



# REPUBLIC OF NICARAGUA

FOURTH ENHANCED  
FOLLOW-UP REPORT AND  
TECHNICAL COMPLIANCE  
RE-RATING



January 2020



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## **NICARAGUA: FOURTH ENHANCED FOLLOW-UP REPORT**

### **I. INTRODUCTION**

1. In accordance with GAFILAT's Fourth Round procedures, Nicaragua's Mutual Evaluation Report (MER) was adopted in July 2017. This follow-up report analyses the progress made by Nicaragua in addressing the technical compliance deficiencies identified in its MER. New ratings are granted when sufficient progress is observed. Overall, the expectation is that countries have addressed most, if not all, technical compliance deficiencies before the end of the third year since the adoption of their MER. This report does not address Nicaragua's progress in improving its effectiveness. A subsequent follow-up evaluation will analyse the progress made on effectiveness, which may eventually result in a new rating of the Immediate Outcomes.

### **II. FINDINGS OF THE MUTUAL EVALUATION REPORT**

2. The MER and the Third Enhanced Follow-up Report rated Nicaragua as follows in relation to technical compliance:

**Table 1. Technical Compliance Ratings, July 2019**

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

*Note:* There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

Sources: i) Mutual Evaluation Report of Nicaragua, <http://gafilat.org/index.php/es/biblioteca-virtual/miembros/nicaragua/evaluaciones-mutuas-11/1251-informe-de-evaluacion-mutua-de-la-cuarta-ronda-de-nicaragua/file>

ii) Third Enhanced Follow-up Report of Nicaragua, <http://gafilat.org/index.php/es/biblioteca-virtual/miembros/nicaragua/informes-de-seguimiento-11/3494-tercer-informe-de-seguimiento-intensificado-de-nicaragua/file>

3. Considering the MER results, GAFILAT placed Nicaragua under the enhanced follow-up process<sup>1</sup>. The Executive Secretariat of GAFILAT evaluated Nicaragua's request for a new technical compliance rating and prepared this report.

<sup>1</sup> The regular follow-up is the default monitoring mechanism for all countries. The enhanced follow-up process is based on the FATF traditional policy that approaches members with significant (technical compliance or effectiveness) deficiencies in their AML/CFT systems, and it involves a more enhanced follow-up process.

4. Section III of this report summarizes Nicaragua's progress in improving technical compliance. Section IV presents the conclusion and a table showing which Recommendations were re-rated.

### **III. OVERVIEW OF THE PROGRESS MADE TO IMPROVE TECHNICAL COMPLIANCE**

5. This section summarizes Nicaragua's progress in improving its technical compliance by addressing the technical compliance deficiencies identified in the MER.

#### **3.1. Progress in addressing technical compliance deficiencies identified in the MER**

6. Nicaragua has made progress in addressing its technical compliance deficiencies identified in the MER in relation to the following Recommendations:

- Recommendation 8, originally rated PC
- Recommendation 22, originally rated PC
- Recommendation 23, originally rated PC
- Recommendation 28, originally rated PC, and
- Recommendation 35, originally rated PC.

7. As a result of this progress, Nicaragua was re-rated in relation to Recommendations 8, 22, 23 and 28.

#### ***Recommendation 8 - Non-profit organisations (Originally rated PC – re-rated LC)***

8. With regard to the deficiency identified in criterion 8.1 c), paragraph 12 of Nicaragua's Second Enhanced Follow-Up Report indicates that the competent authorities responsible for the regulation, supervision and sanction of NPOs are still reviewing the measures relating to the subgroup of the NPO sector that could be misused for TF support, in order to be able to take effective and proportionate action to address the identified risks.

9. Nicaragua conducted an analysis of the total NPOs registered by September 30, 2019, in which it identified a group of 1,797 NPOs that could be vulnerable in terms of TF. This set of NPOs was identified through a methodology that includes specific criteria in relation to: the types of NPOs, active or inactive NPOs, amount of donations received, origin or destination of donations, among others. On that total, the country applied a risk-based approach in line with the provisions of its Action Plan of the Ministry of Interior (MIGOB), which resulted in 208 NPOs considered of high risk, 581 with moderate risk and 1,008 with low risk. In this regard, Nicaragua provides an intensified monitoring for the subsets of higher risk.

10. Likewise, on April 12, 2019, the MIGOB, through Ministerial Agreement 07-2019, approved the Regulations of the Department for Registration and Control of Associations for the Supervision of Non-Profit Organisations (NPO Regulations), which includes in Chapter IV, the obligations of this sector to ensure their transparency and prevent them from being used for ML/TF/FP activities.

11. In the same sense, Article 15 considers the following to be the main obligations of this sector in order to address the risks of ML/TF/FP, among others:

- a. Be registered in the registry of non-profit legal persons of the MIGOB (...)
- b. Submit their by-laws to the Department for Registration and Control of Associations of the MIGOB (...)
- c. Report periodically on internal changes, such as: Change of Legal Representative and Directors, Change of Corporate Name, Amendment of By-laws, Address, Telephones, Board of Directors either national and/or from the country of origin, change of domicile, substitution and/or revocation of powers.
- d. Ensure that their assets do not originate in illegal activities.
- e. Carry out financial transactions through regulated financial channels.
- f. Verify the identity and good standing of its donors and beneficiaries, as well as its associated NPOs (Name, address, telephone, copies of identity documents, legal background, legal data of NPOs of other nationalities).
- g. Comply with the legal requirements established for the reception of donations from abroad and inform the Department of Associations of the MIGOB of the steps prior to their reception, as well as their final destination.
- h. Submit their Financial Statements according to the current fiscal period with detailed breakdowns of statements of results, income, expenses, balance sheet, trial balance, detail of donations with origin of income and final destination, and origin of application of funds.
- i. Promote transparency, integrity and public trust in the administration and management of NPOs.
- j. Keep for a minimum period of 10 years the records of national and international transactions and financial statement records with detailed breakdowns of income, expenditure and donations, which should be available to the competent authorities, on request.

12. Furthermore, Chapter V of the NPO Regulations sets out the supervisory and control provisions for NPOs with regard to AML/CFT/CFP with a risk-based approach. In this regard, Article 16 of these regulations empowers the Department for Registration and Control of Associations (DRCA) to carry out control and assistance visits to NPOs to verify compliance with their by-laws and also on the basis of Law 147 on Non-Profit Legal Persons, Law 977 on AML/CFT/CFP and its regulations.

13. In addition, Article 17 of the same law states that the DRCA should carry out control and supervision of NPOs with an RBA, applying administrative sanctions, in accordance with the relevant laws. In this regard, the DRCA shall verify compliance of NPOs with the measures in place to prevent ML, TF and FP, and shall inform the competent authorities of any suspicion that an NPO is involved in these offences.

14. As part of the ML/TF/FP prevention functions carried out by the DRCA under Article 18 of the NPO Regulations, the following is performed:

- On-site and off-site supervision with an RBA.
- Inform competent authorities of the existence of any acts or events that may constitute an offence.
- Enforcement of corrective measures, administrative and pecuniary sanctions as appropriate.
- Verification of financial information to identify suspicious and irregular transactions indicative of ML or TF.
- Verification of the destination of NPO funds so that it is consistent with the aims and objectives of their non-profit nature.

- Expeditious information sharing with competent authorities where NPOs are suspected to be vulnerable for use in ML/TF, to take preventive or investigative action.
- Training for the sector on the correct use of accounting books, so as to have adequate knowledge of the origin and destination of donations in order to prevent them from being used by organized crime for illicit purposes.
- Training on the AML/CFT/CFP Law, taking into account their vulnerability to be used for illicit purposes; in coordination with the UAF.

In addition, Chapter VII of the NPO Regulations sets out the provisions relating to sanctions and the application of fines for non-compliance in the area of AML/CFT/CFP.

15. With respect to the implementation of the supervision and sanction regime, it should be specified that a risk-based approach is envisaged, in which the results of the highest risk NPOs' analysis will be considered by the authorities.

16. From the foregoing, it is estimated that Nicaragua overcomes the deficiency identified for criterion 8.1 c).

17. With regard to the deficiency identified in criterion 8.1 d), concerning the periodic re-evaluation of NPOs in accordance with the provisions of the criterion, Nicaragua indicated that through Article 18 of the NPO Regulations, in particular paragraph 10, the DRCA shall coordinate actions to periodically evaluate the vulnerabilities of the NPO sector with regard to TF, ML or other forms of support to terrorism, Organized Crime and identify the characteristics and types of NPOs that are particularly at risk of being used for these purposes.

18. Nicaragua also provided information related to:

- i. The January-December 2019 Action Plan of the DRCA
- ii. The assistance and attention lists for the sector from January to September 2019, through which the NPO Regulation has been disseminated
- iii. The development of internal administrative instruments, such as Circular No. 001 of February 2019, to implement the identification and designation of persons and entities linked to the UNSCR lists on TF
- iv. The incorporation into the automated system known as the "Register of Non-Profit Entities (RESL)" of an extension that will allow the recording of all members of associations, complete the existing information on the members of the Board of Directors and complete the data on donations; and
- v. The modernisation of the automated search system, which contains a specific module called "Consultation of Associations".

19. From the foregoing, it is estimated that the provisions of criterion 8.1 d) are addressed.

20. In relation to the deficiency identified in criterion 8.2 b) and c), related to undertaking outreach actions with NPOs, during 2017 the MIGOB carried out 2 outreach and dissemination activities to the NGO/NPO sector in relation to TF measures and trends, where a total of 60 NGOs/NPOs participated:

- I. Activity with representatives of the evangelical churches and
- II. Activity with representatives of equestrian clubs.

21. In addition, according to the information provided by the country, during 2018, it also carried out outreach activities, specifically on the registration and control of NPOs.

22. With regard to 2019 activities, from January to August, the MIGOB held 3 outreach meetings with NGOs/NPOs, in coordination with the NGO Directorate of the Ministry of Foreign Affairs, for a total of 475 non-profit organisations representatives. In addition, a training session on the Handbook of Procedures and Regulations for the Supervision and Control of NPOs to prevent ML/TF was held for their officials; this training was given by officials of the General Directorate of Migration and Foreigners, the General Directorate of Firefighters and the General Directorate of the National Penitentiary System.

23. For its part, the UAF trained 70 NPOs in the enforcement of Law 977 and its regulations with a focus on NPOs.

24. In turn, as was pointed out in the analysis of criterion 8.1 d), the MIGOB Action Plan January-August 2019 establishes 9 activities for detecting vulnerabilities of NPOs on ML/TF/FP, training NPOs in prevention of ML/TF/FP, developing a regulatory framework for establishing obligations for NPOs in the area of AML/CFT/CFP and complying with the resolutions issued by the United Nations Security Council relating to TF/FP.

25. Provisions of criterion 8.2 b) and c) are thus complied with.

26. With regard to the deficiency identified in criterion 8.2 d), concerning the fact that there is no information that Nicaragua has taken steps to encourage NPOs to carry out transactions through regulated financial channels, the country points out that in accordance with the provisions of Article 15, paragraphs 6, 7, 8, and 9 all NPOs are required to verify that their resources do not originate in illegal activities, conduct financial transactions through regulated financial channels, and verify the good standing of donors and beneficiaries, and comply with the requirements for receiving donations, in addition to the outreach activities addressed in criteria 8.2 b) and c).

27. Moreover, Article 38.1 of Law 977 provides that NPOs should carry out financial transactions through regulated financial channels. In this sense criterion 8.2 d) is considered addressed.

28. With regard to the deficiency identified in criterion 8.3, on the existence of fines for NPOs that fail to comply with the prudential requirements for registration with the competent authority, paragraph TC 75 of the MER indicates that the measures applied do not have an RBA and do not address the TF risks of the sector.

29. Article 15 of the NPO Regulations indicates a series of measures for NPOs (which were already mentioned in the analysis of criterion 8.1) that promote supervision and monitoring. In addition, Article 38 of Law 977 establishes duties of NPOs relating to the prevention of ML/TF/FP, among which the following are included:

- a. Carry out financial transactions through regulated financial channels.
- b. Apply the “know your beneficiaries and associated NPOs” rule, consisting of: Verifying the identity and good standing of its beneficiaries and its associated NPOs; documenting the identity of its fund providers (...).
- c. Keep formal accounts of its assets, with accounting systems (...)
- d. Comply with the requirements established for the reception of donations (...)

- e. Keep for a period of at least 10 years: The annual financial statements with detailed breakdowns of income, expenses and donations from the date of approval, the records of local and international transactions from the date of the transaction.

30. However, Articles 16, 17 and 18, paragraphs 1, 2, 3, 5, 6, 10 and 15 of the NPO Regulations state that the DRCA should verify compliance of NPOs with measures to prevent ML/TF/FP, supervise the operation of NPOs in compliance with laws, decrees and regulations, and coordinate actions to evaluate NPOs that are especially at risk of being used for ML/TF/FP, among others.

31. In addition, Article 17 of the abovementioned regulations indicates that the DRCA should carry out control and monitoring of NPOs with a risk-based approach, applying administrative sanctions, in accordance with the relevant laws. In turn, as provided for in Article 18.1, this authority shall verify the strict compliance of NPOs in accordance with their relevant Articles of Incorporation, By-laws and Laws, through on-site and off-site risk-based supervision.

32. In view of the foregoing, it is estimated that Nicaragua has measures to promote supervision with effective monitoring, and that the DRCA has the power to supervise with an RBA, thus complying with the provisions of criterion 8.3.

33. Regarding the deficiency identified in criterion 8.4 a), according to the analysis of criterion 8.3, it was verified that the DCRA has the power to supervise with an RBA, as well as to supervise measures to promote supervision. However, the implementation of monitoring of risk-based measures is still underway.

34. With regard to the deficiency identified in criterion 8.4 b), concerning the fact that the sanctions included in the Procedures Manual of the DRCA lack proportional and dissuasive effect for CFT purposes in accordance with paragraph TC 76 of the MER, the country points out that Chapter VII of the NPO Regulations establishes the provisions relating to sanctions and the application of fines for NPOs that fail to comply with the laws, regulations and standards relating to AML/CFT/CFP.

35. In this regard, Article 26 of the NPO Regulations states that the DRCA may apply administrative sanctions in the form of fines and interventions. With regard to fines under Article 27 of the same law, there is a range of applicable sanctions for non-compliance, such as:

- i. Late registration: fine of C\$1,000.00 to C\$5,000.00
- ii. Misuse of books: fine of C\$2,500.00 to C\$5,000.00
- iii. Loss of books: fine of C\$2,500.00 to C\$5,000.00
- iv. Failure to report periodically on internal changes, such as: Change of Legal Representative and Officers, Change of Corporate Name, Amendment of By-laws, Address, Telephones, Board of Directors, change of domicile, substitution and/or revocation of powers: fine of C\$2,500.00
- v. Failure to develop measures to guarantee that the property and resources that make up its patrimony do not originate from illicit activities, circumstance that may be verified by the competent authorities in accordance with legal procedures: fine of C\$5,000.00
- vi. Carry out financial transactions through non-regulated channels: fine of C\$5,000.00
- vii. Failure to verify the identity and good standing of its donors and beneficiaries, as well as its associated NPOs (Name, address, telephone, copies of identity documents, legal background, legal data of NPOs of other nationalities): fine of C\$5,000.00; among others.



36. From the foregoing, it is considered that the sanctions are proportionate to the infringements by virtue of the fact that there is a wide range for each of the different cases of non-compliance.

37. In addition, Article 28 of the NPO Regulations deals with recidivism in non-compliance with the provisions of Article 27 concerning fines and it establishes a range of sanctions from doubling the amount of the fines, administratively intervening in the NPO if non-compliance persists and even, in the event that the NPO has incurred in the last two cases, requesting the National Assembly to cancel its legal personality.

38. Likewise, the competent authority, through Article 30 of the regulations in question, has the power to intervene administratively in different cases such as:

- i. Repeated misuse and loss of books
- ii. Complaint by one of the members regarding irregularities in the administration and management of the NPO
- iii. Non-compliance with the recommendations and resolutions of the DRCA
- iv. Failure to keep formal accounts of its assets
- v. Complaints and accusations before the competent courts against NPOs
- vi. Failure to act in accordance with the purposes and objectives for which they were granted legal personality, among others.

39. It should also be pointed out that under Article 32 of the NPO Regulations, the DRCA may request before the National Assembly the cancellation of the legal personality of non-profit Associations, Federations, Foundations and Confederations, on the grounds established in Article 24 of Law 147 and Article 15.3 of the Regulations of Law 977.

40. From the above analysis, it is estimated that Nicaragua has the capacity to apply effective sanctions, in a wide range proportionate with the assumptions of non-compliance, and dissuasive since it can even intervene and propose the cancellation of an NPO. In that sense, it is considered that the deficiencies of this criterion have been overcome in accordance with criterion 8.4 b).

41. With regard to the deficiency identified in criterion 8.5 d), concerning the fact that the prudential measures in force applicable to Nicaraguan NPOs do not ensure that in the event of suspicion or the existence of reasonable grounds to suspect that an NPO is being misused for TF purposes, the information is promptly shared with the competent authorities to take preventive or investigative action, the country indicates that in accordance with Article 8, paragraph 5 of Law 976 it is established that any authority or public official who in the exercise of its activities becomes aware of events or assets related to ML/TF/FP should inform so to the UAF.

42. In addition, Article 37.6 of Law 977 provides that public bodies that have powers and duties related to the regulation, supervision and sanction of NPOs should report to the competent authorities, suspicions that a particular NPO: i) Is involved in ML/TF/FP and/or is a screen for the execution of ML/TF/FP activities. ii) It is being exploited as a vehicle for TF, including for the purpose of evading asset freezing measures, or for forms of support to terrorism. iii) It is concealing or disguising the clandestine diversion of funds intended for legitimate purposes, but which are being diverted for the benefit of persons involved in ML/TF/FP operations.

43. In addition, Article 17 of the NPO Regulations provides for the duty of the DRCA to communicate to the competent authorities the suspicion that an NPO is involved in the commission of ML/TF/FP as well

as Article 18 of the same regulation, which in numerals 4, 11 and 13 establish that this department shall have the functions of prevention, making the competent authorities aware of the existence of acts or events that may constitute offences and sharing relevant information expeditiously with competent authorities when there is suspicion that an NPO is vulnerable to be used for ML/TF, to undertake preventive or investigative actions.

44. From the foregoing analysis, it is acknowledged that Nicaragua has made progress in adopting measures at the regulatory level for the NPO sector which, in accordance with the risks identified, could be misused for TF purposes. In particular, the adoption of the NPO Regulations, through Ministerial Agreement 07-2019, was of great relevance in guaranteeing the transparency of NPOs and preventing them from being used for ML/TF/FP activities, as well as the basis for their supervision and control. However, the implementation of monitoring of risk-based measures is still underway. It is therefore proposed that the rating be raised to **Largely Compliant**.

***Recommendation 22 - DNFBPs: Customer due diligence (originally rated PC – re-rated LC)***

45. With regard to the deficiency identified in criterion 22.1, Nicaragua's Third Enhanced Follow-Up Report determined that in the case of accountants the country has no provisions indicating the application of criteria 10.2.b, 10.7 (a) and (b), 10.10, 10.11, 10.16, 12.1 (a) and (b), 12.2 and 12.3. Likewise, there are no obligations in relation to R.15. In addition, lawyers and notaries have not yet been incorporated as RIs for the fulfilment of AML/CFT obligations.

46. With regard to the deficiency that lawyers and notaries have not yet been incorporated as RIs for compliance with AML/CFT obligations, Article 1 of Law 1000, amending and supplementing Law 977 "Law against ML/TF/FP", published on August 7, 2019, amends Article 9.4 of the Law against ML/TF/FP and incorporates lawyers and notaries authorised and incorporated, through the Judiciary, as Reporting Institutions (RI) to inform the UAF directly, not being able to invoke reservation or secrecy of any kind. All the obligations established in Law 977 therefore apply to lawyers and notaries.

47. In accordance with the foregoing paragraph, the obligation of the RIs to develop customer due diligence (CDD) procedures established in Article 17 of Law 977, which was analysed in paragraph 21 of Nicaragua's Second Enhanced Follow-Up Report, is also applicable to lawyers and notaries.

48. Likewise, Article 2 of Agreement 451 which approves the Regulations for Prevention, Detection and Reporting of Activities Potentially Linked to Money Laundering, Terrorist Financing and Proliferation of Weapons of Mass Destruction (ML/TF/FP) and Predicate Offences Associated with Money Laundering, for lawyers and notaries public of the Republic of Nicaragua, regulated and supervised by the Judiciary (AML/CFT/CFP Regulations), provides that these regulations are applicable to lawyers and notaries in their capacity as RIs; when they carry out, authorize, participate, intervene or are about to carry out transactions, operations or services for or on behalf of their customers, relating to the following activities: a) Purchase and sale of real estate property; b) Administration of the customer's money, securities or other assets; c) Administration of bank, savings or securities accounts; d) Organisation of contributions for the creation, operation or administration of enterprises and e) Creation, operation or administration of legal persons or other legal arrangements, and purchase and sale of commercial entities.

49. In this regard, it addresses the deficiency identified under criterion 22.1.

50. Additionally, in criterion 22.1, with respect to the corresponding criteria of R.10 applicable for lawyers and notaries, as well as those referred to above with respect to accountants, the following analysis is shown:

51. Regarding criterion 10.1, Article 14.1 of the AML/CFT/CFP Regulations applicable to lawyers and notaries, it states that they may not provide, maintain or perform services when: The customer uses a fictitious, inaccurate, encrypted, fantasy or coded name or requires that they be provided in such a way that its identity is anonymous; (...)

52. Therefore, the provisions under criterion 22.1 regarding the implementation of criterion 10.1 for lawyers and notaries are addressed.

53. With respect to criterion 10.2, Article 2 of the AML/CFT/CFP Regulations for lawyers and notaries refers to the situations in which the measures against ML/TF/FP should be applied, which are in line with the situations indicated in criterion 22.1.d.

54. Likewise, Article 11 of the same Regulation indicates the moment when CDD measures should be applied and states that lawyers and notaries should apply CDD measures on the activities described in Article 2, when:

- a) they intend to perform or perform transactions and services for or on behalf of their customers, regardless of value or amount.
- b) they perform an occasional transaction and service for their customer that reaches a value equal to or greater than ten thousand United States dollars (USD 10,000.00) or its equivalent in Cordobas or any other foreign currency, even in situations in which the transaction or service is carried out in a single transaction or in several transactions during one month, which appear to be related.
- c) they conduct remittance transactions regardless of their value or amount.
- d) there is suspicion of ML/TF/FP regardless of the value or amount of the transaction and service.
- e) they have doubts about the veracity or accuracy of previously obtained data in relation to customer identification.

55. With regard to the deficiency indicated for certified public accountants (CPA) relating to the implementation of criterion 10.2.b, in accordance with Resolution No. 05-2019-JD/CCPN-PLA/FT/FP, Article 2 numeral 6.b, it is established that in the case of customers and transactions considered by the CPA as occasional, CDD is applied when the transaction is equal or higher than the threshold of Ten Thousand American Dollars (USD 10,000) or its equivalent in Cordobas; whether the transaction is carried out in a single transaction or in a multiple transaction that seem to be related.

56. Thus, it addresses criterion 22.1 regarding the implementation of criterion 10.2 for lawyers and notaries in what is applicable to them; as well as criterion 10.2.b for accountants.

57. With regard to criterion 10.3, Article 12 of the AML/CFT/CFP Regulations for lawyers and notaries sets forth that they should identify the customer, whether habitual or occasional, natural or legal person, and are required to apply adequate measures in order to prove their identification prior to offering their services to the customer. The identity of the customer shall be verified with the documents referred to in the domestic law, which should be in force at the time of application of the CDD and which lawyers and notaries shall obtain a printed or digital copy of.

58. The same Article 12 lists the types of identification documents for natural persons and legal persons. In addition to the documents listed in the referred Article and when necessary, lawyers and

notaries should use reliable data or information from an independent source to verify the identity of the customer and BO.

59. In turn, lawyers and notaries should review the identification documents to determine if possible, if they are authentic or if they are false, have been altered or have been filled in false information, and may require additional documents to corroborate the identity, as necessary. (Article 15 of AML/CFT/CFP Regulation for lawyers and notaries).

60. In relation to customers that are legal arrangements, in accordance with Article 16 of Resolution-UAF-N-020-2019, trustees shall have the duty to disclose their status to RIs. Likewise, they shall also provide them with information on the residence of the beneficiaries and on the assets held or under their administration.

61. Considering that trust service providers are also RIs and that in accordance with Article 16 of the AML/CFT/CFP Regulations for lawyers and notaries public, they should update the information on the customers who are RIs and verify whether they are registered with the UAF.

62. Thus, it addresses the provisions of criterion 22.1 regarding the implementation of criterion 10.3 for lawyers and notaries in relation to their customers who are natural and legal persons. However, although the legal framework provided does not refer to the obligation of identification and verification of the identity of the customer who is a legal arrangement, there are other provisions that allow lawyers and notaries to: i) know the trustee status of their customer, the residence of the settlor and the assets held in trust and ii) update the information.

63. In relation to criterion 10.4, the country points out that through verification of the customer's documents, data and information, lawyers and notaries shall determine the identity, actual existence, representation, address, legal capacity and corporate purpose, as appropriate, of natural or legal persons and those of their representatives. (Article 12 of AML/CFT/CFP Regulation for lawyers and notaries).

64. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.4 for lawyers and notaries are addressed.

65. With regard to criterion 10.5, it was indicated that Article 18 of the AML/CFT/CFP Regulations for lawyers and notaries establishes the obligation to identify the beneficial owner (BO) of their customer and the ways to proceed accordingly. They shall also verify the identity of the BO by means of the documents provided for in Article 12 of the same regulation, when there are indications that the identity of the customer is not exact or true and when there are circumstances that warrant examination of the service relationship to determine whether there are suspicions of ML/TF/FP and on the basis of the risk-based measures established by lawyers and notaries. In these cases, they shall document the actions they have taken to determine who the BO is; they shall also document the unsuccessful results of such actions.

66. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.5 for lawyers and notaries are addressed.

67. With regard to criterion 10.6, Nicaragua reported that when lawyers and notaries establish a service relationship with customers, they shall obtain information on the purpose and nature of the service. In particular, they will collect information about the type of professional or business activity they perform. They should also obtain information on the origin and source of the customer's funds. (Article 17 of AML/CFT/CFP Regulation for lawyers and notaries).

68. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.6 for lawyers and notaries are addressed.

69. In relation to criterion 10.7, two aspects are mentioned:

- a) According to Article 33.1 of the AML/CFT/CFP Regulations for lawyers and notaries, in the course of their relationship with customers, they shall apply continuous monitoring measures with a ML/TF/FP risk-based approach to the service relationship, including the activities and/or operations that they attempt and carry out throughout that relationship, in order to ensure that they coincide with the knowledge they have of the customers, their business activity, business and risk profiles, including the origin of their funds and to ensure that the documents, data and information available to them are up to date. Particularly in the case of customers included in the higher risk categories and
- b) Lawyers and notaries shall update the identification information and the customer's documents, data and information; every year for high risk customers; every two years for medium risk customers and every three years for low risk customers. (Article 12 of AML/CFT/CFP Regulation for lawyers and notaries).

70. In the case of accountants, they should create a Comprehensive Customer Knowledge Profile (PIC), according to the Forms provided in Annex # 2 of the Regulations. PICs are updated when the Customer reports changes to its data or within the following timeframes:

- iii.a.- Simplified CDD: Every 3 years.
- iii.b.- Standard CDD: Every 2 years.
- iii.c.- Enhanced CDD: Every year. (Article 10.a.iii. of Resolution 01-2019-JD/CCPN-PLA/FT/FP-Regulation CCPN-PLA/FT/FP).

71. Likewise, in accordance with Resolution No. 05-2019-JD/CCPN-PLA/FT/FP, CDD, in addition to being differentiated, it should be permanent, continuous and constant, regardless of the rating of the assigned ML/TF/FP risk level, and CPAs should verify information and examine transactions carried out throughout their relationship with customers, with the following minimum objectives: a. Knowing what the customer's economic activity is, their BO, the origin of the funds and/or assets, the source of the funds and/or assets, as well as the nature, character, purpose and reason for the relationship; b) being certain that the information obtained corresponds to the knowledge they have of customers, their economic activity and risk profile; and, c) ensuring that the documents, data or information collected under the CDD procedure are kept up to date and relevant by reviewing existing records, especially in the case of customers included in the higher risk category of ML/TF/FP. (Article 2, paragraph 10 a, b, and c).

72. In this sense, provisions under criterion 22.1 regarding the implementation of criterion 10.7 a and b for lawyers, notaries, and accountants are addressed.

73. With regard to criterion 10.8, lawyers and notaries should apply CDD measures when they have doubts about the veracity or accuracy of previously obtained data in relation to customer identification. (Article 11.5 of AML/CFT/CFP Regulation for lawyers and notaries).

74. The identity of customers that are legal persons shall be verified with the documents referred to in paragraph 2 of Article 12 of the AML/CFT/CFP Regulation for lawyers and notaries, which should be in force at the time of application of the CDD and of which lawyers and notaries public shall obtain a readable printed or digital copy. Through verification of the customer's documents, data and information, lawyers and notaries shall determine the identity, actual existence, representation, address, legal capacity and corporate purpose, as appropriate, of natural or legal persons and those of their representatives. (Article 12 of AML/CFT/CFP Regulation for lawyers and notaries).

75. In this sense, the provisions under criterion 22.1 regarding the implementation of criterion 10.8 for legal person customers of lawyers and notaries are addressed. However, the provisions mentioned by the country are not applicable to customers that are legal arrangements.

76. With regard to criterion 10.9, under Article 12.2 of the AML/CFT/CFP Regulations for lawyers and notaries, they should identify and verify the identity of customers who are legal persons by requesting the following information:

- a) Official and updated certification of registration with the competent registry, such as: i. Non-profit legal person. ii. Cooperative. iii. Company. iv. Union, federation, confederation or trade union centre.
- b) Articles of association and by-laws duly registered in the competent registry.
- c) Document of the Unique Taxpayer Registry (RUC) in the case of legal persons or equivalent document of the corresponding country for legal persons not domiciled in Nicaragua, according to the law and regulations on the matter.
- d) Certificates, licenses, permits or equivalent documents, in force and issued by the competent authorities or public registries, according to the activity to which the legal person is dedicated and according to the existence of an authority that regulates, registers or authorises said activity.
- e) Certification of the minutes in which the members of the current board of directors of the national or foreign legal person are recorded at the time of initiating the service relationship with lawyers and notaries public.

77. In the light of the aforesaid, criterion 22.1 regarding the implementation of criterion 10.9 for legal person customers of lawyers and notaries is addressed. However, the provisions mentioned by the country are not applicable to customers that are legal arrangements.

78. With regard to criterion 10.10, under Article 18 of the AML/CFT/CFP Regulations for lawyers and notaries, they should identify the BO of customers who are legal persons. For such purposes, they shall proceed as follows:

- a) Natural persons exercising control of the legal person through ownership of 25% or more of the shares shall be beneficial owners. If the holder of such percentage is a legal person, lawyers and notaries should identify the person who controls it with a percentage equal to or greater than 25% of the capital and so on until the natural person who controls the customer through the chain of ownership is identified (Paragraph 1).
- b) Where lawyers and notaries cannot determine who exercises control of the legal person even with the above information, it shall, in accordance with their resources and experiences, develop an analysis to identify who exercises its control (Paragraph 2)
- c) In cases where lawyers and notaries fail to identify the natural person who is the BO even in compliance with the above, they should verify the identity of the natural persons holding senior administrative positions in the legal person. Where the designated administrator is a legal person, control shall be deemed to be exercised by the natural person appointed by the administrator who acts as its legal representative.

79. In relation to accountants, Article 14 of Resolution No. 01-2019-JD/CCPN-PLA/FT/FP indicates the cases in which CPAs should identify the BO:

- a) Natural persons exercising control of the legal person through ownership of 25% or more of the shares of the legal person. When the holder of such percentage is a legal person, the person who

controls it with a percentage equal to or greater than 25% of the capital should be identified, and so on until the natural person who controls the customer through the chain of ownership is identified. (Paragraph 1)

- b) If it is not possible to determine who exercises control over a legal person in accordance with the provisions of the preceding paragraph or if the information described in the preceding paragraph raises doubts as to who exercises control, CPAs, based on their resources and experiences, should develop analyses to identify who exercises control over the legal person by means other than ownership. (Paragraph 2).
- c) If the BO of the legal person is not determined in accordance with the provisions of the preceding paragraphs, CPAs should identify and take reasonable steps to verify the identity of the natural person or persons occupying the senior management positions of the legal person. Where the designated administrator is a legal person, control shall be deemed to be exercised by the natural person appointed to act as its legal representative.

80. Therefore, the provisions of criterion 22.1 regarding the implementation of criterion 10.10 for lawyers and notaries are addressed.

81. Regarding criterion 10.11, based on Article 18 of the AML/CFT/CFP Regulations applicable to lawyers and notaries, they should identify the beneficial owner of the customer:

- a) In the case of trusts, determined or determinable trustees; trust interest certificate holders; or the members of trust Technical Committees shall be the beneficial owners. Where these are legal persons, the beneficial owner shall be determined in accordance with Article 18.3.
- b) Where the customer is a cooperative or a non-profit organisation, those who have control of these by statutory provisions shall be deemed to be the beneficial owners. Where there is no natural person or persons that comply with this criterion, the members of its administrative body shall be taken as beneficial owners.

82. However, the country does not have provisions in place concerning the verification of the identity of beneficial owners for customers of lawyers and notaries that are legal arrangements.

83. With regard to accountants, in the case of customers that are legal arrangements, CPAs should verify the identity of the BOs by means of the following information:

- a) For trusts: The identity of the settlor, trustee(s), the protector (if any), beneficiaries or classes of beneficiaries, and any other natural person exercising effective and definitive control over the trust (including through a chain of control/ownership);
- b) For other types of legal arrangements: The identity of persons in equivalent or similar positions.

84. With regard to criterion 10.14, under Article 13 of the AML/CFT/CFP Regulations for lawyers and notaries, they should verify the identity of customers and BO before or while the service relationship is being established or services are being performed for occasional customers; or they may complete verification after the service relationship has been established if:

1. This happens as soon as reasonably possible.
2. It is essential not to interrupt the normal conduct of the transaction.
3. ML/TF/FP risks are under control.

85. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.14 for lawyers and notaries are addressed.

86. With regard to criterion 10.15, Nicaragua indicates that lawyers and notaries should establish procedures to manage the risk, when customers can use the service relationship before verifying their identity. (Article 13 of AML/CFT/CFP Regulation for lawyers and notaries).

87. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.15 for lawyers and notaries are addressed.

88. With regard to criterion 10.16, lawyers and notaries shall apply the due diligence measures provided for in this Chapter to all new customers and also to those existing at the time of the entry into force of this regulation, based on a risk analysis. In any event, lawyers and notaries shall apply customer due diligence measures to customers upon hiring new products or where a transaction occurs that is considered significant because of its volume or complexity. (Article 28 of AML/CFT/CFP Regulation for lawyers and notaries).

89. In relation to accountants, Article 2, paragraph 13 of Resolution No. 05-2019-JD/CCPN-PLA/FT/FP establishes that, in relation to new and existing customers, differential CDD applies: a. For new customers of CPAs, which are taken onboard after the entry into force of both legal instruments: Differentiated CDD measures are applied as appropriate, immediately upon initiating the relationship with the customer; b) For existing customers of CPAs existing before the entry into force of both legal instruments: CPAs have until December 31, 2019 to apply the corresponding differentiated CDD, with file and CIP updating, taking into account the materiality and risk, and whether CDD measures have been taken previously and when they have been adopted, as well as the relevance of the data obtained.

90. Therefore, the provisions of criterion 22.1 regarding the implementation of criterion 10.16 for lawyers and notaries are addressed.

91. With regard to criterion 10.17, lawyers and notaries shall determine the customer's ML/TF/FP risk level, in accordance with the risk assessment technique they deem appropriate to apply. The determination of the level of risk should be made in relation to the analysis of threats and vulnerabilities related to the following factors: Type of customer; country or geographical area; and types of products, services, operations and marketing channels used. Once the risk level of the customer has been determined, lawyers and notaries shall apply the CDD measures and procedures provided for in Articles 11 to 19 as standard CDD measures; however, they shall enhance them in a situation where the ML/TF/FP risks are higher. (Article 20 of AML/CFT/CFP Regulation for lawyers and notaries). Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.17 for lawyers and notaries are addressed.

92. With regard to criterion 10.18, lawyers and notaries may apply measures and procedures that reasonably simplify the standard CDD measures when they are in a situation where the risks of ML/TF/FP are lower. These cannot apply simplified CDD measures where there is suspicion of ML/TF/FP or in scenarios of higher risks. (Article 20 of AML/CFT/CFP Regulation for lawyers and notaries). Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.18 for lawyers and notaries are addressed.

93. Regarding criterion 10.19, based on Article 14.3 of the AML/CFT/CFP Regulations applicable to lawyers and notaries, they may not provide, maintain or perform services when:

94. Customers do not submit the information required by virtue of the CDD measures which, in accordance with these regulations, are required to have full certainty as to their identity, the purpose of the relationship and the justification of the origin and source of funds; in such case they should consider filing an unusual transaction report;



95. Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.19 for lawyers and notaries are addressed.

96. With regard to criterion 10.20, when lawyers and notaries have indications or suspicions that the customer is involved in ML/TF/FP activities and predicate offences associated with ML and considers that the application of CDD measures would warn the customer of such indications, they may refrain from completing the CDD procedure, but should submit an unusual transaction report (ROI) to the Centralized Information and Prevention Directorate (DCIP). (Article 29 of AML/CFT/CFP Regulation for lawyers and notaries). Therefore, provisions under criterion 22.1 regarding the implementation of criterion 10.20 for lawyers and notaries are addressed.

97. With regard to criterion 22.2, in Nicaragua's second enhanced follow-up report, R.11 was rated compliant (paragraphs 46 to 50), taking into account the provisions contained in Law 977, whose recent reform incorporates lawyers and notaries; therefore, all those provisions established in Law 977 consequently apply to notaries and lawyers. Similarly, Article 44 of the AML/CFT/CFP Regulations deals in detail with criteria 11.1 to 11.4. Provisions under criterion 22.2 in relation to lawyers and notaries are thus considered addressed.

98. As regards criterion 22.3, an analysis of the corresponding criteria of R.12 applicable for lawyers and notaries, as well as those referred to above with respect to accountants, is shown below:

99. With regard to criterion 12.1, lawyers and notaries should establish and apply CDD measures to determine whether the customer or BO is a Politically Exposed Person (PEP). When a BO is determined to be a PEP, Article 18 of the regulations shall be applied to identify and verify its identity. (Article 21 of AML/CFT/CFP Regulation for lawyers and notaries).

100. With regard to criterion 12.1.a, Article 20 of AML/CFT/CFP Regulation for lawyers and notaries sets forth that they should determine the customer's ML/TF/FP risk level, in accordance with the risk assessment technique they deem appropriate to apply. The determination of the level of risk should be made in relation to the analysis of threats and vulnerabilities related to the following factors: Type of customer; country or geographical area; and types of products, services, operations and marketing channels used.

101. In relation to criterion 12.1.b, lawyers and notaries in their capacity as RIs who are natural persons do not have senior management, since they themselves develop the provision of their services.

102. According to Article 25 of the AML/CFT/CFP Regulations for lawyers and notaries, in the case of foreign PEPs, lawyers and notaries should apply at least the following enhanced CDD measures, regardless of the level of risk they represent:

1. Take reasonable steps to identify the source of funds of the PEP that is the customer or beneficial owner of the service relationship. (Criterion 12.1c).
2. Conduct enhanced follow-up of the service relationship with PEPs, including actions such as increasing the number and timing of the service relationship operations reviews. (Criterion 12.1.d).

103. In relation to accountants, in accordance with Article 10 a) numeral ii) and numeral ii.d) they should include in their AML/CFT/CFP Manual measures for the application of an RBA, in a differentiated manner, with respect to the CDD and their BO, according to the rating of the assigned ML/TF/FP risk level. (...) Without prejudice to the Sectoral Assessments of CPAs developed by the CCPN, and to the measures derived from them using an RBA; in the initial application of this Regulation, the following

should be held as High-Risk Customers: (...) ii.d.2.- PEPs, national or foreign. ii.d.3.- Close relatives and close associates of the PEPs (...) (Criterion 12.1.a)

104. Furthermore, under Article 2.10, CPAs should verify the information and examine the transactions carried out throughout their relationship with customers, in order to: Know the economic activity of customers, their BO, the origin of the funds and/or assets, the source of the funds and/or assets. (Criterion 12.1.c).

105. For CPAs, the PEP, whether domestic or foreign, is always High Risk, in its capacity as customer or BO of the latter, and they should apply enhanced CDD on them, and on their close relatives or close associates. (Article 2.9) (Criterion 12.1.d).

106. However, CPAs are not required to obtain senior management approval before establishing or continuing business relationships (applicable to firms and corporations providing CPA services) (Criterion 12.1.b).

107. With regard to criterion 12.2, lawyers and notaries should establish and apply CDD measures to determine whether the customer or BO is a PEP. (Article 21 of AML/CFT/CFP Regulation for lawyers and notaries). (Criterion 12.2.a).

108. The measures analysed for the above criterion in relation to Article 25 of the AML/CFT/CFP Regulations for lawyers and notaries should be applied to domestic PEPs and those from international organisations representing a high risk of ML/TF/FP, in accordance with the information obtained in application of CDD measures. (Criterion 12.2.b).

109. In relation to accountants, they have the obligation to determine whether their customer or the BO qualifies as: a. PEP, whether domestic or foreign, or b. Close relative of a PEP, whether domestic or foreign, or c. Partner or close associate of a PEP, whether domestic or foreign. (Article 2, paragraph 8 through Resolution No. 05-2019-JD/CCPN-PLA/FT/FP). (Criterion 12.2.a).

110. For their part, the provisions analysed for criterion 12.1 c and d are applicable to verify compliance with criterion 12.2.b. However, they are not required to obtain senior management approval before establishing or continuing business relationships with domestic PEPs or from international organisations (applicable to firms and corporations providing CPA services).

111. In relation to criterion 12.3, if a customer or BO is identified as a relative or close associate of a PEP, the CDD measures provided for in Article 25 shall be applied. (Article 26 of AML/CFT/CFP Regulation for lawyers and notaries). (Criterion 12.1.c and d, and 12.2 a and b). In relation to accountants, the analysis made to criterion 12.1 c) and d), and 12.2.a for family members or close associates of any type of PEP is applicable.

112. However, CPAs are not required to obtain senior management approval before establishing or continuing business relationships (applicable to firms and corporations providing CPA services) (Criterion 12.1.b).

113. Regarding the deficiency identified in criterion 22.4, related to the actions that Nicaragua has implemented to comply with criteria 15.1 and 15.2 for lawyers and notaries, the following is detailed:

114. With regard to criterion 15.1, Article 8 of the AML/CFT/CFP Regulation for lawyers and notaries sets forth that they shall identify, assess, and understand their own inherent and residual ML/TF/FP risks every two years, through the risk assessment technique they deem appropriate. The ML/TF/FP risk assessment should include at least the following: 4. Analysis of ML/TF/FP risks that may arise in relation to: a. The development of new business practices; and b. the use of new technologies or developing

technologies for the provision of their services, particularly those that could promote the anonymity of natural and legal persons, who request or make use of their services.

115. Therefore, provisions under criterion 22.3 regarding the implementation of criterion 15.1 for lawyers and notaries are addressed.

116. In relation to criterion 15.2, ML/TF/FP risks of new products, services, practices and technologies that emerge after the individual ML/TF/FP risk assessment shall be assessed. This assessment should be made before they are made available to the customer. The results of this evaluation will be integrated into the following individual risk assessment report. (Article 8 of AML/CFT/CFP Regulation for lawyers and notaries). Lawyers and notaries shall establish a program or system to mitigate the risks of ML/TF/FP, adjusted to the service and/or activity they perform on behalf of or for their customers. (Article 9 of AML/CFT/CFP Regulation for lawyers and notaries). Therefore, provisions under criterion 22.3 regarding the implementation of criterion 15.2 for lawyers and notaries are addressed. In relation to accountants, their functions are delimited by Law No. 6, for which R. 15 does not apply to them.

117. Finally, with respect to criterion 22.5, Article 17.6 of Law 977 establishes that the application of CDD measures is non-transferable; consequently, RIs cannot rely on third parties for its application (...) Therefore, criterion 22.5 is not applicable for lawyers and notaries.

118. From the above analysis, it is recognised that Nicaragua has made significant efforts by designating lawyers and notaries public as RIs. Likewise, through the approval of the AML/CFT/CFP Regulations for lawyers and notaries and Resolution No. 05-2019-JD/CCPN-PLA/FT/FP for accountants. In general terms and according to the previous and present follow-up reports, provisions have been put in place to address obligations in line with R.10, 11, 12, 15 and 17 for all DNFBPs in Nicaragua. In particular, the CDD and record keeping obligations that should be established by law for lawyers and notaries are indicated in Law 977 and its amendments.

119. However, there are still some shortcomings which are considered minor in the context of the whole analysis of R.22 and the establishment of obligations for all sectors. Specifically, accountants (applicable to firms and companies providing CPA services), are not required to obtain senior management approval to deal PEPs or members of a family or close associates and in the case of lawyer and accountants, some obligations are still pending regarding legal arrangements as customers. Thus, although there are still minor deficiencies, Nicaragua has to a large extent overcome the deficiencies identified in its MER, and it is therefore proposed that the rating be raised to **Largely Compliant**.

### ***Recommendation 23 - DNFBPs: Other Measures (originally PC – re-rated LC)***

120. With regard to the deficiency identified in criterion 23.1 concerning the inclusion as RIs of lawyers and notaries and establishing obligations for this sector, lawyers and notaries have been incorporated as RIs to inform the UAF directly, not being able to invoke reservation or secrecy of any kind. (Article 1 of Law 1000, amending and supplementing Law 977 “Law against ML/TF/FP”). All the obligations established in Law 977 under Article 9 therefore apply to lawyers, notaries and accountants.

121. In this regard, the obligation of RIs to submit suspicious transaction reports is established in Article 8.1 of Law 976, the UAF Law. (This Article was analysed in paragraphs 75 and 77 of Nicaragua’s Second Enhanced Follow-Up Report). Article 9 of Law 977 and its amendments establishes the obligation of RIs to file STRs in line with criteria 20.1 and 20.2.

122. In particular, lawyers, notaries and accountants shall report through the Judiciary and to the Association of Public Accountants of Nicaragua, respectively, as provided in Article 10 of Law 977,

which refers: “The Judiciary and the Association of Public Accountants of Nicaragua should establish within their respective structures, a specialised body to centralise information on unusual transactions or situations identified by the RIs under their competence. These specialised bodies shall have the obligation to analyse the information and generate reports for the UAF immediately in cases where it is determined that there are suspicions of ML/TF/FP and predicate offences associated with the ML on behalf of their respective RI sector. These STRs should be sent to the UAF using the forms established by the UAF”.

123. Similarly, Article 39.1 of the AML/CFT/CFP Regulations for lawyers and notaries mentions the obligation of lawyers and notaries to report to the DCIP on unusual transactions, regardless of the amount and whether they are carried out or attempted, when they have indications that a customer’s assets are linked to ML/TF/FP and predicate offences associated with ML and are related to the provision of their services, or when they conduct for or on behalf of their customers the activities referred to in Article 2 of said Regulations. Provisions of criterion 23.1 in relation to the implementation of R.20 for lawyers and notaries are thus addressed.

124. With regard to the deficiency identified in criterion 23.2, considering the incorporation of lawyers and notaries through the amendments to Law 977, Article 15 of the same legal framework is applicable to them; this Article was analysed in the second enhanced follow-up report of Nicaragua, concluding that it addresses the provisions of criterion 23.2. (Paragraph 91).

125. Moreover, Articles 30 and 45 of the AML/CFT/CFP Regulations for lawyers and notaries also establish the policies, procedures and internal controls referred to in R.18. Provisions of criterion 23.2 are thus complied with.

126. With regard to the deficiency identified in criterion 23.3, Articles 8, 20 and 27 of the AML/CFT/CFP Regulations for lawyers and notaries set out the content of the individual risk assessment, the application of CDD measures with a risk-based approach and the application of enhanced CDD to customers from higher risk countries, respectively.

127. Furthermore, considering the incorporation of lawyers and notaries through the amendments to Law 977, Article 20 of the same legal framework is applicable to them; this Article was analysed in the second enhanced follow-up report of Nicaragua, concluding that it addresses the provisions of criterion 19.1. (Paragraph 93).

128. With regard to the implementation of criterion 19.3, in accordance with the information provided by the country, DNFBPs listed under Article 9 of Law 977 have provisions relating to: Assessing their particular risks for countries or geographical areas, the application of CDD proportionate to the risks on the basis of individual risk assessments that include the country factor or geographical areas, the application of enhanced CDD measures when a higher risk country is involved, among others. However, beyond the language of the legal framework, there are no measures to allow DNFBPs to know that there is concern about the weaknesses of AML/CFT systems in other countries.

129. With regard to the deficiency identified in criterion 23.4, as mentioned above, lawyers and notaries have been incorporated as RIs through the amendments to Law 977 and therefore the obligations established in this Law apply to both lawyers and notaries. The analysis of R.21 in Nicaragua’s second enhanced follow-up report is applicable to all RIs covered by Article 9 of the Law. (Paragraph 94).

130. In addition, Article 42 of the AML/CFT/CFP Regulations for lawyers and notaries public sets forth that they shall not disclose to the customer or to third parties that information has been communicated to the DCIP or that any transaction and/or service that may be related to ML/TF/FP and predicate offences associated with ML is being or may be examined.

131. Provisions of criterion 23.4 in relation to the implementation of R.21 for lawyers and notaries are thus addressed.

132. Nicaragua has made significant efforts by incorporating lawyers and notaries through the reform of Law 977 and the approval of the AML/CFT/CFP Regulations for lawyers and notaries that address to a large extent the deficiencies raised in the MER with respect to R.23. However, with regard to criterion 23.3, the country does not yet have measures in place to ensure that DNFBPs are aware that there is concern about weaknesses in AML/CFT systems in other countries (Criterion 19.3). It is therefore proposed that the rating be raised to **Largely Compliant**.

***Recommendation 28 - Regulation and supervision of DNFBPs (originally rated PC – re-rated C)***

133. With regard to the deficiency identified in criterion 28.2 concerning the existence of a competent authority or designated self-regulatory body (SRB) responsible for monitoring and ensuring compliance by lawyers and notaries with AML/CFT requirements, these actors have been included as RIs. (Law 1000, Law amending and supplementing Law 977). In this regard, the Judiciary is established as their supervisor. (Article 30.e, Law 977). In this regard, the Judiciary created the Rules for Organisation and Functioning of the Centralised Information and Prevention Directorate and the Sanctions Regime approved by Agreement 452 (DCIP-RS Rules) with the aim of regulating, monitoring, supervising and sanctioning lawyers and notaries acting as RIs. (Article 1). Provisions of criterion 28.2 in relation to lawyers and notaries are thus addressed.

134. As regards the deficiency identified in criterion 28.3 in relation to which countries should ensure that other categories of DNFBPs are subject to systems for monitoring compliance with AML/CFT requirements, as referred to above, lawyers and notaries mentioned in Article 9 of Law 977 are subject to monitoring and supervision of ML/TF prevention by the Judiciary. The AML/CFT/CFP Regulations are therefore approved to establish and regulate prevention, detection and reporting obligations for lawyers and notaries public. Provisions of criterion 28.3 in relation to lawyers and notaries are thus addressed.

135. For its part, with regard to the deficiency identified in criterion 28.4, in accordance with Law 977, supervisors including the Judiciary (Article 30. e):

- a. Have powers to perform their functions. In accordance with Article 30, they may establish administrative provisions to make Law 977 effective, supervise with a risk-based approach that RIs implement their ML/TF/FP prevention obligations;
- b. Shall establish measures for the granting of authorisations, licences, registration or other controls to prevent unsuitable persons from holding, or being the beneficial owner of, shareholdings or from controlling or occupying a managerial position in a DNFBP (Article 33);
- c. Have the power to impose corrective measures and/or administrative sanctions when applicable to RIs for non-compliance with ML/TF/FP prevention obligations (Articles 30 and 36).

136. Moreover, the AML/CFT/CFP Regulations are approved by Agreement 451 to establish and regulate prevention, detection and reporting obligations for lawyers and notaries public. Therefore, provisions of criterion 28.4 are thus addressed.

137. With regard to the deficiency identified in criterion 28.5, on the risk-based supervision of DNFBPs, Article 5.4 of the DCIP-RS Regulations for lawyers and notaries establishes among the obligations of the

ML/TF Centralised Information and Prevention Directorate: “4. Define the mechanisms and procedures for the supervision of Attorneys and Notaries Public in the area of AML/CFT/CFP, which shall include at least the following aspects:

4.1 Sensitivity to risk,

4.2 Planning supervisions:

(a) determining the frequency and intensity of AML/CFT supervision of Lawyers and Notaries Public on the basis of an understanding of ML/TF risks, taking into account the particular characteristics of the sector, in its diversity and number; and

(b) taking into account the ML/TF risk profile of Lawyers and Notaries Public and the degree of discretion allowed to them by virtue of the risk-based approach, when assessing the adequacy of internal AML/CFT controls, policies and procedures submitted by registered Lawyers and Notaries Public subject to the application of AML/CFT/CFP measures and their level of compliance.

4.3 The DCIP may carry out on-site and off-site supervisions.

138. With regard to accountants, the Association of Accountants (CCPN) approved Resolution No. 05-2019-JD/CCPN-PLA/FT/FP, in which Article 3, paragraph 2, states that supervision is carried out with a ML/TF/FP risk-based approach and to that end:

- a) It determines the frequency and intensity of supervision based on its understanding of the ML/TF/FP risk.
- b) It takes into account the characteristics of the CPAs, their diversity and number, and groups them into three categories in the CCPN-AML/CFT/CFP Standard.
- c) It takes into account the ML/TF/FP risk profile of CPAs and the degree of discretion allowed to them under the RBA, when assessing the adequacy of CPAs’ AML/CFT/CFP internal controls, policies and procedures.

139. Provisions of criterion 28.5 a and b in relation to lawyers, notaries and accountants are thus addressed.

140. Considering the analysis made of the provisions recently approved by Nicaragua relating to the amendments and additions to Law 977, the AML/CFT/CFP Regulations and the Organisation and Functioning Regulations of the Centralised Information and Prevention Directorate and the Sanctions Regime for lawyers and notaries; as well as Resolution No. 05-2019-JD/CCPN-PLA/CT/FT/FP for accountants, it is proposed that the rating be raised to **Compliant**.

### ***Recommendation 35 - (originally rated PC – re-rated LC)***

141. With regard to the deficiency identified in criteria 35.1 and 35.2, in accordance with paragraph 113 of Nicaragua’s Third Enhanced Follow-Up Report, it was pointed out that lawyers and notaries were not considered AML/CFT RIs by the country’s regulations, and therefore there was no sanctioning regime for them in accordance with criterion 35.1.

142. According to the analysis of R.22, lawyers and notaries are RIs who report suspicious transactions. (Article 9 Law 977, Article 8 Law 976).

143. In addition, the Judiciary issued the AML/CFT/CFP Regulations for lawyers and notaries, the DCIP-RS Regulations and the Regulations on the Reporting Obligations for Lawyers and Notaries in the

area of AML/CFT/CFP (Reporting Regulations for AML/CFT/CFP), in order to regulate, monitor, supervise and sanction lawyers and notaries as RIs.

144. The DCIP should supervise compliance with the ML/TF/FP prevention obligations established in the legal framework applicable to lawyers and notaries within its sphere of competence and should issue reports for imposition by the CNACJ of the corresponding sanctions for non-compliance with the provisions of the AML/CFT/CFP Regulations, the ML/TF/FP Reporting Regulations and the DCIP-RS Regulations.

145. Likewise, Article 30 of the DCIP-RS Regulations establishes the applicable sanctioning regime, setting criteria for the imposition of sanctions, types of infractions (minor, serious and very serious) and the classification of sanctions (minor, serious and very serious) according to the corresponding infraction classified as:

1. Minor:

- a. Written warning.
- b. Fine in accordance with the laws of the matter.

2. Serious:

- a. Fine in accordance with the laws of the matter.
- b. Temporary suspension from the practice of the profession of Lawyer and Notary Public from six months to one year.
- c. Cancellation of registration as a Reporting Institution for the period contemplated in the previous paragraph.

3. Very Serious:

- c. Fine in accordance with the laws of the matter.
- d. Temporary suspension of one to two years in the exercise of the profession of Lawyer and Notary Public.
- e. Cancellation of registration as a Reporting Institution for the period contemplated in the previous paragraph.

146. Lawyers and notaries sanctioned with the suspension in the exercise of the profession and cancellation of registration indicated in numerals 2 and 3 of the present article, will not be able to return to the professional exercise, nor to register again if they have not fulfilled the total payment of the imposed fines. In addition, the procedures to be used for the application of the sanctioning regime to lawyers and notaries shall be in accordance with the provisions of Decree 1618 “Law of Notaries”, Article 64 of the Criminal Code, about penalties, their classes and effects, which establishes the fine days, with a minimum of ten days and a maximum of one thousand fine days.

147. By virtue of the fact that there are sanctions ranging from minor to very serious with consequences such as fines (of up to 1000 fine days), temporary suspensions for the exercise of the profession, as well as temporary cancellations of registration for the RI, it is considered that the sanctions are proportionate and dissuasive as required by criterion 35.1.

148. From the analysis of the information presented, it is estimated that the country has fully addressed the deficiency identified in criterion 35.1 applicable to lawyers and notaries.

149. With regard to the deficiency of criterion 35.2 concerning the fact that the sanctions regime should be applicable for non-compliance with AML/CFT requirements described in the Recommendations for RIs regulated and supervised by the Superintendence of Banks and other Financial Institutions (SIBOIF), in accordance with paragraph 113 of Nicaragua's Third Enhanced Follow-Up Report, it was pointed out that the deficiency in the sanctions regime of the SIBOIF persisted.

150. The legal framework provided by the country corresponding to Law 316, Law on the Superintendence of Banks and Other Financial Institutions, Law 561, General Law on Banks, Non-Banking Financial Institutions and Financial Groups, Law 733, General Law on Insurance, Reinsurance and Bonds, Law 587, Capital Markets Law, General Rules on Imposition of Fines, Resolution No. CD-SIBOIF-410-1-MAR14-2006 and Rules on Imposition of Fines on Insurance, Regulation on Reinsurance and Bonding Companies, Resolution No. CD-SIBOIF-803-1-OCTU18-2013 and Law 734, General Deposit Warehouses Law was previously analysed in the Nicaraguan MER.

151. In addition, according to the analysis carried out in the MER, the following should be noted:

152. Paragraph TC 329 and TC 330 establish that in the case of banks and other FIs under the supervision of the SIBOIF there is a regime of sanctions in place. However, without prejudice to the provisions of the analysis of these paragraphs, the proposed legal framework is only applicable to the part of the preventive model that relates to ML and not TF.

153. As regards the securities market, paragraph TC 332 states that prudential sanctions are regulated by Law 587. However, there is no special regulation that establishes a regime of sanctions for non-compliance with the AML/CFT regulation.

154. Paragraph TC 331 of the MER refers that the SIBOIF has the sanctioning framework for cases of non-compliance with the obligations contained in R.6.

155. Thus, the deficiencies described in the MER as to the fact that the SIBOIF does not have sanctioning provisions in line with R.35 in relation to TF within the preventive model for banks and other FIs (except insurance entities) and that there is no sanctioning framework for the securities market sector in AML/CFT matters, still persist.

156. Moreover, with regard to the deficiency of criterion 35.1 concerning the fact that the sanctions regime should be applicable for non-compliance with AML/CFT requirements described in the Recommendations for accountants, in accordance with paragraph 113 of Nicaragua's Third Enhanced Follow-Up Report, it was pointed out that the deficiency in the sanctions regime of the CCPN persisted.

157. Article 9 of the CCPN Rules of Investigation and Discipline Procedures establishes the administrative sanctions applicable to the type of infraction:

- i. For minor infractions: Oral warning, written warning, fine equivalent to between 12 and 18 membership fees.
- ii. For serious infractions: Fine equivalent to between 18 and 24 membership fees, postponement, and postponement with a fine equivalent to between 18 and 24 membership fees.
- iii. For very serious infractions: postponement and fine equivalent between 24 and 36 membership fees and exclusion.



158. In accordance with Article 55 of the Regulations of the profession of public accountant and its exercise, (...) the fees or contributions that the members are required to pay to the Association, are the following: a) By Income; b) Ordinary; c) Extraordinary. The value of such fees or contributions shall be fixed by the General Assembly, and may be reviewed by the Ministry of Education, at the request of a number of Associates representing at least one third of the total number of active members of the Association.

159. The current amount of the Annual Ordinary Membership Fee of the CPA is USD 120 (One Hundred and Twenty American Dollars) or its equivalent in the national currency Cordobas at the time of payment. The current amount of the Fee was approved on December 17, 2017, in Ordinary Session No. 430 of the General Assembly of Members of the CCPN.

160. In relation to criterion 35.2, the Directors and Managers of CPA firms, Societies and Associations should always be CPA. Therefore, the specific AML/CFT/CFP sanctions provided for in Article 9 of the Regulations on Investigation and Discipline Procedures of the Association of Accountants are also applicable to them. Thus, in relation to accountants, the provisions of criteria 35.1 and 35.2 are complied with.

161. Therefore, in accordance with the information provided by the country, Nicaragua has made significant progress through the inclusion of lawyers and notaries as RIs through the amendments to Law 977, the approval of the AML/CFT/CFP Regulations for lawyers and notaries, the DCIP-RS Regulations, the Regulations on the Reporting Obligations of Lawyers and Notaries in Matters of ML/TF/FP (Regulations on Reports of ML/FT/FP), and the Regulations on Investigation and Discipline Procedures of the Association of Accountants.

162. However, the deficiencies described in the MER as to the fact that the SIBOIF does not have sanctioning provisions in line with R.35 in relation to TF within the preventive model for banks and other FIs (except insurance entities) and that there is no sanctioning framework for the securities market sector in AML/CFT matters, still persist. It is therefore proposed that the rating remains as **Partially Compliant**.

#### IV. CONCLUSION

163. In general, Nicaragua has been making significant progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated in Recommendations 8 to Largely Compliant, 22 to Largely Compliant, 23 to Largely Compliant, and 28 to Compliant.

164. In view of Nicaragua's progress since the adoption of its MER, its technical compliance with FATF Recommendations was re-rated as follows:

**Table 2. Technical Compliance Ratings, December 2019**

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

*Note:* There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

165. Nicaragua will continue in the enhanced follow-up process and will continue to report to GAFILAT on the progress made to strengthen its implementation of AML/CFT measures.