisory authority that covers all sectors and can verify the implementation of CDD measures.

4.4.4. Competent authorities ensuring and monitoring compliance

316. Financial institutions have not been supervised and monitored by the competent authorities for compliance with their TFS obligations related to PF. Due to the complexity of the PF issue, there is the need to sensitize and train the competent authorities to develop guidelines and also incorporate the PF component into their supervision and monitoring mission.
317. Since DNFBPs have no supervisory authority, there has been no inspection to ensure compliance with their PF obligations. Benin needs to designate the supervisory authority in charge of supervising and monitoring the sector, which would include monitoring the implementation of TFS related to PF in its functions.

Overall conclusions on I.O.11

318. Benin is not effectively implementing PF-related TFS without delay because the functions of the Minister of Economy and Finance and the CCGA do not cover this component. Besides, there is no operational mechanism for disseminating the

Sanctions Lists without delay. FIs, especially banks, large-scale DFIs, insurance companies belonging to foreign groups, have a fairly good understanding of their TFS obligations related to PF and are aware of the Sanctions Lists. Some banks have screening software packages for this purpose. The other reporting entities, including small-scale FIs and DNFBPs, have a poor understanding of the risks and have not taken any TFS measures related to PF. They are not aware of the Sanctions Lists and do not have sufficient resources to afford screening software.

319. Generally reporting entities are yet to adopt internal customer due diligence measure . There are no clear guidelines, particularly for FIs, to guide them in enforcing internal due diligence measures for the effective implementation of TFS related to PF. Financial institutions have also not been supervised and monitored by the competent authorities for compliance with their TFS obligations related to PF. DNFBPs do not have a supervisory authority, and there has been no inspection to ensure their PF obligations. Ultimately, no assets or other assets and funds of designated persons and entities under the United Nations Resolutions on proliferation financing have not been identified or frozen.

320. Benin is rated as having a low level of effectiveness for I.O.11.

CHAPTER 5. PREVENTIVE MEASURES

5.1 Key Findings and Recommended Actions

Key Findings

Financial Institutions

- a) Banks, large-scale DFIs and some insurance companies, have a good understanding of their AML/CTF obligations. The other reporting entities, including small-scale DFIs, authorised foreign exchange dealers, capital market operators (CMOs), MVTs, EMIs and insurance brokers have a poor understanding of their obligations and have not conducted any institutional assessment of their risks
- b) Banks, large-scale DFIs and some insurance companies, following their institutional assessment, (including at group level), have implemented internal policies, procedures as well as AML/CFT programmes aimed at mitigating their risks. The other FIs, particularly small-scale DFIs and authorized foreign exchange dealers, do not observe these requirements).
- c) Banks, large-scale DFIs and certain insurance companies implement customer due diligence and record-keeping measures. However, access to BO information remains a challenge in all sectors. Generally, banking institutions refuse to enter into business relationships when they are unable to satisfactorily complete customer due diligence measures. In contrast, other FIs, including small-scale DFIs and authorized foreign exchange dealers, do not comply with these obligations.
- d) Unlike other FIs, banks are implementing enhanced or specific measures commensurate with the identified risk. Only banks and, sometimes insurance companies, meet their ML/TF suspicious transaction reporting obligations, where there is suspicion that funds are the proceeds of a criminal activity, or are related to TF. Also, to prevent the disclosure of STRs, banks establish a compliance system. Other FIs, particularly small-scale DFIs and SGIs, do not implement these requirements because of the lack of understanding or reluctance to implement their obligations.
- e) The NRA considers DNFBPs as presenting high ML/TF risks. On the whole, they do not have a good understanding of ML/TF risks and their AML/CFT obligations. They have not assessed their specific risks due to the nature and structures of their activities. Although Benin has initiated a sensitisation, the vast majority of DNFBPs hardly comply with their ML/TF suspicious transaction reporting obligations. These deficiencies highly compromise the effectiveness of Benin's AML/CFT regime. This deficiency negatively impacts Benin's AML/CFT regime.
- f) The NRA particularly identifies high ML/TF risks in the real estate sector. Furthermore, this sector is characterized by informal transactions, which impedes the effectiveness of all due diligence measures designed to mitigate ML/TF risks

Recommended Actions

- a) FIs and DNFBPs should identify, assess and understand ML/TF risks. To achieve this, they should ensure that internal risk assessments are regularly conducted taking on board the nature and size of their individual businesses, the types of customers, products and services. Such internal risk assessments should supplement information received from competent authorities on ML/TF risks.

- b) FIs and DNFBPs should put in place mitigation controls, simplified and enhanced due diligence measures taking into account the ML/TF risks identified
- c) FIs and DNFBPs should take measures aimed at understanding the risks associated with structural funds, with emphasis on the implementation of TFS and implementation of TF trends.
- d) FIs and DNFBPs should participate in regular consultations, coordination and dialogue with supervisory and regulatory authorities with a view to updating or developing a better understanding of ML/TF risks and their AML/CFT obligations.
- e) FIs and DNFBPs should embark on sensitisation campaigns and develop guidelines on the implementation of AML/CFT requirements, with emphasis (but not limited to) suspicious transaction reporting, identification and verification of beneficial owners and enhanced CDD measures in general.
- f) FIs and DNFBPs should establish AML/CFT functions, develop internal policies/procedures and deliver staff training programmes. Large-scale FIs and DNFBPs most exposed to ML/TF risks should envisage using IT tools.

321. The relevant Immediate Outcome for this chapter is I.O.4. The relevant Recommendations for the assessment of effectiveness under this section are R.9-23.

5.2. Immediate Outcome 4 (Preventive measures)

322. Based on the materiality and risk in the Benin's context, the Assessment team weighted the implementation issues most heavily for the banking sector, heavily for important sectors (microfinance institutions, EMIs and MVTs, manual foreign exchange dealers, real estate agents and DPMS), moderately heavy for lawyers and accountants and less heavy for less important sectors (insurance, pension fund, insurance mutual societies, investment fund management companies and casinos). This is explained above in Chapter 1 (section 1.4.3).

323. The Assessment team's findings on IO.4 are based on interviews with a range of private sector representatives (FIs and DNFBPs) that differ in size, risk exposure, and financial significance. In this regard, the assessors visited some large, small banks and some DFIs. The assessment team also had discussions with all the DNFBPs.

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

Financial Institutions

324. Generally, banks, particularly subsidiaries of foreign groups, have a good understanding of their AML/CFT obligations, unlike the other sub-sectors of FIs, especially small-scale DFIs and foreign exchange dealers, for which the level of understanding is deemed low or nil. Banks have taken appropriate steps to identify and assess the ML/TF risks to which they are exposed, as part of their dealings with customers and countries or geographical areas. They defined risk maps for certain types of operations (cash transactions, deposit products...), on client activities (trade, real estate transaction...), on the customer's country or geographical area and status (PEPs). This approach makes it

possible for them to classify customers according to the risks identified. Thus, the level of risk identified determines the degree of due diligence applicable and the frequency of inspection. Banks also conduct an annual assessment which they document in order to enhance their understanding of ML/TF risks. However, the fixed timeline for this updating is a deficiency as no updating is provided for when a new product is launched or a customer changes status during the year to become a PEP.

325. The measures implemented by FIs are particularly more elaborate among those belonging to international and regional groups that implement uniform AML/CFT policies and sometimes go beyond the relevant domestic legal provisions. In addition, the Professional Association of Banks in Benin has set up a unit responsible for bank compliance. This structure, as a framework for exchanges, contributes significantly to increasing members' knowledge of compliance standards and best practices.
326. Over time, an improvement in the understanding of the AML/CFT obligations by bank staff has been noted. This could be attributed to the dissemination of AML/CFT Acts and regulations, followed by sensitisation and capacity building activities organized by the regulator, the FIU and the banks themselves.
327. Capital Market Operators (CMOs) have a low level of understanding of their ML/TF risks and do not conduct institutional and ML/TF risk assessments. Some of them are of the view that the capital market sector is not at risk of ML/TF because the bulk of their operations go through the banks who are already subject to AML/CFT obligations. CMOs have not submitted any STRs to the FIU.
328. MVTS and EMIs have diverse levels of understanding of their AML/CFT obligations. Some MVTS met did not demonstrate any understanding of the risks they are facing. The companies met, which subsidiaries of Mobile Telephone Operating Groups, implement internal AML/CFT policy requirements coupled with training sessions. They therefore have some understanding of the AML/CFT obligations. EMIs have conducted ML/TF risk assessments and instituted red flag indicators for suspicious transactions before launching the electronic money. However, the sanctions list, the list of high-risk countries and PEPs are provided in some platforms and updated. The MVTS also indicated that they are aware of certain incidents recorded by certain sub-agents resulting from their negligence.
329. Insurance companies demonstrated a limited understanding of the risks insurance activities and products could be exposed to. Benin has not assessed the risk posed by the insurance sector's products and/or activities. Although it has been in existence for a relative long period, the insurance sector has a limited understanding of the ML/TF-related provisions in the CIMA Regulation 04/2008, particularly with regard to CDD measures. Implementation of the Regulation is inadequate, and the only progress recorded so far is the appointment of a compliance officer.
330. Other FIs including foreign exchange dealers and some small-scale DFIs have a limited understanding of their ML/TF risk and AML/CFT obligations, despite numerous training and awareness-raising actions organised by the FIU. The failure of these measures could be explained to some extent by the failure to apply the appropriate sanctions.

DNFBPs

331. The DNFBP sector covers a set of corporate entities grouped into two categories for the conduct of the NRA exercise:
- Accounting and legal professionals (chartered accountants, licensed accountants, auditors, lawyers, notaries, auctioneers, and bailiffs);
 - The other DNFBPs include gambling and betting structures, real estate developers, the mining industry (dealers in gems and precious metals), real estate agents and cash couriers.
332. Unlike banks and large-scale DFIs, DNFBPs, on the whole, have a limited understanding of the ML/TF risks they are exposed to, although some of them participated in the NRA exercise.
333. The level of understanding of risk differs among legal and accounting professionals. Notaries and lawyers in their legal culture, seem better off, though in need of specialised training.
334. In the case of lawyers and notaries, the NRA has identified very real risks inherent in their corporations. Indeed, because of their responsibilities, they are often called upon to act as agents for their customers in financial transactions with high ML/TF risks. Despite the FIU's efforts to have them take ownership of such risks, they have been somehow reluctant to comply with CDD and record keeping obligations, because of the additional workload. This observation, coupled with the fact that there is no designated AML/CFT supervisory authority in the sector, worsens its level of vulnerability.
335. In addition to AML/CFT legislation, Chartered accountants and licensed accountants are subject to OHADA regulations with clear obligations. Appearing as foreigners to the NRA, the latter seem to be unaware of their AML/CFT obligations, especially the one related to understanding the nature and level of their money laundering terrorist financing risks, to better coordinate actions designed to mitigate them.
336. **With respect to the “Other DNFBPs” category**, especially real estate agents with a high ML/TF risk, the level of understanding of ML/TF risks and their obligations is low or even nil. Their only experience in ML/TF risks assessment, for some of them, was their participation in an NRA exercise. The various professional/self-regulatory bodies have not conducted any sectoral assessment.
337. Generally, DNFBPs have a limited understanding of their AML/CFT obligations with a corresponding limited understanding of the risks inherent in their respective sectors. This lack of knowledge of AML/CFT issues, the lack of understanding of the inherent risks and the lack of awareness of their obligations, make this sector the weakest link in the entire AML/CFT system of Benin. Consequently, these professionals who are not sufficiently equipped cannot conduct their risk assessment and satisfactorily implement AML/CFT preventive measures.

5.2.2. Application of risk mitigating measures

FIs

338. Beninese financial institutions are required by Law No. 2018-17 of 25 July 2018 on AML/CFT and other existing laws to implement proportionate measures to mitigate ML/TF risks following an internal assessment of their risks, they are required to implement mitigation measures.
339. Most FIs, particularly banks and DFSs, have demonstrated continuous implementation of mitigation measures commensurate with their risks following periodic internal ML/TF risk assessment even before the NRA. These measures include staff training and awareness-raising, know-your-customer (KYC) and assessment of customer AML/CFT risk profiles. Establishment of business relationships with customers is always validated by the Compliance Officer. Banks and DFS have a risk map and classify risks by type of customer, type of activity and by geographical area. They have also put in place tools for filtering atypical transactions. This allows them to monitor customers' accounts and terminate their business relationship if necessary. Some banks have databases on PEPs and consult them before entering into a relationship with any new customer. Also, specific due diligence measures are taken with regard to certain categories of customers, in particular Politically Exposed Persons (PEPs), whose authorisation to enter into a relationship is managed by senior management and may, in some subsidiary banks, go as far as the group level. The list of PEPs is generally updated annually by the banks, while the list of other clients is updated every two (2) years, which is not consistent with a risk-based approach, as it does not take into account mid-term changes. While the detection of PEP clients, especially domestic ones, is seen as a challenge. Tools for screening individuals on the Sanctions List are also used in the prevention of FT risks. They periodically train their staff and transmit STRs to the FIU. However, financial institutions, in particular banks, should strengthen due diligence measures with regard to the real estate sector, which the NRA has identified as posing significant TF risks. Banks and large DFS are taking action to take corrective measures following the identification and classification of their ML/TF risks. This measure is rigorously observed in the subsidiaries of foreign banks that implement policies and procedures inspired by their groups. However, smaller DFSs are still struggling to implement these obligations
340. Large DFS have compliance departments and implement risk mitigation programmes. They have a risk map at their disposal allowing them to classify the risks of their activities. Smaller DFSs have little knowledge of their risks and have not implemented risk mitigation programmes. However, the smaller DFSs participated in the national ML/TF risk assessment exercise. While they do not have comprehensive lists of PEPs, some have a list of high-risk countries and blacklisted clients, which is monitored annually.
341. **Capital market operators** -Because of the lack of understanding of ML/TF risk and risk assessment, CMOs are not applying risk-mitigating measures. Directive No. 35 of 2008 related to AML/CFT in this sector has become inadequate against the revised FATF Recommendations. Article 12 of this Directive states that CMOs may receive cash funds from their clients up to CFAF 50 million (EUR 76,224). These funds may be deposited in their institutions or in their accounts held in banks. This provision does not oblige CMOs to know the legal source of the funds received. In this respect, and in general, the implementation of measures in the sector is not based on ML/TF risks. Some of the CMOs interviewed said that they had used the services of a firm to help them develop a risk assessment framework to facilitate the application of appropriate mitigation measures.

Other operators believe that their sector is generally not vulnerable to ML/TF risks due to the fact that the vast majority of their operations are conducted through banks that perform the necessary due diligence to comply with AML/CFT requirements.

342. The insurance sector is implementing AML/CFT measures, though at a very slow pace. The sector conducts its risk assessment based on services, products and geographical location. Two insurance company branch groups have already put measures in place to mitigate the risks they are facing. Based on a prior risk assessment. In this regard, they have put in place screening software for certain transactions. However, the stakeholders consider the sector as the least exposed to ML/TF because only life insurance products are considered vulnerable. In addition to life insurance, insurance companies also indicated that other sources of vulnerabilities, such as the cancellation of insurance policy three months after signing or collecting the premiums before the contract is signed.
343. **MVTS-** Subject to their regulations, MVTS have service delivery agreements with banks and DFIs that are responsible for implementing CDD measures, risks and suspicious transaction reporting requirements. MVTS are technical operators who make available to the banks and the DFS, their technical platforms; the latter are the only ones authorized to execute the transfer service and sign contracts with the sub-agents and the agents on their behalf and under their responsibility for the implementation of this activity. Sub-agents are subject to AML/CFT provisions. Operators are required to communicate the list of their agents and the standard contracts signed with them to the BCEAO, the Banking Commission and the Ministry of Finance annually and notify the regulatory and supervisory authorities of any changes regarding their agents. It is the responsibility of the financial institution to which the sub-agent is attached to prepare an activity report on the sub-agent's operations and to transmit it to the BCEAO. The sub-agents providing the transfer service carry out the identification of customers but have no means of carrying out their checks. The list of sanctions against persons and entities, the list of high-risk countries and the list of PEPs are provided for in the platforms. However, the MVTS generally rely on banks to implement mitigating measures. In addition to the formal system, there is an informal HAWALA-type transfer system, the providers of which are difficult to identify due to the informal nature and discretion surrounding this activity.
344. **EMIs** - The Operators have a compliance department and apply risk management measures, including screening tools targeting persons and entities on the UN and PEP sanction lists. Also, risk management measures are implemented in relation to persons with financial inclusion identification exemptions. These include restrictions on the amount of their financial transactions, which may not exceed a modest threshold.
345. However, there is limited implementation of mitigation measures among EMIs. The companies base their identification procedures on the possession of SIM-card, with an identifiable number validated by the Ministry of Interior. EMIs do not transmit the information related to the identification of subscribers to the ACNIL and the ARCEP, and the databases are not interconnected. Some sub-agents, as reporting entities, and providing their technical platforms for the banks, do not have any specific AML/CFT service. Nevertheless, they trust in the existence of a division dedicated to quality issues (ISO certified by Bureau Veritas). EMIs submit daily reports to the top management to inform them of any alerts on suspicious transactions. The lack of interoperability could allow some customers holding multiple electronic wallets from different operators to

circumvent the transfer threshold. Criminal elements may abuse this vulnerability for ML/TF purposes.

346. The EMIs have record keeping and suspicious transaction detection mechanisms, which enable them to respond to various requests, sometimes unstructured, from investigative authorities such as the BEF, Tax Department and scam victims.

347. **Manual Foreign Exchange Dealers:** They do not have a risk management framework and have a very limited understanding of their AML/CFT requirements. The foreign exchange dealers rely on their experience in dealing with customers. They record all foreign currency purchase and sale transactions in a registration form drawn up in four (4) copies, 1 for BCEAO, 1 for the Money and Credit Department (DMC), 1 for the customer and 1 for the Bureau. The effectiveness in information sharing by the BCEAO and DMC with the FIU could not be established. They are required to maintain the records for 10 years. Unlike transactions involving the sale of foreign currency, there is no threshold for transactions involving the purchasing of same. The threshold varies depending on whether the customer is a resident or non-resident. In any case, foreign exchange dealers do not request for information on the origin of the funds.

348. Alongside the formal sector, there are foreign exchange transactions which are also carried out informally by unlicensed agents. This practice could be a source of ML and TF. Informal exchange represents a crucial portion of the operations of the Authorised Foreign Exchange Dealers and the measures taken to verify the identity of customers are very weak or non-existent. The large majority of Authorised Foreign Exchange Dealers are not aware of the functions of the Compliance Officer under AML, which drastically increases the sector's vulnerability to ML/TF threats.

DNFBPs

349. Most DNFBPs are not aware of the ML/TF risks to which their professions are exposed. Those aware of the risks (for example, lawyers, notaries, chartered accountants) take very little cognizance of them. In almost all DNFBPs, there is no designated compliance officer. They do not implement risk mitigation measures because of the limited understanding of their ML/TF risks.

5.2.3. Application of CDD and record-keeping requirements

Financial Institutions

350. FIs in Benin, particularly banks and large-scale DFIs, have internal policies and procedures that take into account customer due diligence and record-keeping measures. These entities based their CDD measures on the customer's risk profile. Banks have indicated that where a category of customers presents a high ML/TF risk, due diligence should be enhanced. However, where the customers pose a lower-risk, FIs continuously monitor their transactions.

351. Most of the banks comply with their record-keeping obligations both in the context of CDD as well as transactions. In this regard, they have procured software to track customer transactions. They are required to implement record-keeping obligations for CDD/KYC

for a period of five (5) years after the cessation of the relationship with the customer; five years for transactions with effect from the date of their execution.

352. FIs refuse to establish business relationships or conduct transactions when the FIs are unable to obtain all the necessary information, despite the arrangements made to obtain the missing information from the ordering institution or the beneficiary to complete CDD. Several banks claim they have refused to establish business relationships with certain customers in their implementation of enhanced due diligence measures. Since the banks did not provide any supporting information, including statistics, the assessors could not establish any evidence of refusal to accept certain types of customers. This lack of monitoring statistics is an issue. It would be in Benin's interest to establish a procedure shared among all banking actors and authorities dealing with monitoring of rejected customers.
353. However, access to and availability of updated information on the beneficial owner remains a real concern for all sectors, even though this obligation is provided for in Articles 18, 19, 20, 21 and 22 of the AML/CFT law. This situation can be explained to some extent by the unreliability of certain identification documents at national level, the difficulty of locating certain customers and the predominance of cash in the financial system.
354. The promotion of financial inclusion in Benin is an offshoot of the BCEAO's strategy. Financial institutions, including DFIs and banks, occupy a central position in this strategy. There is increased popularisation of mobile money services initiated by telephone companies in collaboration with banks/DFIs. However, considering the high level of ML/TF threat associated with financial inclusion products/services due to their proximity to the informal sector, Benin's NRA recommends the implementation of enhanced measures.
355. Implementation of customer due diligence requirements in the DNFBP sector is generally non-existent. Though lawyers and accountants make efforts to identify their customers in the execution of their professional activities, they do not have specific customer due diligence procedures, especially for legal persons and PEPs.
356. Lawyers and accountants can trace the various transactions carried out with customers without resorting to any rigour implementation of record-keeping requirements for the relevant documents for a legal period of 10 years. This situation is a handicap for State Departments where information requests are involved. These professionals need to work harder on the implementation of customer due diligence measures and record keeping.
357. The other DNFBPs are not implementing their customer due diligence (CDD) obligation. The real estate sector has no specific customer due diligence procedure especially with regard to PEPs. Beneficial ownership identification and identity verification is a new concept for them and they are yet to fully grasp the ins and outs. For example, some of the casino managers interviewed stated that they do not systematically identify their customers who make transactions of EUR 3000 or more, and that they do not keep records of their transactions.
358. Generally, DNFBPs are not aware of the sanctions list and higher-risk countries. On the whole, DNFBPs do not comply with the record-keeping obligations. Nevertheless,

chartered accountants, notaries and lawyers, appear to make some efforts to keep records of transactions with their customers.

5.2.4. Implementation of EDD measures

Financial Institutions

Politically Exposed Persons (PEPs)

359. FIs, particularly those affiliated to foreign groups, demonstrated a good understanding of the application of customer due diligence and record-keeping requirements set out in the AML/CFT Act and group policies, especially for PEPs, both domestic and foreign. Transactions with PEPs are subject to enhanced CDD, and a high-level authorization from the management and administrative bodies is required depending on the risks involved. However, FIs have challenges in updating information about family members and close associates of PEPs. This is due to the unavailability of reliable information about these persons. Anything that could adequately limit the implementation of enhanced or simplified measures.

Correspondent Banking

360. Before engaging with correspondent banks, national banks assess the ML/TF risks based on the questionnaire attached to Directive N ° 007-09-2017. The FIs ensure that these correspondents are not shell banks or established in higher-risk countries. Subsidiary banks of foreign groups further enhance these measures and are required to apply AML/CFT policy in line with the regulatory requirements of their groups. Due to the implementation of enhanced CDD measures, some have lost customers to banks that do not implement enhanced CDD measures due to lack of understanding of their relevant obligations. Generally, FIs, including banks, conduct their risk assessment and implement enhanced due diligence on their customers, products and services as well as high risk transactions.

New Technologies

361. Benin, like other UEMOA countries, is promoting financial inclusion in line with the regional financial inclusion strategy piloted by the BCEAO. There is a current boom in technological products/services developed by banks as well as DFIs. These products/services, particularly Mobile Money, are being extensively used by the Benin populace. However, considering the high level of ML/TF threat associated with such financial inclusion tools, the NRA recommends the implementation of enhanced measures. Overall, FIs did not demonstrate that they are implementing enhanced due diligence measures on new technologies.

Wire Transfers

362. The legal framework relating to wire transfers presents some deficiencies. These deficiencies are particularly related to the lack of legislations on cross-border wire transfers that do not have the required information on the originator and beneficiary, as

well as TFS related to TF. For FIs providing bank transfer services, this could create some inconsistency in their reaction, when they receive transfers with incomplete information.

Targeted financial sanctions

363. FIs, apart from small-scale DFIs and foreign exchange bureaus, have internal procedures that include enhanced due diligence measures, and their annual activity reports highlight the implementation of these due diligence measures. With regard to legal persons and entities under TFS, some FIs, particularly banks, implement the requisite due diligence measures. They have mechanisms and tools to secure these lists from the websites of the United Nations' Security Council, their regulatory authority, the Ministry of Foreign Affairs and on the Internet, even though it is not an easy approach. There is no national list in Benin, established under Resolution 1373 of the UN Security Council. Nevertheless, it should be underscored that certain banks which are branches of existing groups, have screening software that incorporate all the Sanction Lists, with automatic updates. In this regard, they constantly monitor their customers and transactions.

364. As an illustration, a local bank transmitted an STR related to individuals who were subject to TFS in the USA for TF.

365. MVTS use certain platforms to obtain the UN Targeted Financial Sanctions list, that of high-risk countries and that of PEPs. These lists are systematically updated. They also indicated that they know of some incidents recorded by some of their sub-agents which occurred as a result of the negligence of the latter in the implementation of the relevant due diligence measures.

Higher-risk countries identified by FATF

366. Banks, insurance companies and large-scale DFIs indicate that they have a list of high-risk countries identified by FATF. They use applications developed by third parties to do so. These applications generate red flags where a business relationship and transactions involve countries on the FATF black list. In case of red flags, enhanced due diligence measures are meted out.

DNFBPs

367. Most DNFBPs do not implement enhanced or specific due diligence measures due their lack of understanding of their legal AML/CFT and risk assessment obligations.

5.2.5. Reporting obligations and tipping off

368. FIs, particularly banks, followed by the insurance companies and DFIs have filed STRs to the FIU during the review period²⁰. The latter have a good understanding of their reporting obligation unlike other FIs. As indicated in Chapter III, the number of STRs filed to the FIU varies from one reporting entity to another.

²⁰ See Table 3.5: Statistics on STRs and CTRs received by the FIU and by sector.

369. Banks filed more than 98% (1,593) of STRs which are all related to ML. With regard to the two (02) TF-related STRs filed in 2018, the investigations and analyses carried out by the FIU finally revealed that it was an organised scam gang. Insurance companies and DFS filed 15 and 4 suspicious transaction reports, respectively.
370. Insurance brokers did not demonstrate that they understand their reporting obligations. As intermediaries, insurance companies should rather be subject to AML/CFT obligations. The understanding of ML/TF risks varies from one structure to another. Small-scale DFIs and non-bank structures, particularly foreign exchange dealers, did not demonstrate any understanding of their obligations as reporting entities
371. EMIs filed only two (2) STRs to the FIU, the first of which dealt with the situation of sole proprietor companies where traders had used their personal accounts for their professional activities, while the second was linked to games of chance and local credit associations (tontines).
372. Authorised foreign exchange dealers did not file any STR to the FIU. They believe that criminals use the informal sector to launder the proceeds of crime. Consequently, handling large sums of foreign currency in the absence of any adequate internal procedure for risk assessment and control, could be used by criminals to inject illicit funds into the country.
373. In the case of DNFBPs, only accountants have submitted STRs to the FIU, though they are relatively low (See Table 3.5).
374. The DNFBP sector is not adequately complying with the legally binding suspicious transaction reporting obligation. Despite the high risks identified, it appears as if this sector is exempted from such obligations. This situation is mainly attributable to the lack of awareness of their obligations by the various professions in the sector. Furthermore, some of the professionals (legal and accounting professionals) who, to a certain extent, understand AML/CFT requirements. In this sector, only accountants have submitted STRs to the FIU (03 in 2017 and 02 in 2018 (See Table 3.2, Chap. III). On the whole, the DNFBP sector is not complying with the suspicious transaction reporting obligation. None of these professions has a compliance department. The State authorities should pay more attention to this sector in the implementation of AML/CFT obligations.
375. Reporting entities and staff of the FIU are subject to confidentiality rules regarding STRs submitted or received and sanctioned for non-compliance with these obligations.
376. With regard to feedback, apart from acknowledgments of receipt by the FIU, no mention was made of another form of feedback provided to reporting entities which have filed STRs. This lack of feedback hinders the efforts made by reporting entities to detect and report suspicious transactions, as they do not know whether the STRs they have already filed were of high quality or useful. The FIU notes that the quality and number of STRs received varies from one reporting entity to another. Most commercial banks and financial institutions as well as large-scale DFIs produce high quality STRs.
377. An isolated case of tipping-off for which a reporting entity was held accountable, was recorded during the review period. Lawsuits were filed against the compliance officer

and head of the reporting entity. Since then, additional measures have been taken by the FIU to secure the transmission of STRs.

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

378. FIs, particularly banks affiliated to foreign groups, implement an internal control system to verify the compliance, compliance and effectiveness of the measures adopted to implement the legislative and regulatory provisions. The NRA considers the vulnerability of the Benin banking sector to ML/TF as being medium-high, due to the poor quality of internal AML/CFT policies and procedures on one hand, and weak controls in banks' financial transactions with regard to the suspicious transaction reporting requirement, on the other.

379. Banks, insurance companies and large-scale DFIs have established internal compliance departments in charge of implementing the internal AML/CFT control system monitored by the Group's audit internal department. However, it was noted, as informed by the NRA, that the latter are not sufficiently equipped to concretely implement certain aspects of the legal texts, such as a risk-based approach for the development and implementation of policy and procedure. This does not promote a good transmission of knowledge of AML/CFT to other staff members. Few compliance officers hold specialized AML/CFT qualifications. Also, the resources (personnel, software, training, etc.) provided are not always consistent with the AML/CFT requirements.

380. The audit department records the conclusions of the audit missions in a report submitted to the Management Board or equivalent decision-making body, which takes the necessary measures to ensure follow-up. No case of remedial measures or sanctions taken by FIs for non-compliance with AML/CFT obligations by staff was brought to the attention of the assessment team. However, the incidence of the integrity issues involving bank staff is somewhat high.²¹ Indeed, cases of fraud involving bank staff have been identified as shown by the BEF's statistics presented in Table 5.1 below:

TABLE 5.1- CASES OF FRAUD INVOLVING BANK STAFF.

Year	Bank fraud-forgery and use of forgery
2014	18
2015	29
2016	29
2017	22
Total	108

Source: BEF

381. Bank policies and internal controls allow for timely examination of complex or unusual transactions and suspicious transactions, in this case for subsidiaries of large groups. This possibility also exists to a certain extent for large-scale DFIs. However, it is uncertain for other FIs and non-existent for DNFBPs.

382. As part of the implementation of the action plan resulting from the NRA's recommendations, FIs are required to adopt technical procedure manuals that specify the

²¹ Page 66 of the NRA

procedures for exercising internal controls over ML/TF. However, FIs are now developing AML/CFT Manuals of Procedures in compliance of this requirement.

383. Articles 96 and 97 of AML/CFT Act override professional secrecy in the implementation of their AML/CFT obligations and exempt professionals from liability in the event of any breach of professional secrecy.

384. Most DNFBPs have no internal AML/CFT control measures. As part of the implementation of the action plan adopted following the recommendations of the NRA, the DNFBPs must adopt technical procedures manuals that specify the procedures for exercising internal controls over ML/TF. However, at the time of the on-site, no DNFBP had adopted a technical manual. No company or profession conducts internal controls to ensure compliance with AML/CFT obligations.

385. Benin has no legal or regulatory provisions that impede the implementation of internal controls and procedures and in general for AML/CFT obligations. For a long time, lawyers and accountants tried to oppose these AML/CFT obligations with professional secrecy. Currently, following the sensitization campaign led by the FIU, this opposition has been dropped and they are increasingly realizing the importance of implementing AML/CFT measures.

Overall conclusions on I.O.4

386. Benin's financial sector is dominated by the heavy weight of the banking sector, followed by large DFSs and foreign group insurance companies in a context characterised by the informality of the economy.

387. Banks, DFS and insurance companies of foreign groups have a good understanding of their risks and implement their AML/CFT obligations in accordance with the texts in force. Other financial institutions such as money changers, quick money transfer agents and small DFSs have a limited understanding of their risks and do not implement their AML/CFT obligations due to the high ML/TF risks in their sectors.

388. Also, manual foreign exchange dealers and small DFS have a poor understanding of their obligations regarding PF-related TFS. They do not apply any IF-related TFS implementation measures at all because they have low awareness of the IF issue and do not have sufficient resources to directly access the sanctions lists on the UN website.

389. DNFBPs are not sufficiently implementing preventive measures. They lack implementation of fixed-term contract requirements and internal AML/CFT controls.

390. Only legal professionals, chartered and licensed accountants have a relative understanding of the ML/TF risks associated with their activities.

391. Benin is rated as having a Low level of effectiveness for I.O. 4.

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

FIs

- a) There are legislative and regulatory measures in place to prevent criminals and their associates from holding or becoming owners, managers or taking control of FIs. The authorities carry out the necessary verifications to detect non-compliance with the licensing or registration requirements. The control measures apply to all officers, directors and shareholders but are insufficient at the level of beneficial owners.
- b) The understanding of ML/TF risks by the supervisory authorities is based on the NRA findings. However, with the recent adoption of the NRA, the supervisory authorities' understanding of ML/TF risks is still at the embryonic stage.
- c) While AML/CFT supervision is being carried out in the FI sector, risk-based supervision is quite recent. The supervisory authorities monitor banks, DFIs and some insurance companies through on-site and off-site inspections in order to mitigate ML/TF risks. However, the scope and frequency of the monitoring are limited and rare, particularly in the other financial sectors (mainly small-scale DFIs and foreign exchange bureaus).
- d) The Banking Commission is incorporating AML/CFT in its monitoring tool, including the risk-based approach.
- e) The supervisory authorities implement very few remedial actions. Consequently, even though a range of sanctions are provided for violation of AML/CFT obligations, it is difficult to determine whether they are effective, proportionate and dissuasive.
- f) The low number of STRs in the sector, with the exception of banks, coupled with the rare inspections and lack of sanctions, highlight the limited impact of the supervisory authorities' actions on the level of compliance.
- g) The guidelines developed by the BCEAO and the sharing sessions held by the FIU are the key actions designed to enhance the FIs' good understanding of their AML/CFT obligations in Benin.

DNFBPs

- a) The DNFBP sector comprises various professions including legal professionals (lawyers, notaries and bailiffs), accounting professionals (chartered accountants and licensed accountants), gambling and betting structures, dealers in precious metals and real estate developers. Access to these different corporations is subject to a legal and regulatory framework. Thus, in the case of legal professionals, they are appointed after completing a course of study and training and assume official duty after taking of an oath. It is practically the same for the accounting professionals who are licensed based on their reputation. Apart from real estate developers who work mainly in the informal sector, gaming and betting structures and DPMS obtain licenses based on well-defined requirements and formalities.
- b) In Benin, in the entire DNFBP sector, there are no designated AML/CFT supervisory authorities. As a result, no authority monitors DNFBPs for compliance with AML/CFT obligations. This deficiency negatively impacts on ML/TF risk mitigation measures.

- c) AML/CFT supervision and particularly risk-based supervision, is not being implemented for DNFBPs.
- d) DNFBPs have no Guidelines or guide to assist them in the implementation of their AML/CFT obligations.
- e) No sanction has been applied to DNFBPs for violating their AML/CFT obligations.

Recommended Actions

FIs

- a) Supervisors should develop an ML/TF risk mapping methodology, classify FIs based on their risk profiles and develop a supervisory programme defining the frequency and extent of supervision based on these risks.
- b) The supervisory authorities should develop an AML/CFT desk and on-site supervision guide and a mechanism for examiners to monitor the results of examinations, prioritising high-risk sectors.
- c) The supervisory authorities and the FIU should step up the promotion of a good understanding of ML/TF risks by all FIs through training and awareness-raising sessions.
- d) Provide supervisory authorities with sufficient technical and human resources and improve their knowledge of AML/CFT, to ensure effective supervision of AML/CFT reporting entities.
- e) Supervisory authorities should enhance the implementation of remedial actions and ensure the application of the range of proportionate and dissuasive sanctions for breaches of AML/CFT obligations.
- f) The supervisory authorities of foreign exchange bureaus should enhance controls in order to identify and sanction informal entities carrying out foreign exchange transactions without a license.
- g) Regulators should issue guidance notes or instructions to clarify certain regulatory obligations that are still not understood by some FIs, notably regarding beneficial owners, PEPs and financial inclusion products.
- h) Regulators should strengthen controls at the level of the licensing of financial institutions to ensure that the information provided and the analyses carried out prevent criminals and their associates from holding or being the beneficial owners of a significant or controlling interest in FIs.

DNFBPs

- a) Benin should designate supervisory and monitoring authorities with proven competencies in all the DNFBP sectors, who should ensure the latter implement their AML/CFT obligations.
- b) The supervisory authorities should develop an AML/CFT off-site and on-site supervision guide and a mechanism for examiners to monitor the results of examinations, prioritising high-risk sectors.
- c) Supervisory authorities should be provided with adequate technical and human resources to ensure effective risk-based AML/CFT supervision of DNFBPs.

- d) The designated supervisory authorities should be vested with sufficient powers to apply sanctions for non-compliance with AML/CFT requirements.
- e) Regulators should strengthen controls at the level of the licensing to ensure that the information provided and the analyses carried out prevent criminals and their associates from holding or being the beneficial owners of a significant or controlling interest in DNFBPs.

392. The relevant Immediate Outcome reviewed and assessed in this Chapter is IO.3. The relevant Recommendations for the assessment of effectiveness under that section are R.26-28 and R.34-35.

6.2. Immediate Outcome 3 (Supervision)

393. In Benin, the supervision of reporting entities as part of the implementation of AML/CFT obligations is carried out by several authorities, which are institutionally anchored at national or Community level. In this regard, the basic legal instrument is the uniform AML/CFT law of June 2018. However, additional texts have been developed to facilitate or complement its implementation in some sectors, in particular the BCEAO Directive for banks, CIMA Regulation n° 004 for insurance companies and AMF Directive n° 35/2018 for the capital market. By virtue of the powers conferred on them, the supervisory authorities conduct inspections on reporting entities through on-site and off-site visits.

394. In the financial sector, the AML/CFT the mandate to supervise banks is the responsibility of the Banking Commission, which is a Community body. The DFI sector has two supervision regimes, one of which is conducted by the Community authorities (BCEAO, Banking Commission) and relates to large-scale DFIs, referred to in Article 44 of the law on DFIs, while the other is the responsibility of the ANS-SFD and relates to medium and small-scale DFIs. Capital Market operators are exclusively supervised by the Community authority AMF; insurance companies and insurance brokers are jointly supervised by the CRCA and Insurance Department, which are Community and domestic bodies respectively. Copies of the Banking Commission's supervisory reports are sent to the BCEAO and those of the CRCA to the National Regulatory and Supervisory Department for Insurance. However, these reports are not shared with the FIU, which is an important link in the coordination of the fight against ML/TF. The Ministry of Finance, through the State Treasury Department, cooperates with the BCEAO for the supervision of authorized foreign exchange bureaus. Generally, the effectiveness of AML/CFT supervision activities is adversely affected by the low frequency of on-site visits and the human resources dedicated to this task. Besides, the designated supervisory authorities have the power to apply sanctions, which they do not fully exercise.

395. For the DNFBP sector, no authority has been designated to carry out AML/CFT supervision.

396. The analyses and conclusions of the assessment team in this chapter are based on interviews held with the supervisory authorities, taking into account the materiality of the sectors and their level of ML/TF risk at domestic level, as established in Chapter 1. Accordingly, the banks drew the attention of the assessment team to their significant weight in the financial sector, as well as the manual foreign exchange and rapid money

transfer activities considered as high risks, as well as the insurance sector which, though of medium vulnerability, could possibly worsen.

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

Financial Institutions

397. Benin has a legal framework in place governing the licensing and registration of credit institutions and insurance companies. The frameworks aim to, among other things, prevent criminals or their associates from holding any significant interest, or management positions in FIs (Banking Act; Directive N°017-04/ 2011; BCEAO Directive N° 005-06-2010 of 14th June 2010; Directive n°008-05-2015 of 21st May 2015; CIMA Code).
398. Shareholders of credit institutions and insurance companies are subject to specific requirements in the licensing process.
399. **For Banks**, natural persons holding at least 5% of voting rights in the capital equity must produce a notary deed on their wealth, the source of their funds and their origin. Legal entities are required to deliver this statement to the designated representative. The same requirements apply to the shareholders of insurance companies and Capital Markets holding at least 20% and 10% of voting rights in the corporate capital equity, respectively. Apart from the registration application file, the authorities may require several other documents to establish the skill and respectability of the requestor, namely the Single Tax Identifier (STI). The STI document has contributed to the strengthening of the identification mechanism by detecting those natural persons and legal entities not in good standing vis-à-vis the Tax Administration of Benin. These provisions can, to a large extent, prevent criminals and their associates from holding shares in the FIs and becoming shareholders, managers or directors thereof. These monitoring measures apply throughout the institution's life, as well as that of the persons mentioned above. Within the framework of its supervisory mission, the National Agency of Decentralized Financial Systems (NADFS) informed the assessors of several cases of rejection of applications and withdrawal of licenses without providing any statistics. However, they have indicated that these decisions are not related to ML/TF cases.
400. Despite this robust legal supervision, identification of the beneficial owner remains a limitation for the effectiveness of these measures. The identification obligation is incumbent on the reporting entities and monitored by the supervisor. This deficiency may have resulted from the inadequacies in the texts mapping out the appropriate measures adopted by the regulator. In this regard, the introduction of a new identification method would further enhance the FIs level of sophistication.

DNFBPs

401. **Legal and accounting professions**: Entry into these professional organizations do not raise many problems; these are nationals who access their professions through an appointment by competent authorities. They must complete the prescribed courses of studies and training and swear to an **oath** before they assume office. It is the same for the accounting professions. During the recruitment and application for registration phase,

besides the documents for professional qualification, potential lawyers and accountants are required to produce criminal record certificate No. 3 to ensure the requestor has no previous criminal record.

402. **Gaming and betting entities:** License is granted through a decree taken during the cabinet meeting upon proposal by the Minister of the Economy and Finance on the advice of the Board of Directors of the National Lottery of Benin (LNB) after reviewing the relevant documents (financial **statements** of the company, tax certificate and criminal record certificates of their leaders). The Ministries of Security, Defence, Economy and Finance monitor missions for the licenses and surveillance of gambling houses. Sometimes the missions lead to seizures of equipment for those entities which do not comply with their contractual obligations. However, these checks often ignore the AML/CFT aspects. The gaming sector is not monitored for compliance with AML/CFT requirements, due to the lack of a supervisory authority.

403. **Casinos:** Applicants for licenses must produce a criminal record form issued by the Benin judicial authorities from the available archives. However, for applicants that are foreigners, it is difficult or even impossible to obtain information on their criminal records.

404. **Real estate agents:** The NRA report identified the real estate sector as one of the sectors with high ML/TF risk due to frequency certain number of dummy corporations and the difficulty in ascertaining beneficial ownership of real properties. Nevertheless, this sector is not subject to any monitoring or supervision due to the lack of a designated supervisory authority. Benin is undertaking **reforms** in the land sector, but real estate speculation is still a phenomenon that is difficult to control. The agencies mostly operate in the informal sector, although there are license issuance requirements. Most of them dodge effective monitoring.

405. **DPMS:** The Ministry of Mines is responsible for granting prospecting licenses and mining permits. It grants mining permits by decree taken during cabinet meetings and are valid for 20 years along with a convention under the Benin Mining Code. Agents from the Mining Department under the authority of the Minister of Mines ensure the supervisory mission for this sector. The study of the applications does not take into consideration the inherent ML/TF risks. There are no clear mechanisms to identify beneficial owners of applicants that are legal persons, except after some sort of cross-checking, as is the case in many sectors, this could lead to ML.

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

406. Benin conducted a sectoral assessment during the NRA process. The FIU, which coordinated the NRA, has disseminated the main findings to the various public and private administrations. The latter are also expected in turn, to extend the dissemination to their various agencies. It should be recalled that Benin has several supervisory bodies for reporting entities, except those in the DNFBP sector which have no AM/CFT supervisory authority.

Financial Institutions

407. FIs are supervised by both Community and national bodies. Supervision is done through on-site and off-site inspections. The *BCEAO*, Banking Commission and Ministry of Finance of Benin have a good understanding of the risks in the FIs, unlike supervisors of the non-financial sectors. The mechanism put in place by the Banking Commission through COB Circular No. 003-2011/CB/C of January 4, 2011, defines a methodology for the analysing and monitoring risks related to products, services, customer distribution channels and geographical situations, including ML/TF related ones. This methodology includes a half-yearly report based on a questionnaire drawn up for credit institutions as well as a report on the functioning of the internal control system.
408. Similarly, the Banking Commission has developed a rating tool for credit institutions under its supervision. This rating tool covered ten (10) criteria, *including* seven (7) basic and three (3) **additional** ones. The basic criteria include equity, governance, information system, reporting, internal control, financial structure, risk management and financial performance²². These parameters determine the risk appetite from one institution to another. The three (3) complementary criteria relating to the environment, shareholding, and development prospects, are used to fine-tune the first rating emanating from the basic criteria and establish segmented categories of risks. In this regard, it should be noted that this rating tool does not take into account the risk-based approach of ML/TF.
409. The Banking Commission is yet to incorporate the AML/CFT module into its supervisory tool, including the risk-based approach. This situation, therefore, does not make for the systematic monitoring of ML/TF risks.
410. However, the supervisory and regulatory authorities have taken identification measures to understand the risks specific to credit institutions during off-site and on-site inspections or by analysing internal control reports. On-site inspections cover topics that include the AML/CFT component, including bank transfers. The frequency of on-site visits has reduced because of inadequate human and material resources. Consequently, in the absence of a risk-based approach, the reduction in on-site visits could limit inspectors' understanding of the ML/TF risks in the sector.
411. Thus, the current approach does not guarantee effective monitoring of AML/CFT risks.
412. The Assessors also noted that the supervisory authorities have not done any classification of credit institutions based on their AML/CFT risk profile. Banks submit their annual AML/CFT implementation reports to the competent authorities. The analysis of these reports makes it possible for supervisory authorities to identify deficiencies or vulnerabilities in the AML/CFT mechanism and ensure that the banks correctly understand the ML/TF risk. The Banking Commission and the Financial Stability Committee are encouraged to incorporate the relevant requirements of the AML/CFT Uniform Act and ML/TF risk monitoring into their supervisory methodology and financial system consolidation mechanism, respectively.
413. **Insurance:** Regulatory authorities and Capital Market Operators have not yet incorporated risk-based supervision into their mechanism. Off-site and on-site inspections in these sectors are based more on prudential risk than ML/TF risks. The

²² See page 42 of Banking Commission 2015 Annual Report

Insurance Department and the CIMA CRCA are yet to introduce an appropriate methodology and control tools for risk-based AML/CFT monitoring.

414. Also, concerning other financial sectors, notably large DFS and the manual exchange sector, the BCEAO as a supervisory authority has not yet integrated into its system a supervision based on ML/TF risks. However, the ANSSFD informed the evaluators that since 2012, the law on DFS in Article 44 has strengthened the autonomy of the Banking Commission and no longer makes joint supervision. Documentary checks and approval are done jointly by the BCEAO and the NSA-FDS. On average, one or two DFS per year (Art 44). The Inspection Department determines the risk profile of the DFS. Every two years at least one inspection on savings collection, credit and commitment operations. The DFS are often sub-agents in relation to electronic money and fund transfers controlled by the BCEAO, but the ANSSFD is considering whether it should intervene in this area.

DNFBPs

415. The DNFBP sector in Benin comprises well-structured professions with either self-regulatory bodies or supervisory authorities, as well as those operating in the informal sector without clearly established supervisory authority.

416. For organised professions, although they have self-regulatory bodies, the latter do not ensure dedicated monitoring of AML/CFT. The various authorities in this sector have not taken any measures to identify and mitigate ML/TF risks.

417. **Legal professionals:** The Ministry of Justice is the supervisory authority for legal professionals, through the Prosecutor General's Office. Legal professionals are subject to the authority of their own disciplinary body (the National Bar Association for lawyers, National Chamber of Notaries for notaries, National Chamber of Judicial Officers for judicial officers). The National Bar Association of Benin has established the Autonomous Fund for Financial Settlements for Lawyers (CARPA). CARPA helps to minimise the handling of cash by lawyers, which could be a potential source of ML/TF, and thereby demonstrates the disciplinary body's understanding of AML/CFT risks. By and large, in all the legal corporations, there are no designated supervisory bodies for AML/CFT purposes, which significantly weakens the AML/CFT system of the Republic of Benin.

418. . **Chartered and Certified Accountants:** This is a corporation that brings together chartered accountants and certified accountants into an association known as the National Association of Chartered Accountants and Certified Accountants of Benin (OECCA-Benin). The Board of the Association is the disciplinary body, responsible for the regulation and supervision of the profession. In addition to Benin's AML/CFT Act, the profession is subject to the OHADA Act that takes into account the ML component. Most chartered accountants are well aware of the real ML risks associated with their profession. OECCA-Benin has not put in place any mechanism to disseminate and implement the recommendations of the NRA. Internally, the Association did not undertake any action towards assessing the risks specific to the profession. This inertia naturally cannot contribute to the continuous understanding of risks by its members. To ensure an effective implementation of the AML/CFT obligations, collaboration between the FIU and the National Association of Chartered Accountants is more than necessary.

419. **Other DNFBP sectors:** The other DNFBP sectors are gambling and betting structures, real estate developers and mining industry (dealers in gems and precious metals). The NRA has identified the **inherent** ML risks in these sectors. These DNFBP sectors are not monitored for AML/CFT purposes because they lack supervisory authorities.

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

Financial Institutions

420. Relevant authorities in Benin supervise and monitor compliance of FIs with risk mitigation measures. FIs are required to conduct their internal ML/TF risk assessments and submit the **reports** together with the identified risk mitigation measures to the competent authorities. Some FIs, particularly banks belonging to foreign groups, submit their annual reports on ML/TF risk mapping to the supervisory authorities. However, these supervisory authorities do not conduct ML/TF risk-based supervision.

421. . Besides, the regulatory and supervisory authorities conduct compliance checks on banks' AML/CFT systems. Also, the Banking Commission conducts some joint inspections with supervisory authorities from other jurisdictions under the provisions of the MoU among Supervisory Authorities.

422. . Furthermore, the Banking Regulatory Authorities have major challenges with capacity building of staff and the availability of human resources for inspection. This situation impedes the Competent Authorities' capacity to supervise reporting entities effectively.

423. Not all inspectors have received specific training on AML/CFT. However, they all have the requisite qualifications for conducting the controls required by the regulatory texts of the regional Capital Market. Thus, during the various inspection missions, under the provisions of Directive 35/2018, the inspectors ensure compliance by Authorized stakeholders with the operationalization of the AML system. The missions determine compliance with the general due diligence obligations, monitoring of unusual transactions, the obligations of reporting to the FIU, staff training and sensitization, as well as the preparation of a detailed report by the Auditors in their financial audit report for each financial year.

Capital Markets Authority (AMF)

424. The Capital Markets' Authority conducts risk-based inspection of certified stakeholders biennially. However, the frequency of thematic or ordinary missions depend on the risks posed by certain stakeholders.

425. In addition to banks, supervision of FIs is extended to other sectors including insurance, DFS, Money Transfer, Authorised Foreign Exchange Dealers, MICs and Money Transfer Companies.

426. DFIs in Benin are under the supervision of the Banking Commission and the National Agency for Decentralized Systems (NADFS) which are under the Ministry of Finance. The Banking Commission does not inspect more than two SFGs per year. The NADFS

inspects all DFSs at least once in a year. There are 112 certified DFIs, of which only one operates in the field of electronic money. The ANSSDF has not applied any sanction against any DFI for AML/CFT purposes, as they are at the awareness-raising and training phase. It is of the view that the NRA provided an opportunity for reporting entities and their regulators to understand the obligation to file STRs to the FIU. Still, DFIs are yet to file STRs on the ML/TF.

427. Table 6.1 provides statistics of the AML/CFT inspections carried out in the banks by the Banking Commission over the last four (04) years. The Assessors noted the low number of on-site visits by regulatory and supervisory authorities makes it difficult to determine the level of implementation of AML/CFT mitigation measures within FIs. This situation also limits the supervisory authorities' understanding of the exposure of the sectors to ML/TF risks.

TABLE 6.1.: STATISTICS ON AML/CFT SUPERVISION (FINANCIAL SECTOR) [I.O. 3]

SECTOR	2014	2015	2016	2017*	Total
Banking Sector					
Banks	0	2	3	2	7
Insurance Sector					
Insurance Companies		0	1	0	1
Capital Market Operators					
Management and Intermediation Company (SGI)	0	0	1	1	2
OPC Management Company (SGO)	0	2	0	2	4
Business Provider	0	0	0	0	0
Guarantors	0	0	0	0	0
Total Capital Market	0	2	1	3	6
Other Financial Institutions					
Microfinance Institutions	0	0	0	0	0
Foreign Exchange Bureaus	0	0	0	0	0
Money and Value Transfer Services	0	0	0	0	0
Total Supervision	0	6	6	8	20

DNFBPs

428. . The DNFBP sector is a composite sector (comprising several professions) which is not subject to any AML/CFT supervision or monitoring. None of the companies in this sector has appointed a compliance officer or implemented AML/CFT measures taking into account the inherent risks. The State authorities are fully aware of the need to designate supervisory authorities to monitor compliance with AML/CFT obligations.

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

429. The relevant laws empower supervisory authorities to impose sanctions on reporting entities under their supervision for non-compliance with the provisions of laws and specific texts. The AML/CFT Act provides for a range of administrative, disciplinary and financial sanctions for non-compliance with AML/CFT obligations. From 2015 to 2018, the authorities issued a warning letter to a bank for non-compliance with AML/CFT

requirements. Other warning letters have been issued to banks for effecting international wire transfers beyond 762.25 Euros, without the prior approval of the State Treasury as required by the regulation on external financial relations with non-UEMOA member States. Apart from these two cases, no sanction has been applied in Benin in the banking sector. The supervisory authorities attribute this to the fact that FIs generally comply with injunctions and implement recommendations. The sanctions imposed on manual foreign exchange dealers over the 2015-2018 period include 38 warnings and 32 license withdrawals. Supervision of this high-risk sector should continue and be strengthened to identify and sanction informal entities that engage in foreign exchange transaction without license.

430. The sanctions imposed on the other FIs, including capital market operators, micro-finance institutions and foreign exchange dealers, are weak. Table 6.2 indicates the number of sanctions meted out on these sectors as follows:

TABLE 6.2: STATISTICS ON ADMINISTRATIVE AND DISCIPLINARY SANCTIONS FOR FAILURE TO COMPLY WITH AML/CFT OBLIGATIONS (FINANCIAL SECTOR AND DNFBPs)

SECTOR	Total number of regulatory measures (2015-2018)						
	Number of written warnings issued	Number of people barred from employment	Number of corrective actions to be implemented by the institutions	Amount of financial penalty (\$)	Number of entities with suspended activities	Number of approvals withdrawn	Other
Banks	01	0	Several Measures	0	0	0	
Insurance Companies	1		3		1	1	2
Securities Market	0	0	5	0*	-	-	-
Microfinance Institutions	0	0	0	0	0	0	0
Foreign Exchange Bureau	38	-	-	-	-	32	-
Money and Value Transfer Services / Transfer companies	0	0	0	0	0	0	0
Other: Electronic Money Institutions	0	0	0	0	0	0	0
Number of sanctions (Financial sector)	01	0	03	0	01	01	02
Casinos and other Lottery Companies	0	02	0	0	03	0	0
Real Estate Agents	0	0	0	0	0	0	0
Non-Profit Organizations	0	0	0	0	0	0	0
Dealers in Gems and Precious Metals	09		184	0	0	0	0
Car Dealers	0	0	0	0	0	0	0
Legal Professionals (lawyers, notaries)	00	00	00	00	00	00	00
Accountants	00	00	00	00	00	00	00
Other DNFBPs	0	0	0	0	0	0	0

Number of Sanctions (DNFBPs)	09	02	187	00	04	01	02
Total Number of Sanctions (Financial and DNFBPs Sectors)	10	02	190	00	05	02	04

431. . Furthermore, supervisory authorities resort to remedial measures requiring FIs to implement an action plan to correct the weaknesses identified. However, there is no indication that the authorities have taken follow-up actions to verify the implementation of the action plan and the extent to which the FIs have resolved the identified deficiencies. The same obtains for the non-implementation of financial sanctions. Considering the weak sanctions imposed, Benin has not demonstrated the existence of effective, proportionate and dissuasive sanctions for non-compliance with AML/CFT requirements.

DNFBPs

432. . In the absence of legally designated supervisory authorities, no AML/CFT inspection was conducted in the entire DNFBP sector. Consequently, no sanction was applied for non-compliance with AML/CFT requirements or AML/CFT remedial measure undertaken. However, the self-regulatory authorities of some sectors (for instance, lawyers and accountants) in the DNFBP sectors have imposed sanctions on some of their members for non-AML/CFT-related violations.

6.2.5. Impact of supervisory measures on compliance

433. The quality of the annual reports on the implementation of the internal ML/TF preventive system, the findings of the off-site and on-site supervision, the training and awareness-raising sessions, the cooperation and exchanges of information with the FIU, and increase in the filing of STRs and CTRs to the FIU demonstrate the positive impact of supervision on the level of compliance of reporting entities, particularly banks, certain DFIs and insurance companies. Benin's NRA and subsequent sensitisation drive have enhanced the awareness of governing bodies of credit institutions regarding their AML/CFT responsibilities. However, the scope of the impact is very limited in the other FIs, including small-scale DFIs, insurance companies, EMIs, foreign exchange bureaus and money transfer companies identified as sectors particularly at risk. Although these institutions are accountable to supervisory authorities, they are hardly supervised for AML/CFT compliance. It should be underscored that the current supervision in the financial sector is not being carried out using the ML/TF risk-based approach. The statistics provided by ANSSFD in Table 6.1 on microfinance institutions as well as the data provide no clue for the Assessment team to establish any consistency in information. It also demonstrates that those multiple missions did not relate to AML/CFT.

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

434. The Supervisory authorities promote a good understanding of AML/CFT obligations among FIs through the issuance of Directives, guidelines or recommendations to assist FIs in meeting their obligations.

435. The BCEAO has issued guidelines and circulars to FIs to assist them in understanding the risks and effectively fulfilling their AML/CFT obligations (BCEAO Directives No. 007-09-2017; n ° 008-09-2017 and n ° 009-09-2017). Furthermore, it should be underscored that the BCEAO as a regulatory authority, through its national agency, is sometimes included in the Banking Commission missions, particularly those related to AML/CFT. It also receives mission reports. In addition, the BCEAO has enhanced the understanding of ML/TF risks in Benin, as a result of its participation in the conduct of the NRA.
436. The FIU has conducted awareness-raising and training activities to promote a good understanding by FIs of their AML/CFT obligations. The FIU has developed guidelines for reporting entities. Similarly, considering the number of STRs received on document fraud related to foreign exchange authorizations, the FIU conducted a typology study to understand the vulnerabilities of the mechanisms for these authorizations. The FIU has also shared the findings of the typology studies with the relevant stakeholders particularly reporting entities, State Treasury and Customs Department.
437. Actions taken by the AML/CFT authorities, in this case, the FIU, are visible within banks to promote a good understanding of their relevant obligations. These promotional measures are not visible in the DNFBP sector.

Overall Conclusions on I.O. 3

438. The Banking Commission has put in place risk assessment methodologies to assess and understand the risks in the banking sector. The other sub-sectors have a low understanding of ML/TF risks. However, supervisory authorities have not yet classified the ML/TF risks the FIs are facing. Also, the banking sector, and sometimes the insurance and large-scale DFS sectors, are subject to inspection sometimes incorporating the AML/CFT component. Still, the authorities do not conduct such inspections using the ML/TF risk-based approach. Generally, the number of inspections is limited. As a result, the scope and frequency of supervision remain a challenge. In the absence of information regarding sanctions applied and remedial actions taken to resolve the deficiencies identified by supervisors, it is impossible to determine whether sanctions imposed are effective, proportionate and dissuasive.
439. In all the DNFBP sectors, there is no inspection for compliance with AML/CFT obligations due to the lack of designated supervisory authorities.
440. **Benin is rated as having a Low level of effectiveness for I.O. 3**

CHAPTER 7. LEGAL PERSONS AND LEGAL ARRANGEMENTS

7.1 Key Findings and Recommended Actions

Key Findings

- a) Benin does not have a centralised mechanism for collecting, maintaining and disclosing BO information. As part of implementation of CDD measures, FIs and DNFBPs in Benin are required to obtain basic information on the beneficial owners of their customers that are legal entities. However, this data is not systematically collected, reliable, not updated and not all companies present in Benin necessarily have a business relationship with an FI or DNFBP.
- b) The RCCM, APIEX and Single Tax Identifier (IFU) serve as instruments for collecting basic information on legal persons subject to registration formalities. However, there is no verification mechanism in place to ensure that the information held by these structures is accurate and up-to-date
- c) The information held by the APIEX is not publicly available but is accessible to the competent authorities upon request. Information in the RCCM is publicly available on request and on site. However, access is only available at the local jurisdiction level due to the lack of a centralised register at the national level and the manual processing of registers. The information collected at the IFU level can be accessed on request but is inadequate.
- d) Benin does not recognise trusts and trust agreements cannot be created in the country. However, foreign trusts may operate or be managed in Benin. No law imposes any obligation on foreign trustees.
- e) Benin has not identified, assessed and understood the vulnerabilities, and the extent to which legal persons created in the country can be or are being misused for ML/TF.
- f) There have been no sanctions imposed on any FI and DNFBP for non-implementation of measures relating to legal persons. No legal person has been sanctioned in Benin for non-compliance with any information requirement.

Recommended Actions

- a) The APIEX, RCCM, and IFU should put in place a verification mechanism to ensure the basic information held is accurate and up to date.
- b) The country should establish a system that would guarantee timely access to accurate and updated beneficial ownership information, by possibly requiring beneficial owners to be registered with the RCCM, APIEX or IFU.
- c) Benin should adopt a Decree to empower the authorities in charge of the RCCM, APIEX and IFU to implement criminal or administrative sanctions against legal persons and arrangements for non-compliance with the requirement to maintain and update basic and beneficial ownership information. Such sanctions should be sufficiently effective, proportionate and dissuasive.
- d) APIEX, RCCM, Treasury and Tax Department should provide interconnection opportunities for supervisory, monitoring and investigative authorities to consult their

updated databases regarding legal persons, and also ensure public access to such information.

- e) Benin should systematically assess the ML/TF risks associated with all types of legal persons created in the country as provided for in its various legislations, and disseminate this analysis to the relevant authorities in order to refine their understanding of the risks of abuse of legal entities.
- f) The country should review the extent to which foreign trusts are operating or being managed in Benin and adopt appropriate mitigating measures, which would make it easier for the identification of trustees by reporting entities and competent authorities.

441. The relevant Immediate Outcome for this chapter is I.O. 5. The relevant Recommendations for the assessment of effectiveness under this section are R.24-25.

7.2 Immediate Outcome 5 (Legal Persons and Legal Arrangements)

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

442. Pursuant to the provisions of the OHADA-CCG and the General Business Law, information on the creation of legal persons as well as subsequent changes regarding the shareholders and officers are available at the Investment and Export Promotion Agency (APIEX)²³ and court registry as well as in the Legal Information Newsletter. The Uniform Act on Business Companies and GIE outlines all the legal persons that could be incorporated in the country.

443. The provisions of Articles 44 and following of the AUDCG require legal persons subject to registration formalities to complete a form provided for this purpose within one month of their incorporation. The applicant is required to complete the formalities at the registry of the competent court within the jurisdiction of the registered head office or principal place of business. At the end of these formalities, a registration number is assigned to certify the registration. The applicant must follow the same procedure to complete the formalities at APIEX. These formalities also apply to the establishment of branches.

444. The legal provisions outline the various sets of information, including (a) the nomenclature; (b) activities carried out; (c) the form of the legal person; (d) amount of capital; (e) address; (f) names and identities of managers or directors; and (g) administrators or partners empowered to commit the legal person. The information must also include (a) a copy of the Articles of Association; (b) notarized declaration of subscription and payment; (c) declarant's oath of honour attesting that he/she is not subject to any prohibition and, where necessary; (d) the operating license issued.

445. The public may obtain, on request, any information from the Trade and Personal Property Register of Companies (RCCM) and Custodian Services Trade Registry,

²³ The Investment and Export Promotion Agency (APIEX) is the result of a merger of three structures: ABePEC, GUFÉ and CPI, which is an instrument put in place by the Benin Government to promote investments and exports, and provide strategic surveillance and economic intelligence for corporate entities

Official Gazette and Legal Information Newsletter. The RCCM is within the Registry of the competent jurisdiction. It is under the supervision of the Chief Justice, or a judge appointed to establish the RCCM. Also, Benin has established a Registry service at APIEX to facilitate procedures, centralize information on trade companies and ensure their availability. However, the database of this entity is accessible only to the staff of APIEX. In addition to the manual processing of registers, which makes sustainable record keeping and distant access to information difficult, there is no centralized RCCM at domestic level. Every jurisdiction manages its own RCCM at the local level.

446. Investigative authorities file applications with APIEX during their various investigations. A draft Decree is said to be underway to grant authorization to certain authorities to access structured information with the establishment of a secure platform. For now, actions are undertaken formally through applications from BEF, FIU, Customs, Tax Administration and State Treasury.

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

447. Benin has not identified, assessed and understood the vulnerabilities, and the extent to which legal persons created in the country can be, or are being misused for ML/TF purposes. It is therefore extremely difficult to determine the appropriate level of risk that they may pose. The lack of formal mechanisms for the collection, maintenance and disclosure of BO information of legal persons, uncertainties about the unreliability and accuracy of the basic information held by APIEX, RCCM and IFU, as well as the non-existence of a range of criminal, or administrative sanctions for non-compliance with the obligation to maintain and update information are some of the considerable deficiencies that create the opportunity for legal persons in Benin to be used for ML or TF purposes.

448. The OHADA-CCG applicable in Benin cover a wide range of-companies, with the exception of holding companies, which are subject to a special regime to be determined by the shareholders. According to the legislation (Art 99, AUSCGIE), the regular change in the form of a company into another form of company does not introduce a new legal person. However, each of the forms provided for under the Uniform Act has specific features which must be understood and defined to ensure effective monitoring of the risks to which they may be exposed.

449. In the Limited Partnership (SCS), for example, there is no legal requirement for the partners to disclose, at the time of registration, the identity of the partners. This situation makes it easier to conceal the true beneficial owner of the legal person. It does not allow for a precise and systematic identification of all partners or beneficial owners. The relevance and timeliness of the RCCM data are therefore crucial in this regard. In addition, registration formalities do not apply to Joint Stock Companies (Art. 97 and Art. 854 of the Uniform Act). The existence of this type of companies remains a strictly private matter between the partners only.

450. APIEX, in the registration data it gathers from legal persons, neither focuses on the distribution of the share capital of the companies incorporated, nor on the origin of the funds potentially intended for investments. The issue of beneficial ownership is

apparently not properly captured in the APIEX procedures. Besides, the information it holds is not accessible to the public.

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

451. The incorporation of legal persons is subject to procedures set out in the applicable legislation, including registration with the RCCM and the publication in any Legal Information Newsletter, pursuant to relevant provisions of the law on business companies issued by OHADA. The FIs' internal control programs aim at preventing the laundering of the proceeds of crime through them, which could be useful in ML/TF investigations, pursuant to the relevant provisions of the AML/CFT Act. The latter requires the disclosure of controlling shareholding and controlling interest, as well as any updates on legal persons.
452. . Public limited companies may issue bearer bonds or nominal bonds. The circulation regime for these instruments differs depending on whether it is a public company or another type of company. Where a public company is concerned, the applicant may be registered in an account opened in the name of the proprietor, which facilitates the traceability of account-to-account transfers. However, where a company does not go public, transmission is done through a simple traditional process. However, this does not mean that the opacity ceases to exist. There is no information on the number of securities issued or the volume and regularity of transactions, to enable the Assessors to determine their impact and magnitude on the registration process.
453. The provisions of the OHADA Uniform Act on companies do not require shareholders or directors acting on behalf of other persons to disclose to the company the identity of the person who appointed them and include such information in the trade register. The NRA exercise has identified cases of tax fraud involving legal entities, including Limited Liability Companies. They also underscore "a high level of vulnerability for loans to legal persons", which also form "a predominant share in the banks' expenditure". Such a situation is expected to lead to the establishment of appropriate mechanisms for understanding the risks posed by each type of legal person.
454. The country has rolled out a strategy to provide all economic operators with a Single Tax Identification (IFU). The IFU is used to individualize economic operators, trace their activities (the identifier is requested for by all the services to which the economic operator would apply for licensing or reporting). TCP services indicate that the foreign exchange authorization (which allows companies to pay for their imports) is only issued if the IFU accompanies the request. The Treasury and Public Accounting Department (TCP) indicate that foreign exchange authorization (used to pay for imports made by the companies) is only delivered if the application is accompanied by the IFU. The tax authorities update the information on reporting entities whenever the IFU holder requests the tax services for new information on its economic activities, financial policy, address and managers. However, the reliability of the information provided by taxpayers is not always established and the means of verifying the reliability of the latter are inadequate.
455. FIs also request for the IFU when the economic operator embarks on international financial transactions. The IFU is an important mechanism that can not only help identify beneficial owners, but can also reduce the risk of using beneficial owners for ML/TF

purposes. The practice over time would determine the level of effectiveness of this mechanism, the implementation of which is still recent.

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

456. The NRA report assessed a variable relating to access to BO information. It concluded that there is no platform or mechanism to facilitate access to BO information. The reform of APIEX strengthens the possibility of having information on the owners and legal representatives of legal persons created in Benin without, however, responding to the need for a relevant mechanism to identify the beneficiaries of these legal persons. The identification of tax or customs fraud in the NRA as a major predicate offence in the country is a key indicator that should encourage the country to pay particular attention to business enterprises.

457. Upon request to the Court Registry or APIEX, the competent authorities may obtain accurate and updated information on all types of companies set up in Benin and their legal declarants. At the behest of the managers of the LPs, companies must record changes concerning the company in the register of companies, issue notarial deeds and file them at the registry during registration of the company.

458. One of the main vulnerabilities identified in Benin's NRA regarding legal persons is the major difficulty in identifying beneficial owners. The sources of information available refer more to the availability of information on legal owners than beneficial owners. However, the appropriate use of the IFU mechanism by the relevant administrations could help improve the process of identifying beneficial ownership where necessary.²⁴ The various administrations have stated that they crosscheck their information on the IFU holders and thus manage to cross-check the identities of the economic operators, while updating the information obtained or kept. However, it should be noted that the use of the IFU is not the adequate response to the transparency requirement for the identification of BOs of legal persons and arrangements.

459. The lack of reliable and relevant information mechanisms on the distribution of the share capital of limited partnerships, the actual source of the funds used to build up their capital or intended to be invested for their corporate purpose, does not guarantee transparency throughout the registration procedure of these limited partnerships. Benin should consider reviewing its risk assessment with particular emphasis on the various types of business companies incorporated in the country. Discussions with the Tax Administration and State Treasury suggest a greater attraction of the *Sole Proprietor Limited Liability Company* (SUARL)²⁵ category. Criminals often use this type of company for fraud or other criminal activities.

460. The AUDCG requires each OHADA member country to maintain a national register. The latter replicates all the information on commercial companies found in registries

²⁴ In cases where the latter are also the legal owners

²⁵ The OHADA legislator provides an opportunity for its members to choose among several types of companies: a collective nomenclature company (SNC), a limited liability company (LLC), an anonymous company or a simple partnership company (SCS). The company so incorporated may, with the assistance of other companies, create a shareholding company (SEP) or an Economic Interest Grouping (GIE).

across the country. It should feed into the national register maintained at the registry of the Common Court of Justice and Arbitration (CCJA) of the OHADA with headquarters in Abidjan. Benin does not have this national register.

461. The quality of the information collected is sometimes unreliable. Some declarants provide fictitious or inaccurate addresses which impede the tax authorities and LEAs from locating criminals. Regular updating of the information recorded in the RCCM is not effective. Some legal persons cease to exist or undergo changes without having these events recorded in the RCCM. Besides, there is no evidence that the information provided at the time of registration, and when changes occur, are verified to ensure accuracy.

462. Benin utilises the RCCM in its search for information on beneficial owners. It would be more appropriate to make better use of the IFU number, by enhancing the exchange of information among administrations, FIs and investigative agencies, and design a mechanism that would ensure the availability and accessibility of beneficial ownership information.

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

463. Upon request to the Court Registry or APIEX, the competent authorities may obtain beneficial ownership information on legal persons, provided the contracts are registered and the legal representatives are also the beneficial owners.

464. Legal arrangements (particularly trusts) are not subject to appropriate legal provisions in the national legislation. Tax Authorities view them as contracts and treat them as such. The implications on assets and the complexity of the way these legal arrangements operate are not captured in any of the country's relevant legal frameworks.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

465. The AUSCGIE provides for various offences relating to violations of the legal prescriptions governing the requirements for the creation, functioning and dissolution of companies. The Uniform Act stipulates the criminalization aspects and gives the Member States the freedom to set the appropriate penal sanctions. However, apart from certain prosecutions of commercial companies (mainly SUARL) for tax fraud, there has been no prosecutions and enforcement of sanctions for offences related to the incorporation, functioning and dissolution (bankruptcy or judicial liquidation) of a business company. Thus, the Assessors could not determine the nature and quality of the sanction due to the lack of information that could be used in any objective factual analysis.

466. . There is no information to ascertain that Benin applies effective, proportionate and dissuasive sanctions against persons that fail to comply with the information requirements relating to legal persons and legal arrangements.

Overall conclusions on I.O.5.

467. The OHADA Uniform Act prescribes the requisite information for the creation and types of legal persons. Benin has no effective means of accessing record keeping systems that provide information on beneficial owners. Benin has not assessed the ML/TF risks of legal persons created in the country. Benin has not implemented any measures to prevent the use of legal persons and legal arrangements for ML/TF purposes. There are no sanctions to enforce the obligations provided for by the OHADA Uniform Act. The information held by the RCCM is not always reliable and not updated on a regular basis.

468. **Benin is rated as having a Low level of effectiveness for I.O.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1 Key Findings and Recommended Actions

Key Findings

- a) Benin has adequate legal and conventional framework for international cooperation, including mechanisms to provide and seek mutual legal assistance extradition.
- b) Despite this robust legal framework, there is a lack of dynamism in this cooperation. Despite a geographical environment highly exposed to transnational crime, Benin does not provide timely and constructive assistance abroad and does not seek appropriate assistance to effectively combat ML, its predicate offences and TF.
- c) Benin also has a framework for informal cooperation with its foreign counterparts, established between prosecutors and national police services. However, in 2018 the country only used police-to-police cooperation, with Togo, to obtain the extradition of criminals, without extending it to the identification of products possibly derived from their offences.
- d) The country does not extradite its nationals and has not made any extradition request. Also, the country did not indicate whether it adheres to the principle of “extradite or prosecute” as prescribed by the AML/CFT Act or its Criminal Procedure Code.
- e) The dual criminality requirement is a general legal principle in Benin, which is likely to impede the execution of external extradition requests without specific bilateral agreements between Benin and its counterparts.
- f) The country does not use international cooperation for investigations, targeting assets, or for the tracing or identification of assets linked to detected illicit activities.
- g) The country does not have clear procedures for handling requests for mutual legal assistance or extradition nor does it prioritize certain cases.
- h) The country does not have an appropriate legal framework for the identification of beneficial owners of legal persons or legal arrangements.

Recommended Actions

- a) Benin should improve on the quality of its international cooperation through the increased use of a large range of mechanisms contained in the Agreements and Conventions such as request for intelligence, information and MLA designed to facilitate measures to be taken against national and foreign criminals as well as their assets.
- b) Benin should be more proactive in the use of formal international cooperation and be more rapid in responding to requests from its foreign counterparts to efficiently pursue investigations and prosecutions property linked to ML or TF, and confiscate all related assets in line with the risks to which it is exposed.
- c) Benin should seek and provide more informal cooperation with foreign countries, and extend it to investigations relating to property resulting from the offenses concerned, for greater efficiency in tracking down criminals and their assets.
- d) Benin’s legal system should render the dual criminality requirement flexible and consider it achieved as soon as both countries criminalize the basic offence.
- e) Benin should apply the principle of “extradite or prosecute” to its nationals and foreigners found guilty and not extradited.

- f) Benin should develop a mechanism, or case management system to receive, assess, prioritize and respond to request for assistance.

469. The relevant Immediate Outcome for this chapter is I.O.2. The relevant Recommendations for effectiveness assessment under this section are R.36-40 and some elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

470. Benin has a fairly broad legal framework that allows it to provide and seek a wide range of mutual legal assistance for the investigation and prosecution of ML, associated predicate offences, and TF (Art. 138 of AML/CFT Law, 172 to 186 of CCP, 142 to 145 of Anti-corruption Law).

471. Several State agencies provide and request MLA. The Department of Civil and Criminal Affairs and Grace at the Ministry of Justice coordinates MLA actions in Benin and is therefore the central authority in this respect. Benin extradites through diplomatic channels. The requisite framework for informal cooperation also exists.

8.2.1. Providing constructive and timely MLA and extradition

472. From 2014 to 2018, judicial authorities received forty-seven (47) international letters rogatory and MLA and executed 5 (two from Niger, two from Cote d'Ivoire and one from the United States). The other 42 requests are still within the administrative circuit for processing. See Table 8.1 below.

473. There is no detailed information on (a) the number of rogatory letters and MLAs Benin received per year, (b) the nature of the relevant offences and information requested, (c) the time required for its execution, and (d) the reasons for the non-execution or delay in the execution of most of the rogatory letters.

474. The rate of execution of requests for MLA demonstrates actual delays in the processing of MLA and the lack of dynamism of the relevant departments, which simply means that Benin does not provide MLA to its counterparts promptly.

475. . Only one country (Belgium) attested to the quality of assistance provided by Benin over the past four years (2015-2018). The country did not provide adequate information to enable the assessment team to determine the quality of assistance provided by the State Authorities.

TABLE 8.1: LETTERS ROGATORY AND MLA REQUESTS RECEIVED BY BENIN FROM 2014 TO 2018 (I.O.2)

Country of Origin	Number of Letters Rogatory and MLA Requests Received by Benin	Number of Letters Rogatory and MLA Requests returned after execution	Level of Execution
Nigeria	01	0	In progress
Brazil	01	0	In progress
USA	02	01	Executed

Greece	01	0	In progress
Niger	02	02	Executed (for the 2 letters received in Benin)
Portugal	05	0	In progress
Spain	04	0	In progress
Belgium	02	0	In progress
France	07	0	In progress
Senegal	02	0	In progress
Cote-d'Ivoire	02	2	The two letters received have been executed
Switzerland	13	0	In progress
Poland	02	0	In progress
Equatorial Guinea	01	0	In progress
Lithuania	01	0	In progress
Saudi Arabia	01	0	In progress
TOTAL	47	05	-

476. Furthermore, the country received thirty-four (34) MLA requests relating to cybercrime and responded to five (5). This offence, which is often transnational, is one of the major threats identified by the NRA report of Benin. As such, MLA requests from external counterparts could provide an indispensable concerted response to this scourge.

Extradition

477. Benin receives extradition requests and responds through diplomatic channels. However, Benin did not receive any formal extradition request between 2014 and 2018. The "dual criminality" requirement is a general legal principle of extradition (Article 734 of the CCP) in Benin, like many other African countries. This principle is likely to hinder external requests for assistance, particularly in the area of extradition.

478. Furthermore, Benin does not extradite its nationals (Art.734.1 of CCP). However, the obligation to extradite or prosecute requires Benin, in the event of refusal to extradite, to submit the case without delay to the competent Benin authorities to commence the proceedings relating to the offences mentioned in the request (art.161 AML/CFT Act).

479. Also, article 636 of the CCP of Benin empowers the competent courts of the country to prosecute any Beninese citizen who commits an act outside the national territory that qualifies as a crime or misdemeanour by Beninese law. Benin is yet to implement this provisions in respect of ML, associated predicate offences, as well as TF. As noted above, the country did not receive any request for extradition during the review period.

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

Mutual Legal Assistance

480. . From 2014 to 2018, Benin made 4 requests for MLA (letters rogatory to France (02) and Cote d'Ivoire (2)) but only Cote d'Ivoire executed the requests it received.

481. . This result is below expectations because cybercrime is known for its usually transnational nature. It constitutes one of the main threats identified in Benin's NRA report because it generates significant proceeds that can be laundered and used to finance terrorism and other criminal activities. Benin has established the OCRC of the Republican Police to combat cybercrime. In this regard, the Assessors envisaged that the prevalence of cybercrime should trigger more MLA requests from Benin's competent authorities, especially the OCRC, to their foreign counterpart.

Extradition

482. Where the Beninese Government wants to make a request for extradition, a comprehensive file is transmitted by the State Prosecutor to the General Prosecutor at the competent Court of Appeal. At the end of the court proceedings, the State Prosecutor transmits the comprehensive case file together with a report on the facts that justified the extradition request to the Minister of Justice. Subject to international Conventions, the Minister of Justice transmits the case file to the Minister of Foreign Affairs, who forwards it through diplomatic channels to the requested State (Art. 764 CCP of Benin).. The predominance of the informal economy, the porosity of national borders and the prevalence of offences that are trans-national in nature contribute to the creation of a crime environment and the generation of, significant financial flows. Thus, Benin should record a larger number of extradition requests.

483. Furthermore, this denotes a lack of dynamism in international cooperation to combat ML, related predicate offences and TF.

484. Benin should proactively engage in international cooperation with its foreign counterparts to combat transnational crimes in line with the identified risks.

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

International cooperation among FIUs

485. The BENIN-FIU is a member of the Egmont Group. It has also signed MOUs for cooperation with several Foreign Financial Intelligence Units (FIUs), including France, Belgium, Morocco, Luxembourg, Congo, Monaco, Mauritius Island, and Equatorial Guinea. Similarly, the Benin-FIU cooperates with the FIUs in GIABA member States and in particular those of the UEMOA zone in a network called the "UEMOA FIU Network" (RECEN-UEMOA). It is a member of the Network of Francophone FIUs in the Lake Chad Basin. Finally, the Benin-FIU has been a member of the Egmont Group since September 2018.

486. From 2014 to September 2018, the Benin-FIU made 24 requests for assistance and exchange of financial intelligence and other information relating to criminal investigation and prosecution to its foreign counterparts for AML/CFT purposes. However, there is no information on the results achieved by using financial intelligence obtained through this cooperation with counterpart FIUs.

International cooperation among law enforcement authorities

487. The competent authorities of Benin also seek other forms of cooperation from their international counterparts. The police and prosecutors seek cooperation within the frameworks of the West African Police Centres Cooperation (WAPCC) and the West African Central Authorities and Prosecutors (WACAP) Network, respectively.
488. These cooperation frameworks enable member States which are signatories to the relevant regional agreements to implement informal procedures to extradite fugitives. Thus, the ECOWAS Multilateral Agreement signed in Accra, provides for the surrender of any individual - among police authorities of Member States called “police to police surrender”, a simplified and less formal form of extradition procedure. Thus, Benin requested and obtained in 2018 from Togo, the transfer of ten (10) Benin cyber-criminals and a suspected criminal known to be an international fraudster who found refuge on its territory. However, the requests did not consider possible identification of proceeds derived from these offences, which the criminals may have invested or introduced in the financial or economic circuit of Togo. Extending this type of cooperation to asset and financial investigations could have enhanced the quality of the results obtained.
489. . As indicated in I.O.7 (Box 4: practical case), the competent authorities also incorporate international cooperation into ML investigations. In this regard, the Benin authorities referred to a forgery case with international elements and the use of forgery in private writing, attempted fraud, criminal conspiracy and attempted ML which they resolved based on international cooperation initiated by the BEF.
490. Benin has not fully implemented the provisions of the Palermo and Merida Conventions on the tracing, identification and confiscation of assets in the prosecution and repression of ML, its predicate offences and TF. This situation impedes the ability of competent national authorities to trace, identify and seize criminal assets related to foreign predicate offences and involve other foreign competent authorities.

International Cooperation among Supervisory Authorities of Financial Institutions

491. . Generally, the UEMOA Banking Commission (CBU), CREPMF and CRCA of CIMA can provide their foreign counterparts with rapid and effective cooperation, including through the exchange of information on monitoring for AML purposes (cf. Articles 86 indent 8 and 89 of the AML/CFT Law).
492. . The CBU may enter into cooperation agreements with any counterpart competent authority in matters of supervision and resolution (cf. Art. 61 of the Annex to the Agreement governing the CBUB). In collaboration with other supervisory authorities, it can set up a college of supervisory authorities for each financial holding company and parent credit Institution Company with significant international activity and participate in the college of supervisors of foreign groups. The Assessment Team obtained no information on the effective implementation of this form of cooperation.
493. . **Cooperation:** On this legal basis, despite the absence of information on the actual implementation, the Assessors are of the view that the UEMOA supervisory bodies may request for or provide their foreign counterparts with any information.

8.2.4. Providing other forms of international cooperation for AML/CFT purposes

494. The authorities of Benin have powers to provide other forms of cooperation to their foreign counterparts.

International cooperation among FIUs

495. . As a member of the Egmont Group and signatory to the bilateral cooperation agreements among FIUs, the Benin-FIU also contributes to the effectiveness of all investigations and information requests it receives from its counterparts within the framework of international cooperation. Cooperation seems to be confined to the area of mutual requests as it is yet to integrate the spontaneous information sharing dimension.

496. As presented in Table 8.2 below, from 2015 to 2018, the Benin-FIU received 19 financial information requests, for AML/CFT purposes from its foreign counterparts. There is no information on the counterparts that provided the information and any possible reactive disseminations made by the FIU.

TABLE 8.2: STATISTICS ON INFORMATION REQUESTS RECEIVED BY THE FIU

Year	2015	2016	2017	2018
Assistance requests received from abroad	2	3	11	3

Source: Benin-FIU

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

497. As earlier indicated in I.O.5, on any request sent to the court registry or APIEX, the competent authorities (BEF, FIU, Customs, Tax and Treasury) can obtain accurate and up-to-date information on all types of companies created in Benin and their legal declarants. Legal persons are required to enter any changes during the legal life span of the company in the trade and company register and produce notarial deeds and submit them to the clerk.

498. Furthermore, based on the bilateral and multilateral agreements, the competent AML/CFT authorities in Benin may file requests and respond to foreign requests for cooperation in the area of identification and exchange of basic and BO information on legal persons and legal arrangements, subject to reciprocity.

499. Legal arrangements, particularly trusts, are not subject to appropriate legal provisions in Benin's legislation. The tax authorities regard them as contracts and treat them as such. The implications on the assets and complexity of how these legal arrangements operate do not fit into any relevant legal framework in the country. In Benin, BO information is sought through the RCCM. However, there are some limitations in the system. The

accuracy of the information collected is hardly verified as such, declarants may give fictitious or inaccurate information. This can make ML/TF investigations challenging particularly in terms of locating persons as and when necessary. The RCCM lacks an effective process for updating the information recorded in its register. Changes relating to the legal persons' status (transfer of ownership, termination, death, incapacitated etc.) are made without notifying the RCCM.

500. In a nutshell identifying beneficial ownership is indeed a significant challenge and one of Benin's principal vulnerabilities, as indicated by the NRA Report. The available sources of information are more likely to identify legal owners than beneficial owners.

Overall conclusions on I.O.2

501. Generally, considering its ML/TF risk profile, Benin has not demonstrated the requisite level of expected commitment to international cooperation. The lack of comprehensive and detailed statistical data on MLA, extradition, other forms of international cooperation and the low rate of execution of the few requests received, lead to the conclusion that Benin does not provide timely assistance and does not proactively engage in international cooperation with foreign counterparts in a manner consistent with its risk profile. The country's risk profile should rather impel it to provide and request, in a much more dynamic way, a wide range of mutual legal assistance and international cooperation opportunities pursuant to its domestic legislation and the agreements entered into with foreign counterparts. This will enable it to provide these foreign partners with constructive and timely information or assistance when other countries make the request. The country, in turn, could seek and obtain assistance to more effectively investigate and initiate proceedings against criminals and their assets.

502. Benin is rated as having a Low level of effectiveness for I.O. 2.

ANNEX I. - TECHNICAL COMPLIANCE

This section provides detailed analyses of Benin's level of compliance with the FATF 40 Recommendations. It does not describe the country's situation or risks, but rather focuses on the analysis of the technical criteria for each Recommendation. It must be read in conjunction with the Mutual Evaluation Report (MER).

Where the FATF requirements and domestic laws or regulations remain unchanged, the report refers to the analysis carried out under the previous Mutual Evaluation conducted in May, 2010. The report is available on the following website: www.giaba.org

Recommendation 1 - Risk Assessment and Implementation of Risk-based Approach

This Recommendation is new.

Risk Assessment

Criterion 1.1 – The legal obligation to conduct an NRA in Benin is provided for by Article 10 of AML/CFT law No.2018-17 of 25th July 2018 . It is within this framework that Benin conducted its NRA process with assistance from the World Bank and the actual participation of the relevant public- and private-sector institutions. Launched in 2016, the process was re-launched in 2017 and completed in 2018. The Cabinet approved NRA report on 14th November, 2018.

More specifically, the NRA process was conducted using data and information collected by eight (8) sectoral teams by analysing available data, reviewing legal frameworks and using various relevant sources of information. However, due to the incompleteness of AML/CFT data, the NRA taskforce relied on the results of questionnaires administered to relevant public and private institutions and interviews conducted to compensate for inadequacies. The assessment team deems reasonable the NRA findings. The process determined the risk levels for ML (high) and TF (medium), based on the analysis of de threats and vulnerabilities at both the national and sectoral levels. It noted that Benin's geographical location makes it a transit point for international trade and exposes it to numerous criminal activities. It also identified fraud (in all forms), cybercrime, corruption, tax fraud, human trafficking, drug trafficking, smuggling as the most prevalent offences that generate proceeds. The illicit flows generated from these activities can be easily invested in high-risk AML/CFT sectors identified by the NRA, including the real estate and informal currency exchange sectors. The NRA did not identify the NPO categories that are exposed to TF risks, or the nature of the threats terrorist entities are imposing on NPOs at risk, or how terrorists misuse such NPOs. It has not assessed the ML/TF risks associated with legal persons created in the country. The listed shortcomings negatively affect the identification and understanding of the level of risk (both ML/TF) of the country.

Criterion 1.2 - Article 10 (2) of the AML/CFT Act, Inter-ministerial Order No. 2018-0631/MEF/MISP/MAEC/MJL/MDN/055SGG10 of 22nd February, 2018 designates the CTN-AML/CFT as the authority responsible for coordinating actions to assess ML/TF risks in Benin. The CTN-AML/CFT has the mandate to take appropriate measures to identify, assess, understand and mitigate all ML/TF risks to which the Republic of Benin is exposed and update

this assessment. It brings together relevant AML/CFT stakeholders and players in Benin.

Criterion 1.3 - The CTN-AML has the mandate to take appropriate measures to update the NRA (Art. 10 (1) AML/CFT Act). The national AML/CFT policy and strategy document (2018-2022) provides for the update of the NRA five (5) years after its adoption. The assessment team deems reasonable the timelines for updating the NRA as it will provide an opportunity for the country to implement the strategic action plan. The assessment team deems reasonable the timeline for updating the NRA as it will allow the country to implement the action plan and assess impacts to factor them into a new assessment. Since Benin is conducting its maiden NRA, adopted 04 months before the on-site visit, no update was made.

Criterion 1.4. - The CTN-AML/CFT is responsible for disseminating the outcomes of the NRA to all stakeholders (Art. 2(2) of MO 2018-0631). However, there is no specific mechanism for disseminating the outcomes of the NRA. The FIU helped disseminate the sector-specific outcomes of the NRA to the various stakeholders through some sharing sessions.

Risk mitigating measures

Criterion 1.5 - The CTN-AML/CFT has the mandate to take appropriate measures to mitigate the ML and TF risks to which Benin is exposed (Art. 10 (1), AML/CFT Act). Benin has adopted a projected and budgeted action plan based on the outcomes of the NRA to prevent or mitigate identified risks. Based on the outcomes of the NRA, the FIU has organized awareness programmes for relevant stakeholders (competent authorities and reporting entities). However, apart from the banking/large DFS sector and a few insurers, Benin is not applying a risk-based approach, particularly to all DNFbps.

Criterion 1.6.a-1.6.b – Benin exempts FIs from applying CDD measures to online payment services under the following circumstances:

- The funds received from the customer come from an account opened in his/her name with another financial institution established or having its registered office in Benin, in a Member State or in a third State imposing equivalent obligations in terms of combating ML or TF activities;
- The funds intended for an account opened in the name of a beneficiary with another financial institution established or having its registered office in the Republic of Benin, in a Member State or in a third State imposing equivalent obligations in terms of combating ML or TF activities;
- The transaction does not exceed the sum of one hundred and fifty thousand CFA francs (76. 23 Euros);
- The total value of transactions executed for the customer during the twelve months preceding the transaction in question does not exceed 2,439 Euros. This exemption does not apply in the event of a suspicion of ML/TF (Art. 48 of the AML/CFT Law).

These various exemptions are derived from the law that has targeted them without a regional risk assessment, prior to the design of the Community Law.

Criterion 1.7 a-b - There is no legal requirement for FIs and DNFbps to adopt enhanced measures designed to manage and mitigate the high AML/CFT risks identified in the NRA or ensure that this information is incorporated in their internal risk assessments. However, the NRA rated the variable on correspondent banking as very high due to its positive impact on

banks in Benin, resulting in the establishment of internal procedures designed to implement AML/CFT measures (variable II-2.1.2.3 scored 0.8).

Criterion 1.8 - Articles 46 to 49 of the AML/CFT Act allow reporting entities to apply simplified due diligence measures²⁶ to customers, products and transactions that pose low ML/TF risk. These provisions require reporting entities to maintain a list of such low-risk customers and products, and also provide categories of low-risk customers and products²⁷. However, there is no legal obligation to ensure that the measures adopted by FIs and DNFBPs are consistent with the NRA findings.

Criterion 1.9 - Article 86 to 88 of the AML/CFT Act requires supervisory authorities and self-regulatory bodies to ensure that FIs and DNFBPs implement their obligations under de AML/CFT²⁸, particularly the requirements under FATF Recommendation 1. FIs and DNFBPs are required to submit to these authorities, their internal ML/TF assessments, kept up-to-date and documented, as well as policies, procedures and audits at their disposal for mitigating and managing ML/TF risks (art. 11 of AML/CFT Law No. 2018-004). They are also required to be at all times be in a position to justify to supervisory authorities the suitability of the CDD measures they have applied with respect to the ML/TF risks presented by their business relations (art.19 (3) of AML/CFT Law No. 2018-004). Similarly, the supervisors of FIs can, when necessary, within their respective jurisdictions, specify the content and procedure for the enforcement of ML/TF prevention programmes (art. 24 (2) of AML/CFT Law No. 2018-004). However, DNFBPs are still not being supervised regarding implementation of their AML/CFT obligations.

Risk Assessment

Criterion 1.10

a - Article 11 (1) and (2) of the AML/CFT Act require reporting entities to take appropriate measures to identify and assess the ML/TF risks to which they are exposed and document their risk assessments.

Similarly, FIs are required to map out in their implementation report of the internal ML/TF prevention system, the most common suspicious transactions, indicating the developments observed (Art. 12 BCEAO Directive 007-09-2017 (outlining the rules for the implementation of the Uniform AML/CFT Act in UEMOA Member States).

b - In assessing the risks, reporting entities are required to take account of factors such as customers, countries or geographical areas, products, services, transactions or distribution channels and other relevant risk factors before determining the overall risk level, as well as the level and type of appropriate measures to be applied (art.11, 19, 22, 25, 90 of AML/CFT Law No. 2018-004).

²⁶ Specified in

Articles 18 to 20 of the AML/CFT Law

²⁷ State-owned corporations, electronic currency intended for the purchase of goods and services with a value exceeding 914.7 euros carried out in a 'year', inter-bank transfer.

²⁸ (Covers amongst others, cash and BNI declaration, ban on cash payment, reporting of cash transactions, CDD, amongst others)

c – Article 11(2) of the AML/CFT Act requires reporting entities to update their risk assessments.

d - Reporting entities are required to make their risk assessments available to competent authorities and self-regulatory bodies through a communication mechanism (Article 11(2) of the AML/CFT Law). Article 19 of Circular 05-2017/CB/C on the management of compliance with standards in force by credit institutions and financial companies in the UEMOA zone, requires FIs to submit quarterly reports on their compliance with risk assessment to the Banking Commission.

Concerning DNFBPs, most of which the NRA has identified as posing high ML/TF risk, implementation of these requirements pose a challenge as not all DNFBPs have supervisory authorities. Also, there is no guide to DNFBPs regarding the mode of providing information on risk assessment. The low level of implementation among DNFBPs has adverse implications on the overall rating for this criterion.

Risk mitigating measures

Criterion 1.11

a - FIs and DNFBPs are required to have policies and procedures to effectively manage and mitigate the various ML/TF risks identified (Arts. 11(3) and (5) and 90 of the AML/CFT Act; and Article 7 of the Banking Commission Circular N° 04-2017/CB/C²⁹). They must obtain senior management approval for policies, procedures and controls they intend to put in place.

b – Reporting entities are required to test the policies, procedures and controls through an independent audit function. This action should be commensurate with the size, and nature, and volume of the business activities (Art.11(5) AML/CFT Act).

c – In addition to the AML/CFT risk management measures required by Article 11 of the AML/CFT Act, Article 50 to 55 of the said Act require reporting entities to take enhanced measures to manage and mitigate ML/TF risks where they appear to be high.

Criterion 1.12- [Mostly Met] - Reporting entities are permitted to apply simplified CDD measures to manage and mitigate risks deemed to be low, except when there is a suspicion of ML/TF.

Weighting and Conclusion

Although ML/TF risks were identified in Benin, there is no specific mechanism for the dissemination of NRA findings to stakeholders. The legal framework does not provide for the implementation of the risk-based approach when applying measures to mitigate the risks identified. The ML/TF risk assessment does not sufficiently incorporate NPOs and legal persons.

Benin is rated LC on R.1.

²⁹ For credit institutions.

Recommendation 2 - National Cooperation and Coordination

In its first MER, Benin was rated PC on this Recommendation (Ex Rec.31) because of the lack of formal cooperation and coordination mechanisms and the deficiencies identified in information sharing and cooperation among the various agencies. The country has partially resolved the deficiencies through the establishment of the National Technical AML/CFT Committee (CNT-LBC/FT) on 23rd December 2016. On 14th November 2018, the country adopted a National Policy and Strategy Paper after the completion of the NRA.

Criterion 2.1 - The NRA report and its action plan developed under Article 10 of the AML/CFT Act served as a basis for the formulation of the national AML/CFT policy and strategy document adopted in November 2018. The NRA action plan provides for the drafting of a national AML/CFT strategy and policy document that take account of the risks identified and the requirement to update the NRA de five (5) years after its adoption.

Criterion 2.2 - The CTN-AML is the authority responsible for coordinating national AML/CFT policies (Order n°4192MEF/DC/SGM/CENTIF/SP of 23rd December 2016 amended by Decree n°2019-047 of 31st January 2019, establishing the mandate, organization and functioning of the CTN-AML/CFT and conferring on it the status of AML/CFT Coordination and Implementation Committee). The CTN-AML/CFT is made up of about ten members, including the FIU Chair (Chair), the CRIET special prosecutor and the Director General of the national police or their respective representatives as first and second rapporteurs. It also comprises representatives from several relevant public-sector institutions involved in AML/CFT, as well BCEAO (Article 3 of Ministerial Order 2018-0631(MO 2018-0631)).

Criterion 2.3 - The national AML/CFT cooperation and coordination mechanism operates through the CNT-AML/CFT, correspondents and focal points, MOUs signed with relevant structures, and also based on the relevant provisions of the legal framework based on Articles 60 (paragraphs 2 and 5), 66 (paragraphs 2 and 4), 70 and 74 of the AML/CFT Act 2018-17).). As part of the cooperation required in the area of administrative freezing, the Consultative Committee set up pursuant to article 100 of the AML/CFT Law comprises all relevant public and private institutions concerned by the mechanism (art.2 of the CGA inter-ministerial order). On the basis of Article 63 of the AML/CFT Law, the FIU has FIU correspondents within many public and private sector institutions.

Furthermore, the FIU, supervisory authorities, professional associations and national representative bodies (investigative and prosecutorial authorities, supervisory authorities, state intelligence services) are required to put in place effective mechanisms to cooperate with and coordinate their activities at the national level, in by developing and implementing policies and actions to combat ML and TF (Art. 74 AML/CFT Act). However, there are no supervisory authorities for DNFBPs.

Criterion 2.4 – Benin’s legal framework does not provide for a national cooperation and coordination mechanisms relating to the fight against the financing of the proliferation of weapons of mass destruction.

Criterion 2.5 - Benin has a cooperation and coordination mechanism between the competent authorities. (Articles 60, 74 and 86) and the FIU to ensure AML/CFT requirements are compatible with measures designed to protect data and respect private life, as well as other

similar measures, particularly confidentiality (Articles 81 and 82) and security for Suspicious Transaction Reports.

Weighting and Conclusion

Benin has put in place a National AML/CFT technical committee in charge of coordinating and developing AML/CFT policies. Benin has a national AML/CFT policy and strategy paper, the monitoring of whose implementation falls to the CNT-AML. However, there is no CPF cooperation and coordination mechanism.

Benin is rated LC on R.2.

Recommendation 3 - ML Offence

In its last MER, Benin was rated Partially Compliant because of the non-criminalization at national level, of the insider trading and market manipulation offence: lack of clarity on self-laundering; ineffective law enforcement and the difficulties in assessing the proportionate and dissuasive nature of sanctions. The country has embarked on reforms geared towards the repression of the ML offence.

Criterion 3.1 - Benin has criminalized ML under Article 3(1) (b) and (c) of the Vienna Convention and Article 6(1) of the Palermo Convention (article 7 of the AML/CFT Act). This provision covers the conversion or transfer, concealment or disguise, acquisition or possession of property, with the knowledge that it originated from the involvement of a crime. It also covers the intention to conceal or disguise the illicit origin of property or assist a person involved in the unlawful activity to escape the legal consequences of his/her actions.

Criterion 3.2 – Benin applies all the approaches to predicate offences. The list of predicate offences mirror the list of FATF designated categories of offences as minors (in the same order) (Article 1(16) of the AML/CFT Act), followed by “any other crime or offence”.

Criterion 3.3 - Benin has not opted for the offence threshold method or a combination of methods, including the threshold method.

Criterion 3.4 - The ML offence defined under Article 7 of the AML/CFT Act extends to all types of assets, regardless of their value, that directly or indirectly represent the proceeds of crime (see article 1(14) of the AML/CFT Act).

Criterion 3.5 - There is no legal requirement that a conviction for the predicate offence is necessary to prove that property is the proceeds of crime articles 1(45) and 7 of the AML/CFT Act). The AML/CFT law does not specifically provide for the requirement under Criterion 3.5. It is unclear whether Benin’s response means that nothing prevents them from proving that the assets are proceeds of crime with no conviction for the predicate offence. There is no jurisprudence attesting to such a situation.

Criterion 3.6 - Predicate offences for ML extend to conduct that occurred in the territory of another UEMOA member State or that of a third State (article 7(3) of the AML/CFT Act). This provision does not state whether the offence would have constituted a predicate offence had it occurred domestically. However, the courts in Benin assume jurisdiction over offences that occur outside Benin (Article 639-647 of Benin’s Code of Criminal Procedure).

The ML offence does not depend on the place of commission, acquisition, possession or transfer of the laundered assets (Art. 2(2) Act N° 2011-20 of 12th October 2011 against corruption and other related offences in the Republic of Benin).

Criterion 3.7 - The ML offence applies to persons who commit the predicate offence (Art. 7(2) AML/CFT Act).

Criterion 3.8 - Article 7 (4) of the AML/CFT Act provides that knowledge or intent, as elements of the ML offences, may be inferred from objective factual circumstances.

Criterion 3.9 - Article 113 and 115 of the AML/CFT Act provide for sanctions for ML for natural persons. This range from three to seven years imprisonment and a fine of three times the value of the assets or funds laundered. The courts can aggravate sanctions in cases of repeated offences or where the offence involves the use of facilities provided by professional activities. The punishment is less than the maximum 20 years imprisonment for drug trafficking offences, and the 10-20 years imprisonment and a fine equal to the value of the property in question or the amount of the securities concerned for ML related to corruption offences. According to the FATF standards, a serious offence is an offence liable to 6 months to 3 years imprisonment. In line with this consideration, the sanctions provided for in the AML/CFT Act seem to be adequately proportionate and dissuasive.

Criterion 3.10 - Article 124 of the AML/CFT Act states that: *“legal persons other than the State, for and on behalf of whom an ML offence or one of the offences provided for by this law has been committed by one of the bodies or representatives, are liable to a fine equal to five times those incurred by natural persons, without prejudice to the conviction of the latter as perpetrators or accomplices of the same acts”*. Legal persons other than the State may also be sentenced to one or more of the following penalties:

- 1) Exclusion from public contracts, either definitively or for a maximum period of five years;
- 2) Confiscation of the asset which was used or intended to commit the offence or the asset derived from it;
- 3) Placement under judicial supervision for a maximum period of five years;
- 4) The prohibition, definitively or for five years, to exercise directly or indirectly one or more professional or social activities during which the offence was committed;
- 5) Five years suspension of the establishments or one of the establishments of the company used in the commission of the criminal acts;
- 6) Dissolution, in case they were created to commit the criminal acts; and
- 7) Publication of the verdict issued or having it disseminated through the print or any audio-visual means of communication, at the expense of the convicted legal person.

The sanctions provided for in indents 3, 4, 5, 6 and 7 of the second paragraph of this Article do not apply to FIs under a supervisory authority with disciplinary powers. The competent supervisory authority, referred to by the State Prosecutor in respect of any proceedings instituted against a financial institution, may mete out the appropriate sanctions, under the extant laws and regulations.

The range of sanctions provided for by the AML/CFT law are proportionate and dissuasive.

Criterion 3.11 - Article 7 (1)(d) of the AML/CFT Act and Article 2 of the Act 2011-20 of 12th October 2011 provide for ancillary offences to the ML offence, including the participation, association or consent to commit the offence, attempting, assisting, aiding and abetting and advising the commission of the offence.

Weighting and Conclusion

Benin has adequate legal provisions on criminalization of ML. It also provides for proportionate and dissuasive sanctions against natural and legal persons that commit the ML offence. However, the lack of requirement or precedent that it is not necessary for a person to be convicted of a predicate offence to prove that an asset is the proceeds of a crime has some implications for the assessment of R.3.

Benin is rated LC on R. 3.

Recommendation 4 - Confiscation and Provisional Measures

The first MER rated Benin PC because the country lacked provisions to confiscate assets of equivalent value. Benin could not freeze, seize and confiscate assets linked to TF because its laws did not criminalize this offence and did not implement measures to freeze, seize and confiscate in ML cases; lack of statistics. Benin has embarked on reforms to improve its legal and institutional framework in the areas of confiscation and provisional measures, including asset freezing and seizure.

Criterion 4.1 - Articles 99, 100, 117, 122, 125, 128, 129 and 137 of the AML/CFT Act provide for the confiscation of assets (laundered assets, instrumentalities used or intended for use in ML or TF or predicate offences, or assets of equivalent value), whether held by defendants or by third parties. Act 2011-20 of 12th October 2011 against corruption and other related offences (ACA) in Articles 27, 56, 105 and 109 also provides for provisional measures as well as freezing, seizure and confiscation measures.

4.1. a – The investigating judge may prescribe protective measures which allow, at the expense of the State, for the seizure or confiscation of funds and assets related to the ML or TF offences, subject to the investigation and all the elements likely to identify them (Art. 99 AML/CFT Act).

Article 117-9 allows for the confiscation of all or part of the convicted person's assets of illicit origin.

4.1. b - In all cases of conviction for ML or attempted ML, the courts order the confiscation for the benefit of the State (i) property used or intended for use in the commission of an offence, (ii) the proceeds of the offence, current or fixed assets into which these products are transformed or converted and, up to their value, legitimately acquired assets with which the said products are involved, and (iii) income and other benefits derived from these proceeds, from the assets into which they are transformed or invested or from the assets into which they are involved to whomever these products and these assets belong, unless their owner establishes that he/she is unaware of their fraudulent origin (Art. 128 AML/CFT Act).

The legal framework does not provide for the confiscation of instrumentalities used or intended for use in the commission of all predicate offences. However, Articles 27, 56, 105 and 109 of the Anti-Corruption Act provides for measures for the seizure and confiscation of all

instrumentalities used or intended for use in the commission specific offences, such as corruption and other related offences.

4.1 .c - In all cases of conviction for TF or attempted TF, the courts order the confiscation in favour of the State Treasury, funds and other financial resources related to the offence, including any current or fixed assets intended for or used in the commission of the said offence (Art. 129 AML/CFT Act).

Where it is not possible to confiscate the funds, assets and other financial resources, the courts can order their confiscation in value.

4.1 .d - Articles 128 and 129 of the AML/CFT law and other legislative measures allow the confiscation of assets of equivalent value.

Criterion 4.2

Criterion 4.2 a - Benin has no legal provision to identify, trace and assess assets earmarked for confiscation. Benin intends to use article 100 (1) of the AML/CFT Law and Article 3 of Decree no. 2019-046 of 31st January 2019 on administrative freezing under the United Nations Security Council Resolutions 1267 and 1373.

Criterion 4.2b - Administrative and judicial freezing authorities have powers to prescribe conservative measures at the expense of the State. The measures include (i) seizure or confiscation of funds and assets associated with the ML or TF offence under investigation, (ii) elements likely to facilitate their identification, and (iii) the freezing of all sums of money and financial transactions relating to these assets (Art. 99 AML/CFT Act). (Also see Article 27, ACA).

Criterion 4.2c - Benin has no mechanism in place for competent authorities to take measures that would prevent nullify actions inimical to the country's capacity to seize or freeze or retrieve assets earmarked for confiscation.

Criterion 4.2d – Article 93 of the AML/CFT Act empowers administrative and judicial freezing authorities to take all appropriate investigative techniques. These include monitoring of accounts, access to computer systems, interception of communication, surveillance, video recording, interception and seizure of mails. The Article of the Law targeted by Benin relate to information on investigation techniques for obtaining evidence of ML or TF. It is not in line with the criterion relating to the appropriate investigative measures to be taken.

Criterion 4.3 - The relevant laws do not provide for the protection of bona fide third parties in AML/CFT.

Criterion 4.4 - Currently, the State Consolidate Revenue Fund (*Caisse des Depots et Consignation*) is managing all frozen, seized and confiscated assets.

Benin has not established mechanisms or procedures to manage all seized or confiscated assets. The Ministers of Finance and Minister of Justice approved the draft Decree to create the National Agency for the Management and Recovery of Seized and Confiscated Assets. The draft Decree is awaiting the signature of the Head of State.

Weighting and Conclusion

The legal framework does not provide for the confiscation of instrumentalities used or intended to be used in the commission of all predicate offences, except certain specific offences such as corruption and other related offences under the Anti-Corruption Act. Benin's legal provisions do not provide for (i) identification/tracing/assessment of assets; , (ii) measures to prevent or nullify actions that undermine the country's capacity to freeze, seize or recover assets subject to confiscation, (iii) the appropriate investigative measures to be taken, and (iv) protection of bona fide third parties. Benin has not established mechanisms or procedures to manage all seized or confiscated assets.

Benin is rated PC on R. 4.

Recommendation 5- Terrorist Financing Offence

In its previous MER, Benin was rated NC with these requirements because the country failed to domesticate the UEMOA Directive on Terrorist Financing. Benin has embarked on reforms to improve its counter-terrorism regime.

Criterion 5.1- Article 8 of AML/CFT Act No.2018-004 criminalizes every act committed by a natural or legal person who, by whatever means, whether direct or indirect, wilfully provides or collects assets, funds or other financial resources, with the intention of using them or knowing they are going to be used in full or in part, to carry out one or several terrorist acts by an individual terrorist or terrorist groups. The TF offence does not cover the financing of a terrorist organization or individual terrorist for any purpose.

Criterion 5.2 - Article 8 of the AML/CFT Act applies the TF offence to any natural or legal person who, by any means whatsoever, directly or indirectly, has deliberately provided or gathered assets, funds and other financial resources. The person must intend to use them or know that they would be used, in whole or in part, for the commission of one or more terrorist acts or by a terrorist organization or by an individual terrorist. However, as mentioned under the sub-criterion c 5.1, Article 8 does not cover the financing of a terrorist group or an individual terrorist for any purpose.

Criterion 5.2bis - Article 8(3) of the AML/CFT Act, specifying among other things that aiding, abetting, or assisting someone in committing, or facilitate the commission of the offence of terrorism financing, is also a TF offence. However, this approach does not include the financing of the travelling of foreign terrorist fighters.

Criterion 5.3 - The phrase "assets" defined in article 1(14) of the AML/CFT Act does not specify the origin of the funds or other assets, whether from lawful or unlawful origins. The phrase "assets" defined in Article 1 (14) of the AML/CFT Act is consistent with the definition of funds in the United Nations Conventions outlined in the Annex to the TF Convention (Article 162 of the Penal Code).

Criterion 5.4 - It is a TF offence, whether the person perpetrates the targeted action or not, whether the goods were used or not to commit the act (Art. 8(4) AML/CFT Act and Arts. 161-168 of Act 2018-16 of 28th December establishing the Penal Code in the Republic of Benin). Article 163(5)-(7) of Act 2018-16 of 28th December 2018 on the Criminal Code in the Republic of Benin criminalizes the following acts:

1- Founding, conduct or membership of a group formed or an agreement established to commit the offence of terrorism or the preparation, characterised by one or more material facts, of one of the acts of terrorism mentioned in the preceding articles, or to make, even incidentally or on an ad hoc basis, terrorism a means of action to achieve its objectives;

2- Participating in any training in the country or abroad to commit an act of terrorism within the country or abroad;

3- Recruitment or training within or outside the country, of a person or a group of persons to commit a terrorist act within or outside the country.

Criterion 5.5 - Article 8(5) of the AML/CFT Act specifies that the intent and knowledge required to prove TF may be inferred from objective factual circumstances.

Criterion 5.6 - Under Article 119 of the AML/CFT Act, the minimum sentence for the commission of a TF offence is 10 years imprisonment and a fine of at least 5 times of the value of assets or funds used to perpetrate the TF operations. The courts may double the sentence where the perpetrator commits the offence in a usual manner or is a recidivist or uses facilities derived from a professional activity, or other specified circumstances (Article 120 of the AML/CFT Act). The sentence complies with the penal sanctions applicable to terrorism (life imprisonment) (Article 166 of the Penal Code) and information related to penal sanctions applicable to the TF offence in FATF standards on the criminalization of TF. The sanctions seem to be dissuasive and proportionate when compared to the penalties prescribed for similar offences in the Penal Code and other laws.

Criterion 5.7 - Benin can apply criminal and administrative liability as well as sanctions for TF to legal persons that commit the TF offence (article 125 of the AML/CFT Act). Legal persons, non-State-owned companies, including their representatives that perpetrate the TF offence, or one of the offences provided for by the AML/CFT, are liable to a fine equal to 5 times that applied to natural persons. The other sanctions include permanent or ten years exclusion from public procurement, the confiscation of the asset used to perpetrate the offence, placement under judicial supervision, permanent prohibition from carrying out professional or social relevant activities, liquidation or closure of the company for at least 10 years, publishing the trial in the gazette together with the fees paid by the convict. The application of sanctions is without prejudice to the natural persons. The sanctions meted out are proportionate and dissuasive when compared to sanctions against legal persons found guilty of terrorism (Final prohibition of the activity, in the exercise or during the exercise during which the offence was perpetrated, and any other activity) (Article 168 of the Penal Code).

Criterion 5.8 a - Article 8 (3) of the AML/CFT Act criminalizes attempted TF offences.

Criterion 5.8 b - Article 8 (4) of the AML/CFT Act criminalizes participation in a TF offence, including any attempted TF offence.

Criterion 5.8 c - Article 8 (4) of the AML/CFT Act criminalises the acts of organizing or coercing a third party to commit a TF offence or any attempted offence.

Criterion 5.8 d - The contribution to the perpetration of one or several TF offences mentioned in Article 8(1) or attempted offence(s) by a group of persons working for a common objective is an offence pursuant to Article 8 (3) and (3) of the AML/CFT Act.

It is also a TF offence if any natural or legal person or a group of persons who participate as an accomplice, organizes or incites others to commit the acts as mentioned above (Art. 8(3) AML/CFT Act).

Criterion 5.9 - Article 1, (16) (b) of the AML/CFT Act designates TF as a predicate ML offences .

Criterion 5.10. - TF offences apply wherever the TF offence takes place, or regardless of the location of the perpetrator (Article 130 of the AML/CFT Act and Articles 643 and 644 (2) and (3) of the Code of Criminal Procedure).

Weighting and Conclusion

The criminalization of TF and the related requirements are overall covered by Benin's legal framework. However, the country has not criminalized the financing of an individual terrorist and a terrorist organization for any purpose, as well as financing the travelling of foreign terrorist fighters.

Benin is rated PC on R. 5.

Recommendation 6- Targeted Financial Sanctions Related to Terrorism and Terrorist Financing

In its previous MER, Benin was rated Non-compliant on this Special Recommendation III because of the inadequate funds freezing mechanism pursuant to the 1267 Resolution (1999) and the non-implementation of Resolution 1373 (2001).

Benin has embarked on reforms to improve its fund freezing regime pursuant to Resolution 1267 (1999).

Criterion 6.1

Criterion 6.1 a - The Minister of Finance is the competent authority with the responsibility for proposing names of persons and entities persons or entities to the 1267/1989 and 1988 Committees for designation Article 3 of Decree No. 2017-319 of 21 June 2017 designating the competent Authority for Administrative Freezing (Freezing Decree). The proposal emanates from on the recommendations of the Consultative Commission for Administrative Freezing (CCGA) established by article 1 of the Inter-Ministerial Order No. 2018-0631MEF / MISP / MAEC / MJL / MDN / 055SGG18 of 22 February 2018 (CCGA Order).

Criterion 6.1b - Benin has a mechanism to identify targets for designation based on the designation criteria as provided for in the relevant United Nations Security Council Resolutions: This is the Consultative Commission for Administrative Freezing (CCGA).

Criterion 6.1 c - Benin has not established an evidentiary standard of proof for deciding whether or not to propose designation.

Criterion 6.1 d - There is no provision relating to procedures and standard forms to be followed in listing targets in furtherance of the UN Sanctions Regimes, as adopted by the relevant committee.

6.1e- There is no requirement to provide as much relevant information as possible on the proposed name, a statement of case which contains the basis for the listing, and stating whether Benin's status as a designating state may be made known.

6.2a - The Minister of Finance is the competent authority responsible for designating persons and entities that meet the specific designation criteria under UNSCR 1373 in the instance of the country and on request by another country (Art. 3 (2) Freezing Decree).

Criterion 6.2 b - Benin does not have express provisions for identifying targets for designation in respect of Resolution 1373. However, within the context of freezing assets of suspected terrorists or terrorist organizations, the Minister of Finance is required to consider freezing requests made by the Ministers of Defence, Security, Foreign Affairs and Intelligence Services (article 5 of the Freezing Decree). Also, the CCGA has powers to (i) consider freezing requests submitted to the Minister of Finance by the Ministers of Defence, Security, Justice, Foreign Affairs and Intelligence Services,³⁰ (ii) advise on all matters relating to freezing,³¹ and (iii) obtain all information to facilitate effective implementation of freezing measures by reporting entities³². Thus, the afore-mentioned Ministers and the CCGA are the mechanisms for identifying targets for designation under Resolution 1373. However, Benin lacks texts covering all the criteria for designation, as provided for under the United Nations Security Council Resolution 1373 (particularly, persons and entities acting on behalf of, or the directives of such persons or entities, associates or entities directly or indirectly controlled by them).

Criterion 6.2c - The CCGA is mandated to consider requests to freeze terrorist assets and give its reasoned opinion on the merits of the request within twenty-four hours (article 3(2), (4) and (6) of the CCGA Order and Article 3(4) of the Freezing Decree). Both instruments do relate to requests for freezing and do not explicitly refer to reasonable suspicion of TF.

Criterion 6.2d - The conclusions under criterion 6.1.c apply to this criterion.

Criterion 6.2e- Benin has no provisions for requesting another country to give effect to actions initiated under the freezing mechanisms.

Criterion 6.3a - The CCGA is empowered to obtain all information necessary for the proper identification of natural and legal persons who are subject to freezing measures to facilitate effective implementation of freezing measures by reporting entities information for freezing purposes. However, this power is related to freezing pursuant to UNSCR 1373, and there is no reference to any criteria/legal basis for the freezing measure. The Decree does not mention the legal basis for designation. The legal basis only covers requests emanating from third countries.

Criterion 6.3b - There is no legal authority or procedure or mechanism to operate *ex-parte* against a person or entity identified and whose proposal for designation is under consideration.

³⁰ Article 3(1) of Ministerial Order on the CCGA.

³¹ Article 3(6) of Ministerial Order on the CCGA.

³² Article 4 of Ministerial Order on the CCGA.

Criterion 6.4 - Benin has measures in place to implement TFS without delay (articles 100(4) of the AML/CFT Act and article 4 of the Freezing Decree). A decision by the relevant Sanctions Committee, at the instance of Benin or upon request by another country, triggers the obligation to freeze without delay (Arts. 100(4) and 101 AML/CFT Act & Arts. 8 and 9 Freezing Decree).

Criterion 6.5 -The AML/CFT Act (article 100-107), the Freezing Decree (article 7-15) and the CCGA Order (article 4) constitute the authority for implementing TFS in Benin. However, Benin does not appear to have identified competent authorities to enforce TFS.

Criterion 6.5a - All natural and legal persons within Benin are required to freeze, without delay and prior notice, the funds or other assets of designated persons (article 100(5) of the AML/CFT Act and article 13 of the Freezing Decree). Article 1(31) defines freezing in line with the definition in the Glossary to the FATF Methodology.

Criterion 6.5b - The freezing measure applies to funds and other assets owned wholly or jointly owned directly or indirectly by the persons or entities referred to, movement or transfer of funds in favour of such persons or entities, as well as funds or other assets derived from or generated by funds or other assets owned or controlled directly or indirectly by the targeted persons or entities. It also applies to funds or other assets of persons and entities acting on behalf of or under the directives of designated persons or entities are not targeted. Article 1(30) of the AML/CFT Act defines funds or other financial in line with the definition in the Glossary to FATF Methodology.

The scope of funds to be frozen is limited to funds or other assets owned or controlled by the designated person or entity. Funds or other assets jointly owned or controlled, directly or indirectly by the designated person or entity, the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the person or designated entity; and funds and other assets of persons and entities acting on behalf or under the direction of designated persons or entities, are not provided for by law.

Criterion 6.5c - Article 100(7) of the AML/CFT Act prohibits reporting entities from, directly or indirectly, making funds subject to funds freezing procedure, as well as financial services, available to or use them on behalf of designated persons. This provision is narrow in scope as it does not cover all nationals or all entities and persons within Benin's jurisdiction.

Criterion 6.5 d - Article 101 of the AML/CFT Act requires the Minister of Finance to inform the public, particularly through publication in the Official Gazette or in a Legal information newspaper of any decision to freeze or release funds or other financial resources.

Article 9 of the Freezing Decree requires the Minister of Finance to notify its administrative freezing decision to persons who may hold funds or other assets belonging to persons and entities subject to a freezing measure.

Article 100(5) and (6) of the AML/CFT Act requires reporting entities and all other persons that may be holding targeted funds to freeze them without delay and notification to the designated persons, and submit a report to the FIU and Minister of Finance on the measures taken.

Criterion 6.5 e - Reporting entities are required to inform the FIU of any freezing actions taken concerning terrorist funds or other assets in compliance with the requirements of the relevant UNSCRs (article 100(6) of the AML/CFT Act). The obligation to report attempted transactions is limited to only FIs required to provide wire transfer services (Article 100(4) of the AML/CFT Act).

Criterion 6.5f - Articles 105 the AML/CFT Act requires the Minister of Finance to, on request of a third party who is not subject to a freezing order, authorize the payment or the return frozen assets or economic resources to that the party based on the conditions specified in the relevant resolution. The third-party must have acquired the right to the assets or economic resources before the freezing measure or based on a final decision of a court delivered before the freezing measures.

Criterion 6.6a - Article 101 (2) of the AML/CFT Act requires Minister of Finance to publish publicly known procedures for de-listing and release of funds and other assets of persons and entities that do not fulfil or no longer meet the criterion for designation. However, Benin has not established any publicly known procedures that allow natural or legal persons who no longer meet the criteria for designation under UNSCR 1267/1989 to submit de-listing requests to the relevant UN sanctions Committee.

Criterion 6.6b - The conclusions on criterion 6.6a above apply to this criterion. The Advisory Commission on Administrative Freezing (CCGA) has powers to review the sanctions list every six (6) months and where necessary, issue an advisory opinion on whether or not it should be amended based on any new information (Article 3 Inter-ministerial Order No. 2018-0631 MEF/MISP/MAEC/MJL/MDN). However, Benin has not put in place any publicly known procedures to assist natural or legal persons who no longer meet the designation criteria.

Criterion 6.6 c - Section 3 of Ministerial Order No. 2018-0631 empower the CCGA to review designation decisions pursuant to Resolution 1373. Beyond this provision, Benin does not have publicly known procedures for requesting for review of designation decisions.

Criterion 6.6 d – Benin does not have procedures to facilitate review by the 1988 Committee under applicable guidelines or procedures adopted by said Committee, including those of the Focal Point mechanism established under UNSCR 1730.

Criterion 6.6 e - For designations on the Al-Qaida Sanctions List, there are no procedures for informing designated persons and entities on the availability of the UN Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept listing petitions. Article 107(2) of the AML/CFT Act requires that any dispute over a decision to freeze funds and other financial resources made pursuant to a United Nations Security Council Resolution must be resolved in compliance with the appropriate procedure provided for in the Security Council Resolutions. This provision is not enough to meet the criterion.

Criterion 6.6f - Natural or legal persons subject to freezing orders and consider the orders to have resulted from an error, can appeal against this decision within one month from the date of its publication in the Gazette or any newspaper (Art. 107 (1) AML/CFT Act). The person must

appeal to the Competent Authority that issued the freezing order, providing all the information to prove the error.³³

Criterion 6.6 g – Relevant authorities are required to inform the public, particularly through publication in the Official Gazette or in a journal of legal announcements, regarding decisions to unfreeze funds or other assets of designated persons and entities (Article 101 (2) of the AML/CFT Act). The provision neither covers de-listing nor provides guidance on obligations to respect a de-listing or unfreezing measure. There is no provision for any specific notification to FIs and DNFBPs.

Criterion 6.7 - The Minister of Finance may, under circumstances it considers appropriate, any person, organization or entity which has been subject to freezing, at its request, to dispose of a monthly sum of money determined by the said authority. This sum is to cover, within the limits of the available funds, for a natural person, the current expenses of the family home or, for a legal person, expenses allowing him/her to pursue any activity compatible with public order requirements. The said sum may also cover legal assistance fees or exceptional expenses. In any case, the said expenses must be justified earlier (Article 103 of the AML/CFT Act and article 11 of the Freezing Decree).

Weighting and conclusion

Benin has not met most of the requirements for implementing TFS concerning TF. For designations under the UN Sanctions Regimes, Benin lacks (a) mechanisms for identifying targets for designation in line with the designation criteria set out under relevant UNSCR 1267, (b) evidentiary standard of proof in determining whether to designate; (c) procedures and standard forms to be followed for listing targets; and (d) requirements on information for listing and related matters.

Concerning the list under Resolution 1373, Benin has no explicit procedures to identify targets and determine whether to designate (focuses on freezing). Evidentiary standard for designation only applies to requests from other countries. Benin has no legal provision to request other countries to give effect to actions initiated by Benin. There is no express provision for obtaining information to facilitate designation. The freezing measures provided for by law do not target the funds and other assets of persons and entities acting on behalf of or the Directive of designated persons or entities. The country has no authority or procedure or mechanisms to operate *ex-parte* during consideration of a proposal to designate an identified person or entity. Benin has not identified a competent authority to enforce TFS. The requirement to report attempted transactions is limited to requests for wire transfers, while the prohibition from making funds available focuses on reporting entities. Benin does not have publicly known review request procedures. There is no mechanism for communicating delisting and guidance on the obligation to comply with unfreezing measures.

Benin is rated PC on R. 6.

Recommendation 7: Targeted financial sanctions related to proliferation

This Recommendation is new

³³ See Article 10 of the Freezing Decree.

Criterion 7.1 - The CCGA has powers to freeze, without delay, all assets, funds and other financial resources belonging to persons or entities designated under PF-related UNSCRs (Art. 100(4) AML/CFT Act).

However, the implementation of the said sanctions is not yet effective because the administrative freezing enforcement text does not cover the aspects of implementing without delay all related to proliferation financing.

Criterion 7.2 - The AML/CFT Act and Decree No. 2019-046 designating the Competent Authority for Administrative Freezing under the AML/CFT Act in the Republic of Benin (PF Decree) provide the framework for the implementation of TFS without delay to comply with the UNSCRs relating to PF. The Minister of Finance and the CCGA are the authorities responsible for implementing TFS relating to PF (Articles 3 and 6 of the PF Decree). However, there is no clear provision regarding the competent authority responsible for enforcing TFS related to PF.

Criterion 7.2a - Article 100 (5) of the AML/CFT Act requires FIs and all other persons or entities in Benin and other UEMOA Member States in possession of funds or other financial resources of persons designated, to freeze such funds and other financial resources without delay and without notice. Article 1 (30) of the AML/CFT Act broadly defines funds and financial resources to cover those specified in the Methodology Glossary.

Criterion 7.2b - The freezing obligation extends funds and other assets possessed or held, in whole or in combination, directly or indirectly by the persons or entities concerned, movements or transfers of funds in favour of these persons or entities, funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the persons or entities concerned. This provision is enforceable against creditors and third parties who may invoke rights to the assets concerned. There is no explicit provision extending the freezing obligation to funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons and entities.

Criterion 7.2c - Article 100(7) and (8) of the AML/CFT Act prohibit reporting entities from directly or indirectly making funds subject to a freezing procedure available or providing services to natural and legal persons involved in PF. The provisions are limited in scope. They do not target all nationals or persons or entities within the territory of Benin. Also, the provision does not refer to “unless licensed, authorized or otherwise notified....” There is also the prohibition from carrying out or participating, knowingly and intentionally, in transactions the purpose or effect of which is to circumvent, directly or indirectly, the freezing requirements. This provision does not target any particular person(s) or entity (entities).

Criterion 7.2 d - Article 101 (1) of the AML/CFT Act and Article 9 of Decree No. 2017-319 require the Minister of Finance to inform the public, including FIs and DNFBPs, of all designations, particularly through publication in the Gazette or a legal newspaper and at the website of the Ministry of Finance. The relevant provisions of Articles 100 and 104 specify the obligations of reporting entities to take measures under the freezing mechanism.

Measures have been put in place to communicate designations to the financial sector. The BCEAO distributes the lists of designated persons to banks and financial institutions. However, this mechanism does not apply to DNFBPs. The country did not provide clear guidelines, particularly to financial institutions and other persons and entities, including designated non-

financial businesses and professions, which may hold targeted funds and other targeted assets, as to their obligations under the freezing mechanisms.

Criterion 7.2 e - Article 100(6) of the AML/CFT Act requires reporting entities to report to the competent authorities, specifically to the FIU, all frozen assets and all measures taken in accordance with the prohibitions of the relevant Security Council Resolutions.

There is no explicit obligation to declare attempted transactions. Article 104 of the AML/CFT Act requires originator and beneficiary FIs of requests concerning a person or an entity subject to freezing order to suspend such requests and inform the Minister of Finance without delay. The obligation to report attempted transactions is limited in scope as it does not cover DNFBPs and other entities.

Criterion 7.2 f - Article 105 of the AML/CFT Act mandates the Minister of Finance to return funds or other assets to third parties affected by the freezing measures. Such restitution should be at the request of the third party provided that person had legal title to the funds or other assets or as a result of a final decision of a court before the freezing measure.

Criterion 7.3 - There is no specific requirement for monitoring and compliance of FIs and DNFBPs with the provisions of the AML/CFT Act governing the requirement under Recommendation 7. Similarly, the AML/CFT Act does not provide for civil, administrative or criminal sanctions for non-compliance with the obligations of Recommendation 7. DNFBPs and SRBs do not have AML/CFT supervisory and monitoring powers.

Criterion 7.4 a - Article 107 (2) of the AML/CFT Act provides that any dispute over a decision regarding the freezing of funds and other financial resources pursuant to a UNSCR shall be under the appropriate procedure provided for in the Security Council Resolutions. The country did not mention the procedures to be followed. Reference to the UNSC Resolution is not sufficient to allow persons affected by the freezing mechanism to request their removal from the list at the focal point or to inform designated persons or entities to request it directly from the focal point. Benin has not implemented the said provisions.

Criterion 7.4 b - Article 107 (1) of the AML/CFT Act allows any natural or legal person whose funds and other financial resources have been frozen pursuant to Article 100 (1) of the AML/CFT Act, which considers that the freezing order is the consequence of an error, to appeal this decision within one month from the date of its publication in the Gazette or a newspaper of legal announcements. The person or entity must appeal to the competent authority which ordered the freezing, indicating all the information which can prove the error. There is no provision to verify that the person or entity involved is not a designated person. Benin has not implemented this provision.

Criterion 7.4 c - Article 103 of the AML/CFT Act prescribes measures enabling the competent authority to authorise, on the conditions it considers appropriate, the person, body or entity which has been subject to freezing, at its request, to dispose of a monthly sum of money fixed by the said authority. This sum must cover, within the limits of available funds, for a natural person, current expenses of the family home or, for a legal person, expenses allowing him to pursue an activity compatible with the requirements of public order. The said sum may also cover legal assistance costs or exceptional expenses. In any case, the costs must be justified beforehand.

Similarly, Article 11 of Decree No. 2017-319 of 2nd June 2017 on the designation of the Competent Authority for Administrative Freezing under the Anti-Terrorist Financing Act, prescribes such measures.

Criterion 7.4 d – The CCGA has the mandate to ensure the publication of the procedures for any person or entity included on the list to obtain the withdrawal of this registration and, where appropriate, the release of the funds belonging to the person or entity (Art. 101 (2) AML/CFT Act). The relevant frameworks of reference do not specify the period within which persons and entities can take such actions. The analysis on c.6.6 (g) apply to the mechanisms for the communication of delisting or unfreezing orders to the financial sector and DNFBPs pursuant to the UNSC Resolution 1718 and successor Resolutions.

Criterion 7.5 a -Article 102 of the AML/CFT Act states that all funds or other financial resources due under contracts, agreements or obligations entered into or arising before the entry into force of the funds freezing decision shall be deducted from the frozen accounts. All proceeds generated by the funds as mentioned earlier, instrumentalities and resources as well as interests due, shall also be credited to the same account.

Criterion 7.5 b - Article 102 of the AML/CFT Act states that the funds or other financial resources due under contracts, agreements or obligations entered into or arising before the entry into force of the decision to freeze funds shall be deducted from the frozen accounts. Interest or other earnings on the funds or other assets are also subject to freezing actions.

The Law is silent on the requirements for this waiver provided for by Resolution 2231 (2015).

Weighting and Conclusion

There is no mechanism to communicate designations to DNFBPs. The country does not provide any information on the dissemination of clear guidelines, particularly to financial institutions and other persons and entities, including DNFBPs, that may hold funds and other relevant assets, as to their obligations under the freezing mechanisms. The obligation to report attempted transactions is limited in scope, as it does not cover DNFBPs and other entities. There are no measures designed for the monitoring of FI and DNFBPs compliance with the provisions of the AML/CFT Law governing the obligation provided for under Recommendation 7. Similarly, the AML/CFT Law does not provide for civil, administrative or criminal sanctions for non-compliance with the obligations set out under Recommendation 7.

Benin is rated PC on R. 7

Recommendation 8: Non-profit Organizations (NPOs)

In its first MER, Benin was rated Non-compliant on the former SR VIII due to the lack of knowledge of the AML/CFT Act by NPOs; non-existence of supervision for NPOs pursuant to the AML; lack of sensitization of the NGO sector; and the legal gaps in terms of CFT.

Criterion 8.1 a - The provisions of Decree n° 2001-234 of 12th July 2001 set out the requirements for the establishment and operation modalities of non-governmental organizations (NGOs) and their apex organizations, provide for a classification of NGOs in

three (3) categories³⁴. Although the Benin NRA mentions that TF risk in the NGO sector is high, the country has not identified the subset of organizations that fall within the FATF definition of NPO, and used all relevant sources of information to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF abuse.

Criterion 8.1b - Benin has not identified the NGOs at risk. However, the NRA, referring to the FATF/GIABA/GABAC typologies on terrorism financing in West and Central Africa, mentions that "The FIU investigations even revealed that the managers of these NPOs/NGOs were fictitious persons who did not reside at the addresses indicated in the files. The case presented may very well be related to terrorism financing, especially as the funds in question originated from countries where radicalization leading to violent extremism was established and intended to finance religious infrastructures, including schools or health centres". Furthermore, Section II-2.5.2.1 of the NRA identified some deficiencies in the AML/CFT legal framework, the lack of effective supervisory/monitoring activities, the unavailability and application of administrative sanctions as sources of vulnerability for the entire NGO sector. Benin should have further developed the study on the vulnerability of NPOs, more specifically identifying the types of NPOs most exposed to TF.

Criterion 8.1 c - Benin includes NPOs as reporting entities contrary to the FATF standards. This situation is not compatible with the risk-based approach. Benin has not assessed the sub-set of NPOs at risk has been conducted; the same measures apply to all organizations. Also, in the absence of any identification of NPOs at risk, it is impossible to assess the adequacy of the measures and take proportionate and effective measures to deal with the identified risks.

Criterion 8.1 d - Although Benin has conducted an NRA, it did not assess the NPO sector. Also, there is no indication that Benin conducts periodic reassessment and reviews new information on the potential vulnerabilities of the sector to terrorist activities.

Criterion 8.2 a – NPOs are required to keep information on the purpose and objective of their declared activities, the identity of the person or persons who own, control or manage their business, including management, board members and trustees (Art. 42 AML/CFT Act). This information is made publicly available after publication in the Official Gazette and the legal newspaper. Amongst others, the provisions of Articles 43, 42, (3) and 4 and Article 41 of the AML/CFT Act specify the supervisory and monitoring measures and the special due diligence obligations for NPOs, thereby promoting transparency, integrity and public confidence in the management and functioning of all NPOs.

Criterion 8.2 b - Article 23 of the AML/CFT Act provides that reporting entities, including NPOs, shall provide training and regular information to their staff to comply with AML/CFT obligations. In this regard, the competent authorities have undertaken an awareness-raising and training campaign for the various communities. However, this provision does not cover the

³⁴ 1st category: recognized or ordinary national NGOs. These are NGOs that have complied with the legal incorporation formalities;

2nd category: professional NGOs that are recognized, have an organizational visibility, a certain professional qualification, capable of providing services and likely to conclude a framework agreement with the Government and;

3rd category: NGOs of public utility which are professional NGOs with some a national influence, that is to say, intervening in at least eight (8) districts, having achieved some level of reputation and high credibility in the public opinion and declared by the Government as public utility.

donor community. The action plan of the country's national strategy provides for awareness-raising actions at all levels.

Criterion 8.2 c - Beyond simple awareness-raising campaigns, the Benin authorities have worked with the NPOs to develop best practices to respond to the TF risks and vulnerabilities, and thus protect NPOs from being misused for TF purposes.

Criterion 8.2 d - Article 43 (7) of the AML/CFT Act requires NPOs to deposit all funds received as donations or as part of transactions that they must execute in a bank account open with a credit institution or an approved decentralized financial system.

Directive N° 009-09-2017 setting the threshold for the payment of any credit in cash or by negotiable bearer instruments, in Article 1 sets at five million CFA francs, without prejudice to the more stringent specific provisions in force in UEMOA Member States, the threshold above which payment of a debt cannot be made in cash or by negotiable bearer instruments.

Also, Article 43 of the AML/CFT Act requires NPOs to comply with their due diligence obligations whenever they wish to raise funds, receive or execute remittances.

Remittances: However, there is no requirement for NPOs to receive donations through regulated financial channels.

Criterion 8.3 - Articles 43, 42(3) and (4) and 41 of the AML/CFT Act specify the measures for monitoring, control and special vigilance for NPOs. However, Benin has not carried out precise identification and risk-based measures for the monitoring and control of NPOs that could be misused for TF purposes.

Criterion 8.4a - With no supervisory and monitoring to ensure NPOs compliance with counter TF requirements, the risk-based approach is not applicable.

Criterion 8.4 b - Article 42 of the AML/CFT Law specifies that NPOs are required to publish their financial statements each year, in the Official Journal or a newspaper of legal notices, with a breakdown of their income and expenditure. There are no sanctions provided against NPOs that do not comply with their obligations. With no supervisory authority to ensure compliance with counter-terrorism financing requirements, it is almost impossible to mete out sanctions.

Criterion 8.5.a - According to Article 74 of the AML/CFT Act, the FIU, the supervisory authorities, the professional bodies and the national representative bodies set up effective mechanisms allowing them to cooperate and coordinate their activities at the national level in terms of definition and implementation of policies and actions aimed at combating ML and TF. The National Technical Committee has been established, and must strengthen the exchange of information among all appropriate authorities and organizations holding relevant information on NPOs. However, there are no specific provisions relating to NPOs

Criterion 8.5.b - Investigative authorities, particularly the BEF, may obtain information on the activities of NPOs. The FIU may also obtain information from NPOs as a reporting entity.

Criterion 8.5.c - R.31 examines the powers of the prosecutorial authorities to obtain information. The Police and gendarmerie are entitled to obtain information directly by requisition or through the FIU; (c) Investigative authorities may have access to information on

the administration and management of NPOs. Article 42 of the AML/CFT Act requires NPOs to provide information on the purpose and ultimate objective of their activities and the identity of the person (s) managing and controlling the organization. The Article also requires NPOs to keep all records of their transactions for 10 years and make them available to the authorities.

Criterion 8.5.d - In the event of suspicion of misuse of any NPO for TF purposes, the FIU is authorised to carry out investigations and request the NPO in question to communicate the information to the investigators.

Criterion 8.6 - Articles 63 and 64 of the AML/CFT Act designate points of contact at national level (correspondents within the various administrative and public services, tax filers within reporting entities). The declarants, correspondent of the FIU, designated by the reporting entities including the NPOs, are communicated to the FIU. Besides, Article 78 of the AML/CFT Act and Article 21 of Decree 2018-347 of 25 July 2018 on the Allocation, Organization and Functioning of the FIU (the FIU Decree) defines the procedures for processing requests for international information and transmission of the required information on every TF activity or supporting it by any other means. However, there is no authority specifically designated by law or regulation to respond to international requests for information, including any suspected NPO of TF or to support it by any other means. There are no specific provisions relating to NPOs.

Weighting and Conclusion

Benin is yet to conduct a comprehensive assessment of the NPO sector and identify the nature of the threats TF is imposing on NPOs at risk. There is no monitoring or supervisory mechanism or authority using a risk-based approach or specific provisions relating to NPOs.

Benin is rated NC on R.8.

Recommendation 9- Financial Institution Secrecy Laws

Benin was rated Largely Compliant on the former Recommendation 4 in the first MER. The deficiencies identified during the evaluation had to do with the lack of provisions to ensure professional secrecy does not hinder information sharing between FIs when required. Following the adoption of its MER, Benin enacted the AML/CFT Law to address the gaps.

Criterion 9.1 - Article 96 of the AML/CFT Act prevails on the professional secrecy that exists in all the country's laws and regulations. In this regard, Benin prohibits the reporting entities from advancing secrecy provisions to refuse to provide authorities with relevant information when requested, in general for investigation and trial purposes. Enforcement laws and rules for the FIs do not hinder the implementation of the FATF Recommendations. Article 89 of the AML/CFT Act deals with information exchanges among competent authorities at national or international level, as well as intelligence exchanges among FIs as required under Recommendations 13, 16 or 17.

Weighting and Conclusion

Benin has met all the requirements of R. 9. **Benin is rated C on R. 9.**

Recommendation 10- Customer Due Diligence

In its first MER, Benin was rated NC on this Recommendation because the secrecy law only partly covered AML requirement. The Non-compliant rating was also due to the lack of legislation prohibiting the opening and maintenance of anonymous accounts; the excessively restrictive scope of some customer due diligence requirements (existing customers, high-risk categories), and the weak or lack of understanding of the AML/CFT regulation by reporting entities other than banks. With the enactment of the new Uniform Act, Benin has addressed several deficiencies relating to R.10.

Criterion 10.1 - Article 20 (2) of the AML/CFT Act prohibits FIs from opening anonymous accounts or accounts under fictitious names.

Implementation of customer due diligence

10.2 -

a) Article 18 of the AML/CFT Act requires FIs to take customer due diligence measures. They are required to identify their customers and, where necessary, the beneficial owner of the business relationship using the appropriate means and are also required to verify the identification information on the presentation of any reliable written document when establishing business relationships. The same requirements are provided for under Articles 19, 26 and 30 of the AML/CFT Act.

FIs are required to implement CDD measures when:

- a. establishing business relationships (Articles 18, 19, 26 and 30 of AML/CFT Law);
- b. carrying out occasional transactions above the following thresholds:
 - i. persons other than authorised foreign exchange dealers or legal representatives and Managing Directors of gaming outfits- €15,245;
 - ii. authorised foreign exchange dealers -€7,622;
 - iii. legal representatives and managing Directors of gaming outfits;
 - iv. Transactions are distinctly repeated for individual amounts below €7,622 or 1,524; or where the origin of the funds is uncertain; and
 - v. multiple cash transactions in domestic or foreign currency exceed the total authorized amount and carried out by one and the same person using one and the same account on the same day or at unusual frequency. Such multiple transactions are thus considered as a sole transaction carried out by an occasional customer;
 - vi. occasional transactions are carried out which are wire transfers as provided for under R.16 and its interpretive note (Article 26 (1)(5), AML/CFT Act);
 - vii. There is suspicion of money laundering or terrorist financing (Article 18, paragraph 2, of the AML/CFT Act);
 - viii. The FIs are not certain about the veracity or accuracy of previously obtained customer identification data (Articles 26 (1) 31 of the AML/CFT Act).

Due diligence measures required for all customers

Criterion 10.3 - Articles 26 to 31 of the AML/CFT Act require FIs to identify their customer, whether permanent (Article 26) or occasional (Article 29) and whether natural (Art 27) or legal

person (Article 28). General customer identification and verification occur through documents, sources and independent and reliable data and information (Article 26).

Identification of natural persons is through the full surnames and first names, date and place of birth and address of principal physical address. The verification of the identity of a natural person involves the submission of valid original official photo-bearing documents, proof of address or by any means (Article 27, AML/CFT Act).

Identification and verification of the identity of legal persons (both local and foreign) require the presentation of the business name, address of the principal place of business, the identity and powers of partners and executives, evidence of incorporation and the original or certified true copy of any document or extract attesting to its legal status issued less than three months before the identification process (Article 28, AML/CFT Act). However, there is no explicit provision that the information collected to confirm the veracity of the identifying information should come from reliable and independent sources.

Identification of occasional customers is based on thresholds or in case of repeated transactions for an individual amount lower than the threshold or where the origin of the funds is uncertain (Article 29, AML/CFT Act). This provision is inconsistent with the FATF standards as it does not apply to all occasional customers. Also, there is no requirement to verify the identity of the occasional customer.

Although the laws of Benin do not recognise legal arrangements, foreign trusts can transact business in the country. The AML/CFT Act defines legal arrangements; however it does not provide specific requirements for FIs to identify and verify their identity. Legal arrangements are not significant in the context of Benin. Assessors gave less weight to this gap in rating this criterion.

Criterion 10.4 - FIs must identify their customers and, where applicable, the identity and powers of persons acting on their behalf, by means of documents, sources, independent and reliable data or information. They are also required to identify customers who are: a legal person, a branch or a representative office (Arts. 26 and 28, AML/CFT Act). This involves obtaining and verifying information on the company name, address of the registered office, the identity and powers of the partners and the company directors mentioned in the relevant Uniform Act or their equivalent in foreign law, proof of its legal incorporation, namely the original, or even the dispatch or certified true copy of any deed or extract from the Business and Property Registry dated less than three months, attesting to its legal status.

Criterion 10.5 – Prior to establishing a business relationship or when assisting a customer in preparing or conducting any transaction, FIs are required to, where necessary, identify the beneficial owner of the business relationship and verify the identity of the beneficial owner on presentation of any reliable written document (Article 18(1), AML/CFT Act). FIs are also required to, where necessary, identify the beneficial owner of occasional business relationships where they suspect that the transactions could involve ML or TF or (under the conditions prescribed by the relevant regulations) where the transactions are of a certain nature or exceed a certain amount (Article 18(2), AML/CFT Act). FIs are also required to identify the beneficial owner of a customer where it is not certain that the customer is acting on his/her own (Article 30, AML/CFT Act). The definition of “beneficial owner” under Article 1(12) of the AML/CFT Act is consistent with the definition in the FATF standards. However, the conditions for identifying beneficial owners (“where applicable”, “where it is not certain”) conflict with the

requirements for this criterion the FATF standards. In addition, no verification is required under Article 30 of the AML/CFT Act. The relevant information or data to be obtained, as well as the reliable source that would enable the FIs to be satisfied that it knows who the beneficial owner is are not specified.

Criterion 10.6 - Article 19 of the AML/CFT Act requires FIs to understand and, where appropriate, to obtain information on the purpose and the intended nature of the business relationship.

Criterion 10.7a - FIs are required to ensure the close and continuous review of transactions carried out throughout the business relationship to ensure that they are consistent with their knowledge of their customers and the business activities and risk profile of those businesses and customers. The review may cover the origin of the funds (Arts. 19 and 20 of the AML/CFT Act).

Criterion 10.7b - Article 19 (2) of the AML/CFT Act requires reporting entities to, throughout the business relationship, gather, update and analyse the information, from the list drawn up for that purpose by the competent authority, to promote familiarity with their customer.

The gathering and maintenance of this information must be pursuant to the objectives of assessing the ML and TF risks and of adequately monitoring such risk.

FIs are required to conduct customer due diligence where the FIs consider a customer's identity information already obtained are no longer accurate and relevant. The measure is to ensure that documents, data or information obtained in the exercise of due diligence are updated and relevant (Art. 31 AML/CFT Act).

Specific due diligence measures required for legal persons and arrangements

Criterion 10.8 – Under Articles 18, 19, 28 and 30 of the AML/CFT, FIs are required, when establishing a business relationship, to identify the customer as well as the nature of the business relationship, and identify the legal persons and beneficial owners. On the other hand, no legal provision explicitly requires FIs to try to understand the nature of the business as well as the ownership and control structure of the legal person.

Criterion 10.9 a, b & c - The provisions of the AML/CFT Act requiring FIs to identify their legal person customers (Art. 28), also provide for the terms of this identification. These consist in obtaining and verifying information on the company's name, the address of the registered office, the identity and powers of the partners and corporate officers mentioned in the relevant Uniform Act or their equivalents in foreign law, proof of its legal incorporation, namely the original, or even the dispatch or certified copy of any deed or extract from the RCCM dating less than three months, attesting in particular to its legal status. On the other hand, not only is there no express provision for the obligation to gather information on one of the main places of activity of legal persons, but there is no other specific due diligence measure required for legal arrangements.

Criterion 10.10 a, b and c - Article 30 of the AML/CFT Act states that where it is not certain that the customer is acting on his own behalf, the financial institution must obtain information by any means on the beneficial owner and proceed with the verification. Article 1(12) defines the beneficial owner as the natural person (s) who ultimately own or control the customer

and/or the natural person on whose behalf a transaction is carried out. This definition includes the persons who ultimately exercise effective control over a legal person or a legal arrangement as defined in indent 21 of the law. The beneficial owner also includes the natural person or persons holding, either directly or indirectly, more than twenty-five percent of the capital or voting rights of the company, or at least exercises by any means, power of control over the management or administrative bodies of the company or at the general meeting of its partners. These provisions imply that FIs are required to take reasonable steps to verify the identity of beneficial owner of customers that are legal persons or arrangements. However, the contingencies provided for in criterion 10.10.(b) of the standards are not covered by any provision of the law. Besides, the law does not explicitly provide for the obligation to identify and verify the identity of beneficial owners through the identity of the relevant natural person who holds the position of senior managing official, where applicable.

Criterion 10.11 - The AML/CFT Act defines “beneficial owner” to include legal arrangements (Art. 1(12), while Article 1(21) of the same Act defines “legal arrangements” to mean “express trust funds or similar arrangements”. Article 1(35) of the AML/CFT Act defines “financial institution” to mean any person or entity conducting, as a business, one or more of the specified activities or transactions on behalf of a customer (Art.1(35). The activities or transactions include individual and collective wealth management, maintenance and administration of value in cash or kind, on behalf of others, and other investment, administrative or management of funds or money on behalf of others. Unlike natural and legal persons, there is no explicit provision in the AML/CFT Act requiring FIs to identify the beneficial owners of legal arrangements and take reasonable measures to verify the identity of such persons by any means whatsoever. The general provision of Article 30 of the AML/CFT Act requires FIs to identify and verify the identity of the beneficial owner of a customer where it is not certain whether the customer is acting on his/her own account. This provision does not cover the specific CDD requirements for legal arrangements. However, the following specific measures exist in the CIMA Regulations for insurance companies in respect of foreign trusts and foundations:

a) for trust, the identity of the settlor and the trust deed or the letter of wishes to determine whether the trustee has the powers to take out an insurance contract (Article 8.3(3)). The information required is not sufficient to identify the trustee. There is a general provision to identify beneficial owners when a transaction appears to be carried out on behalf of a third party (Article 8.4).

b) for other types of legal arrangements, in relation to a foundation, the founder and trustee (Article 8.3(4)).

In both (a) and (b), there is no requirement for insurance companies to take reasonable measures to verify the identity of beneficial owners through the specified means. The insurance sector is weighted less important in the context of Benin and legal arrangements are not commonly used in the country. Also, the condition specified in Article 8(4) of the CIMA Regulations in sub-criterion (a) above is not inconsistent with the FATF standards and has implications on the conclusions for this criterion. The Assessors consider the shortcomings as moderate.

Due diligence for Beneficiaries of Life Insurance Policies

Criteria 10.12 –FIs are required to perform CDD measures for beneficiaries of life insurance and other investment related insurance policies, including the person who signed the contract and

beneficiaries in accordance with Article 27 of the AML/CFT Act (*Article 39, AML/CFT Act and Article 8, CIMA Regulations*). FIs are required to perform the following CDD measures when the beneficiary or beneficial owner is identified or designated (Articles 4 and 8, CIMA Regulations) and at the time of pay-out (*Article 11, CIMA Regulations*):

(a) for a beneficiary which is identified as a specifically named natural or legal person or arrangement, the name (Article 8(4), CIMA Regulations);

(b) for beneficiaries listed by characteristics or by class or other means, FIs are required to obtain sufficient information to satisfy the FI that it will be able to establish the identity at the time of pay-out (Articles 4(3) and 8, CIMA Regulations);

(c) for both (a) and (b) above, the verification of the identity of the beneficiary must occur at the time of pay-out. Article 11 of the CIMA Regulations requires insurance companies to carefully verify the following modes of payment in relation to the identity of the contracting parties (subscriber, the insured, principal and accepting beneficiary): cash payment, transfers from a central bank account (including international transfers known as “swift”); cashier's checks; checks issued by intermediaries of all kinds and transfers from these same intermediaries; the reinvestments of capital resulting from the repurchase or reimbursement of anonymous capitalisation bonds; postal orders; endorsed checks..

Criterion 10.13 - [Not Met] – There is no specific provision requiring the insurance companies to take account of the beneficiaries of life insurance policies as a relevant risk factor when deciding whether enhanced due diligence measures are applicable.

Timing of Verification

Criterion 10.14 , a, b and c - [Met] - Article 18 of the AML/CFT Law requires FIs to verify the identity of the customer and the beneficial owner before or during the establishment of a business relationship or carrying out transactions in the case of occasional customers. Exceptionally, where the ML/TF risk is apparently low, verification can be done only during the establishment of the business relationship, of the identity of the customer and, where applicable, of the beneficial owner. The provisions of the law do not allow the verification to be done after the establishment of the business relationship.

Criterion 10.15 – In Benin, FIs are not allowed to establish the business relationship prior to verification of the identity of the customer. This criterion is therefore not applicable.

Existing customers

Criterion 10.16 - Pursuant to the provisions of Articles 19 and 20 of the AML/CFT Law, FIs are required to exercise constant due diligence on any business relationship and to carefully review transactions carried out in order to ensure they are consistent with what they know about their customers, their business activities, their risk profile and, where applicable, the source of their funds. Throughout the duration of the business relationship, these people shall collect, update and analyse the information, as contained on a list drawn up for this purpose by the competent authority, designed to enhance the appropriate of knowledge their customer. The collection and preservation of this information must be done in line with the objectives of assessing the ML/TF risks and monitoring commensurate with such risks.

Risk-Based Approach

Criterion 10.17 - Article 51 of the AML/CFT Act requires FIs to implement enhanced due diligence measures where there are higher ML/TF risks.

Criterion 10.18 - Pursuant to Article 46 of the AML/CFT Law, FIs have the option to implement simplified due diligence measures where lower risks have been identified, through a satisfactory risk analysis carried out by the country or the financial institution, pursuant to Article 18 of the same Law. They shall only use this opportunity where there is no suspicion of ML/TF and in cases where the customers and products concerned present a low risk of ML/TF. Therefore, the FIs must justify to the supervisory authority the scope of the appropriate measures taken for such risks.

Failure to Satisfactorily Complete CDD

Criterion 10.19 a and b - Article 30 (2) of the AML/CFT Law obliges every FI to terminate a transaction where it has persistent doubts about the identity of the beneficial owner. The financial institution is required to submit an STR to the FIU concerning the customer pursuant to the provisions of Article 79 (of the AML/CFT Law). Article 30 has a limited scope as it does the refusal to open an account, establishment or termination of a business relationship

Criterion 10.20 - There is no legal provision permitting FIs not to pursue the CDD process, and instead file an STR when the FIs form a suspicion of ML/TF and reasonably believe that performing the CDD process would tip off the customer.

Weighting and Conclusion

There are moderate shortcomings in relation to the identification of beneficial owners. The country is yet to address some concerns on the identification of natural persons who have a controlling interest in a legal person. The same obtains for the trusts and beneficiaries of life insurance. Furthermore, there is limited obligation regarding failure to satisfactorily complete CDD, and the lack of requirement not to pursue CDD process that may tip-off a customer and instead file an STR.

Benin is rated PC on R. 10.

Recommendation 11- Record Keeping

In its first MER, Benin was rated PC with this Recommendation (former Rec. 10) due to lack specification about the nature and availability of the documents that the credit establishment must keep.

Benin undertook reforms to improve its record-keeping mechanism.

Criterion 11.1 - FIs are required to maintain all records and documents relating to the transactions they have carried out, including the accounting ledgers and business correspondence, for ten years, after the execution of the transaction. The requirement applies to both domestic and international transactions and is without prejudice to the provisions prescribing more restrictive obligations (Art. 35 of the AML/CFT Act).

Criterion 11.2 – FIs are required to keep all records and documents obtained through CDD measures, account files, business and correspondence for ten years, after the termination of the business relationship (Art. 35 of the AML/CFT Act). Art. 35 does not require FIs to maintain the results of any analysis undertaken. However, FIs are required to maintain records on cash transactions of 50,000,000 Francs CFA or unusual and complex transactions involving more than 10,000,000 Francs CFA for ten years (Art. 32(3) AML/CFT Act). Article 32(3) is limited in scope and inconsistent with the requirements of criterion 11.2 because of the threshold. The lack of requirement for FIs to analyse and maintain the results of the analysis of non-threshold-based transactions may lead FIs to overlook a vital part of their duties that may assist in identifying suspicious transactions promptly.

Criterion 11.3 – In light of criteria 11.1 and 11.2 above, the records which FIs are required to keep may, to a large extent, be sufficient to reconstruct some transactions to provide, if necessary, evidence for prosecution of criminal activity. The absence of a requirement to maintain records of non-threshold-based results of any analysis undertaken impact the conclusion.

Criterion 11.4 – FIs are required to keep all CDD records and documents mentioned in criteria 11.1 and 11.2 above and communicate the same to the Judicial authorities, state officials in charge of detecting ML and TF, the supervisory authorities and the FIU acting within the framework of a judicial mandate (Art. 36 AML/CFT Act and Art. 53(1) Banking Act). There is no requirement for FIs to ensure that all CDD information and transaction records are made promptly available to competent domestic authorities. Also, FIs may lack information regarding any analysis undertaken on transactions below the threshold set by Article 32(3) of the AML/CFT Act, if any.

Weighting and Conclusion

Benin has met the requirements of Recommendation 11 to a very large extent. However, records kept by FIs may not include the results of any analysis undertaken of a significant number of transactions due to the threshold for such analysis. Also, there are no timelines for FIs to make information available to competent authorities.

Benin is rated LC on R. 11.

Recommendation 12 -Politically Exposed Persons

In its last MER, Benin was rated NC with the former Recommendation 6 due to lack of legal or regulatory obligations towards PEPs. Benin has undertaken reforms to improve its system on this issue.

Criterion 12.1 - Article 1(44) defines foreign PEPs as “natural persons who hold or have held prominent public offices in another member State or a third country, namely.....”³⁵. The

³⁵ a) Heads of State or Government, Ministers, Ministers of State and Secretaries of State; (b) Members of royal families; (c) Directors General of Ministries; (d) Parliamentarians; (e) Members of supreme courts, constitutional courts or other high courts whose decisions are not subject to appeal, except in exceptional circumstances; (f) Members of the courts of accounts or councils or executive boards of central banks; (g) Ambassadors, *chargés des affaires* and senior officers of the armed forces; (h) Members of administrative, management or supervisory bodies of State enterprises; (i) Senior political party officials; (j) Family members of any PEP,

definition is not fully consistent with the FATF’s definition for PEPs as reference to “namely” in relation to office holders tends to be restrictive instead of indicative (a baseline) or examples of who constitutes a foreign PEP. While noting that it is not possible to have an exhaustive list of foreign PEPs, Assessors believe that implementation of Article 1(44) might impede the ability of FIs to identify the occupants of a broader range of prominent public positions in foreign countries.

Subject to the application of enhanced due diligence measures based on an assessment of customer risk, FIs are not required to apply the specific measures to a customer who is no longer entrusted with a prominent function by the Government of Benin or by an international organisation for a period of at least one year, (Article 54(b), AML/CFT Act). The treatment of former PEPs should not depend on prescribed time limits. However, this is considered a minor deficiency due to the risk-based element and does not impact the overall rating for R. 12.

Criterion 12.1a - Articles 22 and 54 of the AML/CFT Act in the Republic of Benin require FIs to put in place risk management systems to determine whether the customer or beneficial owner is a politically exposed person (PEP).

Criterion 12.1b - Article 54 (1) (2) of the AML/CFT Act requires FIs to obtain the appropriate management hierarchy approval before carrying out any transactions with a PEP. Although it does not explicitly make reference to existing customers.

Criterion 12.1c - Article 54 (1) (3) of the AML/CFT Act requires FIs to take all appropriate measures, depending on the risk, to establish the source of wealth and the source of the funds involved in the business relationship or transaction with customers or beneficial owners identified as PEPs. The obligation under this criterion does not depend on risk. This is not consistent with the FATF standards due to the risk element introduced. Establishment of the source of wealth and the source funds must occur as a matter of course.

Criterion 12.1d - Article 54 (1) (4) of the AML/CFT Act requires FIs to carry out enhanced and ongoing monitoring of the business relationship PEPs.

Subject to the application of enhanced due diligence measures based on an assessment of customer risk, FIs are not required to apply the specific measures to a foreign PEP who is no longer entrusted with a prominent public function for a period of at least one year (Article 54(b), AML/CFT Act). The handling of former PEPs does not depend on prescribed time limits. However, this is a minor deficiency and does not impact the overall rating for c.12.1.

Criterion 12.2 - Article 1(44) of the AML/CFT Act defines domestic PEPs to mean “natural persons who exercise or have held prominent public offices in Benin, including the natural persons referred to in (a) to (i) above. It also defines PEPs of international organisations as “persons who hold or have held prominent positions within or on behalf of an international organisation, including senior management, particularly directors, deputy directors and members of the Board of Directors and all persons exercising equivalent positions. The gaps identified in relation to the list of PEPs in 12.1 above has implications on the definition of domestic PEPs. Considering that corruption is a major source of illicit funds that are laundered

including: the spouse; any partner considered as equivalent to a spouse; children and their spouses or partners; other relatives; k) Persons known to be [closely associated] with a PEP; and all other persons designated by the competent authority.

in Benin³⁶, the non-coverage of family members and close associates of domestic and international organisations PEPs constitute moderate shortcomings.

Criterion 12.2a - Pursuant to Article 54(4) of the AML/CFT Act requires FIs to implement appropriate and risk-based procedures to determine whether the customer or beneficial owner is a domestic PEP or that of an international organisation.

Criterion 12.2b - Article 54 of the AML/CFT Act requires FIs to apply the measures provided for in criterion 12.1 (b) to (d) where business relationships with such persons pose a higher-risk.

Criterion 12.3 - The requirement in Article 54 of the AML/CFT Act for FIs to apply the relevant requirements of c.12. and c.12.2 to family members and close associates of PEPs is limited to foreign PEPs. This is because Article 1(44)(1) of the AML/CFT Act does not define domestic and international organisations PEPs to include their family members or close associates.

Criterion 12.4 - There is no requirement for financial institutions to apply specific CDD measures where the beneficiary or beneficial owner of a life insurance policy is a PEP.

Weighting and Conclusion

Benin mostly meets only one of the four criteria for Recommendation 12. The definition of foreign PEPs is not fully indicative and does not afford FIs the flexibility to determine whether or not a customer is a PEP. Definitions for domestic and international organisations PEPs do not cover family members and close associates. As a result, measures taken by Benin under 12.1 and 12.2 do not apply to these categories of persons. Finally, there is no requirement for FIs to apply specific CDD measures where the beneficiary or beneficial owner of a life insurance policy is a PEP. The shortcomings are considered moderate.

Benin is rated PC on R. 12.

[Recommendation 13 - Correspondent Banking](#)

In its first MER, Benin was rated Non-compliant on the Recommendation relating to the former Recommendation 7 due to lack of legal or regulatory obligations relating to correspondent banking. The passing of the new AML/CFT Act has helped to resolve the deficiencies identified in the first report.

Criterion 13.1a – FIs are required to identify and verify the identity of customer institutions with which they have correspondent banking relationships. They must gather information on the nature of the activities of the customer institution"; and assess the reputation of the customer institution and the degree of supervision to which the correspondent bank is subjected, based on publicly available information. FIs must also assess the controls put in place to fight ML and TF (Art. 38 AML/CFT Act). When agreeing to provide correspondent banking services, FIs must collect sufficient information about the co-contracting institution to know the nature of its activities. FIs must also assess the reputation and the quality of the supervision to which the correspondent bank is subject based on publicly accessible and useable information (Art. 53(1))

³⁶ Section I-1-1-1, 2018 NRA.

AML/CFT Act. However, the Act does not expressly state that the actionable information should indicate whether or not the financial institution has been the subject of an ML/TF investigation or regulatory action.

Criterion 13.1b - In addition to the normal customer due diligence measures, FIs are required to assess the controls put in place by correspondent banks and other similar institutions they conduct businesses with to combat ML and TF (Article 38 AML/CFT Act).

Criterion 13.1c - Article 38 of the AML/CFT Act requires authorized officials of FIs to obtain the approval of their senior Management before establishing any relationship with a correspondent bank. Article 53 (3) requires FIs to establish a business relationship with a contracting institution with the approval of a member of the Executive body or any other person so empowered by the Executive body.

Criterion 13.1d - There is no requirement for FIs to understand each institution's respective AML/CFT responsibilities clearly.

Criterion 13.2a - Article 53 (5) of the AML/CFT Act requires FIs to ensure that the correspondent bank applies due diligence measures to its customers that have direct access to the correspondent bank's accounts.

Criterion 13.2b - Article 53 (4) of the AML/CFT Act requires FIs to ensure that the correspondent bank can provide relevant information relating to the pending accounts at the request of the correspondent bank.

Criterion 13.3 - Article 52 of the AML/CFT Act prohibits FIs from entering into or maintaining any correspondent banking relationship with shell banks.

Also, FIs are to take appropriate measures to ensure that they do not enter into or maintain any correspondent banking relationship with a correspondent bank which has a correspondent banking relationship with a shell bank. There is no requirement to determine if the correspondent FI has been subject to a ML/TF investigation or regulatory action.

Weighting and Conclusion

Benin mostly meets the requirements of this Recommendation. However, there is no requirement for institutions that are in a relationship to understand their AML/CFT responsibilities clearly. The regime presents only minor gaps.

Benin is rated LC on R. 13

Recommendation 14- Money or Value Transfer Services

Benin was rated non-compliant with SR VI on money or value transfer services due to lack of license to practice the profession, direct submission to the AML Act, controls mechanisms, list of MVTS agents and sanctions. The new provisions of the new AML/CFT Act and BCEAO Directive N°013-11-2015 on requirements for money transfer transactions (MVTS Directive) have addressed the gaps identified in the first MER of Benin.

Criterion 14.1 - Article 87 of the AML/CFT Act prohibits all persons engaging in the professional money or value transfer services and foreign exchange transactions without the approval of the Central Bank. The BCEAO is to determine the minimum operating requirements, particularly concerning the regular inspection of money or value transfer services as well as the sanctions to be meted out for non-compliance with the provisions in force. BCEAO Directive 013-11-2015 establishing the modalities for the operation of the rapid money transfer business as a sub-agent within the UEMOA zone requires natural or legal persons providing money transfer services to sign a contract with Authorised intermediaries or the DFS. The contract gives them the mandate to carry out the rapid money transfer business, on their behalf and under their full responsibility. However, transfer services have no license but are authorized as soon as the service company concludes a contractual agreement with an approved intermediary. The list of natural or legal persons carrying out money transfer business or acting as sub-agents are sent annually by banks and DFIs to the supervisory authorities such as the BCEAO, Banking Commission and Ministry.

However, there are no provisions governing the informal networks operating money transfer services without license.

Criterion 14.2 - Pursuant to the BCEAO Directive, persons who provide money or value transfer services without prior license are identified, and the sanctions against these persons are determined. Articles 20 et seq. of the Uniform Law Act 2016-11 of 8th July 2016 establishing the Uniform Act on violations of the regulation on financial relations outside the UEMOA member States provide for sanctions applicable to natural or legal persons conducting any regulated activity without license. BCEAO Directives n° 06/07/2011/RFE and n°008-05-2015 regulate foreign exchange transactions and electronic money issuer activity, respectively. The national authorities are endowed with powers to identify and detect the activities of MVTs providers operating without license or without being registered. However, these powers are not applied proportionately. There are no dissuasive sanctions envisaged against illegal MVTs operators.

Benin has not taken any measures to identify natural or legal persons operating MVTs without license nor applied proportionate and dissuasive sanctions against such persons.

Criterion 14.3 - Article 87 of the AML/CFT Act provides that no one shall engage in the professional activity of money or value transfer services and foreign exchange transactions without obtaining license from the Competent Authority. The Competent Authority shall lay down the minimum operating requirements, particularly regarding the regular inspection of money or value transfer services and the sanctions resulting from non-compliance with the extant provisions. Article 10 (3) of BCEAO Directive 013-11-2015 on the modalities for operating the MVTs business within the UEMOA indicates that as part of the supervision, all violations observed are subject to sanctions under (i) the law on banking regulations, (ii) the law on the regulation of DFS, (iii) the law on litigation of violations of the regulation on external financial relations of UEMOA member States, and (iv) the AML/CFT Act, without prejudice to any other legislative and regulatory provisions in force in the host country.

Criterion 14.4 - There is no licensing or registration requirements on agents of money or value transfer service providers except that it is possible to infer the existence of this requirement from the term "No one shall engage..." in the Article 7 of AML/CFT Act. There is no requirement for claimants to update the list of agents.

Furthermore, Article 7 of the BCEAO Directive referred to earlier, requires the authorized intermediaries and the DFS to notify, at the end of every year, the regulatory authorities with a list of natural or legal persons mandated to carry out money transfer transactions.

Criterion 14.5 - Remittance service providers are FIs within the meaning of article 1 of the AML/CFT Act. These service providers are therefore required to include in their agents they are working within their AML/CFT programs pursuant to item 3 of paragraph 1 of Article 24. However, the law does not explicitly require money or value transfer service providers to monitor agents' compliance with AML/CFT programmes.

Weighting and Conclusion

Foreign exchange dealers are subject to AML/CFT obligations. They require authorization by the competent authority who sets the operation requirements. The money transfer service providers develop AML/CFT programs and include their agents on which they rely. The legislation of Benin allows for a better regulation and monitoring of this sector, which presents high-risks. However, money or value transfers services are not directly licensed or authorized by any competent authority. They sign contracts with authorized intermediaries and DFIs. However, there is no explicit provision that requires service providers to monitor the agents' compliance with these programmes. Also, Benin has not implemented measures to identify the natural or legal persons operating MVTS without license and apply proportionate or dissuasive sanctions against them.

Benin is rated PC on R. 14.

Recommendation 15 - New Technologies

In its first MER, Benin was rated Partially Compliant on the former Recommendation 8 due to the lack of specific provisions relating to abusive use of new technologies in the AML Act. Besides, there were doubts over the formal adoption of the Annex to the AML Act dealing with procedures for identifying the customers in non-face-to-face financial transactions. By adopting the new AML/CFT Act, Benin has bridged the gaps that existed in the system on the recommendation relating to new technologies.

Criterion 15.1 - Article 37 (1) of the AML/CFT Act in Benin requires FIs to identify and assess the possible ML or TF risks that may emerge:

- (a) From the development of new products and business practices, including new distribution mechanisms;
- (b) The use of new or developing technologies related to new products or pre-existing products.

The provisions under Article 10 of Benin's AML/CFT law require the country to take "appropriate measures to identify, assess, understand and mitigate the ML/TF risks to which it is exposed" and to update this assessment.

Article 13 of the CIMA Code regulates the powers to collect and redeposit premiums. The design and distribution of insurance products is the responsibility of insurance companies. The broker should identify and assess the risks of ML and TF which may arise from: the development of new products and new business practices, including new distribution

mechanisms; and the use of new or developing technologies in connection with new pre-existing products.

Criterion 15.2a - FIs are required to identify and assess the ML/TF risks that may arise in relation to the development of new products, new business practices, including new delivery mechanisms, and the use of new developing technologies for both new and pre-existing products (Article 37 (2) of AML/CFT Law).

Criterion 15.2b - These obligations are met in paragraphs 1 and 2 of Article 37 of the AML/CFT Act. They are also taken into account by Directive n° 007-09-2017 of 25th September 2017 issued by the BCEAO on the modalities for the implementation by financial institutions of the AML/CFT law under Article 5 and by the BCEAO Directive No. 008-05-2015 governing the terms and conditions for engaging the electronic money issuance business in the UEMOA zone.

Weighting and Conclusion

Benin meets all the requirements on new technologies.

Benin is rated C on R. 15.

Recommendation 16 - Wire Transfers

In its first MER, Benin was rated Non-compliant on the former SR VII due to lack of AML law on wire transfer requirements.

The legal provisions for wire transfers in Benin applies to FIs without indicating the specific types of FIs.

Originating financial institutions

Criterion 16.1a and 16.1b - Article 33(1) of the AML/CFT Act requires FIs to ensure that all wire transfers are always accompanied by accurate originator information and beneficiary information as specified in c.16.1. Article 33 is silent on the threshold of \$1000. In the absence of any indication of the threshold in the domestic law, all cross-border wire transfers should be subject to the obligation imposed by Recommendation 16.1. This law applies to all domestic and cross-border transfers.

Criterion 16.2 - Article 33 (2) and (3) of the AML/CFT Act requires originator FIs to also request for the name of the beneficiary and the beneficiary's account number, where such an account is used to effect the transfer of funds. The information referred to in paragraphs 1 and 2 of Article 33 must appear in the message or the payment form accompanying the transfer. Where there is no account number, a unique reference number must accompany the transfer. In practice, these provisions apply both to individual transfers and to those made in batches if carried out by the same originator.

Criterion 16.3 a and b – Benin does not apply a minimum threshold for cross-border wire transfers. Article 33 of the AML/CFT Act applies regardless of the amount involved.

Criterion 16.4 – There is no regulatory threshold as stated in c.16.3 as stated above.

Criterion 16.5 - Article 33 of the AML/CFT Act applies to both domestic and cross-border telegraph transfers. Article 19, 26 to 32 and 35 and 36 of the AML/CFT Act provide for the keeping and disclosure of records or information by financial institutions.

Criterion 16.6 - Article 33 (3) of the AML/CFT Law requires that the information referred to in paragraphs 1 and 2 be included in the message or payment form accompanying the transfer. Where there is no account number, a unique reference number must accompany the transfer. However, the law does not provide for the situation where the financial institution of the originator should be required to make the information available either to the financial institution of the beneficiary or to the competent authorities within three working days on receipt of their request.

Furthermore, Article 36 of the AML/CFT Act empowers criminal prosecutorial authorities to have immediate access to such information.

Criterion 16.7 - The FIs are required to keep the records and documents on transactions they have carried out, including accounting ledgers and business correspondences, for a period of ten years, after executing the transaction, in line with Recommendation 11 (Article 35, AML/CFT law). This requirement is applied to originating FIs regarding the collection of information on the sender and beneficiary of wire transfers and without prejudice to the provisions prescribing more rigorous obligations.

Criterion 16.8 – There is no obligation on ordering financial institutions not to execute wire transfers that do not comply with the requirements of criteria 16.1 to 16.7.

Intermediary financial institutions

Criterion 16.9 – Article 33 (3) of the AML/CFT Law requires FIs to ensure all information on the originator and beneficiary accompanying a wire transfer is kept with the latter. Where there is no account number, a unique reference number must accompany the transfer.

Criterion 16.10 - There is no obligation for intermediary FIs to keep for a period of at least five years, all information received from originator FIs or any other intermediary FI in situations where technical limitations prevent the requisite information on the originator or beneficiary from accompanying a cross-border wire transfer with a similar domestic wire transfer.

Criterion 16.11 – There is no requirement for FIs to take reasonable measures, which are consistent with straight-through processing to identify cross-border wire transfers that lack required originator or beneficiary information.

Criterion 16.12 – FIs are not required to have risk-based policies and procedures for determining when to execute, reject or suspend a wire transfer lacking the required originator or beneficiary information and appropriate follow-up actions.

Beneficiary financial institutions

Criterion 16.13 - FIs are not obligated to take reasonable steps that may include post-event or a real-time monitoring whenever possible, in order to detect cross-border wire transfers which lack the required information on the ordering institution or beneficial owner.

Criterion 16.14 - FIs are not required to verify the identity of a beneficiary of a cross-border wire transfer of USD/EUR 1000 or more, if the identity has not been previously verified, and maintain this information in accordance with Recommendation 11.

Criterion 16.15 – See criterion 16.12.

Money or Value Transfer Services

Criterion 16.16 - MVTS providers are FIs under article 1(35) of the AML/CFT Act. As such, they are required to comply with the applicable obligations under Recommendation 16 in the countries where they operate. The BCEAO Directive on the procedures for operating the money transfer business reinforces these provisions by specifying that sub-agents are subject to the provisions of the regulations on the external financial relations of UEMOA member States and the fight against ML and TF (Art. 5 Directive n° 013-11-2015). As such, they comply in particular with the requirements relating to the limitations on amounts and justifications for transfers. The sub-agents make sure they know the identity of the originators as well as that of the beneficiaries of rapid money transfers.

Criterion 16.17 - Article 34 of the AML/CFT Act provides that where FIs including MVTS receive wire transfers that do not contain complete information on the originator, they shall take steps to obtain the missing information from the issuing institution or the beneficiary in order to complete and verify it. In case they do not obtain this information, they shall refrain from carrying out the transfer and inform the FIU accordingly. However, there is no requirement to file an STR in any country affected by the suspicious wire transfer, and to make the relevant transactions' information available to the FIU.

Implementation of Targeted Financial Sanctions

Criterion 16.18 - Article 104 of the AML/CFT Act requires FIs that receive an order from a customer, other than a financial institution, to execute on their behalf a transfer outside the territory of funds or financial instruments in favour of a person, a body or entity subject to a freezing measure, to suspend such an order and inform, the competent authority without delay. Also, FIs that receive from abroad, an order to transfer funds or financial instruments from a person, body or entity subject to a freezing measure in favour of a customer, other than a financial institution, to suspend the execution of this order and inform the competent authority without delay. The funds or instrument for which the transfer order has been suspended shall be frozen, unless the competent authority authorizes the transfer. However, Articles 104 does not deal with domestic wire transfers.

Weighting and Conclusion

Benin has not set thresholds for wire transfers. The country does not have requirements on technical limitations, identification of wire transfers without the requisite information, risk-based policies and procedures, monitoring in relation to transfers lacking information, filing STRs in affected countries and making transaction information available to the FIU. Other gaps relate to criteria 16. 4, 16.5, 16.6, 16.8, 16.16 and 16.18.

Benin is rated PC on R. 16.

Recommendation 17- Use of Third Parties

In its first MER, Benin was rated NC on the former Recommendation 9 because there was no mention in the legislation of requisite obligations pertaining due diligence, regulation, monitoring and verification of compliance with FATF standards by the country where introducers and third-party institutions are residing. That rating was also due to the lack of specification on the final responsibility of FIs with regard to the identification of customers when they entrust such requirement to introducers and third-parties.

Benin has embarked on reforms to improve its system on the use of third parties.

Criterion 17.1 - Article 56 of the AML/CFT Act requires third parties implementing CDD measures to make available to their originators (the FIs) all information on the identity of the customer and, where applicable, to the beneficial owner, as well as information on the purpose and nature of the business relationship. The FIs remain ultimately liable for any failure to implement CDD measures. Article 58 (1) requires the third party to immediately transmit to the FIs all information on the identity of the customer and, where applicable to the beneficial owner, as well as information on the purpose and nature of the business relationship. Third parties are also required to send, on first request, a copy of the identification documents of the customer and, where applicable, of the beneficial owner, as well as any relevant documentation needed to implement these procedures (Article 58-2). Article 57 of this law requires FIs using a third party to ensure that the third party recipient is located in a third country that imposes similar AML/CFT obligations.

Criterion 17.2 - FIs are authorized to rely on FIs or other reporting entities considered low-risk as specified in Article 46 (Article 57 (1) (2)(a) of the AML/CFT Act). The provision is silent on the need to have due regard to information available on the level of country risk.

Criterion 17.3 a, b and c - Under Articles 89, 90 and 91 of the AML/CFT Law, FIs affiliated to a group are required to apply measures at least equivalent to those provided for by law, in terms of customer due diligence and record keeping in their foreign branches. Where the locally applicable law does not allow them to implement equivalent measures in their foreign branches and subsidiaries, the financial institutions shall inform the FIU and their supervisory and control authority. Furthermore, where the legislation of the third State does not implement the required measures, financial institutions shall take additional measures to effectively handle the money laundering or terrorist financing risk and inform their supervisors of their country of origin.

Weighting and Conclusion

There is no requirement for FIs to verify the deficiencies, particularly concerning regulation, supervision, monitoring and information on risk profile, as well as reliance on third parties within the same group.

Benin is rated LC on R. 17.

Recommendation 18- Internal Controls and Foreign Branches and Subsidiaries

In its first MER, Benin was rated PC on the former Recommendation 15 and NC on the former Recommendation 22. Deficiencies related to the non-compliance with the requirement to establish an AML internal control system and the designation of ad hoc officials in most

financial institutions, lack of training and continuous education. Benin lacked requirement for FIs to ensure that foreign subsidiaries and branches comply the AML/CFT measures and the requirement for FIs to inform the supervisory authorities where a foreign subsidiary or branch is incapable of complying with the AML/CFT measures. The new AML/CFT Act has addressed those gaps.

Criterion 18.1 a - Articles 11(4)(b), 24(2) and 25(1) of the AML/CFT Act require FIs to implement AML/CFT programs, which has regard to the ML/TF risks and size of the business. The programmes are to include the appointment of a compliance officer at management level with the responsibility to ensure the implementation of the AML/CFT measures.

Criterion 18.1b – When hiring staff, FIs are required to consider the level of responsibilities to be exercised by the staff and risks regarding the fight against ML/TF (article 25 (1) (5) of AML/CFT). The purpose of this provision is not clear regarding issues of integrity. There is the need for Benin to specify the purpose of the measures for recruitment.

Criterion 18.1c - Article 24 (3) of the AML/CFT Act requires FIs to implement AML/CFT programs that include a training program for employees that may assist employees in detecting suspicious transactions and actions that may be linked to ML/TF. This provision is narrow in scope and does not specify that employee training should be ongoing to ensure that training is regular, relevant, and not be a one-off exercise when staff are hired or at whatever time FIs so desire.

Criterion 18.1d - Article 11 (4) (b) of the AML/CFT Act requires FIs to implement AML/CFT programs that include an independent audit function to test the system.

Criterion 18.2a - Article 89 (1) of the AML/CFT Act requires FIs belonging to a group to implement group-wide policies and procedures, including data protection policies and information sharing policies and procedures within the group to combat ML and TF. The same provisions specify that the policies and procedures referred to must be implemented effectively in the branches and subsidiaries established in the Member States and third States. Article 91 requires FIs to apply measures at least equivalent to those provided for in chapter ii of Cap II of this Law in terms of customer due diligence and record-keeping in the foreign branches.

Criterion 18.2b - The requirement in article 89(1) of the AML/CFT Act applies to foreign branches and subsidiaries³⁷ for AML/CFT purposes. However, there is no provision requiring subsidiaries to make available to the group, audit function, AML/CFT functions and information on customers, accounts and transactions when necessary for AML/CFT, compliance, and/or audit purposes.

Criterion 18.2c - The requirements of Article 89 (1) of the AML/CFT Act include data protection and information sharing policies. It covers the need for satisfactory guarantees in terms of confidentiality and use of exchanged information, including guarantees to prevent tipping off.

Criterion 18.3 - Article 91 (1) and (3) of the AML/CFT Act requires FIs to ensure the application of AML/CFT measures consistent with those in Benin (under Chapter III, Cap II of the AML/CFT Act). The former provision focus on CDD and record-keeping measures,

³⁷ Does not refer to majority-owned.

while the latter requires for communication of minimum AML/CFT measures. In the case where the minimum AML/CFT requirements of the host country are less stringent, branches and subsidiaries abroad are required to apply the obligations in force in the host country (article 89(2) of the AML/CFT Act).

Where the host country does not permit the proper implementation of AML/CFT measures consistent with those of the country of origin, financial groups are required to apply appropriate additional measures to manage the ML and TF risks. They must inform the supervisory authorities of the country of origin (Art. 89(4) AML/CFT Act).

Weighting and Conclusion

Benin largely meets the requirements on internal controls and foreign branches and subsidiaries. However, a gap has been noted in the requirement for subsidiaries to provide information on customers, accounts and transactions when they are deemed necessary for AML/CFT, compliance, audit and/or AML/CFT.

Benin is rated LC on R. 18.

[Recommendation 19 – Higher-risk Countries](#)

The first MER rated Benin NC on the former Recommendation 21. Deficiencies related to the lack of effective measures for FIs to be informed about the concerns relating to the failure of the other countries' AML/CFT system and the lack of literature for applying counter-measures to countries that do not apply the FATF recommendation or apply them insufficiently. The provisions in the new AML/CFT in Benin largely address the identified deficiencies.

Criterion 19.1 – There is no requirement for FIs to apply enhanced due diligence measures commensurate with the risks, in their business relationships and transactions with FIs, natural and legal persons from countries where FATF calls for such an approach.

Criterion 19.2 - FIs in Benin can, independent of the call by the FATF, apply countermeasures to correspondent banking relationships or wire transfers with FIs located in high-risk jurisdictions, including terminating business relationships in the host country (Art. 50 AML/CFT Act). However, there is no provision in case of call from the FATF to take measures to apply countermeasures commensurate with the risks.

Criterion 19.3 - Benin has no measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries. -.

Weighting and Conclusion

Benin has gaps relating to the application of countermeasures commensurate to the risks identified regarding the higher-risk countries, where FATF requires its application, as well as advice on high-risk jurisdictions. The system only presents minor deficiencies.

Benin is rated NC on R. 19.

[Recommendation 20 - Suspicious Transactions Reporting](#)

The first MER rated Benin PC on the old Recommendation 13 because the AML Act limited STRs to ML and terrorism financing. There was no obligation to report attempted transactions nor comprehensive dissemination of the STR Template. The majority of reporting entities were not aware of their obligations to file STRs.

Criterion 20.1 – FIs are required to report to the FIU, the sums recorded in their books or transactions involving sums they suspect or have reason to suspect that they originate from ML or TF offences or tax fraud (article 79(1) and (2) of the AML/CFT Act).

Reporting entities file STRs using a template issued by the FIU with the approval of the Minister of Finance. However, the law does not explicitly provide for any requirement to do so without delay.

Criterion 20.2 – The obligation under article 79 of the AML/CFT Act to report suspicious transactions is not based on threshold and is related to all suspicious transactions. However, attempted suspicious transactions are not covered by the law.

Weighting and Conclusion

The obligation to report suspicious transactions does not extend to all criminal acts that would constitute a predicate offence for ML or those that would constitute a predicate offence as required by Recommendation 3, as well as attempted transactions. Also, there is no requirement for FIs to report suspicious transactions promptly to the FIU.

Benin is rated PC on R. 20.

Recommendation 21- Disclosure and Confidentiality

The first MER rated Benin LC on the old Recommendation 14 because the AML Act did not clarify the requirements of the FATF regarding protection for providing information for AML/CFT. The Act focused on concerns STRs and other information sent or provided to the FIU. The new Benin, AML/CFT Act, has resolved these outstanding deficiencies.

Criterion 21.1 - Under the provisions of the AML/CFT Law (Arts 83 and 97), no civil or criminal liability action can be initiated, or professional sanction meted out on persons or managers, officials and employees for breach of any rule governing the disclosure of information imposed by contract or any Act, regulation or administrative provision, when transmitting information or reporting in good faith their suspicions to the FIU, even if the court verdict delivered based on the said reports do not proffer any conviction.

Criterion 21.2 - Article 82 of the AML/CFT Act prohibits FIs, their managers and employees from disclosing the fact that an STR or related information has been filed to the FIU. There is no explicit requirement that tipping off and confidentiality should not inhibit information sharing under Recommendation 18. However, prohibition does not extend to disclosure of information to supervisory authorities, professional bodies and national representative bodies.

Weighting and Conclusion

Benin has met the criteria of Recommendation 21.

Benin is rated C on R. 21.

Recommendation 22- Designated Non-Financial Businesses and Professions: Customer Due Diligence

In its first MER, Benin was rated NC on the old Recommendation 12 because DNFBPs were not aware of the AML Act, as well as their obligations resulting from the lack of dissemination and guidelines. There was no regulation and supervision of certain professions which are nevertheless ML vectors (real estate agents, in particular). Benin lacked preventive measures against abuses related to new technology, correspondent banking relationships, use of middle-men, record-keeping; and the total lack of implementation of AML/CFT requirements.

Benin has undertaken reforms to improve its due diligence mechanism measures to be observed by DNFBPs. The AML/CFT obligations placed on FIs apply to DNFBPs with slight modifications. However, some deficiencies in the situations where DNFBPs are to apply these measures. In this regard, the level of technical compliance of the AML/CFT Act with Recommendation 22 varies across the DNFBP sectors. The following paragraphs describe the details of the deficiencies:

Criterion 22 - DNFBPs are required to comply with the measures set out in the AML/CFT Act. In this regard, the analysis and conclusions of the CDD requirements for FIs under R. 10 have implications on C. 22.1 according to the materiality of the assessed sectors.

Criterion 22.1a Casinos - Articles 44(c) and 29 (1)(c) of the AML/CFT Act require casinos, to comply with CDD obligations where customers conduct financial transactions equal to or above 1 524 Euros. Casinos have low ML vulnerability in the context of Benin.

Criterion 22.1b Real estate agents - Articles 45 of the AML/CFT Act requires real estate agents to comply with CDD requirements when they are involved in transactions for their customers regarding the purchase or sale of fixed assets. The obligation does not appear to cover non-customers of real estate agents. This sector has a high ML vulnerability. In this regard, weaknesses in the identification and verification of beneficial owners, as a matter of course, constitute moderate shortcomings.

Criterion 22.1c DPMS - Article 1 of the AML/CFT Act includes persons ordinarily engaged in the trade or arranging the sale of gems, precious metals, antiques and works of art, among DNFBPs. In this regard, they are subject to the ongoing due diligence obligations of DNFBPs concerning all business relationships and customer operations under Articles 19 to 22 of the AML/CFT Act. Thus, they are required to carry out customer due diligence about financial transactions above a specified amount of 1,524 Euros). Given the materiality of DPMS in the context of Benin (moderate), the deficiencies identified in R.10 are considered as moderate.

Criterion 22.1d Lawyers - Article 1(24) of the AML/CFT Act includes lawyers, notaries, other independent legal and accounting professionals among the designated non-financial businesses and professions. In this regard, they are subject to CDD measures when they enter into a business relationship with a customer or during the business relationship with the customer. Lawyers are weighted as moderate in the context of Benin. In this regard, the deficiencies identified in relation to R.10 has moderate implications on this criterion.

Criterion 22.2 [Record Keeping] - There is no requirement for DNFBPs, apart from casinos³⁸, to comply with the record-keeping requirements set out in Recommendation 11 when they conduct the relevant activities. Article 36 of the AML/CFT Act requires DNFBPs to submit to the competent authorities (including, supervisory and judicial authorities, and the FIU) all records and documents pursuant to Article 35.

Criterion 22.3 [PEPs] - Article 22 of the AML/CFT Act No. 2018-17 requires designated non-financial businesses and professions to comply with the PEP obligations set out in Recommendation 12. Benin's law requires reporting entities to establish adequate risk management systems to determine whether the customer is a politically exposed person and implement specific measures where necessary. Benin's law does not require reporting entities to obtain BO information for all types of customers as a matter of course. Other shortcomings highlighted in R.12 have implications on the rating for this criterion.

Criterion 22.4 [New Technologies] - The AML/CFT Law No.2018-17 does not require DNFBPs to implement due diligence obligations in respect of new technologies.

Criterion 22.5 [Third Parties] – Articles 56 and 57 of the AML/CFT Act No. 2018-17 also require financial institutions to comply with the obligations relating to the use of third parties set out in Recommendation 17. However, this requirement does not apply to DNFBPs.

Weighting and Conclusion

Apart from casinos, which are subject to CDD obligations, there are still gaps in Benin's legislation, in particular the lack of any requirement for DNFBPs to comply with the obligations relating to the use of third parties as provided for in Recommendation 17, and the obligation to implement due diligence measures for new technologies as required by Recommendation 16. In addition, the deficiencies identified in relation to R.10 have adverse implications on the rating for this criterion.

Benin is rated PC on R. 22

[Recommendation 23- Designated Non-financial Businesses and Professions: Other Measures](#)

The first MER rated Benin NC on the old Recommendation 16. The deficiencies related to inadequate regulations on suspicious transaction reporting, internal controls to prevent ML, paying special attention to high-risk countries, and the lack of AML programs. Benin did not effectively implement AML/CFT measures.

Benin has embarked on reforms to improve its due diligence mechanism measures to be complied with by DNFBPs

Criterion 23.1a-[STRs] - The requirements under article 79 of the AML/CFT Act for the listed DNFBPs to comply with the requirements to report suspicious transactions set out in Recommendation 20. The deficiencies identified under Recommendation 20 (not all crimes, as well as attempted transactions, are covered) apply to this criterion.

³⁸ Article 44(3) of the AML/CFT Act.

Criterion 23.2 [Internal controls] - Generally, Article 11 of the AML/CFT Act requires all reporting entities to introduce policies, procedures and controls to mitigate and effectively manage ML/TF risks. However, there is no provision requiring branches to provide the group with an audit function, AML/CFT functions, customer information, accounts and transactions, when necessary for AML/CFT, compliance and/or audit.

Criterion 23.3 [High-risk countries] - Articles 11 and 51 of the AML/CFT Act require DNFBPs to comply with obligations regarding higher countries as provided for in Recommendation 19. However, the deficiencies identified concerning FIs apply here.

Criterion 23.4 - [Tipping-off] - Confidentiality requirements set out in Article 82 of the AML/CFT Act apply to DNFBPs.

Weighting and Conclusion

All DNFBPs are subject to obligations regarding suspicious transaction reporting, internal controls, measures against higher-risk countries and tipping-off requirements. The deficiencies relating to Recommendation 20 on reporting of suspicious transactions promptly and attempted transactions apply to this Recommendation.

Benin is rated PC on R. 23.

Recommendation 24 - Transparency and Beneficial Ownership of Legal Persons

The first MER rated Benin NC on this Recommendation (ex Rec.33). Deficiencies related to (i) the lack of monitoring for compliance with the obligations prescribed by the OHADA Act, (ii) recording of unreliable information in the RCCM, (iii) inefficient updating of the said information; (iv) lack of BO information at the RCCM, and (v) the lack of measures to avoid the misuse of legal persons issuing bearer shares for ML purposes.

Benin has made reforms to improve its system of transparency and beneficial ownership of legal persons.

Criterion 24.1 - Article 28 of the AML/CFT Act require the establishment of mechanisms for identifying and describing the various types, forms and basic characteristics of legal persons in the country and the procedures for incorporating such legal persons and the methods of obtaining and keeping basic information about them, as well as information on beneficial ownership. This information is made available to the public through publication in the legal information newspapers.

Specifically, concerning business companies, in Articles 10 to 27 and subsequent of the revised OHADA Uniform Act on the Business Company and Economic Interest Grouping (GIE) Act of 30th January 2014 provides for various types, forms and basic characteristics of legal persons, particularly with regard to business companies and GIEs. The same Act outlines the procedures for the incorporation of the various forms of companies. Also, the Uniform Act on Cooperative Societies of 15th December 2010 mentions the procedures for the establishment, management and administration of cooperative societies. The mechanisms for gathering BO information of these various legal persons, as well as the methods for publishing this information, are not specified.

Criterion 24.2 - Benin has not conducted a comprehensive ML/T risks assessment for all types of legal entities created in the country.

Basic information

Criterion 24.3 - Pursuant to Article 13 of the OHADA OHADA-CCG, any incorporation of new companies in Benin requires drafting of the Articles of Association either by notary public deed or by private deed.

The Articles of Association are to contain the corporate name, legal form, address of their head office, the key officials governing their functioning and the list of members of the board of directors. Applicants are required to register the Articles of Association in the office of the Registrar General established within the high courts and give right to a certificate of registration pursuant to Article 46 of the OHADA Uniform Act on General Business Law. The information relating to these companies is made available to the public as required by Article 36(4) of the OHADA Uniform Act on General Business law at the RCCM.

Criterion 24.4 - There is no requirement to maintain the information set out in Criterion 24.3 and within Benin at a location to be notified to the company registrar.

Criterion 24.5 - The notary at the Business Formalisation Office and the Registry of the relevant jurisdictions verify the information referred to in criteria 24.3 and 24.4. They rely on documents presented by the legal officer or the manager during the registration of the company. All changes in the life of the company (amendment of the Articles of Association, registered office, corporate name and shareholding) shall be updated and recorded in the Office of the Registrar General (RCCM) pursuant to Article 35 and 52 of the OHADA Uniform Act on General Business Law.

Beneficial ownership information

Criterion 24.6 a, b and c - Although the obligation for FIs and DNFBPs to collect BO information does exist in Benin (Art. 18 of AML/CFT law), there are gaps (see c.10.3, 10.5 and 10.10). The availability of such information and systematic access to the latter are not effective and does not include information on beneficial owners of legal entities that do not have business relationships with an FI or DNFBP in Benin.

Criterion 24.7 – Prior to submitting the application to the Business Formalization Office (GUFÉ) and Court registry, the Notary verifies all BO information based on the documents presented by the legal representative or manager at the time of the registration of the company. All changes in the life of the company (amendments to the Articles of Association, office headquarters, corporate name and shareholding) are updated and registered in the office of the Registrar General (RCCM) pursuant to Articles 35 and 52 of the Uniform OHADA Act on General Business Law. The same due diligence is expected for the identification of beneficial ownership, which is currently not the case.

Furthermore, concerning public limited companies, Articles 746.1 and 746.2 of the Uniform Act on Business Companies & GIE require these companies to keep and update a register of nominal or bearer instruments. In case of swapping or transfer of nominal instruments, companies must record the names of beneficial owners in the register.

Criterion 24.8 a, b & c: - The notary who established the documents for the incorporation of the business company must respond to any appropriate request to provide information on this company. The RCCM also makes available all information gathered on this business company. However, the limited reliability of the information held by these stakeholders weakens this system. There are no other requirements in Benin for companies to appoint a natural person or DNFBP authorised to provide all basic information and provide additional assistance to the competent authorities.

Criterion 24.9 - Article 35 of the AML/CFT Act requires FIs and DNFBPs to maintain records of identification for ten years after the execution of transaction or after the date on which the company ceases to be a customer of the reporting entity. The records include basic and beneficial ownership information, as well as information of shareholders or members of legal persons. The scope of application is limited because while reporting entities may be legal persons, a significant number of them are not reporting entities. In addition, not all companies are customers of reporting entities. In addition, there is no requirement for the RCCM and company itself to maintain such information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist.

Other requirements

Criterion 24.10 - Articles 36 and 93 of the AML/CFT Act outline the need for competent authorities, particularly the criminal prosecutorial authorities, to have all the necessary powers to have timely access to basic and BOI held by the parties concerned.

Furthermore, Article 30 of the same Act provides that: "Where the customer is a Lawyer, notary, professional accountant or auditor, a securities broker, operating as a financial intermediary, cannot invoke professional secrecy to refuse to disclose the identity of the beneficial owner".

Criterion 24.11 - Companies in Benin can issue bearer shares pursuant to Article 744 of the OHADA Uniform Act. Article of the same laws require the registration of securities of whatever form in title accounts in the name of their owner. Each company is required to have a registered or bearer share register. Where the bearer security is issued on the financial market, the owner must convert it into a registered share under the provisions of Article 746 of the OHADA Business Act.

Criterion 24.12 a-b - The AUSCGIE does not provide for a register which requires shareholders or directors acting on behalf of another person to reveal to the company and to any relevant register, the identity of the person who appointed them and to include this information in the relevant register.

Criterion 24.13 - There is no sanction regime in Benin ~~specifically provided for~~ against any natural or legal persons that fail to provide basic and beneficial ownership information. There are also no sanctions for failure to update basic information.

Criterion 24.14 a & b - Article 138 of the AML/CFT Act particularly item 7, facilitates access by foreign competent authorities to basic information in company registers and the exchange of information on shareholders (through the provision of originals or certified copies of relevant records and papers, including bank statements, accounting records and ledgers showing the business transactions or its business activities). However, there is no commercial court clerk.

Criterion 24.14c - The provisions of Articles 76 and 78 of the AML/CFT Act and those provided for in Article 21 of Decree 2018-347 of 25th July 2018 establishing the mandate, composition and functioning of the FIU empower the investigative and prosecutorial authorities to obtain information on beneficial ownership on behalf of foreign counterparts. But the information available might not be complete.

Criterion 24.15 - Article 78 of the AML/CFT Law establishes the principle of information exchange between the FIU and its foreign counterparts and provides for some exclusions. However this provision is limited in scope. In addition, there is no information evidencing that Benin monitors the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners abroad, if at all,

Weighting and Conclusion

There are significant deficiencies related to this Recommendation:

- The mechanisms for gathering the BO information on these various legal persons, as well as the methods for publishing this information, need to be specified.
- The NRA did not carry out any comprehensive analysis of the specific risks related to each category of legal persons ;
- The obligation is directed to the companies themselves, as they should have a register of their operations which contains all the stated relevant information.
- The country's responses are limited to the legal owners' identification mechanisms. The current regime does not meet the requirements for beneficial ownership identification, record keeping and updating of BO information.
- The legislation on these companies does not require the mention of beneficial ownership.
- The sanction referred to in this criterion applies to all legal persons and not only reporting entities.
- The available information is incomplete.

Benin is rated NC on R. 24

[Recommendation 25: Transparency and Beneficial Ownership of Legal Arrangements](#)

In its first MER, Benin was rated NC on this Recommendation (ex. Rec. 34).

Benin has carried out reforms to improve its system governing transparency and beneficial ownership of legal arrangements.

Criterion 25.1 - Benin does not recognise trusts and the law does not allow the creation of trusts. However, foreign trusts could operate or be managed in Benin. Benin does not impose any obligations on trustees of foreign trusts operating or managed in the country.

Criterion 25.2 - Pursuant to the provisions of Article 5 of the OHADA Uniform Act establishing the organization of securities, the information held is entered in a register, and updated promptly. But this single precaution is not enough to meet the requirements of this criterion.

Criterion 25.3 - Article 7 OHADA Securities Act requires Benin to take measures to ensure that trustees report their status to FIs and DNFBPs when establishing a business relationship or performing an occasional transaction exceeding the threshold. However, the measures for the implementation of the requirements of this criterion are ineffective.

Criterion 25.4 – The OHADA Securities Act requires trustees to provide the competent authorities with information about the trust or FIs and DNFBPs, upon request, all information on the beneficial ownership and assets of the trust held or managed in the business relationship. But broadly speaking, there is no regulatory text for trusts.

Criterion 25.5 - Articles 70 and 93 of the AML/CFT Act 2018-17 empower the competent authorities and particularly criminal prosecutorial authorities to have timely access to information held by trustees and other parties.

Criterion 25.6a, b & c - The provisions of Articles 76, 78 and 138 of the AML/CFT Act and those provided for in Article 21 of Decree 2018-347 of 25th July 2018 on the mandate, composition and functioning of the FIU empower the competent authorities to ensure international cooperation concerning information on trusts and other legal arrangements, including BOI, pursuant to Recommendations 37 and 40. Except that it is difficult to obtain such information, once the country says it does not recognize trusts.

Criterion 25.7, 25.8 – Benin does not regulate trusts.

Weighting and Conclusion

Benin does not recognise trusts and has limited measures in place to mitigate the risk of ML and TF associated with foreign trust structures and other legal arrangements. The absence of regulatory frameworks for trusts impedes the collection and sharing of beneficial ownership information on legal arrangements.

Benin is rated NC on R. 25

[Recommendation 26 - Financial Institutions' Regulation and Supervision](#)

The first MER rated Benin PC for various deficiencies including ineffective AML supervision at the level of microfinance, Insurance, Capital Market. Except for banks, there is also a lack of prudential regulation applicable to AML/CFT for insurance companies and UCITS. Also, money remittance services are not subject to approval as such and hence the unsatisfactory monitoring and supervision of money transfer services and Authorized Foreign Exchange dealers. The fit and proper test for managers is difficult to grasp in the case of MFIs and authorized foreign exchange dealers, given the very large number of stakeholders and the general lack of implementation measures observed in the informal sector. The enactment of the new AML/CFT Act and sectoral texts have helped to resolve these deficiencies.

Criterion 26.1 - Article 19 7) of the AML/CFT Act defines supervisory authorities to mean the national or UEMOA and UEMOA Communities empowered, by any law or regulation to supervise the natural and legal persons referred to in Articles 5 and 6 (FIs and DNFBPs) of the AML/CFT Act. Article 86(1) of the AML/CFT Act provides for the functions of supervisory authorities for FIs in respect of the obligations in Part II (preventive measures on ML/TF) of the AML/CFT Act.

FIs, particularly banks, are under the supervision of the UEMOA Banking Commission and the BCEAO pursuant to Article 21 of the Banking Commission Convention Appendix, as amended by Decision No. 010 of 29.09.2017/CM/UEMOA, which provides that: "The Banking Commission shall conduct or confer on the Central Bank, the responsibility for conducting off-site and on-site inspections of banks and FIs on a social or consolidated basis, as well as reporting entities to ensure compliance with the provisions applicable to them.

For the Microfinance Sector, Article 43 of Act No. 2012-14 of 21st March 2012 establishing the regulation of DFS states that places DFS under the supervision of the Ministry of Finance through the National Agency for the Supervision of DFS (ANSSFD), the BCEAO and the Banking Commission. The BCEAO and the Banking Commission exclusively deal with large DFIs.

The BCEAO and the Ministry of Finance jointly supervise authorized foreign exchange dealers according to the provisions of Article 4 of Appendix 1 of Regulation No. 09/2010/CM/UEMOA of 1st October 2010 on the external financial relations of the member States of the West African Economic and Monetary Union.

The Capital Market Authority is the regulatory body for the Collective Stock Investment Agencies (UCITS), the Regional Stock Exchange, the Central Custodian/Settlement Bank, Management and Intermediation Companies, Asset Management Companies and Business Providers (Art. 1 of Appendix 1 of Regulation No. 09/2010 / CM / UEMOA establishing the Regional Council for Public Savings and Financial Markets (CREPMF) renamed the Capital market Authority (AMF-UEMOA) by the Act of the Authority of West African Heads of State held in Lomé on 30th July 2018).

Insurance companies, on their part, are subject to the supervision of the Regional Insurance Supervision Commission (CRCA) (Art. 16 Treaty Establishing the Inter-African Insurance Contracts Conference (CIMA) and Article 10 of the CRCA Statutes).

The BCEAO and UEMOA Banking Commission supervise Electronic Money Institutions (Arts. 36 and 37 Directive N ° 008-05-2015 governing the requirements and procedures for operation as electronic money issuers in the Member States of the West African Monetary Union (UEMOA) of 21/05/2015) and Art. 21 of the Convention's Appendix governing the Banking Commission as amended by Decision No. 010 of 29/09/2017/CM/UEMOA).

Entry into the market

Criterion 26.2 - Generally, FIs must be licensed and registered before operating in the Republic of Benin.

Banks and FIs of a banking nature: Under the provisions of Article 2 of Act No. 2012-24 of 24th July 2012 establishing the Banking Regulation in the Republic of Benin, credit institutions require prior approval of the Minister of Finance.

DFS: Article 7 of Act No. 2012-14 of 21st March 2012 requires the prior approval of the Minister of Finance for the exercise of the activity of collecting savings and granting credit in the Republic of Benin.

Insurance sector: The provisions of Article 326 of the Insurance Code require insurance companies to obtain the prior approval of the Minister of Finance.

Regional Financial Market: Business stakeholders (SGI and SGP) must obtain the prior approval of the Regional Council pursuant to the provisions of Article 7 of the General Regulations.

Authorized foreign exchange dealers: Pursuant to the provisions of Article 1 of Regulation N° 09/2010 / CM UEMOA on the external financial relations of UEMOA Member States, to carry out the manual exchange operations, any natural or legal person requires prior approval by the Minister of Finance.

Electronic Money Settlements (EMS): Pursuant to the provisions of Article 8 of Directive N° 008-05-2015 governing the requirements and procedures for operating in electronic money issuance in the Member States of the West African Monetary Union (UEMOA) of 21st May 2015, no structure or institution shall engage in electronic money issuance without the prior approval or authorization of the Central Bank.

Benin prohibits the establishment of shell banks (Art. 31 of Act No. 2012-24 of 24th July 2012 establishing banking regulation in the Republic of Benin). Banks must incorporate their registered office in the territory of one of the UEMOA Member States in the form of a public limited company. This provision aims to avoid having domestic operating banks without a physical representation and management body.

Criterion 26.3 - Article 86 (2) (1) of the AML/CFT Act provides that: "Pursuant to the regulations in force, each supervisory authority shall take the necessary measures to define the appropriate Criterion for the possession, control or direct or indirect participation in the management or functioning of a financial institution".

The requisite legislative or regulatory measures to prevent criminals or their accomplices from holding or becoming beneficial owners of a significant interest or control of a financial institution, or from holding a management position therein, are provided for each sub-sector of financial institutions.

Banking sector: The provisions outlining the requirements for accessing the banking profession restrict the practice of this profession to only those persons who provide guarantees of sound reputation and morality. A person who, among other things, is convicted of a predicate offence of ML does not qualify to (i) head, administer or manage a credit institution or any of its agencies; (ii) conduct a banking activity, (iii) propose to the public for the establishment of a credit institution, or (iv) participate in the share capital of any credit institution (Art. 26 of Act No. 2012-24 of 24th July 2012 establishing banking regulations).

Furthermore, pursuant to Appendix 1 of the Act, regarding the documents and information required in the application file to operate as a credit institution, the principal shareholders (holding at least 5% of the voting rights or capital of the legal person) must file a notarized declaration on their assets and indicate the source of the funds used to constitute the share capital of the future establishment and the legality of these funds.

Insurance Sector: The provisions of Article 506 of the Insurance Code prohibit any natural or legal person who convicted of any crime or offence from practising the profession of general agent or insurance broker.

Shareholding attracts particular attention at the time of the license application and also during any significant change in the share capital or voting rights. Article 329 (7) of the CIMA Code provides that any transaction intended to confer a shareholding above 20% or a majority of the voting rights must obtain the prior approval of the Minister in charge of insurance, after obtaining the assent of the CRCA.

Microfinance Sector: Article 8 of Act No. 2012-14 of 21st March 2012 provides that at the time of reviewing the application for approval, the ministerial monitoring structure and the BCEAO obtain all information on the character of the promoters and, where applicable, their guarantors, as well as the good repute and experience of the people who would lead, administer or manage the decentralized financial system and its branches.

Furthermore, Article 30 of Act No. 2012-14 of 21st March 2012 also provides that "No one may be a member of an administrative, management or control body of a decentralized financial system, or directly or by proxy, administer, direct, manage or control a decentralized financial system or any of its agencies, propose to the public the establishment of a DFS, or have the power to commit the institution if that person is convicted of any asset-related offences or common crimes".

Stock market: Pursuant to the provisions of Article 27 of the General Regulations, Business shareholders (Management and Intermediation Company and Asset Management Company) must provide sufficient guarantees, particularly regarding the composition and the amount of their capital, as well as the good reputation of their leaders.

Furthermore, Article 32 prohibits natural persons convicted once or more times for forgery, fraud, misappropriation of public funds, violations of banking and foreign exchange Acts, crime, to be a shareholder, officer or director of any Management and Intermediation Company (SGI).

Authorized foreign exchange dealers: Article 2 of Directive N° 06/07/2011/RFE on the requirements governing the operations of authorized foreign exchange dealers requires the Central Bank to review the respectability of applicants for foreign exchange dealership through criminal records.

EMIs: The officers of electronic money institutions shall be of irreproachable good reputation (Art. 21 of Directive 008-05). Accordingly, any person who has been the subject of a final conviction for assets crimes or common crimes, does not qualify for appointment in an administrative body of an electronic money institution. The person cannot, directly or through an intermediary; administer, direct, manage or control an electronic money institution or any of its branches, subsidiaries or branches; or create an electronic money institution.

Furthermore, the institution is required to inform the Central Bank of any change in its governance.

Risk-based approach to supervision and monitoring

Criterion 26.4a - Article 86 of the AML/CFT Act requires supervisory authorities to ensure FIs and their foreign branches and subsidiaries in which they have majority shareholding, adopt and enforce measures in accordance with the provisions of this Act, to the extent permitted by local laws and regulations.

Criterion 26.4b - Articles 86 and 87 of the AML/CFT Act subject FIs providing money or value transfer or foreign exchange services to supervisory systems designed to ensure compliance with their national AML/CFT obligations.

More specifically, Article 43 of Act No. 2012-14 of 21st March 2012 on the regulation of DFIs in Benin confers the prerogative to the Minister of Finance to supervise the decentralized financial systems.

Concerning Electronic Money Institutions (EMIs): According to the provisions of Articles 36 and 37 of Directive N° 008-05-2015 governing the terms and conditions for operating as electronic money issuer in Member States of the West African Monetary Union (UEMOA) of 21/05/2015, the EMIs are supervised by the BCEAO. The provisions of Article 21 of the Appendix to the Convention governing the UEMOA Banking Commission as amended by Decision No. 010 of 29/09/2017/CM/UEMOA also subject them to the supervision of the UEMOA Banking Commission.

Authorized Foreign Exchange Dealers: Under Article 14 of the BCEAO Directive No. 06/07/2011/RFE on the requirements for operating as authorized foreign exchange dealer, the BCEAO and/or the Ministry of Finance conduct periodic inspection to ensure compliance by the approved structures with the provisions governing the exercise of the foreign exchange activity. The authorized foreign exchange dealers are required to submit to subject themselves to such inspections and provide all the information necessary for their smooth functioning.

Criterion 26.5 a-c - The Supervisory Authority conducts inspections based on its internal policy and procedures or the occurrence of major events. It does not use the ML/TF risk-based approach.

Criterion 26.6 - No provision requires the supervisory authority to review the assessment of the ML/TF risk profile of any FI or financial group, including compliance risk, regularly when important events or changes occur in the management and operations of the financial institution or financial group.

Weighting and Conclusion

The deficiencies identified in Recommendation 26 particularly relate to the lack of specific indication that supervision is based on AML/CFT risk, apart from the ongoing regulatory reforms which take it into account and the lack of any provision requiring the supervisory authority to review the "assessment of the ML/TF risk profile of any FI or financial group including compliance risk, regularly whenever events or changes occur in the management and operations of the financial institution or financial group.

Benin is rated PC on R. 26.

[Recommendation 27- Powers of Supervisory Authorities](#)

In its first MER, Benin was rated Partially Compliant on this recommendation for non-application of sanctions (administrative, disciplinary or criminal) since the entry into force of the law. It was also impossible to evaluate the real dissuasive nature of the sanctions because of the non-enforcement. Finally, there was no financial sanction for credit institutions, which makes it difficult to assess the proportionality of sanctions. The new AML/CFT Act adopted by Benin addresses the outstanding deficiencies.

Criterion 27.1 - The provisions of Articles 86 and 87 of the AML/CFT Act confer powers on the supervisory authorities to monitor or supervise FIs to ensure that they comply with their AML/CFT obligations.

Thus, the regulatory and legislative provisions of each sector of FIs confer on the supervisory authorities the powers to supervise and monitor FIs in Benin :

- *Banking sector*: Under the provisions of Article 21 of the Appendix to the Convention governing the UEMOA Banking Commission as modified by Decision N° 10 of 29th September 2017/CM/UEMOA, the BC conducts or instructs the Central Bank to conduct on-site and off-site inspection of banks and FIs to ensure compliance with the provisions applicable to them.
- *Microfinance sector*: Article 43 of Act No. 2012-14 of 21st March 2012 confers on the Minister of Finance the prerogative to supervise decentralized financial systems.
- *Authorized foreign exchange dealers*: Pursuant to the provisions of Article 14 of Directive N° 06/07/2011/RFE of 13th July 2011 relating to the requirements and modalities governing the exercise of the foreign exchange activity, the BCEAO and/or Ministry of Finance carries out periodic inspections to ensure that approved structures comply with the provisions governing the exercise of the foreign exchange activity.
- *Electronic Money Institutions (EMIs)*: Pursuant to the provisions of Articles 36 and 37 of Directive N° 008-05-2015 relating to the terms and conditions governing the exercise of electronic money issuance activities, the latter are subject to the supervision of the BCEAO. The provisions of Article 21 of the Banking Commission's Appendix to the Convention as amended by Decision No. 010 of 29/09/2017/CM/UEMOA shall also be subjected to the supervision of the UEMOA Banking Commission.

The Insurance sector is subject to the supervisory authority of the Minister of Finance and the Regional Insurance Supervision Commission (CRCA).

Criterion 27.2 - The provisions of Articles 86 and 87 of the AML/CFT Act confer powers on supervisory authorities to conduct inspection missions on financial institutions.

Criterion 27.3 - The provisions of Article 96 of the AML/CFT Act authorize the supervisory authorities to access information held by financial institutions and require the production of all relevant information and documents in compliance with the AML/CFT obligations without going through a Judge

Furthermore, Article 11 of the BCEAO Directive No. 007-09-2017 outlining the rules for the implementation by the FIs of the Uniform AML/CFT Act in UEMOA Member States requires FIs to produce all the documents and information necessary for the assessment of their AML/CFT system during the on-site inspection conducted by the supervisory authorities. These

documents shall include annual audit reports and annual reports on the implementation of the internal AML/CFT system.

Thus, the supervisory authorities of FIs are empowered by regulations to require the production of any information they deem necessary for the execution of their mandate:

- Banking sector: Article 31 of the BCEAO Statutes confers on it the right to obtain all documents necessary for the execution of its functions. Furthermore, it may enter into direct contact with companies and professional groups for the conduct of inquiries necessary for its information or that of the Council of Ministers. Besides, the provisions of Article 53 of Act N° 2012-24 of 24th July 2012 on banking regulations require credit institutions to provide, at the request of the Central Bank or Banking Commission, any information, clarifications, justifications and documents considered useful for the execution of their mandate. Article 25 of the Appendix to the Convention Governing the UEMOA Banking Commission as amended by Decision No. 10 of 29th September 2017/CM/UEMOA contains similar provisions.
- Microfinance sector: Article 56 of Act No. 2012-14 of 21st March 2012 regulating the DFS authorizes the Minister, the Central Bank and Banking Commission to request the submission of all documents, statistical records, reports and any other information necessary for the execution of their respective mandates.
- Stock market sector: The Regional Council is empowered to request the production of regular information and determines the content and submission modalities (Article 25 of the Appendix to the General Regulations adopted on 28th November 1997), within the framework of its onsite inspection missions.
- Authorized foreign exchange dealers: Pursuant to the provisions of Article 14, paragraph 2 of the Directive N° 06/07/2011/RFE on the requirements to deal in foreign exchange transactions, authorized foreign exchange dealers are required to provide all necessary information to the supervisory authorities upon their request.
- Electronic Money Institutions: Article 37 of Directive N° 008-05-2015 outlining the requirements and procedures the electronic money issuance operations stipulates that the Supervisory Authorities shall, in the conduct of their inspection mission, unconditionally obtain any information from the institutions concerned.

Criterion 27.4 - Article 112 of the AML/CFT Act and Article 14 of the BCEAO Directive No. 007-09-2017 establishing the modalities for the implementation the Uniform AML/CFT Act by FIs in UEMOA Member States, empower the supervisory authorities to impose sanctions according to Recommendation 35 for non-compliance with AML/CFT requirements.

Pursuant to the provisions of Article 31 of the Appendix to the Convention Governing the UEMOA Banking Commission as amended by the UEMOA Council of Ministers' Decision No. 10 of 29th September 2010, where the Banking Commission establishes any violation of banking regulations and any other legislation applicable to credit institutions in the territory of a Member State, it shall inform the Minister of Finance in that State and, without prejudice to criminal or other sanctions incurred, shall mete out one or more disciplinary sanctions including the withdrawal of operating license or authorization.

Also, under Article 77 of the Banking Act, the Banking Commission may impose, in addition to disciplinary sanctions, any pecuniary sanction, the amount of which shall be determined by a directive issued by the Central Bank. Article 3 of Directive No.006-05-2018 establishing the modalities for the application of pecuniary sanctions by the UEMOA Banking Commission, sets the maximum amounts of pecuniary sanctions at:

- 457 352.93 Euros for Banks;
- 149 401.63 for financial institutions of a banking nature.

Furthermore, with regard to the DFS, the provisions of Articles 70 and following of Act N° 2012-14 of 21st March 2012 outline the various disciplinary and administrative sanctions applicable. These are in addition to the provisions of Article 75, which requires for disciplinary sanctions without prejudice to criminal sanctions under common law".

For the insurance sector, Article 15 of the CRCA Articles of Association confers on it the prerogatives to impose disciplinary sanctions ranging from warning to the withdrawal of license, suspension or resignation of the managers, depending on the seriousness of the offence, for violation of the insurance regulations.

Regarding the stock exchange sector, Article 52 of the General Regulations and its Directive N° 49/2016 of 23rd November 2016 provide that in case of non-compliance with one or more rules, the Regional Council shall invite the SGI concerned to take measures to restore compliance with the rule in question. If the infraction observed persists, the Regional Council, under the General Regulations, decides on the sanctions to impose, including the suspension of all or part of the SGI's activities (Art. 26 of Act No. 2012-24 of 24th July 2012 establishing banking regulations activities).

Weighting and Conclusion

Benin meets all the requirements of this recommendation.

Benin is rated C on R. 27.

Recommendation 28- Regulation and Supervision of Designated Non-financial Businesses and Professions

In the last REM, Benin was rated NC on this Recommendation (ex Rec.24) due to insufficient regulation; lack of enforcement of AML regulations by casinos; lack of supervision by authorities, of casinos and other DNFBPs' compliance with AML/CFT obligations. Benin has embarked reforms to improve its DNFBP regulatory and supervisory system.

Casinos

Criterion 28.1a - Article 88 of the AML/CFT Act provides that: "No person operate any business as a Designated Non-Financial Business and Profession without prior registration by the relevant regulatory or supervisory authority, pursuant to the requirements stipulated by the regulations in force".

Furthermore, Decree No. 2011-324 of 2nd April 2011 establishing the terms and conditions for the operation of games of chance, money or betting by private legal entities and the issuance of

raffle tickets in the Republic of Benin, maps out the requirements for the issuance of incenses by State authorities to casinos and other entities.

Benin's AML/CFT Law could have provided for the issuance of a licence pursuant to R8. Although Decree No.2011-324 of 2nd April 2011 establishes the requirements for the issuance of licenses by the State authorities to casinos and other entities, it is not certain whether this requirement for entry into the profession guarantees compliance with the FATF Standard.

Criterion 28.1b - Article 86 (1) of the AML/CFT Act requires competent authorities to adopt the necessary legislative or regulatory measures to prevent criminals or their accomplices from holding or becoming the beneficial owners of a significant holding or control of a casino, from holding a managerial position therein or from becoming its operator.

Furthermore, Articles 6 and 7 of Decree No. 2011-324 of 2nd April 2011 establishing the requirements and modalities for the operation of games of chance, money or betting by private legal entities and issuing raffle tickets in the Republic of Benin, specify the requirements that must be met by natural or legal persons who wish to manage or benefit from the shareholdings in the operation of casinos. Among other requirements, they must show proof of their reputable character and produce a police clearance issued less than three (3) months earlier.

The Benin legislator has realized the full extent of the issue and has legislated by requiring DNFBPs to take measures to prevent criminals or their accomplices from taking control of a casino.

Although Decree N° 2011-324 of April 2, 2011 regulates the requirements for the exercise of gambling and betting activities, these provisions still have a general scope, with the notion of sound morality seemingly assimilated into the production of a police clearance.

Criterion 28.1c - Casinos are subject to regulation and monitoring for compliance with their AML/CFT obligations (articles 44 and 86 of the AML/CFT Act). However, Benin has not designated an authority to monitor and supervise casinos AML/CFT purposes.

Designated non-financial businesses and professions other than casinos

Criterion 28.2 - Article 1 item 7 and Articles 86 and 88 of the AML/CFT Act provide that a designated supervisory authority or self-regulatory body should be in charge of the oversight and compliance by designated non-financial businesses and professions with their AML/CFT obligations.

However, this supervisory and compliance body has not been specified and designated. Similarly, the requirements for such monitoring have not been specified

Criterion 28.3 - Article 1 item 7 and Articles 41, 86 and 88 of the AML/CFT Act requires Benin to ensure that designated non-financial businesses and professions are subject to surveillance mechanisms to ensure they comply with their AML/CFT obligations. Since no supervisory authority has been designated, it is impossible to monitor compliance with AML/CFT.

Criterion 28.4a - The provisions of Articles 86 and 87 of the AML/CFT Law of 25th July 2018 confer powers on the authorities necessary to perform their functions, particularly the

powers to monitor AML/CFT compliance. Since no supervisory authority has been designated, it is impossible to monitor compliance with AML/CFT.

Criterion 28.4b - Without a supervisory authority, there can be no effective action to prevent criminals or their associates from being professionally accredited, or from holding (or being beneficial owners of) a significant or majority shareholding, or to occupy a management position in a DNFBP.

Criterion 28.4c - Since no supervisory authority has been designated, sanctions are unlikely to be meted out for non-compliance with AML/CFT obligations.

All designated non-financial businesses and professions

Criterion 28.5a - Since there is no AML/CFT compliance supervisory authority, the supervision of DNFBPs is conducted based on the global risks identified in this sector by the NRA.

Criterion 28.5b - No DNFBP has conducted any sectoral risk assessment. It is therefore apparently difficult or even impossible to determine their risk profile and therefore apply any risk-based approach.

Weighting and Conclusion

In the entire DNFBP sector, there are no authorities designated to supervise and monitor the implementation of AML/CFT measures. With no sectoral risk assessments in the DNFBP sector, it is difficult to determine their risk profile and consequently apply any risk-based approach. The regulations do not adequately protect DNFBPs from being accessed by criminals or their accomplices.

Benin is rated NC on R. 28

Recommendation 29- Financial Intelligence Units (FIUs)

In the last evaluation, Benin was rated PC on this recommendation (ex Rec. 26). The main deficiencies predicate this rating had to do with the following reasons: FIU's powers did not extend to TF; the suspicious transaction report template issued by Ministerial Order had not been distributed to all reporting entities; the correspondents of the FIU within the State departments concerned were not yet appointed by Order of their line Minister; the lack of security standards at office headquarters; the lack of guarantee of autonomy due to inadequate budget allocations as well as the existing procedure.

Benin has embarked on several legal, institutional and operational reforms to strengthen the FIU framework.

Criterion 29.1 - Article 59, 60, 67 of the AML/CFT Act establishes a Financial Intelligence Unit (FIU) as a national centre for the receipt and analysis of STRs and other information related to ML, related predicate offences and TF, as well as the dissemination of the outcomes of such analysis.

Criterion 29.2a - FIU is responsible for collecting, analysing, enriching and utilising any information that may establish the origin or destination of the sums or the nature of the transactions that have been the reported (Art. 60(1) AML/CFT Act).

Criterion 29.2b - Pursuant to Article 60 (2) of the AML/CFT Act, the FIU receives all other necessary information from the supervisory authorities as well as criminal investigation officers, which it processes, as the case may be, in the form of a suspicious transaction report.

This provision is supplemented by Article 15 which provides that: "The FIs and the Designated Non-Financial Businesses and Professions are required to declare to the FIU, the cash transactions of any amount equal to or higher than the 15,000,000 Francs CFA, whether as a single transaction or several transactions that are related (BCEAO Directive N° 010-09-2017 of 25 September 2017).

Criterion 29.3 a – Under the provisions of the AML/CFT Act (Art 60), the FIU may request for the disclosure of any information held by reporting entities as well as natural or legal persons and which may be used to enrich the suspicious transaction reports.

Criterion 29.3b - The provisions of Article 70 of AML/CFT Act empowers the FIU the widest possible range of financial and administrative information, intelligence from the criminal investigative and prosecutorial authorities, necessary for the proper execution of its mandate. The FIU can request additional information from the declarant, other reporting entities, foreign FIUs, as well as any public and/or supervisory authority (art. 67(1), art. 70 of AML/CFT Law No.2018-004).

Criterion 29.4 a - The legal measures provided for in paragraphs 1, 2, 3 of Article 60 of the AML/CFT Act empowers the FIU to conduct operational analysis that makes use of the information available and likely to be obtained in order to identify specific targets, to trace specific activities or transactions and to establish the links between these targets and possible proceeds of crime, ML, predicate offences and TF.

Criterion 29.4 b - Article 60(1) (4) (5) (6) and (7) and (3) and (4) of the AML/CFT Law, give the FIU the power to conduct strategic analyses through monitoring and analysis of trends observed in money laundering and terrorist financing.

Criterion 29.5 - Paras. 2.3 and 5 of Article 66 of the AML/CFT Act authorize the FIU to disseminate, spontaneously and on request, all information and the outcomes of its analyses to the relevant competent authorities through dedicated, secure and protected channels. Indeed, the Benin-FIU has direct access, through an interconnected and secure platform, to the databases of certain Departments such as the Treasury and Public Accounting Department, Customs and Excise Duties Department, the Tax Departments, particularly for the purpose of combating tax fraud, customs fraud and offences related to exchange control regulations and financial relations with foreign countries. However, with regard to administrations with which it is not interconnected, the FIU exchanges with them through requisitions.

The objective here is to effectively disseminate information.

Criterion 29.6 (a) (b) and (c) – Benin’s legal framework provides for the security and confidentiality of information held by the FIU (art. 65 of Law No.2018-17 of 25 July 2018). Accordingly, the processing, storage and access to information received or provided and

the protection of such information is done through a secure system. The FIU has its own well-protected database that only authorized officials can access. The FIU keeps all documents, reports, and information it received securely in safes. The premises of the FIU are quite secure to prevent any unauthorized access (video surveillance, guarded day and night by a Republican Police detachment). FIU members and their correspondents take an oath before the competent court before assuming their duties. FIU support staff are also bound by the obligations of confidentiality and professional secrecy. They are subject to pre-hiring background checks and a confidentiality agreement. There are penalties for breach of professional secrecy.

Criterion 29.7a - Article 59 of the AML/CFT Act states that the FIU shall enjoy financial autonomy and powers to take decision-making power over matters falling within its jurisdiction. Thus, this provision confers on it the power and capacity to freely exercise its functions, particularly to independently decide to analyse, request and/or disseminate specific information.

Criterion 29.7b - Articles 74, 75 and 78 of the AML/CFT Act empower the FIU to be operationally independent and autonomous in the exchange of information, and to conclude agreements or independently decide to collaborate with other competent national authorities or with foreign counterparts. To enter into an agreement with another FIU, the FIU must first inform the minister of finance. Benin must prove that this situation still guarantees the FIU total independence to cooperate with its foreign counterparts.

Criterion 29.7 c - The FIU is an administrative authority with financial autonomy and independent decision-making power over matters within its jurisdiction, even though it is under the supervision of the Minister of Finance (Art. 59 AML/CFT Act). Benin-FIU is not part of any pre-existing authority.

Criterion 29.7d - Pursuant to Articles 59 and 73 of the AML/CFT Act the FIU has financial autonomy and independent decision-making power over matters falling within its ambit. The FIU derives its resources from the State budget as well as the contributions from UEMOA institutions and development partners.

Criterion 29.8 - The Benin-FIU became a full member of the Egmont Group since September under the sponsorship of the Senegal-FIU and the France-FIU (TRACFIN).

Membership of the Group was considered since 2010 (see paragraph 34, page 14 of the 2010 MER) and was effective in September 2018.

Weighting and Conclusion

The adoption of the 2012 Uniform AML/CFT Act, and in particular that of the current Uniform AML/CFT Act has provided an opportunity for the FIU to improve its legal and institutional framework. It has become an administrative authority with financial and decision-making autonomy. Besides, its recent Egmont Group membership complements these dynamics by giving the Financial Intelligence Unit international recognition, and thus the right to cooperate with FIU counterparts world-wide.

Benin is rated C on R. 29.

Recommendation 30 - Responsibilities of Law Enforcement Authorities

In its 1st MER, Benin was rated PC on this Recommendation (ex 27). The main deficiencies that justified this rating had to do with the following reasons: (i) lack of specialization of judicial structures in AML (including investigative practices) and insufficiency of existing territorial jurisdiction; (ii) postponing the arrest of persons or seizures, or abstention from making such arrests or seizures which are not explicitly prescribed in the fight against ML.

Since the last evaluation, Benin has made several changes in ML/TF prosecutions and investigations.

Criterion 30.1- In Benin, the competent prosecutorial authority for ML, related predicate offences and TF is the Court for the Repression of Economic Offences and Terrorism (CRIET) established by Act 2018-13 of 28th June, 2018.

Thus, pursuant to Articles 93 to 95 of the AML/CFT Act, and Articles 47 and following; 554 and following of Act 2012-15 of 18th March 2013 establishing the Code of Criminal Procedure, where this court is contacted for a case of ML/TF, it shall implement all the necessary investigative measures and ensure the regularity of the latter.

Criterion 30.2 - All investigators including the Republican Police, specialized investigation services and judicial authorities are required to investigate any offence brought to their knowledge. This obligation derives from the Criminal Procedure Code (art. 14, 19, 39, 40) which allows them to open a criminal investigation when there are grounds to believe that a crime has been committed. This allows investigators conducting investigations into predicate offences to continue investigating any offence related to ML or TF during a parallel financial investigation, regardless of where the predicate offence occurred.

The CRIET has jurisdiction in the repression of economic crime and terrorism and can handle both the predicate offence and the ML or TF offence that it may investigate at the same time.

Criterion 30.3 - Article 99 of the AML/CFT Act 2018-17 authorizes the investigating judge to prescribe provisional measures, including the seizure or confiscation of funds and assets in connection with the ML or TF offence that is being investigated and all the information that may identify them as well as the freezing of sums of funds and financial transactions relating to the said assets.

Criterion 30.4 - The FIU and the General Directorate of Public Treasury are not criminal prosecutorial authorities per se but conduct financial investigations to gather evidence of predicate offences. The FIU conducts the financial investigation by analysing and enriching the information it receives. It conducts or asks judicial police officers to investigate the social, economic or financial environment or an asset investigation to trace assets to find evidence of the offence committed (Article. 60 and (2) of the AML/CFT Law. During its investigations, the FIU can order the freeze of the controversial funds for forty-eight hours but cannot extend this timeframe or seize assets without the involvement of an examining judge (art. 68 of the AML/CFT Law). Tax authorities conduct financial investigations to find evidence of tax offences.

Criterion 30.5 - Act No. 2011-20 of October 12, 2011 on combating corruption and other related offences in the Republic of Benin does not grant the Anti-Corruption Authority the power to conduct ML/TF-related investigations using corruption as a criterion or related the latter.

Weighting and conclusion

Benin's legal and institutional mechanism provides for all the requirements under FATF Recommendation 30.

Benin is rated C on R. 30

[Recommendation 31 - Powers of Law Enforcement Authorities](#)

In its first MER, Benin was rated LC on this recommendation (former Rec.28) because of ineffectiveness.

Since the last evaluation, Benin has made several changes within the powers of the criminal prosecutorial and investigative authorities.

Criterion 31.1a - Articles 93 to 96 of the AML/CFT Act empowers competent authorities to have access to all documents and information to be used in such investigations and related prosecutions and actions including coercive measures.

This provision is enhanced by Articles 28 of the ACA and 562 of Act 2012-15 of 18th March 2013 establishing the Code of Criminal Procedure in the Republic of Benin.

Criterion 31.1b - The Court for the Repression of Economic Crimes and Terrorism (CRIET) which is the competent authority for the prosecution of ML/TF offences provides for powers and coercive measures to search persons and premises pursuant to Article 15 of Act 2018-13 of 2nd July 2018 establishing the judicial organization in the Republic of Benin, amended, and the establishment of the Court for the Repression of Economic Crimes and the terrorism.

Furthermore, Articles 108 to 110 and 147 of the AML/CFT Act specifically authorize the customs administration to carry out searches of persons and premises.

These provisions are supplemented by Articles 97 to 107; 555 and 556 of Act 2012-15 of 18th March 2013 on the Code of Criminal Procedure, 118 and 119 of Act 97-025 of 18th July 1997 on the control of drugs and precursors, 23 to 27 of Act 2011-20 of 12th October 2011 on combating corruption and other related offences in the Republic of Benin and Articles 63 and following of the Customs Code.

Criterion 31.1c - Article 95 of the AML/CFT Act the prosecutorial authorities can collect evidence on ML/TF.

The provisions of the Code of Criminal Procedure (Articles 116 to 118) also allows for the use of coercive measures in taking witness statements.

Criterion 31.1 d - Prosecutorial authorities have powers to seize and obtain evidence in ML/TF investigations (Arts. 108 and 147 AML/CFT Act).

These provisions are supplemented by the provisions of Articles 97 to 107; 555 and 556 of Act 2012-15 of 18th March 2013 on the Code of Criminal Procedure in the Republic of Benin, 118 and 119 of the Act 97-025 of 18th July 1997 on the control of drugs and precursors, 23 to 27 of Act 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin, 23 to 27 of the Act 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin, 63 and following of Act 2014-20 of 12th September 2014 establishing the Customs Code in the Republic of Benin and 587 to 590 of Act N° 2017-20 of 20th April 2018 on the digital code in the Republic of Benin.

Criterion 31.2 – Competent authorities have powers to conduct investigations using a wide range of techniques for investigating ML, associated predicate offences and TF, including:

a - *infiltration* (Article 94 of the AML/CFT Act; Articles 120 and following, 562 of the Act 2012-15 of 18 March 2013 on the Code of Criminal Procedure in the Republic of Benin; 22 of Act 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin);

b- *Telephone tapping* (Art. 93 AML/CFT Act, Articles 108 and 562 of Act 2012-15 of 18 March 2013 on the Code of Criminal Procedure in the Republic of Benin; 22 of the 2011-20 Act of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin and 594 to 596 of the Act No. 2017-20 of 20th April 2018 establishing the digital code in the Republic of Benin);

c - *computer systems* (Article 93 AML/CFT Act; Articles 608 to 610 and 635 of the 2017-20 Act of 20th April 2018 establishing the Digital Code in the Republic of Benin; 562 of Act 2012-15 of 18th March 2013 establishing the Code of Criminal Procedure in the Republic of Benin).

d – *monitored delivery* (Article 94 of the AML/CFT Act; Articles 22 of the Anti-Corruption Act; article 79 of the Act 2014- 20 of 12th September 2014 establishing the Customs Code in the Republic of Benin (the Customs Code) and articles 53, 559,560 of the Act 2012-15 of 18th March 2013 establishing the Code of Criminal Procedure in the Republic of Benin (CCP)).

Criterion 31.3a – Benin has a mechanism to determine without delay whether natural or legal persons hold or control accounts, the examining judge has the power, (without the possibility for FIs to invoke professional secrecy), to request the latter for any information on the account of natural or legal persons (Art. 36 and 93 of AML/CFT Law No.2018-004). He makes the request through a court order or by a simple request for information. Judicial police officers also have the authority to request this information in the same manner from FIs for the same purpose (Art. 54 of the CCP).

Criterion 31.3b - The judicial authority as well as investigators can identify assets without prior notification to the owner by simple request for information or through a court order in accordance with the legal provisions referred to in 31.3a.

Criterion 31.4 - Competent authorities can request for all relevant information held by the FIU (Art. 66 AML/CFT Act).

Weighting and Conclusion

Law enforcement authorities have the necessary powers to enforce the requirements under Recommendation 31.

Benin is rated C on R. 31

Recommendation 32 – Cash Couriers

In its first MER, Benin was rated non-compliant on this Recommendation (ex-RS IX) for the following reasons: the law on the financing of terrorism was not adopted; the residents were not subject to any declaration for the cross-border physical transport of cash or BNIs in the UEMOA currency zone issued by the BCEAO; There was no formal framework for collaboration between the Customs Services and the FIU for the communication of statistics of declarations on cross-border physical transport of cash and negotiable instruments; cases of offences identified by Customs were considered as exclusively customs offences.

Since the last evaluation, Benin has embarked on several reforms as part of the measures relating to cash couriers.

Criterion 32.1 - Benin has a declaration or disclosure system for cross-border transportation of cash and BNIs applicable only to third parties entering or leaving the UEMOA territory (art. 12 (1) of AML/CFT Law No.2018-004). Persons living or from a UEMOA member country are not required to declare. This system is not compliant with the standard requiring declaration or communication for all.

This provision is supplemented by the BCEAO Directive No. 008-09-2017 of 25th September 2017, setting the threshold for the declaration of physical cross-border transportation of cash and bearer negotiable instruments. The threshold set by BCEAO for declaration is CFAF5,000,000, about USD8,197 (Art. 1 of BCEAO instruction NO.008-09-2017). Also, exportation, by postal or any other means, of payment instruments (travellers' cheques, bank cheques, foreign bank notes, national or foreign securities) is subject to prior authorization by the department responsible for external finance. The sending and receipt of BCEAO-banknotes between any resident natural or legal person, other than BCEAO and its correspondent banks or business partners located outside UEMOA Member States, are prohibited (Art. 29 of Rule No.09/2010/CM/UEMOA on foreign financial relations).

Criterion 32.2 - All persons engaged in physical cross-border transportation of cash or BNIs valued at more than FCFA 5,000,000 (7 622 Euros) are required to submit a written declaration in good faith to the designated competent authorities (Art. 12 AML/CFT Act).

Criterion 32.3 - These requirements are not applicable because Benin's system provides for a written declaration.

Criterion 32.4 - Competent authorities have powers to require and obtain, from the holder, additional information concerning the origin of the cash or BNIs and the purpose for which they are intended, in case of discovery of a false declaration/disclosure of cash or BNIs or in case of lack of such declaration or disclosure (Art. 12 AML/CFT Act).

Criterion 32.5 - False declarations are punishable (Art. 12(4) of AML/CFT Law). Customs seize the full amount of undeclared cash and prepare a report (Art 111(1) of AML/CFT Law No. 2018-004). The customs code also provides for fines. . These sanctions seem to be proportionate and dissuasive.

Criterion 32.6 (a) (b) - Under Article 111 of the AML/CFT law, in of non-declaration, false declaration or incomplete declaration, as provided for under Article 12, or where there is suspicion of ML/TF, the customs administration seizes all the cash found and writes a report. The seized cash and a copy of the report of seizure are sent directly to the treasury, the State Consolidated Fund or to the organization in lieu thereof. Customs are required to submit a suspicious transaction report to the FIU within eight calendar days.

Criterion 32.7 - Articles 63 and 74 of the AML/CFT Act No. 2018-17 provides for Benin to establish a coordination mechanism between the customs services, the immigration authorities and any other relevant authority, with a view to ensuring compliance with the issues relating to the implementation of Recommendation 32.

Benin has not clearly described the coordination mechanism. This does not foster understanding of how coordination among the FIU, Customs, Immigration and any other competent authority is satisfactory.

Criterion 32.8 a - Customs can block or withhold, for a period not exceeding seventy-two hours, any cash or bearer instruments suspected to be linked to ML or TF. (Article 12(5) of the AML/CFT Law. In this case, a receipt is issued to the person concerned.

Criterion 32.8b - Customs can seize the full amount of cash found in case of false declaration (art. 12(6) and Article. 111 of the AML/CFT Law). In this case, it prepares a report, a copy of which is sent directly to the Treasury, the State Consolidated Revenue Fund (Caisse des Dépôts et Consignations) or to any organization in lieu thereof. The file of the operation is submitted to the FIU within eight calendar days, through the Customs Administration.

Criterion 32.9 a to c - The international legal instruments signed by Benin allow it to engage in acts of cooperation and offer suitable assistance, pursuant to Recommendations 36 to 40 on mutual legal assistance, extradition and confiscation as well as to offer all the other forms of AML/CFT cooperation (art. 138 to 155 of the AML/CFT Law).

However, this is subject to reciprocity and certain conditions such as respect for the sovereignty of the State, security and public order (Art. 78 paragraphs 1 and 2, points 1 and 2 of the Uniform AML/CFT Act). Customs keep statistics on the declaration of cash or BNIs as well as reports on seizures for false declaration or suspicion of ML/TF to foster such cooperation (see analysis under criteria 32.6 and 32.8).

Criterion 32.10 - Data on cash and BNI declarations collected by Customs are shared with the FIU (art. 111 of the AML/CFT Law of 04 May 2018), which can use them to conduct investigations or for other purposes. Non-resident travellers can freely import Franc Zone banknotes and means of payment denominated in foreign currency. The cash and BNI declaration obligation mentioned in criterion 32.2 only covers their traceability for AML/CFT purposes.

Criterion 32.11 - In cases of non-declaration or false declaration, the authorities can seize all the cash or bearer instruments (Art. 12 AML/CFT Act). Similarly, where cash or bearer instruments are likely to be linked to ML or TF, they may be withheld by the competent authority for a period not exceeding 72 hours. Finally, the Judge may order confiscation in favour of the State Treasury, of all funds or other financial resources (Art 128 and 129 of AML/CFT law). The sanctions are proportionate and dissuasive.

Weighting and Conclusion

Benin has made changes that have addressed deficiencies relating to the physical cross-border transportation of cash or BNIs. However, declarations are only mandatory for persons entering or leaving the UEMOA area and not for persons travelling between countries of the Union. The mechanisms for coordination among customs, immigration police and other government agencies have not been clearly described.

Benin is rated PC on R. 32

Recommendation 33 - Statistics

Benin was rated Partially Compliant with the requirements to produce on its AML/CFT regime for some reasons, the main ones being the lack of an overall mechanism to assess the effectiveness of the AML/CFT system and lack of mechanism at national level for the centralization of data provided by the various AML/CFT stakeholders. The provisions of the new Act specify that the FIU should issue periodic analytical reports on developments in AML/CFT activities at both national and international levels, and assess the declarations collected. However, for a better maintenance of statistics, the AML / CFT stakeholders should fulfil their obligations in that respect to ensure a more effective centralization by the FIU

Criterion 33.1 (a), (b), (c), (d) – The obligation to keep comprehensive statistics on issues relating to the effectiveness and efficiency of their AML/CFT system (on STRs received and disseminated and the investigation, prosecution and conviction for ML/TF is the responsibility of the FIU pursuant to Article 60 of AML/CFT Act No. 2018-17.

The collection of statistics (on prosecution and conviction, freezing, seizure, confiscation, MLA or other information) is facilitated and made available by FIU's correspondents or reporters to the State Departments and reporting entities referred to in Articles 63 and 64 of said Act.

Weighting and Conclusion

There is a mechanism for the collection of statistics on STRs, prosecutions and convictions, freezing, seizures, MLA or any other AML/CFT-related information. Given this fact, each institution in Benin, including FIU correspondents, is required to keep statistics centralized at the FIU.

Benin is rated LC on R. 33.

Recommendation 34 - Guidance and Feedback

The first MER rated Benin PC with the requirements of this recommendation due to a lack of guidelines within certain reporting entities. The existing guidelines were incomplete. The provisions in Benin's new AML/CFT Act have resolved the identified deficiencies.

Criterion 34.1 – Supervisory authorities and self-regulatory bodies are required to establish guidelines and provide feedback that would assist FIs and DNFBPs in the implementation of national AML/CFT measures, and particularly, to detect and report suspicious transactions (Arts. 86, 89-92 AML/CFT Act).

The supervisory authorities in the financial sector have issued specific Directives to combat ML/TF in their respective sectors. These include Regulation N° 007-09-2017 - establishing Modalities for the implementation of the uniform AML/CFT Law in FIs, Directive N° 35/2008 on ML at the level of the regional financial market and Regulation No. 0004/CIMA/PCMA/PCE/SG/08 for the insurance sector. These guidelines provide an opportunity for stakeholders in the financial sector in Benin to have detailed information on how to comply with the AML/CFT Law. However, for the DNFBPs, due to the lack of supervisory authority, AML/CFT, no guidelines were sent to them.

Weighting and Conclusion

The AML/CFT Act provides (see Art. 86) that the competent authorities of FIs and DNFBPs take guidelines. Although the implementation of the guidelines is effective for the competent FI authorities, this is not the case for DNFBPs.

Benin is rated PC on R. 34.

Recommendation 35 – Sanctions

In its first MER, Benin was rated Partially Compliant (NC) on this Recommendation (ex Rec. 17) because of the non-enforcement of sanctions (administrative, disciplinary or penal) application since the entry into force of the law; the impossibility to assess the real dissuasive nature of sanctions because of the lack of enforcement and because of the lack of pecuniary sanctions for credit institutions, making it difficult to assess the proportionality of sanctions. Since the last evaluation, Benin has carried out several reforms in the measures relating to sanctions.

Criterion 35.1 - Where failure to comply with AML obligations as a result of serious lack of diligence or a deficiency in the organisation of internal control procedures in relation to obligations imposed by CAPs II and III of the AML/CFT Act (preventive measures), the supervisory authority with disciplinary powers may act under the conditions laid down in the specific laws and regulations in force to impose administrative or disciplinary measures against a reporting entity (Article 112). In addition, the AML/CFT Act provides for the following sanctions:

In addition, under Article 116 of the AML/CFT Act, the following violations, when committed intentionally or unintentionally by reporting entities, attract a punishment of six months to two years imprisonment or a fine of one hundred thousand CFA Francs to one million CFA Francs (...) or both, applicable to natural and legal persons, including their officers or agents in relation to AML obligations:

- a) disclosure of records to persons other than specified competent authorities;
- b) failure to submit STRs as required by Article 79 of the AML/CFT Act where the circumstances led to infer that the sums of money could originate from ML;
- c) failure to implement preventive measures as specified in Article 18-40 and 79 of the AML/CFT Act (CDD, record-keeping, internal controls, suspicious transaction reporting); and
- d) tipping off concerning STRs and investigations.

Similar violations in relation to CFT obligations attracts a term of twelve months to four years imprisonment or a fine of two hundred thousand CFA Francs (CFAF 200,000) to three million CFA Francs (3,000,000) or both (Article 121, AML/CFT Act). Under this same provision, officers and managers of reporting entities are also liable to a fine of one hundred thousand CFA Francs to one million five hundred thousand CFA Francs for failure of a reporting entity to conduct CDD or file an STR.

CAPs II and III do not cover Recommendations 6 and 7. Also, the nature of the violations of the AML/CFT obligations do not determine the quantum of sanctions. Nor has it been demonstrated that the sanctions applied FIs are dissuasive and proportionate. There has been no sanctions against DNFBPs for failure to comply with AML/CFT requirements.

Criterion 35.2 – Articles 112,116 item 7, 121 to 125 of the AML/CFT Act 2018-17 provides for sanctions applicable not only to DNFBPs but also to members of the administrative bodies and senior management. However, the DNFBPs do not have a supervisory authority and therefore have not demonstrated the application of sanctions for non-compliance with their due diligence obligations.

Article 112 states that “where, following either a serious lack of due diligence or inadequate organization of its internal control procedures, a person targeted under Articles 5 and 6 misunderstands the obligations imposed on him/her by Caps II and II of the Law, the supervisory authority.....may act in line with the conditions provided for by the legislative and regulatory texts in force.”

Weighting and Conclusion

The AML/CFT Act provides for sanctions under the criteria under Recommendation 35.

However, there are no sanctions provided for unlicensed money transfer service providers. The mechanism has only minor deficiencies. The nature of the violations of the AML/CFT obligations does not determine the quantum of sanctions.

Benin is rated LC on R. 35

Recommendation 36 - International Instruments

In its first MER, Benin was rated NC on this Recommendation (ex Rec.35 and SR I) because of the incomplete implementation of the provisions of the Vienna and Palermo Conventions.

Since the last evaluation, Benin has undertaken several reforms in the measures relating to international instruments.

Criterion 36.1 – Benin is a signatory to the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, also known as the Vienna Convention (23rd May 1997, by accession), the United Nations Convention against Transnational Organized Crime, also known as the Palermo Convention (30th August 2004, by ratification), the Convention against Corruption, also known as the Merida Convention (14th October 2004, by ratification) and the International Convention for the Repression of TF (30th August, 2004).

Criterion 36.2 - Benin has implemented the Vienna and Palermo Conventions, and the TF Convention through the following legislations:

- Vienna and Palermo Conventions and Convention on the Financing of Terrorism: Act 97-025 of 18th July 1997 on the Control of Drugs and Precursors, AML/CFT Act. Benin has also criminalized the specific acts in the counter-terrorism instruments attached to the Conviction on terrorism financing (Article 162 of the Penal Code). However, this approach does not clearly and unequivocally include financing (the travelling) of foreign terrorist fighters.
- Merida Conventions: the ACA.

Weighting and Conclusion

“Benin has transposed into its domestic law the relevant United Nations conventions, notably on the tracing, identification and confiscation of assets in connection with the prosecution and repression of ML, its predicate offenses and TF. The country has criminalized FT, but gaps remain at this level as well, such as the absence of a national or sub-regional list, the non-criminalization of the financing of a terrorist organization or of an individual terrorist for any purpose, and the financing of foreign terrorist fighters. These various shortcomings hamper the ability of national competent authorities to track down and seize the criminal assets linked to these offenses, to involve other foreign competent authorities and to effectively combat the financing of terrorism. ”

Benin is rated LC on R. 36.

[Recommendation 37 - Mutual Legal Assistance](#)

The first MER rated Benin LC on this Recommendation (ex R.36) and rated Non-compliant on the former SR.V because of the failure of the competent to determine the place of seizure in case of conflict of jurisdiction; the lack of statistics and failure to pass the law on financing.

Since the last evaluation, Benin has carried several reforms in respect of MLA measures.

Criterion 37.1 – Article 138 of the AML/CFT Act 2018-17 of 25th July 2018 in the Republic of Benin requires the country to establish a legal basis enabling it to rapidly provide the widest possible range of MLA for investigations, prosecutions and related proceedings relating to ML, associated predicate offences and TF.

Those of Articles 172 supplement the provisions of the Article mentioned above to 186 of the Act 2012-15 of 18th March 2013 establishing the Code of Criminal Procedure in the Republic of Benin, Articles 142 to 145 of the Act 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin and Article 613 of Act No. 2017-20 of 20th

April 2018 establishing the Digital Code in the Republic of Benin, supplemented by the following bilateral or regional Conventions by Benin:

- Convention A/P1/7/92 on Mutual Assistance in Criminal Matters (Dakar, 29th July 1992);
- Protocol on the Establishment of the ECOWAS Intelligence and Criminal Investigations Office adopted in Niamey on 12th January 2006;
- Criminal Police Cooperation Agreement among ECOWAS Member States (Decision A/DEC.9/12/03 of the Authority of 19th December, 2003);
- Convention on Mutual Legal Assistance in Criminal Matters of 1992;
- Convention between the Government of the Republic of Benin and the Government of the French Republic on the concerted management of migrants' flows and joint development (Article 21 on police co-operation);
- Cooperation Convention on justice between the Government of the Republic of Dahomey and the Government of the French Republic of 27th February, 1975;
- Interpol-ECOWAS Agreement;
- ECOWAS Protocol on Combatting Corruption of 2001
- WAPIS (West Africa Police Information System) Agreement
- Status of the International Criminal Police Organization-INTERPOL (Benin's membership on 19th September, 1962).
- Convention on security cooperation assistance among the States of the Council of the Entente of 15th February, 1996.

Criterion 37.2 – Several State structures provide input to cooperation in mutual legal assistance. These are mainly:

- The Department of Legal Affairs of the Ministry of Foreign Affairs and Cooperation;
- The Department of Civil, Criminal and Pardon Affairs of the Ministry of Justice and Legislation;
- the National Central Bureau of the International Criminal Police Organization (ICPO-INTERPOL)
- The Financial Intelligence Unit (FIU).

However, it is the Department of Civil and Criminal Affairs and Grace that co-ordinates MLA issues, thus acting as the central authority.

Although there is no specific case management system, the guidelines on the proper administration of justice, which require diligent and timely processing of all cases, are fully applicable here.

Furthermore, all public officials, especially those in charge of processing requests, are required to perform their functions with probity, loyalty, conscience and dedication (see Art 35 of the Constitution). In the event of a breach of these obligations, the officer is liable to administrative and judicial sanctions.

The country should be more specific in the designation of the central authority in charge of executing mutual assistance requests,

Criterion 37.3 - MLA is prohibited or subjected to unreasonable or unduly restrictive conditions (Arts. 138 to 140 AML/CFT Act).

Criterion 37.4 a - The legal requirements for refusal to execute an MLA request provided for in Article 140 (1) (1) to (8) of the AML/CFT Act does not include in the grounds for refusal to execute an MLA request relating to tax offences.

Criterion 37.4b - Article 140 (2) of the AML/CFT Act prohibits the invocation of professional secrecy or confidentiality as grounds for refusing to execute any request for mutual legal assistance. Article 96 takes precedence over professional secrecy and confidentiality provisions in any law or regulation for FIs and DNFBPs. In this regard, FIs and DNFBPs can provide information to competent authorities regarding the investigation of ML and terrorist financing offences ordered by the investigating judge or made under the supervision of the investigation by the State officials responsible for the detection and repression of such offences. There is no explicit provision for Benin to refuse to provide mutual legal assistance under the circumstances covered by professional legal secrecy or privilege.

Criterion 37.5 - Article 141 of the AML/CFT Act 2018-17 of 25th July 2018 in the Republic of Benin requires the country to preserve the confidentiality of requests for MLA received and the information contained therein. Where it is not possible to execute the request without disclosure, Article 141 (2) requires the competent authority to inform the requesting State, which would decide whether or not to maintain the request. Articles 143 and following of the Anti-Corruption Act, as well as Article 12 of the Code of Criminal, supplement these provisions.

Criterion 37.6 - The applicant must prove that the facts constitute an infringement under Benin Law but does not make it an obligation when the request relates only to the delivery of procedural documents or court decisions (Art. 139(4) AML/CFT Act). Pursuant to Article 140 of the AML/CFT Law, dual criminalization is a prerequisite for the provision of mutual assistance.

Dual criminality is a general principle of common law in the area of extradition (Art. 734 Code of Criminal Procedure).

Criterion 37.7 - Benin's ML/TF legislation does not require dual criminality as a prerequisite for mutual legal assistance. It simply requires, pursuant to Article 138, that the request be related to an ML/TF offence (Articles 7 and 8). The provision does not appear to cover issues relating to the criminalization of the predicate conduct to the offence.

Criterion 37.8 a -The competent authorities may execute a wide range of requests for MLA. They include production, access to computer systems, networks and servers, search and seizure of information, documents or evidence, including financial information, from financial institutions, natural persons or other legal persons, through surveillance or interception of communications, and the recording of statements. The competent authorities also have the power to search, seize and apply for an interim order to seize assets or provide information for requests where the concerned individual could be the subject of a criminal investigation in Benin (Articles 93, 94, 95, 138 and 147 of the AML/CFT Act).

Criterion 37.8b - Articles 93, 94, 95, 96, of Act 2018-17 of 25 July 2018 confer the competent authorities the other powers and the most extensive survey technique. The Anti-Corruption Act (Art. 142 -144), the Criminal Procedure Code (Art. 97 -105; 108, 562, 565) and the Customs Code (Art. 76), supplement these provisions.

Weighting and Conclusion

The country does not have any significant deficiencies in respect of the requirements of this Recommendation.

Benin is rated C on R. 37

Recommendation 38- Mutual Legal Assistance: Freezing and Confiscation

In its first MER, Benin was rated PC on this recommendation (ex R.38) because of the lack of provisions on seizure and confiscation of assets of equivalent value; mechanism for coordinating initiatives with other States; Fund for seized and confiscated assets and asset-sharing arrangements with other States; statistics. Since the last evaluation, Benin has carried out several reforms in respect of MLA measures (freezing and confiscation).

Criterion 38.1 (a), (b), (c), (d) and (e) — The competent authorities have powers to take expeditious actions in response to requests from foreign countries to identify, freeze, seize and confiscate assets laundered, the proceeds of ML, predicate offences and TF the instrumentalities used or intended for use in the commission of such offences or assets of equivalent value (Arts. 99, 100, 144, 148-150 AML/CFT Act).

Criterion 38.2 - The competent authorities can provide assistance in connection with requests for cooperation under non-conviction based confiscation proceedings and related provisional measures, at least in circumstances where the offender is dead, has absconded, is absent or unknown, unless it contravenes the core principles of their domestic law (Arts.148 and 149 AML/CFT Act).

These provisions are supplemented by those provided for in Articles 151 and 152 of Act No. 2011-20 of 12th October 2011 on combatting corruption in the Republic of Benin.

Criterion 38.3 – Depending on the nature of the requests, the presiding magistrate or magistrate or the senior investigating judge of the Cotonou Court receives and executes requests for the recovery of seized or confiscated assets presented by a foreign judicial authority based on the United Nations Convention Against Corruption (Article 147, ACA).

Article 151 of the AML/CFT Act provides for a mechanism designed to manage all frozen and seized or confiscated assets.

This criterion has two components: (a) first, the existence of agreements with other countries to coordinate seizures and confiscations which Benin has met following its accession to the relevant Conventions; (b) and then the existence of a mechanism for the management of seized or confiscated assets and the possibility of disposing of them, has not been indicted by the country.

Criterion 38.4 - Article 151 of the AML/CFT Act and Article 151 paragraph 2 of Act 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin, provide the conditions for sharing confiscated assets with other countries.

Weighting and Conclusion

There are agreements with other countries to coordinate seizure and confiscation actions. Similarly, there is no effective mechanism for the management of assets seized or confiscated and their availability when needed.

Benin is rated LC on R. 38.

Recommendation 39 – Extradition

In its first MER, Benin was rated PC for this recommendation (ex R.38) due to the lack of statistics for the evaluation of the effectiveness of the extradition mechanism.

Since the last evaluation, Benin has implemented several reforms in respect of the measures relating to extradition.

Criterion 39.1a - Benin has a legal framework which requires competent authorities to execute extradition requests (Articles 132 and 156 of the AML/CFT Act). ML and TF are offences that could lead to extradition (Article 156 of AML/CFT Law).

Criterion 39.1b – There is a simplified procedure for the execution of extradition requests (Article 157 of the AML/CFT Law). However, this law does not provide for any clear case and procedural management system for the timely execution of extradition requests, much less the mapping out of priorities.

Criterion 39.1c - Article 156 of the AML/CFT Act outlines the reasonable conditions for the execution of extradition requests.

Criterion 39.2 - Pursuant to Articles 639 and 737 of Act No. 2012-15 of 18th March 2013 on the Code of Criminal Procedure in Benin, the country does not extradite its nationals. Article 161 of the AML/CFT Act requires Benin, in case of refusal of extradition, to submit the case without delay for the competent State authorities to prosecute the offences mentioned in the request.

This provision is supplemented by those under Article 636 of Benin’s CCP which provides that any Benin national who has committed any act qualified as a crime or misdemeanour under Benin law, outside the national territory, may be prosecuted and tried by the competent courts of that country.

Criterion 39.3 - Art. 156 of the AML Law provides that no exemptions shall be made from the common jurisdiction rules of extradition, particularly those relating to the principle of dual criminality. Benin’s legislation also requires dual criminality, that is, the extradition request should be based on an offence provided for by law (Art. 731 CCP of Benin). With regard to the two States concerned, the facts underlying the said request should either constitute an offence liable to at least two years imprisonment or at least six months imprisonment and, that ultimately it should be a common-law offence (crimes or offences not directed against any form of government). The offences of universal jurisdiction provided for by the international

conventions ratified by Benin are assimilated into common-law offences (Art. 733 of CCP of Benin). Under such conditions, it is impossible to affirm that the dual criminality requirement is considered as met in Benin once both countries concerned criminalise the act that forms the basis of the offence. This is regardless of whether or not they classify the offence that is the subject of the extradition request in the same category of offences or whether or not they use the same terminology to designate the said offence.

Criterion 39.4 - Pursuant to the provisions of Article 157 of AML/CFT Act and core principles of domestic law, Benin has simplified extradition mechanisms in two cases: if during his appearance the interested party formally consents to be handed over to the authorities of the requesting country, the competent Benin authorities take note of this (Art. 746 of CPP) or in case of emergency, and at the direct request of the requesting country, the competent Benin authorities can, on a simple notice, order the provisional arrest of the foreigner being prosecuted.

These simplified extradition procedures are applied in the UEMOA zone between member States but not within a more general framework, including non-member States of the Union.

Weighting and Conclusion

Benin's regime seems to be largely compliant with the provisions of the AML/CFT Act and the relevant provisions of the Code of Criminal Procedure. However, the dual criminality requirement cannot be considered as met because the two States concerned criminalize the act which gave rise to the extradition request. The Law does not provide for a clear case management system and procedures for the prioritization or execution of extradition requests without delay.

Benin is rated LC on R. 39.

Recommendation 40- Other Forms of International Cooperation

In its first MER, Benin was rated PC on this Recommendation (ex R.40) because of the lack of information gathering system on international AML/CFT cooperation; implementation; and statistics.

Since the last evaluation, Benin has implemented several reforms in respect of other forms of cooperation.

General principles

Criterion 40.1 - International cooperation in the context of ML is wide and is achieved at several levels as provided for by the AML/CFT Act.

The first level is provided for under Articles 76 and 77 of the said Act. Article 76 requires the FIU to cooperate with the FIUs in the other UEMOA Member States and to provide them, within the framework of an investigation and on a reasoned request, with all information and data relating to the investigations undertaken as a suspicious transaction report at the national level. The FIU is also required to submit detailed periodic (quarterly and annual) reports on its activities to the BCEAO. The same Article calls for the establishment of a mechanism for

cooperation and sharing of best practices among FIUs. Article 77 highlights the facilitation and coordination role of the FIU's activities that the BCEAO is supposed to play.

The second level of cooperation is provided for by Article 78 of the AML/CFT Act, which deals with cooperation between FIU and foreign financial intelligence units. Here, the exchange of information is possible spontaneously and on request but subject to reciprocity.

Furthermore, pursuant to Article 132 of the Act of the AML/CFT Act, judicial cooperation can be done through the International Criminal Police Organization (ICPO-Interpol) in case of emergency. Such exchanges of information could be done spontaneously and on request.

Criterion 40.2a - Articles 76, 77, 78, 130 paragraph 2 and 132 of the AML/CFT Act 2018-17 of 25th July 2018 requires the competent authorities to establish international cooperation on a legal basis. Based on these Articles, some of the MoUs specify the modalities for implementing this cooperation.

For instance, the Benin-FIU has signed cooperation agreements with the FIUs of France, Belgium, Morocco, Luxembourg, and GIABA and RECEN-UEMOA member countries.

Criterion 40.2b - Articles 76, 77, 130 and 132 and 142 of the AML/CFT Act provide for most effective means for competent authorities to achieve international cooperation.

Criterion 40.2c - Articles 139 to 143 of the AML/CFT Act provide for channels, circuits or clear and secure mechanisms to be used by competent authorities to facilitate the transmission and execution of requests. There are other secure information exchange channels such as the Egmont Secure Web networks; I-24/7 for exchanges between the INTERPOL BCN, CEN-COM, the Customs services and the diplomatic channel.

However, the country does not provide for clear and secure internal procedures designed to facilitate and allow the transmission and execution of the requests it receives.

Criterion 40.2d - Articles 131; 132; 134; 135; 136; 137; 142; and following of the AML/CFT Act outlines clear procedures for the transfer of prosecutions and mutual legal assistance.

Article 139 (8) of the AML/CFT Law even provides that the requesting State should indicate in its request the timelines it wishes its request to be followed up or executed.

However, beyond the general provisions, Benin has no further precise internal provisions for the prioritization and timely execution of requests received.

Criterion 40.2 e Articles 65, 66, 78, 82 and 141 of AML/CFT outlines clear procedures for the protection of information received by the FIU.

In addition, Article 141 of the AML/CFT Law also requires the competent authority for MLA to maintain secrecy on this request, its scope, attached documents and even the facts relating to this assistance.

Criterion 40.3 - The Benin-FIU has the power to negotiate and sign at the opportune time, all bilateral or multilateral agreements or arrangements, with the largest possible number of foreign counterparts (Art. 78 of AML/CFT Law). The other competent Benin authorities are empowered to exchange information with their counterparts, within the framework of duly

signed cooperation agreements and based on the principle of reciprocity. Cooperation can also take place through the dynamic networks and information exchange forums of international organizations, of which several national services are members, such as Interpol, the World Customs Organization (WCO), and the World Forum on transparency and the exchange of information for tax purpose. However, the AML/CFT Law does not indicate that other authorities can negotiate agreements at the opportune time. However, the AML / CFT Law does not indicate that the other competent authorities can negotiate agreements at the opportune time with the largest number of foreign counterparts.

Criterion 40.4 - Article 135 of the AML/CFT Act requires the competent requesting authorities to ensure a timely feedback to the competent authorities from which they received assistance by forwarding a copy of any decision taken as legally binding.

Criterion 40.5a - The legal requirements for refusal to execute a request for MLA as provided for in Article 140 (1) (1) to (8) of the AML/CFT Act does not specify any grounds for refusal to execute any request for MLA for tax-related offences.

Criterion 40.5b - The legal conditions for refusal to execute a request for MLA as provided for in Article 140 (2) of the AML/CFT Act provide that no request for MLA shall be refused because of professional secrecy.

Criterion 40.5 c - Article 140 (1) (3) of the AML/CFT Act states that MLA may be refused only if "the relevant facts are the subject of criminal proceedings or have already been the subject of a final court decision at domestic level".

Criterion 40.5 d - Benin may only refuse MLA if the MLA "does not emanate from a competent authority under the law of the requesting State or has not been conveyed regularly" (Art. 140 (1) (1) AML/CFT Act). No mention is made of the nature or status (for example, civil, administrative or judicial) of the requesting authority.

Criterion 40.6 - Articles 65, 66, 78, 82 and 141 of AML/CFT Act require Benin to put in place controls and protective measures to ensure that the information exchanged by the competent authorities is used only for the purposes and by the authorities for which the information was requested or provided, except where prior authorization is granted by the requested competent authority.

These provisions are supplemented by those of Articles 10 and following of the Act 2009-09 of 22nd May 2009 on the protection of personal data in the Republic of Benin.

Criterion 40.7 - Articles 65, 66, 78, 82 and 141 of the AML/CFT Act require Benin to put in place controls and protective measures to ensure that the information exchanged by the competent authorities is used only for the purposes and by the authorities for which the information was requested or provided. The competent authorities shall ensure reciprocity of these measures with the competent requesting authority and may refuse to provide information on the contrary.

These provisions are supplemented by those of Articles 10 and following of Act 2009-09 of 22nd May 2009 on the protection of personal data in the Republic of Benin.

Criterion 40.8 - Articles 76 and 78 of the AML/CFT Act empower the competent authorities to issue requests on behalf of a foreign counterpart and to exchange with their foreign counterparts all information that could be obtained if these requests were made internally.

Furthermore, Article 21 of Decree No. 2018-347 of 25 July 2018 on the mandate, composition and functioning of the FIU reinforces the provisions of the aforementioned Articles.

Exchange of information among FIUs

Criterion 40.9 - Under Articles 76, 77, 78 of the AML/CFT Act the Benin-FIU has the appropriate legal basis for cooperation in cases of ML, related predicate offences and TF.

Criterion 40.10 - Articles 76 and 78 of the AML/CFT Act empower Benin-FIU to provide feedback to its foreign counterparts on the use of the information provided and the outcomes of the analysis conducted on the basis of this information.

Criterion 40.11 (a) and (b) - Article 76 to 78 of the AML/CFT Act authorises Benin-FIU to exchange all the information that must be consulted or obtained directly or indirectly by it, particularly by virtue of Recommendation 29 and any other information it has the power to consult or obtain, directly or indirectly, at national level, subject to the principle of reciprocity.

Furthermore, the provisions of the aforementioned Articles are reinforced by those of Article 21 of Decree No. 2018-347 of 25th July 2018 establishing the functions, organization and operation of the FIU.

Exchange of information among financial supervisory authorities

Criterion 40.12 - Articles 86 (8) and 89 of the AML/CFT Act provide the legal basis for the cooperation of the financial sector supervisory authorities with their foreign counterparts (regardless of their respective nature or status), pursuant to the relevant international supervision standards, particularly with regard to the exchange of information relating to AML/CFT, or relevant in this regard.

Furthermore, pursuant to the provisions of Article 42 paragraph 2 of the Appendix to the Convention governing the UEMOA's Banking Commission, the latter may enter into cooperation agreements with supervisory authorities in the area of supervision and Resolution.

Criterion 40.13 - Articles 86 (8) and 89 of the AML/CFT Act empower supervisory authorities of the financial sector to exchange information with their foreign counterparts at the national level, including information held by financial institutions, depending on their respective needs.

Furthermore, pursuant to the provisions of Article 42 paragraph 2 of the Appendix to the Convention governing the UEMOA's Banking Commission, the latter may enter into cooperation agreements with supervisory authorities in the area of supervision and Resolution.

Criterion 40.14 - Articles 86 (6) and (8) 89 of the AML/CFT Act empower the financial sector supervisory authorities to exchange relevant types of information in the context of AML/CFT, particularly with other relevant supervisory authorities sharing a common responsibility vis-à-vis FIs operating within the same group.

Furthermore, pursuant to the provisions of Article 42 paragraph 2 of the Appendix to the Convention governing the UEMOA's Banking Commission, COBA may transmit information particularly concerning credit institutions subject to UEMOA banking regulations, to the Authorities responsible for the supervision of similar institutions in other countries, subject to reciprocity and provided these Authorities are themselves bound by professional secrecy. In this regard, it may particularly enter into any cooperation agreement with other authorities responsible for the supervision of credit institutions, insurance companies, social welfare institutions and capital markets. However, no details were provided on the precise nature of the information that may be exchanged in this context.

Criterion 40.15 - Articles 86 (6) and (8) 89 of the AML/CFT Act allow supervisory authorities to provide rapid and effective cooperation, including through the exchange of information, to their foreign counterparts.

Foreign counterparts: It should be noted that this provision of the AML/CFT Law does not explicitly provide for the possibility for financial sector supervisory authorities to seek information on behalf of their foreign counterparts and, where necessary, to authorize them to the country in the quest for information.

However, pursuant to the provisions of Article 61 of the Appendix to the Convention governing the UEMOA Banking Commission, the latter may enter into cooperation agreements with supervisory authorities in the area of supervision and resolution.

The Banking Commission is empowered to set up, with other supervisory authorities, a college of supervisors for each financial holding company and parent company credit institution with significant international activity.

It may also participate, as host supervisory authority, in the college of supervisors of foreign groups, on invitation by the original supervisory authority.

Criterion 40.16 - No legislation provides for any obligation for financial sector supervisory authorities to require prior authorization to disseminate or use information exchanged with their foreign counterparts.

Information: However, Article 60 of the Appendix to the aforementioned Convention authorizes COBA to disclose information on the status of an accountable institution to another supervisory or resolution authority, subject to reciprocity and confidentiality.

Consequently, only the respect of reciprocal confidentiality clauses is required on this point.

Exchange of information among criminal prosecutorial authorities

Criterion 40.17 - Articles 138 and 149 of the AML/CFT Act empower criminal prosecution authorities to exchange information they possess at the national level with their foreign counterparts for intelligence-gathering or investigation purposes in ML or TF cases or related predicate offences, including in order to identify and track the proceeds and the instrumentalities of the crime.

Furthermore, these provisions are reinforced by those of Articles 142 and 143 of the Act N° 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin.

Criterion 40.18 - Criminal prosecution authorities can use their powers, including investigative techniques, to investigate and obtain intelligence and information for their foreign counterparts on ML, associated predicate offences or TF. They can apply such powers to identify and trace the proceeds and instrumentalities of crime. (Art 93, 94, 95, 138 and 147 and 149 of AML/CFT Act).

Furthermore, these provisions are reinforced by those of Articles 142 and 143 of the Act N° 2011-20 of 12th October 2011 on combatting corruption and other related offences in the Republic of Benin.

Criterion 40.19 - Article 142 paragraph 3 of the AML/CFT Act 208-17 of 25th July 2018 empowers criminal prosecutorial authorities to establish joint investigation teams to carry out investigations in a cooperative manner and, where necessary, establish bilateral or multilateral Agreements to authorize such joint investigations.

Besides, competent authorities have concluded several Agreements within the framework of UEMOA, ECOWAS and Interpol designed to enhance police and judicial cooperation, which may particularly lead to the establishment of joint investigation teams as indicated in criterion 37.1 (Recommendation 37).

Exchange of information among non-counterpart authorities

Criterion 40.20 - In the area of international cooperation enshrined in the provisions of Articles 130-160 of the AML/CFT Act the exchange of information is total and complete among competent authorities, regardless of their nature or status (civil, administrative or judicial) of the requesting authority (see criterion 40.5 item d)

In other words, the exchange of AML/CFT information among non-counterpart authorities, whether directly or indirectly, is not prohibited by any provision of the AML/CFT Act.

Weighting and Conclusion

The country criminalized terrorism financing in 2012, has signed many bilateral agreements with its counterparts in Africa and the world and joined the Egmont Group. All these advances enable it to benefit from efficient international cooperation. The mechanism has only minor deficiencies.

Benin is rated LC on R. 40.

Summary of Technical Compliance – Key Deficiencies

Table 1- Summary of Compliance with the FATF Recommendations

Compliance with the FATF Recommendations		
This table presents the ratings and a summary of all the factors justifying such ratings.		
Recommendation	Rating	Factor (s) justifying the rating •
1. Risk assessment and implementation of a risk-based approach	LC	<ul style="list-style-type: none"> • No specific mechanisms for providing information on the results of the NRA to stakeholders. • There is limited requirement to supervise reporting entities for implementation of their obligations under Recommendation 1. • Benin lacks supervisory mechanisms for DNFBNs. • Application of RBA to supervision and allocation of resources to prevent or mitigate ML/TF risks is very limited or non-existent across sectors. • Exemptions are not based on proven lower ML/TF risks. • There is no express requirement to consider the threats, vulnerabilities and consequences before determining appropriate ways of mitigating the risks.
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> • There are no provisions for the establishment of cooperation mechanisms at the operational level to combat the financing of the proliferation of weapons of mass destruction.
3. Money laundering offence	LC	<ul style="list-style-type: none"> • There is no precision, including precedent regarding whether it is not necessary for a person to be convicted of a predicate offence to prove that an asset is the proceed of a crime.
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The requirement to confiscate instrumentalities used in or intended for use is limited to corruption offences. • There is no information on the implementation of measures, including legislative measures, enabling competent authorities to identify, trace and evaluate assets subject to a confiscation measure; • Benin has not established mechanisms or procedures for the management of all seized or confiscated assets.
5. Terrorist Financing offence	PC	<ul style="list-style-type: none"> • The financing of an individual terrorist and a terrorist organization for any purpose, as well as financing the travelling of foreign terrorist fighters are not criminalised.

<p>6. TFS related to Terrorism and Terrorist Financing</p>	<p>PC</p>	<ul style="list-style-type: none"> • For designations under the UN Sanctions Regimes, the country lacks (a) mechanisms for identifying targets for designation in line with the designation criteria set out under relevant UNSCR 1267, (b) evidentiary standard of proof in determining whether to designate; (c) procedures and standard forms to be followed for listing targets; and (d) requirements on information for listing and related matters. • For listing under Resolution 1373, Benin lacks express procedures for identifying targets, determining whether to designate (focuses on freezing). Evidentiary standard for designation only applies to requests from other countries. • Benin has no legal provision to request other countries to give effect to actions initiated by Benin. • There is no express provision for obtaining information to facilitate designation. • The freezing measures provided for by law do not target the funds and other assets of persons and entities acting on behalf of or the Directives of designated persons or entities. • Lack of authority or procedure or mechanisms to operate ex-parte during consideration of a proposal to designate an identified person or entity. • The requirement to report attempted transactions is limited to requests for wire transfers. • Prohibition from making funds available to designated persons focuses on reporting entities. Benin does not have publicly known procedures for requesting for review. • There is no mechanism for communicating de-listing and guidance on obligation to respect unfreezing action.
<p>7. Targeted financial sanctions related to proliferation</p>	<p>PC</p>	<ul style="list-style-type: none"> • The procedures do not include funds or other assets of designated persons or entities acting on behalf of or the Directives of sanctioned persons or entities. • The Law does not mention the requirements for exemption provided for in Resolution 2231 (2015), 2321 (2016) and 2356 (2017)

8. Non-Profit Organizations	NC	<ul style="list-style-type: none"> • Benin has not conducted any comprehensive assessment of the NPO sector; • Benin has not identified the nature of the threats which TF impose on NPOs at risk; • There is no mechanism or supervisory and monitoring authority using a risk-based approach; • There is no designated competent authority to respond to international information requests on NPOs highly suspected of engaging terrorism financing or providing support by any other means.
9. Financial institutions secrecy laws	C	<ul style="list-style-type: none"> • The country has fully met the requirements of Recommendation 9
10. Customer Due Diligence	PC	<ul style="list-style-type: none"> • There is no explicit requirement to confirm the veracity of the identifying information should come from reliable and independent sources. • Benin has no provisions relating to identification of natural persons who control or hold a controlling interest in a legal person; • Identification of beneficial owners is conditional. • There is no requirement for insurance companies to verify the identity of beneficial owners of legal arrangements. • There is limited obligation regarding failure to complete CDD measures satisfactorily. • There is no requirement for FIs not to pursue CDD process that may tip-off a customer and instead file an STR
11. Record - Keeping	LC	<ul style="list-style-type: none"> • Benin has not indicated in any explicit provision that the records relating to transactions should be adequate for the reconstitution of individual transactions that could be used as evidence in any prosecution or criminal activity.
12. Politically Exposed Persons	PC	<ul style="list-style-type: none"> • The list for foreign PEPs is restrictive. • FIs are not obliged to apply the specific requirements to family members or close associates of domestic and international organisation PEPs; • Financial institutions are not required to apply specific CDD measures where the beneficiary or beneficial owner of a life insurance policy is a PEP.
13. Correspondent Banking	LC	<ul style="list-style-type: none"> • The obligation of FIs to clearly understand each institution's AML/CFT responsibilities is not specified. • There is no explicit requirement for FIs to gather sufficient information on whether or not a respondent institution has been the subject to a ML/TF investigation or regulatory action.

14. Money or Value Transfer Services	PC	<ul style="list-style-type: none"> • However, there are no sanctions provided for unlicensed money and value transfer service providers. • Besides, there is no explicit provision that requires service providers to monitor agents' compliance with AML/CFT programmes. Money or value transfer services are not supposed to be licensed or registered with any competent authority. Benin has not taken measures to identify natural or legal persons operating MVTs without license and mete out proportionate and dissuasive sanctions on them.
15. New Technologies	C	<ul style="list-style-type: none"> • Benin fully meets the requirements for new technologies.
16. Wire Transfers	PC	<ul style="list-style-type: none"> • There is a specific requirement for beneficiary FIs to have risk-based policies and procedures to decide when to execute, reject or suspend wire transfers that do not include the required information on the originator or beneficiary, as well as the appropriate follow-up actions. • There is no requirement for FIs to file an STR in any country affected by the suspicious wire transfer, and make relevant information available to the FIU. • Ordering FIs are not prohibited from executing wire transfers that do not comply with the requirements of c.16.1-16.7. • Requirements to take freezing actions do not extend to domestic wire transfers. • Other gaps relate to criteria, 16.5, 16.6 and 16.16
17. Reliance on Third Parties	LC	<ul style="list-style-type: none"> • There is no clear provision on the ultimate responsibility for relying on a third party. • Benin lacks provision on obligation on FIs to: <ul style="list-style-type: none"> – obtain information from the third party without delay; – Ascertain the regulation, supervision, monitoring and information on risk profile, as reliance on third parties in the same group.
18. Internal controls, foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> • Benin mostly meets the requirements for internal controls and branches and subsidiaries abroad. • However, there is a deficiency regarding the obligation of branches to make available to the group any information relating to customers, accounts and transactions, when required for AML/CFT, compliance functions and/or audit purposes.
19. Higher-risk countries	NC	<ul style="list-style-type: none"> • There is no specific provision that requires the country to apply counter-measures commensurate with the risks identified in relationships with high-risk countries, when requested by the FATF.

20. Suspicious Reporting Transaction	PC	<ul style="list-style-type: none"> • The obligation to report suspicious transactions does not extend to all criminal acts that would constitute a predicate offence for ML or those that would constitute a predicate offence as required by Recommendation 3. • The AML/CFT Act does not extend the suspicious transaction reporting obligation to attempted transactions. • There is no requirement for FIs to report suspicious transactions to the FIU without delay.
21. Disclosure and confidentiality	C	<ul style="list-style-type: none"> • There is no protection when the illegal activity does not occur. Benin has met all the criteria relating to this Recommendation.
22. Designated Non-financial Businesses and Professions: Customer Due Diligence	PC	<ul style="list-style-type: none"> • Deficiencies identified at R.10 and R.12 are applicable to DNFBPs. • Only casinos are subject to CDD and record-keeping requirements as set out in Criterion 22.1. • DNFBPs are not required to implement measures related to new technologies. • There is no requirement related to the use of third parties for CDD.
23. Designated Non-financial Businesses and Professions: other measures	PC	<ul style="list-style-type: none"> • There is no internal control requirement for DNFBPs. • DNFBPs are not required to report suspicious transactions without delay. • There is no requirement to report attempted suspicious transactions.
24. Transparency and beneficial ownership of legal persons	NC	<ul style="list-style-type: none"> • Benin still needs to specify the mechanisms for collecting BO information on these various legal persons (LPs), as well as the methods for publishing such information. • Benin did not conduct a specific risks related to each category of legal persons created in the country. • There is no obligation for companies to maintain basic information related to them and a register of their shareholders or members and details on all the stated relevant information. • The country's responses are limited to the legal owners' identification mechanisms. The current arrangements do not meet the requirements for the identification of beneficial owners, record keeping and the updating of BO information. • There is no sanctions regime in Benin, nor any proportionate and dissuasive instrument specifically provided for against any natural or legal person that basic and beneficial ownership information. Neither are there sanctions provided for failure to update basic information. • There are no measures in place to facilitate the exchange of shareholder information held by the

		<p>company registry with foreign authorities.</p> <ul style="list-style-type: none"> It is not demonstrated that Benin the FIU monitors the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners abroad, if at all.
25: Transparency and beneficial ownership of legal arrangements	NC	<ul style="list-style-type: none"> Benin does not recognize trusts and the legislation does not allow for the creation of trusts. However, foreign trusts could be operated or managed in Benin. Benin imposes no obligations on trustees of foreign trusts operating or managed in the country. Benin does not regulate trusts.
26 - Regulation and supervision of Financial Institutions	PC	<ul style="list-style-type: none"> There is no risk-based approach to supervision; There is no requirement to regularly review the assessment of the ML/TF risk profile of any FI or financial group including non-compliance risk based on crucial events or changes in the management of the financial institution or financial group.
27- Powers of Supervisory authorities	C	<ul style="list-style-type: none"> Benin meets the requirements of this recommendation.
28- Regulation and supervision of Designated Non-financial Businesses and Professions	NC	<ul style="list-style-type: none"> The mechanism has significant deficiencies; There are no designated authorities to supervise and monitor the implementation of AML/CFT measures; With no sectoral risk assessment of DNFBPs, it is difficult to determine their risk profiles and apply the risk-based approach accordingly; The regulation does not adequately protect DNFBPs from being accessed by criminals or their accomplices.
29- Financial Intelligence Units (FIUs)	C	<ul style="list-style-type: none"> Benin has met all the requirements of this Recommendation.
30- Responsibilities of Criminal Prosecutorial and Investigative authorities.	C	<ul style="list-style-type: none"> The anti-corruption authority has no power to freeze and seize assets.
31- Powers of Law Enforcement authorities.	C	<ul style="list-style-type: none"> Benin has met the requirements of this Recommendation.
32 - Cash Couriers	PC	<ul style="list-style-type: none"> Inadequate clarification on the satisfactory coordination between the customs services, the immigration authorities and any other relevant authority There is no information on cases where information should be kept to facilitate such cooperation

		<ul style="list-style-type: none"> There is no specific information on Criterion 32-10 to verify whether it is met or not.
33. Statistics.	LC	<ul style="list-style-type: none"> All AML/CFT stakeholders should have their respective obligations in this area to ensure a more effective centralization by the FIU
34- Guidance and feedback	PC	<ul style="list-style-type: none"> Non-implementation of the guidelines by the DNFBPs
35. Sanctions	LC	<ul style="list-style-type: none"> However, there are no sanctions provided for unlicensed money transfer service providers. The mechanism has only minor deficiencies.
36. International Instruments	LC	<ul style="list-style-type: none"> There is no national or sub-regional list of terrorists and those who finance terrorism. Benin has not criminalised the financing of an individual terrorist and a organization for any purpose. The financing of foreign terrorist fighters is not criminalised.
37. Mutual Legal Assistance	C	The country has no significant deficiencies with regard to the requirements of this recommendation.
38- Mutual Legal Assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> There are agreements with other countries for the coordination of seizure and confiscation measures. There is indeed a mechanism for the management of seized or confiscated assets and the possibility to dispose of them. There is no clarification on the provisions of Article 151, based on concerted confiscation actions with other countries.
39. Extradition	LC	<ul style="list-style-type: none"> The AML/CFT Act has no provision for a clear case, and procedural case management system for the execution of extradition requests without delay, talk less of setting priorities.
40. Other Forms of International Cooperation	LC	<ul style="list-style-type: none"> The country is not using clear and secure channels, circuits or mechanisms to facilitate the transmission and execution of requests; Benin has no provision for internal arrangements for further precise review of prioritization, with reasonable timelines for the processing of request received; The AML/CFT Law does not indicate whether apart from the competent authorities (excluding the FIU) are in a position to negotiate agreements at the opportune time with a large number of foreign counterparts.

Acronyms and Abbreviations

ACA	Act N° 2011-20 of 12th October 2011 against corruption and other related offences in the Republic of Benin
AML/CFT	Anti-Money Laundering/Counter Financing of Terrorism
AML/CFT Act	Law No. 2018-17 of 25th July 2018
ANLC	National Anti-Corruption Agency
ANSSFD	National Agency for Supervision of Decentralised Financial Systems
APIEX	Investment and Export Promotion Agency (APIEX)
ARCEP	Regulatory Authority for Electronic Communications and Post
BC	Criminal Brigade
BCEAO	Central Bank of West African States
BEF	Economic and Financial Brigade
BNI	Bearer Negotiable Instrument
BRVM	Regional Stock Exchange
C	Compliant
CARPA	Lawyers' Cash Payments Account
CB	Banking Commission
CCGA	Consultative Committee on Administrative Freezing
CDD	Customer Due Diligence
CIMA	Inter-African Conference of Insurance Markets
CCP	Code of Criminal Procedure
CP	Penal Code
CMOs	Capital Market Operators
CRCA	Regional Insurance Control Commission
CREPMF	Regional Council for Public Savings and Capital Markets
CSO	Civil Society Organisation
CTN-AML/CFT	National Technical Committee against Money Laundering and Financing of Terrorism
CTRs	Cash Transaction Reports
CFAF	West African Financial Communities' Franc
DGDDI	Customs and Excise Department
DGTCP	Treasury and Public Accounting Department
DFS	Decentralised Financial Systems
DNFBPs	Designated Non-Financial Businesses and Professions
ECOWAS	Economic Community of West African States
EMI	Electronic Money Institution
EUR	Euro
FATF	Financial Action Task Force
FIs	Financial Institutions
FICOB	Centralised Bank Accounts
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
IMC	Intermediation Management Company
IMF	International Monetary Fund
IO	Immediate Outcome
JPO	Criminal Investigation Officers
KYC	Know Your Customer
LC	Largely Compliant
MEF	Ministry of Economy and Finance
MER	Mutual Evaluation Report
ML/TF:	Money Laundering/Terrorist Financing
MO 2018-0631	Inter-ministerial Order No. 2018 0631/MEF/MISP/MAEC/MJL/MDN/055SGG10 of 22 February, 2018
MoU	Memorandum of Understanding
MVTS	Money and Value Transfer Services

NA	Not Applicable
NC	Non-Compliant
NICT	New Information and Communication Technology
NGO	Non-Governmental Organisation
NPO	Non-Profit Organisation
NRA	National Risk Assessment
OCERTID	Central Office for the Suppression of Illicit Drug and Precursor Chemicals Trafficking
OCRC	Anti-cybercrime Central Office
OHADA	Organisation for the Harmonisation of Business Laws in Africa
OHADA-CCG	OHADA Uniform Act on Commercial Companies and Economic Interest Groups
OPCVM	Organisation for Collective Investment in Transferable Securities
PADME	Association for the Promotion and Support of Micro-business Development
PC	Partially Compliant
PEP	Politically Exposed Person
PIN	Personal Identification Number
R.	Recommendation
R.09	Regulation No. 09/2010/CM/UEMOA/ on the external financial relations of UEMOA Member States
RCCM	Trade and Property Registry
SA	Public Company
SC	Limited Partnership
SICAV	Variable Capital Investment Company
STI	Single Tax Identifier
STR	Suspicious Transaction Report
TF	Terrorist Financing
UMCC:	Mixed Container Control Unit
UEMOA:	West African Economic and Monetary Union
UEMOA	West African Monetary Union
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNSCR:	United Nations Security Council Resolution
USD	United States Dollar
USSF	Special Border Surveillance Unit
WCO	World Customs Organisation



www.giaba.org

May 2021

Mutual Evaluation
Report

Anti-money laundering and counter-terrorist
financing measures in the Republic of Benin

Mutual Evaluation Report of Benin