



Anti-money laundering and counter-terrorist financing measures

Nigeria

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

Follow-up Report

November 2023





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 State's financial systems against money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter terrorist financing (CTF) standard.

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Nigeria's 2nd Enhanced Follow-up Report

I INTRODUCTION

1. The GIABA Plenary adopted the mutual evaluation report (MER) of the Federal Republic of Nigeria in August 2021. This Follow-Up Report (FUR) analyses the progress of Nigeria in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.

2. This report does not analyse any progress Nigeria has made to improve its effectiveness.

3. The assessment of Nigeria's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- a) *Ibrahima Magnan Diarra, Financial Intelligence Unit, Mali ; and*
- b) *Seth Nana Amoako, Financial Intelligence Unit, Ghana.*

4. The experts were supported by Mrs. Gina Wood, Mr. Jean Abossuwè Anade and Mr. Sèlidji Romain Francisco Sinmada of the GIABA Secretariat.

5. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Nigeria's current technical compliance ratings.

II FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

6. Nigeria's MER ratings¹ and updated ratings based on the First FUR¹ are as follows:

Table 1: Nigeria's TC rating upon adoption of the MER & FUR

R.	Rating
1.	PC (MER 2021)
2.	PC (MER 2021)
3.	PC (MER 2021) - C (FUR 2022)
4.	C (MER 2021)
5.	LC (MER 2021)
6.	PC (MER 2021) PC (FUR 2022)
7.	NC (MER 2021) - LC (FUR 2022)
8.	NC (MER 2021)
9.	C (MER 2021)
10.	LC (MER 2021)
11.	PC (MER 2021) - C (FUR 2022)
12.	PC (MER 2021) PC (FUR 2022)
13.	C (MER 2021)
14.	C (MER 2021)
15.	PC (MER 2021) PC (FUR 2022)
16.	LC (MER 2021)

R.	Rating
21.	LC (MER 2021)
22.	PC (MER 2021)
23.	PC (MER 2021)
24.	PC (MER 2021)
25.	PC (MER 2021)
26.	LC (MER 2021)
27.	LC (MER 2021)
28.	PC (MER 2021)
29.	C (MER 2021)
30.	C (MER 2021)
31.	C (MER 2021)
32.	PC (MER 2021)
33.	PC (MER 2021)
34.	PC (MER 2021)
35.	LC (MER 2021)
36.	LC (MER 2021)

17.	LC (MER 2021)
18.	LC (MER 2021)
19.	PC (MER 2021) - LC (FUR 2022)
20.	PC (MER 2021) - C (FUR 2022)

37.	LC (MER 2021)
38.	LC (MER 2021)
39.	LC (MER 2021)
40.	LC (MER 2021)

7. Given the MER and FUR results, Nigeria was placed on Enhanced Follow-Up as of the last FUR.

III OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

8. In keeping with the GIABA Mutual Evaluation Process and Procedures, this FUR considers progress made up until 3 May 2023. In line with the current GIABA ME Procedures and the FATF Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems, the review team's analysis has considered progress to address the deficiencies identified in the MER and the First FUR the entirety (all criteria) of each Recommendation under review, noting that this is not detailed where the legal, institutional or operational framework is unchanged since the MER or FUR and there have been no changes to the FATF Standards or their interpretation.

9. This section summarises the progress made by Nigeria to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and the First FUR.

3.1 Progress to address technical compliance deficiencies identified in the MER/FUR

10. Nigeria has made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendations 1, 2, 6, 8, 33 and 34. Because of this progress, Nigeria has been re-rated on these Recommendations.

11. GIABA welcomes the progress achieved by Nigeria to improve its technical compliance with R. 22 and 24. However, insufficient progress has been made to justify an upgrade of the rating of these Recommendations at this stage.

Recommendation 1 (Originally Rated PC)

12. The 2nd MER rated Nigeria PC on R.1. The shortcomings identified related to: the assessment of certain important criminal activities, including insider trading and market manipulation, environmental crimes, extortion, piracy, tax crimes and illicit trafficking in stolen and other goods; the use of the outcomes of the NRA by private and public institutions for resource allocation or prioritising AML/CFT activities, including updating AML/CFT Laws; rules-based application of exemptions, simplified and enhanced due diligence measures as opposed to links to identified risks; requirement for capital market operators (CMOs), insurance companies and designated non-financial businesses and professions (DNFBPs) to monitor the implementation of those controls and to enhance them if necessary; appropriate mechanisms to provide risk assessment reports to competent authorities and self-regulatory bodies; requirement to keep risk assessment up to date; focus of requirements for internal programmes in these sectors on prevention and not management and mitigation of risks; the scope issue regarding lawyers and internet casinos; and the assessment of the ML/TF risks emerging from virtual asset activities and internet casinos.

13. **Criterion 1.1 [Met]** Nigeria completed its first NRA in 2016. The assessment was carried out based on the World Bank Methodology.

14. Following the adoption of the MER in 2021, Nigeria has completed an inclusive National Inherent Risk Assessment (NIRA) on ML/TF/PF covering the period from 2019 to 2021. The NIRA, which is composed of five parts (ML, TF, PF, the extractive industry and legal persons and arrangements) was carried out based on the McDonnell Nadeau Methodology. The Government adopted all the reports in 2022. The Nigerian Financial Intelligence Unit (NFIU) coordinated the assessment. Law enforcement, supervisory authorities and other public and private sector entities participated in the exercise.

15. In the NIRA, the Nigerian authorities have primarily relied on the McDonnell-Nadeau Methodology (to analyse both quantitative and qualitative data on the relevant area) due to its consistency with the expectations of the FATF Standards, and to some extent, the FATF's Terrorist Financing Risk Assessment Guidance; Terrorism Financing in West Africa; Guidance on Proliferation Financing Risk Assessment and Mitigation, Money Laundering vulnerabilities of Free Trade Zones. The NIRA considers Nigeria's profile as a cash-based economy, and the assessments gave this factor a prominent role across the reports. The NIRA concludes that Nigeria's cash-based economy is a major risk factor. In addition, specific risk analysis has been conducted in relation to legal persons created in the country, not-for profit organisations (NPOs) at risk of terrorist financing (TF), corruption and fraud in the extractive sector, as well as important criminal activities like illicit trafficking in stolen and other goods, environmental crime, tax crime.

16. The individual NIRA considered a range of threats: (a) ML threats (based on 21 predicate offences).

17. The analysis of vulnerabilities dealt with the characteristics of the sectors, nature of products and services provided, nature of clientele, geographic reach and activities and delivery channels. The analysis reflects the outcomes of supervisory actions and findings in relation to the filing of suspicious transaction reports by reporting entities, request for information by law enforcement agencies.

18. **Criterion 1.2 [Met]** The legal, institutional, or operational framework has not changed since the country's MER and there have been no changes to the FATF Standards or their interpretation.

19. **Criterion 1.3 [Met]** Nigeria has recently updated its risk assessments. The National Residual Risk Assessment of ML/TF/PF (NRRRA) provides on its page 5 that Nigeria will continue to improve its understanding of risk through the regular publication of typology assessments and reviewing of mitigations and controls to be completed two years after the date of the report. A complete risk assessment will be conducted four years after the date of the report. However, Nigeria's Strategic Implementation Roadmap indicates that the country will update the NRA every three years.

20. **Criterion 1.4 [Met]** The Inter-Ministerial Committee (IMC) approved and adopted the results of the NIRA on 19 October, 2022. The results of the NIRA have been communicated to the public and private sectors through sensitisation sessions organised by regulators/supervisors and self-regulatory bodies (SRBs), publication on the websites of the NFIU, the IMC and the NSC and distribution to all competent authorities and regulated entities via emails and goAML application.

21. **Criterion 1.5 [Mostly Met]** Although the National Strategic Implementation roadmap (2023-2025) containing strategic objectives that are to be achieved through expected

outcomes and Goal provides for resource allocation and implementation of the ML/TF measures based on risks, it does not explicitly address the risk-based allocation of resources regarding the actual financial implications. The NSCTF guides FIs and DNFBPs to take into consideration the results of NRA in applying TF mitigating measures.

22. **Criterion 1.6 [Met]** Where a customer or an owner of the controlling interest is a company listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or by law or other enforceable means) which impose requirements to ensure adequate transparency of beneficial ownership, or is a majority-owned subsidiary of such a company, Nigeria exempts FIs from identifying and verifying the identity of any shareholder or beneficial owner of the company (reg. 21(4), CBNR; reg. 9(5) of SECR; reg. 7(7), NAICOMR; and reg 14(5) SECR). This exemption is in line with the findings of the NIRA and NRRRA, as well as footnote 35 of the FATF Methodology.

23. **Criterion 1.7 [Met]** Section 4(4)(a) of the MLPPA requires FIs, DNFBPs and VASPs to apply enhanced measures to manage and mitigate the risk when higher risks are identified.

24. **Criterion 1.8 [Partly Met]** FIs and DNFBPs are obliged to take appropriate measures to manage and mitigate the risks and where lower risks are identified, take simplified measures to manage and mitigate the risks, provided that simplified customer due diligence measures are not permitted whenever there is a suspicion of ML/TF (§4(4)(b), MLPPA). Simplified measures must be taken for low risks of ML/TF through an adequate analysis of risks (Also, reg. 25, CBNR; 13 SECR; 10, NAICOMR; 30, ESCUMLR). However, these requirements do not specifically provide for consistency with the country's assessment of its ML/TF risks.

25. **Criterion 1.9 [Met]** The CBN, SEC, NAICOM, SCUML and the NFIU are responsible for AML/CFT supervision and are in charge of implementing and ensuring compliance with the AML/CFT requirements applicable to FIs, DNFBPs (including lawyers and internet-based casinos) and VASPs (§§30, MLPPA and §19(1), Nigerian Financial Intelligence Unit Act, 2018 (NFIUA). Based on regulations 11 and 12 of CBNR, 10(3) of SECR, 30 of NAICOMR and 9 of ESCUMLR, these authorities review the internal ML/FT risk assessments of the reporting entities, including the currency and documentation of risk assessment and policies, procedures and controls to effectively mitigate and manage ML/FT risks. These requirements allow CBN, SEC, NAICOM and SCUML to monitor FIs and DNFBPs and to ensure that they are implementing their obligations under Recommendation 1 on a risk-sensitive basis.

26. **Criterion 1.10 [Mostly Met]**

- a) **[Mostly Met]** FIs and DNFBPs (including lawyers and internet casinos) are required to take appropriate steps to identify, assess, and understand their ML/TF risks (for customers, countries or geographic areas; and products, services, transactions or delivery channels) (reg. 11(a) and (b), CBNR; reg. 30, NAICOMR; and 10, SECR; regs. 11&20, ESCUMLR). However, only FIs are required to document their risk assessments.
- b) **[Mostly Met]** The requirement to consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied applies only to FIs (reg. 11(c), CBNR; reg. 30(c), NAICOMR; reg. 9(10)(2)(viii), SECR).
- c) **[Mostly Met]** FIs are required to keep their risk assessments up to date (reg. 11(d), CBNR; reg. 30(d), NAICOMR; reg. 9(10)(2)(vii), SECR). DNFBPs are not explicitly required to keep their risk-assessments up to date. They are only required to periodically assess the ML/TF/PF risks inherent in their systems (reg. 20(1), ESCUMLR).

- d) **[Mostly Met]** Only FIs are required to have appropriate mechanisms to provide risk assessment information to competent authorities (reg. 11(e), CBNR; reg.9(10)(2)(vii), SECR; and reg. 30(f), NAICOMR).

27. **Criterion 1.11 [Mostly Met]**

- a) **[Mostly Met]** FIs are required to have policies, controls and procedures that are approved by senior management, to enable them to manage and mitigate the risks that have been identified (either by Nigeria or FIs) (reg. 5(a), NAICOMR; reg. 12(a), CBNR; 9(10), SECR). DNFBPs are required to have policies, controls and procedures approved by their management to mitigate identified risks (reg. 11(c), ESCUMLR). The ESCUMLR does not specifically refer to “senior management”.
- b) **[Mostly Met]** FIs are required to monitor the implementation of those controls and to enhance them if necessary (reg. 5(a)(ii), NAICOMR; reg. 12(b), CBNR; 9(10), SECR), DNFBPs are only required to monitor the implementation of the controls referred to in sub-reg.11(c) (reg.11(d) ESCUMLR).
- c) **[Met]** Where higher risks are identified, FIs and DNFBPs are required to apply enhanced measures to mitigate the risk (§(4)(4)(a), MLPPA; and 12(c), CBNR).

28. **Criterion 1.12 [Partly Met]** Criteria 1.9 to 1.11 are mostly met.

29. Where lower risks are identified, FIs and DNFBPs are required to take simplified measures to manage the risks. (§4(4)(b), MLPPA; reg. 25, CBNR, reg. 10(3), NAICOMR; reg. 15(2), SECR and reg. 30(3), ESCUMLR). Nigeria requires CMOs to consider certain categories of clients as low-risk which makes them eligible for the application of simplified measures. The specified clients are (a) CMOs, provided they are subject to AML/CFT/PF requirements which are consistent with the provisions of SECR and are supervised for compliance; (b) public companies listed on securities exchange or similar situations that are subject to regulatory disclosure requirements; (c) Government ministries, departments, parastatals and agencies; (d) insurance policies for pension schemes where there is no surrender-value clause and the policy cannot be used as collateral; (e) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member’s interest under the scheme (reg.13(2), SECR). Nigeria considers CMOs as having a “medium” ML/TF risk.¹ The country has also rated VASPs¹ as “high risk”. Consequently, the requirement for SDD for CMOs is not justified.

30. Insurance companies are required to implement simplified due diligence measures based on the identification of lower risk through the assessment of an insurance institution (reg. 15(1), NAICOMR). The CBNR and ESCUMLR are silent on the source of identification of lower risk scenarios. Simplified customer due diligence measures are not permitted whenever there is suspicion of ML/TF

Weighting and conclusion

31. All the elements of Recommendation 1 are met or mostly met.

32. **On this basis, R. 1 is re-rated LC.**

Recommendation 2 (Originally Rated PC)

¹ VASPs are Capital Market operators within the meaning of Section 315 of ISA 2007 (reg. 97, SECR).

33. The MER rated Nigeria PC on Recommendation 2 due to shortcomings identified in relation to (a) update of AML/CFT policies based on the understanding of risks; (b) coordination mechanism to combat PF; (c) risk-based allocation of resources to mitigate identified risks; and (d) cooperation and coordination to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions.

34. **Criterion 2.1 [Met]** Nigeria has adopted a Strategic Implementation Roadmap, 2023-2025, which contains the strategic objectives to be achieved through expected outcomes and Goals. This roadmap was a fusion of the pending critical actions on the National AML/CFT Action and Implementation Plan 2018-2020 and the 84 Recommended Actions flowing from Nigeria's 2nd MER. It has guided Nigeria in addressing its deficiencies, while prioritising risk. The roadmap, which broke recommended actions into tangible steps, responsible agencies and timelines, has been tracked and updated when and where necessary by the IMC. Following the ML, TF and PF National Inherent Risk Assessment exercises conducted after the 2nd MER, the roadmap has been updated to factor in the findings of the NIRA and address issues as they emerge.

35. The roadmap has allowed the development of several AML/CFT policies to address some major high-priority areas. Policies developed include: (1) Counter-Financing of Terrorism Strategy, (2) International Cooperation Policy, (3) National Policy for the Confiscation of Proceeds and Instrumentalities of Crime and Property of Corresponding Value, (3) NDLEA Drug Control Masterplan 2020 and (4) the Standard Operating Procedure on Parallel Financial Investigation and Exchange of Information issued in January 2022. These policy documents are the results of national risk assessments. Also, some AML/CFT Laws and regulations have been reviewed with the following Laws and Regulations to address some of the deficiencies identified in MER and First NRA: CAMA 2020, MLPPA 2022, TPPA 2022, POCA 2022, Sector Regulations and, Persons with Significant Control (PSC) Regulations 2022.

36. **Criterion 2.2 [Met]** The NSC is responsible for the coordination and implementation of the Nigeria's CFT policies (§10(a), TPPA), while the IMC provides technical support for AML/CFT efforts. Also, the IMC serves as a platform for coordinated national approach and to enhance cooperation, especially in the exchange of information to effectively combat ML and TF in Nigeria.

37. **Criterion 2.3 [Met]** The analysis in the MER applies and the institutional framework has not changed.

38. **Criterion 2.4 [Mostly Met]** Section 58 to 61 of the TPPA 2022 provide the legal framework required to sufficiently address CPF. The NSC is the forum for examining any operational or policy issues and to facilitate consistent and coordinated approaches to the development and dissemination of CPF guidance materials and training initiatives (§10, TPPA).

39. The IMC, which is the highest policy making body on AML/CFT/CPF matters, receives frequent reports from the NSC (through the Coordinator of the National Counter-Terrorism Centre) which are used to guide strategic and policy decisions.

40. To avoid any ambiguity on IMC's high level coordination function on CPF, the IMC officially ratified this function at its 34th meeting.

41. Amendments are still necessary to the IMC Charter to reflect new structures and ratify the committee's mandate to cover cooperation on CPF (page 16 – Minutes of the 34th Meeting of the IMC). In addition, information provided by Nigeria did not evidence the establishment of

the NSC to be constituted by the Attorney-General with the approval of the President as required by section 9 of the TPPA.

42. **Criterion 2.5 [Met]** Nigeria demonstrated cooperation and coordination between relevant competent authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions. The National Data Protection Bureau (NDPB) is a new member of the IMC² and after the resolution of the 33rd IMC meeting to expand its membership. It was resolved in the meeting that the Legal and Judicial Review Subcommittee will work on a National AML/CFT Data Protection Policy to further entrench the data protection culture into all AML/CFT activities. This new membership will provide the IMC with an enhanced cooperation and coordination mechanism that is aimed to ensure that appropriate steps are taken by LEAs in considering the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions.

Weighting and conclusion

43. Nigeria has adopted a national policy informed by risk and has mechanisms in place to ensure cooperation and coordination at policy and operational levels. Nigeria is yet to amend the IMC Charter to reflect new structures and ratify the Committee's mandate to cover cooperation on CPF. In addition, there is no evidence that the NSC provided for under section 9 of the TPPA has been established.

44. **Recommendation 2 is re-rated LC.**

Recommendation 6 (Originally Rated PC- FUR 2022)

45. The deficiencies related to the absence of a provision or practical cases to show the timeline for implementation in for UNCSR 1373; limited scope of application of unfreezing measures under both UN and national regimes to situations where freezing occur because similarities in names or other error; absence of a requirement to provide specific information supporting Nigeria's request to third countries for designation; limited scope of connection with designees to "currently listed individuals. Further, Nigeria lacked a specific provision on awareness of government authorities maintaining registries of title to specific types of property, or those responsible for the disbursement of funds or other assets, of asset freezing action and measures to implement the freezing obligation.

46. **Criterion 6.1 [Met]** In relation to designations pursuant to United Nations Security Council Resolution (UNSCR) 1267/1989 (Al Qaida) and 1988 sanctions regimes (UN Sanctions Regimes), Nigeria has:

(a-c) **[Met]** The legal, institutional, or operational framework has not changed since the country's MER (or previous FUR, if applicable) and there have been no changes to the FATF Standards or their interpretation.

d) **[Met]** Nigeria has procedures for designation pursuant to the UN Sanctions Regimes. Schedule 2 of the Regulation for the implementation of Targeted Financial Sanctions on Terrorism, Terrorism Financing and other related measures, 2023 (TF-R), provides for the standard forms for listing, as adopted by the relevant committee (the 1267/1989 Committee or 1988 Committee). The Forms require the provision of information consistent with those required by the relevant UN Sanctions Committees.

e) **[Met]** Nigeria can provide as much relevant information as possible on the proposed name; a statement of case which contains as much detail as possible on

² Minutes of the IMC's 34th meeting (pages 8-9)

the basis for the listing; and (in the case of proposing names to the 1267/1989 Committee), specify whether the country's status as a designating state may be made known (Schedule 2, TF-R). Schedule 2 provides for the relevant UN Standard Forms, including the listing of groups on the ISIL (DA'ESH) and Al-Qaida Sanctions List. The Forms require the provision of information consistent with those required by the relevant UN Sanctions Committees.

47. **Criterion 6.2 [Met]** In relation to designations pursuant to UNSCR 1373, Nigeria:

a-c) [Met]: The required legal, institutional, or operational framework has not changed since the country's First FUR and there have been no changes to the FATF Standards or their interpretation for these sub-criteria.

d) [Met] Nigeria applies an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" when deciding whether to make a designation (§49(4)(b), TPPA & Regs.5(5)(b) and 7(a), TF-R). Such (proposals for) designations are not conditional upon the existence of a criminal proceeding (Reg.7(b), TF-R). These measures apply to all proposals for designation, including those from the African Union (AU), the Economic Community of West African States (ECOWAS) and other organizations (reg. 5(8), TF-R).

e) [Met] The Attorney-General of the Federation (A-GF) can request a foreign country to give effect to designation actions initiated by Nigeria's freezing mechanisms. When doing so, the AG-F should provide as much identifying information and specific information supporting the designation (reg. 5(4), TF-R).

48. **Criterion 6.3 [Met]** The legal, institutional, or operational framework has not changed since the country's MER (or previous FUR, if applicable) and there have been no changes to the FATF Standards or their interpretation.

49. **Criterion 6.4 [Mostly Met]** In relation to the UN Sanctions Regime, the legal framework has not changed since the country's First FUR, and there have been no changes to the FATF Standards or their interpretation.

50. In relation to UNSCR 1373, a designation of a person or entity by the AG-F on the recommendation of the NSC in accordance with UNSCR 1373(2001) has immediate application in Nigeria and continue in force until its revocation or delisting by the Attorney General of Federation" (reg. (5)(9 (1),TF. R). This provision applies to designations made on Nigeria's own motion, or after giving effect to requests of another country or an organisation. The obligation to freeze is triggered by publication of the Nigeria Sanctions List (§52(1), TPPA). Nigeria provided information on designations made by the A-GF. Although the information demonstrates publication without delay, there is no evidence of the President's approval as required by section 49(2) of the TPPA. Section 49(2) of the TPPA empowers the A-GF to designate targets on approval by the President. In this regard the President's approval is essential to the validity of the designation of persons and entities as terrorists, terrorists groups or terrorist financiers. The absence of the President's approval nullifies the designations made.

51. **Criterion 6.5 [Met]**

a & c) [Met] The required legal framework has not changed since the country's First FUR and there have been no changes to the FATF Standards or their interpretation for these sub-criteria.

d) [Met] The website of the NSC, electronic alerts and the Federal Gazette constitute the mechanisms for communicating designations to the financial sector and the DNFBPs immediately upon taking such action, and for providing clear guidance to financial institutions and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms (reg. 5(11), TF-R). It is the responsibility of all legal and natural persons in Nigeria to regularly check the NSC's website for changes. Reporting entities must also subscribe to the NSC's alert system for timely updates (Reg.10(2), TF.R). The communications mechanisms apply equally to both regimes.

e & f) [Met] The legal, institutional, or operational framework has not changed since the country's previous FUR and there have been no changes to the FATF Standards or their interpretation.

52. **Criterion 6.6[Met]** As described below, Nigeria has publicly known procedures available on the NSC website to de-list and unfreeze the funds or other assets of persons or entities which do not or no longer meet the criteria for designation:

a) [Met] The AGF coordinates delisting requests submitted by listed individuals or entities under UNSCR 1267/1989, who then submits a delisting request to the relevant UN Sanctions Committee. A delisting request can also be made directly via the Ombudsman (Reg.11(1),TF. R, 2023).

(b) – (f) [Met] The required legal framework has not changed since the country's First FUR and there have been no changes to the FATF Standards or their interpretation for these sub-criteria.

(g) [Met] The NSC is required to communicate de-listings and unfreezings to the financial sector and DNFBPs through an electronic alert system immediately upon taking such action (reg.10(1), TF-R). Section 6 of the NSC's Guidance on Implementation of Targeted Financial Sanctions on Terrorism Financing and Proliferation Financing (GI-TFS) provides guidance to reporting entities that may be holding targeted funds or other assets, on their obligations to implement de-listing or unfreezing actions. The GI-TFS is published on the NSC's website, which is accessible to the public, including reporting entities.

53. **Criterion 6.7 [Met]** The legal, institutional, or operational framework has not changed since the country's previous FUR and there have been no changes to the FATF Standards or their interpretation.

Weighting and conclusion

54. Nigeria has a comprehensive legislative framework to give immediate effect to designations pursuant to UNSC Resolutions 1267/1989 and 1988, and to meet the requirements of UNSCR 1373 without delay. However, the country did not demonstrate compliance with its internal procedures to designate targets pursuant to UNSCR 1373. This deficiency is considered as minor because there is evidence of designation and publication of the same without delay.

55. **On this basis Recommendation 6 is re-rated LC.**

Recommendation 8 – Non-profit organisations (Originally rated PC)

56. Nigeria was rated NC due to an absence of a categorisation of at-risk NPOs, and the nature of threats posed by terrorist entities as well as how terrorist actors abuse those NPOs. Nigeria classified all NPOs as DNFBPs and subjected them without discrimination to the full suite of AML/CFT responsibilities; and did not identify the characteristics of NPOs that might put them at higher risk of TF.

57. **Criterion 8.1 [Met]**

a) [Met] Nigeria no longer classifies NPOs as DNFBPs (§30 MLPPA 2022).

The National Terrorist Financing Risk Assessment of the Non-profit Organisations sector, conducted based on the 2nd MER and NIRA 2022, has identified which subset of organisations fall within the FATF definition of NPO. The technical and core working groups used a wide range of information sources in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF. The information sources include MERs of Nigeria and some selected countries, FATF Recommendation 8 and its Interpretive Note, the FATF Guidance on National ML/TF Risk Assessments, NRAs of certain countries, interviews with representatives of relevant public and private sector agencies across the six geopolitical regions in Nigeria, including NPO, administration of questionnaires on public institutions and NPOs, suspicious transaction reports (STRs) and focus group discussions. The assessment identified NPOs operating in terrorist prone areas and engaged in humanitarian activities, service provision and faith-based activities as having a high risk of TF abuse. The nature of abuse includes the movement of large sums of cash in high-risk locations, use of illegal forex dealers to perform currency exchange, and the use of multiple vendors.

Section 95(2)(d) TPPA provides that the Attorney-General of the Federation has the power to make regulations on the supervision of NPOs that are at risk of terrorist financing abuse.

b) [Met] Nigeria has identified terrorist groups that pose TF threats to NPOs in Nigeria and further categorised them into primary and secondary threats to NPOs in Nigeria. The primary terrorist financing threats are (1) Boko Haram and (2) ISWAP. The secondary terrorist financing threats are: (1) Yan Bindiga/Yan Taadda, (2) International Islamic terrorist groups such as Al-Qaida, ISIS, Al Shaba, (3) Domestic secessionist groups (including IPOB), and (4) Islamic Movement of Nigeria (IMN) (Northwest Nigeria). It was observed that terrorist groups tend to abuse NPOs to facilitate foreign funding of terrorist groups in Nigeria and as part of complex schemes (often involving vendors) to disguise funding of terrorist groups. These groups also commit crimes such as kidnapping for ransom and hijacking of goods against NPOs.

c) [Met] Nigeria has reviewed the adequacy of measures, including laws and regulations that relate to the subset of NPOs that may be abused for TF support to be able to take proportionate and effective actions to address the risks/deficiencies identified. Consequently: (a) Nigeria no longer, by law or any means, categorises NPOs as DNFBPs (see §30, MLPPA and reg. 42, SCUML Regulations); (b) the Registrar-General of the CAC or the Director of SCUML may authorise the withdrawal of a certificate refusing or revoking the registration of any NPO upon application by the promoters, applicant, or the concerned NPO to any of the competent authorities attaching a Court order or based on criminal intelligence reports or on grounds of national security or where there are reasonable grounds to believe that an applicant for registration as a

registered NPO has made, is making or is likely to make available resources, directly or indirectly, to a terrorist, terrorist group or terrorist entity (§56, TPPA); and (c) the Attorney-General of the Federation may issue regulations for the supervision of NPOs at risk of TF abuse (§95(2)(d), TPPA).

Nigeria has also developed SCUML Supervisory Guidelines, 2023, to adequately provide measures for the at risk NPOs, that is proportionate with the risk faced by this group of NPOs in Nigeria. It requires at risk NPOs to take into consideration the finding of the NPO risk assessment and conduct a TF risk assessment of their operations accordingly; develop and implement programmes and policies for preventing and combating abuse of their organisation funds, assets and goodwill for terrorism financing; keep records of their trustees, directors and senior management and any changes made within a period of three years, list of donors, the trustees of donors, directors, principal officers country officers, incorporation/origin, and their financial commitments to the NPO, Reports of programme and project monitoring and evaluation; reports of statutory and internal audit conducted; records of both programme and administrative expenditure; records of Terrorism Financing risk assessment; records of TFS screening conducted; identify donors, beneficiaries and other related persons; implement TF-related TFS; The Guidelines and risk a based supervisory framework for NPOs that are at risk of TF abuse. The Guidelines and framework factor in the outcome of National Inherent TF risk assessment of the NPO sector to provide an effective framework for the supervision of at risk NPOs. Strategic Objective 1 of the NPO strategy 2023-2026 requires for the cooperation between SCUML and key stakeholders of NPOs to be strengthened through continuous engagement.

- d) **[Met]** SCUML is enjoined to collaborate with relevant authorities including the private sector to reassess the NPO sector every two years to determine the subsets that are at risk of TF abuse (reg 3(1)(a), ESNTF-R).

58. **Criterion 8.2 [Met]**

- a) **[Met]**

Nigeria has policies to promote accountability, integrity, and public confidence in the administration and management of NPOs. Thus, NPOs are required to adhere to (a) global and domestic best practices on Non-Profit accounting and financial management policy; (b) accounting standards, practices and codes of corporate governance prescribed by the Financial Reporting Council of Nigeria for the NPO, shall be adhered to as a minimum measure; (c) donor imposed accounting and financial control measures, and other non-statutory standards adopted by NPOs that are at risk of terrorism financing abuse; and (d) comply with standards prescribed by the Financial Reporting Council of Nigeria.

NPOs that are at risk of TF abuse are required to publish their financial and activity reports on their websites. NPOs that do not maintain a website must make the report available to any member of the public on request.

The trustees of an NPO blacklisted by a donor on account of financial impropriety shall report to SCUML the circumstances of the blacklists and the remedial actions being taken by the NPO.

Finally, there are measures for vetting staff and staff of partner NPOs, vendors and payment service providers; beneficiaries, cash and voucher assistance; and the use of banking agent (reg. 19, 20, 21 and 22, NPO Regulations).

- b) **[Met]** Based on the outcomes of the 2022 NPO Risk Assessment, Nigeria has developed a Counter Terrorism Financing Outreach Strategy and an implementation plan for NPO's spanning the period 2023 to 2026 with the aim to: (a) promote transparency, integrity and public confidence in the administration and management of NPOs; (b) raise awareness in the NPO sector about their vulnerabilities to terrorist abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse; (c) encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the different areas of urgent charitable and humanitarian concerns; and (d) develop and refine best practices, in collaboration, with the NPOs sector, to address terrorist financing risks and vulnerabilities and thus protect the sector from terrorist abuse. There has been effective outreach which extends to the donor community. SCUML has conducted outreaches for At Risk NPOs in the North East and North West, where the TF risk are rated highest. SCUML is also planning a workshop for NPOs in the North central in October. SCUML has continued engagements with the Nigeria International NGO Forum, whose members form the bulk of the donor community in Nigeria.
- c) **[Met]** Strategic Objective 4 of the NPO outreach strategy and the NPO Outreach Implementation Plan (2023-2026) set out the resources and activities to undertake outreach and educational programmes to develop and refine best practices, to address terrorist financing risks and vulnerabilities and thus protect the sector from terrorist abuse. Activities under this objective include but are not limited to the Establishment and operationalization of NPO Supervisors Dialogue Forum, Meeting of NPOs Supervisors dialogue forum, Conduct Online compliance clinics to interact with at risk NPOs on compliance challenges and experience sharing based on the findings of the 2022 sectoral risk assessments, SCUML has issued supervisory guidelines for at-risk NPO's. These guidelines provide for processes to work with NPOs to develop and refine best practices to address TF risk and vulnerabilities and thus protect them from TF abuse.
- d) **[Met]** Strategic Objective 3 of the NPO Outreach Strategy and the NPO Outreach Implementation Plan (2023-2026) sets out the resources and activities designed to encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the different areas of urgent charitable and humanitarian concerns. Activities under this objective include (1) Organising a sensitisation workshop for banks, payment service providers and NPOs in the North East of Nigeria and (2) Conducting assessment of availability of financial services and products for at risk NPOs operations in the North East and North West of Nigeria. Overall, N5,000,000 [USD 10,860] has been allocated for these activities.

59. **Criterion 8.3 [Met]** Supervisory measures are implemented according to a supervision Framework for NPOs at risk of TF abuse. This is through registration of at risk NPOs which involves reviewing and screening of their trustees and directors using the UN Consolidated List and the Nigerian Sanction Committee, in addition to other criminal records held by law enforcement agencies; and identification of TF risk through the conduct of NPO risk assessment and ongoing monitoring of NPO. Nigeria has developed a supervisory matrix for the risk-based supervision of NPOs. Using the matrix, at risk NPOs identified in the NPO risk

assessment have been broken down to risk levels (Very High, High, Medium-High, Medium and Low) which serves as the measure for determining the intensity of supervision for each NPO. Accordingly, SCUML has prioritized supervisory action on the NPOs in accordance with the ratings (please see the earlier submitted Risk Matrix for the Supervision of At Risk NPOs).

60. SCUML has also issued Supervisory Guidelines for NPOs at-risk of TF abuse. The Guideline provides for a range of measures to be taken by at-risk NPO's, including risk assessment, development of CFT programs and strategies, record keeping and preservation, identification of donors, beneficiaries and other related persons, implementation of terrorism and TF-related TFS, accountability, and transparency measures (paragraph 8).

61. **Criterion 8.4 [Met]**

- a) **[Met]** Nigeria has a risk-based supervision Framework for NPOs at risk of TF abuse. The supervisory measures implemented under 4 pillars include Risk based supervision and monitoring.
- b) **[Met]** Nigeria has effective, proportionate and dissuasive administrative and criminal penalties that are applicable to any individual, group, undertaking or entity within or outside Nigeria, in any manner, who directly or indirectly, and willingly provides, solicits, acquires, collects, receives, possesses, or make available property, funds or other services, or attempts to provide, solicit, acquire, collect, receives, possess or make available property, funds or other services with the intention or knowledge, or having reasonable grounds to believe that it will be used, in full or in part to finance a terrorist or terrorist group in line with relevant sections of the TPPA 2022 (14, 15, 16 and 17, Part V, ESNTF.R). The range of sanctions include the removal of trustees, winding up, Depending on the nature of the violation, the administrative sanctions include warning letters, fines between two hundred thousand Naira and one million Naira.

62. **Criterion 8.5 [Met]**

- a) **[Met]** The Nigerian Counter-Terrorism Committee (NCTC) has the mandate to ensure effective co-operation, co-ordination and information-sharing to the extent possible among all levels of appropriate authorities and organisations that hold relevant information on NPOs. The NCTC ensures that relevant agencies under the TPPA have access to relevant and timely intelligence and analysis for the effective discharge of their responsibilities (§6(h), TPPA).
- b) **[Met]** Law enforcement and security agencies, including the EFCC, DSS and NPF, are responsible for gathering intelligence for investigation of the offences relating to terrorism and terrorism financing (§5, TPPA). The EFCC, DSS and NPF have the requisite powers, investigative expertise, and capacity to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.
- c) **[Met]** Law enforcement and security agencies have powers to request, demand, or obtain from any person, agency, or organization, information, including any report or data, that may be relevant to its functions under the TPPA, including those at risk of abuse for TF (§ 5(3)(h), TPPA). Sections 56 & 95 regarding NPOs at risk of TF abuse.
- d) **[Met]** SCUML is required to establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO

is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that the information is promptly shared with competent authorities, in order to take preventive or investigative action (reg. 3(2), Part II, ESNTF.R).

SCUML is also empowered to put all necessary measures in place to ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs. Consequently, SCUML has appointed a focal person to manage these matters.

63. **Criterion 8.6 [Met]** SCUML is the focal point for information exchange on international requests in relation to NPOs that are at risk of TF abuse (reg. 3(1)(e), Part II, ESNTF-R) and has designated an officer who is responsible for this matter. Nigeria's International Cooperation Policy provides for clear procedures to respond to international requests for information regarding particular NPOs suspected of TF or involvement in other forms of terrorist support.

Weighting and conclusion

64. Nigeria has addressed the deficiencies identified in relation to NPOs. Nigerian authorities have assessed the ML/TF risks of NPOs and identified the scope of entities that fall within the FATF definition and those that are at risk of TF abuse. Several measures have been taken to promote transparency and accountability in the administration and management of the NPOs; raise awareness in the sector about vulnerabilities to TF develop and refine best practices, in collaboration, with the NPOs sector to address the deficiencies; exchange information on NPOs suspected to be involved in TF abuse. Nigeria has mechanisms for international cooperation and procedures to respond to international request for information on NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

65. **On this basis, R. 8 is re-rated C.**

Recommendation 22 (Originally rated PC)

66. The 2021 MER rated Nigeria PC on Recommendation 22. The deficiencies identified included the non-coverage of internet-based casinos, non-operation of AML/CFT requirements for legal professionals due to a decision of the Nigerian Court of Appeal; as well as deficiencies identified in relation to FIs under Recommendations 10, 11, 12, 15 and 17. In 2022, Nigeria enacted the Money Laundering (Prevention and Prohibition) Act (MLPPA) and issued the EFCC-SCUML AML/CFT Regulations for DNFBPs (ESCUMLR). These legal instruments define DNFBPs in line with the FATF Standards and provide for the AML/CFT obligations. The MLPPA applies to all reporting entities, while the ESCUMLR applies to only DNFBPs. Consequently, Nigeria has addressed the scoping issue concerning internet casinos and lawyers.

67. **22.1 [Partly Met]** AML/CFT requirements set out in the MLPPA and ESCUMLR apply to all the FATF-designated DNFBPs existing in Nigeria, including internet casinos and lawyers (§30, MLPPA). DNFBPs must comply with the CDD requirements set out in Recommendation 10.

- a) **[Partly Met]** Casinos – when customers engage in financial transactions equal to or above USD 1, 000 (reg. 40(3), ESCUMLR);
- b) **[Partly Met]** Real estate agents are to identify and verify the identity of their clients whenever involved in transactions for the purchase or sale of real estates (reg. 40(4), ESCUMLR). The requirement to identify the client does not oblige real estate agents to identify both the purchaser or vendors of the property who is not the client of the DNFBP during the transaction.
- c) **[Partly Met]** DPMS – when they engage in any cash transaction with a customer equal to or above USD 3,000 or its equivalent in Naira or in any other currency (reg. 40(4), ESCUMLR).
- d) & (e) **[Partly Met]** Lawyers, notaries, other independent legal professionals, accountants and trust and company service providers must comply with CDD requirements. This obligation is not activity-based as required by the FATF Methodology. This could impact the ability of the entities to comply with the FATF requirements under this sub-criterion and the ability of relevant authorities to supervise the entities for compliance.

68. Some deficiencies are noted in relation to the CDD requirements in the MLPPA and the ESCUMLR. The threshold based CDD requirements for occasional transactions in the MLPPA apply to only DNFBPs whose businesses involve cash transactions and this must occur prior to any cash transaction involving a sum not exceeding USD1,000 or its equivalent (§6(1)(a) and (b), MLPPA). On the other hand, ESCUMLR extends the requirement to all DNFBPs in relation to cash transactions exceeding USD1,000 (reg.29(2)(b), ESCUMLR). The conflicting provisions could lead to confusion and a limited application of the relevant measures. Also, the provisions of the ESCUMLR cannot operate to override the provisions of the MLPPA.

69. Furthermore, DNFBPs are not required by law to take reasonable measures to verify the identity of the beneficial owner and to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship in compliance.

70. For customers that are legal persons or arrangements, DNFBPs are not required to (a) understand the nature of the customer's business and its ownership and control structure in compliance with c.10.8; (b) identify the customer and verify its identity through the name, legal form and proof of existence, the powers that regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement, and the address of the registered office and, if different, a principal place of business in compliance with c.10.9; (c) identify the natural person(s) (if any) who ultimately has a controlling ownership interest in the legal person, and to the extent that there is doubt as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means, and where no natural person is identified, the identity of the relevant natural person who holds the position of senior managing official in compliance with c.10.10.

71. In addition, DNFBPs are not obliged to identify and verify the identity of customers that are legal arrangements, through any means in compliance with c.10.11.

72. In cases where DNFBPs form a suspicion of ML or TF, and they reasonably believe that performing the CDD process will tip-off the customer, DNFBPs are neither precluded from pursuing the CDD process nor required to file an STR.

73. The deficiencies identified in relation to c.22.1 are fundamental to the overall assessment of R.22.

74. **Criterion 22.2 [Partly Met]** All DNFBPs defined under criterion 22.1 are obliged institutions and are therefore, subject to the record-keeping obligations set out primarily in section 30 of the MLPPA. However, the deficiencies identified in relation to c.22.1 has a cascading effect on this criterion.

75. **Criterion 22.3 [Partly Met]** The First FUR maintained the PC rating for R. 12 due to shortcomings identified in relation to risk management and the scope of family members and close associates to which the relevant measures must be applied. Specifically, FIs are not required to implement risk-management procedures for foreign and domestic politically exposed persons in addition performing the required customer due diligence measures required under Recommendation 10; except for persons holding a significant position in an international organisation, the definition of PEPs in section 30 of the MLPPA does not cover close associates or family members. The First FUR concluded that the provisions of the Regulations do not operate to override the provisions of the MLPPA since, according to section 19(1) of the Interpretation Act of Nigeria, “[a]n expression used in a subsidiary instrument has the same meaning as in the Act conferring power to make the instrument”, thus restricting the scope of family members and close associates of PEPs to which the measures in c.12.1 and c.12.2 must be applied. On this basis, the deficiencies highlighted in relation R.12 have an adverse impact on the rating for this criterion. In addition, the law does not specify for which activity DNFBPs must comply with PEP requirements.

76. **Criterion 22.4 [Partly Met]** DNFBPs are required to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products in accordance with the requirements specified by the regulatory authorities (§13(1)(a), MLPPA). Additionally, Regulation 14(2)(h) of ESCUMLR requires compliance officers of all DNFBPs to identify and assess the ML, TF and PF risks that may arise in relation to the development of new products and new business practices.

77. Pursuant to the provision in section 13(1)(a) of the MLPPA, DNFBPs are required to undertake the assessment prior to the launch or use of such products, business practices and technologies and take appropriate measures to manage and mitigate the risks (§13(1)(b), MLPPA). DNFBPs are also required to take appropriate measures to prevent the misuse of technological developments in ML, TF and PF schemes including the use of internationally accepted credit or debit cards and mobile telephone banking systems (reg.22(1), ESCUMLR).

78. There is no evidence that DNFBPs have implemented the new technologies requirements in c.15.1 and 15.2. Also, the requirement for compliance officers to assess the ML/TF/PF risks that may arise in relation to the development of new products and new business practices is inconsistent with the provisions of the MLPPA and the FATF Standards. The obligation rests with an entity and not an individual. Finally, DNFBPs are not required to comply with the new technologies requirements set out in Recommendation 15 in the situations set out in Criterion 22.1.

79. **Criterion 22.5 [Partly Met]** DNFBPs are allowed to rely on third parties to (a) identify a customer and verify that customer’s identity using reliable independent source documents, data or information; (b) identify a beneficial owner and take reasonable measures to verify the

identity of the beneficial owner; (c) understand and obtain information on the purpose and intended nature of the business relationship; and (d) conduct due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transaction being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds (reg.32(1), ESCUMLR). Regulation 32(2) of the SCUML Regulation provides that "[w]here a DNFBP relies on a third party to conduct CDD, the responsibility for the outcome of the CDD measures shall be with the DNFBP".

80. Regulations 32(1) and (2) of ESCUMLR do not align with the requirements of the FATF standards. The FATF standards do not require reporting entities to rely on third parties to conduct CDD of a business relationship and scrutinise transactions throughout the course of a business relationship to ensure that the transaction being conducted are consistent with the institution's knowledge of the customer, their business risk profile, including where necessary the source of funds. In addition, reference to the "outcome of the CDD measures" does not have the same meaning envisaged by the FATF standard which directly places the responsibility to conduct those CDD measures on the reporting entity and not the third party.

81. Furthermore, there is no requirement for a DNFBPs relying on a third party to: (a) obtain immediately the necessary information concerning elements (a)-(c) of the CDD measures set out in Recommendation 10; (b) take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; (c) satisfy itself that the third party is regulated, and supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with Recommendations 10 and 11. DNFBPs are not required to comply with the reliance on third-parties requirements set out in Recommendation 17 in the situations set out in Criterion 22.1.

Weighting and conclusion

82. Nigeria's MLPPA adopted in 2022 extends to lawyers and internet casinos. It also provides for CDD measures with which DNFBPs must comply. The MLPPA is complemented by ESCUMLR to facilitate the implementation of relevant AML/CFT measures. However, shortcomings are identified in relation to the need for DNFBPs to reasonable measures to verify the identity of the beneficial owner and to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship; understand the nature of the customer's business and its ownership and control structure of legal persons; identify the customer and verify its identity through the name, legal form and proof of existence, the powers that regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement, and the address of the registered office and, if different, a principal place of business in compliance with c.10.9; identify the natural person(s) (if any) who ultimately has a controlling ownership interest in the legal person, and to the extent that there is doubt as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means, and where no natural person is identified, the identity of the relevant natural person who holds the position of senior managing official; identify and verify the identity of customers that are legal arrangements, through any means. In addition, lawyers, notaries, other independent legal professionals, accountants and trust and company service providers are not specifically required to comply with CDD requirements when they prepare for or carry out transactions for their clients concerning the specific activities listed the FATF Methodology in relation to the entities. A DNFBP relying on a third party to perform some aspects of CDD is not required to obtain immediately the necessary information concerning elements (a)-(c) of the CDD

measures set out in Recommendation 10; take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; satisfy itself that the third party is regulated, and supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with Recommendations 10 and 11. Implementation of the requirements set out in Recommendations 11, 12, 15 and 17 are not linked to the situations set out in Criterion 22.1. Considering Nigeria's risk and context, the deficiencies highlighted are considered moderate shortcomings in the implementation of Recommendation 22.

83. **On this basis, the PC rating for Recommendation 22 is maintained.**

Recommendation 24 (Originally Rated PC)

84. Nigeria was rated PC on Recommendation 24 because measures for bearer shares, nominee shareholders and directors were limited. In addition, Nigeria did not assess the ML/TF risks of legal persons created in the country and lacked mechanisms for monitoring the quality of assistance sought from other countries as part of international cooperation. Nigeria has enacted the Companies and Allied Matters Act, 2020 (CAMA) and taken other measures to address the technical deficiencies identified by the MER. The CAMA does not apply to companies operating in the free trade zones in Nigeria. The Nigeria Export Processing Zone Authority (NEPZA) is empowered by law (the NEPZA Act) to register entities that wish to operate within Free Zones. Such entities are not required to register with the CAC, as long as their operations do not extend to the mainland.³

85. **Criterion 24.1 [Mostly Met]** The Companies and Allied Matters Act 2020 (CAMA) identifies and describes the (a) different types, forms and basic features of legal persons in Nigeria (§21); and (b) the processes for the creation of those legal persons (§18-20), and for obtaining and recording of basic and beneficial ownership information (§120-123).

86. The website of the Corporate Affairs Commission (CAC) also hosts the CAMA and provide guidance on the processes for creating legal persons, as well as information on their features.

87. The types of legal persons that can be created in Nigeria include those: having the liability of its members limited by the memorandum of association to the amount, if any, unpaid on the shares respectively held by them (in this Act referred as "a company limited by shares"); having the liability of its members limited by the memorandum of association to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up (in this Act referred to as "a company limited by guarantee"); or not having any limit on the liability of its members (in this Act referred to as "an unlimited company"). A company of any of these types may either be a private company (defined in Section 22) or a public company. CAC's website is accessible to the public.

88. The Nigeria Export Processing Zone Authority (NEPZA) is responsible for the establishment, licensing, regulation and promotion of the operations and management of Free Zones in Nigeria. NEPZA has the power to register an entity who wishes to establish presence within the Free Zone. NEPZA's website provides information on the process for licensing free zone entities (FZEs), and for obtaining and recording of basic information. No mechanism describes the types, forms and basic features of FZEs and for obtaining and recording of beneficial ownership information. As of 2021, the number of FZEs totalled 375 constituting 0.03% of the more than one million (1,000,000) legal persons in Nigeria.⁴ However, these entities have high ML/TF vulnerabilities.

³ Section 2.4.2, page 11, NIRA on Legal Persons and Arrangements.

⁴ Section 2.5 and Table 1, page 12, NIRA on Legal Persons and Arrangements.

89. The Oil and Gas Free Zones Authority (OGFZA) regulates and manages Nigeria's oil and gas export free trade zones (OGEFTZ) through the Oil and Gas Export Free Zones Act (OGFZ Act). Registration in Nigeria with the CAC (for local companies) or the company registrar of a foreign country (for foreign companies) is pre-requisite for the registration of legal persons in an OGEFTZ (reg. 22(2) and (3), OGFZA Regulations, 2019). The processes for registration/licensing are published on OGFZA's website. The OGFZ Act does not provide for the types, forms and basic features of legal persons, as well the process for obtaining and recording of beneficial ownership information of OGFZ companies.

90. There are 109 OGEFTZ companies, constituting 0.01% of the total number of legal persons in Nigeria. The vulnerability of companies in OGEFTZ is rated high due to challenges faced by Nigeria in the extractive sector, with public officials and their accomplices being found to have been engaged in various malpractices in the sector. The Extractive Industries NIRA report published concurrently with the NIRA on Legal Persons and Arrangements has identified vulnerabilities in the governance and oversight of the industry. In addition, tax authorities have investigated legal persons operating within the zone with regards to tax crimes and transfer pricing.

91. **Criterion 24.2 [Met]** Nigeria has assessed the inherent ML/TF vulnerabilities of legal persons in the country, including the free trade zones (FTZs). This exercise, which covered the period between 2019 and 2021, considered factors such as structural constructs, potential complexity of ownership structure, nature of the activities, geographic risks, foreign participation, and onboarding process of legal persons, among other things. The assessment was based on case studies from different sources, including open-source information, ongoing and concluded cases from law enforcement authorities (LEAs), STRs analysed and disseminated to LEAs from the NFIU and expert opinions from participants of the NIRA process. The authorities identified limited liability companies (LLCs) as the most vulnerable to misuse as LLCs featured most prominently in STRs, corruption cases investigated by the EFCC, predicate offences committed by foreign exchange companies, including TF, and intelligence reports disseminated by the NFIU. The findings of the assessment were published in October 2022.

92. **Criterion 24.3 [Mostly Met]** Companies created in Nigeria are obliged to register with the CAC, which is empowered to record relevant information on these entities (§§34(4)(c) and 36, CAMA 2020). Information required to be registered with the CAC the memorandum of association which shall be delivered to the Commission together with an application for registration of the company, the documents required by this section and a statement of compliance. The application for registration must state (a) the company's proposed name; the registered office and head office address if different from the registered office address; (b) the extent of liability of members of the members of the company, whether by shares or by guarantee; whether the company is to be a private or a public company; (c) the initial issued share capital and initial shareholdings (for companies limited by shares), a statement of guarantee (for companies limited by guarantee); (d) the company's proposed directors; (e) the proposed registered office of the company; and be accompanied with a copy of the proposed articles of association to the extent that these are not supplied by the default application of model articles. An application delivered by an individual as agent for the subscribers to the memorandum of association, must state the name and address of that agent.

93. The registration of incorporated trustees (including associations and unions) requires the provision of basic Information including the proposed name, aims and objectives, names, addresses and occupations of the secretaries, appointment of trustees, constitution which provides the basic regulating powers etc (§§ 823, 825 and 827, CAMA 2020).

94. CAC has launched a Company Registration Portal that enables the public to access information (names, registration numbers, names of directors, registered address, types, status (whether active or inactive), names of persons with significant control, particulars of registered charges, etc.) on all registered entities, including incorporated trustees (unions, associations etc).

95. There is also no legal framework requiring NEPZA to record the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers, and a list of directors. Information to be provided by prospective FZE's appear to be at the discretion of the Authority. In this regard, section 9(1) of the NEPZA Act requires any enterprise which proposes to undertake an approved activity within a Zone to apply to the Authority in writing for permission to do so and submit such documents and information in support of its application, as the Authority may require. The grant of a license by NEPZA constitutes registration for the purposes of company registration within the Zone. On this basis, the NEPZA registration form requires applicants to submit to NEPZA, the names of directors, address, telephone number, and names of principal officers. The ownership structure must be presented in terms of percentages of local and foreign equities of the applicant FZE.

96. Registration in Nigeria with the CAC or Offshore with the company registrar of the applicant's country is pre-requisite for the registration of legal persons in an OGEFTZ (reg. 22(2), OGFZA Regulations, 2019). A local OGFTZ company requires the submission of a valid certificate of incorporation issued by CAC, a copy of the resolution of the company's board and any other document required by the OGFZA. An offshore entity must submit a certificate of incorporation issued by the registrar of the applicant's home country, evidence of a notarised certificate of incorporation from the home country, together with the Memorandum and Articles of Association and a copy of the resolution of the board. OGFZA is not required to obtain BO information on OGFTZ companies.

97. **Criterion 24.4 [Mostly Met]** CAMA requires CAC-registered companies to maintain the information set out in c.24.3 and a register of its members, including their names, addresses, share capital (if applicable), date when a person became or ceased to be a member (§§37 and 109, CAMA 2020). The register of members must be kept at the registered office of the company, except if the register is prepared at another office of the company, it may be kept at that other office; or company arranges with some other person to prepare the register on behalf of the company, it may be kept at the office of that other person where the register is produced. A company registered in Nigeria must keep its register in Nigeria. In addition, each registered company must send notice to CAC regarding the change in location of the register. The requirement for a company to notify CAC of a change of the location of its register does not apply to a register which has remained at the registered office of the company in the country since its creation or the commencement of the CAMA (§ 110 (1) and (2), CAMA). Companies must also inscribe against the name of every member with significant control over a company the information of such control (§ 119 (4), CAMA).

98. FZEs and OGFZ companies are not expressly required to maintain the information set out in c.24.3 and a register of their members, including their names, addresses, share capital (if applicable), date when a person became or ceased to be a member. An OGFZ company is required to keep all records of books of an enterprise in its registered office in the Free Zone (reg.27(1)(i), OGFZ Regulation) and register certified copies of the Memorandum or Articles of Association, certificates of incorporation, change of ownership, alteration of Memorandum or Articles of Association, and change of directors.

99. **Criterion 24.5 [Mostly Met]** Entries for a register of members must be made within 28 days of the conclusion of the agreement with the company to become a member or, in the

case of a subscriber of the memorandum, within 28 days of the registration of the company (§109 (2), CAMA 2020). Non-compliance with this requirement attracts such penalties as CAC shall specify by regulation; and an additional daily default fine that the Commission shall specify by regulation, and the penalties apply to the company and each officer of the company (§ 109(4), CAMA).

100. Companies are required to notify the CAC of changes to directors, their addresses and for non-compliance, the company and its officers will be liable to penalties for every day during which the default continues (§321, CAMA 2020).

101. It is an offence for a person to knowingly make any false statements or give any false information for the purpose of incorporating trustees. The offence attracts a term of one year imprisonment or a fine as the Court deems fit (§ 825 (5), CAMA 2020).

102. FZEs and OGFZ companies are required to notify NEPZA of any purchase, assignment or transfer of shares in the company, except where the company's shares are quoted and are freely transferable on any international Stock Exchange (§10(3), NEPZA Act and reg. 33(6), OGFZA Regulation). In addition, every transfer of shares between OGFZ companies in the Free Zone must be entered in the Free Zone's register (reg. 33(7), OGFZA Regulation). The scope of information to be provided to NEPZA is limited. In addition, the absence of a requirement to obtain and maintain all the information set out in c.24.3 and 24.4 does not guarantee the accuracy and timeliness of the required information.

103. **Criterion 24.6 [Partly Met]** LLCs, partnerships and CAC are required to maintain beneficial ownership (BO) information/information on persons with significant control in the relevant registers (§§ 119 (4) (for companies); 791 (4) (LLPs) and 119 (3) (for CAC)). The register for beneficial ownership information is publicly available on CAC's website. The public can access BO information on all registered entities, including incorporated trustees (unions, associations etc.). Only individuals qualify as persons with significant control of companies (reg. 14, PSC.R). Thus, CAC's forms and database only allow for the inclusion of natural persons on the BO register.

104. The filing of BO information occurs: (a) during registration in accordance with Form CAC 1.1 of the PSC Regulations 2022 (§ 867, CAMA 2020); (b) when filing annual returns (§§119(2) and 791(2), CAMA 2020); and (c) on notification to the company of the particulars in writing within seven days of an individual becoming a person with significant control and further notification of CAC by the company within the specified period after receiving or coming into possession of the information (§§ 119(2), §120 (5), CAMA) and 791(2), CAMA 2020).

105. A company whose status does not comply with the reporting obligations in respect of the PSC register, must be reflected as "inactive" on the PSC register and all other relevant online portals of CAC (reg. 12(1), PSC Regulations). An inactive company cannot obtain a letter of Good Standing from CAC, which is required by some government agencies and foreign agencies in order to issue contracts; obtain a Tax Clearance Certificate (TCC) from the Federal Inland Revenue Service (FIRS) thereby limiting the company from applying for contracts. Also, the company cannot pass a check from a bank or win government contracts.

106. Where a company or LLP fails to comply with the reporting requirements of PSC, the company, LLP and every officer of the company or LLP shall be liable to pay to CAC for every day the default continues in the amount of N5000 (\$6.34), N10,000 (\$12.67) and N25,000 (\$31.69) as specified in the regulations (reg. 12(2), PSC). Also, CAC will not issue a letter of 'Good Standing' to any company or LLP who fails to comply with PSC reporting obligations (reg. 14, PSC).

107. FIs and DNFBPs are required to identify the beneficial owner of a customer -legal person (as part of its customer due diligence) using relevant information or data obtained from a reliable source such that the FI or DNFBP is satisfied that it knows who the beneficial owner is (§ 4(1)(c), MLPPA). The records obtained during the application of customer due diligence (CDD) measures, including account files and results of any analysis undertaken must be retained (§8(1)(b), MLPPA) and swiftly make the records available to wide range of domestic authorities, no later than 48 hours upon request (8(2)(b) of the MLPPA).

108. FZEs, NEPZA and OGFZA are not required to obtain and hold up-to-date information on the companies' beneficial ownership. FZEs are not obliged to take reasonable measures to obtain and hold up-to-date information on the companies' beneficial ownership.

109. **Criterion 24.7 [Mostly Met]** BO information held by companies, CAC and reporting entities, must be accurate and up-to-date. Changes to the information must be notified to the company within seven days of becoming a BO (§119(1), CAMA), CAC within one month of receiving the information and also when submitting their annual returns (§119(2), CAMA). Failure to comply with BO information reporting and retention requirements attract fines as the Commission may prescribe by regulation for each day the default continues 119(5), 120(6) and 791(5). There are no corresponding requirements for FZEs, NEPZA and OGFZA to maintain BO information, and to update such information within a reasonable timeframe.

110. **Criterion 24.8 [Mostly Met]**

- a) **[Mostly Met]** Nigeria has measures in place that enable the country to cooperate with competent authorities in determining the BOs of legal persons. Foreign companies in Nigeria must be incorporated as a company in Nigeria before they can operate in the country (78(1), CAMA 2020). A foreign company must maintain a register of residential addresses of directors and designate one natural person to be accountable to provide information to competent authorities (§320, CAMA). The Minister for Trade may, upon written request by some categories of foreign companies (for example, companies executing projects at the invitation of or on behalf of the Government of Nigeria or a donor country or international organisation; foreign government-owned companies engaged solely in export promotion activities; and engineering consultants and technical experts engaged on any individual specialist project under contract with any of the governments in the Federation or any of their agencies or with any other body or person, where such contract has been approved by the Federal Government), exempt them from complying with this obligation (§80(2)(e), CAMA 2020).

LLPs must designate at least two partners who are individuals and at least one of them shall be resident in Nigeria (749(1), CAMA 2020).

Although competent authorities can request and obtain information from any company or incorporated trustee, the NEPZA Act does not require that one or more natural persons resident in Nigeria authorised by an FZE, and accountable to competent authorities, for providing all basic information and available BO information, and giving further assistance to the authorities.

- b) **[Met]** Lawyers and TCSPs are DNFBPs and therefore subject to AML/CFT/CPF obligations (§30, MLPPA).

Lawyers cannot invoke legal professional privilege and client confidentiality in relation to the purchase of property; purchase or sale of any business; management of client money, securities or other assets; the opening or

management of bank, savings or securities account; the creation, operation or management of trusts, companies or similar structures, among other things (§11(4) of MLPPA); and anything produced in furtherance of any unlawful act.

FIs and DNFBPs are required to conduct ongoing due diligence on a business relationship, and ensure that documents, data or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking reviews of existing records (§4(3), MLPPA). DNFBPs are also obliged to verify the identity of a customer, beneficial owner and occasional customer before or while establishing a business relationship or conducting transactions with them (§23, ESCUMLR).

111. **Criterion 24.9 [Mostly Met]** Nigeria has record keeping requirements in place for FIs, DNFBPs, CAC and companies (or their administrators, liquidators or other persons involved in the dissolution of companies). Relevant records must be kept up to five years following the dissolution of the company (§682(2), CAMA), completion of a transaction, the termination of the business relationship or after the date of the occasional transaction with the customer (§8(1), MLPPA). There is no legal requirement for NEPZA and OGFZA to maintain records on FZEs for a prescribed period.

112. **Criterion 24.10 [Partly Met]** CAC has a public portal which enables competent authorities to access basic and beneficial ownership information on registered companies promptly. Competent authorities also have powers to compel the provision of information held by relevant parties. Competent authorities can request information, including BO information, for the purpose of investigation and other relevant matters (§§4(1)(g), NFIUA; 38(1), EFCC Act; 3(1), ICPC Act; and 8&9, MLPPA). Regarding the mechanism used for accessing relevant information, competent authorities and LEAs have real-time access to the CAC database via API-API connectivity (rapid access) and therefore have complete and unrestricted access to CAC's public portal. However, the absence of legal requirement for NEPZA, OGFZA and FZEs to obtain and maintain basic and BO information on FZEs will impede the authorities' ability to obtain timely access to the required information. Also, Nigeria did not demonstrate that competent authorities/LEAs have access to a wider range of information that is not public and necessary for their work, as well as the timeframe within which the authorities obtain the information when requesting from relevant parties directly.

113. **Criterion 24.11 [Mostly Met]** CAMA prohibits the issuance of bearer shares (§174(1), CAMA). Prohibition of the issuance of bearer shares existed under the old CAMA, which also required for the cancellation or conversion of existing bearer shares into registered shares. CAMA 2020 only prohibits the issuance of bearer shares without requiring for their cancellation or conversion.

114. The NEPZA and OGFZA Acts do not prohibit companies that can issue bearer shares from operating in the free zones. While Nigeria asserts that there are no bearer shares in circulation, this may not be the case for FZEs.

115. **Criterion 24.12 [Mostly Met]** A subscriber of the Memorandum of Association who holds the whole or any part of the shares subscribed by him in trust for any other person must disclose that fact and the name of the beneficiary in the Memorandum of Association §27(3), CAMA). Under section 381(4)(b)(i) and (ii) of the CAMA, power exercisable by any "director" of a holding company, a subsidiary or wholly owned subsidiary as nominee for the other (except where the other is concerned only in a fiduciary capacity, or by, or by a nominee for, a subsidiary..., is treated as held or exercisable by the other. There is no explicit requirement to disclose the identity of the nominee director. However, this is not fatal as appointment of a person to the "nominee directorship" follows naturally from his appointment as director of the other company.

116. The NEPZA and OGFZA Acts do not oblige nominee shareholders and directors of FZEs (if any) to disclose the identities of their nominators.

117. **Criterion 24.13 [Partly Met]** Nigeria has a range of sanctions for any legal or natural person for failure to keep basic and beneficial ownership information accurate and up to date or provide such information to competent authorities in a timely manner. The list of criminal sanctions varies according to the seriousness of the offence while the monetary penalties accrue daily. The sanctions range from N5000 (US\$6.34) to N200,000 (US\$253.49) and imprisonment for two years and apply to legal or natural persons that make false disclosures (§12, PSC.R). Although these sanctions have been increased since the MER, the absence of data reflecting the number of violations and enforcement of sanctions makes it impossible to determine the effectiveness, proportionality and dissuasiveness of these sanctions.

118. A violation of any provision of the NEPZA Act attracts a fine of N100,000 (\$126.5) or to a term of imprisonment for three months or both. The sanctions apply irrespective of the nature or duration of the offence. However, the sanctions will also apply to the limited scope of information required to be provided to NEPZA and OGFZA. There is no evidence of enforcement of sanctions against FZEs. Therefore, the sanctions are not considered to be effective, proportionate and dissuasive.

119. **Criterion 24.14 [Partly Met]** CAC's Registration Portal enables users, including foreign competent authorities, to access basic and BO information held by CAC. The deficiencies highlighted in relation to FZEs apply to the conclusions on this criterion.

120. **Criterion 24.15 [Not Met]** Nigeria informs that the NFIU receives feedback through the Egmont Group of FIUs which provides information on basic and beneficial ownership information on legal persons. Part of the mandate of the Egmont Group is to provide feedback to the group of FIUs. The NFIU also provides and receives information on PSCs during proactive and reactive investigations. Nigeria also states that through the liaison officers' forum (a forum of officers of competent authorities who are assigned to manage the exchange information between their various organisations and their international counterparts through the CAU for formal and other means for in formal), Nigeria's international cooperation plan/strategy has provided a mechanism where the quality of international cooperation assistance received in all areas including basic and beneficial ownership information and request for assistance in locating BOs residing abroad are monitored and deliberated on. However, the information provided does not demonstrate the existence of any mechanism for monitoring the quality of assistance received from other countries in response to requests for basic and BO information or requests for assistance in locating beneficial owners residing abroad.

Weighting and conclusion

121. Nigeria has measures in place that ensure transparency of basic and beneficial ownership information for legal persons, and has assessed the ML/TF risks of legal persons created in the country, including FZEs. There are concerns regarding access to information on FZEs and foreign companies in the OGFTZ (including information on BO, bearer shares, disclosure of the names of nominators of nominee directors), and the range of sanctions for non-compliance with reporting requirements; the existence of comparable measures specifically identified to trace a BO or a mechanism for monitoring of the quality of assistance received from other countries in response to requests for basic and BO information request for assistance in locating BOs residing abroad. Considering the risk and context of Nigeria, these shortcomings are moderate as they impede access to adequate, accurate and up-to-date information on the BO control of legal persons, as well as compliance with reporting requirements.

122. **On this basis, the PC rating for R. 24 is maintained.**

Recommendation 33 (Originally rated PC)

123. The MER rated Nigeria PC on R.33 because not all statistics provided were comprehensive and could be broken down further into meaningful and relevant information when requested.

124. **Criterion 33.1**

- a) **[Met]** The 2nd MER rated Nigeria Met on the requirements of this sub-criterion. It concluded that data on STRs received and disseminated can be broken down by sector and offences, including TF.
- b) **[Met]** Nigeria maintains statistics on ML/TF investigation, prosecution and conviction. These are broken down into standalone, third-party laundering and self-laundering.
- c) **[Met]** Nigeria's AML/CFT data management tool captures frozen, seized and confiscated assets.
- d) **[Met]** Nigeria maintains comprehensive data demonstrating the effectiveness and efficiency of its system for international cooperation. These statistics include timelines within which these requests were responded to. To further ensure effective maintenance and management of these statistics, Nigeria has automated the process through a case management system domiciled within the Central Authority Unit of the Federal Ministry of Justice. The case management system tracks timelines within which cases are responded to. Nigeria also maintains statistics of other forms of international cooperation carried out by the NFIU, LEAs and regulatory authorities. These include joint investigations and spontaneous disseminations to other jurisdictions.

Weighting and conclusion

125. Nigeria demonstrated that it has a system for maintaining statistics on matters relevant to the effectiveness and efficiency of its AML/CFT system.

126. **On this basis, R. 33 is re-rated C.**

Recommendation 34 (Originally Rated PC)

127. The 2nd MER rated Nigeria PC on Recommendation 34. The shortcomings related to the lack of guidelines for FIs and DNFBPs in applying national AML/CFT measures, especially in detecting and reporting suspicious transactions; limited provisions for feedback in the NFIUA; and the lack of corresponding requirement for other competent authorities to provide reporting entities with feedback.

128. **Criterion 34.1 [Met]** The NFIU has issued several guidelines, including guidelines to Reporting Entities on STR reporting, and on other forms of reporting (SARs, CTRs, etc), for the effective implementation of the MLP(P)A and NFIUA. The SEC has also issued a circular to all CMOs on the rendition of various returns for AML/CFT titled Consolidated Grid for rendition of various anti-money laundering and countering the financing of terrorism (AML/CFT) returns by capital market operators (CMOS) to the Securities and Exchange Commission (SEC) and the Nigerian Financial Intelligence Unit (NFIU). SEC approved and

uploaded templates required for rendition of other categories of AML/CFT returns in line with the SEC AML/CFT regulations for Capital Market Operators.

129. Regarding feedback, the NFIU has developed a standard operating procedure for rendering feedback to reporting entities which is being implemented. The feedback given has assisted reporting entities in detecting and reporting suspicious transactions.

Weighting and conclusion

130. All the requirements are met.

131. **On this basis, R. 34 is re-rated C.**

IV CONCLUSION

132. Overall, Nigeria has made significant progress in addressing the technical compliance deficiencies identified in Recommendations 1, 2 and 6 and only minor deficiencies remain. Nigeria has been re-rated Compliant on Recommendations 8, 33 and 34. Insufficient progress has been made to support a re-rating for Recommendations 22 and 24.

133. Table 2 below shows Nigeria's MER ratings and reflects the progress it has made, including any re-ratings based on this report:

Table 2. Technical Compliance Ratings⁵ (May 2023)

R.	Rating	R.	Rating
1.	PC (MER 2021) - ↑ LC (FUR 2023)	21.	LC (MER 2021)
2.	PC (MER 2021) - ↑ LC (FUR 2023)	22.	PC (MER 2021) ↔ PC (FUR 2023)
3.	PC (MER 2021) - ↑ C (FUR 2022)	23.	PC (MER 2021)
4.	C (MER 2021)	24.	PC (MER 2021) - ↔ PC (FUR 2023)
5.	LC (MER 2021)	25.	PC (MER 2021)
6.	PC (MER 2021) PC (FUR 2022) - ↑ LC (FUR 2023)	26.	LC (MER 2021)
7.	NC (MER 2021) - ↑ LC (FUR 2022)	27.	LC (MER 2021)
8.	NC (MER 2021) - ↑ C (FUR 2023)	28.	PC (MER 2021)
9.	C (MER 2021)	29.	C (MER 2021)
10.	LC (MER 2021)	30.	C (MER 2021)
11.	PC (MER 2021) - ↑ C (FUR 2022)	31.	C (MER 2021)
12.	PC (MER 2021) ↔ PC (FUR 2022)	32.	PC (MER 2021)
13.	C (MER 2021)	33.	PC (MER 2021) - ↑ C (FUR 2023)
14.	C (MER 2021)	34.	PC (MER 2021) - ↑ C (FUR 2023)
15.	PC (MER 2021) - ↔ PC (FUR 2022)	35.	LC (MER 2021)
16.	LC (MER 2021)	36.	LC (MER 2021)
17.	LC (MER 2021)	37.	LC (MER 2021)
18.	LC (MER 2021)	38.	LC (MER 2021)
19.	PC (MER 2021) - ↑ LC (FUR 2022)	39.	LC (MER 2021)
20.	PC (MER 2021) - ↑ C (FUR 2022)	40.	LC (MER 2021)

⁵ Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

134. Nigeria has 32 Recommendations rated C/LC. Nigeria will remain in Enhanced Follow-up based on effectiveness ratings. Nigeria's next Enhanced FUR is due in November 2024.

Annex to the FUR

Summary of Technical Compliance –Deficiencies underlying the ratings³

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC (MER 2021) LC (FUR 2023)	All the criteria are Met or Mostly Met.
2. National cooperation and coordination	PC (MER 2021) LC (FUR 2023)	<ul style="list-style-type: none"> The implementation roadmap of the AML/CFT/CPF does not provide for the allocation of resources.
3. Money laundering offences	PC(MER 2021) C(FUR 2022)	<ul style="list-style-type: none"> All the criteria are met.
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> Nigeria has fully met this Recommendation.
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> Nigeria has not explicitly criminalised the financing of foreign terrorist fighters. The TPA does not clearly define funds or other assets. The requirement to infer the intent and knowledge of TF from objective factual circumstances does not apply to all TF offences. The sanctions provided under the applicable statutes are not consistent and proportionate.
6. Targeted financial sanctions related to terrorism & TF	PC (MER 2021) PC (FUR 2022) LC (FUR 2023)	<ul style="list-style-type: none"> The internal procedures for designations under UNSCR 1373 were not followed.
7. Targeted financial sanctions related to proliferation	NC(MER 2021) LC(FUR 2022)	<ul style="list-style-type: none"> There are discrepancies regarding procedures for delisting applications. The legal framework or mechanism does not cover communication of all PF-related de-listings and unfreezing to FIs and other persons or entities, including DNFBPs.
8. Non-profit organisations	NC (MER 2021) C (FUR 2023)	<ul style="list-style-type: none"> All the criteria are met.
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> Nigeria has met all the requirements.
10. Customer due diligence	LC	<ul style="list-style-type: none"> There is no requirement for FIs to identify and verify the identity and authority of a person purporting to act on behalf of a legal person. CMOs and insurance companies are not required to identify the customer, beneficial owner or legal owner through the identity of a natural person who holds the position of senior managing official and verify the identity of other types of legal arrangements through the identity of persons in equivalent or similar positions. No requirement for insurance companies to apply relevant CDD measures to other types of legal arrangements through the identity of persons in equivalent or similar positions. There is no requirement for insurance companies to identify a beneficiary designated by other means.
11. Record keeping	PC(MER 2021) C(FUR 2022)	<ul style="list-style-type: none"> All the criteria are met.
12. Politically exposed persons	PC(MER 2021) PC(FUR 2022)	<ul style="list-style-type: none"> The requirements do not cover family members or close associates of domestic and foreign PEPs.

Recommendations	Rating	Factor(s) underlying the rating
13. Correspondent banking	C	<ul style="list-style-type: none"> Nigeria has met all the requirements of R.13.
14. Money or value transfer services	C	<ul style="list-style-type: none"> The CBNR does not provide for sanctions for unregistered/unlicensed MVTs. There is no requirement to licence or register agents of MVTs. There is no requirement for MVTs providers that use agents to incorporate the agents in their AML/CFT programmes and monitor them for compliance.
15. New technologies	PC(MER 2021) PC(FUR 2022)	<ul style="list-style-type: none"> Nigerian authorities are yet to issue guidelines and/or provide feedback to assist VASPs in applying national measures to combat ML/TF/PF, especially in detecting and reporting suspicious transactions. Nigeria did not demonstrate proactive steps to identify natural or legal persons that carry out VASP activities without the requisite registration and applied appropriate sanctions to the VASPs.
16. Wire transfers	LC	<ul style="list-style-type: none"> There are no requirements for: <ul style="list-style-type: none"> FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, including the appropriate follow-up action; intermediary FIs to take reasonable measures to identify cross-border wire transfers that lack the required originator information; MVTs provider to file STR in any country affected by a suspicious wire transfer and make relevant transaction information available to the FIU; and beneficiary FIs to verify the identity of a beneficiary of cross-border wire transfer, if the identity is not previously verified, and maintain this information under R.11. Requirements for wire transfers do not cover insurance companies and CMOs.
17. Reliance on third parties	LC	<ul style="list-style-type: none"> There is no requirement to determine the eligibility of the third party based on risk and relevant factors. There is no requirement regarding the supervision of third-party and mitigation of risk group AML/CFT policies.
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> Most policies focus on ML to a larger extent and TF to a lesser extent. The Regulations neither specify the functions, powers, and reporting lines of the compliance officer. Insurance companies are not required to have screening procedures to ensure high standards when hiring employees. CBN requires its supervised foreign branches and subsidiaries to report when prohibited from implementing AML/CFT measures. There are no requirements for CMOs and insurance companies to ensure that their foreign branches and majority-owned subsidiaries implement consistent AML/CFT measures and take related actions.
19. Higher-risk countries	PC(MER 2021) LC (FUR 2022)	<ul style="list-style-type: none"> NFIU advisories and sector Regulations (except insurance companies) do not set out examples of the types of measures that EDD could include.
20. Reporting of suspicious transaction	PC(MER 2021) C (FUR 2022)	<ul style="list-style-type: none"> All the criteria are met.
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> There is no protection for FIs against civil and criminal liability. There is no protection available to FIs, their directors, officers and employees if they did not know what the underlying criminal activity was, and regardless of whether the illegal activity occurred. Prohibition from disclosure only applies to tipping off a customer.
22. DNFBPs: Customer due diligence	PC (MER 2021) PC (FUR 2023)	<ul style="list-style-type: none"> No requirement, by law, to take reasonable measures to verify the identity of the beneficial owner and to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship. For customers that are legal persons or legal arrangements DNFBPs are not required to: <ol style="list-style-type: none"> understand the nature of the customer's business and its ownership and control structure; identify the customer and verify its identity through the name, legal form and proof of existence, the powers that

Recommendations	Rating	Factor(s) underlying the rating
		<p>regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement, and the address of the registered office and, if different, a principal place of business in compliance with c.10.9;</p> <p>c) identify the natural person(s) (if any) who ultimately has a controlling ownership interest in the legal person, and to the extent that there is doubt as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means, and where no natural person is identified, the identity of the relevant natural person who holds the position of senior managing official.</p> <ul style="list-style-type: none"> • No requirement to identify and verify the identity of customers that are legal arrangements, through any means; • No requirement for lawyers, notaries, other independent legal professionals, accountants and trust and company service providers to comply with CDD requirements when they prepare for or carry out transactions for their clients concerning the specific activities listed the FATF Methodology in relation to the entities. • No requirement for a DNFBPs relying on a third party to: <ul style="list-style-type: none"> a) obtain immediately the necessary information concerning elements (a)-(c) of the CDD measures set out in Recommendation 10; b) take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; c) satisfy itself that the third party is regulated, and supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with Recommendations 10 and 11 • No requirement to comply with the requirements set out in Recommendations 11, 12, 15 and 17 in the situations set out in Criterion 22.1.
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • The deficiencies noted concerning R. 18 to 21 and R. 22 apply to R. 23.
24. Transparency and beneficial ownership of legal persons	PC (MER 2021) PC (FUR 2023)	<ul style="list-style-type: none"> • The scope of information collected on FZEs is limited. • FZEs are not obliged to disclose BO information. • Free zone authorities lack legal frameworks to obtain BO information and apply sanctions for non-compliance. • There is no evidence that sanctions for non-compliance with CAC reporting requirements are effective, proportionate and dissuasive. • Nigeria did not demonstrate the existence of comparable measures it had specifically identified to trace a BO. <ul style="list-style-type: none"> • Nigeria did not demonstrate having a mechanism for monitoring of the quality of assistance received from other countries in response to requests for basic and BO information or request for assistance in locating Bos residing abroad.
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • There is over-dependence on FIs for BO information in respect of legal arrangements. Despite the significant representation of DNFBPs in the operations of legal arrangements. • There are no measures in place requiring trustees to obtain and hold adequate, accurate, and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over trusts. • There are no measures requiring trustees of any trust governed under the laws of Nigeria to hold basic information on other regulated agents of, and

Recommendations	Rating	Factor(s) underlying the rating
		<p>service providers to, the trust, including investment advisors or managers or accountants, and tax advisors.</p> <ul style="list-style-type: none"> • Reporting obligations are not commensurate with the risks they pose. • Sanctions for non-disclosure are not proportionate or dissuasive. • There are also no specific provisions requiring trustees to disclose their status as trustees of a foreign express trust or any trust to FIs and DNFBPs.
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> • There are no clear provisions designating supervisor or supervisors and assigning related responsibilities for regulating and supervising (or monitoring) FIs for compliance with the AML/CFT requirements.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • There is no express legal authority for financial regulators to inspect FIs for compliance with AML/CFT measures. • It is unclear whether the NDLEA, an anti-drug trafficking agency, is a supervisor for FIs. • The range of sanctions available to supervisors is not considered to be effective, proportionate and dissuasive.
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> • Risk-based AML/CFT supervision is not well established for the DNFBP sector. • AML/CFT obligations are inoperative for lawyers in Nigeria. • Internet casinos are not subject to AML/CFT obligations and not monitored for AML/CFT purposes as the definition of casino is focused on land-based casinos.
29. Financial intelligence units	C	<ul style="list-style-type: none"> • Nigeria has fully met the requirements of this Recommendation.
30. Responsibilities of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> • Nigeria has fully met this Recommendation.
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> • Nigeria has fully met this criterion.
32. Cash couriers	PC	<ul style="list-style-type: none"> • Nigeria is not implementing the declaration system for BNIs. • Customs has no express mandate to request and obtain further information from a carrier regarding the origin and intended use currency
33. Statistics	PC (MER 2021) C (FUR 2023)	<ul style="list-style-type: none"> • All the criteria are met.
34. Guidance and feedback	PC (MER 2021) C (FUR 2023)	<ul style="list-style-type: none"> • All the criteria are met.
35. Sanctions	LC	<ul style="list-style-type: none"> • Certain fines are not proportionate and dissuasive. • The range of sanctions for non-compliance with certain Recommendations is inadequate.
36. International instruments	LC	<ul style="list-style-type: none"> • Nigeria has not criminalised the offences relating to the aviation and maritime sectors, protected persons and nuclear materials. • Nigeria does not have a comprehensive mutual legal assistance legal framework to facilitate formal mutual legal assistance. • There is no clear legal framework regarding the extradition of terrorists and those who finance terrorism.
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> • There are no provisions for the prioritisation of MLA requests. Dual criminality is a prerequisite for providing MLA even where they do not involve coercive action.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> • There are no legal measures in place for the enforcement of foreign non-conviction-based confiscation orders.
39. Extradition	LC	<ul style="list-style-type: none"> • There is no case management system and clear processes for the timely execution of extradition requests. • There is no appropriate prioritisation and procedures for simplified extradition.

Recommendations	Rating	Factor(s) underlying the rating
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> • There are no clear processes and procedures to prioritise and execute requests promptly, as well as controls and safeguards to ensure the use of information exchanged by competent authorities. • There are no measures in place to ascertain the use and usefulness of information obtained. • SEC is not legally empowered to share supervisory information for AML/CFT purposes. • Financial supervisors are not empowered to share information on internal AML/CFT procedures and policies of FIs, customer-related information, as well as facilitate or conduct enquiries on behalf of their foreign counterparts, or exchange information with non-counterparts.



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Follow-up Report & Technical Compliance Re-Rating

The report also looks at whether Nigeria measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2021.

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