MUTUAL EVALUATION REPORT OF REPUBLIC OF COLOMBIA

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GLOSSARY

AFL	Asset Forfeiture Law
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ASOBANCARIA	*Asociación Bancaria de Colombia (Colombian Banking Association)*
BACRIM	*Bandas criminales* (criminal bands)
BNI	Bearer negotiable instruments
BO	Beneficial owner
CC	Criminal Code
CCICLA	*Comisión de Coordinación Interinstitucional para el Control del Lavado de Activos* (Inter-Agency Coordination Committee for the Control of Money Laundering)
CDD	Customer Due Diligence
CGR	Comptroller General of the Republic
CIIU	*Codigo Internacional Industrial Uniforme* (Uniform Industrial International Code)
CNJSA	National Council of Games of Luck and Chance (*Consejo Nacional de Juegos de Suerte y Azar)*
CSJ	*Consejo Superior de la Judicatura* (High Council of the Judiciary)
Coljuegos	*Empresa Industrial y Comercial del Estado Administradora del Monopolio Rentístico de los Juegos de Suerte y Azar* (State Industrial and Commercial Company for the Administration of Gaming Monopoly)
Confecámaras	*Confederación Colombiana de Cámaras de Comercio* (Colombian Confederation of Chambers of Commerce)
CONPES	*Consejo Nacional de Política Económica y Social* (National Council of Economic and Social Policy)
COP	Colombian Pesos
CPC	Criminal Procedure Code
DAR	Detailed Assessment Report
DAS	*Departamento Administrativo de Seguridad* (Administrative Department of Security)

DIAN	*Dirección de Impuestos y Aduanas Nacionales* (National Tax and Customs Office)
DIJIN	*Dirección de Investigación Criminal e Interpol* (Directorate of Criminal Investigation and Interpol)
DIPOL	*Dirección de Inteligencia Policial* (Police Intelligence Directorate)
DNFBP	Designated Non-Financial Businesses and Professions
DNI	*Dirección Nacional de Inteligencia* (National Intelligence Directorate)
IMF	International Monetary Fund
ELN	*Ejército de Liberación Nacional* (National Liberation Army)
EMI	Exchange Market Intermediaries
EOSF	*Estatuto Orgánico del Sistema Financiero* (Organic Statute of the Financial System)
FARC	*Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo* (Revolutionary Armed Forces of Colombia-People's Army)
FATF	Financial Action Task Force
FGN	*Fiscalía General de la Nación* (Public Prosecutor´s Office)
FIU	Financial Intelligence Unit
FRISCO	*Fondo para la Rehabilitación, Inversión Social y Lucha contra el Crimen Organizado* (Fund for Rehabilitation, Social Investment and Fight against Organized Crime)
GAFILAT	*Grupo de Acción Financiera de Latinoamérica*
GAOS	*Grupos Armados Organizados* (organized armed groups)
IN	Interpretative note
IO	Immediate Outcome
LEA	Law enforcement agency
MEF	*Ministerio de Hacienda y Crédito Público* (Ministry of Finance and Public Credit)
MER	Mutual Evaluation Report
MINJUS	*Ministerio de Justicia y el Derecho* (Ministry of Justice and Law)

MINTIC	*Ministerio de Tecnologías de la Información y las Comunicaciones* (Ministry of Information and Communication Technologies)
MINREX	*Ministerio de Relaciones Exteriores* (Ministry of Foreign Affairs)
MIS	*Marco Integral de Supervisión* (Integrated Supervision Framework)
ML	Money Laundering
MLA	Mutual Legal Assistance
MVTS	Money or value transfer systems
NPO	Non-Profit Organization
NRA	National Risk Assessment
RRAG	*Red de Recuperación de Activos* de GAFILAT (GAFILAT Asset Recovery Network)
PEF	*Policía Judicial Económico Financiera* (Economic and Financial Judicial Police)
PEP	Politically Exposed Person
PF	Proliferation Financing
POLFA	*Policía Fiscal y Aduanera* (Fiscal and Customs Police)
PTO	Postal transfer operator
RUES	*Registro Único Empresarial y Social (Uniform Business and Company Registry)*
RUT	*Registro Único Tributario* (Single Tax Registration Form)
SAE	*Sociedad de Activos Especiales, SAS*
SAGRLAFT	*Sistema de Autocontrol y Gestión del Riesgo de Lavado de Activos y Financiación del Terrorismo (*System of Self-Control and Risk Management of Money Laundering and Financing of Terrorism*)*
SARLAFT	*Sistema de Administración del Riesgo de Lavado de Activos y de la Financiación del Terrorismo* (Risk Management System for Money Laundering and Financing of Terrorism)
SAS	*Sociedad Anónima Simplificada* (Simplified Joint-stock Company)
SCJ	*Corte Suprema de Justicia* (Supreme Court of Justice)
Supersociedades	*Superintendencia de Sociedades* (Superintendent of Companies)
SES	*Superintendencia de Economía Solidaria* (Superintendent of Solidarity-based Economy)

SEISOCO	Ibero-American Strategic System on Organized Crime Operations
SFAM	Special Fund for Assets Management
SFC	*Superintendencia Financiera de Colombia* (Financial Superintendent of Colombia)
SIC	*Superintendencia de Industria y Comercio* (Superintendent of Industry and Commerce)
SIPLAFT	*Sistema Integral de Prevención y Control del Riesgo de Lavado de Activos y de Financiación del Terrorismo* (Comprehensive System for Prevention and Control of the Risks of Money Laundering and Financing of Terrorism)
SNR	*Superintendencia de Notariado y Registro* (Superintendent of Notaries and Registry)
Supersalud	*Superintendencia Nacional Salud* (National Superintendent of Health)
STR	Suspicious Transaction Report
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UNODC	United Nation's Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution
USD	United States Dollars
UIAF	Unidad de Información y Análisis Financiero (Financial Analysis and Information Unit)
WMD	Weapons of mass destruction

EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering/combating the financing of terrorism (AML/CFT) measures in place in Colombia as at the date of the on-site visit (June 5 to 22, 2017). It analyzes the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Colombia's AML/CFT system, and provides recommendations on how the system could be strengthened.

KEY FINDINGS

1. Colombia has an reasonable understanding of its main domestic ML/TF risks. The country's understanding of risks relies particularly on the results of the 2013 and 2016 National Risk Assessments (NRAs).

2. The 2016 NRA has yielded reasonable findings with respect to the identification of the main ML threats and vulnerabilities.

3. The AML/CFT supervisory systems and tools are not entirely in line with the risk-based approach, and there are significant gaps in the supervision of designated non-financial businesses and professions (DNFBPs).

4. Colombia investigates and prosecutes ML effectively, but not in a manner that is commensurate with its ML risks.

5. The main TF threat in Colombia is the proceeds-generating criminal activities of domestic organized armed groups (Grupos Armados Organizados—GAOS). The primary source of funds for domestic criminal organizations are drug trafficking and other criminal activities.

6. The financial intelligence produced by the Financial Analysis and Information Unit (Unidad de Información y Análisis Financiero—UIAF) is generally a key input to initiate investigtions regarding predicate offenses and tracing assets, specially such financial intelligence generated upon the Fiscalía General de la Nación (FGN—Public Prosecutor´s Office)'s request. However, while the FGN uses most of the UIAF's disseminations for preliminary inquiries, the financial intelligence disseminated spontaneously by the UIAF has led to less ML cases and no TF cases.

7. There are significant deficiencies in the customer due diligence (CDD) framework and its implementation, as well as the enhanced risk mitigation measures under the existing AML/CFT framework that negatively impact the overall effectiveness of preventive measures.

8. The UIAF can accede to various types of financial information that allows it to produce financial intelligence of good quality.

9. Overall, financial institutions have a reasonable understanding of the ML risks and of AML obligations. DNFBPs, except for casinos, have a lower level of awareness of ML/TF risks and obligations than financial institutions.

10. Confiscation and asset forfeiture are pursued as a priority policy objective. Law enforcement agencies (LEAs) are well trained and have adequate skills and resources to trace and recover proceeds of crime. Asset forfeiture (extinción de dominio) is being applied with important results. Colombia has an effective system for managing the proceeds of crime as well.

11. Colombia has a legal framework to apply targeted financial sanctions (TFS) related to TF, but its framework for TFS related to the financing of proliferation of weapons of mass destruction (WMD) has technical and operational deficiencies.

12. While basic information of legal persons is updated annually and accessible in the public registries and supervisors´ databases, the authorities have difficulty obtaining accurate and up-to-date information on the beneficial ownership (BO) of complex corporate structures and when there is foreign ownership or control involved.

13. Overall, Colombia provides timely, good quality, and constructive mutual legal assistance and extradition. Its approach to international cooperation is proactive and collaborative. Constructive international cooperation is provided timely both upon request and spontaneously.

Risks and General Situation

2. Colombia's main ML threat comes from organized crime groups. The most vulnerable sectors are banking, gold mining, lawyers, real estate, accountants, statutory auditors (revisores fiscales[1]), auditors and the real sector. Overall, financial institutions (banks, securities, and insurance firms, as well as savings and loans cooperatives) have a good understating of ML risks. DNFBPs generally have a lower level of understanding of ML risks than financial institutions, while both appear to have less understanding of TF risks. A risk-based approach (RBA) to AML/CFT supervision has been applied to varying degrees, and is the most advanced in the case of the Financial Superintendent of Colombia (Superintendencia Financiera de Colombia—SFC). Other supervisory agencies are still in the process of developing adequate supervisory frameworks and cannot yet demonstrate effectiveness in mitigating risks.

3. The main TF threat in Colombia are the proceeds-generating criminal activities of GAOS. GAOS have used drug trafficking, kidnapping, extortion, and other crimes as sources of income. While the authorities deem the risk for TF as medium to high, the assessment of TF risk in the NRA is insufficient. While there is better understanding of TF risks by LEAs, the TF factor is not sufficiently considered by supervisory agencies and awareness of TF risks affecting their sectors is generally low.

Assessment of Risks, Coordination and Policy Setting (Chapter 2—IO.1; R.1, R.2, R.33)

4. Colombia has made significant efforts to identify, asses and understand its ML / TF risks. The main agencies responsible in the fight against ML / FT have a good understanding of the main threats that Colombia faces. The country's understanding of the risks is mainly based on the results of the 2013 and 2016 NRAs, which broadly address the main threats and vulnerabilities. Overall, the exercise confirmed the authorities' view on the main domestic ML/TF threats, but did not factor in other relevant threats nor properly assess other existing risks in the country (i.e., risks associated with simplified joint stock companies (sociedades anónimas simplificadas—SAS), tax evasion, threats derived from the informal sector, and threats of foreign origin, among others. National coordination and cooperation on AML/CFT at a policy level has improved since the last mutual evaluation in 2008 and is relatively sound. However, operational cooperation is partially fragmented and inadequately coordinated. The AML/CFT policies include an articulated strategy to strengthen the AML / CFT regime in Colombia and broadly address the main ML / TF risks. Specific measures to prevent or mitigate ML/TF risks based on the findings of the 2016 NRA have not yet been implemented, due in part to the recent adoption of the report and the fact that the adoption of a revised policy depends on a wider decision of the Government. Other specific AML/CFT policies are included in relevant public documents such as the National Development Plan 2014-2018, addressing some of the previously identified risks.

[1] The Statutory Auditor is a delegate of the partners that conducts a continual inspection of the administration of a company and validate the reports they present, and must report on them at statutory meetings.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3—IOs 6–8; R.3-4, R.29–32)

5. The UIAF conducts high-quality operational and strategic analysis, and the UIAF supports the operational needs of LEAs, spontaneously and upon request. However, despite collaboration between the UIAF and LEAs, spontaneously disseminated financial intelligence has resulted in a limited number of ML and predicate crime investigations given the risk and context of Colombia and not at all for TF, the good collaboration between the UIAF and the LEAs, and the financial intelligence provided by the UIAF supports the operational needs of the the LEAs in asset forfeiture cases and existing ML investigations. The UIAF has access to a wide range of information sources and has the authority to request any information from reporting entities and other relevant authorities regarding ML/TF. The UIAF has an effective process for prioritizing and analyzing suspicious transaction reports (STRs). However, a few factors negatively impact on the more efficient use of financial intelligence such as the poor quality of STRs from certain reporting entities, the inexperience of certain reporting entities regarding the fulfillment of their reporting obligation, and insufficient reporting by some DNFBPs. The UIAF makes a significant effort to verify and analyze the information in the STRs, along with the information in its own databases.

6. Colombian authorities can investigate and prosecute ML through a wide range of legal tools, and well-resourced investigative bodies. Nevertheless, most of the cases involve simple ML schemes comprising low amounts of funds. Most ML cases that are investigated and prosecuted are related to illegal drug trafficking and very few involve pursuing ML originating from other predicate crimes. The number of ML investigations and prosecutions is rising, but are still insufficient given the country's ML risk profile.

7. Colombia has a robust legal framework for confiscating and forfeiting proceeds of crime, and confiscation is pursued as a priority policy objective. LEAs are well skilled, trained, and sufficiently resourced for tracing and recovering instrumentalities and proceeds of crime. The physical transportation of proceeds of drug trafficking such as cash and bearer negotiable instruments (BNIs) is a common ML technique in Colombia. Nondeclared and nondisclosed cross-border currency is routinely being seized and confiscated. Competent authorities pursue proceeds and instrumentalities through criminal confiscation and asset forfeiture mechanisms. Asset forfeiture is being applied effectively with important results. Asset forfeiture proceedings are autonomous and are independent from criminal prosecution. There is room for improvement regarding confiscation of proceeds moved to other countries and the repatriation of assets. At the time of the onsite visit, there were no cases of sharing of confiscated proceeds with foreign counterparts. Colombia has an effective system for managing the proceeds of crime. The country seizes, forfeits, and confiscates currency which is falsely declared or which is not disclosed during cross-border movements.

Terrorist Financing and Financing Proliferation (Chapter 4—IOs 9–11; R.5–8)

8. The significant number of terrorist acts committed shows a high risk for domestic TF. The TF offense is investigated and prosecuted to a limited extent. There have been some significant TF convictions, but the number of standalone TF investigations and prosecutions is small in comparison with the magnitude of the threat. Colombia has established a registration regime for nonprofit organizations (NPOs), but risk-based supervision or monitoring for CFT is lacking. Colombia has not identified the subset of organizations falling under the FATF definition and has not identified the features and types of NPOs which are likely to be at risk for TF abuse

9. Colombian legislation establishes the general obligation to circulate UN sanctions lists to the competent authorities without delay and requires that freezing be carried out through judicial proceedings under the Asset Forfeiture Law (AFL). The authorities have not received any notifications to date relating to assets or funds belonging to persons designated pursuant to UN Security Council Resolutions (UNSCRs) and have not yet designated any person under UNSCRs 1267 or 1373. According to Colombian authorities, freezing actions on proliferation financing (PF) would also follow the AFL process. However, since AFL can only be applied to assets linked to criminal offenses, it cannot be applied to assets of designated persons or entities by the UN in the PF lists.

Preventive Measures (Chapter 5—IO.4; R.9–23)

10. Significant gaps in the legal framework negatively impact on the effective implementation of preventive measures. Postal transfer operators (PTOs) are not explicitly listed as reporting entities, and as such, they are not legally required to apply AML/CFT measures, including CDD. There are also shortcomings in the legal framework regarding the identification and verification of the identity of the BO, and there is no requirement to collect BO's information in all cases. While the regulatory framework presents some shortcomings, financial institutions and those DNFBPs classified as reporting entities generally apply adequate risk mitigating measures for politically exposed persons (PEPs), correspondent banking, new technologies, wire transfer rules, and TFS related to TF. Financial institutions generally have a good understanding of the obligations imposed by the Sistema de Administración del Riesgo de Lavado de Activos y de la Financiación del Terrorismo (Risk Management System for ML/TF—SARLAFT) or equivalent risk management systems, including for enhanced due diligence (EDD) and recordkeeping requirements. Financial institutions understand their STR obligations, but shortcomings were identified with respect to reporting attempted transactions among financial institutions and DNFBPs. Lastly, there are several categories of DNFBPs that, under the existing AML/CFT framework, are not considered reporting entities and are not subject to the AML/CFT obligations.

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

11. The understanding of ML/TF risks by supervisors is still evolving with most being well informed of the main ML threats facing the Colombian financial system. However, awareness of TF risks affecting their sectors was generally low, with none of the risk-based supervisory models specifically assessing exposure to TF. In addition, most supervisors focus on domestic threats and do not take adequate account of foreign-sourced risks. The licensing regime, including fit and proper checks on owners and directors of financial institutions and DNFBPs, appears to be robust with respect to Colombian nationals, but less stringent for foreign BOs. Scope limitations in Colombia's AML/CFT legal framework for financial institutions and most DNFBP sectors also constrain supervisors' understanding of sectoral risks and their effectiveness in risk mitigation. Many lawyers, accountants, real estate agents, and dealers in precious metals and stones (except in relation to gold) are outside the scope of the AML/CFT regime. The application of proportionate and dissuasive sanctions across all sectors is generally weak, with more reliance placed on warning letters than other more stringent administrative sanctions and fines.

12. The SFC has improved its risk-based framework for offsite and onsite AML/CFT supervision in recent years. Other supervisors are still developing their offsite risk identification and assessment systems and cannot yet demonstrate their effectiveness in mitigating risks and compliance supervision. Supervisors are also facing emerging challenges in adapting their risk assessment and mitigation systems to take account of the integration of ex-Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (Revolutionary Armed Forces of Colombia-People's Army—FARC) members into the formal financial system, including their control of credit unions.

Transparency of Legal Persons and Arrangements (Chapter 7—IO.5; R.24–25)

13. Basic information of all legal persons held by registries is publicly available and is updated every year by the legal entities. Back-up documents kept by registries are not public, but are easily obtained by the authorities when requested. Shareholder information of legal persons is also obtained easily and in a timely fashion by authorities using different sources, such as public registries, books of shareholders, and supervisors' databases. However, BO information of legal persons is only partially available: authorities may get BO information from these sources for simple corporate structures, but have limitations to get BO information for complex corporate structures and when there is foreign ownership or control involved. Authorities have adopted several types of measures to prevent the misuse of legal persons, including strict regulations, supervision, powers of supervisors, and easy access to information of legal persons. Bearer shares are not allowed. Currently, 54 percent of the commercial companies are SAS, which only require a simple private document for their creation. The ML/TF risks arising from this type of company have not

been analyzed by the authorities. Fiduciae are an important financial market and only licensed fiduciary companies (26) can provide fiduciary services. All information on the participants and terms of the fiduciae must be updated in the SFC registries. Fiduciary services face a high ML risk, but there are no requirements for enhanced AML/CFT mitigation measures specific for this sector beyond the regular obligations for financial institutions. Specific measures ultimately depend on internal rules of each fiduciary company.

International Cooperation (Chapter 8—IO.2; R.36–40)

14. Colombia has a robust legal and institutional framework which allows competent authorities to provide constructive, good quality, and timely mutual legal assistance (MLA) and extradition to third countries. The Colombian approach to international cooperation is overall proactive and collaborative. International cooperation is provided both upon request and spontaneously. Overall, LEAs' procedures for protecting information, prioritizing, and executing international cooperation requests are in place and adequate. Colombia regularly submits extradition requests to other countries related to ML, TF, and terrorism, as well as for asset forfeiture. Financial supervisory authorities, the UIAF, and other LEAs exchange information with their foreign counterparts and implement measures to protect the confidentiality of the information. The implementation of international cooperation procedures of the Dirección de Impuestos y Aduanas Nacionales (National Tax and Customs Office—DIAN) could be further improved. Colombia can identify and exchange basic information on domestic legal persons and arrangements. Regarding the BO information, shortcomings related to its availability would limit Colombia's ability to respond in a timely manner to specific foreign requests in this regard.

Priority Actions

- Extend the scope and approach of the NRA to provide for a more in-depth ML/TF threat and vulnerability analysis to cover additional areas (e.g., tax evasion, foreign threats, cross-border financial flows, among others).
- Articulate a national AML/CFT policy with clear objectives, timeline, and allocation of responsibilities, as well as a mechanism to monitor/measure progress, and maintain more comprehensive statistics.
- Improve implementation of risk mitigating measures, including for enhanced measures, and fully extend AML/CFT requirements to sectors that are completely or partly out-of-scope, including unregulated lenders, internet casinos, real estate intermediaries, lawyers, accountants, and dealers in precious metals and stones.
- Fully implement the risk-based supervisory systems for all financial institutions and DNFBP sectors, including with respect to onsite inspections and cross-border supervision of financial groups.
- The UIAF should support the requirements of LEAs for ML/TF investigations to a greater extent.
- The UIAF should systematically provide feedback to supervisors and reporting entities regarding the quality of STRs.
- Establish a mechanism to maintain accurate and updated information on BOs readily available to competent authorities.
- Colombia should widen the scope of the ML investigations to extend to cases where the underlying criminal activities are different from drug trafficking, at least to those that have been indicated as a high risk in the NRA.
- Enhance the use of available legal measures to combat TF offense and do not rely only on alternative judicial measures to tackle TF activities.

- Require physical and legal persons, not only reporting entities, to implmement the UCSCRs on TF and PF for WMD.

- Colombia should strengthen its capacity to provide international cooperation on BO information.

Effectiveness and Technical Compliance Ratings

Effectiveness Ratings

IO.1 Risk, policy and coordination	**IO.2** International cooperation	**IO.3** Supervision	**IO.4** Preventive measures	**IO.5** Legal persons and arrangements	**IO.6** Financial intelligence
Substantial	**Substantial**	**Moderate**	**Moderate**	**Moderate**	**Substantial**
IO.7 ML investigation and prosecution	**IO.8** Confiscation	**IO.9** TF investigation and prosecution	**IO.10** TF preventive measures and financial sanctions	**IO.11** PF financial sanctions	
Low	**Substantial**	**Low**	**Moderate**	**Low**	

Technical Compliance Ratings

AML/CFT Policies and Coordination

R.1	**R.2**
LC	**LC**

Money Laundering and Confiscation

R.3	**R.4**
LC	**C**

Terrorist Financing and Financing of Proliferation

R.5	**R.6**	**R.7**	**R.8**
LC	**PC**	**NC**	**PC**

Preventive Measures

R.9	**R.10**	**R.11**	**R.12**	**R.13**	**R.14**

C	**PC**	**C**	**PC**	**PC**	**C**
R.15	**R.16**	**R.17**	**R.18**	**R.19**	**R.20**
PC	**PC**	**N/A**	**C**	**PC**	**LC**
R.21	**R.22**	**R.23**			
C	**PC**	**PC**			

Transparency and Beneficial Ownership of Legal Persons and Arrangements

R.24	**R.25**
PC	**LC**

Powers and Responsibilities of Competent Authorities and other Institutional Measures

R.26	**R.27**	**R.28**	**R.29**	**R.30**	**R.31**
LC	**LC**	**PC**	**LC**	**C**	**C**
R.32	**R.33**	**R.34**	**R.35**		
LC	**PC**	**PC**	**PC**		

International Cooperation

R.36	**R.37**	**R.38**	**R.39**	**R.40**
LC	**LC**	**C**	**LC**	**LC**

DETAILED ASSESSMENT REPORT

Preface

This report summarizes the AML/CFT measures in place as at the date of the on-site visit. It analyzes the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from June 5 to 22, 2017.

The evaluation was conducted by an assessment team consisting of: A. Antonio Hyman-Bouchereau (team leader, IMF), Francisco Figueroa (financial sector expert, IMF), Carolina Claver (financial sector expert, IMF), Esteban Fullin (legal expert, IMF), Manuel Vasquez (financial sector expert, IMF consultant), Gonzalo Gonzalez de Lara (DNFPB expert, IMF consultant), Alejandra Medina Carrillo (financial intelligence expert, IMF consultant), and Juan Cruz Ponce (legal expert, GAFILAT Secretariat). Alejandra Quevedo provided support from the *Grupo de Acción Financiera de Latinoamérica* (GAFILAT) Secretariat. The report was reviewed by the FATF Secretariat and Matthew Shannon (Department of Finance, Canada).

Colombia previously underwent a GAFISUD (now GAFILAT) Mutual Evaluation in 2008, conducted using the 2004 FATF Methodology. The December 2008 evaluation and July 2009 follow-up report have been published and are available at http://www.gafilat.org/content/biblioteca/.

That previous Mutual Evaluation concluded that the country was compliant with 19 Recommendations; largely compliant with 21; partially compliant with 8; and non-compliant with 1. Colombia was rated compliant or largely compliant with 5 of the 16 Core and Key Recommendations. Because of the evaluation, Colombia was placed under the regular follow-up process by GAFILAT immediately after the adoption of its 3rd round Mutual Evaluation Report. Colombia exited the GAFILAT follow-up process in 2013 based on improvements in implementing the technical requirements of Core and Key Recommendations. However, the 2008 rating of these Recommendations was not increased. Accordingly, Recommendation 5 and Special Recommendations I and III remained rated as partially compliant.

1. ML/TF RISKS AND CONTEXT

15. Colombia is situated northeast of South America and with a land area of 1,038,700 km^2 bordering the Caribbean Sea and the North Pacific Ocean, and neighbor to Brazil, Ecuador, Panama, Peru, and Venezuela. The population of Colombia is 49,210,124 (2017 estimate)[2] making it the 2nd most populous country in South America after Brazil, and the third largest Spanish-speaking population in the world, after Mexico and Spain. The official currency of Colombia is the Colombian Peso (COP). The Republic of Colombia is a unitary republic organized in 32 districts beside the capital city of Bogota. It is a civil law jurisdiction. The Executive power is vested in the President, who is elected by direct popular vote for a one four-year term on a single ticket with his Vice-President. The President is both the head of government and the chief of state. He appoints the ministers and directors of departments. There is a bicameral legislature consisting of a Senate and a House of Representatives directly elected to four-year terms. The judicial power is vested in four high courts including the Supreme Court of Justice (14 judges for civil and criminal matters); Constitutional Court (9 magistrates); Council of State (31 members for administrative law); and the Superior Judiciary Council (13 magistrates).

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

16. **Colombia's prime ML threat comes from organized crime groups operating both inside the country and abroad**. The last decade has seen a proliferation of Colombian organized crime groups that commit crimes for hire in various countries (e.g. assassinations, kidnappings, terrorist acts) on behalf of other criminals or for illegal armed groups (*oficinas de cobro* or "collecting agencies"). The 2016 NRA identified illegal drug trafficking, smuggling, human trafficking (i.e. smuggling of migrants), illegal gold mining, corruption, and extortion as the main predicate offenses for ML. The foregoing crimes are committed mainly by criminal organizations, among which are the GAOS,[3] criminal drug trafficking networks, criminal gangs (*bandas criminales* – BACRIM), and others. Per the country's 2016 NRA, the sectors facing the highest risks for ML are the banking, real estate, gold mining, lawyers, notaries, accountants, and auditors.

17. **A range of estimates of the amounts of money that are laundered in Colombia illustrate the extent of ML in Colombia.** The authorities have estimated the figure at 5.4% of GDP,[4] but the assessment of the current numbers suggests that the percentage of ML in relation to the GDP may be larger. The volume of assets laundered in the Colombian economy has been estimated in a World Bank study to amount to 7.5% of GDP.[5] Colombia is the world's top producer of cocaine, as well as a source country of heroin and marijuana.[6] The main driver of the production of drugs are foreign markets.[7]

[2] *Departamento Administrativo Nacional de Estadística (DANE).* Retrieved 6 March 2017.
[3] There are several illegal armed groups Colombia, which are not considered terrorist groups by the Government but that can commit terrorist acts. Within the armed or criminal groups, we can distinguish: (a) GAOS such as the Revolutionary Armed Forces of Colombia – People's Army (*Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* – FARC), the National Liberation Army (*Ejército de Liberación Nacional* – ELN), and to a lesser extent the People's Liberation Army (*Ejército Popular de Liberación* – EPL); (b) Criminal organizations – BACRIM – that engage in organized crime activities but sometimes also target the civilian population, generating acts of terrorism. Some of the BACRIM were born out of dissidents of right-wing paramilitary groups that emerged after their demobilization (e.g. *Autodefensas Unidas de Colombia* – AUC).
[4] Evaluación Nacional del Riesgo de Lavado de Activos y de Financiación del Terrorismo, January 2017, p. 361.
[5] *E. Vill, M. Misas and N. Loayza, Illicit Activity and Money Laundering from an Economic Growth Perspective*, World Bank Group, Policy Research Working Paper 7578, February 2016, p.46.
[6] Domestic coca production is estimated to be worth around $2 billion annually mainly from growers selling coca paste or base to regional terrorist groups.
[7] Colombia produces drugs mainly for export to other countries, specially to the United States and to Europe. Most Colombian-produced cocaine (55%) goes to markets in North America and the remaining goes to Europe.

18. **The ML risk emanating from other countries is significant.** Casinos, the postal money order market, bulk cash smuggling, wire transfers, remittances, electronic currency, and prepaid debit cards are being used to repatriate illicit proceeds to Colombia, mainly from drug trafficking.

19. **International trade appears to be used by criminal organizations for counterfeiting and smuggling activities.** In that regard, counterfeit and smuggled goods are readily available in well-established black markets in most major cities in Colombia, with proceeds from the sales of some of these goods directly benefiting criminal enterprises. The 2,219 km^2 border Colombia-Venezuela border region has long been a center for the movement of black market products. Smugglers resort to bribes to facilitate the transport of goods crossing the borders.

20. **The main terrorist financing threat in Colombia are the proceeds-generating criminal activities from the two largest GAOS.** GAOS have used drug trafficking, kidnappings, extortion and other crimes as sources of leverage and income. TF is facilitated through ML in areas that are controlled by GAOS and organized criminal groups. For instance, illegal mining of gold, emeralds and tungsten is a key source of income for GAOS. The value of illegal gold exports from Colombia is said to exceed the value of cocaine exports.[8] Authorities have estimated that roughly 50% of Colombian mines are illegal and many are dominated by various armed groups, which manage, extort and provide security for illegal mining operations.[9] GAOS and BACRIM are involved in most of the areas where illegal gold mining takes place. The authorities have not adequately considered the external TF issues and therefore information on risk is imperfect. Extortion is on the rise in Colombia and is another main source of income for Colombia's GAOS, BACRIM and common criminals. According to the FGN, during the period 2008 - 2014 33,225 extortion cases were reported at the national level.[10]

Country's Risk Assessment and Scoping of Higher Risk Issues

21. **Colombia updated its NRA, following a four-month exercise, which concluded in December 2016.** The 2016 NRA was led by the UIAF, the Minister of Justice and the University of Rosario, and approved in January 2017 by the Inter-Agency Coordination Committee for the Control of ML (*Comisión de Coordinación Interinstitucional para el Control del Lavado de Activos* – CCICLA) as the national AML/CFT coordinator body. Colombia's updated NRA utilized a revised methodology based on the one implemented in 2013. The 2016 NRA was recently complemented by a sectoral level assessment conducted by the UIAF and finalized in early June 2017. Authorities stated that due to national security reasons, the assessment of TF risks was addressed through other national confidential policies carried out by national intelligence agencies. Therefore, the assessment team did not have access to these policy documents. The findings of the NRA were disseminated to relevant parties that participated in the exercise but not to the broader private sector community (only the executive summary was shared). There was no evidence that concrete policies and implementation actions were taken to address the identified ML/TF risks at the time of the onsite assessment.

22. The 2016 NRA considers the nature and relative importance of the ML threats associated with the main sources of criminal activities: drug trafficking, corruption, extortion, human trafficking, and smuggling. Overall, it reflects close coordination among concerned agencies and participants. However, some key stakeholders did not participate in the NRA or had limited participation (e.g., the DIAN and SFC). Similarly, there is no consideration of other ML risks, for example those emanating from other countries

23. In deciding what issues to prioritize, the assessment team reviewed material provided by Colombia on technical compliance and effectiveness, as well as supporting documentation, including reports relating to ML/TF risk, and open source information. Based on Colombia's threat environment and the vulnerabilities

[8] *Organized Crime and Illegally Mined Gold in Latin America*, Global Initiative against Transnational Organized Crime Organized Crime and Illegally Mined Gold in Latin America, April 2016.
[9] http://www.insightcrime.org/news-briefs/88-of-colombia-gold-produced-illegally-expert
[10] Evaluación Nacional del Riesgo de Lavado de Activos y de Financiación del Terrorismo, enero 2017, p. 344.

identified in the material provided, the assessment team gave increased attention to the following issues which it considered posed the highest ML/TF risk in Colombia or warranted more detailed discussions:

- Efforts to prevent and combat the laundering of the proceeds of drug trafficking, corruption and tax evasion[11] as a criminal offense.

- Exposure of the Colombian economy to risks emanating from cross-border ML and terrorist financing transactions, including through: cash smuggling, wire-transfers, remittances, and domestic PEPs transferring funds out of Colombia.

- Effectiveness of supervision, adequacy of tools, and scope of the supervisory work, particularly for banks, foreign currency houses, real estate sector and money remitters.

- The degree to which Colombia has been successful at combating TF.

24. The insurance and securities sectors were assessed as lower risk and were therefore not a priority focus of the assessment team.

Materiality

25. **Colombia is Latin America's fourth largest economy measured by GDP.** [12] Colombia's economy has experienced rapid growth over the past three years despite a serious armed conflict. The country has substantial oil reserves and is a major producer of gold, silver, emeralds, platinum and coal. Colombia is the world's fourth largest coal exporter and Latin America's fourth largest oil producer. The economy is heavily dependent on energy and mining exports. The Gross Domestic Product (GDP) was USD 292.1 billion as of 2015.[13] The Gross National Income per capita is around USD 8,000. The structure of the economy as a percentage of GDP is composed of service activities (56%), manufacturing industry (38%), and agriculture (6%).

26. **Colombia has a well-developed financial system, dominated by multifaceted financial conglomerates and with a variety of intermediaries.** Over the past decade assets of the financial system has risen from about 60% %%of GDP in 2000 to about 160 % of GDP in 2016.[14] Credit granting institutions (mostly banks) [15] account for about half of the financial system assets, with the balance held by non-banks (largely private pension funds, trust companies and insurance companies, among others). Large domestic complex conglomerates dominate the financial landscape. Three of these conglomerates hold about 80 % of total financial sector assets. Recently, major Colombian conglomerates have expanded into Central America through mergers and acquisitions.

27. **The percentage of financial inclusion has presented a sustained increase since 2011**, reaching 72.5% in 2014.[16] The portion of the population employed in the informal sector, where the use of cash is prevalent, has decreased from 51.30% to 47.20% between 2011 and 2015.[17] The share of cash to GDP increased in the period 2011-2015 from 4.49% to 5.58%, reflecting an increase in the availability of cash in the economy.[18]

[11] Colombia criminalized Tax Evasion in Law 1819 of 2016, approved by Congress on December29, 2016.
[12] "World Economic Outlook Database", International Monetary Fund, July 2017. *http://www.imf.org/external/pubs/ft/weo/2017/01/weodata/index.aspx*
[13] IMF, Colombia—Staff Report for the 2017 Article IV Consultation.
[14] IMF Country Report No. 16/129. Colombia 2016 Article IV Consultation.
[15] Besides 23 commercial banks, these institutions comprise 4 financial corporations, 22 finance companies, 6 cooperatives and 11 special official institutions. The state plays a very small role in Colombia's financial system. Official financial institutions are second-tier banks and account for 7 percent of gross financial system assets.

[16] Asociación Bancaria de Colombia (ASOBANCARIA), retrieved January 2017.
[17] DANE, retrieved January 2017.
[18] ASOBANCARIA, retrieved January 2017.

28. **Among the DNFBPs, the real estate agencies handle one of the largest sectors in the Colombian economy.** According to the Superintendence of Companies (*Superintendencia de Sociedades* – Supersociedades), the real estate sector contains the largest amount of assets in the economy, with a value of around USD 18.6 billion. Residential property prices increased significantly between 2005 and 2016. In the main three cities of Colombia (Bogota, Cali, and Medellin), house prices rose by around 200 % in nominal terms (110 % in real terms) from 2005 to mid-2016.Real estate transactions present a high risk for ML, which can be facilitated by criminally inclined real estate brokers, lawyers, notaries and accountants. Colombia has around 1,000 real estate firms, 280,000 lawyers, 900 notaries and 250,000 accountants.

Structural Elements

29. **Most of the structural elements needed to ensure an effective system of preventing and combatting ML/TF are present in Colombia.** Colombia has stable democratic institutions, represented by a republican, democratic and representative political system in which there is a clear division of the executive, legislative and judicial powers. Political and institutional stability, accountability, transparency and rule of law are all present. The stability of democratic institutions was maintained throughout the prolonged armed conflict. Over the past 15 years Colombia has undergone a remarkable improvement of its internal security, which has extended state presence to all the country's territory. While there is a professional and independent judiciary, the optimal operation of the courts is undermined by corruption and extortion as bribes are often exchanged to obtain favorable court decisions. Corruption also compromises Colombia's fight against drug trafficking and other crimes. Despite these challenges, Colombia's legal and institutional framework allow the implementation of its AML/CFT regime.

Background and other Contextual Factors

30. **The dimension of the informal economy creates major problems for the authorities in terms of the sustainability and effectiveness of the AML/CFT framework.** Colombia has high levels of employment in the informal sector relative to its level of economic development, with 47% of workers conducting economic activities that lie outside of governmental regulation (est. 2015). Nevertheless, the percentage of financial inclusion has shown a sustained increase since 2011, reaching 75% in 2015. The proportion of cash over GDP increased in the 2011-2015 period from 4.49% to 5.58%, which reflects an increase in the availability of cash in the economy.

31. **The risk of FARC members becoming criminal organizations after demobilization begins appears to be very high.** Although the 2016 peace agreement[19] has the objective of producing a major reduction in terrorist and associated organized criminal activities in Colombia, the possibility of dissident FARC members turning the transition camps into bases from which to continue to commit crimes is cause for concern. Similarly, other criminal groups are already replacing FARC in control of the coca fields, illicit gold mines and other criminal activities. In addition, the curtailment of coca cultivation has made it more profitable. The integration of former FARC members into the formal sector also poses a compliance and risk management challenge for financial institutions, DNFBPs, and their supervisors. While the government has had, exploratory peace talks with the National Liberation Army (*Ejército de Liberación Nacional* – ELN), that group reportedly continues its criminal activities.

[19] The Government of Colombia entered exploratory peace talks with the FARC in 2012 to end a conflict that began in the mid-1960s. Formal talks continued for four years and a peace agreement was approved by Colombia's Congress in December 2016. The negotiations were mainly centered on the future political participation of FARC members, the reintegration of rebels into civilian life, eradication of illegal crops, transitional justice and reparations, and rebel disarmament. By the end of June 2017 more than 7,000 FARC rebels in transitory normalization camps around the country under supervision of the United Nations had given up their weapons. Now that this process has been completed, the rebels must submit to a process of transitional justice through which, in exchange for full confessions and reparations to victims, those who committed war crimes will receive "restorative sanctions" offering the possibility of community work rather than imprisonment. The rebels are then required to leave transitional arrangements and integrate into society.

Box 1. Implications of FARC Peace Process

- Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*): This will exercise judicial functions as part of the Integral System of Truth, Justice, Reparation and Non-Repetition. FARC members cannot be sentenced to more than eight years if they fully cooperate with investigations and acknowledge their criminal responsibilities. Those failing to come forward and who are subsequently declared guilty by the Tribunal for Peace will be convicted to prison terms of up to twenty years in ordinary enforcement conditions.

- FARC assets and reparation of victims: The FARC will provide an inventory of all assets to representatives of the National Government with full information disclosure relating to these. Such assets will be used to provide material reparation to the victims within the framework of the integral reparation measures.

- FARC drug trafficking: Since earnings from drugs trafficking by rebels was used to fund their rebellion, this activity is considered a political crime. This means that extradition requests may be refused by the Colombian government. However, each drug trafficking case will be reviewed separately to confirm that the funds were deployed in the rebel cause and not for personal enrichment. Any cases of personal enrichment will be tried under normal criminal jurisdiction. Those involved in drug trafficking must also disclose all routes, contacts and the inner workings of the trade to qualify for to be tried under the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*).

- Amnesties and pardons: Colombia's Constitution allows granting amnesties or pardons for the political crime of rebellion and certain crimes related to it. An Amnesty Law will determine the behaviors that will not be eligible for amnesty, based on the following criteria: (i) Crimes specifically related to advance the rebellion; Crimes in which the passive subject of the conduct is the State; and (ii) Behaviors aimed at facilitating, supporting, financing or concealing the rebellion.

Source: Acuerdo final para la terminación del conflicto y la construcción de una paz estable y duradera (24.08.2016)

32. **Corruption in Colombia is a pervasive problem.** [20] The large patronage networks are particularly established in the public contracting sector. The government has generally implemented anti-corruption laws effectively, but there have been some instances of impunity reported. While there is a professional and independent judiciary, the justice system is undermined by corruption and extortion as irregular payments and bribes are often exchanged to obtain favorable court decisions.[21] However, the Constitutional Court and the Supreme Court are perceived to act independently. Corruption also compromises Colombia's fight against drug trafficking and other crimes. Proceeds from corruption are thought to be around USD 7.5 billion every year, which is almost 10% of the government's 2017 budget. In the 2016-2017 Global Competitiveness Index, the World Economic Forum noted that corruption was the second most problematic factor in doing business in Colombia.

Overview of AML/CFT Strategy

33. Policies and objectives of the Colombian government are established in the National Development Plan (2014-2018)[22]. Pursuant to the current Plan, the National Council of Economic and Social Policy (CONPES) approved document 3793 – the National Anti-Money Laundering and Counter-Terrorism Financing Policy – in December 2013. This policy document was previously prepared and approved by CCICLA. CONPES 3793, establishes the guidelines to strengthen the prevention, detection, investigation and prosecution of ML and TF. The key aims of CONPES 3793 are (i) increasing the participation of the public sector as reporting entities to the UIAF; (ii) increasing the protection of the real sector of the economy; (iii) improving the quality of information, data and statistics, particularly in the field of financial intelligence; (iv) strengthening research capacity and the effectiveness of the judiciary; (v) strengthening the regulations and supervisory frameworks; and (vi) promoting cultural values in favor of legality.

34. The AML/CFT policies, as set forth under the CONPES, include an articulated strategy and priorities aimed at strengthening the AML/CFT regime in Colombia. The AML/CFT policies address in

[20] OECD (2015), Phase 2 report on implementing the OECD Anti-bribery Convention in Colombia, OECD, Paris.
[21] Global Competitiveness Report 2015-2016. http://reports.weforum.org/global-competitiveness-report-2015-2016/
[22] This document is issued by the President of Colombia and discusses the highest priorities for his mandate, which includes some policies related to AML/CFT.

general terms the ML/TF risks identified in the 2013 NRA. Although all activities included in the CONPES Action Plan have been completed, the policies remain in effect until a new AML/CFT policy is approved.

Overview of the Legal and Institutional Framework

Ministries and coordinating committees

35. The **Inter-Agency Coordination Committee for the Control of ML** (CCICLA) leads public policy processes related to AML/CFT and coordinates the actions developed by the Colombian State to combat ML and TF. CCICLA is chaired by the Minister of Justice and Law and its Technical Secretariat is carried out by the UIAF.[23] Its mandate also includes, inter alia, responsibilities to support other relevant agencies with AML/CFT responsibilities, and ensure effective cooperation and co-ordination among agencies on the development and implementation of policies.

36. The **Ministry of Justice and Law** (MINJUS) is responsible for public policy relating to the legal system, justice and legal security, including the design of the State's criminal and penitentiary policy, crime prevention, and actions against organized crime. In addition, MINJUS promotes and enforces, the rules on asset forfeiture and directs the policies and agenda for the destination of seized and forfeited assets.

37. The **Ministry of National Defense** participates with other governmental institutions in the definition, development and execution of national defense and security policies.

38. The **Ministry of Information and Communication Technologies** (MINTIC) regulates and supervises the PTOs in relation to postal payment services.

39. The **Ministry of Foreign Affairs** (*Ministerio de Relaciones Exteriores* – MINREX) publishes the lists of entities and persons associated with terrorist organizations and the proliferation of WMD.

Criminal justice and operational agencies

40. The **National Intelligence Directorate** (*Dirección Nacional de Inteligencia* - DNI) is the main intelligence agency of Colombia and the successor organization to the Administrative Department of Security (DAS). Its main task is gathering and analyzing intelligence both domestically and abroad, and counter intelligence, including for the purposes of national security and defense, prevention, detection, monitoring and control of ML and TF.

41. The **Public Prosecutor´s Office** (FGN) initiates criminal proceedings on behalf of the State and participates in the design of criminal policy. The National Unit of Asset Forfeiture and Against the Laundering of Assets is part of the FGN. The FGN is also the central authority for the UN conventions on criminal matters, as well as for bilateral treaties in criminal matters.

42. The **Financial Analysis and Information Unit** (UIAF) is the country's financial and economic intelligence unit and a member of the Egmont Group of Financial Intelligence Units.

43. The **National Police** coordinates with judicial authorities the activities to be carried out in the conduct of investigations. The National Police has several specialized investigative directorates with AML/CFT functions: Directorate of Criminal Investigation and Interpol (*Dirección de Investigación Criminal e INTERPOL* - DIJIN), Police Intelligence Directorate (*Dirección de Inteligencia Policial* - DIPOL), Anti-Narcotics Directorate (*Dirección de Antinarcóticos*), Fiscal and Customs Police (*Policía Fiscal y Aduanera* - POLFA). The National Police also includes the Investigative Group for the Asset

[23] The other members of CCICLA are the Minister of Finance and Public Credit, or a deputy minister; the Minister of National Defense, or a deputy minister; the Director of the DNI, or his deputy; and the Attorney General of the Nation or his Chief of Staff.

Forfeiture and ML, whose mission is to investigate criminal organizations engaged in ML, TF, illicit enrichment, acting as a figurehead (*testaferrato*) and related offenses.

Financial Sector Supervisors

44. The **National Tax and Customs Office** (DIAN) supervises currency exchange firms to detect unusual or suspicious transactions to prevent their use in the laundering of proceeds of crime in foreign currency. NPOs are required to register with DIAN for tax purposes.

45. The **Financial Superintendent of Colombia** (SFC) regulates and supervises banks, insurance companies, securities firms, fiduciary (trust) companies, exchange intermediation and special financial services companies (e.g. currency exchange firms), financial cooperatives (i.e. those that conduct business with the public) and other financial entities.

46. The **Superintendent of Solidarity-based Economy** (*Superintendencia de Economía Solidaria* – SES) supervises financial cooperatives (*i.e.* credit unions that conduct savings and loans business only with their members) and other cooperatives.

DNFBP Supervisors and Self-Regulatory Bodies

47. The **Superintendent of Companies** (*Superintendencia de Sociedades* – **Supersociedades**) is attached to the Ministry of Commerce, Industry and Tourism and supervises and controls commercial companies.

48. The **Superior Judiciary Council** (*Consejo Superior de la Judicatura* - CSJ) conducts the administrative and disciplinary role of the Judiciary. CSJ regulates lawyers and maintains the national registry of the lawyers. The CSJ was eliminated by the constitutional reform 2015 and its functions were attributed to the National Commission for Judicial Discipline (*Comisión Nacional de Disciplina Judicial*) and the National Judicial Governance Council (*Consejo Nacional de Gobierno Judicial*). CSJ continues to exercise its functions transitorily until the members of the new bodies are designated. The Council is not a designated AML/CFT supervisor.

49. The **Superintendent of Notaries and Registry** (*Superintendencia de Notariado y Registro* - SNR) conducts inspections, monitoring and control of notaries. The SNR is also responsible for investigating and sanctioning disciplinary offenses by notaries.

50. The **National Superintendent of Health** (*Superintendencia Nacional de Salud* - Supersalud) regulates and supervises NPOs related to the health sector.

51. The **State Industrial and Commercial Company for the Administration of Gaming Monopoly** (*Empresa Industrial y Comercial del Estado Administradora del Monopolio Rentístico de los Juegos de Suerte y Azar* - Coljuegos) supervises casinos and other legal persons exploiting gaming professionally. Coljuegos has competence and powers of supervision and regulation regarding game operators at the national level.

52. The **Administrative Department of Sport, Recreation, Physical Activity and the Use of Free Time** (*Departamento Administrativo del Deporte, la Recreación, la Actividad Física y el Aprovechamiento del Tiempo Libre* - Coldeportes) registers and supervises professional sport clubs, sport leagues and federations.

53. The **Colombian Confederation of Chambers of Commerce** (*Confederación Colombiana de Cámaras de Comercio* – Confecámaras) is a private body that conducts several public functions delegated by the Government, such as keeping several registries including the Single Business and Company Registry (Registro *Único Empresarial y Social* – RUES).

Overview of the Financial Sector and DNFBPs

54. There are more than 1,800 different entities that are subject to the AML/CFT framework. The SFC is an omnibus regulator responsible for all the core principles financial institutions[24] and of most other non-bank financial institutions and fiduciary (trust) companies (hereinafter financial institutions), totaling some 418 entities. These financial institutions account for most of the financial assets in the system.

Table 1. Types of financial institutions

		Assets	
Sector	**N°**	**In millions of COP**	**In millions of USD**
Banks	25	193,698,500,147.83	67,739,317.37
Bank of the Republic (Central Bank)	1	60,707,052,389.15	21,230,181.37
Stock Exchange Brokerage Companies	21	1,129,794,403	395,106.32
Agricultural Exchange Commission Companies	12	10,165,275	3,554.95
Investment Fund Management Companies	2	6,421,363	2,245.65
Pension and Unemployment Fund Management Companies	4	83,838,494,175	29,319,540.29
Centralized Securities Deposit Management Companies	1	35,874,706	12,545.91
Life Insurance Companies	19	13,701,134.9	4,791.49
General Insurance Companies	24	6,993,590	2,445.76
Insurance and Reinsurance Brokerage Companies	49	789,927.60	276.25
Insurance Cooperatives	2	408,035.40	142.70
Investment Companies	3	361,869.80	126.55
Financing Companies	15	3,851,608,535.28	1,347,005.35
Financial Corporations	5	3,991,812,225.44	1,396,038.14
Financial Cooperatives	5	1,013,302,800.65	354,377.73
Exchange Intermediation & Special Financial Services Companies	1	2,324,927.18	813.08
Administrators of Low Value Payment Systems	8	204,072,212.16	71,369.24
Institutes for Development and Development of Entities	2	645,666,228.61	225,805.88
Special Official Institutions	11	21,468,458,886.82	7,508,065.44
Total financial institutions	**391**	370,625,802,832.82	129,613,749.47
Trust companies	26	1,028,944.06	359,847,876
Total	**418**	**370,626,831,776.88**	**489,461,625.47**

Table 2. Other Reporting Entities by Sector 1/

Sector	**No.**
Fiduciary companies 2/	26
Casinos, bingos, sports betting agencies and virtual races (2015)	394
Notaries (2016)	902

[24] Core principles institutions are banks, insurance and securities firms covered by their respective international standards.

Real estate agencies (2016) 3/	28
Mining and quarrying (2016) 3/	49
Legal Services (2016) 3/	10
Accounting services companies (2015) 3/	9
Total	**1,418**

1/ There are other sectors that are subject to AML/CFT obligations in Colombia, but are not required by the FATF standard: foreign trade users, value carriers, shielding companies, conveyors of land cargo, lottery operators, permanent betting games and bets on horse races, vehicle trading, building construction, Health Promoting Entities, Health Care Institutions, Prepaid Medicine Companies, Prepaid Ambulance Services, among others.
2/ The SFC reports that there are some 23,244 trusts under administration which excludes civil trusts.
3/ Covered by AML/CFT requirements only in limited circumstances.

Overview of Preventive Measures

55. The table below indicates the relevant legal provisions governing AML/CFT preventive measures for each type of reporting entity.

Table 3. AML/CFT preventive measures

Reporting entities	**Applicable legal provisions**
Banks	- Organic Statute of the Financial System (*Estatuto Orgánico del Sistema Financiero* - EOSF); - SFC Circular 55/2016 (Risk Management System for MLTFML and TF (*Sistema de Administración del Riesgo de Lavado de Activos y de la Financiación del Terrorismo* – SARLAFT)
Insurance	- EOSF; SFC Circular 55/2016
Securities intermediaries	- EOSF; SFC Circular 55/2016
Mutual funds, pension fund managers	- EOSF; SFC Circular 55/2016
Fiduciary companies	- EOSF; SFC Circular 55/2016
Finance companies	- EOSF; SFC Circular 55/2016
Financial cooperatives and other financial institutions (i.e. investment management companies, representation offices)	- EOSF ; SFC Circular 55/2016
Savings and loans cooperatives	- EOSF ; SES Circular 4/2017 ; SES Circular 4/201-76
Postal transfer operators	- MINTIC Regulation 2564/2016
Professional currency exchange firms	- DIAN Circular 13/2016
Real estate agencies	- Supersociedades Legal Basic Circular. Chapter X. (25/10/2016) Self-Control and Risk Management System for ML/TF (SAGRLAFT)
Law firms	- Supersociedades Legal Basic Circular- SAGRLAFT
Notaries	- SEN Administrative Instruction No. 17 of 2016

Accounting firms	- Supersociedades Legal Basic Circular - SAGRLAFT
Casinos	- EOSF; Law 641/2001; CNJSA Agreement No. 317 – 2016; Coljuegos Resolution 20161200032334

Overview of Legal Persons and Arrangements

56. The types of legal persons that can be established or created in Colombia are: Joint Stock Company (*Sociedad Anónima*), Simplified Joint Stock Company (*Sociedad Anónima Simplificada*), Limited Liability Company (*Sociedad de Responsabilidad Limitada*), Limited Partnership with shares (*Sociedad en Comandita por Acciones*), Limited Partnership (*Sociedad en Comandita Simple*), Single Corporation (*Empresa Unipersonal*), General Partnership (*Sociedad Colectiva*), Civil Partnership (*Sociedad Civil*), Foundation (*Fundación*) and Association (*Asociación*).

57. The Colombian Code of Commerce (arts. 294 to 497); the Law 222 of 1995 and the Law 1258 of 2008 -which creates the SAS -, establish the framework that regulates the different types, forms and characteristics of the legal persons in Colombia, the process for their formation, their legal regime and the information required. The incorporation procedure applicable to all entities regulated by the Commerce Code is the same, except for SAS which do not require a public deed. It involves the execution of a public deed that contains the bylaws of the company. Once such a public deed is executed it must be registered with the Chamber of Commerce in the municipality where the company is going to have its principle place of business. The SAS is the preferred type of business entity. This type of company requires only one director and shareholder who can be either an individual or a legal entity. The director/shareholder can be of any nationality and reside in any country.

Table 4. Number of entities registered as of May 2017

Type of entity	No.
Joint Stock Companies *(Sociedades anónimas)*	5,431
Foreing branches *(Sucursales extranjeras)*	615
Limited liability companies *(Sociedades de Responsabilidad Limitada)*	2,832
Limited partnerships *(Sociedades en Comandita Simple)*	399
Limited partnership with shares *(Sociedad en Comandita por acciones)*	732
General partnerships *(Sociedad Colectiva)*	8
Single-Person Companies (*Empresa unipersonal)*	66
Simplified Joint Stock Companies (*Sociedad Anónima Simplificada*)	11,807
Civil Partnerships (*Sociedades Civiles*)	24,373 1/
Foundations (*Fundaciones*)	17,822 1/
Associations (*Asociaciones)*	22,620 1/
Total	**86,705 (approx.)**

1/ Denotes number of entities registered with DIAN

58. Regarding legal arrangements, Colombian law includes the fiducia, which is an arrangement with similar characteristics to the common-law trust. There are some 23,244 fiduciae under administration. Fiduciary companies provide a variety of asset management services throughout the Colombian economy, such as payment administration, real estate, bursarial, and guaranty trustee. The most common use for fiduciae is for construction and real estate.

Overview of Supervisory Arrangements

59. Colombian AML/CFT supervisory framework is made up of several supervisors. The SFC is the omnibus financial sector supervisor for 418 institutions including banks, insurance companies, securities intermediaries, and other non-bank financial institutions. SES is the lead supervisor for the other 181 savings and loans cooperatives that only conduct business with their members. Other financial institutions are

supervised by MINTIC and DIAN. MINTIC is responsible for supervising 5 domestic payment operators, two of which can engage in cross-border business. All 8 operators conduct business through 112 agents and around 27,800 customer service centers. DIAN is the supervisor of 1,263 licensed currency exchange firms.

60. Coljuegos is charged with the supervision of casinos and other games of chance at the national level. Online casinos and betting operators are not yet under its full regulatory and supervisory control. Currently, it is responsible for 383 licensed casinos and other games of chance. There are yet no procedures for supervising online casinos even though 2 were licensed post mission. SNR supervises notaries of which there are 902. The Superintendencia de Sociedades is the designated supervisor for all registered companies in Colombia. It is also responsible for AML/CFT supervision of a small number of legal and accounting firms, dealers in precious metals and real estate firms. Only legal entities with annual revenues above relatively high thresholds are subject to the AML/CFT regime and supervision by Supersociedades. The new AML/CFT regulations for these DNFBPs will not come into full effect until end 2017.

2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

A. Key Findings

- The Colombian authorities have a reasonable understanding of the country's main domestic ML/TF risks, which is evolving in the right direction.
- The 2016 NRA has yielded reasonable findings with respect to the identification of the main threats and vulnerabilities. However, the approach and scope used to understand ML/TF risks could have been more comprehensive to provide the authorities with a a holistic picture of the ML/TF risks, both domestic and foreign that affect the country.
- AML/CFT policies are informed by the ML/TF risks identified by the authorities and generally track the risks that were identified in the 2013 NRA.
- National coordination and cooperation on AML/CFT issues at a policy level has improved since the 2008 mutual evaluation and is strong. While operational coordination on AML/CFT issues is good in some areas, it could be further improved for some agencies.
- The understanding of ML/TF risks is more advanced in the case of the SFC and uneven for the rest of the supervisory agencies.
- The UIAF demonstrates an appropriate level of understanding of risks, and has aligned its activities with the findings of its sectoral assessment. LEAs and prosecutors have a good understanding of risks, but to date their activities are only partially aligned with identified ML/TF risks.
- DNFBPs have a lower level of understanding of ML risks than financial institutions.
- The level of understanding of TF risks is mixed across all relevant stakeholders. While there is a good understanding of TF risks by LEAs, the understanding among financial institutions, DNFBPs and most supervisory agencies is less developed.
- On TF, the activities and priorities of the responsible authorities (FGN with support from other relevant agencies) are broadly consistent with the identified risks but have not yet achieved the expected results.

B. Recommended Actions

- Continue to develop its understanding of risks to provide for a more in-depth ML/TF threat and vulnerability analysis to cover additional areas, such as tax evasion, all type of legal persons, overseas threats, cross-border financial flows, terrorism and TF risks associated with cash-intensive businesses, ML risks associated with corporate vehicles, the misuse of certain DNFBPs activities.
- Set up a mechanism or process to act upon the results of the 2016 NRA and develop AML/CFT policies or strategies which are informed by the ML/TF risks recently identified.
- Establish a system to enhance national AML/CFT coordination and cooperation at an operational level, including with respect to NPOs and the PF of WMD.

- Ensure that there is a robust system in place to monitor progress and measure the effectiveness of the AML/CFT framework. This will facilitate the prioritization of key risks and the strategic allocation of resources.
- Ensure that the activities and objectives of all relevant AML/CFT agencies are consistent with the identified ML/TF risks and adjusted in line with evolving risks.
- Strengthen communication and information sharing by competent authorities to ensure a better understanding of the ML/TF risks by DNFBPs.
- Increase the level of understanding of TF risks among financial institutions, DNFBPs and supervisory agencies.

The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R.1–2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's Understanding of its ML/TF Risks

61. Colombia has made significant efforts to identify, assess and understand its ML/TF risks. The main agencies responsible for AML/CFT have a good understanding of the main threats affecting Colombia. The country's understanding of risks relies primarily on the results of the 2013 and 2016 NRAs, which generally addresses the main ML/TF threats and vulnerabilities. However, there were some limitations in terms of approach and scope employed to develop a more comprehensive and holistic picture of the ML/TF risks affecting the country. In addition, some data gaps were identified, and lack of participation by some relevant agencies also impacted to an extent the degree to which the authorities and the private sector stakeholders understand the ML/TF risks.

62. The 2016 NRA consists of an assessment of both ML and TF national threats and vulnerabilities as of December 2016, which has generally yielded reasonable findings with respect to the identification of the main national ML threats (i.e., drug trafficking, corruption, illegal mining, smuggling, and human trafficking). The report is focused mainly on domestic predicate crimes, and pays less attention to ML/TF risks arising from offenses committed abroad.

63. Although the 2016 NRA appears to reflect overall good cooperation among the agencies that participated in the assessment, it also, in some instances, seems to represent a collection of individual opinions by competent authorities rather than a collective view of ML/TF risks present in the country. Discussions with the main authorities suggested that their understanding of the ML/TF risks is generally good and still evolving in other areas. Some authorities suggested that the exercise confirmed to an extent their previous understanding of some ML/TF risks present in the country but did not considered or properly assessed other existing risks (i.e., tax evasion, risks arising from SAS threats derived from the informal sector, and foreign threats).

64. The 2016 NRA involved both government agencies and the private sector which collected information from participants to form a picture of the country's threats and vulnerabilities. A two-tiered system was established to coordinate input and provide guidance and direction across agencies. A "coordinating working group" led the process with primary input from four thematic working groups. However, some key stakeholders had limited, involvement in the development of the NRA, which impacts the overall understanding of risks (i.e., there was no participation from the DIAN or SFC in the identification of ML threats, and limited participation of key agencies in the anti-corruption area).

65. The understanding of risks independently of the findings of the NRA, presents some limitations. Although they shared awareness of the main threats, in some cases government and private sector

stakeholders were not aware of other threats and vulnerabilities relevant to the country, which were not addressed under the NRA (e.g., tax evasion, risks associated with certain types of DNFBPs).

66. The findings of the sectoral assessments carried out by the UIAF in 2017 was overall comprehensive, but reflect some disconnection with the findings of the 2016 NRA, regarding the relevance of certain risks. For instance, while the sectoral assessment by the UIAF in 2017 identified firearms trafficking and commerce as activities that are being used by organized crime for ML/TF purposes, these were not considered in the 2016 NRA. Migrant trafficking was one of the major crimes identified in the 2016 NRA, but the sectoral assessment did not identify this crime as a threat to ML.

67. The TF threat has been deeply embedded in Colombia for decades, with various GAOS committing terrorist acts. The authorities deem the risk for TF as medium/high. However, the assessment of TF risk under the NRA is not very developed, but according to the authoriries this was addresses more deeply by the intelligene agencies in other confidential documents.

68. Overall, the exercise confirmed the authorities' view of the main domestic ML/TF threats, although new information could have been provided on specific LA/TF methods and trends, and other useful sources were not considered (i.e., LEAs' contributions, intelligence reports, expert opinions). The NRA demonstrated that the mitigation measures point to the most important risks to which the country is exposed, however, some measures that could have supported the conclusions were missing. For instance, there is no analysis of tax evasion, or an assessment of certain types of legal persons like SAS, although these could be vulnerable to ML/TF risks. Greater attention could have been paid to threats from high-risk jurisdictions, cross-border financial flows, the risks posed by unregulated lenders, the use of gatekeepers and complex corporate structures, and the misuse of certain other DNFBP activities. The authorities acknowledged that the 2016 NRA could have been more pragmatic/actionable to facilitate effective prioritization by relevant authorities.

69. The report is also limited to including a summary of the results related to the numerical weights/scores assigned to the threats, vulnerabilities and sectors considered, but does not properly justify the score assigned nor does it identify all high-risk activities, products, services or delivery channels.

70. The informal sector was identified as a national vulnerability, but little attention was given to this issue. The prevalence and cash intensive nature of some businesses and the threats related to tax evasion were not given sufficient attention, thus affecting the general understanding of risks.

71. Overall to assess ML/TF risks, the 2016 NRA relies heavily on qualitative information (i.e., private sector input, expert judgement, etc.) and there is, in some instances, insufficient consideration of quantitative information and research on trends, methods, and typologies used to launder proceeds of crime. The use of statistics relevant to ML is uneven. The analysis and findings are based in few instances on reliable and varied sources of data. In other cases, there is little or no consideration of other relevant data or independent sources of information (i.e., strategic analysis, law enforcement input, intelligence reports, operational cases, expert views, perception surveys, statistics on international cooperation or financial transactions, etc.).

72. While overall there is a better understanding of ML/TF risks by LEAs, the understanding by some supervisory agencies and financial institutions is less developed with respect to TF risks. The TF factor is in most cases not specifically considered by most supervisory agencies in their activities. There is no clear understanding of TF risks with respect to the NPO sector.

National Policies to Address Identified ML/TF Risks

73. The CCICLA is responsible for policy setting and serves as the national coordinating body for AML/CFT and assessment of risks. The CCICLA played an active role in the 2013 NRA after being tasked to act as a coordinating authority for AML/CFT issues. Its involvement in the 2016 NRA was through the Minister of Justice, who heads the CCICLA, and the UIAF (which is acting as a the CCICLA technical

secretary). The 2016 NRA was then endorsed and approved by the rest of the members of the CCICLA. The CCICLA elaborated jointly with the CONPES the AML/CFT national policies.

74. The AML/CFT policies, as set forth under CONPES 3793, include an articulated strategy aimed at strengthening the AML/CFT regime in Colombia. The authorities indicated that the 2013 NRA and CONPES (AML policies) were developed simultaneously, so CONPES 3793 could not take into consideration all the results of the 2013 NRA. However, the policies broadly address the main ML/TF risks.

75. The diagnostic and the action plan and policies developed were discussed and formulated based on the decision taken by the four operational committees within the CCICLA. Although all activities included in the CONPES Action Plan have been completed, the current policies remain in effect until a new AML/CFT policy is approved. Similarly, specific measures to prevent or mitigate ML/TF risks based on the findings of the 2016 NRA have not been put in place yet, due in part to the recent adoption of the report and the fact the adoption of a revised policy is dependent on a broader decision from the government.

76. Similarly, other specific AML/CFT policies are included in relevant public documents like the National Development Plan 2014–2018 (which had input from the CONPES 3793 and the 2013 NRA), the National Intelligence Plan, and recommendations provided under the 2013 NRA.These policies address some of the risks previously identified. The FGN has addressed some of the TF risks with the adoption of a Prioritization Plan that was approved in 2015, which has contributed to a better understanding of the problem and a more effective prioritization of cases.

77. At an individual level, the authorities demonstrated initiatives aimed at addressing some of the recommendations included in the 2013 NRA, where coordination was overall effective, but there remain some areas where no actions have been taken. For instance, a sectoral assessment by the UIAF has just been completed in line with recommendations developed in the 2013 NRA, and a strategic plan with targeted objectives to fight organized crime has been adopted by the Attorney General (2016–2020). A package of regulatory amendments was issued to strengthen the preventive measures. However, other areas received little or no attention. There is no evidence that sufficient measures have been put in place to address the ML/TF risks in DNFBPs (for lawyers, accountants, dealers in precious metals and stones, and real estate agents, which are not properly covered in the AML/CFT framework) or the risk of cash-intensive businesses. For legal arrangements (fiduciary services), although considered by the authorities as a high-risk sector, no enhanced or mitigation measures have been applied in accordance with the identified ML/TF risks.

78. While some policies have been established to mitigate some of the risks that were identified in the 2013 NRA, there are some areas where the mitigation measures have not been implemented. The authorities have taken certain actions to address some existing threats through the National Development Plan 2014–2018, which include among others, policies related to AML/CFT, and the development of a National Intelligence Plan. However, the interplay between these documents and the 2013 and 2016 NRA exercises and the effectiveness of coordination at an operational level among competent authorities responsible for the implementation of the AML/CFT policies is unclear.

79. The UIAF was heavily involved in the 2016 NRA and demonstrates an overall appropriate level of understanding of ML/TF risks, although in practice the UIAF's activities are focused on the findings of its own sectoral assessment, and not necessarily addressing all the risks identified in the 2016 NRA. For instance, the UIAF pays little attention to migrant trafficking, which has been identified as one of the six main predicate crimes to ML in Colombia by the 2016 NRA, which was a key factor.

Exemptions, Enhanced and Simplified Measures

80. While Colombia applies the AML/CFT framework to sectors that are not covered under the standard (e.g., freight transport, games of chance, transport of valuables, mining, car dealers, health, football teams, among others), this does not appear to have been based on an assessment of the risks. However, in the authorities' view, these are relevant sectors that warrant the application of AML/CFT controls. The AML/CFT framework does not apply to all DNFBPs which constitutes a significant loophole in terms of

risks. Despite the findings of the 2013 NRA with respect to DNFBPs, lawyers, accountants, and real estate agents are only subject to the AML/CFT framework under limited circumstances, and dealers in precious metals and stones are out of the scope of AML/CFT regime.

81. These exemptions are not supported by a risk-assessment and constitute a gap in terms of risk given the findings of the NRAs and the affirmation made by some authorities that many of these sectors (i.e. mining sector, including persons that commercialize stones and the real estate sector) are used as an entry point for illicit purposes.

82. The SFC, which is the main financial supervisory authority, has allowed financial institutions to apply simplified CDD measures involving prescribed categories of clients, locations and financial products, which are set out in Circular 55/2016. The analysis supporting the application of simplified measures is based on an internal SFC assessment of ML/TF risks where low ML/TF risks were identified, and driven by the need to ensure financial inclusion.

83. Colombia has not identified any high-risk scenario that, in the authorities' view, would require the application of enhanced measures. However, there are higher risk scenarios (e.g., high risk for ML/TF arising from cross-border linkages to domestic transfers, the high-risk currency exchange firms, and unregulated money lenders).

Objectives and Activities of Competent Authorities

84. Due to recent adoption of the 2016 NRA, the authorities are still in the process of focusing some of the risks identified in that NRA. However, regarding the risks identified in the 2013 NRA, the authorities have taken measures such as the sectorial risk assessment conducted by the UIAF and the strengthening of AML/CFT preventive measures. The day-to-day activities of the relevant authorities seem to be partially targeted towards addressing identified risks. For the most part, relevant authorities seem to be conducting their activities based on their own priorities rather than as a result of the risks identified (see discussions on this point in IO.3, IO.6, and IO.7).

85. On the supervisory front, the consistency between the identified risks and the objectives and activities of relevant agencies is varied. The RBA to AML/CFT supervision is still evolving with varying levels of implementation among supervisory agencies. While the understanding of ML/TF risks is more advanced in the case of the SFC, which is reflected in the development of more robust risk-based supervisory tools for offsite supervision, it is uneven for the rest of the supervisory authorities for financial institutions. Some DNFBP supervisors are still in the process of developing a risk-based supervisory framework, while some are yet to commence and cannot yet demonstrate effectiveness in addressing ML/TF risks.

86. The plans of individual agencies aimed at combating ML risks tend to focus more on combating the underlying predicate crimes. LEAs and prosecutors' efforts are only aligned partially with the ML/TF risks since they are mainly primarily focused on certain categories of offenses, primarily drug trafficking, with no sufficient evidence in pursuing ML derived from other major predicate crimes in line with the identified ML/TF risks.

87. Regarding TF, while the responsible authorities (FGN with support from other relevant agencies) have a vast understanding of the risks, their activities and priorities point to the application of alternative measures.

88. However, the authorities have not yet taken any action to address the risks associated with NPOs, money or value transfer systems (MVTS), or cash couriers which could be particularly exploited for TF purposes in Colombia. The Peace Agreement signed recently with the FARC is a significant achievement and may help to mitigate the TF risk

National Coordination and Cooperation

89. National AML/CFT coordination and cooperation efforts have improved since the last mutual evaluation in 2008. CCICLA is the overarching coordination body for the development and implementation of national policies to combat ML/TF. It is comprised of some key agencies with AML/CFT responsibilities, such as the UIAF (which acts as its Secretariat), the Treasury, the Ministry of Justice, Defense, and the Attorney General, but does not include other relevant authorities (i.e. supervisory agencies). The commission acts as a policy but not operational coordination body.

90. Other mechanisms are used to coordinate the implementation of national policies, such as: the interinstitutional Group for Fighting the Finances of Terrorist Organizations (GILFOT); the Coordination Center against the finances of criminal organizations (C3FTD); the Inter-Agency Commission to combat smuggling; the Committee to combat human trafficking, which have overall worked in practice.

91. National AML/CFT coordination at the operational level has been, challenging, due in part to the existence of a large number of agencies with AML/CFT responsibilities. Although results from ad-hoc interagency working groups have shown some relatively positive results, overall there is in some instances some fragmented and uncoordinated response to the identified risks with some agencies pursuing their own priorities rather than ensuring an articulated effort. The Colombian authorities are aware of the challenges that they have been facing in coordination and cooperation at an operational level, which has been particularly acknowledged by the 2016 NRA and confirmed in interviews with key agencies. In this respect, it was noted that cooperation is not working in a wholly adequate manner, and although no legal obstacles seem to be in place, further efforts are needed to ensure that agencies systematically coordinate on AML/CFT priorities. Similarly, there is no mechanism or system to monitor and measure the effectiveness of the coordination arrangements in place.

92. There is overall effective communication and coordination between the UIAF and LEAs but collaboration between the UIAF and financial sector and DNFBPs' supervisors needs to improve further, with respect to improving the quality of STRs.

93. Coordination is effective overall regarding terrorism and TF. The FGN approved a Prioritization Plan which has contributed to understanding the risks and enhancing cooperation and coordination among responsible authorities. Coordination with respect to the FP of WMD is less evident, considering the gaps identified under IO.11.

Private Sector's Awareness of Risks

94. Representatives from the private sector participated in the 2016 NRA and were informed of the results. For the wider public, an executive summary of the 2016 NRA containing the relevant results of the national ML/TF risk assessment was published on the UIAF's website. At a sectoral level, the document was shared with all relevant competent authorities that participated in the assessment. The authorities informed the assessment team that results of the 2016 NRA were also disseminated and shared with the private sector entities that participated in the 2016 NRA through meetings with the UIAF in which the compliance officers participated (May 2017).

95. The level of understanding of ML/TF risks amongst the regulated private sector is uneven. While most financial institutions and DNFBPs indicated that they participated in the NRA, it was also noted that only the executive summary of the report was made available, which did not provide all the underlying sources and causes and limited their understanding of the findings and conclusions. Some entities commented that the NRA exercise has been useful overall, however, other private sector entities demonstrated little understanding of the ML/TF risks present in the country. The institutions that were aware of the findings of the 2016 NRA, appear to agree with its overall conclusions, with some reservations. For instance, while the 2016 NRA identifies some of the vulnerabilities in the fiduciary sector, it does not necessarily reflect all the concerns expressed by some financial institutions, and other participants in the NRA, which consider that the risks in the sector are very high.

96. As far as the financial sector is concerned, overall financial institutions are aware of ML risks but less with respect to TF risks. Banks, securities and insurance firms and savings and loans cooperatives have developed risk management systems in line with the requirements of the SARLAFT, aimed at identifying, measuring, controlling and monitoring the ML risks inherent within their sectors. However, there is no supporting documentation that the measures as developed and implemented by financial institutions are effectively mitigating the identified risks. financial institutions

97. DNFBPs are generally considered to have a basic level of awareness of ML risks due in part to the recent enactment of regulations, including the requirement to implement risk management systems, applicable to this sector which will came into effect at the end of September 2017. In addition, some participants had only recently been made aware of the results of the 2016 NRA. Both financial institutions and DNFBPs appear to have little understanding of TF risks.

98. In light if the recent adoption and dissemination of 2016 NRA, additional time is needed for the private sector to effectively establish mitigating measures in line with the identified risks.

Overall Conclusions on Immediate Outcome 1

99. **Colombia has achieved a substantial level of effectiveness for IO.1.**

3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

A. Key Findings

Immediate Outcome 6

- Financial intelligence is generally a key input to initiate predicate crime investigations and the tracing of assets, specially such financial intelligence generated at the request of the FGN. However, while the FGN uses the majority of UIAF disseminations in preliminary inquiries, it has conducted less ML cases and no TF cases.

- UIAF has access to a wide range of information sources and has the authority to request any information from reporting entities and other appropriate authorities regarding ML/TF, but additional efforts are needed to have access in a timely manner to information collected by the DIAN and from real estate agents, notaries, law firms, accounting firms, and beneficial ownership information.

- Limited and poor-quality reporting of suspicious transactions by DNFBPs—including by higher risk sectors—diminish the effectiveness of financial intelligence produced by the UIAF.

Immediate Outcome 7

- Colombia has the resources and legal provisions to investigate and prosecute ML effectively, but does not apply them in a way which is commensurate with its ML risks. Most of the cases pursued involve simple ML schemes with low amounts of funds, which is not in line with Colombia's risk profile.

- Current cases generally involve the predicate offense of illegal enrichment of individuals (illicit enrichment of nonpublic officials). There is no evidence that investigations seek to trace the illicit activity behind this offense.

- There is limited experience of pursuing the ML component of other predicate crimes.

- Some cases result in complex investigations conducted in coordination of the different LEAs agencies including the UIAF.

- Most of the ML convictions have involved low amounts and simple ML schemes. In these cases the sanctions applied are proportionate and effective.

- While the authorities are conducting investigations and prosecutions of some officials for corruption, they do not appear to be pursuing corruption related ML activities.

- Legal persons are frequently misused in ML schemes, but the legal framework prevents them from being held criminally liable.

- Colombia also relies, with limited success, on alternative criminal justice measures to assist the targeting of the financial structures of organized criminal activities.

Immediate Outcome 8

- Confiscation is pursued as a priority policy objective in Colombia. In this regard, competent authorities pursue proceeds through criminal confiscation and asset forfeiture mechanisms.
- LEAs are skilled, well trained, and sufficiently resourced to trace and recover proceeds of crime.
- Asset forfeiture is being applied effectively with important results, and it is the most prevalent instrument used to deprive criminal from their assets.
- In turn, there is room for improvement regarding conviction-based confiscation of property derived indirectly through the commission of an offense.
- There is positive and constructive cooperation between the FGN and LEAs. Competent authorities periodically establish task forces and working groups to coordinate actions in asset forfeiture proceedings.
- Colombia has a sound legal framework allowing international sharing of assets. However, there have been no cases involving sharing of confiscated proceeds with foreign counterparts
- Colombia seizes, forfeits, and confiscates currency which is falsely declared or which is not disclosed during cross-border movements. Competent authorities have statistics on currency seized and currency moved across the borders. Colombia applies effective, proportionate, and dissuasive sanctions falsely or undeclared cross-border transaction of currency.
- Colombia has effective system for managing the proceeds of crime. The Fondo para la Rehabilitación, Inversión Social y Lucha contra el Crimen Organizado (Fund for Rehabilitation, Social Investment and Fight against Organized Crime—FRISCO) and the Sociedad de Activos Especiales, SAS (SAE) manage a large number of assets of different nature and high value with important results. Statistics maintained in relation to the FRISCO and SAE and assets managed are comprehensive.
- Confiscation is generally in line with the country's risk profile in terms of the range of the main threats. There is room for improvement regarding other high-risk offenses (extortion, smuggling, and illegal mining).
- Available statistics on forfeited assets are comprehensive. Statistical information on criminal confiscation is more limited.

Recommended Actions

Immediate Outcome 6

- Improve feedback mechanisms between UIAF and LEAs, as well as UIAF's capabilities to provide effective and proactive operational assistance to FGN and other LEAs, so that disseminated financial intelligence can serve as a key input to investigations and prosecutions of ML/TF and predicate offenses, and not only collaborate with LEAs once an investigation has already been started by the FGN.
- Expand the UIAF's access to relevant financial information sources such as information collected by the DIAN regarding written declarations of cross-border transportation of currency and BNIs , information regarding lawyers, accountants and real estate companies , as well as BO information.
- Develop guidance and warning signs for the reporting entities for STR on TF.

- Provide feedback to supervisors and reporting entities regarding the quality of STRs and other relevant information sent to the UIAF to improve private sector's capacity to effectively report STRs. This will also in turn improve the UIAF's capacity to produce financial intelligence.

Immediate Outcome 7

- Allocate adequate resources to the FGN. The FGN should focus ML investigations on larger and more complex ML schemes related to the major organized crime organizations that operate in the country,
- Pursue a concerted policy of conducting parallel financial investigations, especially for all serious proceeds generating crimes, including those with an international dimension, to increase the number of investigations and prosecutions of ML activities in line with Colombia's risk profile, including all the threats detected by the NRA.
- Establish criminal liability for legal persons.

Immediate Outcome 8

- Further efforts should be made by the FGN and the Judiciary to enhance the confiscation of property derived indirectly through the commission of an offense.
- The FGN should make further efforts to obtain the repatriation of repatriation of proceeds moved to other countries. International sharing of assets should be further sought as well.
- Colombia should further pursue the confiscation of proceed related to other high-risk offenses (extortion, smuggling and illegal mining).
- Colombia should improve the statistical information on confiscation.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.6–8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R.4, and R.29–32.

Immediate Outcome 6 (Financial Intelligence ML/TF)

Use of Financial Intelligence and other Information

100. The UIAF is an administrative financial intelligence unit (FIU) producing financial intelligence based on the receipt of different types of reports (STRs, cash transaction reports, foreign currency transaction reports, remittances transaction reports and threshold reports). The UIAF has direct and indirect access[25] to a wide range of information from the Colombian intelligence agencies, law enforcement, and supervisory authorities. Additionally, since 2002, the DIAN has been sending to the UIAF reports on cross border transportation of currency and BNIs every three months.[26] The FGN and LEAs can request financial information available at the FIU to use it in the ML/TF and underlying crime investigations and trace of criminal proceeds.

Table 5. Information accessed by the UIAF

[25] Direct Access refers to information available to UIAF either because it is integrated in its database, is an open source, it is submitted to UIAF on a regular basis or because there is a collaboration agreement that permits UIAF's staff access to another authority's database (like databases of DIAN). Indirect access refers to information that is not available in a timely manner to UIAF and that must be requested to the authority who owns the information.

[26] Both agencies signed a collaboration agreement on November 2016 to strengthen this information exchange.

Indirect Access	• Cash and BNI transportation reports • Annual tax returns of natural and legal persons and legal arrangements*1/ • Foreign trade information (import and exports) * • Law enforcement information • Names of authorized and certified lawyers and accountants • Migration information of Colombian residents abroad	
Direct Access	• STRs, reports on cash transactions, currency transaction, wire transfers, remittances, and other relevant reports submitted to UIAF; • BOs registered with the Chambers of Commerce; • Monthly transactions of gold mining import/export entities and gold foundries, casinos, cargo transportation companies, vehicles dealers	• Information on trusts for development of public infrastructure • Statistics and data published by other authorities • Notarial Operations
1/ During the onsite visit (June 2017), authorities informed that since September 2017, the UIAF will have direct access to this information due to a collaboration agreement signed between the UIAF and the DIAN.		

101. The UIAF uses financial information received from reporting entities, DIAN, the FGN and LEAs, and information collected through external sources to produce intelligence products like financial reports, typologies and strategic analysis studies. Additionally, the UIAF collaborates with other national authorities through various committees, such as the Joint Intelligence Committee, for the analysis and investigation of TF cases. Considering the TF risks in Colombia, the UIAF's focus on the analysis TF risks is low and there is little awareness-raising to reporting entities on this issue. There are few typologies on the TF risks of financial and DNFBP sectors and other strategical studies like the NRA do not cover TF risks at all, so more work is needed to properly cover this issue.

102. The UIAF regularly receives requests of information from the FGN, the National Police, military authorities and the DIAN. From 2012 to 2016, requests remained relatively stable. The standard time for a reply is usually 10 days, which in urgent cases could impact the ability of LEAs to collect relevant financial intelligence information in a timely manner to inform ongoing ML/FT investigations.

Table 6. Information requests sent to the UIAF 2012 - 2016

Authority	Requests
FGN	1,185
National Police	807
Other	84
Total	**2,076**

103. Once UIAF receives these information requests, it carries out a financial analysis, while keeping the authority updated.

104. The FGN, LEAs, and national authorities highlighted UIAF's collaboration in responding to specific requests for financial intelligence and the good quality of financial information received. This intelligence information was used for developing evidence and tracing assets in ongoing investigations of predicate offenses and a smaller number of ML investigations

105. From July 2012 to August 2017, 422 cases were disseminated to the FGN. Of these, 334 were spontaneous reports, and 88 were reports submitted on request. Of the 422 cases, the FGN started 242 criminal proceedings, 151 are under the stage of preliminary inquiry, 27 are current investigations, and there are 16 convictions. Of the remaining 180 cases submitted to the FGN, 111 where used in asset forfeiture processes. Also, 20 percent (88) of the 422 cases disseminated, were elaborated upon request from the FGN.

106. The UIAF could benefit from having more information about BO and on cross-border transportation of currency and BNI. The reports on cross-border transportation reports of currency and BNIs received by the UIAF in some cases lack precise information and the information on the total amount

declared is not available for authorities.[27] In turn, this information could be potentially used by the LEAs in developing evidence and tracing criminal proceeds related to ML/TF and associated predicate offenses. This is particularly important in a context where timely access to cross-border transportation reports of currency and BNIs was identified as one of the weaknesses of the AML/CFT system in the 2013 NRA. The 2016 NRA did not comprehensively analyze the vulnerability of the cross-border declaration system, but noted that—from 2011 to 2015—the use of cash payments increased from 4.49 percent to 5.8 percent. Reliance on cash in the economy is an important TF vulnerability since there is evidence that cash constitutes an important financing source for subversive groups that conduct terrorist's activities.[28]

107. Despite the poor quality of some STRs, the UIAF makes a significant effort to verify and analyze the information in the STRs along with the information in its own databases. The UIAF analyzes the financial information of all natural and legal personas identified in an STR to detect trends into detect trends in the suspicious transaction, the possible illegal origin of the resources and links with criminal organizations.

108. The UIAF has the means to obtain information regarding legal persons. Basic information and BO information can be obtained from public registers, shareholder books and supervisory databases. However, in some cases, the authorities may not count on BO information that is accurate, complete, useful and updated in a timely manner for financial investigations (see IO.5).

109. Lack of comprehensive statistics is another weakness of the AML/CFT system identified in the 2013 and 2016 NRAs. In 2016, the UIAF designed a statistical system that must be completed with information sent by the FGN, LEAS and MINREX, among other authorities. However, these authorities send the information to the UIAF only on an annual basis. Even though the UIAF can request any information from competent authorities, resources could be used more efficiently if an up to date and accurate statistical system were implemented (see R33). This issue affects the effectiveness of the UIAF's analysis of STRs.

110. Due to the shortcomings of the information available to the UIAF, the information disseminated to the FGN and LEAs is not always accurate, complete, or up to date. This affects the ability of these authorities to use the UIAF's spontaneous disseminations to trigger ML/TF investigations, or use it when requested for purposes of an ongoing investigation.

STRs Received and Requested by Competent Authorities

111. The number of the STRs submitted by reporting entities to the UIAF increased from 7,615 in615 in 2011 to 10,002 in 2016. The UIAF receives a wide range of reports from the financial institutions and DNFBPs.

Table 7. Reports received from financial and DNFBP sectors.

Year	STRs	Cash	Foreign currency	Wire transfers	Remittances
2011	7,615	157,497,624	435,487	9,651,110	n. a
2012	7,051	170,832,070	459,670	10,087,193	1,621,210
2013	6,937	187,265,488	482,732	10,803,576	3,530,187
2014	7,584	193,220,402	554,553	8,776,268	17,293,181
2015	8,595	199,665,243	584,541	7,877,594	42,189,130

[27] Between 2011 and 2017, the number of STRs submitted by DIAN related to cross border transportation of currency increased 200%. In this regard, accurate information on this issue is very important for UIAF's financial intelligence and could increase dissemination of cases to the FGN. The Bank of the Republic (Central Bank) is responsible for gathering information available on the cross-border declaration system and sending it to DIAN. However, the Central Bank does not send to DIAN all the information and authorities were not able to explain neither the reason for this omission nor the criterion used to decide which information is sent and which not. Authorities are not certain of the amount of currency and BNI that enters to the country.

[28] These subversive groups are not internationally recognized as terrorist groups and never were listed under UNSCRs. Please refer to IO.9.

2016	10,002	208,318,240	678,940	8,196,118	48,614,198

112. In general terms, financial institutions understand and comply with their overall reporting obligation, and there is a significant number of STRs received. Some minor deficiencies are presented by the low level of reports submitted by some DNFBPs, particularly by casinos, , law firms, accounting firms, real estate agents, and dealers in precious metals and stones (besides gold import/export entities and gold foundries). This is aparticular weakness taking into account thatboth 2013 and 2016 NRAs confirmed that these sectors are highly vulnerable to ML/TF

113. Given the high risks in these sectors, the low number of STRs submitted by DNFBPs limits the ability of the UIAF to produce good financial intelligence for use for financial investigations.

Table 8. STRs received by main reporting entities

Sector	2011	2012	2013	2014	2015	2016	Total
Banks	4,310310	3,879879	3,7853,785	33,47	3,747747	4,0624,062	23,25523,255
Money and currency exchange	19	8	4	10	15	12	68
Insurance companies	440	333	357	364	364	377	2,235
Stock Exchange	498498	392392	307307	252252	175175	239239	18631863
Currency exchange	114	93	162	154	416	663	1,602
Postal Transfer Operators	71	251	270	424	438	729	2,183
Savings and Loans Cooperatives	0	0	0	0	0	0	0
Casinos	0	1	66	44	4545	2323	7979
Law firms	0	0	0	0	0	0	0
Accounting firms	0	0	0	0	0	0	0
Notaries	849849	742742	595595	1,236236	1,246246	1,062062	5,730730
Fiduciary companies	341	276	277	224	206	399	1,723
Real estate agents	0	0	0	0	11	11	22
Gold import/exporters/foundries	55	2	0	3	44	1818	3232
Dealers in precious metals/stones	0	0	0	0	0	0	0
Others (including DIAN)	968	1,074	1,174	1,441	1,938	2,417	9,012

114. The majority of the STRs are ML related, but 3,704 were TF related. According to reporting entities, supervisors do not provide sufficient TF guidance, which may also affect the quality of TF related STRs submitted to UIAF.

115. Colombia has designated the mining sector, sports clubs, hydrocarbon sector, and health sector as reporting entities that are not covered by the FATF standard. Some of these entities were not aware of the obligation to send STRs to the UIAF, among other AML/CFT obligations or the potential ML/TF risks associated with their activities (see IO.1). Sports clubs, mining, and health sectors submit a minimal number of STRs to the UIAF, and these STRs were of poor quality due to the lack of understanding of their reporting obligations.

116. Supervisors and reporting entities shared with the assessment team that since 2014 the UIAF ceased providing feedback reports named “IEROS”, related specifically to the quality of financial information submitted by reporting entities through STRs (see IOI, O.3 and IO.4). Authorities explained that the decision for the suspension was to work on improving the system and that other kind of feedback was provided to reporting entities. Additionally, the UIAF has a thorough electronic system which blocks reporting entities from submitting incomplete STRs. However, the interruption of this feedback mechanism may be affecting the quality of some STRs submitted to UIAF, as was stated by many reporting entities.

117. The UIAF has authority to request additional information from reporting entities. Most of these requests are addressed to financial entities and information is used to extend its financial analysis and to strengthen ML/TF cases that UIAF disseminated to the FGN.

Table 9. UIAF requests of add. information

Year	Average response time (days)	Number
2012	8	1.841
2013	16	2.060
2014	72	1.217
2015	9	1.166
2016	8	1.089
Total		**7.373**

118. CONPES 3793 mentions the need to increase the quality of information, data and statistics for a better financial intelligence. The UIAF considers that there has been an improvement in the quality of the reports submitted by reporting entities, although there is no evidence to support that conclusion. Effective interagency collaboration between the UIAF and supervisor authorities is needed to improve the quality of reports submitted by reporting entities, specifically by DNFBPs. As stated above, reporting entities indicated they need more precise feedback on how they submitted reports to UIAF. Notwithstanding the UIAF's collaboration within the Joint Intelligence Committee, the UIAF focuses on sharing with authorities and reporting entities mainly ML threats and gives little attention to the sharing of its views on TF threats. This affects the ability of reporting entities to understand and identify TF.

Operational Needs Supported by FIU Analysis and Dissemination

119. The UIAF performs functions to support operational needs of LEAs, spontaneously and upon request, such as providing financial information related to specific investigation targets and information for ongoing investigations. The strategic department of the UIAF generates intelligence products and identifies new ML/TF trends and threats. By the time of the onsite visit (June 2017), UIAF was working on the elaboration of strategic analysis studies in line with the ML/TF threats identified in the 2016 NRA, so the assessment team was not able to verify how UIAF intelligence supports the understanding of the identified national risks. Sectoral assessments carried out by the UIAF in 2017, identified firearms trafficking, commerce and real estate agents as sectors that are being used by organized crime for ML/TF purposes, but only the real estate agents were analyzed in 2016 NRA. Migrant smuggling was one of the major crimes identified in 2016 NRA, but results of regional assessments did not identify this crime as one of the most important related with ML.

120. The UIAF has an effective process for prioritizing and analyzing STRs. Since 2015, UIAF's process is as follows: all STRs are received through an electronic system called "SIREL". Information contained in STRs is stored on UIAF's database. Then, it is analyzed by a computerized automated system which classifies STRs according to financial information of natural and legal persons reported, identifies if an STR has relevant information according to alerts, parameters and UIAF's criteria, and determines whether further analysis from UIAF's operational area is needed.

121. Analysts review the STR selected by the automated system according to UIAFs internal procedures and the quality of the report, and if there is a reason to believe that an STR points to a possible case of ML/TF and predicate offences, the UIAF opens a case. Analysts use all the information available in the UIAF database to develop their cases. The Deputy Director of Operational Analysis forms aa tactical committee with two analysts, a member of the Strategical Analysis area and a representative of the General Directorate to decide if the case is relevant and if an intelligence report should be disseminated to the FGN.

122. Since 2013, the UIAF has used analysis techniques of big data and data mining to detect complex criminal networks through the identification of different economic variables of all the subjects included in

its databases. The UIAF uses all financial intelligence information available to determine if a subject is related to a criminal organization of a specific financial investigation. The UIAF provides a couple of recent cases related to corruption and gold dealers where the analysis techniques of big data and data mining were used. Through financial information accessed, the UIAF determined whether a person subject of a STRs is linked to other STRs, other persons within a criminal network, or international financial transactions with high risk countries. UIAF also compares the subject's tax declarations with information provided by DIAN, and if any other subject included in the database of the UIAF is related or had any transaction with related criminal organizations. Additionally, UIAF could identify which regions of the country represent a higher risk for ML/TF activities.

123. The weak quality of some reports submitted to the UIAF can also limit its ability to produce and disseminate precise financial intelligence to the FGN and LEAs. The main source of UIAF's intelligence is the STR database and other threshold reports received from reporting entities (e.g., cash transactions reports, currency transaction reports, wire transfer reports and remittances transactions reports). However, there is minimal reporting by some DNFBPs such as casinos. There is also a lack of reporting of lawyers, accountants, real estate agents, and dealers in precious metals and stones because these entities are not subject to the AML/CFT regime. This is an important weakness of the system because according to NRA 2013 and 2016 and sectoral assessment 2017, DNFBPs represent a prime ML/TF threat for Colombia as they are frequently used by organized crime. There are also other issues that may affect the quality of STRs submitted, like feedback between UIAF, supervisors and reporting entities and the modest level of training and awareness conducted for reporting entities on ML/TF risks in their own sectors.

124. The number of STRs that led to opening a case within UIAF decreased substantially from 2012 to 2016. Authorities stated that this was due to a revision in UIAF's procedures to guarantee that ML/TF cases are only initiated when there are clear suspicions of ML/TF. Also, the UIAF informed that a new strategy for analyzing reports and initiating cases within the UIAF was implemented in 2017. This strategy is focused mainly on the analysis of big criminal networks and financial cases related with crimes identified as major ML/TF risks in the National Intelligence Plan. However, the strategies implemented by the UIAF since 2012 and in 2017 have not led to substantially more financial investigations and convictions (see IO.7).

Table 10. STRs leading to UIAF cases

Year	STRs Received	ML Cases initiated	STRs associated to a case
2012	7,071	102	4,538/44
2013	6,973	97	3,340/34
2014	7,602	50	1,187/23
2015	8,629	60	892/14
2016	10,036	59	620/10

125. From 2011 to 2016, UIAF produced strategic analysis studies which reporting entities stated were useful but were focused on sectors and issues that not necessarily were related with the major risks identified in both NRAs, 2013 and 2016 (see IO. I).

126. The UIAF organizes working sessions with national authorities of the intelligence community to discuss, among others, ongoing investigations, results of NRAs and national intelligence documents like the National Intelligence Report. The UIAF spontaneously disseminates the following intelligence products to the FGN: i) financial intelligence reports with ML/TF cases and ii) financial reports elaborated jointly by the Strategic and Operational Departments of the UIAF.

127. The UIAF responds to FGN's information requests and coordinates working sessions between both authorities to work jointly and assist the FGN in the ongoing ML investigations. During these working sessions, the UIAF shares with the FGN all information available in its databases and in other internal and external information sources. Issues discussed through these working sessions were in relation to with the most important national cases. During 2017, the FGN requested support from the UIAF for the discussion of 22 cases related to ML associated with drug trafficking, corruption, and human trafficking crimes.

According to the FGN, between 2015 and 2016, cooperation requested to the UIAF led to the dismantling of 102 criminal organizations.

128. The UIAF and the FGN work jointly at an early stage of the investigation process. The UIAF provides all information available such as linkages with other STRs, cash transactions, and accessible data on legal persons and real properties. This UIAF's input provides some added value to the FGN's understanding of a case. As mentioned before, the information shared by the UIAF is sometimes inaccurate or out of date. This limits the UIAF's value added to the work of the FGN and LEAs. However, there are other cases where the UIAF's collaboration in ML investigation was effective (see Box 2). Indeed, as a result of UIAF's participation in this ML investigations, it was awarded in 2013 with the Best Egmont Case Award (2013).

Box 2 – UIAF Case "Loco Barrera"

Daniel Barrera, a.k.a. "El Loco Barrera", is a Colombian drug trafficker arrested on September 2012 in Venezuela, thanks to the important operational support of the UIAF and with the collaboration of national and international authorities.

In 2011 the UIAF was able to identify the relation among 6 ML cases spontaneously disseminated to the FGN. For the development of the case, the UIAF closely collaborated with the FGN since the early stage of the investigation. The principal information source was the STRs database, information exchanged between national authorities and international counterparts, as well as open information sources. The UIAF could identify financial information of the subjects related to the STRS, properties, vehicles and cash transactions. For the development of the case, UIAF suggested the creation of a working group to coordinate the analysis of financial operations, analysis of economic profiles and the collection of evidence.

The financial analysis process carried out by UIAF lead to the identification of more legal and natural persons related with this case who belong to criminal organizations and illegal armed groups related with "El Loco Barrera". Also, these individuals were members of a network dedicated to the transportation of cocaine abroad through logistics and aviation companies. The money derived from this illicit activity was laundered through companies dedicated to livestock farming and through the same logistics and aviation companies.

As a result of the case, it was possible to identify 306 natural persons, 88 legal persons, 2,843 properties with a total value of approximately USD 439,000,000.

129. As mentioned above, there are major concerns on the extent to which the UIAF spontaneously supports the operational needs of competent authorities. Of 422 ML cases disseminated between 2012 and 2017, only 27 led to a judicial process.

Table 11. Number of cases disseminated to the FGN

2012	2013	2014	2015	2016	2017	TOTAL
86	97	50	60	59	70	**422**

130. Once the FGN receives the UIAF report, they use all the information provided to design a Methodological Plan to analyze this data and request additional information from national authorities, reporting entities, and private sector. The FGN analyzes the received information and identifies and searches physical evidence that may support the UIAF reports. Then the FGN orders search warrants and the beginning of the formal investigation. The authorities explained that sometimes is very difficult to confirm information provided in UIAF cases, or the FGN does not find reasonable grounds to continue to the second stage of the process with a formal accusation, investigation, and public trial. The UIAF has disseminated 422 cases to the FGN during the period 2012-2017, of which 353 resulted in criminal proceedings. Among these criminal proceedings, there were 111 asset forfeiture processes.

131. From 2011 to 2016, the UIAF disseminated 51 TF cases to the FGN, none of which triggered TF investigations, but the information from these cases was used in asset forfeiture processes. Of the few prosecutions and convictions related to TF in Colombia, there have been no cases involving the provision of money to terrorist's networks, which is a major concern (See IO.9). The UIAF provides little added value for the investigations of TF, since the FGN is the authority that coordinates TF investigations and the information exchange between relevant authorities. As stated above, the UIAF collaborates with competent authorities providing the available financial information once an investigation has been triggered by the FGN in collaboration with other competent authorities. Also, the UIAF has disseminated relevant information for the investigation of subversive and organized crime groups.

132. The UIAF responds FGN and LEAs information requests supplying them with inputs for ongoing investigations. However, major efforts need to be made by the UIAF to identify and disseminate useful TF cases to the FGN (see IO.9).

Cooperation and Exchange of Information/Financial Intelligence

133. The UIAF cooperates and exchanges financial information with other national competent authorities, including Colombia's intelligence community. Through these meetings, all competent authorities share useful operational information for cases under investigation by the FGN. The UIAF disseminates available financial information to strengthen and support operational capacities of the FGN. LEAs, and particularly the FGN, can request to UIAF support and technical assistance to understand financial information and financial intelligence. The FGN can request meetings with the UIAF to review confidential information stored in UIAFs databases. The UIAF and the FGN work jointly at an early stage of the investigation process. UIAF provides all information available such as linkages with other STRs, cash transactions, and accessible data on legal persons and real properties. Through this interagency collaboration, UIAF provides financial information needed so the FGN can decide if the case merits attention and investigation.

Table 12. Working sessions between UIAF and FGN

Year	Number of Sessions
2013	57
2014	113
2015	143
2016	224
2017	36
Total	**573**

134. Inter-agency collaboration between the UIAF and the FGN has improved since the 2008 MER. From 2014 to 2016, the UIAF and the FGN organized 573 operational meetings to cooperate on ML/TF ongoing investigations and provide relevant financial information for the investigation process. Through these meetings, the UIAF shares the recent findings of UIAF its financial analysis when both authorities are working together on a case. Under this methodology, between 2015 and 2017, the UIAF has developed and delivered 24 files of information. UIAF disseminates financial information founded so the FGN can continue with the ongoing investigations.

135. Twenty-two information exchange agreements were signed with LEAs, supervisors, migration authorities and self-regulated bodies to exchange information on a regular basis. Regardless of whether a cooperation agreement exists, UIAF has the authority to request information from any authority or reporting entity. Despite these collaboration agreements, further effective cooperation between authorities is needed. There are numerous national committees to facilitate collaboration at different levels with the same functions and composed of the same authorities. The multiplicity of national committees may result in duplication of efforts and inefficient coordination.

136. The UIAF also exchanges information with customs authorities for ongoing investigations of predicate offenses. However, the UIAF needs to strengthen collaboration with national anticorruption authorities regarding policy development considering the heightened risk of ML relating to corruption, as identified in the 2016 NRA. An agreement between the FGNFGN and the UIAF was signed on May 2017 to increase collaboration on ML investigations related to corruption to corruption. However, due to the recent adoption of this agreement, the assessment team was not able to verify the effective implementation of this arrangement.

137. The UIAF and competent authorities have mechanisms and protocols to guarantee the confidentiality of information received from national authorities and international counterparts. Additionally, there is another mechanism designed only for the information exchange between UIAF and national authorities (VPN-FTP). These systems and protocols are working properly and include security measures to specify the persons with permitted access to authorities' databases. Staff of competent authorities is aware of the importance of confidentiality and understand the administrative and legal consequences of dissemination of confidential information. The only authority that can request access to the original UIAF's classified information stored at its database with judicial authorization.

Overall Conclusions on Immediate Outcome 6

138. **Colombia has achieved a substantial level of effectiveness for IO.6.**

Immediate Outcome 7 (ML Investigation and Prosecution)

ML Identification and Investigation

139. ML cases are primarily identified from LEA's investigations of predicate offenses, intelligence, and, in fewer instances, UIAF's proactive disseminations. Also, many ML cases are identified through the collaboration with foreign countries (e.g., the USA). The FGN (which directs the investigations) reported that all prosecutors have been instructed to conduct parallel financial investigations in cases of serious predicates offenses. This was reinforced by FGN Directive 001/16 issued in 2016, which stated that all prosecutors must initiate parallel financial investigations drug trafficking cases involving large sums of money. Results showed that only in some cases financial investigations are carried out by the prosecutors. Most of the parallel financial investigations derived from an asset forfeiture action rather that from a ML investigation or prosecution.

140. All prosecutors can conduct ML investigations linked to the predicate offenses they are already investigating. However, very few of these cases have led to an ML investigation and conviction consistent with the risk context of the country.

141. The various LEAs and the UIAF adequately coordinate their efforts, at the strategic, operational and intelligence levels, through working groups and meetings (see IO.6). Specific joint task-forces are established among the LEAs to work major cases (mostly related to drug cartels) within the LEAs, which helps minimize duplicative investigative efforts while enhancing cooperation.

142. The FGN oversees investigation and prosecution of ML and its predicate offences. The FGN can take advantage of the expertise of several investigative police units to address the different ML threats. The FGN is supported by both, the Judicial Police and the National Police to carry out investigations on ML and organized crime. Both the Judicial Police and the National Police have the necessary resources (legal, operational and financial) to carry out their duties, and can carry out complex ML investigations and use special investigative techniques. Although LEAs do not have direct access to the UIAF's database, prosecutors can formally request the UIAF for all financial intelligence they need; requests are normally processed within 10 days. This enables the LEAs to have financial information to be used in their

investigations, but the 10-day processing period impacts the LEAs' ability to collect relevant financial intelligence in a timely manner.

143. Colombia has established policies and allocated resources to identify and prioritize ML cases. Nevertheless, most of these cases are not linked to complex investigations of predicate offences or to investigations involving large sums of money, but rather on those that do not impact greatly on the criminal organizations. Complex cases are being pursued in only in limited instances. Nevertheless, according to the information provided, convictions on complex cases involving large amounts of funds are gradually increasing.[29]

144. The UIAF disseminates financial intelligence reports to the FGN and processes financial information requests to support the operational needs of competent authorities. The UIAF disseminations are used mainly in ongoing investigations and in general do not trigger new cases. The total number of investigations conducted by the LEAs with the participation of the FGN are in line with the threats faced by the country and while many result in asset forfeiture, most do not lead to ML convictions.

Table 13. Number of FGN ML investigations

Year	2012	2013	2014	2015	2016
Number	311	345	283	377	450

Consistency of ML Investigations and Prosecutions with Threats and Risk Profile, and National AML Policies

145. According to the information provided, illegal mining and drug trafficking are amongst the main sources of illicit money. There are criminal organizations dedicated to committing these crimes and there are other subversive armed organizations like the FARC that also perpetrate these crimes to finance their activities. Corruption was also highlighted as a main predicate offence.

146. Regarding the underlying criminal activity, the authorities were not able to present statistics identifying the predicate offence involved in ML cases. [30] Nevertheless, they informed the assessment team that in most ML cases investigated the predicate offenses were illicit enrichment of individuals and criminal associations. This information was corroborated by an analysis conducted by the assessment team of all ML convictions of 2016 and part of 2017.

147. Most of the ML cases reviewed by the assessment team confirm that the Colombian authorities mainly prosecute ML associated with the illicit enrichment of individuals and criminal associations with connections mostly to drug trafficking activities. The FGN investigates cases involving organized crime, but often these cases are also not investigated for ML.

148. Prosecuting and convicting a person for ML related to the offense of illicit enrichment of individuals is done effectively. The FGN must establish an unjustified increase in the accused patrimony to get a conviction under this offence. The link with a criminal activity in this case does not require direct proof, but a logical inference based on circumstantial evidence (including the inability of the accused to provide an explanation of the legal origin of the assets in question), which makes it possible to convict a person without specifically knowing the predicate offense. As a result, it is possible to convict a person without knowing the specific act that generated the illicit proceeds laundered (see criterion 7.5).

[29] Two in 2014, 4 in 2015 and 7 in 2016.
[30] Authorities presented information about predicate crimes in a sample of 82 cases (not sentenced) from over more than 200.

149. The predicate crime of criminal cases that are investigated and prosecuted are consistent with some of the country's main ML threats, such as drug trafficking. Investigations and convictions related to the other main predicate offenses (e.g., corruption, trafficking of arms and of migrants) are not carried out in numbers commensurate with the ML risk. Corruption and other non-drug trafficking predicate crimes have been identified as major threats in the NRA, and yet there has been a low number of ML investigations and prosecutions based on these predicate offences. On the other hand, ML derived from seeking tax refunds combined with smuggling and the crime of massive and habitual fundraising from the public without authorization[31] (generally linked to Ponzi schemes)[32] , which were not highlighted as a priority concern produced some complex ML cases involving high amounts of funds.[33]

150. Corruption in Colombia is a pervasive problem at all levels of government, however the Constitutional Court and the Supreme Court are perceived to act independently. While there is a professional and independent judiciary, the justice system is undermined by corruption and extortion as irregular payments and bribes are often exchanged to obtain favorable court decisions. Corruption has thus been highlighted as major threat in the 2013 and 2016 NRAs. However, the limited number of ML cases investigated and prosecuted are not commensurate with the threats of corruption, and other crimes.

151. Most of the ML cases that are pursued, involve simple ML schemes or low amounts of assets and/or funds. Nevertheless, there are some cases that focused on the activities of specific criminal organizations involving larger amounts of assets and/or funds, resulting mostly from drug trafficking activities. Although the FGN has instructed the prosecutors to prioritize cases of significant impact, only some have been pursued but not nearly enough considering the risk context of the country. The cases examined show that the authorities are capable of pursuing cases in accordance to the ML risk of the country. However, this was only done in a few instances. The number of complex cases prosecuted and sentenced are relatively few and, although increasing in number, are not in line with the risk context of the country, which is a major concern. The FGN would also benefit from more resources to be able to pursue these types of cases.

Box 3. Cash couriers and ML

The use of cash couriers to introduce illicit proceeds into Colombia is a well-known typology. The National Police jointly with the DIAN, and the FGN have established a coordinated system to detect and prosecute this activity with positive results. With more than 25 interventions, these activities were prosecuted mainly under ML from illicit enrichment of individuals. Couriers were found carrying usually more than $100,000 or its equivalent in Col$ or euros. More than $5 million were confiscated between 2014 and July 2017 and over Col$41 billion (approx. $13 million) during the same time.

152. Two cases in 2016 that involved the laundering for criminal organizations are worth mentioning. The first involved assets derived from drug trafficking by one of FARC's front companies. Shell companies, cattle dealers, and a telephone-remittance service company were all used to launder the illegal proceeds (Radicado 110010704000520080 0 2016). The other case involved two important MVSP companies that laundered money through a check-cashing operation that was used to give appearance of legality to criminal income (Radicado 76001007003291012). These cases demonstrate that complex schemes used to launder the illegal proceeds of criminal organizations have, in some instances, been successfully investigated and prosecuted. However, as mentioned above, there have been few such cases, and they have largely concerned drug trafficking and no other major threats. Besides, their number is still not commensurate with the threats posed by criminal activity.

153. While the authorities are investigating different kinds of predicate offenses, very few of these cases have led to an ML investigation and prosecution. Table 14 below shows that there are many different predicate offences that could trigger a ML investigation and prosecution, but they do not in practice. Therefore, the results of the ML investigations are not in line with the risk perceived by the authorities, and

[31] "*Captacion masiva y habitual de recursos*" in Spanish.
[32] DMG and CITITEX cases.
[33] It was not possible to obtain information regarding the predicate offenses involved in all of the ML sentences

point to the need to pursue more ML cases generally and more ML cases based on a broader range of major threats.

154. The ML unit of the FGN is part of the Prosecutor's Drug Trafficking office. Even so, ML investigations arising from other predicate crimes can be conducted by other offices within the FGN. The decision to assign ML investigations to the same office in charge of drug trafficking cases, has likely led to the crowding out of ML investigations involving other predicate offences.[34]

155. The FGN approved a 2016/20 Strategic Plan which calls for focusing investigations on criminal organizations that operate in more than one jurisdiction within the country, rather than on small local criminal operations. This document explains that, despite some positive results obtained in the fight against ML so far, they have not yet achieved the intended results.[35]

156. Legal persons are frequently misused in ML schemes in Colombia, usually in the form of simple, rather than complex corporate structures where the legal and beneficial owners are one and the same. Experience in seeking BO information from abroad is limited. Given that the focus of ML investigations is being redirected to more complex schemes and structures involving different predicate offences, it is doubtful that the authorities would be able to as easily identify beneficial owners, particularly when involving foreign corporate vehicles. As presented in IO.5, there are some gaps in the mechanisms to ensure that information on the beneficial ownership of a company is obtained and available in a timely manner by the competent authorities.

Types of ML Cases Pursued

157. Colombia can investigate and prosecute all kinds of ML cases, including those involving foreign predicate offenses, third-party laundering, self-laundering and as a stand-alone offence.

158. Most ML convictions in 2016 and 2017 have been for the illicit enrichment of individuals predicate offence. Such cases do not require a conviction on the illicit activity that increases the wealth of the accused, as explained above. Also, almost all convictions have been obtained through a plea bargain agreement.

Table 14. Convictions by type of offense

Offense /Convictions	*2014*	*2015*	*2016*
Financing and Administration of Terrorist assets	10	10	9
Conspiracy	1050	1681	2901
Smuggling (including oil)	17	23	24
Illicit Enrichment of Individuals	1	11	21
Illegal Mining	19	51	41
Extortion	999	1171	1193
Extortive Kidnapping	93	102	135

[34] With the intention of increasing investigations into the finances of criminal organizations, the President signed a decree (898 of May 29, 2017), which establishes a change in the structure of the FGN that will come into force after the on-site visit. In the new structure, investigations and prosecution will be divided into different units (Organized Crime, Financial Crime, and Citizen Security). The Financial Crimes unit will comprise (i) a Specialized Anti Money Laundering Office, (ii) a Specialized Asset Forfeiture Office, and (iii) a Financial Investigations Office. The role of the Specialized Anti Money Laundering Office will be to adopt effective measures to overcome impunity of money laundering derived from organized crime. In this way, the FGN will administratively separate the prosecution of ML from drug trafficking. This measure has not yet been carried out, but currently demonstrates the need to expand ML investigations to include those associated with other predicate offences. Also, the Financial Investigations Office will pursue the various forms of fraud committed through the financial system.

[35] Plan Estratégico FGN 2016/20. *"…Thus, public efforts have not been able to significantly affect the flows of illegal funds or services (particularly those of illegal drugs and firearms trafficking). Also, illegal structures that have taken different forms in response to the strategies of police pursuit persist. In addition, very profitable illegal businesses (such as illegal mining and trafficking) have emerged. In general, criminal organizations have learned and mutated their structures which are now more diffuse and difficult to identify. In other words, they have been able to adapt avoiding the repressive actions of the State, while public authorities have not acted with the same flexibility and agility."*

Testaferrato	1	2	4
Migrant smuggling	18	12	47
Human Trafficking	6	9	21
Total	**2214**	**3072**	**4396**
Money Laundering	**38**	**41**	**38**
Drug Trafficking, Fabrication or possession[36]	12547	12381	10979
Firearms Trafficking, Fabrication or possession	6287	7779	7881

159. Despite being able to prosecute ML autonomously, all ML cases analyzed by the assessment team are self-laundering cases that include the conviction for the predicate offense. This situation is also derived from the possibility of charging a person for illicit enrichment of individuals and for ML derived from that activity, hence in practice all the sentences analyzed include a concurrent conviction for the predicate crime. Some other activities could be covered by the testaferrato and illicit enrichment of individuals not connected to a ML conviction, but again the number of convictions under these offenses is very low.

160. Only two ML convictions in the last three years were achieved based on a foreign predicate offense. With most of the "drug trafficking business" occurring outside the country some illegal flows are most likely repatriated and laundered in Colombia. However, these flows are not being detected in the analyzed cases. One possible explanation is that the criminal justice system makes it possible to convict a person with only proving his/her relationship with a criminal activity but without the need of establishing the domestic or foreign source of those assets. In several of the cases analyzed the predicate criminal activity was the attempt to enter the country with foreign currency, which suggests that a predicate offense was committed abroad. However, the ML investigations instead focused on the cash smuggling in Colombia.

161. The statistics provided by the authorities do not differentiate between the different types of ML (e.g. third-party laundering, stand-alone, or predicate offenses involved, among others). The results of the ML indictments and prosecutions showed that there has been an increase in the number of indictments in the recent years but a drop in the conviction rate. Authorities explained that the drop is due to the growing complexity of the cases. Nevertheless, it remains of serious concern.

Table 15. ML Indictments and Convictions

Year	Indictments	Convictions 1/
2012	38	44
2013	31	35
2014	45	38
2015	90	41
2016	67	58
TOTAL 2/	**271**	**216**

1/ Some convictions are from indictments in previous years.
2/ Five ML sentences informed for 2017 at the time of the onsite visit.

Effectiveness, Proportionality and Dissuasiveness of Sanctions

162. The level of sanctions available and effectively applied for ML are proportionate in relation to other serious crimes. ML is sanctioned in the Criminal Code (CC) from 10 to 30 years of imprisonment. These sanctions are among the highest in the CC, and although in practice cases result in applying a lower penalty, authorities still believe that the sanctions are adequate. Sanctions also appear to be dissuasive (e.g., no cases of reoffenders have been reported), and even though most ML cases brought to court are minor (they do not include complex schemes involving large amounts of assets), they have resulted in heavy

[36] Statistics on offenses on firearms and illicit drugs, included also possession (which is not a predicate offence) and it was not possible to disaggregate them, therefore, it was not possible to separate important offenses that might be linked to a potential ML from those that are not.

sanctions. Even though most of the cases end in a plea bargain, sentences have been imposed for terms longer than five years of imprisonment. In cases where there has been no plea bargain, the term of imprisonment has risen to more than 10 years. In 2016 and 2017, of the last 42 judgments, only one imposed a sentence of less than 4 years. According to the authorities, the actual period of imprisonment in these cases exceeds two-thirds of the penalty imposed which shows that they are effective. Fines have also been imposed. The fines established in the CC range from Col$1,000 to Col$50,000 minimum wages (between $230,000 and $11,490,885). The fines imposed in ML cases are generally imposed by comparing the range with the imprisonment sanction applied. A five-year imprisonment sanction is followed by a fine of Col$500 minimum wages and a ten-year conviction is followed by a fine of Col$1,000 minimum wages.

163. Legal persons cannot be held criminally liable for ML in Colombia. Only accessory penalties can be applied once the individual has been convicted. The judge can suspend the legal person and later order the termination of the legal person at the end of the process if it was involved fully or partially in the illegal activity. [37] In the convictions analyzed, these sanctions have rarely been imposed except in some complex cases where the judge ordered the extinction of the legal person. Considering the frequent use of legal persons in ML schemes in Colombia, the lack of criminal corporate liability is an impediment to greater sanctions effectiveness.

Alternative criminal Justice measures

164. Colombia also relies on pursuing other crimes than ML to combat ML activities. The offence of "illicit enrichment of individuals", "testaferrato"[38] and conspiracy to undertake ML activities has been used to pursue ML activities. In many cases, as was explained, the investigation of these offenses can be more effective that the investigation of ML.

Table 16. Illicit enrichment vs. *testaferrato*

Year	Offense	Convictions
2012	Illicit enrichment	7
	Testaferrato	2
2013	Illicit enrichment	7
	Testaferrato	0
2014	Illicit enrichment	6
	Testaferrato	1
2015	Illicit enrichment	12
	Testaferrato	1
2016	Illicit enrichment	22
	Testaferrato	5
Total	**Illicit enrichment**	**54**
	Testaferrato	**9**

165. Every major ML investigation triggers a parallel asset forfeiture investigation. One of the main objectives of the competent authorities is to dismantle criminal networks through a well-coordinated criminal asset recovery policy. Asset forfeiture actions have proven to be very effective in depriving criminal enterprises from their illicit assets, including legal persons involved in financial crime (see also IO.8). The success of these measures generally has the outcome that ML sentences do not include the confiscation of the assets involved, since ther have been already forfeited, which can affect the decision to prosecute ML in some cases.

[37] According to Art 91 of the PCC.

[38] The offence of testaferrato consists in acting as a concealed agent or figurehead, and it is used to sanction cases in which people act as strawmen in the acquisition of goods of illegal origin. The offence of illicit enrichment of individuals is treated as a simple form of ML and it carries 8 to 15 years' imprisonment. This offence is directed at those who had a patrimonial increase for themselves or for a third party, derived from an illegal activity conducted by them or other persons. It differs from the offence of ML in that it does not require proof that the property derives directly or indirectly from a criminal activity. It is enough to prove an unjustified net worth increase (for the individual or for a third party) and some connection with a criminal activity.

166. Despite the important results obtained using alternative criminal measures, these cannot replace the pursuit of a ML conviction. Alternative criminal measures should only be used where it is not possible, for justifiable reasons, to secure a ML conviction. Authorities should not rely solely on this mechanism to target criminal finances and more ML cases should be pursued.

Overall Conclusions on Immediate Outcome 7

167. **Colombia has achieved a low level of effectiveness for IO.7.**

Immediate Outcome 8 (Confiscation)

Confiscation of Proceeds, Instrumentalities and Property of Equivalent Value as a Policy Objective

168. Colombian authorities place a high priority on asset forfeiture and seek to recover proceeds, instrumentalities and property of corresponding value as a policy objective. This conclusion is based upon on discussions with the UIAF, the FGN, the National Police, the Judiciary and a range of other relevant authorities. The Strategic Plan 2016-2020 of the FGN, analysis of confiscation statistics and case examples supported this conclusion. The assessment team could verify that high value asset recovery remains a priority in investigation and is in line with the "follow the money" approach.

169. One of the main objectives of the competent authorities is to dismantle criminal networks through a well-coordinated criminal asset recovery policy. The FGN's Strategic Plan 2016-2020 establishes as its strategic objective Nº 1 "*to strongly impact organized crime*". For that purpose, the FGN's main strategy is the pursuit of the finances of criminal organizations, with the aim of increasing asset forfeiture.

170. Colombia has two main mechanisms enabling confiscation of assets: confiscation and asset forfeiture. While confiscation results from a conviction, asset forfeiture is an autonomous process which is independent of criminal proceedings and it applies to illegal assets (assets of unlawful origin). Asset forfeiture is the predominant mechanism to recover illegal assets.

171. Unlike confiscation, asset forfeiture does not require the existence of a predicate offence nor a previous criminal conviction. Asset forfeiture does not pursue persons but assets. Its autonomous procedure makes it independent of ML cases or criminal investigations, although criminal investigations could trigger asset forfeiture investigations.

172. Regarding the evidentiary standard of proof for asset forfeiture proceedings, the dynamic burden of proof applies. The dynamic burden of proof entails that whomever is in better conditions to prove a fact should bring the evidence to the asset forfeiture proceeding. Thus, given that the owner of the suspected illegal assets is in a better position to demonstrate its legal origin, then he/she should provide evidence for that purpose and to refute the evidence brought by the competent authorities. This mechanism allows the FGN to obtain effective results and -at the same time- to speed up the proceedings. Additionally, at the time of the on-site visit a bill was being discussed in the legislative branch aimed at strengthening the procedures related to asset forfeiture further.[39]

173. Both asset forfeiture proceedings and confiscation are effective in depriving criminals from the proceeds of their crime, instrumentalities and property of equivalent value. Precautionary or provisional measures over assets can be applied effectively in the framework of both criminal and asset forfeiture proceedings. The FGN and LEAs aim to ensure that asset forfeiture is applied effectively. The FGN

[39] The new AFL was passed on July 19, 2017 (Law Nº 1849). This law introduces improvements to the asset forfeiture proceedings, such as the simplification of the procedure and the possibility of early disposal of assets.

articulates and coordinates the investigation, prosecution and asset forfeiture strategies regarding the instrumentalities and proceeds of crime and directs the Judicial Police and other LEAs in that respect.

174. Particularly, FGN, UIAF and the National Police (through the DIJIN and DIPOL divisions) periodically establish task forces and working groups to coordinate actions in asset forfeiture proceedings as well as in ML and drug related cases of high impact and large scale. In the framework of these working groups, the competent authorities share relevant information and define and undertake common strategies to trace and confiscate instrumentalities, proceeds and property of corresponding value. As a result of the coordinated action between prosecutors and LEAs, large scale investigations often open parallel asset forfeiture investigations.

175. LEAs are well resourced, trained and skilled for tracing and recovering instrumentalities and proceeds of crime. There is a special Judicial Police on Asset Forfeiture in the FGN since 2014. Regarding the National Police, a special section for asset forfeiture was created within the DIJIN in 2015. In addition, GILFOT was created within the structure of DIPOL to trace and recover assets from terrorist organizations and armed groups.

176. The assessment team verified that, consistent with this stated priority, specialized prosecutors and LEAs have a good capacity to conduct parallel financial investigations to trace assets in relevant cases. Furthermore, representatives from the Judiciary, prosecutors and LEAs demonstrated during the on-site visit that they have a good understanding of the available tools aimed at recovering illegal assets. Coordination and cooperation between the competent authorities is good as well. Overall, it can be concluded that confiscation of proceeds, instrumentalities and property of equivalent value is a priority policy objective in Colombia.

Confiscations of Proceeds from Foreign and Domestic Predicates, and Proceeds Located Abroad

177. Colombia provided and explained several case examples demonstrating that authorities pursue confiscation of instrumentalities and proceeds of crime. Prosecutors tend to pursue criminal assets mainly by means of the asset forfeiture rather than through criminal confiscation, since it is a more effective and expeditious tool for recovering the instrumentalities, proceeds and property of corresponding value.

178. Asset recovery is led by specialized prosecutors in the FGN, particularly within the National Division for Asset Forfeiture, which is comprised of 76 prosecutors, 90% of whom have received specialized training. The Division for Criminal Finances oversees identifying assets and the Special Division on Asset Forfeiture of the Judicial Police is comprised of 32 investigators.

179. The Division on Asset Forfeiture of the FGN also receives important support from the PEF. The PEF was created in 2014, to provide technical assistance and support to prosecutors in complex investigations. PEF also produces typologies and conducts strategic studies related to ML and other relevant offenses involving criminal finances. PEF has sufficient and qualified staff to carry out its functions properly: it currently employs 130 agents from multidisciplinary fields. PEF receives inputs and feedback from the UIAF and other LEAs to develop its products.

180. According to the CSJ there were 1,334 judicial decisions on asset forfeiture from 2012 to 2016.

Table 17 – Judicial decisions on asset forfeiture

Year	Number
2012	205
2013	298
2014	386
2015	223
2016	222

Year	Number
Total	**1,334**

181. At the same time, the FGN reported that for the period 2011-2016, there were 292 legal decisions forfeiting 1,405 assets. Furthermore, for the period 2014 - May 2017, the FGN reported that there were 13,941 assets subject to provisional measures in the framework of asset forfeiture proceedings, amounting to COP 17,002,618,979.074 (around USD 5,620,000,000). Moreover, for the period from January to June 2017, the FGN reported that they have obtained the final asset forfeiture of 166 assets for an amount of COP 376,615,632,908 (around USD 133,853,223).

Table 18– Judicial decisions on asset forfeiture

Judicial decisions based in the former proceedings (Law 793 of 2002)		
Year	**Decisions**	**Total assets**
2011	55	433
2012	24	44
2013	29	128
2014	40	323
2015	33	117
2016	54	76
Total	**235**	**1,121**

Judicial decisions based in the current procedure (AFL – Law 1708 of 2014)		
Year	**Decisions**	**Total assets**
2015	4	4
2016	53	340
Total	57	344

Table 19 – Assets under provisional measures in the framework of asset forfeiture proceedings

	2014	**2015**	**2016**	**(May) 2017**	**Total**
Number	**3,055**	**1,567**	**6,449**	**2,870**	**13,941**
Value in COP	$3,500,000,000,000	$5,882,238,665,593	$5,100,000,000,000	$2,520,380,313,481	17,002,618,979.074
Value in USD	1,160,000,000	1,900,000,000	1,700,000,000	860,000,000	5,620,000,000,

182. Since the AFL entered into force in July 2014, and replaced the former procedure, the average time of the investigation was reduced from 7 years to 1.5 years. Moreover, the AFL improved the effectiveness of the asset forfeiture proceedings and their results. In this regard, statistics show that under the former procedure (Law 793/2002) there were 891 cases that resulted positive and 585 negative, meaning this a positive result in 60.37% of the cases, while under the AFL procedure the result was positive in 86.93% of the cases.

Table 20 – Asset forfeiture proceedings with positive and negative results (2011-2015).

Year	**Cases at the Lower Court**							
	Cases assigned	**Cases filed**	**Law 793/2002 cases**	**Positive cases Law 793/2002**	**Negative cases Law 793/2002**	**Law 1708/2014 cases**	**Positive cases Law 1708/2014**	**Negative cases Law 1708/2014**
2011	585	678	210	122	54	N/A	N/A	N/A
2012	1077	435	172	116	69	N/A	N/A	N/A
2013	464	432	254	174	90	N/A	N/A	N/A
2014	411	404	143	122	131	20	N/A	N/A
2015	267	515	N/A	103	93	122	70	7
2016	181	608	N/A	179	106	211	158	27
2017 (May)	93	106	N/A	75	42	71	58	9
Total	**3078**	**3178**	**779**	**891**	**585**	**424**	**286**	**43**

183. Currently, there are 3,492 ongoing proceedings on asset forfeiture.

Table 21. Ongoing proceedings for asset forfeiture

Applicable law	Investigations by May 2017
Law 793/2002	1,317
Law 1708/2014 (AFL)	2,175
Total	**3,492**

184. Colombia provided several cases were the asset forfeiture mechanism was successfully applied in high-value cases.

Box 4 – Examples were the asset forfeiture mechanism was successfully applied in high-value cases

Case Enilce López, alias "La Gata":
Through a report submitted by the Judicial Police, the FGN learned that the criminal organization led by Enilce López was engaged in drug trafficking, ML and concealment of criminal property. In addition, it was verified that the illegal money came from the ex-paramilitary named Salvatore Mancuso. Thus, an asset forfeiture proceeding was initiated in May 2014, affecting 1,384 assets amounting around USD 366,000,000).

Case "Ignacio Álvarez Meyendorff":
This case was related to members of a transnational drug trafficking organization the group exported drugs to several countries in Central America and the United States by using boats. The Special Prosecutor's Office N°12 of the Asset Forfeiture Division of the FGN initiated an asset forfeiture proceeding against 210 real estate properties, 30 commercial companies, a real estate office and a service station, among others. The real estate properties were in different areas of the country and comprise 12,140 hectares, mostly dedicated to livestock, sugar cane and dry palm. Illegal assets amounted around COP 1,000,000,000,000 (approximately USD 340,000,000).

Case "El Papero":
This case was related to multiple illegal activities related to drug trafficking attributed to Marco Antonio Gil Garzón, alias "El Papero". The investigation conducted by law enforcement agencies led to multiple assets arising from several alleged offenses, including drug trafficking, ML, illicit enrichment, "testaferrato", conspiracy, among others. Based on inputs from the Judicial Police and information from criminal proceedings against "El Papero", as well as from information received from the OFAC and the US Embassy, a case was built to exert the asset forfeiture proceeding, which resulted in the forfeiture of 141 assets valued in COP 300,000,000 (approximately USD 100,000).

Case "Loco Barrera":
Daniel Barrera, known as "El Loco Barrera", is a prominent Colombian narcotrafficker captured on 18 September 2012 in Venezuela, in an operation that was coordinated by the National Police from Washington DC, with the aid of the Venezuelan and British governments. "El Loco Barrera" had his main center of operations in the Oriental Plains of Colombia and was one of the most-wanted "capos" in the country. In December 2016, the judiciary forfeited 11 vehicles, 4 real estate properties and shares of a company amounting around COP 5,365,000,000 (approximately USD 1,877,750). For further information please see Box 7 in IO.2.

185. Without prejudice to the foregoing, MINJUS has the power to take part in asset forfeiture proceedings. To this end, the Working Group on Asset Forfeiture was created within the Ministry in 2013. This Group focuses its participation in relevant cases according to the following criteria: cases of national interest, property owned by criminal organizations and property of high value. By January 2017, the Ministry has taken part in 1,703 cases resulting in 245 legal decision forfeiting assets for an amount of USD 15,120,318, € 801,765 and COP 5,516,615,750.

186. Statistics provided by Colombian authorities regarding asset forfeiture is generally comprehensive and enabled the assessment team to analyze the outputs that are being produced by the system. The official information with respect to asset forfeiture cases at the national level is held by the FGN.

187. There are no detailed statistics available concerning confiscation. At the time of the onsite visit, Colombian authorities did not maintain detailed data on the property confiscated across the country, or the

numbers on value-based confiscation.[40] Notwithstanding the foregoing, the assessors could obtain the relevant information on proceeds and instrumentalities through the ML case law provided by the FGN.

188. Additionally, there is relevant available information on confiscated assets which are under the management of the Special Fund of the FGN, as referred below. The assessment team could verify that the number of seizure orders requested by the FGN increased during 2016.

Table 22 – Number of seizure orders of the FGN during 2012-2016.

Seizure orders to ensure confiscation of proceeds					Total	Requests to obtain the suspension of the disposal power over assets and to ensure confiscation of proceeds					Total
2012	**2013**	**2014**	**2015**	**2016**		**2012**	**2013**	**2014**	**2015**	**2016**	
507	401	496	438	521	**2363**	293	505	539	472	470	**2279**

189. After analyzing ML convictions for the period 2016-2017, the assessment team concluded that confiscation was being mostly applied to instrumentalities and proceeds arising directly from the crime. Colombia would benefit more if further efforts to confiscate property derived indirectly through the commission of crimes was made. However, given the positive results are being achieved by means of the asset forfeiture proceedings, this is not considered a major issue in the Colombian context.

190. Regarding asset recovery cases based on foreign predicate offenses or proceeds of crime located or moved abroad, Colombia indicated at the time of the onsite visit there was only one case of repatriation of assets with a final legal decision. Provisional measures aimed at repatriating assets located abroad have been obtained by the FGN in several cases, but these were still pending at the time of the onsite visit. So far, there have not been cases involving sharing of confiscated proceeds with foreign counterparts. In this respect, Colombia could benefit from making further efforts to repatriate proceeds moved abroad and to obtain the international sharing of assets.

191. Colombia provided relevant information concerning high value property that was confiscated and forfeited from certain armed groups operating in the country, which reveals important results in that area.

192. Colombia has a sound legal basis for managing criminal proceeds frozen, seized, and confiscated. There are two mechanisms in place for this purpose, depending on whether assets were confiscated under a criminal proceeding or an asset forfeiture proceeding.

193. On the one hand, proceeds confiscated under the criminal confiscation mechanism are managed by the "Special Fund for Assets Management" (SFAM) of the FGN, as established by articles 82-86 of the CPC. The fund has broad powers to manage and dispose of property.

194. By November 30, 2015, the SFAM was managing property seized and confiscated valued in USD 95,945,517.78. The value of proceeds confiscated which are being managed by the SFAM are relevant to see the results produced by the system in this field.

Table 23 – Value of property managed by the SFAM (by November 30, 2015)

Property	Number	Value in COP	Value in USD
Confiscated	6,489	104,941,700.636.17	34,980,566.88
Seized	46,716	18,894,852,700.08	60,964,950.9
TOTAL	**53,205**	**287,836,553,336.25**	**95,945,517.78**

[40] At the time of the onsite visit the FGN was developing an information system aimed to further improve the statistical information related to the asset forfeiture and confiscation cases and outcomes. This system was in the testing phase.

195. The Special Fund also was managing foreign currency amounting USD 1,423,831, EUR 1,084,000 and 344 Honduran *Lempiras*. A breakdown of property under the management of this fund is included below.

Table 24 – Breakdown of seized property managed by SFAM (by November 30, 2015)

Property	Number	Value in COP	Value in USD
Real estate property	6	1,230,089,601.63	410,029.87
Vehicles	39,099	172,144,416,323.30	57,381,472.11
Marine transport	37	1,452,413543.00	484,137.85
Air transport	6	740,616,000.00	246,872.00
Artworks	2	3,000,000.00	1,000.00
Jewelry	167	60,660,362.00	20,220.12
Other assets	7,399	7,263,656,870.15	2,421,218.96
Total	**46,716**	**182,894,852,700.08**	**60,964,950.90**

Table 25 – Breakdown of confiscated property managed by SFAM (by November 30, 2015)

Property	Number	Value in COP	Value in USD
Real estate property	59	77,184,912,520.00	25,728,304.17
Vehicles	5,973	24,472,841,827.76	8,157,613.94
Marine transport	2	110,000.00	36.67
Air transport	3	3,079,177,400.00	1,026,392.47
Artworks	5	410,000.00	136.67
Jewelry	89	50,781,611.00	16,927.20
Other assets	358	153,467,277.41	51,155.76
Total	**6,489**	**104,941,700,636.17**	**34,980,566.88**

Table 26 – Currency confiscated managed by SFAM (by November 30, 2015)

Currency deposited at the FGN Fund		
Foreign currency	**Value**	**Conversion into COP**
US Dollars	1,423,831	4,459,367,500
Euros	1,084,000	3,596,863,760
Lempiras	344	48,568
Total in COP		**8,056,279,829**

196. In turn, proceeds seized and confiscated under an asset forfeiture proceeding are managed by the Fund for Rehabilitation, Social Investment and Fight against Organized Crime (FRISCO, its acronym in Spanish), as set out by Chapter VIII of the AFL and Decree 2136/2015. This fund is located under the Ministry of Finance and Public Credit (MEF) and it is managed by the SAE. FRISCO is granted with broad management and disposal powers as well.

197. By June 2017, FRISCO was managing property seized and confiscated for approximately USD 1,620,377,460. This includes assets forfeited for an amount of USD 319,409,092 and assets under provisional measures amounting around USD 1,300,968,368. The SAE provided examples of successful management of companies. Please see tables below for further details regarding the assets being managed by the FRISCO.

Table 27 – Assets managed by FRISCO (by June 2017)

Type	Forfeited			Under a provisional measure		
	Number	**Value in COP**	**in USD***	**Number**	**Value in COP**	**in USD***
Property	3,155	591,477,648,815	207,017,177	18,351	2,577,877,931,181	902,257,276
Property*	942	317,577,406,863	111,152,092	3,485	1,094,530,400,224	383,085,640

Vehicles	1,893	1,114,017,000	389,906	10,641	30,386,008,970	10,635,103
Artworks	732	N/A	N/A	132		
Others	953	N/A	N/A	54490		
Total	7,675	910,169,072,678	318,559,175	87,099	3,702,794,340,375	1,295,978,019

**The exchange rate used in this table is USD 1.00 = COP 2,843.36*
***Property owned by companies*

Table 28 – Assets managed by FRISCO (by June 2017)

Type	Forfeited		Under a provisional measure	
	Number	Value in USD*	Number	Value in USD*
Companies	321	N/A	1,386	N/A
Value in COP	2,428,333,264	849,917	14,258,140,662	4,990,349

** The exchange rate used in this table is USD 1.00 USD = COP 2,843.36*

198. As shown in the tables above, Colombia has a robust system for managing property confiscated and forfeited. Both funds have experience regarding the management of assets of different nature as well as with companies in activity. The high value of the assets under the management of both funds is also an important aspect to highlight and it reveals the effectiveness of Colombia not only with respect to asset forfeiture but also in taking measures to use the proceeds efficiently.

Confiscation of Falsely or Undeclared Cross-Border Transaction of Currency/BNI

199. Colombia has a declaration system for all incoming and outgoing cross-border transportation of currency and BNI, which applies to all natural and legal persons whether by air travel or through mail and cargo. The threshold to submit a written declaration to the relevant authorities is USD 10,000. DIAN has authority to seize currency or BNI only when there is a false declaration or a failure to submit the declaration.

200. Upon discovery of a false declaration or a failure to declare, the DIAN has the authority to require additional information regarding the person, the carrier and the falsely declared assets. Failure to comply with the Colombian declaration system constitutes an administrative infringement and eventually an offense. When performing its functions, DIAN has the support of the POLFA. Authorities carry out the relevant controls in accordance with the risk profile of the traveler, which is built on migratory information, flight information, luggage, currency declarations, and other relevant inputs.

201. If the amount exceeds USD 10,000, or if there is a false declaration or a failure to submit the declaration, the DIAN seizes the currency or the BNIs and starts an administrative proceeding for sanctioning the alleged infringement. If there is a ML/TF suspicion, regardless of the amount, the POLFA starts the proceeding for capturing the suspected person and the case is referred to the FGN for conducting a criminal investigation. FGN can request the DIAN to send the currency and BNI to serve as evidence. If the case is pursued, then the funds are transferred to the FGN. DIAN has a specific division which collaborates with the FGN in those cases involving cross-border movements of currency and BNIs.

Table 29– Currency seized by the DIAN (2013-20172017)

	USD		EUR		Other (in USD)	
	Entry	Exit	Entry	Exit	Entry	Exit
Currency	14,901,323	1,475,381	4,959,819	1,266,179	2,777,669	62,632
BNI	669,805	0	0	0	0	0
Total amount	15,571,128	1,475,381	4,959,819	1,266,179	2,777,669	62,632
Grand total	**USD 17,046,509**		**EUR 6,225,998**		**USD 2,840,301**	

202. It should be noted that DIAN applies effective, proportional and dissuasive administrative sanctions irrespective of eventual the criminal sanction. From 2013 to March 2017, DIAN has applied 1,207 sanctions for COP 13,251,180,870, amounting USD 4,732,756. There was no information on the amount finally confiscated or forfeited in criminal proceedings related to these cases.

Table 30 – Sanctions applied by DIAN for a false declaration or a failure to declare

Year	Sanctions	Value in COP	Value in USD
2013	262	2,247,363,136	802,629
2014	326	1.388.264.122	495.808
2015	320	5.103.243.541	1.822.586
2016	299	3.618.345.498	1.292.266
2017 (March)	78	893.964.573	319.273
Total	**1,285**	**13.251.180.870**	**4.732.564**

203. While there are cases of non-declared, or non-disclosed cross-border currency being seized and confiscated, Colombia could benefit from improving controls over cross-border movements of BNIs It. Colombia maintains statistics regarding the amount of currency moved across the borders.

204. Colombian authorities provided several case examples demonstrating seizure of property related to falsely / non-declared or disclosed cross-border movements of currency. A successful case of action taken by authorities is shown in Box 4 below.

Box 5 - "Azafatas" Case

Based on information received from the US Immigration and Customs Enforcement, an investigation was initiated against a criminal organization devoted to ML steaming from cross-border illegal currency trafficking.

The criminal organization used personnel from commercial airlines from Colombia, Spain, Mexico and the United States. It was confirmed that these people received from third parties' significant amounts of foreign currency to introduce into Colombia. In the framework of the investigation, 19 raids took place, 7 of which involved seizures of currency. It was determined that the group moved USD and Euros with an approximate value of COP 8,500,000,000.

Moreover, in March 2016, 13 persons were arrested, including flight attendants. They were charged with ML, illicit enrichment of individuals and conspiracy. Five of these accused persons made an agreement with the prosecutor and were convicted to 75 months of imprisonment.

Consistency of Confiscation Results with ML/TF Risks and National AML/CFT Policies and Priorities.

205. Colombia has a robust legal framework for confiscating, forfeiting and managing proceeds of crime. In the framework of its 2013 NRA, Colombia considered the following predicate offenses as those of higher risk: drug trafficking, corruption, extortion and migrant smuggling. The 2016 NRA also referred to these predicate offenses and included illegal mining and smuggling.

206. The Division on Asset Forfeiture of the FGN provided a breakdown of underlying offenses in asset forfeiture cases. According to this information, drug trafficking appears as the underlying offense in 57% of the cases, ML in 8%, corruption in 4% and conspiracy in 3%.

207. Overall, asset forfeiture is in line with the country's risk profile in terms of the range of the main threats. Information provided by the Division on Asset Forfeiture of the FGN allowed the assessment team to identify the main underlying offenses in asset forfeiture cases. There are positive results regarding drug

trafficking, ML and corruption cases, which are the predicate offences producing a major volume of illicit gains. In turn, there are cases of asset forfeiture related to conspiracy, extortion, Illicit enrichment of Individuals, kidnap for ransom and weapons trafficking. There is room for improvements regarding other offenses considered as high risk, such as extortion, smuggling and illegal mining.[41]

Table 31 - Breakdown of underlying offenses in asset forfeiture cases

Offense	2011	2012	2013	2014	2015	2016	May 2017	Total
Migrant smuggling	0	0	0	1	0	0	0	1
Extortion	1	10	1	0	0	0	1	13
Illicit enrichment of Individuals	15	7	0	1	0	13	4	40
Kidnap for ransom	6	40	10	0	0	0	0	56
Weapons trafficking	3	7	0	1	0	0	0	11
Trafficking of minors	2	0	0	1	0	0	0	3
Terrorist financing	1	0	0	4	15	2	5	27
Drug trafficking	355	708	230	202	134	90	37	1756
Offenses against the financial system	1	1	0	0	0	11	1	14
Corruption	7	46	4	41	8	13	6	125
Conspiracy	7	14	5	22	31	2	2	83
ML	100	37	14	32	22	16	17	238
Others	43	50	3	5	8	24	10	143
To be determined	45	157	196	102	49	10	10	569
Total	**586**	**1077**	**463**	**412**	**267**	**181**	**93**	**3,079**

208. The available information related to asset forfeiture is comprehensive overall. However, statistics regarding criminal confiscation are more limited. There is no breakdown referred to underlying offenses involving assets recovered by means of confiscation. In this regard, Colombia could benefit further strengthening the statistical system related to criminal could benefit from further strengthening

Overall Conclusions on Immediate Outcome 8

209. **Colombia has achieved a substantial level of effectiveness for IO.8.**

[41] At the time of the onsite visit there was a bill aimed at increasing penalties for the illegal mining and that included that offense as a predicate offense for ML.

4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

A. Key Findings

Immediate Outcome 9

- Colombia faces a high TF risk which is mainly domestic, with drug trafficking and other illegal activities conducted by domestic organizations (GAOS such as FARC or the ELN) as its main sources. Authorities are aware of this risk, but the authorities rely heavily on judicial alternative measures to target TF, particularly by pursuing the crime that generates the illicit funds.
- As a result, the TF offense has been used only in limited domestic cases to prosecute persons who do not belong to a terrorist organization. Other offenses different from TF are used to prosecute TF activities, but there is no obstacle for authorities to pursue also the TF offenses in such cases.
- The risk of foreign terrorism and its financing is low, and no investigation or judicial procedure involving foreign TF has taken place.
- CFT efforts are adequately coordinated.
- Although the results obtained in pursuing the illegal sources of domestic TF are noteworthy, they are not commensurate enough with the high TF risk. The number of stand-alone TF investigations and prosecutions is small in comparison with the magnitude of the threat.

Immediate Outcome 10

- Colombia has a legal system to apply TFS on TF that allows for freezing of terrorist assets.
- Banks regularly check UN lists, but the level of awareness is lower in other sectors.
- Freezing is ordered by a prosecutor after assessing whether requirements of the AFL are fulfilled and determining a probable link of funds/assets with any illegal activity.
- The authorities have not received any notifications to date related to assets or funds belonging to persons designated pursuant to UNSCR 1267 or 1373, which is consistent with Colombia's TF risk profile where this activity has usually been committed by domestic groups.
- The authorities have not yet designated any person or entity domestically under UNSCR 1373, despite the presence of groups in Colombia that commit terrorist acts and TF.
- Colombia has not identified the subset of organizations that fall under the FATF definition nor identified the features and types of NPOs which are likely to be at specific risk for TF abuse.
- Competent authorities have not engaged with the NPOs sectors on CFT matters.

Immediate Outcome 11

- AFL freezing measures described for IO.10 could not be adopted for assets of designated persons/entities in PF UNSCRs. AFL is a judicial process that can only apply for assets linked to criminal offenses or to those activities for which a law expressly provides AFL measures.

- Only AML/CFT reporting entities are required to monitor UN lists and inform authorities in case of match. Level of awareness is higher in FIs, but DNFBPs not classified as reporting entities do not check lists.

B. Recommended Actions

Immediate Outcome 9

- Investigate, prosecute, and convict using the TF offence in line with Colombia's risk profile, including for large scale cases of TF.
- Investigate identified TF activities with the objective to charge an individual or an organization for TF. Only in situations where it is not practicable to secure a TF conviction, competent authorities should use alternative measures to disrupt potential TF.

Immediate Outcomes 10 and 11

- Establish and implement freezing mechanisms on TF and PF TFS in line with the standards. These mechanisms should (i) require all natural and legal persons, including all DNFBPS, not only AML/CFT reporting entities, to apply TFS; (ii) require freezing all funds and assets of the listed persons/entities without additional conditions, such as links to illegal activities; (iii) ensure that UN Resolutions immediately apply regardless additional investigations or assessments by authorities.
- Authorities should use the tools provided by UNSCR 1373 to combat TF in line with the country's risk profile.
- Identify the subset of NPOs falling under the FATF definition, and identify the features and types of NPOs which are likely to be at specific risk for TF abuse. Apply focused and proportionate measures to such NPOs identified as being vulnerable to TF abuse in line with the risk based approach.
- Reach out to the NPO sector to increase its understanding and mitigation of TF risks, and provide further guidance regarding CFT measures and trends.
- Raise awareness of Colombian authorities and natural and legal persons on the application of the TFS related to PF. Increase coordination amongst authorities involved.
- Ensure that all financial institutions and DNFBPS are subject to monitoring and sanctions for infringements on TF and PF UNSC Resolutions.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (TF Investigation and Prosecution)

Prosecution/Conviction of Types of TF Activity Consistent with the Country's Risk-Profile

210. Several domestic criminal organizations commit terrorist acts in Colombia. Subversive groups (GAOS) such as the FARC, the ELN, and the People's Liberation Army (EPL), as well as BACRIM[42] that

[42] The FARC is not currently a subversive group. The BACRIM are currently referred as Organized Armed Groups, which encompass all the organized crime groups acting in Colombia.

engage in organized crime activities are among the organizations that commit terrorist acts in the country. The significant number of terrorist acts committed shows that the risk of domestic TF is high.

211. The situation in Colombia regarding TF is complex. The authorities recognize that there several criminal and subversive groups acting in the territory that have committed terrorist acts. Nevertheless, these groups have never been formally defined as Terrorist Organizations by the Colombian authorities, nor have been proposed at any level in the international community as such. These groups operate within an armed conflict against the Colombian armed forces that has been recognized internationally for many years. Therefore, the financing of these organizations should not be, according to the authorities, categorized as TF. Only the specific financing of a terrorist attack within Colombia would be considered TF according to the authorities, not the actions taking place within the context of the armed conflict. However, there have been some investigations and prosecutions of TF that focus on this offence regardless of the qualification made by the authorities (in fact the TF offence includes also the financing of these subversive groups without qualifying them as terrorist).

212. The risk of financing foreign terrorist organizations on the other hand has been identified as low by the national authorities. No case occurred or has been prosecuted for the TF of a foreign organization, nor have any links with UNSC listed persons or organizations been identified. The authorities' experience regarding TF regards local activities only. The authorities have received some request MLA requests on terrorism from foreign countries but these were related to Colombian organizations. Nevertheless, the authorities confirmed that there are safeguards in place in the financial system to identify possible suspicions of international TF, and that they are prepared to investigate and prosecute them if any do arise. The main TF risk identified relates to the illegal activities of domestic criminal organizations, including drug trafficking, illegal mining, kidnapping, and oil theft, among others.

213. Colombia prioritizes the fight against the sources of illicit funds of the GAOS and BACRIM over pursuing the TF offence itself, by directly tackling the criminal activity behind the financing of the organization. Authorities understand that to make an impact on the financing of an organization it is necessary to go after the underlying activity that generates the funds. As a result, Colombia has not been developing standalone TF cases and prosecutions commensurate with the risk for TF. The TF offencein domestic cases is investigated and prosecuted in limited circumstances when the person providing the support does not belong to the organization or in some cases members of smaller subversive organizations active in small cities that provide support by means of their local criminal activities. A low number of cases has resulted in convictions (only 5 since 2013), which is a concern.[43] The TF offence (art. 345, CC) encompasses jointly the financing of terrorist organizations and of organized crime groups, so it is not clear if the convictions based on this offence are for financing a terrorist organization or an organized crime group. In fact, judges sometimes use both terms in their sentences.

214. The FGN informed that only 5 persons have been convicted for the TF offence since 2013. These convictions are not linked to a terrorist attack but to persons that collected and provided funds to the GAOS through the commission of crimes, generally extorsion. Although the results in combating the finances of these organizations through the prosecution of the underlying crime have been acceptable, the low number of prosecutions and convictions for TF is not commensurate with Colombia's risk profile.

215. Colombian authorities explained that the low number of standalone TF investigations and prosecutions relates to the fact that the GAOS and BACRIM are not terrorist organizations and thus they cannot be prosecuted as such. Nevertheless, there is no obstacle to pursue the TF offence even in cases that investigate and prosecute the underlying crime that generates the funds. Moreover, LEAs possess the required skills to address TF at all phases from identification to investigation and prosecution. In Colombia, one action can result in several criminal offenses, one action can violate more than one legally protected interest and so it is possible to prosecute for the underlying offence and for TF, if the funds are provided to a GAOS or BACRIM. Moreover, the criminal offence in Article 345 does not require the categorization of

[43] Precise information on the investigations and prosecutions of TF specific cases could not be presented.

the recipient organization as a terrorist, since the offence encompasses Terrorist, GAOS and Criminal organizations altogether. However, the authorities decided not to pursue this offence under Article 345 systematically.

216. Finally, Colombia explained that some TF cases could be covered by investigations and prosecutions under the crimes of "rebellion and illegal association or conspiracy." The rebellion offense is the crime usually used to prosecute the members of a GAOS or a BACRIM, case laws have been extending the interpretation of the actions included in the definition of rebellion to cover also persons that support these organizations without them wearing a uniform or carrying a weapon. Although, the use of this crime enables the prosecution of TF activities, only 175 persons[44] have been convicted for this crime in the last five years (mostly GAOS combatants), and the fact that this crime requires political will to overthrow the government or the constitutional system, adds a condition that is not required by the international definition of TF and might also impede international cooperation as the double criminality between rebellion and TF might not be configured.

TF Identification and Investigation

217. The same prioritization and investigation processes established to categorize and pursue criminal activities conducted by the GAOS and BACRIM, analyzed under IO.7 is used in tackling TF activities committed by these organizations. Law enforcement agencies and the FGN have identified and targeted larger criminal groups that operate in different parts of the country and have a large number of members. The UIAF also has proactively disseminated some TF cases to the FGN.[45] TF activities are being identified and investigated, but not prosecuted as TF.

218. The judiciary and the FGN explained that when a person is a member of a GAOS and provides material support to the organization, this person is prosecuted for being part of the organization and not for committing TF. This is supported by the assessment team's analysis of the convictions, that showed that TF is mostly prosecuted in cases where the person or persons providing support are not part of the subversive or criminal organization. TF cases investigated vary between a few major cases and a larger number of small cases. These cases relate to TF through the support of a subversive or criminal organization by providing materials, information or any other kind of support; there are no cases involving the provision of money. These investigations identify the specific role played by the terrorist financier.

219. Due to this approach, the number of prosecutions and convictions for FT is very low despite the high threats of internal FT that Colombia faces. The product of many other crimes investigated in Colombia is channeled to GAO and, therefore, finances terrorism. However, these criminal activities are only prosecuted for the underlying crime that generates the funds.

Box 6: Providing weapons to the FARC

During the years 2009 and 2010 a person dedicated himself to sell arms to a FARC front. Executing a search warrant issued based on information obtained mainly by legal wiretapping, the police found illegal arms. This material was later proven to be destined for the FARC.

The court considered that the FARC is a group that executes terrorist acts; also, that the provision of weapons to the FARC represents providing assets and supporting an organization that commits terrorist acts. Therefore, that providing weapons to the FARC constitutes TF. The UIAF through its reports collaborated in proving that the buyers were members of the FARC and in establishing the relationship of the accused with those members through the analysis of financial operations.

In addition to the sanctions for arms trafficking, given that the person was a not a member of the FARC he was sentenced to 13 years in prison for a TF offence. 1/

[44] It was not possible to disaggregate the number of convicts among those participating in the clashes and those who would support the organizations

[45] Two in 2011, 5 in 2012, 1 in 2013, 3 in 2014, 0 in 2015 and 8 in 2016.

1/ He was also fined 1300 official minimum official minimum wages. In August 2016 would be roughly equivalent to a fine of USD 300.000

TF Investigation Integrated with—and Supportive of—National Strategies

220. All investigative and prosecutorial efforts on counter-terrorism are closely related to national strategies for combatting the finances of criminal or subversive groups committing terrorist acts. The FGN has a strategy to directly attack the funding sources of these groups. There is good co-ordination among the competent authorities the FGN in charge of the investigation co-ordinates its activities with the FIU, competent ministries and supervisory agencies.

221. The financing of criminal or subversive groups committing terrorist acts in Colombia is directly linked to the commission of crimes such as drug trafficking, illegal mining and theft of fuel and oil. The investigations are integrated in a strategy to attack the sources of illicit funds derived from criminal activities. In that regard, the FGN has signed collaboration agreements with Ecopetrol (the State oil company), and the National Police to strengthen the investigative and prosecutorial capacity related to crimes at the source of TF. In 2015 the FGN approved a Prioritization Plan of the Directorate of Terrorism to prioritize cases more effectively. Nevertheless, the Strategy does not include the use of the TF offence to support it.

222. The authorities focus on combatting the GAOS at various levels, including the structure, armed combatants, support networks, and their areas of influence with the purpose of achieving their dismantling, ensuring the investigation of all its members.

223. Authorities are also aware that different GAOS focus on some offenses more than others to finance their activities, depending on the economic activities of the region where they are located. Sources of income are extortion, ransoms for kidnapping, cattle theft, and illegal mining. However, the main source of funding is channeled through direct participation in the drug trafficking chain.

224. Illegal mining in recent years has taken an increasing role in financing. The extraction of gold has been especially profitable for criminal organizations. Authorities are responding by placing an important part of their resources in tackling this illegal activity.

225. The investigations that specifically pursue the TF offense have been relegated to only some specific cases, and thus they have not been used to support the national counter-terrorism strategies and terrorist investigations. [46]

Effectiveness, Proportionality and Dissuasiveness of Sanctions

226. A review of the cases submitted by the authorities showed that sanctions ranging from 6 to more than 10 years of imprisonment for TF crimes are effective, dissuasive and proportional.

227. Although the authorities did not present comprehensive statistics on the sanctions imposed, the analysis of domestic TF cases from 2014–2016 showed that convictions on average entailed over 10 years of imprisonment, and fines imposed are near the minimum range ($300,000). Even in plea-bargained cases, penalties imposed exceed seven years of imprisonment, which is adequate regarding the cases analyzed.

228. While legal persons are not criminally liable according to Colombian legislation, penalties for legal persons can be applied upon the conviction of a natural person.[47] However, these types of penalties are not imposed frequently and it is unclear how often legal persons are used to commit TF due to the narrow

[46] Authorities explained that the strategy applied for pursuing the financing of the GAOS focuses on the prosecution of the illegal activity producing the funds and, in the case of supporters, prosecuting them for rebellion. Changing this approach could hinder the number of convictions achieved for rebelion.
[47] Per Art 91 of the PCC.

scope of cases prosecuted. The Supersociedades informed the mission that they have imposed administrative sanctions in many cases on corporations linked to the GAOS.

229. According to information presented by the authorities, specifically regarding the FARC, the number of FARC forfeited assets over the period from 2012 to 2016 amounts to 1,798 assets, with an approximate value of USD 268.4 million, of which USD 158.9 million is the result of actions carried out in 2016 alone.

Alternative Measures Used Where TF Conviction is Not Possible (e.g., Disruption)

230. Colombia places a high importance in the fight against these subversive organizations. This is done by investigating and prosecuting: (i) the fact of belonging to a GAOS; (ii) the illegal activity that finances the organization; and (iii) cases involving ML activities; as well as by using the asset forfeiture mechanism.

231. Colombia makes effective use of other measures to disrupt TF activities without the need to secure a TF conviction (and thus also to confiscate assets and instrumentalities without a TF conviction). In this regard, the FGN provided information on several cases where GAOS and BACRIM were deprived from high value assets through the asset forfeiture mechanism. This is an expeditious and effective way to recover illegal assets without the need to prove that a criminal act has been committed. These procedures have been used in multiple cases related to TF (see IO.8) without the need to secure a TF conviction.

232. Authorities also point to the coordinated work within the FGN specialized units with the purpose of dismantling TF networks. Both the National Division on Asset Forfeiture and the Directorate of Specialized National Prosecutor against Terrorism coordinate their investigations and exchange relevant information. Moreover, the National Division on Asset Forfeiture developed a specific strategy for pursuing assets related to illegal armed groups through the creation of a working group. This working group follows up criminal proceedings related to the guerrilla, traces the armed group assets, analyzes information and articulates actions with the relevant military intelligence units.

233. Colombia relies on other measures to disrupt TF activities in the country; this work has translated into numerous convictions regarding different crimes related to the GAOS. While these do not constitute alternative measures, they have assisted in disrupting TF activity to some extent. The authorities have not justified pursuing this approach instead of also pursuing the TF offence. In the assessment team's view there is no impediment to apply to the TF offense in parallel, pursuing also the TF offence would add value to the process and the sanctions imposed.

Table 32. Persons related to terrorist organizations convicted by type of offense (2012-2016)

Crime	Total
Conspiracy (Art 340 CC)	952
Illicit Enrichment of individuals (Art 327 CC)	1
Illicit Enrichment of Public Officials (Art 412 CC)	2
Extortion (Art 244 CC)	215
Guns and ammunitions related crimes (Art 365 and 366 CC)	483
Money Laundering (Art 323 CC)	8
Rebellion (Art 467 CC)	472
Kidnapping (169 CC)	18
Terrorism (Art 343 CC)	111
Testaferrato (Art 326 CC)	7
Drug related crimes (Art 376 CC)	72
Illegal mining (338 CC)	85

Oil theft Art. (327 CC)	283
Total	**2,709**

234. There have been some positive results in fighting the financing of these organizations, particularly with the use of other measures to disrupt their finances. These include, pursuing the criminal activity that generates the funds, the use of the Rebellion and Conspiracy offences and the positive results of the use of the asset forfeiture actions. Although the authorities are making immense efforts to fight these organizations, more should be done regarding its financing. There is a need to prosecute the TF offence to cover more complex cases and covering a wider scope of financing and support of the terrorist networks acting in the country. The results obtained by the limited pursuit of the TF offence and of the alternate measures are not impacting the GAOS and BACRIM to a significant extent. The TF risk that the country is facing requires a larger number of TF investigations and prosecutions that will result in more convictions for this crime.

Overall Conclusions on Immediate Outcome 9

235. **Colombia has achieved a low level of effectiveness for IO.9.**

Immediate Outcome 10 (TF Preventive Measures and Financial Sanctions)

Implementation of Targeted Financial Sanctions for TF without Delay

236. In the event of a match between a person designated by the UNSC and the existence of assets or funds, a maximum time of 48 hours is considered for executing measures to freeze issued by the FGN. However, the authorities informed the assessment team that simulations carried out with financial institutions determined that the freezing can be achieved in around 3 hours after the reporting entity detects assets belonging to a listed person. Once the FGN receives information of a match from an institution supervised by the SFC or from the UIAF, it would immediately initiate the process of asset forfeiture as a precautionary measure pursuant to the AFL (Law 1708 of 2014). The FGN considers that the fact of being included in the sanctions list are sufficient grounds to believe a TF offense has been committed, which meets the requirement for commencing asset forfeiture proceedings (see R.6). Most DNFBPS are not reporting entities and are not required to check UN lists, among others.

237. To expedite this process, all parties to the Inter-Administrative Agreement have created a dedicated email address to receive notifications and the UIAF has established an automatic mechanism for searching designated persons or entities in its own database to immediately inform the FGN in case of a match. In addition, the UIAF has developed a process that automatically searches the UN lists every 12 hours and crosses them with all its databases to detect any listed natural or legal person. In case of a positive match, the system automatically sends an email to the referred dedicated email address. This process is fully automated, runs every day of the year, and does not require any action from the UIAF staff.

238. No notifications have been received to date relating to assets or funds belonging to persons designated pursuant to UNSCRs 1267, 1989 and 1988. The authorities have not yet designated any person domestically under UNSCR 1373. It was indicated that no requests from foreign countries have been made to Colombia to initiate freezing actions against assets of a listed person or entity. In case of receiving a request from a foreign country and that the analysis of the FGN is favorable, the FGN will issue the asset forfeiture order.

239. No assets or instrumentalities of terrorists, terrorist organizations and terrorist financiers have been frozen or forfeited. At the time of the onsite, no financial institutions had identified any positive matches against the Consolidated List, and no accounts or transactions have been frozen. As described earlier, the Colombian TF threat emanates from domestic armed groups. It has not been established to date that resources or funds from international terrorist organizations has circulated through the Colombian financial system.

Targeted Approach, Outreach and Oversight of At-Risk Non-Profit Organizations

240. Colombia's understanding of the TF risk in relation to the NPO sector is limited. Colombia has a broad and diverse NPO sector, comprised of a significant variety of different legal forms and different bodies are responsible for their regulation and oversight. 263,506 NPOs are registered under the competent Chambers of Commerce and 6,335 religious NPOs are registered under the Ministry of Interior. By 2016, 70,554 NPOs in activity have been assigned a Single Tax Registration Form (RUT) by the DIAN, to obtain tax exemptions. NPOs are required to register at the district level in locations where their operations take place as well.[48]

241. At the time of the onsite visit, Colombia had not conducted a review of the NPO sector to identify the subset of organizations falling under the FATF definition nor had identified the features and types of NPOs which are likely to be at specific risk for TF abuse. While the 2016 NRA provides some relevant information on ML/TF risks, the assessment is mostly focused in the domestic context and considers certain vulnerabilities related to a limited set of NPOs. According the 2016 NRA, NPOs are a low risk of TF. Strategic and sectoral studies conducted by the UIAF are a positive step, although TF risks of NPOs defined by the FATF are not particularly addressed. This prevents the country from applying effective, focused and proportionate measures to NPOs vulnerable to TF abuse, in line with the risk-based approach.

242. During the onsite visit the assessment team noted that there was not a clear understanding of the TF risk faced by the NPO sector, particularly with respect to those NPOs involved in international funds transfers and foreign NPOs.

243. Oversight of NPOs by supervisors such as Coldeportes, Supersolidaria, Supersalud and the Mayor's Office of Bogota is not targeted on CTF matters nor is it based on TF risk.

244. Competent authorities have adequate legal powers to gather relevant information from NPOs and have the capability to act against those entities which are suspected of TF. However, more sustained engagement with the NPO sector is needed to understand and effectively mitigate the TF risks. Further guidance regarding CFT measures and trends is needed as well.

245. Authorities have conducted some training activities and meetings aimed at NPOs covered by the AML/CTF legal framework. However, further awareness on TF risks among the NPO sector is needed, particularly for those NPOs beyond those subject to AML/CFT requirements. Colombia's demonstrated a low level of effectiveness in implementing a targeted approach, conducting adequate outreach and oversight of at-risk NPOs.

Deprivation of TF Assets and Instrumentalities

246. The authorities have defined the deprivation of the finances of BACRIM and GAOS (particularly the FARC) as a strategic objective. Colombian authorities have been employing the AFL to forfeit assets of individuals convicted of TF or the administration of resources related to terrorist activity (see IO.9). From 2011 to 2015 there have been 20 asset forfeiture proceedings, with 96 individuals convicted for FARC-related TF during the same period.

247. Both the FGN and DIJIN are adequately resourced, trained and have mechanisms to quickly identify terrorist assets. In that regard, the FGN has prioritized dismantling the economic and financial structures of the FARC. The value of the assets forfeited from FARC from 2011 to March 2017 amounted to USD 376,701,578. This amount is significant and in line with the risk posed by TF by the FARC.

[48] By June 2017, there were also 54,743 NPOs registered under the General Secretariat of the Mayor's Office of Bogota.

Consistency of Measures with Overall TF Risk Profile

248. Colombian authorities focus their TF efforts and resources on the national terrorism threat, which is considered high. The threat from foreign terrorist organizations is considered low by the authorities as there have not been found to be operating in Colombian territory.

Overall Conclusions on Immediate Outcome 10

249. **Colombia has achieved a moderate level of effectiveness for IO.10.**

Immediate Outcome 11 (PF Financial Sanctions)

Implementation of Targeted Financial Sanctions Related to Proliferation Financing without Delay

250. The mechanisms for identification of funds/assets described for IO.10 partially apply for IO.11. However, the obligation set in the law for reporting entities to monitor the lists and inform authorities and UIAF of the presence of listed persons/entities, funds or property is only related to "*international lists of persons and entities associated with terrorist organizations"*, (i.e. for designated by UNSCRs related to terrorism and TF, as discussed under IO.10). In addition, the law makes no reference whatsoever to any obligation for the private sector regarding checking designations by UNSC lists on PF. Therefore, TFS obligations on PF for each type of entity differ depending on the enforceable regulations issued by the supervisors:

- For financial institutions under the SFC (not all the financial institutions), obligations on PF-WMD are laid down in the Basic Legal Circular, SARLAFT. The Inter-Administrative Cooperation Agreement contains the obligations for the SFC.
- For other reporting entities, obligations are set out in instructions and circulars recently issued by Supersociedades, SNR, and Coljuegos.
- For individuals and entities not classified as reporting entities, as is the case for most DNFBPS, there are no specific obligations regarding designated persons on PF-WMD Resolutions.

251. None of these instructions include any obligation to freeze funds or assets of designated persons on PF-WMD. In order to adopt any possible freezing action, the reporting entities must receive an order of precautionary measure issued by the Prosecutor Office, FGN, pursuant to the AFL judicial process, as described in R7 and the discussion for IO.10.

252. Reporting entities must monitor the lists of the UNSCRs, including PF lists, and inform the authorities in case of a match. In such case, according to the Colombian authorities, the AFL freezing procedure described for IO.10 would also apply for freezing actions, on PF, but it has never been applied in practice. However, the assessment team, the assessment team noted that AFL freezing measures can only apply to goods and assets linked to criminal offences or to those activities[49] that deteriorate social morality for which a law expressly provides so. Consequently, AFL freezing orders could not be issued for assets of designated persons/entities in PF Resolutions PF simply because being listed by the UNSC Resolutions on PF is not a crime. Moreover, it does not imply a link to any criminal offence and there are no legal are no legal provisions in Colombia authorizing AFL measures for listed persons/entities in the PF UNSCR.

Identification of Assets and Funds Held by Designated Persons/Entities and Prohibitions

253. There have not been any identification of assets/funds held in Colombia under the PF or under any other UNSCR. No information has been received from the authorities on any case of request for transfer or

[49] Constitutional Court 1708-2014, January 20th: AFL applies for assets linked to all crimes as well as for any activities that a Colombian law expressly sets that deteriorate social morality or cause damage to the Public Treasury.

sale of conventional weapons and related material or material articles, equipment, goods and technologies related to the PF-WMD programs indicated in the UNSC Resolutions. Financial and trade flows with Iran and DPRK are not economically relevant (e.g. USD 1.2 million exports to Iran in 2015) and exposure to PF risks does not appear to be significant.

254. The Colombian system permits freezing of funds/assets that are directly or indirectly proceeds of an "illegal activity" or those that form part of an unjustified equity increase when there are grounds to prove they come from illegal activities. The assessment team notes that freezing measures may only extend to lawful assets if the specific causes listed in the law occur: when licit assets are used to conceal goods of illicit origin, when licit assets are mixed with goods of illicit origin and when licit assets have an equivalent value to that of illicit goods that cannot be located .Therefore, freezing cannot include all funds/assets owned or controlled by the designated persons/entities in all circumstances, since possible freezing of assets with licit origin is limited to the specific circumstances listed in the AFL.

Financial Institutions and DNFPBs' Understanding of and Compliance with Obligations

255. During the onsite visit, some financial institutions, mainly banks, seemed to be aware of their obligations of routinely monitoring UNSCR lists, including PF, but no persons/entities were identified at the time of the visit. The level of awareness is lower in other sectors, especially DNFBPs, because monitoring UNSCR lists is only required for those classified as reporting entities under Colombia´s AML/CFT legislation, and since many DNFBPs are not classified as AML/CFT reporting entities, they do not check UN lists

256. Colombian authorities informed the mission of a TFS simulation exercise to test the effectiveness of measures for the identification of designated persons and adoption of freezing actions without delay. The exercise was carried out with the participation of many financial institutions and the relevant authorities. A one-day workshop was also held in 2016 on freezing funds and assets which included elements on TFS. However, no specific guidance has been released for any sector to ease the application of PF UNSCRs TFS in the country.

257. Following SAGRLAFT, Supersociedades may design and define templates that must be used and complied for TFS matters by the entities under its supervision. These templates might be adjusted according to the characteristics of each industry or economic sector of the different types of companies, but at the time of the on-site visit nothing had been issued by the supervisors.

Competent Authorities Ensuring and Monitoring Compliance

258. There are several authorities in charge of ensuring application of PF sanctions. The MINREX, through the Directorate of Multilateral Political Affairs, disseminates information on PF UNSCR among national authorities (UIAF, SFC, Supersociedades and others) responsible for ensuring and monitoring compliance, but some communications were not conducted in a timely manner. Trade restrictions are monitored and authorized by the Ministry of Defense and *Industria Militar*[50] (for authorizations on any dual materials or weapons); by the DIAN (for customs controls of all trading activities with countries on TFS Resolutions and for materials and equipment listed in the UNSCRs), Ministry of Commerce, Maritime General Directorate, Civil Aviation Directorate, among others.

259. There are legal prohibitions and restrictions for the importation of goods from countries on which the UNSC has imposed measures in this matter and Colombian foreign trade operators need to have in place mechanisms of PF prevention and risk management determined by DIAN to obtain the customs authorizations to operate.

260. To coordinate possible actions, on March 2011 an Inter-Institutional Committee was established to review, monitor and promote compliance with the requirements established by the UNSC Resolutions

[50] Indumil is a military weapons manufacturer run by the Colombian government.

related to PF-WMD. This Committee acted as a centralized unit for permanent consultation, information exchange and technical advisor. Also, since 2015 a sectorial commission called National Authority for Prohibition of Development, Production, Storage and Use of Chemical Weapons was created with participation of several Ministries.

261. The DIAN oversees monitoring PF trading obligations and sanctioning infringements, and the SFC monitors FIs compliance with their obligations of checking PF lists. This is performed as part of the inspection process of the AML/CFT obligations based on the SARLAFT, but there are no specific supervisory activities on PF. SFC can issue instructions and sanctions for non-compliance of these duties, but no specific instructions have been issued in this matter. As for the other reporting entities, there are no activities on monitoring compliance related to nor is there for TFS obligations on PF. Once again, it must be noted that most entities of the DNFBPs supervised by Supersociedades are not included as reporting entities and are not monitored in their AML/CFT obligations.

262. Supervisors can only supervise and sanction compliance with monitoring lists and notification obligations. However, they cannot sanction infringements on freezing obligations ordered by prosecutors under AFL, since this is part of a judicial process. Breaches of prosecutor´s orders could only be supervised and sanctioned by the Prosecutor´s Office.

263. It must be noted that according to different documents provided to the assessment team at the time of the onsite visit, the authorities were not aware of the changes to the regime of the UNSC sanctions of Iran contained in UNSCR 2231.

Overall Conclusions on Immediate Outcome 11

264. **Colombia has achieved a low level of effectiveness for IO.11.**

5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

A. Key Findings

- Overall, financial institutions have a reasonable understanding of the ML risks and AML obligations. DNFBPs, except for casinos, have a lower level of awareness of ML risks and obligations compared to financial institutions.
- Colombia has brought most of the categories of DNFBPs under the existing AML/CFT framework. However, law firms, accounting firms, the real estate sector, and dealers in precious metals and stones (except for gold dealers) are not covered.
- There are significant legal and regulatory gaps as well as serious deficiencies in implementation of CDD and enhanced risk mitigation measures under the existing AML/CFT framework that negatively impact the overall effectiveness of preventive measures by reporting entities.
- Implementation of CDD and risk mitigating measures, including for BOs, within most financial institutions appear low. MVTS are not consistently maintaining records of the information, and documentation obtained to identify and verify the identity of the customer.
- Financial institutions and DNFBPs have established risk management systems in line with the obligations established by the SARLAFT or equivalent systems considering their size, complexity of operations, and other factors.
- While most financial institutions that are subject to the core principles seem to be complying with the requirements to report suspicious transactions, the volume of reporting by the DNFBPs, including categories considered high risk, is negligible because of lack of awareness.
- Financial institutions and DNFBPs seem reluctant to and, in some cases, unaware of the obligation to report to the UIAF attempted transactions when they are not able to able to match customer information to the government-issued identity card during the CDD process.

B. Recommended Actions

- Work closely with the financial sector and DNFBPs to increase the level of awareness and understanding of potential ML and TF risks, and improve the volume of STRs.
- Revise the existing framework to establish the obligation to conduct CDD in law; fully extend the AML/CFT obligations to the real estate sector, all law firms, accounting firms, and dealers in precious metals and stones; explicitly designating in the law the PTOs as reporting entities subject to all AML/CFT obligations; establishing an obligation on savings and loans cooperatives and notaries to identify and verify the identity of the BO when establishing a business relationship; enhancing the process for determining the BO in line with the standard, and addressing other technical shortcomings identified in the Technical Compliance Annex.
- Place additional supervisory efforts to ensure that financial institutions and DNFBPs have a thorough understanding of their obligations and implement enhanced risk mitigation measures, when needed.
- Ensure that risk management systems to be developed, adopted, and implemented by real estate agents, lawyers, accountants, and professionals engaged in the purchase and sale of foreign currency

are adequate, consider the results of the 2016 NRA, and include comprehensive AML/CFT measures in line with the inherent risks of their respective sectors.

The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (Preventive Measures)

Understanding of ML/TF Risks and AML/CFT Obligations

265. Financial Institutions have a reasonable understanding of their ML risks and AML/CFT obligations as imposed by the existing legal and regulatory regime. However, the level of understanding of ML risk and AML/CFT obligations for DNFBPs is considered basic. Financial institutions' understanding is facilitated by the development, adoption, and implementation of a comprehensive risk management system for AML/CFT known as the SARLAFT. The SARLAFT was established by the SFC and applies to all institutions under its supervisory responsibility. The SARLAFT consists of two phases. The first one corresponds to risk prevention, and the second one corresponds to the control environment. For purposes of the SARLAFT, institutions must consider at least the following risk factors: customers and users, products, distribution channels, and jurisdictions which is in line with the standard.

266. In complying with the obligations established by the SARLAFT, financial institutions provided the assessment team with documentation supporting the risk management systems developed, adopted, and implemented that comprise the following stages: identification, measurement or evaluation, control, and monitoring of ML/TF risks. Within these stages, financial institutions have developed customized policies, internal and operating procedures, recordkeeping requirements, organizational and operational structures, established management committees and/or control bodies, established technological infrastructure that interfaces with the core activities system by sector, adopted disclosure of information procedures, risk-rating criteria and heat maps, and training programs. Although the requirements of the SARLAFT or equivalent system also extend to DNFBPs, in terms of TF risks and coverage of TF in evaluating the four risk factors, this is considered low, reflecting an insufficient understanding and awareness due in part to the recent modifications (established on December 2016) to the regulations applicable to DNFBPs that came into effect at the end of September 2017. Among financial institutions and DNFBPs, TF understanding is limited to the implementation of the UNSCR and OFAC lists. The authorities argued that in the case of Colombia, TF is considered as an internal threat and not as an international one.

267. During the recent NRA exercise, many financial institutions participated and contributed to the NRA and validated the threats and vulnerabilities identified within their sectors (drug trafficking, corruption, illegal mining, and smuggling). Meetings with representatives from financial institutions revealed a widespread practice used across all sectors when determining the customer risk profile. This included using the International Standard Classification System *(Clasificacion Industrial Internacional Uniforme – CIIU)*, as the first step in the process for categorizing customer risk. In addition to the *CIIU*, financial institutions and DNFBPs apply other criteria to determine the final inherent risk with customers. Other criteria are also applied to determine the inherent risk identified within products, distribution channels, and jurisdictions, as required by the SARLAFT.

268. As implemented the *CIIU* provides for a systematic, consistent, and uniform classification of all economic activities related to the different customer categories. In addition to the *CIIU*, when determining risks inherent in geographic areas, institutions made use of various external sources like: i) a report compiled by the national police highlighting predicate offenses within the 32 municipalities in Colombia; ii) reports from the UNODC related to drug zones; iii) countries listed by the FATF and reports published by the UIAF; iv) information obtained from the national security agency; and v) information available from the Attorney General's Office.

269. The SARLAFT and other equivalent risk management systems applicable to other sectors together with the *CIIU* methodology as implemented, have generated a long list of categories of customers (mainly based on their economic activities) classified as "high risk" which are commonly included in the institutions' policies. These include: mining, casinos, real estate (including real estate developers/construction), cash intensive businesses, currency exchange businesses, businesses involved in the buying/selling of arms, businesses involved in the creation of web pages, adult entertainment businesses, telecommunications, gaming, former FARC members, money remitters, pawnshops, political action committees (PACs), notaries, lawyers, chemical companies, Politically (and Publicly) Exposed Persons, NPOs, and embassies.

270. In determining customer risk categories, the SARLAFT provides a general framework that allows institutions to develop their own risk management systems. In practice, institutions have developed, adopted, and established a variety of risk rating systems ranging from a three-risk level categorization (low, medium, and high), to others adopting categories with up to eight levels of risk. Supporting evidence of their risk management systems and meetings with representatives from financial institutions indicated that the scope and application of their preventive measures regimes, including for simplified and enhanced CDD measures, are implemented in line with the risk category assigned to their customers. The assessors are of the view that although comprehensive risk management systems and technical resources have been invested in developing these system, additional adjustments/calibrations are needed in some instances to better customize the systems to the customer categories, and complexity of activities and operations undertaken by the institutions. Furthermore, considering the many and diverse risk rating levels and scales currently adopted by the institutions, additional guidance and training is needed. This will ensure consistency and uniformity in the development and application of the SARLAFT and equivalent risk management systems.

271. With respect to DNFBPs, the level of awareness and understanding of ML risks and AML/CFT obligations is lower than that of financial institutions. Casinos were the only exception, with an awareness of the vulnerabilities and ML risks to which their sector is exposed. A major contributor to this low level of awareness and understanding among DNFBPs is that many of the enhancements to existing AML/CFT regulations requiring risk management systems and obligations were established at the end of December 2016, and some were not in force until September 2017. [51]

272. Regulations addressing risk management systems like the SAGRLAFT imposed by the Supersociedades in December 2016, on real estate companies, law firms, accounting firms, professionals engaged in the purchase and sale of foreign currency are too recent to adequately assess effectiveness. On a positive side, meetings with representatives from some of the DNFBP sectors revealed that the *CIIU* is also considered as the first step for categorizing customers as part of the process for assigning a customer risk profile when establishing business relationships, which in line with the approach used by financial institutions. Going forward, additional oversight is needed to ensure that all revisions to the obligations, risk management systems, and policies are adequately developed in line with the four risk factors and effectively implemented when the regulations come into effect.

273. There are several categories of DNFBPs that under the existing AML/CFT framework are not considered reporting entities, and are not subject to the AML/CFT obligations until their financial activities surpass a pre-determined threshold. In practice, most of these DNFBPs do not understand ML/TF risks and AML/CFT obligations in Colombia as confirmed during meetings conducted. These include the real estate sector, lawyers, and accountants. Moreover, dealers in precious metals and stones are not designated as AML/CFT reporting entities. None of these DNFBPs participated or contributed to the NRA exercise process. In addition, understanding of TF seems less evident, and mostly focused on the internal threats, among both financial institutions and DNFBPs. The understanding of TF risk, based on the meetings held, was mostly limited to complying with the obligations related to the implementation of the UNSCRs and OFAC lists.

[51] AML/CFT regulations requiring risk management systems and obligations were established at the end of 2016, and some will not be in force until, on or around September 2017 which appear also to affect the level of reporting of suspicious transactions.

274. On a positive note, Colombia has designated other high to medium risk non-financial institutions as reporting entities that go beyond those listed in the FATF Recommendations. These are: games of chance (lottery, permanent betting and equestrian betting), mining and quarrying, car dealers and football clubs that are subject to the AML/CFT obligations, only after surpassing the established income threshold.

Application of Risk Mitigating Measures

275. As indicated above, financial institutions subject to the SARLAFT or equivalent risk management systems are, at a minimum, required to develop, adopt, and establish: policies, procedures, documentation requirements, organizational structure, control mechanisms, technological infrastructure, mechanisms for disseminating information, and training. As established, the SARLAFT and equivalent systems only provide a general framework and overarching obligations of what financial institutions are required to have in place, as such, the policies, procedures, controls, IT, risk criteria and heat maps, platforms and training programs differed among financial institutions as expected. Representatives from financial institutions indicated that, regardless of their size, complexity of activities and operations, lines of business, and other factors, all financial institutions are required to comply with the core obligations established by the SARLAFT o equivalent systems. Private sector representatives indicated that for many years now their institutions have dedicated significant resources in terms of time, IT systems and human resources to develop and implement risk management systems in line with their size, complexity, and operations (including those with a presence abroad) and that their current initiatives included calibrating those risk management systems to take into account recent changes in operations, products, presence in new jurisdictions, and revisions to the regulatory framework.

276. In determining and assessing the level of understanding and compliance by financial institutions with respect to the sound and effective implementation of their risks management systems and controls, the authorities provided the assessment team with a sample of 22 inspections reports. These inspection reports, as indicated by the authorities, reflected their ML/TF risk perception with respect to each financial institution inspected. That is, these financial institutions were selected for an inspection visit, because their ML/TF risk profiles, as assessed by the authorities resulted in high to medium-high risk exposures. The inspection reported covered the following institutions:

Table 33 — Risk profiles of financial institutions

Type of Institution	Risk profile assigned by the authorities	Internal risk profile assigned by the institution
Banks	Mostly Medium-High (one rated High)	Various ratings: Low, Medium, Medium-High
Securities intermediaries	Medium-High	High/Medium-High
Insurance companies	Medium-High	Medium
Fiduciaries	Medium-High	High
Micro-finance companies	Medium-High	Medium
Bonded warehouses	Medium-High	Medium

277. A review of these inspections reports, which reflected a comprehensive implementation of supervisory procedures, revealed shortcomings in several areas of the financial institutions' preventive regimes. To address these shortcomings, the authorities implemented corrective measures and actions through formal action plans specific actions and timelines. However, there was no indication that sanctions had been imposed on any of these institutions. A summary of the most common findings, by sector is presented below.

Table 34 — Findings of supervision of financial institutions

Type of Institution	Areas with shortcomings
Banks	1, 2, 3, 4, 5, 6
Securities intermediaries	1, 2, 3, 5, 6
Insurance companies	1, 2, 5, 6
Fiduciaries	1, 2, 3, 6

Micro-finance companies	1, 2, 6
Bonded warehouses	1, 2, 5, 6

* List of shortcomings:
1 – implementation of SARLAFT or equivalent risk management system
2 - implementation of CDD measures (including customer information updates)
3 – internal audit
4 – compliance officer
5 – detection, analysis of unusual transactions and/or reporting suspicious transactions
6 – IT systems (including limitations with respect to UNSC lists' consultations)

278. The authorities argued that the shortcomings identified in their inspection reports confirm their appreciation of risk in terms of the risk profiles assigned and their risk-based supervisory approach when selecting these institutions for onsite inspections. The assessment team is of the view that, although financial institutions have developed, adopted, and established comprehensive risk management systems in line with the obligations established by the SARLAFT, adequate and effective implementation of risk mitigation measures needs improvement. Furthermore, considering the recent modifications (December 2016) to the obligations imposed on DNFBPs which came into effect after the visit means that these sectors were not able to effectively implement enhanced risk mitigating measures during the period under review

279. Private sector representatives indicated that although many of them participated in the 2016 NRA exercise, most only had the opportunity of reading the "Executive Summary". Thus, they were not fully aware of its findings and recommendations and their policies, internal controls and programs had not yet been appropriately updated or modified to reflect the results of the 2016 NRA given the recent completion of the NRA exercise.

Application of CDD and Recordkeeping Requirements

CDD

280. The 2016 NRA identified several regulatory gaps/shortcomings which negatively impact the effectiveness of risk mitigating measures among financial institutions and DNFPBs. For example, there was no overarching legal obligation to conduct CDD. Instead requirements are found in regulations and circulars issued by each supervisory authority. In the case of PTOs conducting domestic transfers through the postal system, there is no law explicitly designating them as reporting entities; instead, the sectoral Law 1369/2009 in broad terms requires PTOs to comply with the AML/CFT requirements transfer operators are subject to all AML/CFT requirements under MINTIC's Resolution 2567/2016. Meetings with representatives from various sectors described the scope of CDD risk mitigating measures (including ongoing monitoring) established within their institutions such that, the absence of a formal CDD obligation did not seem to be an impediment for financial institutions to properly identify their customers or BO(s) or to conduct adequate CDD. Although inspection reports reflect shortcomings in several aspects of the preventive regime, action plans together with corrective actions imposed by the supervisory authorities appear to ensure that these shortcomings are addressed in a timely manner as financial institution continue to enhance and calibrate their risk management systems, processes, and controls, as required by the SARLAFT or equivalent systems.

281. Additional shortcomings in the regulatory framework related to the identification and verification of BO also affect the implementation of adequate risk mitigating measures. For example, savings and loans cooperatives, and notaries are not obliged to identify and verify the BO when establishing a business relationship. In general, financial institutions and DNFBPs were not aware that if no natural person is identified, the identity of the natural person who holds the position of senior managing official must be obtained. Also, there is no requirement to collect BO information in all cases. Regardless of the regulatory shortcomings, none of the inspection reports disclosed issues with respect to adequately applying CDD measures to BO. However, both financial institutions and DNFBPs need to enhance their knowledge with respect to the requirements for addressing BO identification when no natural person is identified as required by the standard.

282. Meetings with representatives from banks, securities firms, insurance companies, currency exchange firms, and savings and loans cooperatives confirmed that their customer acceptance forms require the disclosure of the BO. Until the BO is identified, and in the event, that the BO is not the potential accountholder, a business relationship is not accepted/established or any transaction executed/performed.

283. Representatives from banks, securities firms, insurance companies, and money remitters did not reveal any concerns or obstacles to sharing customer information including among and between financial groups

Record-keeping

284. Most reporting entities have a good understanding of the requirements in place for maintaining documentation. Meetings with representatives indicated that the record retention period is in practice set at five years for all matters related to AML/CFT, with a maximum of 10 years as set in the Commercial Code. From all reporting entities met, money remitters and PTOs were the only ones not consistently maintaining or archiving documentation supporting the identity of the customer or BO, and related documentation. The review of the inspection reports provided by the authorities revealed deficiencies related to insufficient information obtained when conducting CDD as well as deficiencies in maintaining customer information and records up to date. These deficiencies were addressed through action plans and corrective actions imposed by the authorities.

Application of enhanced or specific CDD

Politically Exposed Persons (PEPs)

285. Although there are limitations in the legal and regulatory frameworks (See the TC annex), meetings held with representatives from banks, securities, insurance companies, and fiduciaries indicated that in practice when establishing business relationships, financial institutions apply enhanced CDD measures to foreign PEPs, domestic PEPs, and publicly exposed persons and officials from international organizations. Customer acceptance forms require the disclosure of or identification of the person, the BO, family members, or associates as PEPs. In addition, many reporting entities indicated that their entities are subscribed to and apply the World Check application when establishing business relations, including for determining if a potential customer is a PEP. However, DNFBPs indicated enhanced CDD measures applied mostly to domestic PEPs and publicly exposed persons. Some DNFBPs were not aware of the obligations extending to foreign PEPs and officials from international organizations. The review of inspection reports highlighted shortcomings with respect to CDD measures and documentation requirements applicable to PEPs, as well as the lack of enforcement of enhanced CDD measures for this category of customer. These deficiencies were addressed through action plans and corrective actions imposed by the authorities.

Higher Risk Countries

286. Private sector representatives indicated that within their SARLAFT or equivalent risk management system, high-risk countries, including those listed by the FATF, are considered under the "jurisdictions" component. Following this analysis, enhanced CDD measures are applied if business relationships, transactions, or customers are from high-risk jurisdictions. In the case of customers coming from high-risk jurisdictions, many representatives indicated that the business relationships are not established or the transaction is subject to enhanced scrutiny. The review of the inspection reports did not reveal any shortcomings or noncompliance issues related to carrying out business relationships with high-risk countries.

Targeted Financial Sanctions (TFS)

287. Financial Institutions and DNFBPs met indicated that they were aware of the obligations imposed by the SARLAFT and equivalent risk management systems with respect to the UNSCRs linked to TF and proliferation of WMDs and UN sanctions lists. Some representatives with a presence in a foreign jurisdiction

referred to the United States' OFAC list as another list to check before establishing any business relationship or executing a wire transfer. None of the institutions met indicated having any of their customers identified, reported, or acted against in line with the TFS obligations. However, inspection reports revealed shortcomings related to limitations identified with IT systems that could prevent the timely and effective identification of potential customers against the UN list. These deficiencies were addressed through action plans and corrective actions imposed by the authorities.

Correspondent Banking

288. Although the regulatory obligations in place for correspondent banking relationships (CBRs), are not fully in line with the FATF standard, the meetings conducted with representatives from banking institutions did not reveal any challenges or concerns with their correspondent banking activities or relationships. In practice, banks indicated that they are obtaining sufficient documentation to comply with all the requirements of R.13, including issues identified as shortcomings in the technical assessment (i.e. determining the reputation of the respondent or correspondent institution as well as the quality of supervision). Representatives also indicated that they do not allow the establishment of "payable through accounts", and that their internal policies prohibit them from entering relationships with shell banks. None of the institutions interviewed maintained correspondent banking relationship with shell banks.

Wire Transfers

289. Several technical shortcomings were identified within the regulations in place for wire transfers, both domestic and international. Meetings with representatives from banks indicated that their internal policies, procedures, and forms used for originating/receiving international wire transfers (via SWIFT) adequately included the obligation to obtain the originator and/or the beneficiary the account number linked to the transaction. Internal policies also required banks not to conduct the transaction if they are not able to verify the originator or beneficiary information and to file a suspicious transaction report with the UIAF. Representatives also indicated that if an inbound or outbound wire transfer, or a transfer when acting as an intermediary, lacked information on the originator or the beneficiary it would not be executed and the filing of a STR considered. The review of inspection reports indicated shortcomings related to the effective application of mitigating measures in this area. These deficiencies were addressed through action plans and corrective actions imposed by the authorities.

290. As previously mentioned, the regulatory framework applicable to money remitters and the PTOs also reflected several shortcomings. In practice, remitters and operators obtained information on the originator and beneficiary; however, a copy of the documentation validating the identity of the originator or the beneficiary was not consistently maintained in file. Furthermore, in those instances where the information was incomplete, the payment was rejected but not reported to the UIAF as an attempted transaction.

New Technologies

291. Representatives from reporting entities interviewed indicated that in the case of new technologies, new products or modification of existing ones, they would follow the requirements established in their SARLAFT or equivalent risk assessment system including consulting with their respective competent supervisory authority.

292. In conclusion, the assessors are of the view that although shortcomings were identified during onsite inspections, as evidenced in the sample of inspection reports provided by the authorities, these deficiencies were adequately addressed through action plans and corrective actions imposed by the authorities.

Reporting Obligations and Tipping Off

293. Reporting entities subject to Core Principles generally seem to comply with their STR obligations. In terms of volume, entities under the supervision of the SFC filed most STRs received by the UIAF. While

most financial institutions understand the reporting obligation and seem to comply with the requirements to report suspicious transactions, meetings held with private sector representatives revealed gaps with respect to reporting attempted transactions where some institutions were not aware of the requirement to report such transactions. Meetings with representatives from the private sector also revealed that when financial institutions were not able to match the biometric information (fingerprint) to the customer identify card data during the CDD process or when conducting a transaction for a customer, even though the business relationship was not established or the transaction conducted, financial institutions were not filing a suspicious transaction report with the UIAF.

294. Although the volume of reporting from core principles financial institutions appears to be adequate, reports made by DNFBPs some of which are considered high-risk, and PTOs are far less so (see IO.6).

295. The review of inspection reports revealed some deficiencies with respect to the IT systems in place and software applications designed to monitor unusual transactions, including for UNSC lists. In this respect the reports clearly identified instances where the systems had limitations in generating alerts and/or identifying potential unusual transactions. Thus, there is a chance that due to these limitations the system for identifying, reviewing, and reporting suspicious transactions could be adversely impacted, resulting in a low volume of STRs.

296. Based on the statistical information related to STRs provided by the authorities, banks, reporting entities (including the DIAN), notaries, insurance companies, PTOs, securities intermediaries, fiduciaries, and money and currency exchanges account for most reports (see Table 10 in the IO.6 section). Reporting entities including lotteries, casinos, real estate agents, dealers in gold, lawyers, and accountants reflect the lowest levels of reporting although these sectors and reporting entities are considered high risk in Colombia. Further, the above-mentioned deficiencies related to limitations identified within IT and software have also contributed to the low level of STRs, as well as the low level of ML/TF risk understanding as described earlier. In other cases, DNFBPs like lawyers, accountants, real estate agents and dealers in precious metals and precious stones were not subject to AML/CFT obligations

297. Financial Institutions and DNFBPs are aware that they should avoid tipping off. Tipping off does not seem to be a key concern, as feedback from supervisors and LEAs did not indicate challenges regarding this.

Internal Controls and Legal/Regulatory Requirements Impending Implementation

298. Financial Institutions interviewed had internal controls, policies and procedures for AML/CFT compliance. The level of controls as explained by representatives from many sectors appear to be adequate given the size, risk level, and scope of operations. financial institutions with a presence abroad indicated that they had developed, adopted, and implemented policies and procedures at the corporate/group level. Verification of the effectiveness of these controls is conducted through onsite inspections of the subsidiaries abroad. Report of inspections indicated visits taking place in various Central American countries where Colombian banks have a presence. However, a sample of inspection reports that documented these cross-border visits revealed shortcomings in relation to the development and application of the SARLAFT, and the implementation of risk mitigating measures. These deficiencies were addressed through action plans and corrective actions imposed by the authorities.

Overall Conclusions on Immediate Outcome 4

299. **Colombia has achieved a moderate level of effectiveness for IO.4.**

6. SUPERVISION

Key Findings and Recommended Actions

A. Key Findings

- The understanding of ML/TF risks by supervisors is still evolving with most being well informed of the main ML threats facing the Colombian financial and DNFBP sectors, but to a lesser extent aware of TF threats. While the SFC is more advanced in the understanding of ML/TF risks, the understanding of the other six supervisors is much lower, and they have relatively less experience than the SFC in applying risk-based supervisory systems. In addition, most supervisors focus on domestic threats and do not yet take sufficient account of foreign-sourced risks.

- The SFC's risk-based framework does not take adequate account of risks associated with financial institutions, mainly banks, that have substantial operations in higher risk countries and regions.

- Overall, the 2016 NRA reinforced and broadened the supervisors' awareness of domestic threats, but generally did not provide supervisors new and specific information to assist them in recalibrating their risk-based supervisory systems and tools.

- Scope limitations in Colombia's AML/CFT framework for financial institutions and most DNFBP sectors also constrain the supervisors' understanding of institutional and sectoral risks, and their effectiveness.

- The DNFBP sectors, including lawyers and accountants, are only minimally covered by the AML/CFT regime. These out-of-scope sectors, and those which are not yet under effective supervision, represent systemic gaps in Colombia's AML/CFT regime.

- The SFC has improved its risk-based framework for offsite AML/CFT supervision in recent years, but has not sufficiently extended it for onsite inspections. Other financial and DNFBP supervisors are still developing their offsite risk identification and assessment systems and cannot yet demonstrate their effectiveness in mitigating risks and compliance supervision.

- Resource limitations, particularly with respect to the supervision of non-core principles financial institutions supervised by the DIAN and MINTIC, also limit effective supervision.

- The integration of ex-FARC members into the formal financial system is an emerging challenge for supervisors with respect to the implementation of risk-based supervision systems. As of the onsite visit, no formal and consistent supervisory policy had been articulated by any of the supervisory bodies and communicated to the sectors.

- The licensing regime, including fit and proper checks on owners and directors of financial institutions and DNFBPs, appears to be robust with respect to Colombian nationals, but less stringent for foreign BOs.

- Cooperation and exchange of information with foreign supervisory agencies in processing license and related applications do not appear to be the norm across all sectors. In addition, monitoring that fit and proper criteria are met after market entry has not been institutionalized especially with respect to non-SFC supervised entities.

- The deficiencies identified in the financial institutions' SARLAFT have been addressed mainly through action plans and corrective actions imposed by the authorities and to a lesser extent by means of financial penalties. Colombian authorities have a well-established tradition of providing

guidance, training, and feedback to financial institutions and regulated DNFBPs, including through coordinated activities with the UIAF and other authorities. However, the UIAF ceased dissemination of feedback reports on the quality of STRs submitted by reporting entities in 2014. There is insufficient information available to adequately assess and demonstrate whether supervisors' actions have a positive effect on risk mitigation and compliance over time.

B. Recommended Actions

- Enhance the assessment and understanding of TF risks by specifically incorporating TF elements in the sectoral risk assessment models.
- Strengthen the assessment and understanding of ML and TF risks arising from cross-border financial institution subsidiaries and affiliates, particularly operating in Central America and offshore centers.
- Extend the scope of the AML/CFT regime to nonregulated money lenders and DNFBP sectors including, but not limited to lawyers and accountants.
- Fully implement a comprehensive licensing (in process) and supervisory regime for all internet-based casinos.
- Extend the offsite risk-based supervisory framework to all onsite inspections for all sectors.
- Formalize and articulate a supervisory policy for managing ML/TF risks associated with the integration of ex-FARC members into the formal financial and DNFBP sectors.
- Strengthen fit and proper licensing procedures for nonresidents and institutionalize a post-licensing system for ongoing monitoring compliance with fit and proper eligibility criteria.
- Review and, as appropriate, enhance sanctioning practices to ensure that proportionate and dissuasive sanctions are more consistently applied, especially with respect to high-risk and high-profile cases (e.g., corruption).
- Reinstate the STR quality assessment and feedback reporting system by the UIAF to support AML/CFT supervision and compliance by financial institutions and DNFBPs.

The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The recommendations relevant for the assessment of effectiveness under this section are R.26–28, R.34 and 35.

Immediate Outcome 3 (Supervision)

Licensing, Registration and Controls Preventing Criminals and Associates from Entering the Market

Financial Institutions

SFC Supervised: Core Principles financial institutions[52], Non-Bank financial institutions and Fiduciary Companies

300. The SFC applies generally similar licensing procedures for all entities under its supervision. Market entry controls are generally robust, particularly with respect to banks, securities intermediaries and

[52] Core principles financial institutions are banks (Basel), insurance (IAIS) and securities (IOSCO) firms.

insurance companies. The SFC conducts background checks (including source of funds and wealth) on new shareholders and senior managers and officials using police, judicial and other agency data sources (e.g. DIAN). In cases where non-residents participate in the ownership (including as BOs and/or PEPs) and management of financial institutions, the ability to conduct due diligence was not as extensive as for Colombian nationals due to limited access to background data when compared to domestic sources of information.

301. The SFC maintained that market entry fit and proper controls can also be applied on an ongoing basis, mainly through the regular supervision processes and review of public open source information. However, there is no institutionalized formal policy and system for post licensing ongoing fit and proper due diligence except for existing shareholders and officials through the checking of names against new official lists (*e.g.* OFAC and UN lists). Enhanced measures are not applied when PEPs are involved in the ownership and control of financial institutions and DNFBPs.

302. Unregulated money lenders (those that do not accept deposits from the public and include those that act as lending brokers and lend directly) are not subject to licensing and supervision in Colombia and are excluded from the AML/CFT regime (see R.26 and R.27). While there are no formal estimates of the size of this sector, it is generally believed that it is very large and poses systemic vulnerability as an entry point for illicit funds into the economy and financial sector. The mission identified a number of websites that grant loans on a national level. One openly and misleadingly advertises that it is a corporation subject to inspections and supervision *("Somos una corporación debidamente constituida y registrada, sometida a inspecciones y vigilancias económicas")*, and no action had been taken by the authorities at the time of the mission. There are also internet credit service providers that link customers with these lenders suggesting a well-developed and sophisticated sector.

DIAN Supervised: Professional currency exchange firms other than one supervised by the SFC that conducts a broader range of activities

303. DIAN is responsible for licensing and supervising about 1,263 currency exchange firms (also known as "*cambistas*") of which 1,156 are individuals and 107 legal entities. Most of these currency exchange firms conduct their authorized business with customers that operate in the informal cash-based economy which, according to the authorities, is estimated to exceed 50% of the Colombian economy, involving more than US$100 billion in cash transactions annually. DIAN has in place a process for mitigating the risk of criminal elements participating in the ownership, control and management of currency exchange firms. The measures include applying fit and proper requirements for licensing, which include police records.

304. DIAN also considers regulatory and tax violations in the licensing process. There are additional regulatory requirements for these firms that also act as exchange correspondents" which DIAN post mission stated are not operating)) for other currency exchange firms, but no enhanced licensing due diligence processes are applied in such cases. There are no specific processes for verifying the source of wealth and foreign exchange (cash) that currency exchange firms use for their business operations either at licensing or thereafter. On average, DIAN approves about 70% of license applications and it regularly applies sanctions for unauthorized operations.

305. From discussions with banks and other financial institutions, no bank and most other financial institutions do not accept currency exchange firms as clients due to their categorization as very high ML/TF risk. Notwithstanding the generalized de-risking of this sector, there are more than 1,200 licensed currency exchange firms and there is no policy on licensing or delicensing of these businesses that cannot open a bank account. This implies that currency exchange firms largely operate in the informal cash-based economy which further contributes to systemic ML/TF risk by providing a key entry point for illicit foreign currency into the real economy and financial system. The SFC indicated that a review of financial databases indicated that a small sample of firms had financial products with the financial sector but this does not specifically address the issue of de-risking by banks. It is unclear why the SFC did not request direct confirmation from the banks it supervises.

MINTIC Supervised: Domestic Money Transfer Operators

306. There are 5 licensed postal payment operators conducting business conducting business through 112 agents (collaborators) and about 27,700 customer service centers (subagents). A single large operator can have up to about 7,000-8,000 customer service outlets (subagents). The agents are not licensed and MINTIC has not established fit and proper systems for the subagents either. The absence of any fit and proper systems for agents and subagents is a significant gap in the system. MINTIC indicated that the payment operators conduct their own diligence on their agents and that they review the contracting arrangements during onsite visits.

307. Two of these operators are authorized to engage in cross-border remittance business, often relating to other regulated remittance firms. Onsite inspections are outsourced to consultants. According to MINTIC, recent data indicates that the volume of fund transfers has been growing about 15% annually. MINTIC conducts due diligence on shareholders holding 5% or more of share capital, and on top managers and directors. It also reviews their tax returns, police and other background records. However, there is no system for post licensing monitoring for fit and proper issues other than noting adverse news reports.

SES supervised: Financial Cooperatives

308. The SES supervises 181 savings and loans cooperatives (other than the 5 supervised by the SFC that conduct business with the public). The largest cooperative has around US$600 million in assets. However, the SES indicated that it conducts due diligence when it approves the participation of elected senior officials prior to the commencement of their administrative activities. It claims that it conducts ongoing monitoring for fit and proper requirements after authorization of directors/CEO and considers public complaints and the results of onsite inspections for this purpose. Due to concerns regarding misuse for criminal activities, a key challenge for the SES will be applying traditional fit and proper risk controls to applications involving ex-FARC members, who under the peace agreement, will be allowed to apply for cooperative licenses. So far this has not occurred.

Designated Non-Financial Business and Professions

SNR Supervised: Notaries

309. The SNR has 902 notaries under its supervision. The fit and proper processes are conducted by an accreditation Council that relies on a review of police, judicial and professional disciplinary background checks, and on a rigorous selection process that includes professional examinations and interviews. No statistics on accreditation suspensions and disqualifications for AML/CFT reasons were available.

Supersociedades Supervised:

Lawyers

310. Colombia has around 280,000 lawyers operating in various capacities. Under the current regime (2016 SAGRLAFT will go into effect in September 2017), Supersociedades will supervise only about 10 law firms for AML/CFT based on a total revenue threshold of about USUSUS$7USUSUS$7 million. Only those activities defined as legal services in the *CIIU* are covered for AML/CFT purposes which do not clearly extend to the full list of FATF covered activities, e.g. buying and selling real estate and managing assets. (See IO.4 and related Recommendations). Nonetheless, licensing of lawyers as individuals is conducted by the CSJ that is responsible for issuing, suspending and revoking licenses. The CSJ is not a designated AML/CFT supervisor for lawyers. The Supersociedades has no role in this process as it is only responsible for companies, not individuals, and there are no formal arrangements between the Supersociedades and the CSJ for coordinating the issuance of licenses and the application of sanctions for AML/CFT issues.

Accountants

311. It is estimated that there are, on average about 250,000 accountants licensed by the Central Board of Accountants as individuals. This Board is the licensing and professional oversight body that deals with disciplinary sanctions for professional violations only. Only 9 firms meet the Supersociedades criteria for AML/CFT supervision. The new AML/CFT requirements (SAGRLAFT) came into effect on September 30, 2017 and effective application commenced at the end of 2017. The scope of application of AML/CFT requirements is also limited by the *CIIU* that does not cover all the FATF activities established for accountants. There are also no formal arrangements between the Supersociedades and the Board for coordinating the issuance of licenses and the application of sanctions for AML/CFT issues. The Board is not a designated AML/CFT supervisor for accountants.

Real Estate Agents

312. There are as yet no adequate fit and proper procedures for this sector and no statistics were available on deregistration, suspensions and revocations of operations for AML/CFT reasons. Of the estimated 1,093 real estate firms (includes construction firms), only about 28 real estate agents that are registered as legal entities will be subject to the SARLAFT and Supersociedades supervision. These are the ones that will meet a US$12 million equivalent annual gross revenue threshold. No statistics on the total number of real estate agents (natural persons and legal entities) operating in Colombia were available.

Dealers in Precious Metals and Stones

313. There are no adequate fit and proper procedures for this sector and no statistics were available on deregistration, suspensions and revocations for AML/CFT reasons. The focus of the new SARLAFT requirement is mostly on mining operations. Dealers (e.g. jewelers) in precious stones are not covered by the AML/CFT regime and only legal entities that sell precious metals (mostly gold) and meet a total annual revenue threshold equivalent to about US$38 million for wholesalers (about 5 firms) and US$14 million for mining operations (about 9 firms) are covered. Colombia is the leading producer of emeralds in the world and dealers in this sector are excluded by the AML/CFT regime. No firm estimates on the number of retail dealers in precious metals and stones operating in Colombia were available, which could be in the thousands. There are some 49 mines and quarries and an additional 879 companies engaged in this business.

Coljuegos Supervised: Casinos/Games of Chance

314. At the time of the mission, Coljuegos was responsible for supervising about 383 licensed casinos operating through 2,500 establishments for AML/CFT purposes. There are unauthorized and unsupervised online/internet casinos operating in Colombia but firm statistics with respect to their number were not available. According to March 2017 press reports, there were more than 300 online betting websites in Colombia and measures have been taken to prevent their operations e.g. by blocking online gaming websites. A licensing and regulatory regime was recently established (September 2016) but no license had been issued at the time of the onsite assessment mission. Post mission, 8 licenses had been issued for internet casinos. The operations of unlicensed internet casinos operating in or from within Colombia were terminated by the authorities.

Supervisors' Understanding and Identification of ML/TF Risks

315. Most financial and DNFBP supervisors participated in the NRA process that was completed during the first quarter 2017, and have recently received reports on the NRA results. Most did not appear to have learned of any substantive new ML/TF threats and vulnerabilities affecting their respective institutions. Nonetheless, the NRA findings confirmed and helped them refine their prior understanding of threats and vulnerabilities affecting their respective sectors. It also helped them hone their understanding of national geographic risks, particularly as they related to illicit mining activities and smuggling. Little new risk information appears to have been gained with respect to domestic TF, nor of foreign sourced ML and TF risks. No supervisor could point to new TF specific risk factors as they relate to inherent institutional and sectoral factor vulnerabilities other than geographic locations, despite Colombia's history of terrorist acts.

These issues appear to be more related to the NRA model scope issues than supervisors' participation in the NRA process.

316. The assessors are of the view that the currency exchange firms and the domestic payment operators present two of the most important risk areas in Colombia's financial sector. This is largely because they conduct authorized business principally with customers that operate in the informal cash economy and their large numbers (agents and sub-agents in the case of funds transfers) makes effective supervision challenging. These factors in turn could have downstream risk effects for financial institutions that directly or indirectly provide services to them including banks, even though the latter have reportedly de-risked currency exchange customers. With respect to DNFBPs, other than licensed trust (fiduciary) companies, all the other sectors were, at the time of the mission, not subject to effective AML/CFT supervision. These represent systemic gaps and risks to the entire country. The sectors that were significantly or fully out of scope of the AML/CFT regime also pose significant risks to the system particularly the unregulated lenders and internet casinos. The latter are now being licensed (post mission) and will be subject to supervision going forward.

SFC

317. The recent NRA provided some general information on TF (which was not covered during the 2013 NRA) and on the vulnerability of banks and trustees to such risk. The SFC also improved its understanding of emerging risks relating to real estate trusts, a fast-growing sector. Notwithstanding, the SFC could not point to specific examples of areas where the NRA was used to improve its RBA to supervision, and strengthen its AML/CFT supervisory function generally.

318. Prior to the 2016 NRA, the SFC's main source of information for understanding and maintaining an understanding of ML/TF risks was its risk-based framework to AML/CFT supervision which is being incrementally applied to all sectors. Its understanding of sectoral risks is still evolving. It started this process during 2013-2014 as part of its broader prudential Integrated Supervision Framework (*Marco Integral de Supervision* - MIS) particularly for banks, stock brokers and insurance companies. This framework is based on an assessment of inherent risks in business activities and on an evaluation of risk management systems which is largely but not entirely based on compliance with the SARLAFT.

319. Up to the end of 2016, this risk assessment framework had been applied to 114 entities out of 418, including banks, stock brokers and insurance companies. The SFC is in the process of rolling out the RBA framework to other sectors under its supervision. The inherent risk analysis is based on reporting financial institutions own selection of vulnerable products and services, complemented with client statistical data with respect to volume and geographic location. Its assessment of cross-border geographic risk is overly complex and would be difficult to update within reasonable periodicity. To date, no periodic sectoral risk profiles (heat maps) for all sectors are produced.

320. An improved reporting and analytical framework is currently being developed for banks that should better integrate the AML/CFT risk-based framework with the broader prudential MIS. AML/CFT supervisors exhibited a growing understanding of this new system, particularly with respect to the assessment of total gross inherent risk, overall quality of risk management and the determination of residual or net risk. The SFC is also starting to develop consolidated financial group risk analysis, including ML/TF, into a domestic consolidated risk matrix. To date, no specific assessment has been conducted for TF even though the country has experienced decades of terrorism acts. This is a significant limitation in the assessment and understanding of risk, and on AML/CFT supervisory policy and strategy development.

321. The SFC's understanding of risk management in financial institutions is primarily based on its evaluation of questionnaire responses and other supporting documentation (e.g. audit and compliance reports), as well as onsite inspections, with respect to their implementation of the key elements of the SARLAFT. As part of the inspection process, the SFC also reviews risk management systems, particularly for compliance with the SARLAFT.

322. The AML/CFT risk-based framework and the MIS allow for the incorporation of other institutional and sectoral factors, including emerging issues. However, in practice these factors have not generally been considered in risk profiling in a proactive manner, e.g. when there are major changes and events such as the ongoing demobilization of the FARC whose members will now seek to access formal financial services. The risk assessment framework does not take sufficient account of specific cross-border ML/TF risks (e.g. banks regional operations especially in Central America, Paraguay and financial institutions doing business in offshore financial centers). The SFC conducts periodic reviews of emerging risks to the financial sector as part of its general supervisory processes but as indicated above, the FARC demobilization example has not been integrated into the risk profiling process.

MINTIC

323. MINTIC's understanding of ML/TF risks of domestic payment system operators is still evolving and is based primarily on the analysis of monthly financial flows to and from domestic geographic regions that have been rated as high risk, including with respect to illicit mining, extortion and kidnapping. Onsite inspection reports since 2016 generate risk matrices for inherent and residual risk based on customer/transactional risk and reporting obligations. The offsite analysis of risk is adequate, particularly with respect toto customer risk (e.g. non-residents and PEPs). There is also no clear understanding of risk arising from cross-border linkages to domestic transfers, the high-risk currency exchange firms, and unregulated money lenders.

SES

324. SES's understanding and ability to maintain an understanding of risks is broadly similar to MINTIC above, and partly based on information from the 2016 NRA. Its focus and understanding of risk is based on the domestic geographic exposure of its cooperatives. When licensing cooperatives and conducting ongoing supervision, no specific factors appear to be considered with respect to risks associated with insurgent groups, coca producing regions, etc. The SES did not appear to be familiar with ML risk associated with back-to-back loans, third party loan repayments and internet-based services. The SES conducts no specific assessment of TF risk.

325. SES is introducing new risk profiling tools that will enhance its ability to understand the ML risks of the financial cooperative sector. It has very recently (May 2017) formulated a supervision policy in a manner that should improve its understanding of institutional and sectoral risks going forward. In May 2017, it conducted 33 of the 54 planned inspections for 2017 which lasted on average less than one day each. This does not suggest a risk-based approach to supervision and would limit the understanding and updating the institutional risk profiles.

326. The SES has developed a preliminary risk heat map to inform its supervisory activities going forward. Its analytical base is still evolving and is mainly focused on likelihood and impact of ML, geographic exposure and asset size. Client and product risks are not part of the current framework. The framework does not consider vulnerabilities with respect to the quality of risk management systems and compliance.

DIAN

327. All the banks and some of the other financial institutions have reportedly de-risked currency exchange firms due to risk contagion concerns (partly because of suspicious of illegal activity by the firms or their clients). This has encouraged them to operate in the informal market which contributes to sectoral risk. The DIAN has no information on the volume of transactions conducted by these firms with the informal cash-based economy, nor of the potential vulnerability of the sector to ML/TF risk. The DIAN estimates that the vulnerability score of this sector should be high, yet the NRA rated the vulnerability of this sector along with 8 others (sub-group 8) as far less vulnerable. All supervisors consider this sector to be high-risk.

328. According to the DIAN, it has developed a risk-based system and general supervision policy that includes the currency exchange firms but has not yet formulated an explicit AML/CFT risk-based supervision policy. Its main supervisory focus is on "policing the perimeter", that is ensuring that business is not conducted by unlicensed firms. DIAN does not know the source of foreign currency that underpins the business of these firms but states that it is currently analyzing this difficult issue. From discussions with the private sector, some firms source their foreign currency from (wholesale) money brokers from within and outside Colombia. The DIAN did not appear to know how many currency exchange firms and their clients operate in specific high-risk areas e.g. where ex-FARC and ELN members operated/operate. No risk and vulnerability analysis is conducted in situations where a currency exchange firm acts as an intermediary correspondent agent for other currency exchange firms. Post-mission, DIAN indicated that it was not aware of any currency exchange firm acting as a correspondent agent.

Coljuegos

329. Coljuegos understands that the ML risks associated with casinos is high and this view is shared by most financial institutions, DNFBPs and their supervisors. In early 2017, Coljuegos developed a risk assessment matrix but its implementation for AML/CFT was still evolving. The risk matrix does not take account of specific client and service risk factors and is more focused on large and foreign currency transactions and on reporting to the UIAF. Its main risk focus is on geographic vulnerability which is a common approach used by other sector supervisors. With respect to the issuance of winning certificates to customers, there was no specific focus in the supervisory process as to the vulnerabilities it presents. The absence of effective supervision of internet casinos at the time of the onsite visit also limits the understanding of risks in this sector and this has been acknowledged by Coljuegos with the recent licensing and supervision regime being developed. Coljuegos has only 3030 (post mission 13 were reported as being negated in the review of SIPLAF requirements) staff that conduct general supervision which limits its capacity for offsite supervision and onsite inspections, and by extension its assessment and understanding of risks.

Supersociedades

330. Significant scope limitations in the application of the AML/CFT legal requirements to DNFBPs under its supervision substantially limit the capacity of Supersociedades to understand sectoral ML/TF risks. Individuals are not covered and only legal entities above very high revenue thresholds are subject to the requirements. Given that implementation of the legal requirements will only come into effect at the end 2017, no onsite AML/CFT inspections have taken place that would support an understanding of risk.

SNR

331. SNR has some 902 notaries under its supervision. The NRA rated this sector as moderately vulnerable to ML/TF risks. However, SNR acknowledged that a significant component of the notaries' business involves real estate transactions, company formation and corporate legal services, and that the NRA found these sectors to be highly vulnerable. The SNR receives monthly revenue reports from notaries but no data on the volume of cash transactions, foreign clients and on other inherent ML/TF risk factors. All notaries are required to submit periodic threshold reports (*Reportes de Obligaciones Notariales* - RONs) to the UIAF, suggesting concern by the UIAF about sectoral vulnerability but the SNR was not aware of areas or activities of risk. There is no risk-based framework for supervision and it focuses mostly on compliance with the SIPLAF.

Risk-Based Supervision of Compliance with AML/CFT Requirements

SFC

332. The SFC supervises some 418 entities as shown in the table in Chapter 1. It conducts AML/CFT supervision through its ML/TF Risk Division that has a total of 33 staff members. The SFC has incorporated AML/CFT supervision within its broader MIS that includes prudential/financial risks and AML/CTF risk

components. It has started to implement the MIS AML/CFT supervision system in the banking, insurance and securities sectors that is being expanded to the rest of the sectors under its supervision. The AML/CTF component of the MIS is largely based on the SARLAFT which is the basic risk-based AML/CFT regulation issued to its supervised entities. The risk-based framework does not specifically address TF risk and the results of the offsite risk analysis is appropriately used for planning onsite inspections.

333. The current risk profiling model is based on an assessment of inherent risks associated with clients (individuals and legal entities), products and services (as reported by financial institutions that have been scheduled for onsite inspections), economic sectors and the geographic location of customers. In addition, the SFC assesses controls and compliance through a questionnaire completed by institutions scheduled for inspections. Onsite inspections verify the adequacy of these controls. The questionnaire covers, *inter alia*, risk management, organizational structure, board and management oversight, audit, resources, budget and training, red flags, and suspicious activity identification and reporting.

334. The SARLAFT framework provides a solid basis for risk-based supervision except for the following two main shortcomings. First, the risk profiling process is mostly used for onsite planning purposes and not for ongoing supervision (both offsite and the actual conduct of onsite inspections). This limits the opportunity for the formulation of risk-based institutional and sector-wide supervision strategies and plans. Secondly, inherent risk assessments are mainly based on reporting institutions' internal assessment of vulnerable products and services and does not allow for more in-depth analysis of each of the FATF indicated inherent risk factors, i.e., clients, products and services, geographic exposure and delivery channel risks. The cross-border geographic risk analysis is based on a very extensive and complex world-wide risk rating of countries that does not include major offshore jurisdictions and which could be prohibitively time consuming and inefficient to update periodically. As indicated above, the new risk-based framework is still being rolled out and its effectiveness will not be fully assessable for some time.

335. The offsite risk analysis has not been fully integrated into the inspection plans and activities, and the results of onsite inspections. A sample review of inspection planning documentation and inspection reports indicates that the inspection objectives do not take specific account of the risk profile of the institution. The scope of the inspection activities is also largely focused on reviewing SARLAFT compliance components. A review of reports of inspection also did not show that the stated objectives of the inspection were consistently achieved. In one example, exposure to a high profile global corruption case affecting a large institution was apparently not sufficiently reviewed and reported on during aa recent onsite inspection, even though it was one of two approved AML/CFT inspection objectives.[53]

336. With regards to consolidated and cross-border supervision, the SFC has conducted onsite visits to Central American countries where some of its main banks operate. They also participate in supervisory colleges for some of these banks to discuss issues of common supervisory interest, and cross-border cooperation appears to be good. Five overseas onsite visits were conducted in Central America during 2016. No visits have been undertaken in Paraguayan banking affiliates (other than a familiarization visit in 2016 with the banking supervisor and bank officials) and of banks operating in offshore centers. The SFC may not have access to customer files of downstream subsidiaries or affiliates operating in offshore financial centers, e.g. Bahamas and Cayman Islands. According to the SFC, none of its banks have been de-risked by foreign correspondents over the last 3 years.

337. During the six-year period ending in 2016, the SFC conducted 142 onsite inspections or on average about 24 inspections per year. There were 418 entities subject to the SFC's supervision. An additional 15 inspections were conducted up to end May 2017. Inspections can last more than one month depending on the size and complexity of the institution. From a review of sample inspection documentations, the primary focus of these inspections was SARLAFT compliance verification. The following table provides the onsite inspection conducted since 2011.

[53] The SFC indicated that the report was still in draft form, two months after the mission, and may not have reflected the ultimate findings.

Table 35. Onsite Inspections (update 2016)

Type of Institution	2011	2012	2013	2014	2015	2016	2017/1	Total
Banks	3	3	3	8	11	21	6	55
Finance companies	2	2	3	0	2	0	1	10
Cooperatives	0	0	0	1	0	4	0	5
Insurance companies	1	2	4	5	1	6	0	19
Pension funds	0	1	0	0	0	0	0	1
Stock brokers	5	5	7	2	4	20	2	45
Other securities	2	1	0	1	0	2	1	7
Trustees	3	1	0	2	2	1	3	12
Currency exchange				1[54]		0		1
Total	**16**	**15**	**17**	**20**	**20**	**54**	**13**	**155**
/end May 2017								

SES

338. Implementation of the SES's risk-based supervisory system is still evolving. A risk-based compliance requirement for financial cooperatives was introduced in 2014 through the SIAR (an integrated risk management regulation) that includes prudential requirements. In May 2017, the SES formulated a general policy on risk-based supervision which does not provide guidance on how, *inter alia*, offsite and onsite supervision will be conducted. There is no arrangement for systematic cooperation with the SFC which supervises 5 cooperatives that conduct business with the public.[55] The May 2017 policy is part of the first phase of implementation of a risk-based approach to supervision. It will be followed by 3 other phases including issuance of risk management regulations for cooperatives (ongoing), formulation of their risk profiles, institutional strengthening (recently started in 2017), and consolidation of the RBA with prudential supervision.

339. During 2016, the SES developed a supervisory plan based on a sectoral risk matrix analysis of inherent risk. The matrix uses two determinants of inherent risk: (a) the probability of ML/TF based on the national geographic location of financial cooperatives and (b) the impact of ML/TF based on asset size. This analysis does not take account of risks associated with customers, product/services and distribution channel risk (applicable as cooperatives provide online internet based services and use correspondents to channel their services.) The risk assessment methodology does not consider the quality of risk management and controls; therefore, no residual risk analysis is conducted. There is no specific TF risk assessment.

340. With regards to onsite inspections, the SES has 20 staff dedicated to offsite and onsite supervision for both prudential and AML/CFT purposes. During the period 2011-2016, it conducted 120 onsite visits as follows:

Table 36. Number of SES Inspections per year

2011	2012	2013	2014	2015	2016	Total
27	17	10	10	23	33	120

341. For 2017, SES planned 54 inspections (out of a total 181 financial cooperatives) which conducted 41 inspections. Of these it carried out 38 AML/CFT specific visits, all during May 2017, including prudential and AML/CFT components. Inspections generally lasted on average 2.5 days involving about 3 staff members. Reports of inspection conducted in May 2017 were not available at the time of the mission to review and ascertain if they were risk-based and in accordance with the 2016 sectoral risk assessments. A review of a sample of 2015 inspection reports indicated that the focus of the inspections was mainly on

[54] This entity is reportedly the only currency exchange firm supervised by the SFC. It was inspected during 2014 and 2016.
[55] The SES informed that it had entered into a supervisory cooperation agreement during 2017 that would allow for information exchange, capacity building,) among others.

regulatory compliance and that the assessment of internal risk management systems was sparse. These results also reflect the short duration of inspections and time devoted to AML/CFT issues and there was no link between rudimentary offsite risk assessment and onsite inspections planning and execution.

MINTIC

342. MINTIC is still in the process of developing and integrating a RBA to AML/CFT supervision. It receives data on domestic payment volumes and direction of flows to/from various geographic regions. It has developed a rudimentary analytical framework that assesses inherent and residual risk and on the probability of ML/TF based on the geographic location of payment operators.

343. The above risk-based framework does not take sufficient account of customer and delivery channel risk factors (e.g. use of agents and customer service centers). Upon inquiry, MINTIC indicated that operators do not conduct money transfers for currency exchange firms but it is unclear how this can be verified considering the almost 27,000 customer service centers (subagents) and 112 agents are used by the 5 licensed operators to deliver services to customers. There is no specific TF risk assessment.

344. From discussions with MINTIC, monthly transfer flow statistics are monitored for unusual activities and early warning flags. Unusual movements can result in follow-up inquiries with the operators. Nonetheless, this analysis is very rudimentary and from a sample reviewed MINTIC had not identified transfers that had in fact exceeded the expected transaction average. Geographic flows were also not correlated with, for instance, economic activities and population characteristics.

345. Onsite inspections are generally outsourced to consultants. MINTIC stated that it conducts semi-annual visits for prudential and AML/CFT purposes to each of the 5 operators and that each visit last about 6 days with 1 of 4 staff dedicated to reviewing compliance with the SARLAFT. Statistics provided show that other than 2014 when only 4 inspections (audits) were conducted, each operator was inspected twice per year in 2015 and 2016. For 2017, all had been inspected up to April 2017.

346. A sample inspection report for 2016, conducted by a consulting firm was provided to the mission. It indicated that the general and specific objectives of the inspection did not explicitly cover AML/CFT compliance and that it was not based on pre-inspection risk analysis. However, the onsite inspection reviewed the internal controls relating to customer transactions (10 topics) and reporting obligations. The report of inspection generates a risk matrix for inherent and residual risk for the operator. The conclusions were that the implemented internal controls comply 100% with the regulations and are effective in controlling risks.

DIAN

347. DIAN does not have a specific policy of AML/CFT supervision for currency exchange firms. As indicated above, its understanding of risk, especially regarding the source of foreign currency that is the mainstay of this business, is negligible. DIAN says it is analyzing this issue. It indicates that its supervision considers geographic risk factors based on the location of firms, but not their customers. As no bank interviewed accepted these firms as clients, DIAN was unaware where they hold their financial assets and accounts. This presents a significant systemic and supervisory vulnerability. In summary, inherent risk analysis of currency exchange firms is negligible with respect to customer and product/service factors and no assessment is conducted with respect to source/sale of foreign exchange. Some currency exchange professionals are also authorized to act as correspondents for other licensed currency exchange firms and this service is also not considered for risk profiling purposes. Lack of information and analysis on business conducted with clients operating in the informal cash-based economy and exposure to illicit activities also limits effective risk-based supervision.

348. For offsite monitoring, DIAN mainly relies on quarterly statistical information submitted online but does not generate risk profiles for individual firms or the sector. It has total staff of 170 of which about

121 conduct onsite inspections that last between 2-3 days. No information was available on the time devoted to AML/CFT issues. About 3 persons participate in each inspection but no information was provided on how much time and attention is dedicated to AML/CFT.

349. From the sanctions statistics provided, it can be deduced that a key focus of onsite inspections is the identification and enforcement/sanctions against unauthorized currency exchange operations. Inspections also focus on the retention of foreign currency in breach of exchange regulations. This indicates that DIAN applies more of a law enforcement approach rather than a broader financial sector supervision focus to its oversight functions, and that there could be a sizeable number of unauthorized informal operators.

Coljuegos

350. Coljuegos' supervision of casinos is primarily based on compliance with the Comprehensive System for Prevention and Control of the Risks of Money Laundering and Financing of Terrorism (*Sistema Integral de Prevención y Control del Riesgo de Lavado de Activos y de Financiación del Terrorismo* – SIPLAFT). Casinos provide VIP services for high rollers, exchanges foreign currency for wagering purposes, and have non-resident clients. According to Coljuegos, wire transfers are not allowed for betting and repayment of bets. It is not known for certain if money remittance services are used by clients for betting purposes. Casinos offer winning certificates to players that would facilitate, for example, the deposit of funds in banks.

351. Coljuegos has 9 staff dedicated to general supervision that includes an AML/CFT component focusing on a review of compliance with the SIPLAFT.[56] It indicates that it has developed a risk-based approach to supervision. For 2017 it plans to visit all casinos including 60% of their establishments totaling some 1,561 onsite visits. With limited supervision staff, this would be a herculean task and indicates that the scope and intensity of inspections is likely to be very weak and would not necessarily be risk-based.

352. The risk-based approach being developed by Coljuegos is largely founded on geographic risk exposure. The methodology does not provide a clear and sufficient correlation with a broader set of ML/TF risk factors or vulnerabilities. The framework includes a risk rating matrix based on a numerical scoring system against which visits are planned. Coljuegos claims that the matrix system has been in place since 2014, but based on discussions it seems that implementation commenced only in 2017. Notwithstanding, this framework has not yet been used for monitoring and planning inspections. The 2017, inspections plan includes visits to all casinos suggesting that a risk-based approach is not yet being adequately implemented.

353. There are no procedures yet for ongoing of supervision of online casinos even though 88 were licensed post mission. Statistics provided on the number of onsite visits during 2014-2016, are 395, 426 and 477, respectively. Up to May 2017, 93 onsite visits were reported. These visits were mainly for compliance with contractual obligations and do not indicate AML/CFT coverage. Very few inspection reports were produced following inspections, e.g. 16 for 2016 and 6 for 2017.

SNR

354. SNR has not developed a risk-based offsite or onsite supervision framework. From discussions, notaries' exposure to ML/TF risks associated with services for the real estate, corporate and legal sectors is high. It has around 10 inspectors and by law must conduct annual onsite visits to all notaries. In practice, it states that it conducts between 60-70 onsite visits per year of a general nature based on a checklist for regulatory compliance with the SIPLAFT. The duration of onsite visits is 3-4 days of which about 0.5 days is devoted to SIPLAFT compliance. No sanctions have been applied for AML/CFT issues even though one firm is in process to be sanctioned for a STR violation. This suggests very weak AML/CFT supervision.

[56] The Coljuegos stated that 13 are now involved in AML/CFT oversight.

Supersociedades

355. Supersociedades has been tasked with supervising only the largest law firms (10), accounting firms (9), real estate agents (28) and dealers in precious metals (49). However, scope limitations limit the effectiveness of supervision of this sector, as discussed above. In addition, no survey nor study has been conducted to ascertain which firms operating in these four sectors is engaged in activities subject to the FATF requirements. The new SAGRLAFT for these sectors did not come into effect until end of September 2017, with effective implementation to commence end of 2017. Under the new regulatory requirements, very few DNFBPs under its jurisdiction will be covered (see statistics above.) The CIIU used by Supersociedades to apply the AML/CFT requirements to the above sectors also limits the scope of application of the FATF requirements and related supervision.

356. Supervision of the above sectors for AML/CFT purposes both for offsite and onsite purposes is still being developed. Information is being gathered on the sectors using general corporate reporting requirements that will largely address SAGRLAFT requirements going forward. Onsite inspections are planned to commence during the first quarter of 2018, and no specific onsite procedures have been developed as yet. Supersociedades says it visited 318 companies last year but these seem to be more reactive and investigative in nature and none were related to the DNFBPs under its supervisory responsibility.

Remedial Actions and Effective, Proportionate and Dissuasive Sanctions

SFC

357. SFC has applied a range of sanctions for non-compliance with AML/CFT requirements. Over the last 7 years, it reported the following types of supervisory measures and sanctions imposed on institutions subject to it supervision for corporate governance and AML/CFT violations.

Table 37. SFC Sanctions by type

Type of Measure/Sanction	2011	2012	2013	2014	2015	2016	2017 (May)	Total
Recommendations	0	5	3	11	2	7	0	**28**
Corrective plan	14	9	10	6	3	8	0	**50**
Warning	2	0	0	0	1	0	0	**3**
Monetary fine	5	5	1	2	1	4	4	**22**
Total	**21**	**19**	**14**	**19**	**7**	**19**	**4**	**103**

358. The measures and sanctions applied are generally on the low side. About 78% of measures include recommendations, corrective action plans and warnings with monetary fines accounting for the rest. Considering the number of institutions (418) under SFC's supervision, the number of corrective recommendations, plans and warnings appears to be relatively low, with only 6 applied during 2015, and 1 monetary fine. A review of inspection reports indicates that banks affected by client involvement in potentially high-profile ML cases may not be dealt with in a consistent basis. In one case, only a very cursory review of compliance with related AML/CFT requirements was conducted while more in-depth review and stringent measures applied in another institution for the same case. Post mission, the SFS indicated that the inspection report for the entity in question had not yet been finalized at the time of the mission.

359. Monetary trends appear to be generally declining as shown in the summary below:

Table 38. SFC Sanctions by amount

Year	Colombian Pesos	US$ equivalent
2011	CP435,000,000	$150,000
2012	CP838,837,000	$289,000
2013	CP60,000,000	$20,700
2014	CP182.500.000	$62,900
2015	CP45,000,000	$15,500
2016	CP 740,000,000	$255,000
2017 (May)	CP 270,000,000	$93,000
Total	**CP2,571,337,000**	$886,100

SES

360. Based on 102 onsite inspections conducted during 2011-2016, up to 34% of cooperatives were found to be in breach of various AML/CFT obligations. The main course of enforcement action taken by SES was to inform them of their findings. It issued warnings to 4 institutions inspected during this period. These appear to be very disproportionate and non-dissuasive measures considering the high incidences of deficiencies and violations identified. During 2016, the SES indicated that it sanctioned 6 cooperatives that totaled 619 official minimum wages (about US$142,224.)

DIAN

361. During 2012-2015, DIAN fined currency exchange firms around CP$4,398,000,000 or about US$1.5 million. These fines were applied against 1,094 firms but the level of fines appears to be low

362. Updated statistics provided post mission indicated that fines have increased significantly from 2012 and to March 2017, equivalent to about US$2.8 million for various violations of the AML/CFT requirements and US$3.9 million for unlicensed activities, totaling about US$6.7 million. These involved some 1,200 cases.

MINTIC

363. Statistics on remedial measures applied were only provided for 2016 and year-to-date 2017. These included 5 breaches of biometric client identification by 3 operators, with remedial action required. For 2017 two operators were cited once for similar breaches. These appear to be very minimal findings from inspections/audits and very soft enforcement action.

Coljuegos

364. Coljuegos reported that to date it has not applied any sanctions for AML/CFT issues.

SNR

365. There are no sanctioning provisions for notary firms but sanctions can be applied for professional breaches by individual for notaries. Hence the SNR indicates that no AML/CFT sanctions can and have been applied.

Supersociedades

366. Supersociedades applied monetary penalties against 6 DNFBPs for failure to report on progress in implementing the new AML/CFT regulatory requirement that is coming into effect in September 2017. Post mission it reported that the fines were on average about 30 million pesos or about US$11,000. No details as to the type of entities involved, dates and size of the monetary fines were available.

Impact of Supervisory Actions on Compliance

367. The recent entry into force of the new requirements and supervisory approaches make it difficult to assess impact. None of the FI and DNFBP supervisors have developed formal systems to monitor the effectiveness of their supervisory activities on compliance. Remedial action and sanctions statistics may provide an indirect and partial measure of supervisory effect on compliance but on current trends it is unlikely that enforcement will have a significant impact on compliance going forward. A more systematic manner of tracking the effects of supervisory activities on compliance over time would be useful to better assess the vulnerabilities of the sectors and improve the targeting of the onsite examinations. This can be done at the institutional and sectoral level and would be a useful input into risk-based monitoring and inspections.

Promoting a Clear Understanding of AML/CFT Obligations and ML/TF Risks

368. Colombian supervisors actively participate in training and other awareness raising events with other AML/CFT agencies and with the regulated sectors. SFC conducts sector-specific training for entities which totaled 149 events during 2011-2016. These included banks (26) and stock brokers (20). Sessions were also held with 71 other entities that are not subject to AML/CFT supervision. SES indicated that it was involved, sometimes in coordination with the UIAI, in 51 awareness AML/CFT raising events during 2014-2017 with about 9,666 persons participating. It also participates in private sector events that deal with AML/CFT issues, and publishes AML/CFT material on its website. The DIAN issued a guide for suspicious transaction reporting to its staff but not currency exchange firms and has held sensitization events in 2015 and 2016 on this subject where about 1,000 persons participated. It has issued an AML/CFT and counter smuggling risk management model for currency exchange professionals (also one for those engaged in foreign trade), developed with the assistance of the UNODC's office in Colombia. In 2016, MINTIC conducted a conference "*Congreso LAFT America 2016*" that was attended by payments operators. No statistics were provided on training or the specific topics covered. SNR indicated that it has conducted a training event every year during 2012-2016 but no specific details were provided.

369. During 2015, Supersociedades conducted three AML/CFT awareness raising events with 303 participants. In 2016 four events were held with 455 attendants. Of the 758 participants in the seven events, 59 were from DNFBPs subject to its supervision. Topics covered various AML/CFT issues including risk and SARLAFT compliance. Supersociedades states that industry groups have also received AML/CFT training from Supersociedades but no statistics were provided. Supersociedades also posts AML/CFT information on its website (e.g. on SAGRLAFT and links to other AML/CFT events and information). In its website, it disseminates general information on ML/TF risks that the UAIF generates including sectoral information on the real estate sector, notaries, credit unions, typologies, etc. The UAIF also has an e-learning portal that is accessible to entities under Supersociedades' s supervision. During 2013-2016, there were 55,307 registered users and 25,997 graduates using this training platform.

Overall Conclusions on Immediate Outcome 3

370. **Colombia has achieved a moderate level of effectiveness for IO.3**.

7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

A. Key Findings

- Information on the types and creation of legal persons and arrangements is easily accessible. Basic information of legal persons is duly registered and annually updated in the public registries. This information is publicly available and accessible online.
- There is no assessment of the ML/TF risks arising from legal persons, not even the SAS, which represent 54 percent of all companies in Colombia. However, there is an assessment of the ML/TF risks arising from legal arrangements, which are rated as highly vulnerable sector.
- Colombia has in place several measures that help to prevent the misuse of legal persons and arrangements for ML/TF purposes.
- Authorities obtain updated information of the shareholders of companies, but BO information of legal persons is only partially available through various sources, all of which have limitations.
- Fiduciary services are only offered by financial institutions (most of them subsidiaries of banks) specifically registered and licensed for this activity, and supervised by SFC. Fiduciae are under very strict prudential regulation and adequate and up to date information on each fiducia is registered in the SFC and accessible to other authorities. Some types of fiduciae are highly vulnerable for ML, but the authorities have not approved specific instructions or enhanced risk based AML/CFT mitigation measures for this sector.
- Criminal and administrative sanctions have been applied when the information registered or provided to authorities is false or not up to date. There is no information on sanctions imposed for failure to comply with providing BO information.

B. Recommended Actions

- Establish a mechanism to ensure that adequate, accurate, and up-to-date beneficial ownership information on all types of legal persons is available to authorities which may access in a timely manner.
- Adopt specific risk-based AML/CFT measures to mitigate the risks arising from the types of fiduciary services that are exposed to the high ML/TF risk (real estate fiduciae, fiduciae under warranty and administration fiduciae).
- Assess the ML/TF risk of legal persons, mainly SAS, and consider possible further AML/CFT measures for those that have higher exposure to ML/TF risks.
- Initiate outreach to reporting entities to improve awareness on obligations on BO, including BO identification according to the standards.

The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The relevant recommendations for the assessment of effectiveness under this section are R.24 and R.25.

Immediate Outcome 5 (Legal Persons and Arrangements)

Public Availability of Information on the Creation and Types of Legal Persons and Arrangements

371. Information on the creation and types of legal persons is publicly available. Guidelines and instructions on the procedures of creation can be found in the websites[57]. The authorities also publish detailed information on the requirements needed to formalize entities (http://colombiaseformaliza.com/abc-de-formalizacion/).

372. The creation of all legal persons is completed when the required information is registered in one of the 57 Chambers of Commerce. Only registered entities acquire legal personality.

373. The information necessary for registration is very wide and detailed. For all legal entities, the information needed includes funds, assets, real estate owned; amounts invested; persons authorized to manage the business and their powers and credit institutions used for transactions. In the case of companies, it contains information on the first partners/ founders and on the legal representative. Financial groups must also identify and register the name of their "financial controller" which may be another company. Any change made to the internal governance structure must be immediately updated in the Commercial Registry. Every year, legal persons need to update the license information, normally through the relevant register's websites.

374. The creation process for all legal entities also includes registration before the DIAN, their supervisors and the Supersociedades.

375. The most common legal persons in Colombia are SAS, civil partnerships and foundations (see Table 4 in Chapter I, para. 57). It must be noted that 54% of the commercial companies in Colombia are SAS. This type of company was created by Law 1258 of 2008, to simplify the procedures of constitution and to encourage the formalization of economic activities that were not subject to regulations. It does not require public deeds for creation, just the authentication of a simple private document that can be signed directly in the Registry.

376. The most relevant legal arrangement is the fiducia of which there are 23,200. There are several types of fiduciae (e.g. real estate, administration, etc.) and the requirements for creation vary for each type of fiduciae. This information is public and available. Fiduciary services can only be provided by financial institutions under SFC regulation that obtain a specific license for this activity. Currently there are 26 fiduciary companies, most of them are subsidiaries of banks which must meet strict public requirements to get the license. All contracts of fiducia are registered in the SFC by each Fiduciary company. The fiduciary sector is the second largest institutional investor in the financial system. The 2015 Annual report of the Association of Fiduciae (Asofiduciarias) shows an investment portfolio of 183.43 trillion pesos (62 billion US$), which represents a 33.34% share of the total investment balance.

Identification, Assessment and Understanding of ML/TF Risks and Vulnerabilities of Legal Entities

377. The 2016 NRA does not include a ML/TF risk analysis on the different types of companies. Due the huge increase of the number of SAS in the last years and the authorities' objectives of easing and encouraging formalization of economic activities and new entities, SAS could represent a higher risk for ML/TF purposes.

378. Judicial investigations and prosecutions on ML and illicit enrichment regularly include legal persons with simple corporate structures (trading companies and MVTS) used as tools for ML activities. In

[57] The Chambers of Commerce have released a series of manuals and guidelines such as "How to establish and register a company"; "How to establish and register One Person Companies"; "Document of incorporation of a Limited Company"; "Statutory models of one-person companies"; "Model of corporation formation".

such cases, the legal owners and BO of the companies are the same natural persons (see IO.7). However, LEAS have referred only a few ML judicial investigations, prosecutions or convictions where there was any misuse of complex corporate structures for ML purposes and subsequent BO investigations. The cases mentioned by the authorities are DMG Holding S.A. in 2011, for Ponzi scheme practices, where the proceeds were rapidly distributed among other companies owned by the group, and Odebrecht (currently being prosecuted) where payments from corruption are carried out through different companies belonging to the individuals involved, and Estraval S.A. and Interbolsa for fraud.

379. Authorities, financial institutions and even fiduciary companies perceive fiduciae as sector of a high risk for ML/TF purposes. In fact, the 2016 NRA assessed the ML/TF risks of legal arrangements and rated the ML/TF risks of different types of fiduciary services as very high (from 0,0 -lowest risk- to 1,0 -highest risk): real estate fiduciae (0,81), fiduciae under warranty (0,7) and fiduciae of administration (0,75). This last type of fiducia represents the 28% of the resources managed by the sector (102.28 billion - 13,631 fiduciary agreements). However, despite this high level of risk no specific instructions or enhanced AML/CFT mitigation measures have been issued beyond the regular AML/CFT obligations for the FIs approved by SARLAFT. Currently, the adoption of measures to mitigate and control ML/TF risks relies on the internal rules of each fiduciary company.

380. A specific type of legal structure different from the fiducia is the "Civil fideicomiso" set in the Civil Code (Articles 793-822). This contract is not very common, but it is vulnerable to ML risks, however, the authorities were not aware of the possible vulnerability of these arrangements and there is not information on any analysis on the ML risks that may arise from this figure. While the authorities did not analyze the ML/TF risks related to the civil fideicomiso, the fact that they are rarely used in practice —, and that law enforcement agencies have not encountered cases of misuse — suggests that their ML/TF risk is low.

Mitigating Measures to Prevent the Misuse of Legal Persons and Arrangements

381. Colombia has approved several regulatory requirements that also help to prevent the misuse of legal persons and arrangements for ML/TF purposes. Actions include stricter controls and regulations, increasing prudential supervision and improving mechanisms to access information of all types of legal persons.

382. As noted above, all legal persons are registered, basic information is public and the necessary documents are duly kept and easily accessible to the authorities. This information is annually updated by entities and changes related to the legal status, commercial activity and address must be registered to have effects. Public registries have in place a System for Preventing Fraud (SIPREF) to control possible false information and documents. Cases of false information have been taken to Court by the Chambers of Commerce and criminally sanctioned.

383. Companies that are subordinated to a central company or subject to the will of another controlling legal or natural person declare and register the name of the *controller* in the RUES. To be considered "*controller*", the legal or natural person shall have the 50% of the capital of the subordinated company, or the minimum majority for decision making or exercise dominant influence in the direction or decision making of the entity. In 2016, Supersociedades imposed 84 sanctions to entities for not registering control situation.

384. Bearer shares are not allowed. Companies keep a "book of shareholders" duly updated with information on the identity of the shareholders, shares owned, new shares issued, their number and date of registration, transfer of shares, embargoes, lawsuits and any other limitations. This information is not publicly available, but it is obtained in a timely manner by the DIAN, FGN and Supersociedades and, also, can be certified by the internal tax auditors of the company for third parties when needed (e.g. for CDD purposes).

385. Registration before the respective supervisor and the DIAN, through the RUT, is also mandatory, and updating financial, accounting and legal information on an annual basis. All legal entities must be supervised in those matters, and those entities that do not have a natural supervisor (health, financial, etc.) are supervised by the Supersociedades.

386. 19,000 legal persons have an internal tax auditor: including companies over 1,100,000 USD of gross assets or 700,00 USD of gross income, all joint-stock companies and all branches of foreign companies. The tax auditor issues certificates of activity, accounts and legal situation, and cooperates with the authorities that exercise inspection and surveillance (not only DIAN).

387. Fiduciary services are heavily prudentially regulated and can only be provided by licensed fiduciary companies that are supervised by the SFC. All information on the participants and terms of each fiducia must be immediately registered and updated in the SFC by the fiduciary company. Financial institutions and DNFBPs have the obligation to inquire whether the fiduciary companies are acting on behalf their customers in the operations or contracts. In such cases, the fiduciary companies cannot disclose this information without authorization due to the Habeas Data principle. However, if the requested information is not provided, the FI or DNFBP will not initiate the business relationship or make any transaction due to their CDD obligations.

388. As mentioned, fiduciae are perceived as high-risk sector for ML/TF purposes. However, no specific risk based instructions or enhanced AML/CFT measures for this sector, beyond the regular AML/CFT regime for the FIs, have been issued for these fiduciary services. Currently, the adoption of measures to mitigate and control ML/FT risks relies on the internal rules of each fiduciary company. SFC supervises the compliance of fiduciary companies with AML/CFT obligations (see IO.3).

389. The DIAN and the Superintendence of Industry and Commerce (SIC) closely monitor those entities that could be used to develop activities related to the smuggling of goods, and are sending a quarterly report to the UIAF with "the list of investigations of the entities related to the matters of competence of the UIAF".

390. Colombian authorities are providing guidance, typologies and best practices to the different types of reporting entities to prevent their misuse for ML/TF purposes.[58] This includes a “Practical guidance on the regime of matrix and subordinated companies” with guidelines on the obligation of registration at the Registry for any situation of control or subordination of companies or business group to natural or legal persons.

Timely Access to Adequate, Accurate and Current Basic and Beneficial Ownership Information on Legal Persons

391. Basic information of legal persons is adequate, accurate and annually updated in the public registries. The registries provide official public information of the legal persons, consolidated in the RUES, which is public and available through the website www.rues.org.com. Information is provided by the legal persons through the Single Corporate and Social Register form. Documents and back up records kept in the registries are not public but are easily obtained by authorities.

392. Authorities easily access information of the shareholders, which is held by public registries, supervisors, DIAN, Supersociedades database and the Books of shareholders. However, neither the public

[58] UIAF, Supersociedades and SFC websites includes AML/CFT documents and videos with different guidelines and instructions for companies: E- learning activities; videos, guidelines.
http://www.supersociedades.gov.co/delegatura_aec/informes_publicaciones/lavado_activos/Paginas/default.aspx
https://www.uiaf.gov.co/?idcategoria=6964 https://livestream.com/accounts/3090845/GestionRiesgoLavadoActivos
http://www.supersociedades.gov.co/delegatura_aec/normatividad/estudios_economicos_financieros/Paginas/lavado_video.aspx.
https://www.supersociedades.gov.co/delegatura_ivc/CartillasyGuias/Guia_Practica_RegimenMatricesySubordinadas.pdf

registries nor the official databases contain information on the beneficial owners of legal persons. In addition, that information is not available within the company as there is no obligation for companies to obtain and keep information on their beneficial owners.

393. BO information of legal persons is only partially available through other sources, which all have limitations:

(i) the RUES contains public information on the owners and first partners/founders and, additionally, financial groups must identify and register the "financial controller" of the group, but it may be another legal person. It may contain BO information for simple ownership structures, but it does not contain updated information on shareholders. This information is available in the website www.rues.org.com, and documents and back up records kept in the registries are not public but are easily available to authorities.
(ii) The "Books of shareholders" held and updated by the companies, which contain information of the shareholders, number, percentage and types of shares belonging to each shareholder and changes of ownership. BO information may be obtained only when shareholders are natural persons, not when they are legal persons or when foreign ownership is involved. This information is not publicly available but can be obtained by the judicial authorities, prosecutors, DIAN or supervisors when requested and is used for tax purposes, police investigations and supervisions.
(iii) Information from DIAN, supervisors and Supersociedades database on shareholders. The Supersociedades database contains information of all shareholders, the percentage of shares belonging to each shareholder and the financial statements and accounting of the 27.000 main domestic legal entities. BO information of fully Colombian-owned legal persons may be obtained by tracing through the legal shareholding information held in the Supersociedades database. This may, in some cases, allow LEAs and other authorities to determine BO in a timely manner, but it is not feasible when legal persons are not included in the database or; when foreign legal persons or arrangements are involved in the ownership/control chain; and it is only updated on an annual basis.

394. Obtaining BO information in the CDD process is a very recent obligation for financial institutions and DNFBPS which came into effect in 2017. Each supervisor has a different definition of BO and the obligations set for obtaining BO information through the CDD process do not fully meet the standard. Financial Institutions and DNFBPs were not aware that if no natural person is identified as the BO, the identity of the relevant natural person who holds the position of senior managing official must be obtained. This rule is not included in SARLAFT nor in SAGRLAFT. As this obligation is currently in the initial phase of implementation, LEAs do not seek BO information from reporting entities because these do not necessarily have accurate information available.

Timely Access to Adequate, Accurate and Current Basic and Beneficial Ownership Information on Legal Arrangements

395. Adequate basic information of each fiducia is registered in the SFC by the fiduciary company in the SFC and duly updated in case of modifications to the terms of the contract. Other authorities, such as LEAs and the DIAN, may access the CDD information and terms of each fiducia held by the SFC.

396. Fiduciary companies follow the same new CDD obligations, enforced in March 2017, on BO identification for FIs which include BO information of the legal and natural persons participating in each fiducia. Fiduciary companies generally use adapted corporate CDD programs of their financial groups. BO identifications of the settlor and the beneficiary of each fiducia and possible changes to this information are registered in the SFC with the other information required from fiduciae. Other authorities may access this information, but as pointed for the other financial institutions, this obligation on obtaining BO information

of the clients was recently approved, is in an initial phase of implementation and does not fully meet the Standards.

Effectiveness, Proportionality and Dissuasiveness of Sanctions

397. Colombia has several supervisors and different types of sanctions are imposed for failing to comply with the information requirements. Legal persons that fail to renew their commercial registration in the public registries within the 3-month period established by law, result in economic penalties imposed by the SIC up to 12,500,000 pesos (4,200 US$). Additional failures on renewal obligations may include temporary or permanent closure of facilities.

398. Some criminal proceedings have taken place in Courts for providing false information to the Commercial Register. In those cases, the Chambers of Commerce filed penal complaints for falsification of private documents.

399. Supersociedades imposes economic sanctions to legal persons for different types of infringements related to transparency. For irregularities in the books of commerce (accounting, shareholders) and for failing to provide information related to these books: 25 sanctions were reported in 2016 and 2017 for 818,000,000 COP -US$ 270,000- (Maximum fine of US$ 34,100). For failing to present annual financial information more than 1,000 entities are sanctioned every year (1,401 in 2016) with an annual average of USD 1,300,667. For not complying with the registering obligations 144 entities were sanctioned in 2015 and 2016 for a global amount of USD1,616,445. In addition, Supersociedades also supervises and sanctions those cases where subordination among entities or situation of control within a group is not duly reported and registered (60/84 sanctions in 2015/2016).

Overall conclusions on Immediate Outcome 5:

400. **Colombia has achieved a moderate level of effectiveness for IO.5.**

8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

A. Key Findings

- Colombia provides timely, good quality, and constructive mutual legal assistance and extradition.
- Colombia has a robust framework which it uses to respond to foreign requests and seek assistance from foreign counterparts.
- The Colombian approach to international cooperation is overall proactive and collaborative. International cooperation is provided both upon request and spontaneously.
- Case management and prioritization of international cooperation requests are effective and ensures that AML and extradition requests are executed in a timely fashion.
- The UIAF and LEAs maintain an important global network of liaison with foreign counterparts and are proactive in exchanging information with them. Competent authorities take part in relevant platforms for exchanging information.
- Overall, Colombian competent authorities implement adequate measures for protecting information, prioritizing, and executing international cooperation requests.
- Colombia provides constructive and timely international cooperation regarding basic information of legal ownership legal persons.
- Issues noted in IO.5 on the availability of beneficial ownership information would impact Colombia's ability to respond in a timely manner to specific international cooperation requests for beneficial ownership information.

B. Recommended Actions

- The DIAN should implement internal procedures for adequately processing international cooperation requests and for safeguarding the confidentiality of the information.
- Strengthen its capacity to provide international cooperation on BO (see IO.5).

The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R.36–40.

Immediate Outcome 2 (International Cooperation)

Providing Constructive and Timely MLA and Extradition

401. International cooperation plays an important role in Colombia due to the country's risks and context. Several foreign large cases with transnational elements require that Colombia actively cooperate with other countries. Competent authorities interviewed during the onsite recognized the importance of international cooperation and expressed their high-level commitment in that field.

402. Colombia provides timely, good quality and constructive mutual legal assistance (MLA) and extradition. This was corroborated through statistics, complementary information provided by the domestic

competent authorities and the feedback received from 23 FATF and FSRBs delegations, that confirmed the good capacity of Colombia in this regard.

403. Given its strategic location within the region and considering its risk and context, Colombia receives a large number of extradition and MLA requests, as indicated below.

404. The FGN is the central authority in charge of receiving, analyzing and processing the MLA requests. MLA requests are managed by the DGI through the ORFEO and SIPRAIN systems, which allow the competent officials within the DGI to monitor the status of the documents and the procedure given to legal assistance. DGI reviews the requests and facilitates communication between the requesting and executing authorities. DGI also provides guidance to prosecutors who wish to make a MLA request to other countries. Requests related to the enforcement or execution of a foreign judgment within Colombia should be conducted through the MINREX, which refers the matter to the CSJ.

405. DGI maintains statistics on MLA requests and follows the prioritization parameters established by Directive FGN 002/2015, which sets out a comprehensive case prioritization policy (it includes three main categories of criteria: objective, subjective and complementary, and these are comprised of several components).

406. Multiple MLA requests are received and responded by Colombia. For the period 2012-June 2017, the DGI received 2,351 requests from 45 countries. Primary countries sending MLA requests to Colombia were: Ecuador (332), Peru (295), Spain (255), the United States (237), Panama (209), Mexico (172), Venezuela (134), Chile (133), Holland (92), Brazil (75) and Argentina (69). The significant number of countries from different regions to which Colombia provides assistance reveals the capacity and effectiveness of the country in this field.

Table 39 – MLA requests received (2012 – 2017)

Country	Total	Country	Total
Germany	8	Greece	1
Argentina	69	Guatemala	40
Aruba	7	Netherland	92
Australia	9	Honduras	49
Austria	6	Israel	4
Belgium	11	Italy	35
Bolivia	15	Lithuania	3
Brazil	75	Mexico	172
Canada	6	Panama	209
Chile	133	Paraguay	4
China	1	Peru	295
Costa Rica	15	Poland	3
Croatia	1	Portugal	12

Curacao	5	Dominican Republic	6
Denmark	5	Romania	6
Ecuador	332	Russia	9
El Salvador	14	Sint Marteen	2
Spain	255	Sweden	11
United States	237	Switzerland	14
Finland	1	Tunisia	1
France	18	Turkey	17
UK	7	Uruguay	2
		Venezuela	134

407. Regarding the passive MLA requests received from 2012 to June 2017, 728 cases involved ML, 104 were related to asset forfeiture and 77 to terrorism.

Table 40 – Passive MLA requests involving ML, terrorism and asset forfeiture

Subject	2012	2013	2014	2015	2016	2017	Total
ML	123	133	140	183	134	15	728
Asset forfeiture	40	37	26	1	0	0	104
Terrorism	17	10	17	18	14	1	77

408. The authorities provide responses in a timely manner, which is an important aspect given the large number of requests that the country receives each year. DGI informed that by 2016, the average time of response was 6 months (5 months in the case of ML-related requests). The time of the responses varies depending on the complexity and nature of the measures indicated in the request received from the foreign jurisdictions. Most of the countries that provided feedback on the international cooperation provided by Colombia were satisfied about the average time of response. Moreover, there were countries that informed that they receive good quality responses from Colombia in less than 30 days.

409. Colombia also provides MLAMLA with respect to a wide range of investigative techniques, including undercover operations and controlled delivery. From 2012 to October 2016, 135 operations took place in the framework of drug trafficking and ML investigations, drug-related offenses being the most prevalent predicate offenses and of higher risk in the country. 133 out of these 135 cases were carried out with the United States, which is a key partner in this field.

Table 41 – MLA on special investigative techniques

2012	2013	2014	2015	2016 (oct)	Total
36 Drug trafficking	17 Drug trafficking	11 Drug trafficking	29 Drug trafficking	42 Drug trafficking and ML	**135**

410. Colombia is known to cooperate fully with extradition requests from other countries. It has a mixed system where the final decision for extraditing a person depends on the Executive Branch, but it requires previous favorable opinion from the Supreme Court of Justice (SCJ). MINREX can receive a request from the foreign country asking for the provisional capture of the person through the diplomatic channel and sends

it to the FGN. If there is no request for a provisional capture, then the FGN intervenes and orders the capture once the extradition is granted.

411. When the requesting country submits a request, the MINREX conducts a formal analysis of the supporting documentation and refers the file to the MINJUS, which examines the documentation and sends it to the SCJ. SCJ can issue a favorable or negative opinion and bases its decision on the formal validity of the relevant documentation, the demonstration of the identity of the affected person, the principle of dual criminality, the existence of at least a formal accusation from the foreign country, and verifies that there are no constitutional limitations. If the SCJ issues a negative opinion, the Executive Branch must deny the extradition. If the opinion is favorable, then the Executive Branch can decide whether to grant the extradition request. If the extradition is granted, the FGN proceeds with the extradition. Overall, the extradition process appears appropriate and functions well.

412. Regarding the incoming extradition requests for the period 2011-2017, there were 1,415 incoming requests from 19 countries. These came mainly from the United States (837), Spain (125), Venezuela (42), Argentina (25) and Peru (24). 1,125 out of 1,415 requests were executed, or an average of 80%. In 204 of these 1,125 executed requests the underlying offense was ML. Among the reasons why the 20% of the incoming requests were not executed we have the following: the country withdraws the application, the person could not be captured, the requested person died, the request is still being processed, the extradition request was deferred, among others.

Table 42 – Incoming extradition requests per year

Year	2011	2012	2013	2014	2015	2016	2017	Total
Total requests	324	178	212	173	216	219	93	1,415

Table 43 – Executed incoming extradition requests per year

Year	2011	2012	2013	2014	2015	2016	2017
Total requests	146	230	159	184	168	195	43
ML-Related requests	24	40	51	23	31	29	6

413. Colombia has a case management system within the FGN (ORFEO System) and a procedure for the timely execution of extradition requests, including prioritization. The International Management Division of the FGN (DGI, according to the acronym in Spanish) oversees the analysis and processing of the extradition requests and is comprised of 32 officials. The MINJUS also has a case management system for processing the requests and maintains statistics as well. The ordinary extradition takes an average of 1 year and 3 months. In turn, simplified extradition takes an average of 7 months. Colombia provides extraditions in a timely basis.

Seeking Timely Legal Assistance to Pursue Domestic ML, Associated Predicate and TF Cases with Transnational Elements

414. Colombia actively seeks MLA from third countries to gather evidence for domestic cases. For the period 2012-June 2017, the DGI sent 1,546 requests to 58 foreign countries. Primary countries to which Colombia has directed MLA requests were: United States (553), Spain (163), Ecuador (130), Panama (125), Venezuela (107), Mexico (82), Peru (38), Argentina (31), Costa Rica (29), Brazil (26), Italy (24) and Chile (18).

Table 44 – MLA requests sent (2012-2017)

Country	Total	Country	Total	Country	Total
Albania	1	Spain	163	Portugal	1

Germany	7	United States	553	Puerto Rico	2
Argentina	31	Estonia	1	Dominican Republic	16
Aruba	9	France	14	Gabon	1
Australia	4	UK	8	Romania	1
Bahamas	2	Guatemala	15	Switzerland	11
Belgium	12	Netherland	14	Trinidad and Tobago	2
Bolivia	11	Honduras	8	Turkey	3
Brazil	26	India	1	Uruguay	2
Canada	16	Indonesia	1		
Chile	18	Ireland	1		
China	4	Virgin Islands	2		
Korea	1	Israel	8		
Ivory Coast	1	Italy	24		
Costa Rica	29	Jamaica	1		
Croatia	2	Japan	1		
Cuba	10	Mexico	82		
Curacao	3	Nicaragua	4		
Denmark	5	Panama	125		
Ecuador	130	Paraguay	3		
El Salvador	2	Peru	38		
United Arab Emirates	1	Poland	2		

415. 339 of these MLA requests were related to ML, 153 to asset forfeiture and 25 to terrorism cases.

Table 45 – MLA requests involving ML, terrorism and asset forfeiture proceedings

	2012	2013	2014	2015	2016	2017	Total
ML	50	43	72	82	79	13	339
Asset forfeiture	58	35	28	19	5	8	153
Terrorism	5	7	4	2	5	2	25

416. Colombia is very active seeking ALM from foreign counterparts, and the DGI provides feedback to them about the results arising from the information received. The DGI also monitors the time of the responses and when there is an unreasonable delay it communicates with the requested country to address any obstacle or barrier impeding the timely response.

417. In addition, Colombia periodically makes extradition requests to other countries (active extraditions). During the period 2011-2017 Colombia made 179 requests to 22 countries. Primary countries to which Colombia has directed extradition requests were: Spain (58), Venezuela (33), United States (25), Argentina (13), Brazil, (11), Panama (7) and Ecuador (6). 12 of these requests involved ML charges, 2 TF and 1 terrorism.

Table 46– Extradition requests made by Colombia (2011-2017)

Requested country	Total
Germany	1
Argentina	13
Belgium	1
Bolivia	1
Brazil	11
Canada	1
Chile	3
Costa Rica	1
United States	25
Ecuador	6
Spain	58
Italia	6
México	2
Netherlands	2
Panama	7
Paraguay	1
Per	2
United Kingdom	1
Switzerland	2
Uruguay	1
Venezuela	33
Grand Total	**179**

418. Furthermore, the FGN is part of the GAFILAT's Assets Recovery Network (RRAG), and by 2016 it has made 17 active requests to 8 foreign countries by using such platform. The requested countries were Panama (4), United States (3), Spain (3), Argentina (2), Chile (2), Switzerland (1) France (1) and Italy (1).

419. The Judicial Police within the FGN receives support from the United States Special Investigation Unit (SIU) in the drug trafficking field. This office has allowed both countries to cooperate actively and to conduct joint investigations, including the implementation of special investigative techniques in cases with domestic and transnational elements.

420. Colombia has a sound legal framework for sharing assets internationally. At the time of the onsite visit there was only one case where proceeds were repatriated from a third country. In turn, while the FGN have obtained provisional measures aimed to repatriate proceeds located abroad, these cases were still ongoing at the time of the onsite visit. The volume of MLA requests received and made by Colombia as well as ML cases analyzed by the assessors reveal that there are several ML cases with transnational elements.

Seeking other Forms of International Cooperation for AML/CFT Purposes

421. Colombian authorities regularly seek other forms of international cooperation for AML/CFT purposes, including by means of informal inter-agency cooperation, use of joint networks and platforms for exchanging information and the creation of working groups and joint task forces with foreign counterparts.

422. The examples of international cooperation in Colombia are many, but representative examples include: working in partnership with foreign counterparts and attachés on high-impact investigations; coordinating and prioritizing attendance of Colombian competent authorities personnel at major training sessions and continuing core skills training for investigators, judges, and prosecutors in the specific areas of AML, CFT and asset recovery sponsored by foreign countries; fully partnering with foreign partners on asset forfeiture; and ongoing exchanges with foreign countries subject matter experts from various agencies on ways to strengthen Colombia's AML/CTF and asset forfeiture framework.

423. UIAF is a proactive member of the Egmont Group since 2000 and uses the Egmont Secure Web platform to seek international cooperation from foreign counterparts. Important cases. The role of UIAF has been recognized by the Egmont Group several times, for example in 2013, where the it won the Best Egmont Case Award, and in 2015 and 2016, where UIAF was the finalist in this competition.

424. From 2012 to June 20172017, the UIAF has sent 235 information requests to foreign counterparts. Primary countries to which Colombia has sent requests were: Panama (57), United States (53), Venezuela (17), Spain (14), Holland (8), British Virgin Islands (8), Argentina (7) and Switzerland (7). During the same period, the UIAF received 6262 spontaneous disclosures of information (please see the Tables below).

425. In turn, the National Police maintains an important global network of liaison with foreign counterparts. The countries that mainly collaborate with the National Police are the United States of America, France, Argentina, Brazil, Chile, Ecuador, Costa Rica, Jamaica, Mexico, Paraguay, Dominican Republic and El Salvador. The National Police also receives important cooperation from Europol. It is important to note that the National Police also seeks international cooperation by using other gateways such us the RRAG and AMERIPOL.

426. The DIJIN actively participates in international working groups within the framework of 19 agreements with foreign counterparts on ML, terrorism and asset forfeiture. Furthermore, since 2010 the National Police has exchanged more than 167,000 messages with foreign counterparts through the INTERPOL platform.

427. The National Police receives continuous support from the United States Special Investigation Unit (SIU) in the drug trafficking field as well. This office is integrated within the antinarcotics division of the DIJIN and it has allowed Colombia and the United States to actively cooperate and conduct joint investigations, including the implementation of special investigation techniques in domestic cases with transnational elements.

428. Regarding the intelligence against the transnational organized crime and terrorism, the National Police receives relevant information and cooperation from the Latin American and Caribbean Community of Police Intelligence (CLACIP), which is comprised of 33 intelligence services and the Ibero-American Strategic System on Organized Crime Operations (SEISOCO), which has 8-member countries and has relationship with 25 countries from the region and 28 countries from the European Union.

429. Several prominent cases were built and brought to justice by competent authorities, where the international cooperation sought and received played a key role. A relevant example is provided in the box below.

Box 7 – Example where the international cooperation sought by Colombia played aa key role

Case "Loco Barrera":
Daniel Barrera, known as "El Loco Barrera", is a prominent Colombian narcotrafficker captured on 18 September 2012 in Venezuela, in an operation that was coordinated by the National Police from Washington DC, with the aid of the Venezuelan and British governments. "El Loco Barrera" had his main center of operations in the Oriental Plains of Colombia and was one of the most-wanted "capos" in the country.
The UIAF, with the cooperation of national intelligence agencies, foreign intelligence agencies and a European FIU, managed to consolidate a case and collected useful information related to the criminal organization. The actors were people who acquired

and managed goods through the constitution of front companies, derived from narcotrafficking, which were hidden under the name of third parties and whose real owner was "El Loco Barrera".
As a result, the UIAF detected, through its financial analysis, 629 immoveable goods for possible asset forfeiture, up to a total value of COP146,294,000,000 (approximately USD 82,000,000). This information was submitted to the FGN for criminal prosecution and asset forfeiture action. In this regard, in December 2016, the judiciary forfeited 11 vehicles, 4 real estate properties and shares of a company amounting around COP 5,365,000,000 (approximately USD 1,877,750).

430. In addition, through the National and International Cooperation Unit for Prevention, Investigation and Seizure of Assets, the Comptroller General of the Republic (CGR) aims to recover proceeds from corruption which were move abroad. This unit, which has the purpose of implementing provisions of the UNCAC regarding international cooperation, has sent 3 international requests to 2 countries.

Providing other Forms International Cooperation for AML/CFT Purposes

431. The UIAF has signed 545 MOUs with foreign counterparts and considers the international cooperation as a priority issue. The UIAF is an active member of the Egmont Group since 2000, and continuously provides financial intelligence to its foreign counterparts through the Egmont Secure Web. From 2012 to June 20172017, the UIAF has received 560560 information requests from foreign counterparts. Primary countries sending requests to Colombia are: United States (69), United Kingdom (69), Peru (52), Bolivia (44), Argentina (41), Panama (29), Holland (24), Spain (17) and Chile (15). During the same period, UIAF has sent 21 spontaneous disclosures of information to foreign counterparts.

432. According to the feedback received from several FATF delegations, the UIAF was very proactive by sending spontaneous information in drug related cases. Moreover, one counterpart informed that UIAF produces extremely detailed high-quality disseminations regarding suspect activity reports and other material received from the regulated sectors. In addition, some delegations highlighted that the responses to international cooperation requests were useful and contained information of good quality, also concerning financial transactions.

Table 47. UIAF – Information exchanges (2012 – 06/2017)

Year	Requests to Colombia	Requests from Colombia
2012	146	30
2013	118	70
2014	111	25
2015	72	56
2016	84	37
2017	42	27
Total	**573**	**245**

Table 48. UIAF – Spontaneous disclosures of information (2012 – 06/2017)

Year	Received	Sent
2012	6	1
2013	15	2
2014	1	9
2015	4	8
2016	23	1
2017	11	0
Total	**60**	**21**

433. The UIAF also provides information to Europol and the United States National Security Agency (NSA). UIAF can conduct inquiries based on requests made by foreign counterparts. This includes the

possibility of requesting information from reporting parties and sharing it with the requesting foreign counterpart.

434. LEAs play a proactive role sharing information spontaneously with their counterparts. Both the FGN and the National Police regularly utilize the RRAG platform to provide international cooperation. By December 2016, the FGN received 41 information requests through this platform, informing that the time of response takes from 30 to 45 days. Countries sending requests to Colombia were Spain (20), Argentina (6), Ecuador (6), Chile (5), Guatemala (1), France (1), Costa Rica (1), and Paraguay (1). As well, according to the feedback received from some FATF delegations, communication with competent authorities from Colombia in the framework of the RRAG is fluent and constant.

435. The National Police is part of several relevant international cooperation networks. In this regard, the National Policy is an active member of Interpol, Europol, Ameripol, CLACIP (Latin American and Caribbean Community of Police Intelligence) and SEISOCO, and regularly uses these platforms to provide international cooperation to its counterparts. Moreover, the National Police provides cooperation to foreign agencies in the framework of the more than 120 international agreements signed between Colombia and other countries.

436. Internal procedures of the National Police (including procedures for international cooperation) achieved the ISO certification 9,001. DIPOL achieved ISO certification 27,001 as well. Through these certifications, the National Police has put in place relevant best-practice information security processes. The National Police has specialized training centers where 1,875 officials from around 50 countries have been trained in several fields, including drug trafficking and asset forfeiture.

437. Additionally, through the DIPOL, the National Police currently provides technical assistance to 14 countries in the region for strengthening their internal procedures and technical capabilities.

438. DIPOL actively works with 86 foreign counterparts and has been chairing the Community of Intelligence of Latin America for 12 years. This community comprises 32 intelligence agencies from 28 countries of Latin America and the Caribbean.

439. Concerning customs enforcement, the DIAN has signed bilateral agreements with several countries and multilateral bodies such as CAN, CARICOM, MERCOSUR, Central-America Triangle, EFTA (European Free Trade Association), European Union, *Alianza Pacífico* and exchanges information with foreign counterparts in the framework of COMALEP (which comprises customs from Latin America, Spain and Portugal).

440. Furthermore, the DIAN has signed bilateral agreements with foreign counterparts for tax purposes, and these instruments comprise specific clauses and gateways for providing information. However, at the time of the onsite visit there were no adequate internal procedures in place for receiving, ensuring confidentiality, prioritizing and responding to requests for assistance from foreign counterparts.[59] From 2015 to 2017, DIAN received 24 requests from foreign counterparts

441. In turn, the SFC is part of several multilateral organizations which provide channels and gateways for providing cooperation, such as the International Organization of Securities Commissions (IOSCO), Association of Insurance Supervisors of Latin America (ASSAL, acronym in Spanish), and the Association of Banking Supervisors of the Americas (ASBA, acronym in Spanish).

442. The SFC signed 24 MOUs with foreign counterparts and regularly provides information mainly for supervision purposes. SFC has carried out several meetings with foreign counterparts, including OFAC, to reinforce the information exchange for supervisory purposes. From 2012 to 2017 SFC has chaired 14

[59] After the onsite visit the DIAN approved relevant internal procedures establishing measures to execute international cooperation requests and to protect the confidentiality of information (Procedure for exchanging information PR-IC-0356).

supervisory colleges in the framework of the Basel Committee. SFC implements measures for the prioritization of the execution of requests ensuring their confidentiality in accordance to its internal procedures, manuals and policies. The DIAN provides information to the United States in the framework of FATCA and CRS.

International Exchange of Basic and Beneficial Ownership Information of Legal Persons and Arrangements

443. Basic information and legal ownership information about legal persons operating in Colombia is available online through the Confecámaras web site.[60] This information is easily accessible to any person, including foreign competent authorities. Colombian competent authorities share this information with foreign counterparts when requested through the available international cooperation channels. Colombia provides constructive and timely international cooperation in this subject.

444. Regarding beneficial ownership information, the authorities informed the assessment team that they cannot identify specific cases where foreign competent authorities have requested beneficial ownership information. The issues noted previously regarding IO.5 on the availability of beneficial ownership information would impact Colombia's ability to respond in a timely manner to specific international cooperation requests for beneficial ownership information.

Overall Conclusions on Immediate Outcome 2

445. **Colombia has achieved a substantial level of effectiveness for IO.2.**

[60] http://versionanterior.rues.org.co/RUES_Web/Consultas

ANNEX I: TECHNICAL COMPLIANCE

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Detailed Assessment Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in December 2008. This report is available from http://www.gafilat.org/content/biblioteca/

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

The requirements of R.1 were added to the FATF standard in 2012 and were, therefore, not assessed during the previous mutual evaluation of Colombia.

Obligations and decisions for countries

Risk assessment

Criterion 1.1 – Colombia conducted its first NRA in 2013 whereby it identified and assessed its ML and TF risks, which was then updated in December 2016. The 2016 NRA was led by the UIAF, MINJUS, and the University of Rosario, where many public agencies with AML/CFT responsibilities and the private sector participated. The 2016 NRA consists of an assessment of the ML/TF national threats and vulnerabilities as of December 2016. The 2016 NRA analyzed the nature and relative importance of the ML threats associated with certain predicate offenses

Given the existence of over 50 predicate offenses to ML and the lack of information to properly estimate their prevalence and economic magnitude, the authorities decided to limit the analysis to the main sources of criminal activities in Colombia which are supported by an analysis conducted in 2013 by the UIAF. These include: drug trafficking, smuggling, corruption, extortion, migrant trafficking, and illegal mining. Drug trafficking has been identified as the main source of criminal activity followed by smuggling, illegal mining, corruption and extortion. The NRA also includes an assessment of the vulnerabilities in the financial and nonfinancial sector, and thus it identifies the DFNBPs as presenting the higher levels of risks, followed by the banking sector. Amongst the DNFBPs, lawyers, accountants, statutory auditors, auditors, and real estate agents, among others, were identified as presenting higher ML/TF risks. According to the NRA, NPOs, and persons involved in mining activities as well as dealers in precious metals also present higher ML/TF risks

The 2016 NRA was conducted following the establishment of four thematic working groups and involved a broad range of government agencies with AML/CFT responsibilities. A total of 21 government agencies and some private sector representatives participated. The NRA draws together information from across participating parties to form a picture of the country's threats and vulnerabilities. It involved a clear project plan describing the process, roles, and responsibilities. A two-tiered system was established to coordinate input, provide guidance, and direction across agencies. A "coordinating working group" led the process with primary input from four thematic working groups.

In addition to the national assessments, in response to a recommendation from the 2013 NRA, between 2016/2017, the UIAF conducted the first sectoral analysis aimed at analyzing the main ML/TF risks in six geographical regions. The exercise involved the assessment of the types and scope of the proceeds-generating offenses (i.e., corruption, drug trafficking, smuggling, illegal mining, extortion, illicit arms trafficking, trafficking in human beings, and migrant smuggling) and sectors that have been mostly exploited (i.e., commerce, cattle raising, real estate activities, mining). The assessment involved the participation of compliance officers, as well as public local authorities, but was limited in coverage (overall response rate

was approximately 30 percent). The TF risks were also addressed by intelligence agencies through other national confidential policies.

The risk assessments of 2013 and 2016, broadly address the main ML/FT threats and vulnerabilities. However, there were some gaps in the data and lack of participation from some relevant agencies.

Criterion 1.2 – The CCICLA is the designated national authority for developing and coordinating the national AML/CFT policies in Colombia and for coordinating actions to assess risks. CCICLA was tasked to act as a coordinating authority with respect to the 2013 NRA. The 2016 NRA was coordinated by the UIAF, who is acting as the CCICLA's *technical* secretariat) with support from MINJUS (as the head of the CCICLA) and the University of Rosario.

Criterion 1.3 – A second NRA was conducted in 2016. The document was approved by the CCICLA in January 2017. Colombia's updated NRA is supported by a revised procedure that in general terms follows the 2013, procedure and is complemented by specific templates designed to capture several new developments, such as the presence of new reporting entities and a better understanding of the ML/TF risk of DNFBPs and of the FT threats and vulnerabilities.

Criterion 1.4 – The results of the 2013 NRA were presented to all the members of CCICLA and at a sectoral level to all relevant competent authorities that participated in the assessment. These included policy-making bodies, regulatory and supervisory agencies, intelligence, law enforcement and prosecutorial authorities, among others. An executive summary of the NRA was published on the UIAF's website. CCICLA adopted and approved the 2016 NRA in January 2017. In May 2017, the authorities disseminated the findings of the NRA to the private sector. At a country level, an executive summary of the NRA was published on the UIAF's website.

Risk mitigation

Criterion 1.5 – CCICLA elaborated a set of recommendations jointly with the Departamento Nacional de Planeamiento, the AML/CFT national policies, which were set out under the CONPES document with the purpose of addressing the main priorities of the national AML/CFT system. There are also other public policies that address part of the risks identified by the authorities. However, the 2013 NRA did not fully serve as input to the development of national AML/CFT policies, which could have enabled the authorities a more effective resource allocation. Similarly, other specific measures to prevent or mitigate ML/TF risks, such as those based on the findings of the 2016 NRA have not been put in place yet, due to the recent adoption of the report. Colombia still needs to set up a mechanism or process to act upon the recent results of the NRA. The main authorities with AML/CFT responsibilities in general have applied a risk based approach, based in their understanding of the risks.

Criterion 1.6 – All financial institutions (as required by the FATF standards) are subject to the AML/CFT framework. For reporting entities subject to the AML/CFT framework, Colombia has decided to require the application of all FATF recommendations. However, there are scope limitations since most of entities operating in sectors that fall within the DNFBPs category, (lawyers, accountants and the real estate sector), which were identified as most vulnerable to ML/TF in the 2016 NRA, are not subject to the AML/CFT requirements or only under limited circumstances. Dealers in precious metals and stones are out of the scope of the AML/CFT framework, despite the high-risk rating assigned in the NRA.

Criterion 1.7 – Colombia has not applied enhanced CDD measures in response to the higher risk categories identified in the NRA. Financial institutions are required to identify and assess their ML/TF risks for customers, countries/geographical locations, products and delivery channels) and take a risk-based approach in mitigating ML/FT risks (SARLAFT). DNFBPs are required to implement a similar but less comprehensive system for the identification and assessment of ML/TF risks. Only financial institutions under the supervision of the SFC and the SES are required to take enhanced measures to manage and mitigate higher risks (Circular 55/2016, section 4.2.1.4 and SES 4/2017, section 2.1.1). Other than this, there is no requirement in place for financial institutions under the supervision of the DIAN or MINTIC, to perform ECDD where the ML/FT risks are higher nor to ensure that this information is incorporated into their risk assessments. The authorities

have extended the AML/CFT framework to other sectors of the economy (i.e. freight transport, gambling, values transport, mining and quarrying, car dealers, football teams, vehicle armor, foreign trade, among others), but this is not informed by any assessment of risks.

Criterion 1.8 – The 2016 NRA did not identify low ML/TF risks categories of customers, products and transaction risks where simplified measures are permitted. The SFC, based on an analysis of risks and to ensure financial inclusion, has allowed financial institutions to apply simplified measures for certain types of customers, products or transactions that are considered to carry a low risk (sections 4.2.2.1.7 and 4.2.2.1.6 of Circular 55/2016). The assessment team reviewed the analysis conducted by the SFC and agreed with its conclusions. For details about the exemption regime, see discussion on R. 10 below). The other supervisory authorities (SES, DIAN and MINTIC) have not contemplated the possibility of allowing the financial institutions under their responsibility to apply simplified measures. Similarly, DNFBPs are not allowed to apply simplified measures.

Criterion 1.9 – Financial institutions and DNFBPs have a designated supervisory authority for ensuring compliance with the AML/CFT framework. As far as the financial sector, the analysis conducted under Recommendation 26 found that overall all AML/CFT supervisors have adequate inspection powers and that there are sanctions available to the authorities for failure to comply with the AML/CFT requirements. Except for the SFC where supervision appears to be carried out according to a risk-based approach (RBA), there is no regard to risk with respect to the other non-core financial institutions, which are not subject to risk-based supervision by their supervisory authorities (SES, DIAN and MINTIC). Some DNFBPs are not subject to the AML/CFT requirements and the analysis under Recommendation 28 reflects that supervision is poor.

Obligations and decisions for financial institutions and DNFBPs

Risk assessment

Criterion 1.10 – Financial institutions are required to apply a risk management system (SARLAFT) to identify, assess, and understand their ML/TF risks for customers, products, delivery channels and jurisdictions. financial institutions are required to undertake measures in line with the criteria. (SFC-Circular 55/2016, section 4; SES- Circular 4/2017, section 2, DIAN- Circular 13/2016, sections 6 and 7, and MINTIC-Resolution 2564/2016, Articles 4 to 6). DNFBPs in general are also required to implement a SIPLAFT or SAGRLAFT, which to -albeit varying degrees, requires institutions to take appropriate steps to identify, assess and understand ML/TF risks. (Instruction 17/2016 for notaries and Circular of the Superintendence of Companies for lawyers, accountants, and real estate companies). In the case of Coljuegos (casinos), none of the elements under this criterion are covered. Resolution 20161200032334 does not include an explicit obligation to identify, assess and understand ML/TF risks nor is the SIPLAFT defined as a risk management system. Instruction 17/2016 for notaries does not incorporate the requirements under 1.10 (a) (c), (d). Circular from the SES (real estate, lawyers and accountants) does not address the elements under 1.10 (c) and (d). Dealers in precious metals and stones are not covered.

Criterion 1.11 – As part of the SARLAFT, financial institutions are required to have policies, controls and procedures (approved by senior management) to document the process for managing and mitigating ML/TF risks. and to monitor implementation (SFC- Circular 55/2016, section 4; SES- Circular 4/2017, section 2.2.3, DIAN-Circular 13/2016, section 7.1; and MINTIC-Resolution 2564/2016, section 6.2.a). Only the financial institutions under the supervision of the SFC and the SES are required to take enhanced measures to manage and mitigate higher risks (Circular 55/2016, section 4.2.1.4 and SES 4/2017, section 2.1.1). In the case of DNFBPs, except for Coljuegos, the Circular of the Superintendence of Companies and Instruction 17/2016 for notaries, address the requirements under C.1.11 (a) and (b) but fall short in addressing (c).

Criterion 1.12 – Simplified measures are only permitted by the SFC in the circumstances laid out under Circular 55/2016, section 4.2.2.1.7 where low risks have been identified (Please see C. 1.8). However, criteria 1.9-1.11 are not adequately addressed.

Weighting and Conclusion: The risk assessments of 2013 and 2016 broadly address the main ML/TF threats and vulnerabilities, despite some data gaps and the lack of participation of some relevant agencies. The national AML / CFT policies were established under the CONPES document in order to address the main priorities of the national AML/CFT system. Although not all of the risks in the 2013 and 2016 NRA have been addressed in the AML/CFT policies, there are other public policies that address part of the risks identified by the authorities. Likewise, the main authorities with responsibility in the fight against ML/TF have broadly applied a risk-based approach based on their understanding of risks. Some of the criteria related to FI and DNFBPs obligations are partially met. **Recommendation 1 is rated largely compliant.**

Recommendation 2—National Cooperation and Coordination

In its 2008 MER Colombia was rated largely compliant regarding requirements on former Recommendation 31 (para. 6.1.3). The deficiency was related with the effective coordination and information exchange between the AML/CFT authorities. These issues are not assessed as part of the technical compliance under the FATF 2013 Assessment Methodology.

Criterion 2.1 – The CONPES issued on December 2013 the document CONPES 3793 related to the national AML/CFT policies. CONPES 3793 states an action plan for the authorities of Colombia to strengthen the AML/CFT regime. This national AML/CFT policy includes the main 2013 NRA results and recommendations (November 2013). Authorities stated the 2013 NRA and CONPES 3793 were designed simultaneously, so CONPES 3793 could not have taken into consideration all of the NRA results and the AML/CFT risks identified. The authorities state that the AML/CFT national policies are included in several documents, like the National Development Plan 2014–2017 and the National Intelligence Plan that take into account the main risks identified. However, given the recent adoption of the new NRA in December 2016, there is still a need to address the emerging risks. As the National Intelligence Plan is a confidential document, the assessment team was not able to review it in detail and could not establish that the risks identified in the 2016 NRA were considered.

Criterion 2.2 – Since 1995, according to Decree 950 and its subsequent amendments, CCICLA organizes, designs, and implements the AML/CFT regime in Colombia. CCICLA coordinated the elaboration of the 2013 NRA, and, according to the authorities, was also engaged in the process of 2016 NRA, but this exercise was led by the UIAF. CCICLA has also the authority to approve the NRA results before its dissemination to competent authorities and the private sector. However, CCICLA is not the only body responsible for the AML/CFT policies at a national level, since there are other bodies through which these issues are discussed and it is not clear how these authorities are coordinated.

Criterion 2.3 – As stated in the national AML/CFT policy document (CONPES 3793), CCICLA is a body that coordinates collaboration among appropriate national authorities regarding AML/CFT policies. In order to achieve an effective implementation of the national policy regarding this issue, CCICLA works through four internal committees, three of them relevant for the AML/CFT policies with the collaboration of the 24 appropriate authorities which constitute the AML/CFT regime in Colombia (UIAF, LEAs, supervisors, and policy makers, among others): Operational Committee of AML Culture, Operational Committee for Prevention and Detection and Operational Committee for Investigation and Prosecution. CCICLA is strengthened by other working groups and committees, which also contribute and collaborate with the implementation of the AML/CFT national policy. According to authorities, there are coordination arrangements between the UIAF and LEAs. It is not clear if the cooperation agreements between supervisors and other national authorities are being implemented and address the country's AML/CFT deficiencies. Additionally, an agreement for information sharing between the UIAF and the DIAN was signed in November 2016, but is not implemented yet, and there are some concerns regarding the scope of this agreement.

Criterion 2.4 – According to the authorities, proliferation financing coordination issues fall within the jurisdiction of the Ministry of Foreign Affairs, the General Prosecutor Office, the UIAF, and the Superintendence of Financial Issues. These four authorities signed an agreement on November 2015 to implement actions and effective measures for the compliance of Article 20 of Law 1121 (2006). However,

Article 20 of Law 1121 does not contemplate specific actions against proliferation financing, but only actions against terrorist financing in general. In this regard, the scope of this agreement is not clear, and which actions undertaken by the government of Colombia are related to compliance with the UNSCRs and FATF standards against proliferation financing.

Weighting and Conclusion: The national AML / CFT policies are included in several documents, such as the National Development Plan 2014-2017 and the National Intelligence Plan, which were drafted based on the main risks. However, given the recent adoption of the new NRA in December 2016, some risks still need to be addressed. There are national committees and mechanisms in place to coordinate AML / CFT matters at the national level, but it is necessary to strengthen inter-institutional collaboration between the UIAF and the supervisors and the UIAF and the customs authorities. Furthermore, it is not clear how these national mechanisms are applied to coordinate policies against proliferation financing. **Recommendation 2 is rated largely compliant**.

LEGAL SYSTEM AND OPERATIONAL ISSUES

Recommendation 3—Money Laundering Offense

Colombia was rated as largely compliant on Recommendation 1 on the 2008 MER. The range of predicate offenses was not sufficient and there were doubts about the autonomy of the ML offence.

Criterion 3.1 – The activities related to the laundering of assets are criminalized in Article 323 of the Criminal Code (CC) which is in line with the Vienna and Palermo Conventions. This Article, modified in 2015, includes new predicate offenses. Nevertheless, there are still some required categories of offenses not covered, as set out under criteria 3.2 and 3.3. The Article is in line with the standard and includes the acquisition, securitization, investment, transport, transformation, storage, conservation, custody, or management of assets, that have a mediate or immediate origin in the predicate offenses listed and give them the appearance of legality or legalize them, conceal its true nature, origin, location, destination, movement or rights over those assets incurs in an ML offence. Among the main ruling verbs, is important to highlight the absence of possession and utilization required by the Palermo convention. Nevertheless, many verbs currently in the definition would cover some (but not all) of these situations such as invest, transform, administrate or transport.

Criteria 3.2 and 3.3 – The ML offence comprises a list of predicate offenses with no threshold or combined approach. Colombia's predicate offenses include human trafficking, extortion, illegal enrichment, kidnapping, arms trafficking, terrorist financing and management of resources related to terrorist activities, drug trafficking, offenses against the financial system, offenses against the public administration (corruption, bribery and tax crimes), smuggling of oil, smuggling or facilitation of smuggling and conspiracy. Sexual exploitation, counterfeiting and piracy of products, environmental crimes, murder or grievous bodily injury, robbery or theft are not covered, however some of these activities can be covered by illegal enrichment of individuals, which establishes a wider scope of predicate activities. In Colombia, there is only a predicate offense of tax evasion of indirect taxes according to Article 402, the sanction is from evading taxes but to not declare them, finally the CC establishes that the payment of the tax debt extinguishes the criminal action and therefore the ML offence. There is currently a voluntary tax compliance program in place, however, the criminalization of direct tax evasion will begin in 2018. Though the are some missing predicate offenses, the illicit enrichment of individuals can encompass all offenses under the CC as illegal gains pursued in by this crime. Thus, all criminal activities recognized by the CC can become directly or indirectly a predicate offence of ML.

Criterion 3.4 – The ML offence is extended to any kind of property, explicitly includes property having their direct or indirect origin in the listed predicate offenses. Moreover, together the general elements established in the CPC - Article 82 - on confiscation, the ML offense also extends to assets and resources that directly or indirectly related to the crime, whether they are mixed or concealed within assets of lawful origin.

Criterion 3.5 – For assets to be considered the proceeds of crime, the legislation requires from a strictly legal analysis a criminal conviction Therefore, Article 323 of the CC shows an incomplete criminalization. Nevertheless, this shortcoming is covered by case law from the Supreme Court it establishes that it is not necessary that a person be convicted of a predicate offence to prove that that property is the proceeds of crime (CSJ 30762 2008). The Authorities and the analysis of the cases showed that the case law is applied extensively.

Criterion 3.6 – The text of the law in Article 323 clearly states that ML is punishable even when its activities have been carried out, wholly or partly abroad.

Criterion 3.7 – Article 323 refers to the product of illegal activities, and does not refer to the author of the predicate offense. It is therefore inferred, in addition to the fact that there is not an express prohibition, that the same person can be pursued for both offenses. This includes the possibility of pursuing self-laundering, as case law supports this possibility (CSJ 30762 2008).

Criterion 3.8 – To prove the intent and knowledge required to demonstrate the crime of ML, the Supreme Court case law has established that it is possible to derive and prove the cognitive and willful element of intent based on the objective circumstances, including by circumstantial evidence (CSJ 32872, 2010).

Criterion 3.9 – The crime of ML is sanctioned with a prison sentence of *"ten (10) to thirty (30) years and* a *fine of* one *thousand (1,000) to fifty thousand (50,000) legal minimum monthly wages"*. However, the penalty can be aggravated by several circumstances. It is important to note that the maximum penalty allowed is sixty (60) years, and in the case of ML, the penalty may reach that limit in cases in simultaneity with other crimes. The aggravating factor carries a significant penalty to forty-five (45) and fifty-two (52) years. As previously mentioned, it can be confirmed that the penalties for the crime of ML are the highest in the Colombian legal system, comparable only with crimes such as genocide. The fine expected is 1,000 to 50,000 official minimum wages, which in August 2016 would be roughly equivalent to a fine between USD 230,000 and USD 11,490,885.

Criterion 3.10 – The Colombian criminal framework does not include the criminal liability of legal persons; they are sanctioned accessory to a main criminal sanction imposed to a natural person. A law was recently approved that includes the possibility of sanctioning legal persons for acts of transnational bribery, but not for ML (Law 1778/ 2016). There is also the possibility to apply administrative sanctions to legal persons if there is a conviction to a person involving a legal person.

Criterion 3.11 – Colombian criminal law includes ancillary offenses for all crimes including the participation, conspiracy, attempt, among others, in line with the standard (CC articles 30 and 340).

Weighting and Conclusion: Colombia has in Article 323 covered most of the standard's requirements complemented by relevant case laws. However, some predicate offenses are still not directly covered and there is no criminal liability for legal persons for ML. **Recommendation 3 is rated largely compliant**.

Recommendation 4—Confiscation and Provisional Measures

In its 2008 MER Colombia was rated compliant with former Recommendation 3. No technical deficiencies were identified at that time.

Criterion 4.1 – Colombia has two main mechanisms enabling confiscation of assets: i) criminal confiscation, as established by section 82 of the CPC (Law 906/2004); and ii) asset forfeiture, as provided by section 34 of the Political Constitution of Colombia and the AFL (Law 1708/2014). Criminal confiscation results from a conviction and covers proceeds (both direct and indirect) and instrumentalities used or intended for use in an offense, which includes ML, predicate offenses and TF. In addition, confiscation of property of corresponding value is provided for cases where assets cannot be located, identified or materially affected, or when confiscation of such assets cannot be applied. Given its accessory nature in relation to the conviction, criminal confiscation is not applicable if the statute of limitations has passed.

Asset forfeiture is constitutionally based and is regulated in detail in the Asset Forfeiture Law (AFL). It is defined as a patrimonial consequence arising from illegal activities, consisting in the declaration of ownership of such property in favor of the State (section 15). It has patrimonial content (Article 17) and it is autonomous and independent from criminal proceedings (Article 18). Asset forfeiture captures proceed emerging from any criminal activities, as well as instrumentalities, subrogate assets, property of corresponding value, among several others (Article 16). Asset forfeiture in Colombia has a broad scope which enables competent authorities to recover a wide range of assets and is not subject to the statute of limitations (Article 21).

Criterion 4.2 –

Subcriterion 4.2 (a) Colombia has legislation that enables competent authorities to identify, trace and evaluate property that is subject to confiscation. These functions fall under the general investigative powers of the FGN, which directs and coordinates the work of the Judicial Police and other relevant investigative authorities. The investigative powers of the FGN are generically defined in the Political Constitution (Article 250) and are further regulated in the CPC and the AFL. Article 205 of the CPC sets forth several measures for identifying and collecting evidence. Article 244 of the CPC refers to the search of databases. Additionally, the AFL regulates the identification and tracing of assets in detail, in the framework of asset forfeiture proceedings. Particularly, Article 29 sets forth the general powers of the FGN as it relates to the asset forfeiture proceedings. AFL Article 160 covers specific powers of the Judicial Police, which includes identification of property as well as other measures essential to the effectiveness of the provision. Article 164 AFL refers to searches and records.

Decree 2136/2015 provides a clear framework regarding the evaluation of property subject to asset forfeiture, which falls under the managerial and disposal powers of FRISCO referred in Criterion 4.4 below. Regulatory Resolution 247/2013, created the "National and International Cooperation Unit for Prevention, Investigation and Seizure of Assets". This Unit operates under the auspices of the CGR and is charged with producing policies, plans and programs for tracing and recovering assets internationally, as well as taking part in international asset recovery networks and receiving international cooperation requests in accordance to the UNCAC, among others.

Subcriterion 4.2 (b) The FGN has powers to carry out provisional measures, such as freezing or seizing, to prevent any transfer or disposal of property subject to confiscation. These measures are comprised both in the CPC and the AFL. Articles 83, 92 and 93 of the CPC contain provisions applicable to provisional measures, which are meant to ensure the confiscation of assets. In turn, Article 8787 of the AFL establishes the purpose of provisional measures in the framework of asset forfeiture proceedings, while section 88 lists a range of provisional measures that can be adopted during these processes.

Subcriterion 4.2 (c) Both the CPC and the AFL contain provisions aimed to prevent or void actions that could prejudice the country's ability to freeze, seize or recover property that is subject to confiscation. In addition to the provisional measures referenced above, for confiscation purposes the CPC allows the seizure and occupation of assets, as well as establishing that the prosecutor can request suspension of disposal power over assets (Articles 83 to 85). Similarly, section 88 of the AFL allows an injunction for suspending the disposal powers over the assets, among other relevant measures as for example the seizure and possession of assets.

Subcriterion 4.2 (d) Colombia is equipped with legislative measures that enable the competent authorities to take appropriate investigative measures. The general investigative powers of the FGN are entrenched in Article 250 of the Constitution and are further stipulated in the CPC and the AFL. Investigative powers are further explained in R.29 and R.31.

Criterion 4.3 – Rights of bona fide third parties are protected in Articles 82, 87 and 99 of the CPC and Articles 3, 7, 22, 87, 124.4, 152 and 212 of the AFL.

Criterion 4.4 – Colombia has relevant mechanisms allowing the management and disposal of property frozen, seized, and confiscated. Articles 82 and 86 of the CPC specifically provide for these mechanisms. Article 82 establishes that confiscated property will be transferred definitively to the FGN through the "Special Fund for Assets Management". Article 86 stipulates that property subject to provisional measures will be managed for the Special Fund as well. AFL also provides a specific management mechanism for property frozen, seized, and confiscated in the framework of asset forfeiture proceedings. Chapter VIII creates the FRISCO, which is granted relevant management and disposal powers. This general framework is further regulated through Decree 2136/2015.

Weighting and Conclusion: The confiscation measures in Colombia are comprehensive and all criteria are met. **Recommendation 4 is rated compliant.**

TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Recommendation 5—Terrorist Financing Offense

Colombia was rated compliant with former Special Recommendation II in the 2008 MER.

Criterion 5.1 – The TF offence is criminalized in Article 345 of the CC; the criminalization is generally in line with the standard. Punishing any person, "who directly or indirectly delivers, collects, receives, contributes goods or resources, or performs any act to promote, organize or maintain illegal armed groups or terrorists, national or foreign, or finance their activities, or sustain their members economically". The definition of Terrorism (Art.345) covers all terrorist acts included in the UN Conventions related to TF. Terrorism is described as any person" who provokes or keeps the population or a part of it in a state of distress or terror through acts that endanger the life, physical integrity or freedom of persons or buildings or means of communication, means of transportation, means of processing or conduction of fluids or driving forces, using means capable of wreaking havoc. "The definition is wide enough to encompass all acts included in the UN TF Conventions.

Criterion 5.2 – The crime of financing terrorism includes the collection and provision of funds for supporting a terrorist organization or an individual terrorist or terrorist activity. Further, the absence of a link to a terrorist act is covered thus – "or perform any other act that promotes, organizes, supports, maintains, finances or economically sustains (...) to national or foreign terrorist groups or terrorists, foreign or nationals".

Criterion 5.2^{bis}– Although the financing of travel of individuals for perpetrating, planning, preparing or engaging in terrorist acts or providing or receiving terrorist training is not included, the offense is broadly defined and would cover most these activities. Only some cases of financing of travels for individuals (not persons yet linked with any terrorist organization) that haven't participated in any terrorist activity could be argued that it is not covered.

Criterion 5.3 – The legislation does not include a distinction of the sources of funds, and draws no distinction between legal and illegal sources. The incorporation of goods and resources seems to be broad enough to include the sources of funds.

Criterion 5.4 – The crime does not require the terrorist act to be carried out. It is sufficient to finance individual, activities, organizations or terrorists regardless of the destination of the funds.

Criterion 5.5 – Colombian case law acknowledges that intent cannot be proved directly through the current framework. Consequently, the only way to prove intent is through indirect evidence, based on objective facts, and circumstantial evidence.

Criterion 5.6 – In its basic form, the financing offense is punished with *"(...) imprisonment of thirteen (13) to twenty (22) years and a fine of thirteen hundred (1,300) to fifteen thousand (15,000) minimum monthly wages "* (USD 298,763 and USD 3,447,270). This is effective, proportionate and dissuasive.

Criterion 5.7 – The CC did not anticipate or include criminal liability of legal persons. However, Article 91 of the CPC establishes the suspension and cancellation of the legal personality of legal persons as an accessory sanction of a criminal penalty imposed on a natural person. Recently, a law was approved that includes the possibility of criminally punishing legal entities for acts of transnational bribery, but not for TF (Law 1778/ 2016).

Criterion 5.8 – The legislation includes sanctions for attempting to commit an offense of TF (Article 27), participating as an accomplice of a TF offense or an attempted offense included in the participation (Article. 30) and organizing, directing or contributing, in criminal participation. All ancillary crimes are covered including conspiracy.

Criterion 5.9 – The TF offense is included as a predicate offense of LA in Article 323 of the CC.

Criterion 5.10 – TF's crime includes the financing of terrorist organizations, including foreigners and nationals. If the financing occurs in Colombia, the crime is punishable regardless of where the terrorist activity takes place.

Weighting and Conclusion: Article 345 provides the basis for criminalizing TF according to the standards related to the finance of individual, activities, organizations or terrorists not demanding any purpose. Some deficiencies remain regarding the financing of travel of individuals and legal person's criminal liability. **Recommendation 5 is rated Largely compliant.**

Recommendation 6—Targeted Financial Sanctions Related to Terrorism and TF

Colombia was rated partially compliant with former SR. III in its 2008 MER, as there were no specific procedures allowing the freezing of terrorism-linked assets without delay.

Identifying and designating

Criterion 6.1 –

Subcriterion 6.1(a) An Inter-Ministerial Agreement set up pursuant to Article 20 of Law 1121 of 2006 confers on the FGN authority to propose designations of persons when there are reasonable grounds for designation under Resolutions 1267 and 1988, and a duty to inform the MINREX of its procedure. (Clause 4, last paragraph).

Subcriterion 6.1(b) Article 20 of Law 1121 of 2006 requires that all competent authorities (for example, immigration, fiscal, customs, police, intelligence authorities) to carry out a verification in their databases to determine the possible presence or transit of natural or legal persons included in the UNSC lists and assets or funds related to them.

Subcriterion 6.1(c) The inter-administrative agreement provides that the FGN shall request the MINREX to activate to designation procedure when there are reasonable grounds to suspect that the designation criteria established in UNSCRs 1267, 1988, 1718 or 1737 of 2006 or successor resolutions are met. This request is not conditioned to any criminal proceeding.

Subcriteria 6.1(d) and (e) The agreement compels the MINREX to activate the procedure to designate a person "established in the Resolution". In compliance with the procedure to designate a person, the Ministry should include relevant information of the person to be designated, which implies following procedures and filling in the standard listing forms, adopted by the corresponding committee.

Criterion 6.2 –

Subcriterion 6.2 (a) The inter-administrative agreement designates the FGN the authority in charge of proposing a designation of persons when there are reasonable grounds for the designation under UNSCR

1373 and requires the MINREX to request the freezing of assets or funds to the Corresponding states (Clause 5, last paragraph).

Subcriterion 6.2 (b) Article 20 of Law 1121 of 2006 requires that all competent authorities (for example, immigration, fiscal, customs, police, intelligence authorities) to carry out a verification in their databases to determine the possible presence or transit of physical or legal persons included in the UNSC lists and assets or funds related to them.

Subcriteria 6.2 (c) and (d) The agreement states that the analysis of the proposal must be "without delay" and based on "reasonable criteria". Pursuant to the agreement, the Attorney General must apply the principle of immediacy to act without delay and must evaluate that the request of the other country is based on reasonable suspicion. The reasonable criteria are not required to be linked to a criminal action in the agreement.

Subcriterion 6.2 (e) Article 204 and 205 of the Law 1708/04 establishes that the FGN must comply with all mechanisms established in International Conventions and can conduct all kinds of administrative or legal cooperation. Following this, although the process does not anticipate specifically the obligation to provide all possible information for the identification or information that substantiates the designation in the petitions to other states under the Res 1373 process, the FGN can do so.

Criterion 6.3 –

Subcriteria 6.3 (a) and (b) The FGN has legal authority and procedures to collect or request information to identify potential persons to be designated or to operate ex parte against a physical or legal person that has been identified and whose designation proposal is being considered. These legal powers are stated in the Criminal Procedure Code and in Law 1708 of 2014.

Freezing

Criterion 6.4 – Article 20, Law 1121 of 2006 stipulates once the FGN has been notified of a positive match, the agreement establishes for UNSCR 1267 and 1988 in its fourth clause, numeral 4 that the FGN will proceed immediately to exercise its legal competence in accordance with the AFL and by Article 20 of Law 1121, for which purpose it will appoint a prosecutor who will immediately proceed to issue the pertinent precautionary measures in order to achieve the freezing of the corresponding funds and/or assets. Likewise, in the case of UNSCR 1373 the agreement's fifth clause, paragraph 5 establishes that once the FGN is informed by the UIAF or any financial institution on the existence of funds and/or assets belonging to a natural or legal person designated by the UNSC, it must immediately proceed to impart the relevant precautionary measures to achieve the freezing of funds and/or assets. The AFL can be used to freeze funds without the need to conduct a criminal investigation. Nevertheless, freezing is tied to an asset forfeiture process. Pursuant to the AFL, when the prosecutor establishes that there is sufficient evidence to consider their probable link with any of the causes legally established for asset forfeiture (Articles 29.1 and 88), the precautionary measure will be adopted.

Criterion 6.5 –

Subcriterion 6.5 (a) All legal and physical persons are required by Law 1121 to report property related to designated persons to the UIAF, but are not required to freeze the assets or funds of designated persons and entities. The UIAF must then inform the FGN, which orders the freezing. This process can take around 3 hours.

Subcriterion 6.5 (b) Financial institutions and DNFBPs are not required to freeze the assets of funds of designated persons.

Subcriterion 6.5 (c) There is no explicit prohibition for natural or legal persons to providing funds or assets, economic resources, or financial or other related services to designated persons or entities. Columbian nationals and any persons and entities within the Columbian jurisdiction are effectively prohibited from

providing funds to individuals designated as terrorists, which would be prosecuted as TF under Article 345 of the CC. Nevertheless, this prohibition is not strictly covered in the agreement nor in the AFL.

Subcriterion 6.5 (d) The agreement and Law 1121 requires MINREX to immediately communicate the list to the competent authorities. Under the Inter-Administrative Agreement between the MINREX, the FGN, the SFC and UIAF, the mechanism of communication of designations to financial institutions and DNFBPs is via dedicated email. No specific guidance has been provided to financial institutions and DNFBPs.

Subcriterion 6.5 (e) Under Law 1121, reporting entities must report to the UIAF the discovery of property related to terrorism but not to freeze it. Once reported, the FGN orders the freezing, although there is no explicit provision in the process for the reporting entities to report the measures taken place after that freezing order is issued.

Subcriterion 6.5 (f) Procedure is based on the AFL and the Inter-Ministerial Agreement includes protections of the rights of bona fide third parties.

De-listing, unfreezing and providing access to frozen funds or other assets

Criterion 6.6 –

Subcriteria 6.6 (a, b, c, d, e, and f) – The Agreement and the AFL provide for a system to remove designated persons and to unfreeze funds, for compliance with Resolution 1267 in clause 4 .5, For 1373 in clause 5.6, and 1988 in 4.5 address de-listing.

Subcriterion 6.6 (g) – Under the Inter-Administrative Agreement, the mechanism for communicating de-listing and unfreezings to financial institutions and DNFBPs is via dedicated email. No specific guidance has been provided to financial institutions and DNFBPs on their obligations to respect a de-listing or unfreezing. The FGN or the judge in the asset forfeiture proceedings shall communicate via judicial notice the de-listings and unfreezing to the financial sector entities and DNFBPs holding the assets pursuant Law 1708 of 2014.

Criterion 6.7 – Measures for accessing funds for expenses are included in the agreement and the AFL.

Weighting and Conclusion: The AFL and an inter-institutional agreement allow the authorities to freeze funds or assets as a precautionary measure. However, financial institutions and DNFBPs are not required to freeze the assets of funds of designated persons. Most of the TFS obligations (including identifying and designating, as well as freezing) are not specified in legislation, but an inter-institutional agreement that is administrative in nature. **Recommendation 6 is rated partially compliant**.

Recommendation 7—Targeted Financial Sanctions Related to Proliferation

Recommendation 7 introduced new requirements that were not part of the 2008 assessment.

Criterion 7.1 – The procedure set out in Article 20, Law 1121 of 2006 has no reference whatsoever to the UNSCRs related to the prevention, suppression, or disruption of proliferation WMD and its financing. It only refers to persons and entities listed because their links with terrorist organizations. This mandate is developed by some circulars issued by the supervisors and by an Inter-Administrative Cooperation Agreement, 30 of November 2015 (only for financial institutions supervised by the SFC), which, however, include the UNSCRs on proliferation of WMD, but only require identifying and report to authorities those designated by the UNSCRs.

This framework does not include any freezing obligations of any kind for designated persons or entities. The possible freezing of funds and assets is only allowed under the precautionary measures of the Asset Forfeiture Proceedings, regulated by Law 1708, AFL (Ley de Extinción de Dominio), which is a judicial process (Article 9 AFL). In fact, the AFL defines (Article 15) Asset Forfeiture as the "consequence of illegal

activities consisting of the declaration in favor of the state of the goods to which this law refers, by judicial sentence." Therefore, it must be noted that: (i) AFL only applies to assets linked to illegal activities criminalized in the Penal Code or to those activities deteriorating social morality for which a law expressly provides that AFL applies (Article 1), but AFL cannot apply to persons/entities just because their designation by the UNSC; and (ii) UN freezing actions are not envisioned as a declaration in favor of the state based on a judicial sentence.

According to AFL proceedings, when the prosecutor establishes that there is sufficient evidence to consider a probable link with any of the causes legally established for asset forfeiture (Articles 29.1 and 88), the precautionary measure will be adopted. In other words, freezing cannot be applied directly by entities or persons, notwithstanding the credibility of their knowledge, until there is a freezing order issued as a precautionary measure by the prosecutor, after assessing that the requirements laid down in the AFL concur in the specific case. The procedure, according to Article 26.1 AFL, will follow the rules and proceedings established in the CPC. This mechanism differs from that established in the R.7 and UNSCRs.

Criterion 7.2 – The prosecutor is the singular authority responsible for UNSCR freezing orders in Colombia. Since freezing is a precautionary measure, it is safeguarded by the existence of the elements of judgment to be determined by the Prosecutor Office. The Law sets out that the Prosecutor Office must investigate (Article 29.1) and determine if the assets are in any of the causes of asset forfeiture. In addition, the Inter-Administrative Agreement expressly states that the prosecutor must assess the relevance of the information of the list (Article 2). In addition, there must be sufficient evidence to consider a link with any of the illicit causes (Articles 29.1 and 88). The Penal Code and the complementary provisions will be observed to link the precautionary measures with any possible illicit cause (Article. 26.3 AFL). These legal requests are not in line with the UNSCRs

Subcriterion 7.2 (a) The Agreement (clause 4.4) only requires FIs under SFC to freeze funds or other economic resources of the designated persons or entities when the Prosecutor orders the precautionary measures in accordance to the rules and proceedings established in the AFL and the CPC. According to the AFL (Article. 88.1), the precautionary measure of freezing assets is applied without prior notification to the person or entity, but it must be adopted once the Prosecutor has analyzed and determined that the assets are under one of the cases legally established in Article.16 for the asset forfeiture (Article.29.1).

Subcriterion 7.2 (b) AFL allows for freezing goods and assets that are, namely, those that are the direct or indirect product of the illegal activity, and those that form part of an unjustified equity increase when there are elements of knowledge that allow them to be considered as coming from illegal activities. It may also extend in certain cases to all types of lawful assets, but only in the cases listed in Article 16 (the type of assets that can be frozen are those listed in Article 1 AFL, but only in the cases established in Article 16): when they are used to conceal goods of illicit origin, mixed with goods of illicit origin, when their value equivalent to that of illicit goods that cannot be located, and in the case of goods subject to inheritance because of death. Consequently, the AFL obligation does not include all funds and assets that are owned or controlled by the designated persons or entities (not just those that can be tied to a specific act), as set in R.7, because it only applies to those included in the circumstances listed in Article 16. Same rule applies for funds and assets indirectly owned by the designated persons; derived or generated from other funds or assets; funds and other assets of persons acting on behalf of designated persons.

Subcriterion 7.2 (c) Law 1121 (Article. 20) hinges the obligation to report the presence of persons, their property, or funds listed in UNSCRs on "terrorist organizations". However, it does not prohibit designated persons or entities from receiving funds or other economic resources, directly or indirectly, or for their benefit as required by relevant UN Resolutions.

Subcriterion 7.2 (d) Procedures for communicating UNSC designations to the reporting entities are described in the Cooperation Agreement and the Circulars issued by Supervisors. The relevant legal basis is found for Casinos in Article 12 Coljuegos Resolution nº 20161200032334, for Notaries in Article 4.3.1.2 of Administrative Instruction nº 17, and for other DNFBPs in Chapter X, Article 7 of Legal Basic Circular of the Superintendence of Companies. For entities under the SFC, MINREX will communicate the resolutions to the UIAF and the SFC. The SFC, in turn, will promptly communicate to the legal representatives of the

financial institutions the obligation and the procedure to inform, without delay, the funds and assets under the name of any designated person or entity (Clause 4º—points 1–2 and 4—of the Inter-Administrative Agreement between MINREX, Prosecutor Office, the SFC, and the UIAF). Immediately, the financial institutions must confront the information and, if there is a match and the existence of funds and/or assets is identified, they must immediately communicate in the findings to the Deputy General Prosecutor (SFC Circular Letter nº 110 (December 30, 2015), Directives 1, 2, and 3). For the other reporting entities, supervisors only request to permanently monitor lists of the UNSCRs. Since most of the entities under Supersociedades are not classified as reporting entities they are not obligated by SAGRLAFT. No guidance on NP freezing has been issued for reporting entities.

Subcriterion 7.2 (e) There is not a regulatory framework to inform the authorities of the assets that have been frozen by the entities following the UNSC Resolutions, simply because the Colombian framework does not allow to freeze until a precautionary measure is adopted by the Prosecutor under the AFL.

Subcriterion 7.2 (f) At the time of issuing the freezing resolution, the prosecutor must safeguard the rights of third parties in good faith (Articles 87 and 31 AF).

Criterion 7.3 – Persons and entities are only required to monitor the lists and inform the authorities. The SFC oversees supervision and control of this obligation for financial institutions (set in the Agreement), but there are not specific rules on monitoring compliance with this obligation for DNFBPs supervisors. Since freezing must be ordered by a prosecutor, breaching a freezing order would be under judicial sanctioning proceedings.

Criterion 7.4 – There is a delisting procedure for financial institutions in cases of homonymy or identification error (Clause 4º.5. Inter-Administrative Cooperation Agreement). Once the request from the person/entity is received, the prosecutor will immediately forward it to the Director of Political Multilateral Matters (DPMM) of MINREX who will inform the UNSC and activate the de-listing or modification mechanism set in the UNSCRs. The Cooperation Agreement establishes that the prosecutor may authorize access to funds or other assets frozen by financial institutions, in accordance with UNSCRs 1718 and 1737, issuing in the precautionary measures exemptions that permit basic expenses. Those measures should be reported to the DPMM to inform the UNSC. However, there is not a provision on delisting for reporting entities not supervised by the SFC. There is no mechanism to communicate de-listings or unfreezing to reporting entities, only the same mechanism established for communicating lists described above in 7.2(d). There is no guidance or publicly known procedures on the obligations with respect to delisting or unfreezing actions.

Criterion 7.5 – There is no a mechanism that permits addition of interests or other earnings due on the accounts frozen or payments due under contracts, agreements, or obligations that arose prior to the date on which those accounts became subject to the provisions of the UNSCRs. There is only a specific procedure (Clause 4º.5. Inter-Administrative Cooperation Agreement) to permit basic expenses at the request of interested parties, but this process requires that the prosecutor forwards the request to the DPMM of the MINREX to obtain permission from the Sanctions Committee of the UNSC. There is not a mechanism about payments due under contracts entered prior to the listing of persons or entities

Weighting and Conclusion: Colombia does not meet criteria 7.1 and 7.5 and Subcriteria 7.2 a), b), c) and e). There are no laws or regulations that require individuals or entities to freeze goods and assets related to the UNSC Resolutions on proliferation of WMD and its financing, only the obligation to inform authorities set in AML/CFT instructions. Freezing actions can only be applied after ordered by the prosecutor as precautionary measure under the AFL, but it only would apply would apply when there is a link to a criminal offence. **Recommendation 7 is rated not compliant**.

Recommendation 8—Non-Profit Organizations

In the 2008 MER Colombia was rated non-compliant with former Special Recommendation VIII. At that time, assessors concluded that there was no structured system in place to regulate and supervise Non-Profit Organizations (NPOs). Assessors also found an absence of clear guides warning the sector about TF risks.

In its First Follow Up Report (2009), Colombia reported that it had made several strategic studies referred to NPOs, and that by means of Decree 4530/2008 a Direction of Policies of fight against related activities was created. The FATF had not yet adopted the detailed requirements of the Interpretive Note to this Recommendation.

Criterion 8.1 –

Subcriterion 8.1 (a) Colombia has taken some steps to identify ML/TF risks of some categories of NPOs, including by producing some specific sectorial and strategic studies (e.g. a typology on TF risk related to certain NPOs [2016], the document produced by UIAF and SES on ML/TF risk in the mutual and cooperative sector [2016] and a specific study of the UIAF on the status of ML/TF risks in some NPOs sectors [2017]). However, Colombia has not identified which subset of organizations fall within the FATF definition of NPO. Further, Colombia has not clearly identified the features and types of NPOs which by their activities or characteristics, are likely to be at specific risk of terrorist financing abuse, as required by this criterion. The 2013 NRA does not particularly address NPOs ML/TF risks. The 2016 NRA only addresses certain vulnerabilities from some NPOs sectors, namely those NPOs that are under the scope of Coldeportes, SES and Supersalud.

Subcriterion 8.1 (b) While Colombia has produced some reports referring to ML/TF risks of some NPO sectors, these reports are not comprehensive enough to cover the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs, a required by this criterion.

Subcriterion 8.1 (c) Colombia has reviewed the adequacy of AML/CFT regulations for NPOs which fall under the scope of SES, Coldeportes and Supersalud. Notwithstanding the latter, these revisions do not particularly relate to the subset of the NPO sector that may be abused for terrorism financing support as required by Recommendation 8.

Subcriterion 8.1 (d) **–** While Colombia has taken some steps to identify some ML/TF vulnerabilities (e.g. a specific study of the UIAF on the current ML/TF risk in some NPOs sectors [2017]), Colombia do not periodically reassess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures, in accordance to this criterion.

Criterion 8.2 –

Subcriterion 8.2 (a) **-** All NPOs in Colombia are required to be registered. According to Articles 42 and 43 of Decree 2150/1995, civil organizations, corporations, foundations, boards of community action and other private non-profit entities should be registered under the competent Chamber of Commerce. Foreign NPOs should also register under the Chamber of Commerce, as provided by Article 48 of the Civil Procedure Code and Decree 019/2012. Religious NPOs are required to register before the Ministry of Interior in accordance to Law 133/1994 and Decrees 782/1995, 1319/1998, 966/2001, 505/2003 and 1066/2015. Non-profit sporting corporations or associations should be registered under Coldeportes, as set out in Decree 407/1996. In turn, NPOs related to the solidarity economy should register before SES in accordance with Article 63 of Law 454/1998; and NPOs related to the health sector are required to be registered under Supersalud. Moreover, to obtain tax exemptions NPOs should register before the DIAN. In this regard, NPOs should submit financial and accounting information to DIAN annually.

Circular Nº 11 of 2017 the Mayor's Office of Bogota promoted relevant integrity and AML/CFT policies for NPOs at the district level. Colombia has established certain relevant information duties for NPOs for tax purposes. However, except for the Mayor's Office of Bogota, there are not comprehensive and clear policies in place to promote accountability, integrity, and public confidence in the administration and management of NPOs.

Subcriterion 8.2 (b) The UIAF, in accordance to Article 6 of Law 526 (1999), has conducted outreach and training programs to raise and deepen awareness among some NPOs sectors about the potential vulnerabilities to TF abuse and TF risks, and the measures that NPOs can take to protect themselves against such abuse. Notwithstanding the latter, no outreach, training and communication initiatives related to ML/TF

in the NPO sector was conducted by other relevant authorities, particularly about NPOs falling under the scope of the FATF definition.

Subcriterion 8.2 (c) Pursuant to Article 6 of Law 526 (1999), the Strategic Analysis Division of the UIAF is responsible for conducting studies to keep the UIAF updated on ML/TF trends, techniques and typologies. Authorities also informed that these documents have been produced with the support of the relevant sectors, and have been disseminated to them through relevant trainings. In addition, in 2016 the Ministry of Justice, the UNODC and representatives of the NPO sector developed a comprehensive report called "Money Laundering and Terrorism Financing Risk Assessment Model for Non-Profit Organizations", which includes best practices and valuable information to protect the NPO sector from TF abuse.

Subcriterion 8.2 (d) Colombia reported that for obtaining tax exemptions it is the practice to conduct transactions through the financial system, since it provides a better framework for controlling the incomes and outcomes that should be declared to the relevant authorities. However, Colombia has not taken specific relevant actions to encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, as provided in this sub-criterion.

Criterion 8.3 – Colombia informed about the legal basis of the general supervision powers of the SES, Coldeportes, and Supersalud, which are the natural regulators of some sectors of NPOs, (Section 35 of Law 454 of 1998 (Supersolidaria), Title IV of Decree 1228 of 1995 (Coldeportes) and Section 6 of Decree 1018 of 2007 (Supersalud)) as well as the general supervision powers of the Mayor's Office of Bogota (Articles 1, 2, 3, and 13 of District Decree Nº323 of 2016). No information was made available about NPOs registered at the district level other than Bogota nor in relation to religious and foreign NPOs. Colombia has not taken steps to promote effective supervision or monitoring that demonstrates that risk-based measures apply to NPOs at risk for TF abuse.

Criterion 8.4 –

Subcriterion 8.4 (a) Colombia informed that SES, Coldeportes and Supersalud have the legal authority to supervise and monitor the compliance of AML/CFT requirements. Moreover, the Mayor's Office of Bogota has a general oversight power over the NPOs incorporated at the district level. Notwithstanding the previous, the legal basis referred does not establish specifically the power to supervise and monitor the compliance of AML/CFT requirements. In addition, relevant authorities do not actually monitor the compliance of NPOs with the relevant risk-based measures required by this criterion.

Subcriterion 8.4 (b) Colombia informed that the relevant supervisors can apply effective, proportionate and dissuasive sanctions for AML/CFT violations by NPOs, and that supervisors can impose a range of sanctions, including fines and intervention of legal persons. Article 47 of the Administrative Procedure Code contains a general provision concerning the sanctioning regimes which are not regulated by special laws. Article 50 of such Code provides criteria for graduating the relevant sanctions. In addition, about NPOs that fall under the supervision of the Mayor's Office of Bogotá, a list of NPOs that fail to fulfill their legal and financial obligations is made available on an annual basis and published in a mainstream newspaper. The listed NPOs are granted with a specific time frame to regularize their shortcomings. If the deadline expires, a process aimed to suspend the NPO is commenced. Notwithstanding the foregoing, not all the relevant NPOs are subject to effective, proportionate and dissuasive sanctions for violations.

Criterion 8.5 – Relevant authorities in Colombia can investigate NPOs and gather relevant information.

Subcriterion 8.5 (a) Colombia has a robust system in place that enables relevant authorities to cooperate, coordinate and exchange information on TF, including cases where NPOs are involved. In March 2016, the Center for Coordination against Domestic and Transnational Criminal Organizations and Terrorists (C3FTD) was created by the MOU signed by the Ministry of National Defense, FGN, UIAF, and the DNI. The purpose of this center is to establish appropriate channels for joint communication, information exchange, and analysis. The center comprises an Intelligence Committee, which is composed of agencies of the intelligence community and a Judicial Committee (integrated by the FGN and National Police). In

addition, by Law 1621 included the UIAF as a member of the intelligence community. The Intelligence Committee is coordinated by the Intelligence Board, which is composed of the Minister of Defense, the intelligence units of the Military Forces, the DNI, and the UIAF. Furthermore, Article 3 of Decree 857/2014 sets forth coordination and cooperation functions for information exchange amongst the intelligence community members. DIPOL also cooperates and exchanges information on TF. CCICLA is composed of relevant authorities with relevant functions on CFT. CCICLA, through its Operational Committee for Prevention and Detection and the Committee for Investigation and Prosecution can implement relevant mechanisms for coordination and cooperation among the relevant authorities, as established by Decree 3420/2014. Moreover, the UIAF is entitled to request all the relevant information that it deems necessary from any public agency, in accordance to Article 1 of Decree 1497/2002.

Subcriterion 8.5 (b) The FGN has specialized divisions in multiple fields, including terrorism. Such divisions were established through Article 2 of Decree 16/2014, which specifically established the Division against Terrorism. In addition, the CPC provides a range of relevant measures that can be adopted in the framework of an investigation. The FGN also receives the support of the Judicial Police and the PEF, among other relevant authorities.

Subcriterion 8.5 (c) The relevant authorities have legal powers to access information on the administration and management of NPOs, including financial and programmatic information, within the framework of an investigation. The FGN is empowered by Article 250 of the Constitution and Article 114 of the Penal Code and related articles to obtain relevant documents and information to aid investigations and related actions (see R.31).

Sub criterion 8.5 (d) Relevant authorities have legal powers and mechanisms in place to ensure they can exchange information promptly to take preventive or investigative action against suspected NPOs, as referred in Sub-criteria 8.5.a/b/c above and in Recommendations 30 and 31.

Criterion 8.6 – Colombia has identified effective points of contact to respond to international requests related to NPOs of concern. Colombia is part of Europol and Interpol. At the regional level, Colombia is member of the GAFILAT's RRAG. The points of contacts at RRAG are officials from the National Police and the FGN. In addition, UIAF has been an Egmont Group member since 2000, being an important channel for exchanging relevant information. Moreover, Colombia informed that the FGN and DIAN can exchange information with their foreign counterparts, as detailed in Criteria of Recommendation 37 and 40.

Weighting and Conclusion: Authorities can investigate NPOs and gather relevant information, and there is a robust system in place that enables competent authorities to cooperate, coordinate, and exchange information on TF. However, Colombia has not identified which subset of organizations fall within the FATF definition of NPOs, nor has it clearly identified the features and types of NPOs which are likely to be at specific risk for TF abuse. Colombia has not reviewed the adequacy of AML/CFT regulations for relevant NPOs and has not taken steps to promote effective supervision or monitoring that demonstrates that risk-based measures apply to NPOs at risk for TF abuse. Additionally, among other shortcomings, there are no comprehensive and clear policies in place concerning NPOs falling under the scope of FATF definition, and not all the relevant NPOs, particularly the religious and foreign NPOs, are subject to effective, proportionate and dissuasive sanctions for violations. **Recommendation 8 is rated partially compliant.**

PREVENTIVE MEASURES

Recommendation 9—Financial Institution Secrecy Laws

In its 2008 MER, Colombia was rated compliant with former R.4. There have been no changes in the FATF requirements for this Recommendation. The analysis set out at paragraph 3.4.1 of the 2008 MER continues to apply.

Criterion 9.1 – FI secrecy laws do not inhibit the ability of competent authorities to access information they require to properly perform their functions in combating ML/TF. FFIs are required to maintain customer confidentiality and are subject to data protection provisions. Notably, the National Constitution (NC) under

Article 15 enshrines the rights to privacy and habeas data as fundamental. However, there are various provisions that provide gateways for the access to information by relevant authorities. For tax or judicial matters as well as those related to inspections or intervention by supervisory agencies, the secrecy provisions are lifted under the same Article and there is full access to accounting books and private documents. Similarly, the Code of Administrative Procedure under Article 27 provides a clear gateway for the access to confidential information when requested by judicial, legislative or administrative competent authorities to properly perform their functions.

Access to information by competent authorities is also ensured through various provisions. Pursuant to Article 9 of Law 526/1999 as amended by Article 8 of Law 1121/2006, there are no legal obstacles that would inhibit the UIAF to access information protected by banking, forex, securities or tax secrecy requirements. The UIAF may request any public entity, except for the information reserved by the Attorney-General, the information necessary for the performance of its duties. Similar power is granted to intelligence agencies under Article 42 of Law 1621/2013.

Different laws grant supervisors the power to compel the productions of documents and request information from the financial institutions under their supervision. The SFC, which is the supervisory authority for banking, securities, insurance and fiduciary companies, is empowered to request any information from reporting entities pursuant to Decree 255/2009. Similar powers are granted to the DIAN (currency exchange firms), under Decree 4048/2008, Resolution 396/2005 and articles 8 and 9 of Decree-Law 2245/2011, among others; to the SES (Article 36 of Law 454/1998) and MINTIC (Law 1369/2009).

The sharing of information between competent authorities is ensured through various provisions. In general terms, at a domestic level articles 113 and 209 of the NC require the different administrative bodies/authorities to collaborate and coordinate their activities (also Law 489/1998). In the case of the SFC, Article 326 of the Organic Statute (EOSF), as amended by Article 45 of Law 510/1999, sets out the possibility of exchanging supervisory information with foreign counterparts. Moreover, SFC has entered into 29 bilateral and multilateral arrangements for international cooperation. Given the restrictions placed on savings and loans cooperatives and postal money operators (prohibition on foreign operations), Supersolidaria and MINTIC, do not enter exchange of information agreements with foreign counterparts.

Weighting and Conclusion: There are no legal obstacles that could inhibit the sharing of information between financial institutions in the circumstances required by Recommendations 13, 16, 17. **Recommendation 9 is rated compliant.**

Customer due diligence and record-keeping

Recommendation 10—Customer Due Diligence

Under the 2008 MER, Colombia was rated partially compliant on former R.5. The legal framework applicable to CDD measures has been subject to changes since 2008. The current legal framework relevant to CDD measures is covered by the Financial System Organic Statute (EOSF) Chapter (XVI)-Articles 102 to 107-, Law 190/95, Law 1121/2006, Law 365/1997, Law 454/1998; Law 1369/2009, and the relevant Circulars/Resolutions issued by the different supervisory authorities, namely: the Financial Superintendence of Colombia's (SFC) SARLAFT Circular 55/2016, which came into effect March 31, 2017, Part I Title IV, Chapter IV applicable to banks, insurance and securities intermediaries, mutual funds, pension fund managers, fiduciaries, finance companies, financial cooperatives, money remitters, and other FI (i.e. investment management companies, representation offices), the Superintendence of Solidarity Economy-SES (Circular 4/2017 applicable to savings and loans cooperatives), Ministry of Technologies and Communications-MINTIC (Regulation 2564/2016 for PTOs), and the Direction of Taxes and National Customs-DIAN, (Circular 13/2016 for currency exchange firms).

In the case of PTOs, the Law applicable to this sector does not explicitly designate them as reporting entities subject to all AML/CFT requirements, but have AML/CFT obligations under Resolution 2564/2016. The unregulated lenders are out of the scope of the AML/CFT regime.

All the above mentioned financial institutions, except for PTOs, are required to comply with the obligations laid out under articles 102-107 of the EOSF, which include some broad AML/CFT obligations, but do not expressly cover the obligation to conduct CDD as required by the standard. Law 1369/2009 establishes the framework for PTOs, including the obligation to comply with the obligations set forth by Law and Regulations. However, the Law does not explicitly establish that PTOs are reporting entities required to conduct CDD, report suspicious transactions to the UIAF and maintain records as required by the standard. Article 2 of Circular 55/2016 applicable to the SFC lists some entities that can apply simplified CDD measures and are exempted from the application of the full set of AML/CFT obligations set forth under Chapter IV.

Criterion 10.1 – The authorities explained that, while there is no explicit prohibition on keeping anonymous accounts or accounts in fictitious names, the identification and verification requirements contain obligations that prevent this, which was validated by the assessment team. The authorities informed the assessment team that the criterion only applies to the financial institutions under the supervision of the SFC and does not extend to currency exchange firms, and to PTOs because these institutions do not maintain accounts.

When CDD is required

Criterion 10.2 – There is no explicit obligation set forth in Law for financial institutions to apply CDD as specified in the standard. Article 102 of the EOSF lays out the obligation to understand the economic activity of the customer, but this falls short of addressing all the elements of CDD.

CDD is addressed by different circulars and regulations issued by the supervisory agencies. financial institutions are required to develop and implement a risk management system, SARLAFT, in line with the criteria set forth under the existing circulars and regulations, which should include, among other elements, CDD procedures and mechanisms. The obligations set forth under Circular 55/2016 require financial institutions under the supervision of the SFC to apply the customer identification procedures prior to establishing a business relationship. Article 4.2.2.2, establishes that financial institutions cannot initiate business relationships with the potential customer until the corresponding mandatory CDD form has been completed, an interview has been conducted, the supporting documents have been provided and the relationships have been formally approved. financial institutions should conduct a personal interview and keep record of the name of the person who led the interview, the date and its results. There is a similar obligation in place for savings and loans cooperatives under section 2.2.2.3.1 of Circular 4/2017 of the SES, section which requires the identification of the member and the customer and the verification of the information when establishing business relationships.

The existing legal and regulatory framework in Colombia does not expressly incorporate the concept of *"*occasional customer*"*. However, in the case of the SFC and MINTIC, the applicable circulars/regulations include the "users" which applies to those persons that without being a customer, receive a service from the FI. Occasional transactions, regardless of the amount are subject to the same CDD requirements, as explained by the authorities. However, in the case of the SFC it is unclear under Circular 55/2016 what type of CDD measures, if any, are applicable to the *"users*" considering that section 4.2.2.2.1 where all CDD measures are listed only applies to "customers" as defined under section 1.4.

Wire transfers payment orders in the circumstances identified under C. 10.2 (see R.16), are subject to CDD measures, regardless of any amount. Colombia has not established a *de minimis* threshold.

The applicable circulars are silent with respect to the need to apply CDD in the circumstances covered by C. 10.2 (d) to (e). In the case of currency exchange firms, Circular 13/2016 of the DIAN) requires these financial institutions to implement a CDD form which is mandatory when conducting any foreign exchange transaction but there is no requirement for the verification of the information. The Regulation applicable to PTOs (Regulation 2564/2016 of the MINTIC, section 6.2.1), is silent with respect to when CDD is required. Similarly, the other elements of the criterion are not covered.

Required CDD measures for all customers

Criterion 10.3 – Financial institutions under the supervision of the SFC are required to identify and verify the identity of all customers, both existing and potential. The identification means obtaining and verifying the information contained in the mandatory customer acceptance form which aims at identifying the natural person as well as the legal person that intends to commence a business relationship. Pursuant to section 4.2.2.2.1 of Circular 55/2016, the SARLAFT shall include procedures to obtain an effective and timely knowledge of all customers and to verify the information and supporting documentation. A "customer" is defined as any natural or legal person with whom the institution establishes and maintains a contractual or legal relationship to supply any products pertaining to their commercial activity. However, this definition does not expressly include legal arrangements.

Financial institutions are required to identify and verify the identity of the customer - both natural and legal persons, including the BO based on valid documents listed under the customer acceptance form (CDD form) as indicated under section 4.2.2.2.1.3 of Circular 55/2016. The identification data under the customer acceptance form is considered a reliable, independent source of information and constitutes the minimum data to be collected, which should be expanded if necessary to manage ML/TF risks.

Savings and loans cooperatives' requirements are like those applicable to financial institutions under the supervision of the SFC and include the obligation to identify the member and the customer and verify their identity for both natural and legal persons in line with the identification data contained in the CDD form (Circular 4/2017 of the SES, section 2.2.2.3.1). For legal persons, there is a requirement to check the identity of the shareholders with an ownership above 5%.

Professional currency exchange firms are required to identify the natural or legal person through a CDD process (Circular 13/2016 of the DIAN, section 5.2.1.1). However, the provision is silent with respect to the need to verify the identity of the customer. A CDD form containing identification data should be implemented by these institutions.

PTOs need to identify and verify the identity of the customer, both natural and legal persons (no mention to legal arrangements), based on reliable independent documents listed under section 6.2.2 of Regulation 2564/2016.

Criterion 10.4 –

As part of the CDD process financial institutions under the supervision of the SFC are required to adopt a CDD form which should contain, as a minimum, the information listed under section 4.2.2.2.1.3. This information should be completed by any potential customer. and any person purporting to act on behalf of the customer. financial institutions are required to verify that the person is authorized to act on behalf of the customer. In the case of natural and legal persons, financial institutions are required to obtain the full name and identification (ID) number of the third party acting on behalf of the customer and the documents granting legal power.

Financial Institutions are required to verify that the person is authorized to act on behalf of the customer. The identification and verification requirement contained under the CDD form also apply to persons purporting to act on behalf of the customer (Circular 4/201-76 of the SES, section 2.2.2.3.1).

In the case of currency exchange firms, and postal transfers operators, section 5.2.1.1 of Circular 13/2016 of the DIAN and section 6.2.2 of Regulation 2564/2016 of the MINTIC, respectively, require these financial institutions to obtain the full name and ID number of the legal representative purporting to act on behalf of a legal person, but are silent with respect to those customers that are natural persons. There is no obligation to verify that the person is authorized to act on behalf of the customer.

Criterion 10.5 – Financial institutions under the supervision of the SFC are required to identify the BO (section 4.2.2.2.1.4 of Circular 55/2016). The definition of BO is set out under section 1. Pursuant to section 4.2.2.2.1.1.1 financial institutions under the supervision of the SFC should take reasonable measures aimed at obtaining the name and identification number of the BOs and consult, as minimum the UNSC sanction

lists in force for Colombia. However, the mandatory CDD form as specified under section 4.2.2.2.1.3 addresses only one of three elements related to the identification of the BO (i.e. the natural person(s) /shareholder(s) who owns directly or indirectly 5% or more of the legal person).

Financial Institutions financial institutions are required to identify the shareholders with an ownership above 5%. financial institutions are exempted from identify the BO when the customer owns more than 5 % of a company that is listed in the stock exchange and subject to disclosure requirements. For legal arrangements, financial institutions are also required to identify the BO, including the trustee and the beneficiaries (section 4.2.2.2.1.1.1).

Savings and loans cooperatives are not required to identify and verify the identity of the BO. The obligation is only applicable in the case of PEPs. Similarly, the regulation applicable to PTOs is silent with respect to the need to identify the BO. There is a definition under Article 3 of Regulation 2564/2016 of the MINTIC, but no obligation in line with C. 10.5.

In the case of currency exchange firms, the BO is defined under section 3 of Circular 13/2016 of the DIAN and is in line with the standard. There is no explicit obligation to identify and verify the identity of the BO. The requirement in place is through the information data contained in the customer acceptance form (CDD form) which only requires the identification of the BO (section 5.2.1.1), but not the verification of the identity of the BO.

Criterion 10.6 – There is no obligation for financial institutions under the supervision of the SFC, DIAN, SES and MINTIC to understand or obtain information on the purpose and intended nature of the business relationship.

Criterion 10.7 – Financial institutions under the supervision of the SFC are required to monitor on an ongoing basis the customers' transaction (Circular 55/2016, section 4.2.2.2.1.2). They are required to obtain information that ensures that transactions are consistent with the institution's knowledge of the customer and his/her business activity. There is no explicit reference to the customers' risk profile for monitoring transactions but, the SARLAFT requires financial institutions to include alerts, risk factors 'criteria, and a follow-up of operations. Financial institutions are required to monitor customers/users' transactions, through the different risk factors (section 4.2.2.3.3.2) and a monthly electronic consolidation of transactions is required. financial institutions should consider, among others, the following information: business activity, volume, frequency of transactions, amount, income, expenditures and capital.

Section 4.2.2.2.1.8.1 requires financial institutions under the supervision of the SFC to confirm and update, at least once a year, the data provided by the customer under the customer acceptance form that could be subject to changes (i.e. address, telephone, activity, source of funds, among others). If there is an ownership change, financial institutions should update the information in line with the risk profile of the customer. In the case of currency exchange firms, because they do not maintain accounts, the requirement to conduct ongoing due diligence on the business relationship, including to scrutinize transactions is not applicable. The only obligation under Circular 13/2016 of the DIAN is included under section 6.4 – which requires currency exchange firms to monitor the risk management system to ensure that the controls implemented are working effectively and cover all risks. As stated under C. 10.3, financial institutions should collect and keep updated information, as a minimum on a yearly basis. (Circular 13/2016 of the DIAN, section 5.2.1.1)

Savings and loans cooperatives are required to monitor on an ongoing basis the customers' transaction and keep information to compare the customers' transactions with their economic activity (Circular 4/2017, section 2.2.2.3.1). The obligations in place are similar to those applicable to the financial institutions under the supervision of the SFC and include the requirement to monitor transactions (section 2.2.2.4.3), conduct an analysis of all risk factors and consolidate electronically monthly the transactions There is an obligation to update the information data provided under the CDD form at least once a year. PTOs are required to monitor the customers' transactions on an ongoing basis and to define a risk profile for the customer based on the different risk factors, which should enable financial institutions to identify transactions that do not respond to the normal business (Regulation 2564/2016, section 6.2.2 and 6.2.3). There is no obligation to address all the elements under C.10.7 (a) and no obligation under 10.7 (b).

Specific CDD measures required for legal persons and legal arrangements

Criterion 10.8 – In the case of customers that are legal persons, financial institutions under the supervision of the SFCS are required to request, the information listed under the mandatory customer acceptance form (CDD form) aimed at understanding the customers' business. (section 4.2.2.2.1.3 of Circular 55/16). In particular, financial institutions under the supervision of the SFC are required to understand the ownership and structure of the legal person, including the identity of the shareholders who directly or indirectly own 5% or more of the legal person. In the case of legal arrangements, the obligation is limited to obtaining the type of assets establishing the trust. A similar obligation as the one laid out under Circular 55/2017 is set out for savings and loans cooperatives (Circular 4/2017 of the SES, section 2.2.2.3.1) and for PTOs (Regulation 2564/2016, section 6.2.2) respectively. The obligation for currency exchange firms is to request information related to the economic activity of the customer and the representative (Circular 13/2016 of the DIAN, section 5.2.1.1). There is no obligation to understand the customers' ownership and control structure.

Criterion 10.9 – Circular 55/2016 of the SFC, section 4.2.2.2.1.3 establishes the requirements related to the identification and verification of legal persons as follows: corporate name; legal form; name, identification number, address and telephone number of the legal representative; business activity; identification of shareholders with ownership of 5% or more; source of funds; cash flows; other sources of revenues different from the main activity; financial statements; forex activities; signature and finger prints of the person establishing the relationship, application date and, in the proof of existence and representative powers by a competent authority should also be provided (section 4.2.2.2.1.). While the circular establishes many requirements, it does not include all the elements of C.10.9 (b), (i.e. the names of the relevant persons having senior management position in the legal person or arrangement). The customer acceptance form only requires the identification of the type of assets establishing the trust. financial institutions conducting business with trusts must identity, the BO, including the settlor and other beneficiaries (section 4.2.2.2.1.4.6). All elements from C. 10.9 (a) to (c) are missing for legal arrangements.

Savings and loan cooperatives should require the information data set out under section 2.2.2.3.1 of Circular 4/2017, which includes the name, legal form, the address and the proof of existence. The elements under C. 10.9 (b) are not required. Legal arrangements are not covered. For currency exchange firms, the elements under C.10.9 (a), except for the proof of existence, are covered under Circular 13/2016 of the DIAN, section 5.2.1.1. The elements under C. 10.9 (b) are missing. Legal arrangements are not covered. The same shortcomings apply to PTOs (Regulation 2564/2016, section 6.2.2).

Criterion 10.10 – The requirements for obtaining information on BOs of customers that are legal persons are set out under C. 10.5. In the case of financial institutions under the supervision of the SFC, BO refers to the natural person(s) who owns directly or indirectly 5% or more of the legal person; or the natural person that although does not own 5% or more of the legal person it exercises control of the legal person, or the natural person on whose behalf the transaction is being conducted. No elements cover situations where: there is doubt as to whether the person (s) with the controlling interest is the BO(s), no natural person exercises control through ownership or other means, or requires financial institutions to ascertain the identity of the most senior management official when no natural person is identified under (a) and (b). The Circular applicable to currency exchange firms, as well as the Regulation applicable to PTOs do not cover the elements under C. 10 (a)to (c). In the case of savings and loans cooperatives, the obligation to identify the BO applies to PEPs.

Criterion 10.11 – Pursuant to section 4.2.2.2.1.4.6 of Circular 55/2016, financial institutions conducting business with trusts (*fiducia*) must identify the BO, including the settlor and other beneficiaries. In addition, as described under C. 10.9, in the case of legal arrangements, the mandatory CDD form only requires financial institutions to identify the type of assets establishing the trust. The circular is silent with respect to the need to identify the trustees and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership) and to take reasonable measures to verify the information. The criterion is not applicable to the financial institutions under the supervision of SES and DIAN and MINTIC.

CDD for Beneficiaries of Life Insurance Policies

Criterion 10.12 – The criteria related to CDD for beneficiaries of life insurance policies are only applicable to the financial institutions under the supervision of the SFC (Circular 55/2016). For the insurance sector, which seems to include all types of insurance, in addition to the CDD requirements discussed in C. 10.2 and 10.3, intermediaries must obtain information with respect to record existing relationships between the insurance taker, the insured, the secured party and the beneficiary, as well as claims filed and indemnities received with respect to any insurer for the last two years and an inventory of goods subject to insurance. Under insurance contracts, when the insured, the secured party and/or beneficiary is different than the taker or underwriter, the information shall be collected when establishing the business relationship. If the information cannot be collected and the beneficiary cannot be identified or designated when establishing the business relationship under justifiable reasons, insurance intermediaries could accept the business relationship if they are required to identify the beneficiary before any claim is filed, expiration of the policy and payment of the certificate, or at the time of the payout.

If it is not possible to know the identity of other people who are engaged as clients (i.e. beneficiaries of insurance contracts and trusts whose identity is only established in the future) at the time of the engagement, the information shall be obtained at the time when they are identified at the time of the payout. The requirements are silent with respect to the obligations set forth under C. 10.12 (a) and (b).

Criterion 10.13 – Circular 55/2016 does not consider the beneficiary of the life insurance policy as relevant risk factor in determining whether enhanced CDD measures are applicable.

Timing for verification

Criterion 10.14 – In the case of the financial institutions under the supervision of the SFC, the identity of the customer and BO must be verified before entering a business relationship. As stated under C. 10.2, the regulatory framework does not contemplate "*occasional customers*" but does include the concept of "user". The circular is silent with respect to the timing of verification for the latter. There is one exception to this general rule, which is related to the insurance sector under the conditions indicated under C. 10.12. Elements (a) and (b) seem to be met implicitly, since delayed verification occurs as soon as reasonably practicable and is essential not to interrupt the normal conduct of business. As part of the SARLAFT, financial institutions are required to effectively managed ML/TF risks.

For savings and loans cooperatives, the identification and verification of the customer ID is a pre-condition when accepting a member or customer. (Circular 4/2017 of the SES, section 2.2.2.3.1). The obligation does not cover the identification and verification of the BO. With respect to currency exchange firms, and postal transfers operators the respective circulars/regulations are silent on the timing for verification requirements. As indicated under C. 10.2, there is no specific reference as to when the verification of the identity of the customer should take place.

Criterion 10.15 – This criterion does not apply to the financial institutions under the supervision of the SFC and to savings and loans cooperatives because they are not allowed to establish business relations with a customer before completing identification and verification of the customer's identity. In the case of currency exchange firms and PTOs, there is no prohibition to utilize the business relationship prior to verification but there is no obligation to adopt risk management procedures in line with C. 10.15.

Existing customers

Criterion 10.16 – There is no obligation addressing the need for financial institutions under the supervision of the SFC, SES, DIAN and MINTIC to apply the CDD requirements to existing customers based on materiality and risk.

Risk-based Approach

Criterion 10.17 – Except for PEPs and jurisdictions listed by FATF, which are addressed by the existing circulars and regulations to a limited extent, only financial institutions under the supervision of the SFC (section 4.2.1.4 of Circular 55/2016), the SES (Circular 4/2017, section 2.2.1) and DIAN (Circular 13/2016, section 5.2.1.1) are required to apply enhanced measures to manage higher ML/TF risks. There is no obligation for financial institutions under the supervision of MINTIC to apply enhanced due diligence measures where ML/TF risks are higher.

Criterion 10.18 – Financial Institutions under the supervision of the SFC can apply less stringent CDD measures for certain types of customers, products or transactions which are considered low risk. An extensive list is set out under sections 4.2.2.1.7 and 4.2.2.1.6 of Circular 55/2016 and is based on a comprehensive risk analysis undertaken by the SFC for the purposes of financial inclusion. The assessment team analyzed the relevant documents and agreed with the conclusions. Simplified CDD requires only obtaining the name, the ID number and expiration date of the ID document.

This entire category is also exempted from the requirement of understanding the economic activity, characteristics, amounts and source of income and expenses of their customers; the requirements applicable to PEPs and market knowledge. For the categories of customers, products or transactions listed under section 4.2.2.2.1.6, financial institutions are not required to complete the mandatory CDD form nor to conduct an interview when establishing business relationships. Instead, financial institutions are permitted to conduct CDD based on any information available.

Pursuant to section 2 those financial institutions already subject to the supervision of the SFC, public administration of enterprises, pension schemes for employees, among others are exempted from the application of the SARLAT, but required to apply the obligations set forth under the Organic Statute (arts. 102-107). The Circulars/Regulations applicable to savings and loans cooperatives, currency exchange firms and PTOs are silent with respect to the application of simplified CDD measures.

Failure to satisfactorily complete CDD

Criterion 10.19 – Section 4.2.7.2.1 of Circular 55/2016 requires financial institutions to report to the UIAF attempted transactions and those where the institution is unable to complete the CDD process. Similarly, savings and loans cooperatives under the supervision of the SES are not allowed to commence a business relationship if the institution was unable to apply the CDD measures (Circular 4/2007, section 2.2.1). However, there is no obligation under this Circular addressing the requirement laid out under C. 10.19 (b)

The existing regulations applicable to currency exchange firms (Circular 13/2016 of the DIAN), only explicitly mention the obligation to identify the customer prior to conducting a foreign exchange transaction, but is silent with respect to the verification. According to the authorities, this a pre-condition for performing a transaction but in the absence of an explicit obligation, the situation is unclear. The element under C. 10.19 (b) neither is covered. The regulation applicable to PTOs (Regulation 2564/2016 of the MINTIC), is silent with respect to the timing for identification and verification of the customers' identity nor covers the situation where the FI is unable to complete CDD, so it is unclear whether there is a prohibition as indicated under criterion 10.19 (a) and a requirement to consider making a suspicious transaction report in line with 10.19 (b).

CDD and tipping-off

Criterion 10.20 – There is no specific provision that would permit financial institutions under the supervision of the SFC, SES, DIAN and MINTIC not to pursue the CDD process when they reasonably believe that performing such process will tip-off the customer.

Weighting and Conclusion: Colombia meets criteria 10.1. However, there are many shortcomings under R.10. Colombia partially meets criteria 10.2 to 10.5, and 10.7 to 10.10. Criterion 10.6, 10.13, 10.16 and 10.20 are not met. Colombia is partially compliant with most the criteria under R.10. **Recommendation 10 is rated partially compliant**.

Recommendation 11—Recordkeeping

In its 2008 MER Colombia was rated largely compliant with former Recommendation 10 and Special Recommendation VII. Regarding R.10, the only deficiency identified was the absence of a regulation establishing a retention period for documents for currency exchange firms supervised by DIAN. In the case of SR.VII, the rating was largely compliant since the effectiveness of the measures established in the SARLAFT could not be established at the time, given its recent implementation.

Criterion 11.1 – The Code of Commerce establishes that all merchants must keep their documents for a period of 10 years. Additionally, Article 15 of the Colombian Constitution establishes that all documents, including private documents, must be delivered to the competent authorities for the performance of their judicial and administrative functions. The EOSF establishes in its Article 96 the preservation of files and documents for a period of not less than five (5) years. The SFC's Basic Legal Circular Chapter I, Title IV part I, section 4.2.3. reinforces what is provided in the EOSF including the type of information that should be kept in terms of ML/TF prevention. DIAN's SARLAFT Circular, the SES' Basic Legal Circular of 2015 in number 8.3 of chapter XI of title II and the MINTIC Resolution 2564 of 2016, number 6.4, establish the details of the information which must be conserved for 5 years or more relative to the ML/FT risk management system.

Criterion 11.2 – Pursuant to Article 15 of the Constitution, all records maintained by natural or legal persons in Colombia must be turned over to the competent authorities to exercise their functions.

Criterion 11.3 – Numeral 4.2.3.1.3. of Chapter IV, Title IV, Part I of the Basic Legal Circular establishes that record-keeping by institutions supervised by the SFC must guarantee the integrity, timeliness, reliability and availability of the information contained therein. In the case of foreign exchange professionals, supervised by the DIAN, External Resolution 8 of 2000 issued by the Bank of the Republic in Article 3 establishes that they are required to keep the documents that prove the amount, characteristics and other conditions of the operation and the origin or destination of the currencies. For savings and credit cooperatives and others supervised by SES, the SARLAFT Circular establishes in numeral 4.2.3, that records kept must ensure the integrity, timeliness, reliability and availability of the information contained therein.

Criterion 11.4 – All these documents referred to in c.11.1 must also be available in electronic form in order to be made easily available to the competent authorities, when requested.

Weighting and Conclusion: The corresponding criteria in the 2013 Methodology are met. **Recommendation 11 is rated compliant.**

Additional Measures for specific customers and activities

Recommendation 12—Politically Exposed Persons

Colombia was rated partially compliant with former R.6 in the 2008 MER. Since then, the FATF requirements have changed in this area so Colombia has amended its legal and regulatory framework to include new obligations.

The circulars and regulations issued by different supervisory authorities set out the obligations to be implemented by financial institutions with respect to PEPs. In addition, Decree 1674/2016 has a comprehensive list of individuals who are considered PEPs, which includes, among others, Heads of State or government, senior politicians, Ministers and Vice-ministers, senior government officials in line with the definition set forth under the standard. The Decree only extends to domestic PEPs and applies for two years after the PEP has left the position.

Criterion 12.1 – Financial Institutions under the supervision of the SFC are required to apply enhanced due diligence, pursuant to Circular 55/2016 with respect to the identification and monitoring of customers that are publicly exposed, and to put in place effective mechanisms to determine whether the customer or the BO is a PEP. The obligation under the SFC Circular applies to domestic and foreign PEPs. While financial

institutions require a second level of approval (an instance or employee of higher hierarchy than the one that normally approves the relationship) before initiating business with a PEP, it is not explicit that it be "senior management approval." If a customer or BO becomes a PEP, a notification to that higher instance or employee and to the person in charge of clients is required. There is no requirement for obtaining their approval.

The obligation under 12.1(c) is addressed under Section 4.4.4.4.1.3 of Circular 55/2016 (CDD mandatory form). Enhanced monitoring in line with 12.1 (d) is required under section 4.2.2.2.1.7 of Circular 55/2016. Section 3 of Circular 13/2016 of the DIAN defines PEPs as those persons listed under Article 1 of Decree 1674/2016 but falls short of considering foreign PEPs. Section 5.2.1.1 in very general terms sets out the requirements for PEPs, which are limited to obtaining senior management approval before entering or continuing a business relationship with PEPs. The BO is not addressed. The rest of the criteria under C. 12.1 are not met.

With respect to C.12. (a), the requirements in place for savings and loans cooperatives are identical to those applicable to the financial institutions under the supervision of the SFC (Circular 4/2017, section 2.2.2.2.1). Criterion 12 (b) is covered and requires the board of directors' approval. With respect to existing customers who become PEPs, the only requirement is to inform the board, no approval is required. Savings and loans cooperatives are required to establish the source of funds (not the source of wealth) and to conduct enhanced ongoing monitoring on the business relationship.

Article 3 of Regulation 2564/2016 of the MINTIC defines PEPs in line with the standard. Article 6, section 6.2.4 establishes the obligations applicable to foreign PEPs. PTOs are required to apply enhanced due diligence but there is no obligation to put in place a risk management system in line with C. 12.1 (a). The requirement is silent with respect to the need to determine whether the BO is a PEP. PTOs are required to obtain the approval with an employee with higher hierarchy before entering or continuing the business relationship with a PEP (which does not necessarily mean "senior management approval") and to conduct enhanced monitoring on the relationship. Section 6.2.4 does not cover the obligation under C. 12.1 (c).

Criterion 12.2 – In the case of financial institutions under the supervision of the SFC, the same enhanced requirements set out for foreign PEPs apply to domestic PEPs and to legal representatives from international organizations, which in the latter, falls short of including other prominent functions (i.e. directors, deputy directors and members of the board or equivalent function). Regardless of the risks involved, the requirements under C. 12.1 (a) to (d), with the shortcomings identified under the previous criterion, apply also to domestic PEPs and the legal representatives of international organizations.

For savings and loans cooperatives, the enhanced requirements set out for foreign PEPs also apply to domestic PEPs and individuals who are or have been entrusted with a prominent public function by an international organization. The obligations cover both the customer and the BO.

Professional currency exchange firms are required under Circular 13/2016 to apply enhanced measures with respect to domestic PEPs but not for persons who have been entrusted with a prominent function by an international organization. There is no obligation to determine whether the BO is a PEP. The applicable Circular also requires the need to apply enhanced measures in cases of higher risk, with the obligations under C. 12.1 (b) and (d), but no obligation to apply C. 12.1 (c).

The obligations for PTOs under Article 6, section 6.2.4 do not extend to persons who have been entrusted with a prominent public function by an international organization and to the BO. Criterion 12.2 (a) and (b) are only partially covered for domestic PEPs (same limitations as listed under 12.1 for foreign PEPs).

Criterion 12.3 – With respect to financial institutions under the supervision of the SFC, the requirements under C. 12.1 and 12.2, with the limitations stated above, apply to family member's spouses, also common law spouses; and children. This is also the obligation for savings and loans cooperatives (Circular 4/2017, section 2.2.2.2.1). The obligations do not extend to close associates. There are no requirements for currency exchange firms and for PTOs addressing the obligations under C. 12.3.

Criterion 12.4 – There are no requirements addressing the obligation set forth under C. 12.4.

Weighting and Conclusion: Colombia partially meets criterion 12.1 to 12.3 and does not meet criteria 12.4. **Recommendation 12 is rated partially compliant**.

Recommendation 13—Correspondent Banking

Colombia was rated partially compliant with former R.7 in the 2008 MER. (MER P. 75 Section 3.2.3) The MER concluded that there were not specific requirements for cross-border correspondent banking and similar commercial relationships, and that there were no requirements to obtain senior management approval to establish correspondent banking relationships. The identified deficiencies were partly addressed through SARLAFT Circular 055 (section 4.2.2.2.1.4.5) of December 22, 2016 which came into effect on March 31, 2017.

Criterion 13.1 –

Subcriterion 13.1 (a) There are no specific requirements to determine the reputation of the respondent institution and the quality of supervision.

Subcriteria 13.1 (b), (c) and (d) SARLAFT Circular 055 of 2016 requires banks to assess the respondent institution's AML/CFT controls, to obtain prior approval from senior management before establishing new correspondent relationships and to understand the respective AML/CFT responsibilities of each institution in a cross-border correspondent banking relationship.

Criterion 13.2 -

Subcriterion 13.2 (a) Payable through accounts are not addressed by the new SARLAFT, which seems to confuse "payable-through accounts" with "shell banks".

Subcriterion 13.2 (b) The CDD information requirement in SARLAFT refers to shell banks not PTAs.

Criterion 13.3 – There are no prohibitions to enter or continue banking relationships with shell banks, only to have procedures to verify that a respondent is not a shell bank, AND to verify that the respondent bank complies with KYC obligations.

Weighting and Conclusion: Existing obligations require financial institutions to gather information to understand the nature of the respondent's business and activities; however, there are no requirements to determine the quality of supervision. Furthermore, requirements in place do not address payable-through accounts, and there are not explicit prohibitions on financial institutions from entering or continuing banking relationships with shell banks. **Recommendation 13 is rated partially compliant.**

Recommendation 14—Money or Value Transfer Services

Colombia was rated compliant with former Special Recommendation VI in the 2008 MER. There have been no changes in the FATF requirements for this Recommendation. The regulatory provisions for MVTS in Colombia remain substantially the same.

Criterion 14.1 – Money transfer services can only be offered by Exchange Market Intermediaries (EMIs) and PTOs, as provided by External Resolution 8 of 2000 issued by the Board of Directors of the Bank of the Republic and Law 1369 of 2009, respectively. The EMIs include the commercial banks, the mortgage banks, the financial corporations, the commercial financing companies, the Financiera Energética Nacional (FEN), the Foreign Trade Bank of Colombia S.A. (BANCOLDEX), financial cooperatives, brokerage firms, and exchange houses (Article 58, Res. 8 of 2000). In the case of EMI, they must have a registration and license granted by the SFC. Pursuant to Article 3, numeral 5, of Decree 4048 of 2008, the DIAN has the power to monitor and supervise activities related to the exchange regime, including currency transfers to Colombia,

when they are not the competence of the SFC. Therefore, if someone carries out money transfers without a license, the DIAN can also apply sanctions. Article No. 4 of Law 1369 of 2009 provides that PTOs supervised by MINTIC require registration before this ministry to carry out money transfers

Criterion 14.2 – Article 4 of External Resolution 8 of 2000 provides for the sanctioning power of SFC regarding the EMIs it supervises. The DIAN may also impose sanctions pursuant to Decree 4048 of 2008. Article 40 of Law 1369 of 2009 provides for sanctions for unauthorized postal money transfers.

Criterion 14.3 –Article 102 of Decree 663 of 1993 (EOSF) requires that the institutions supervised by the SFC adopt appropriate and sufficient control measures, aimed at preventing ML/TF. In addition, the External Regulatory Circular DCIN-83 of the Board of Directors of the Bank of the Republic, requires the EMIs to conduct CDD to prevent ML/TF. Article 5 of MINTIC Resolution 2564 of 2016 requires PTOs to establish the minimum requirements and parameters for the proper administration and mitigation of the risk for ML/TF and the Financing of the Proliferation of WMDs.

Criterion 14.4 –Article 12 of MINTIC Resolution 3680 establishes the information that PTOs must submit to the Ministry about their agents, which includes a description of the internal control mechanisms that their agents will use to comply with the obligations established by the regulations for the prevention and administration of the risks to which they are exposed on the payment postal activity. This is understood to include AML/CFT prevention measures.

Criterion 14.5 – Article 12 of MINTIC Resolution 3680 provides that PTOs must supervise the programs of its agents, including those related to AML/CFT. In addition, MINTIC's SARLAFT in paragraph 6.2.8 of Resolution No. 2564 of 2016 requires PTOs to know their agent to ensure that the authorized Payment Service Operator is not used for ML and TF.

Weighting and Conclusion: All criteria are met. **Recommendation 14 is rated compliant.**

Recommendation 15—New Technologies

Colombia was rated Largely Compliant with former R.8 in its 2008 MER. The effectiveness of the measures in place in 2008 was not assessed because these had been adopted shortly before the onsite ME visit.

Criterion 15.1 – Colombia conducted a NRA in 2016, but the assessment does not reflect a specific review of ML/TF risks in relation to new products, new business practices, new delivery mechanisms or new or developing technologies. Overall, the SARLAFT requires financial institutions under the supervision of the SFC and the SES to identify and assess ML/TF risks in relation to the development of new products/business practices, delivery mechanisms, which encompasses new technologies. There is no requirement for PTOs.

Criterion 15.2 – For financial institutions under the supervision of the SFC and the SES, the SARLAFT establishes the obligation to implement adequate systems to effectively manage ML/TF risks. Circular 55/2016 (section 4.1.1) and Circular 4/2017 (section 2.1.1) require financial institutions under the supervision of the SFC and savings and loan cooperatives, respectively, to identify inherent ML/TF risks, considering the four risk factors, in line with the FATF standard, before any product is launched, modifications to a product are introduced, new markets are considered, transactions are conducted in new jurisdictions, or new delivery channels are established or modified. The latter implicitly addresses the use of technologies.

Resolution 2564 of the MINTIC applicable to PTOs addresses the elements of the SARLAFT in terms of scope, stages or phases, and elements; however, there is no requirement for these institutions to undertake risk assessments prior to launching new products, new business practices or technologies.

Given the limitations placed on the business that may be conducted by currency exchange firms -buying and selling of currency through direct contact with the customers- this criterion does not apply.

The SARLAFT as described in the Circulars listed above requires financial institutions under the supervision of the SFC and SES to adopt and implement measures and controls commensurate with the risks identified to effectively manage and mitigate such risks in line with C. 15.2 (b). There are no requirements for PTOs.

Weighting and Conclusion: Colombia partially meets criteria 15.1 and 15.2. **Recommendation 15 is rated partially compliant**.

Recommendation 16—Wire Transfers

Colombia establishes the requirements on domestic and international wire (SWIFT) transfers for financial institutions (banks, money remitters and other payment systems' institutions - MVTS) under the auspices of the SFC, pursuant to Article 5 of Circular 55/2016 – *"Reglas Especiales Para Transferencias."* In Colombia, domestic transfers can also be performed by PTOs. These PTO transfers are governed by Regulation 2564/2016 issued by the MINTIC. Neither the Circular from the SFC nor the Regulation from the MINTIC establishes a *de minimis* threshold for wire transfers, therefore the obligations in place are applicable regardless of a threshold.

Ordering financial institutions

Criterion 16.1 – Article 5 of Circular 55/2016 states that for all wire transfers, domestic and international, the information related to the originator and the beneficiary must be obtained and maintained in line with the instructions contained in this Article. It further states that for international wire transfers, financial institutions (banks) must obtain and maintain all documentation related to the originator including the full name (first and last name), address, country, city and originating FI. For the beneficiary, the Circular requires the full name (first and last name), address, country and city. Such information must accompany the wire transfer and be maintained through the payment chain for both the originator(s) and the BO(s). Additional documentation requirements apply when payments on wire transfers are conducted to beneficiaries that are not customers of the institution. The same Circular establishes similar requirements for MVTS (money remitters and other systems) performing transfers. When conducting transfers through an MVTS, the following information on the originator and the beneficiary must be obtained and retained through the payment chain: full name (first and last name), country, city and originating FI/MVTS. Beneficiary documentation is also required, obtained and maintained when payments on those transfers are conducted. There is no requirement for financial institutions or MVTS to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists) which permits traceability of the transactions. However, there is no requirement to verify the accuracy of the originator's information.

Criterion 16.2 – There are no requirements in place in the circular or regulation addressing wire transfers from a single originator when these are bundled in a batch file.

Criterion 16.3 – Colombia does not establish a *de minimis* threshold for wire transfers. Therefore, all wire transfers are subject to the requirements established under c.16.1 above.

Criterion 16.4 – Although financial institutions must obtain and maintain all documentation related to the originator and the BO, including all information accompanying the transfers, notwithstanding the shortcomings identified under c.16.1; there is no requirement for financial institutions to verify the information pertaining to its customer where there is a suspicion of ML/TF.

Criterion 16.5 – Financial Institutions and MVTS conducting domestic transfers are required to maintain the originator information, as well as the information for the beneficiary, when executing a transfer. However, as mentioned earlier, there is no requirement in place to obtain and maintain information to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists), which permits traceability of the transaction. In the absence of such information, the requirements in place fall short of ascertaining how the information can be made available to the beneficiary FI and relevant authorities by other means.

For PTOs conducting domestic transfers through the Postal Service network, Article 6.2.7 of the Regulation 2564/2016 establishes an extensive list of information and documentation required and maintained when sending or receiving transfers. The documentation requirements apply to both the originator and the beneficiary. However, there is no requirement for PTO to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists) which permits traceability of the transaction.

Criterion 16.6 – Under both the Circular 55/2016 and the Regulation 2564/2016, all the transfers must be accompanied by the required information. However, there are major shortcomings in documentation and the lack of requirements as identified under c.16.1 and c. 16.5.

Criterion 16.7 – There is a general obligation for financial institutions, MVTS, and PTO under the responsibility of the SFC and the MINTIC, respectively, to maintain all information and documentation for a period of not less than five years. Institutions under the MINTIC are required to maintain the information for five years or longer if the documentation is related to the risk management systems (SARLAFT).

Criterion 16.8 – While the Circular and the Regulation provide an overarching obligation for most of the required documentation to be maintained for the originator and in some cases for the beneficiary, the specific obligations do not address the requirement to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists), which aids traceability of the transaction. Hence, the absence of such information does not constitute ground for not executing the wire transfer.

Intermediary financial institutions

Criteria 16.9 to 16.12– The existing requirements do not explicitly address or differentiate the instances where the institution is acting as the intermediary institution, experiences technical limitations, lacks information required for the originator or beneficiary or is required to apply risk-based policies and procedures in the absence of information. This criterion does not apply to PTOs as these institutions only originate and receive payment orders.

Beneficiary financial institutions

Criteria 16.13 to 16.15 – The existing requirements do not explicitly address the instances where the institution is acting as the beneficiary institution, lacks information required for the originator or the beneficiary or is required to apply risk-based policies and procedures for executing, rejecting, or suspending a wire transfer lacking the required information or to carry out appropriate follow up action(s).

Money or value transfer service operators

Criterion 16.16 – As described under c.16.1, the circular issued by the SFC requires MVTS to maintain all information accompanying the transfer or the message through the payment chain. However, as mentioned earlier there is no requirement for money remitters or other transfer systems to obtain the originator's account numbers or a unique transaction reference number which permits traceability of the transaction.

In the case of PTOs, the list of information and documentation that needs to be obtained and maintained when sending or receiving transfers is extensive and applies to both, the originator and the beneficiary. However, there is no requirement for PTO to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists) which permits traceability of the transaction.

Criterion 16.17 – Neither the Circular nor the Resolution contain any specific requirements when the MVTS provider acts as the originating entity and beneficiary of the transfer. Moreover, there is no requirement for filing an STR.

Implementation of Targeted Financial Sanctions

Criterion 16.18 – Financial Institutions and PTOs conducting wire transfers, domestic or international, are subject to the requirements of section 6 of Circular 55/2016 and Article 7 of Regulation 2564/2016, respectively, which give effect to UN Resolutions 1267, 1988, 1373, 1718, 1737, 2178 and successor resolutions.

Weighting and Conclusion: The existing obligations established by Circular 055 of 2016 and Resolution 2564/2016 leave numerous gaps in the wire transfer requirements as in general there is no requirement for financial institutions or MVTS to include the account numbers for the originator and the beneficiary (or a unique transaction reference number where no account exists) which permits traceability of the transactions; there is no requirement to verify the accuracy of the originator's information; the batching of wires from a single originator; there is no requirement for financial institutions to verify the information pertaining to its customer where there is a suspicion of ML/TF; there are not requirements that explicitly address or differentiate the instances where the institution is acting as the intermediary or beneficiary institution; and in the case of MVTS, neither the Circular nor the Resolution contain any specific requirements when the MVTS provider acts as the originating entity and beneficiary of the transfer and there is no requirement for filing an STR. **Recommendation 16 is rated partially compliant**.

Reliance, Controls and Financial Groups

Recommendation 17—Reliance on Third Parties

Colombia was rated compliant with former R.9 in the 2008 MER. There have been no changes in the FATF requirements for this Recommendation.

Criteria 17.1 to 17.3 – The Colombian regime does not allow for reliance on third parties as all FIs must conduct all elements of the CDD requirements directly themselves. There have been no changes in the FATF requirements since the last MER and the regulatory provisions for reliance on third parties in Colombia remain substantially the same.

Weighting and Conclusion: Reliance on third parties is effectively prohibited. **Recommendation 17 is rated not applicable.**

Recommendation 18—Internal Controls and Foreign Branches and Subsidiaries

Colombia was rated largely compliant with former R.15 and compliant with former R.22 in the 2008 MER. There have been no changes in the FATF requirements for these Recommendations. With respect to R.15, the MER concluded that it was not possible to assess the effectiveness of policies, procedures and controls to prevent ML/TF by entities supervised by the Superintendence of Solidarity Economy (Superintendencia de la Economia Solidaria) and DIAN.

Notwithstanding, in its 2009 follow-up report, the Superintendence adopted External Circular No. 007 of 2008 that requires mechanisms to ensure effective implementation of internal controls. The Superintendence also issued a new Circular in 2015 for its SIPLAFT, which addresses these same issues. With regards to DIAN, it issued Circular 28 on December 9, 2011 (for currency exchange firms) which requires mechanisms to ensure compliance with AML/CFT policies of its SARLAFT system. On December 26, 2016, it issued Circular No. 13 for its LA-FFTPADM system which especially under sections 7 and 8, have implementation mechanisms including a self-assessment compliance requirement. In addition, the SES issued a new SARLAFT for financial cooperatives in January 2017 that harmonizes the internal controls of this sector with the other sectors. These include internal audit and where applicable statutory auditors to review compliance with the SARLAFT.

Criterion 18.1 – All the requirements of c18.1 (a-d) are met with respect to compliance, hiring of staff, training and independent audit. financial institutions are required to develop a SARLAFT (Article 102, EOSF). This system is based on the identification and evaluation of ML/TF risks in all the processes, products and services that the reporting entities provide to their clients, users or agents.

Criterion 18.2 - All the requirements of c18.2 (a-b) are met with respect to the provision of information at group level and sharing of information including for risk management, compliance, audit, etc. as well as on safeguards on data confidentiality. According to the Commercial Code, the requirements of c18.1 above also applies to the parent companies of financial institutions, as well as to all their branches or national subsidiaries, as well as abroad. In number 4.2.2.2.1. of Chapter IV, Title IV, Part I of the Basic Legal Circular the SFC establishes that the CDD procedures of an entity must be incorporated in the manuals and systems of administration of the risk of laundering of the subordinated entities (I.e. branches and subsidiaries) abroad. The savings and loans cooperatives, currency exchange firms and PTOs are not allowed to have subsidiaries abroad.

Criterion 18.3 – Pursuant to Article 260 of the Code of Commerce, all regulations issued by regulators have a scope of application over the whole company, including its branches and subsidiaries. The regulations of the SFC establish that entities must apply the SARLAFT to their entities abroad (paragraph 4.2.2.2.1. of Chapter IV, Title IV, Part I of the Basic Legal Circular). This provision establishes that "(...) The procedures of knowledge of the client must be incorporated in the manuals and systems of administration of the risk of laundering of the subordinated entities abroad. (...) ". There have been no cases reported where a host country does not permit the application of home country equivalent requirements and this is established at the time an FI is authorize to open offices abroad. Thereafter, if there is a change whereby home country requirements are not permitted to be applied, the authorities have broad powers to apply any additional risk management measures, and this is particularly applicable to supervisors' risk-based framework.

Weighting and Conclusion: All the criteria are met. **Recommendation 18 is rated compliant.**

Recommendation 19—Higher-Risk Countries

In the 2008 MER Colombia was rated LC with former R.21, because of the low level of effectiveness by foreign exchange companies with respect to the applicable obligations. *Colombia* has introduced changes in the applicable regulations.

*Criterion 19.1 – F*inancial institutions under the supervision of the SFC are required to apply enhanced CDD procedures and enhanced monitoring to business relationships with natural and legal persons from countries identified as high-risk by the FATF (Circular 55/2016, section 4.2.2.1.8).

Professional currency exchange firms under the supervision of the DIAN are also required to apply enhanced due diligence to transactions with natural and legal persons from countries for which this is called for by the FATF (section 5.5 of Circular 13/2016). For savings and loans cooperatives, criterion 19.1 is addressed under section 2.2.2.2.3 of Circular 4/2017 of the SES. For PTOs, section 6.2 of Regulation 2564/2016 of the MINTIC requires the adoption of stricter procedures for business relationships and transactions with customers from countries that do not apply the FATF recommendations.

Criterion 19.2. and 19.3 – There are no obligations in place incorporating the requirements set out under these criteria.

Weighting and Conclusion: No requirement to apply countermeasures proportionate to the risks under C. 19.2 (a) and (b) and no measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. **Recommendation 19 is rated partially compliant.**

Reporting of Suspicious Transactions

Recommendation 20—Reporting of Suspicious Transaction

In its 2008 MER Colombia was rated largely compliant regarding these requirements on former Recommendation 13 and Special Recommendation IV (para. 3.7.3). The deficiencies were related to ineffective implementation of these requirements by some financial institutions. These issues are not assessed as part of technical compliance under the *2013 Methodology*.

Criterion 20.1 – The financial institutions, national authorities and any appropriate private entity are required to promptly notify the UIAF of any suspicious transaction conducted when these reporting entities suspect or know that the referred transaction may involve potential ML/TF or any other related illegal activity. Reporting entities are required to analyze any unusual transaction inconsistent with the customer's regular transactions or any behavior pattern with no apparent economic purpose. However, this reporting requirement does not apply to the PTOs, which are not required by law to report to UAIF. Law 1369/2009 establishes framework for PTOs, but does not establish that PTOs are reporting entities required to report STRs to the UIAF: Law 1369/2009, Articles 102-107 of the Financial System Organic Statute, 11 of Law 526, 1 and 2 of Decree 1497, 40 and 43 of Law 190 (1995), 1 and 3 Law 1121 (2006).

Criterion 20.2 – There is generally a legal requirement for the financial sector to promptly report all attempted transactions regardless of the amount. However, currency exchange firms and PTOs do not explicitly have the obligation by law to report attempted transactions. This obligation is set in secondary legislation like resolutions and internal statutes issued by supervisors or the UIAF: Articles 4.2.7.2.1 of Rule 26 (2008) of the SFC, 2 of Resolution 059 (2013), 2.2.7.2.1 of SES (2017), 4 and 9 of Resolution 2679 (2016), 1 of Law 1121, and UIAF statute 13 (2016).

Weighting and Conclusion: Colombia has addressed several deficiencies identified in its last MER related to this recommendation. However, there are still concerns on the scope of Colombia's financial sector reporting obligations related to the requirement to report transactions and attempted transactions. **Recommendation 20 is rated largely compliant**.

Recommendation 21—Tipping-Off and Confidentiality

Colombia was rated compliant with former Recommendation 14 in the 2008 MER.

Criterion 21.1 – Article 42 of Law 190 of 1995 provides that entities and their managers or administrators are exempt from civil, criminal or administrative liability when reporting transactions, they deem linked to any type of criminal activity to the UIAF. Article 102 of the EOSF provides for protective measures for those submitting STRs to the UIAF. These provisions apply to financial institutions supervised by the SFC, to entities supervised by the SES, DIAN and MINTIC.

Criterion 21.2 – Article 105 of the EOSF and Article 5 of Decree 1497 of 2002 prohibit the disclosure of the fact that an STR or related information is being or has been submitted to the UIAF.

Weighting and Conclusion: All criteria are met. **Recommendation 21 is rated compliant**.

Designated non-financial businesses and professions

Recommendation 22—DNFBPs: Customer Due Diligence

In its 2008 MER, Colombia was rated partially compliant with former R.12, as the gambling sector did not provide for an adequate CDD process. Currently, the sectors included as DNFBPs, in accordance to the FATF list, are: casinos, real estate agents, notaries, lawyers, accountants, and fiduciary services. However, many persons and companies of these sectors are not classified as reporting entities. In fact, DNFBPs under the Supersociedades, namely real estate agents, lawyers, and accountants, need to comply with three requirements that are set in its AML/CFT regulations (SAGRLAFT). Companies must obtain a specific CIIU code of activity from the authorities; they must reach a certain threshold of gross revenue in a single year (this threshold vary depending on the sectors); and they must be under permanent supervision and control of the Supersociedades (only part of the companies, depending on their size must be under Supersociedades

supervision). Around a thousand companies were classified as reporting entities in December 2016. Since most of companies of these sectors do not fulfill these requirements and economic thresholds, they are not included as AML/CFT reporting entities. It must be noted that, in Colombia, there are other nonfinancial institutions that are subject to AML/CFT requirements, but are not listed by FATF as DNFBPs: mining and quarrying (only when obtaining a gross revenue of $15 million in a single year), car dealers, football clubs (Chapter X, Clause 5 of the Legal Basic Circular of Supersociedades, SAGRLAFT), or games of chance (lottery, permanent betting, and equestrian betting), amongst others. All of them must comply with the three requirements needed to be classified as AML/CFT reporting entities. The relevant legal basis is found in Agreement nº 317–2016 of the National Council for Games of Chance (Consejo Nacional de Juegos de Suerte y Azar (CNJSA) and Article 5 of Law 641, which establishes the regime for games of chances entities (Ley por la que se fija el régimen propio del monopolio rentístico de juegos de suerte y azar). The AML/CFT regime of these entities is regulated in Agreement nº 97 de 2014 of the CNJSA.

Criterion 22.1 – As explained for financial institutions in R10, there is no explicit obligation set forth in a Law to apply CDD, as it is requested in the standard. The CDD measures are set in resolutions and circulars issued by supervisors. DNFBPs apply the following measures:

Subcriterion 22.1 (a) The applicable regulations for casinos are Articles 102–107 of EOSF and Coljuegos Resolution 20161200032334. Resolution Coljuegos 20161200032334 (Article 10): at least it should be requested the full name, type of identification and number, date and place of issuance; date and place of birth; address and phone number; professional activity; voluntary declaration of origin of funds; statement of the client on PEP profile or public servant. When engaged in operations equal to or above Col$5 million (approximately $1,800), casinos shall request identification of the client in accordance to a detailed list of requirements set in the Resolution and must keep this information. Online gambling entities must guarantee the customer identification and use a mechanism for the validation of the client that ensures the truthfulness of the information provided.

Subcriterion 22.1 (b) The annual revenue requested for real estate agents to be classified as reporting entities is $15,000,000. Only those real estate agents classified as reporting entities (28 out 3,004 in 2016) must comply with the CDD provisions of the Basic Legal Circular, SAGRLAFT which requires them to have all mechanisms and measures to allow the "adequate knowledge" of clients to prevent and manage ML/TF risk. However, SAGRLAFT does not require specific activities to know the client, but provides a list of possible actions "by the way of example:" to know by any legal means the origin of the funds; to verify the identity of the client; to confirm contact details and economic activity; to request any additional documentation deemed pertinent. SAGRLAFT also permits transactions even when the identification of the client cannot be obtained "if the nature of the operation and activity so permits, e.g., in case of mass sales." Therefore, those real estate agents classified as reporting entities do not have the full obligation to identify the customer, and there is not a prohibition to perform operations when such identification cannot be made, as it is required in R.10. Obligations on identifying BO have been recently added to the SAGRLAFT Circular, however, BO identification process does not fully comply with the requirements of the standard set in the Interpretative Note (IN) for R.10.

Subcriterion 22.1 (c) Dealers in precious metals and precious stones are not specifically included in the list of AML/CFT required sectors under Supersociedades supervision. There is only a generic provision which would include any type of company as reporting entities (Chapter X, Article 5. Letter O) of Basic Legal Circular of Supersociedades, SAGRLAFT). If they comply with a specific condition: obtaining a gross revenue of 160,000 minimum wages (Col$737,717 in 2017) in a single year (approximately $40,000,000). There are no dealers in precious metals and precious stones classified as AML/CFT reporting entities.

Subcriterion 22.1 (d) Pursuant to Supersociedades SAGRLAFT, modified in December 2016, to be classified as reporting entities, lawyers, other legal services, accountants, and collection and credit rating services must obtain a gross revenue of 30,000 minimum wages in a single year (approximately $7,500,000). Those DNFBPs under Supersociedades supervision not classified as reporting entities (most of the entities) should consider if it is recommended to adopt the regulations of the Legal Basic Circular, SAGRLAFT. Therefore, they are not required to apply the AML/CFT obligations. The notaries have specific AML/CFT regulations

on CDD obligations (Administrative Instruction nº17 of 2016 of the Superintendence of Notaries Articles 4.3.1.2.1 and 4.3.1.2. 4). However, no specific measures require identification on the BOs of the clients performing the transactions or the beneficiaries of the service provided by the client, as required by c.10.5.

Subcriterion 22.1 (e) Fiduciary services must follow the AML/CFT obligations established by Article 3 EOSF and SFC SARFLAT (Part 1º, Title IV, Chapter IV, Article. 4.2.2.2.1 on customer identification). Authorized fiduciary companies need to comply with the CDD requirements set for financial institutions and, therefore, comments on R.10 for financial institutions also apply. Prior to establishing a "fiducia," these companies must apply customer identification procedures, including BO, to know adequately the economic activity of the clients, its magnitude, and the basic characteristics of the transactions

Criterion 22.2 – Casinos must keep the information that permits the identification of the customer, preserve the documents and, also, the information and digital support of the operations reported to the UIAF (Resolution Coljuegos 20161200032334 (Article 10.1 and 2 and Article 16) and Article 19 of Agreement 317-16 Coljuegos). Conservation is required for a minimum term of five years. The DNFBPs under Supersociedades supervision must keep records with information of the operation and the client and the name of the person who verified this information, including date and hour (Chapter X, Article 7E a) of the Legal Basic Circular of Supersociedades, SAGRLAFT). All entities under Supersociedades's supervision must also comply with record-keeping obligations of all papers and books as established in Article 28 of the Code of Commerce. The AML/CFT regime for notaries sets that the information provided by the client, as well as the name of the person who received this information, shall be duly recorded for evidence of due and timely diligence (Administrative Instruction nº17 of 2016 of the Superintendence of Notaries Articles 4.3.1.2.1). Records on the activities of the notaries are kept for, at least, 30 years. Fiduciary companies must follow the record keeping obligations established by the SFC for financial institutions (see R.11).

Criterion 22.3 – (a) The SIPLAFT Resolution for casinos contains a definition and a list of domestic PEPs, but no reference is made to foreign PEPs (Article 10.1 last paragraph of Resolution Coljuegos 20161200032334). The CDD regime for PEPs specifically states that since PEPs are considered a high-risk "element," there is a requirement to obtaining the approval of the legal representative of the operator to establish or to continue commercial or legal relationships with the counterparties that represent the greatest risk to the operator, which is not in line with standards, and to implement enhanced due diligence measures. There are no management risks systems in place to determine if the client or the BO is a PEP, for obtaining senior approval or for establishing the source of the funds as required by R.12. (b) For DNFBPs under the Supersociedades, the CDD process for PEPs involves enhanced due diligence and require greater controls (Chapter X, Article 7 c) Legal Basic Circular of Supersociedades, SAGRLAFT). It is advisable for operations and businesses with PEPs to obtain senior management approval. As explained for the casinos, there are no management risks systems in place to determine if the client or the BO is a PEP. (c) In the case of the notaries, Instructions by the Superintendence set that notaries have "to adopt control measures regarding PEPs" and ensure that, within the CDD process, the client information is incorporated (Article 4.3.1.2.2 of Instruction nº17 2016 and Instruction nº8, 7 of April 2017. Superintendence of Notaries). Instructions also set the minimum information to be requested from the client, which include a PEP declaration, that must be added in the public deed. Instruction do not include specific measures required by R.12 for higher risk business relations or for international PEPs

Criterion 22.4 –The regime of compliance with the obligations of identifying and assessing ML/TF risks which may arise in respect of new products or commercial practices or new technological products developed by DNFBPs is different for each sector. The casinos concession regime only allows new elements that comply with the online connection requirements expressly authorized in the regulations, and those requests that do not comply with the administrative specifications will be rejected. The DNFBPs regulated by the Supersociedades must assess the related risks, including LA/ TF when entering in new markets or offering new products (Article 7E), but most DNFBPs are not covered. The compliance officer will analyze and will keep records of the analysis, with the support of the person responsible for the new business or product. The assessment and measures to manage the risks are set in Article 4A.

Criterion 22.5 – As stated for R.17, reliance on third parties in Colombia remain substantially the same since the 2008 MER. The AML/CFT rules of Supersociedades (art. 4 B b) prohibit the contracting of functions to third parties.

Weighting and Conclusion: Casinos, real estate agents, notaries, lawyers, accountants, and fiduciary services are AML/CFT sectors, however most persons and entities of the DNFBPs sectors regulated by the Supersociedades—lawyers, accountants, and real estate agents—do not meet the requirements and high thresholds set by regulations and, therefore they are not classified as reporting entities. Dealers in precious metals and precious stones are not classified as DNFBPs. There are CDD obligations, but they are not set in a law. CDD and BO identification of DNFBPs under Supersociedades supervision are not in line with R.10 requirements. CDD system of the notaries do not include specific measures to identify BO as defined in the standards. The CDD processes for PEPs need to follow the standards and require management risks systems. **Recommendation 22 is rated partially compliant.**

Recommendation 23—DNFBPs: Other Measures

In its 2008 MER, Colombia was rated partially compliant with Recommendation 1616 because of the lack of AML/CFT requirements for Lawyers, Accountants, dealers of metal and precious stones, and real estate agents, and the low number of STRs from casinos and notaries.

Criterion 23.1 – STRs have different regulations for each DNFBP sector. (a) Casinos have a mandatory regime for immediately reporting suspicious transactions to the UIAF (Article 10.2 of Resolution Coljuegos 20161200032334 and Articles 8g and 11 of Agreement 317-2016 Coljuegos) and the conditions that must be followed are clearly established in Agreement 317-2016 of Coljuegos (Article 11). (b) DNFBPs under Supersociedades supervision must report to the UIAF all suspicious transactions detected in their regular business activities through the SIREL system and must follow the instructions indicated in the SIREL User Manual (Chapter X, Article 8 of Legal Basic Circular of Supersociedades, SAGRLAFT). These reporting obligations are required not only to those classified as reporting entities in accordance to SAGRLAFT requirements, but also to all companies obliged to have a tax auditor (Articles 207 and 203 of the Code of Commerce and Article 13 of Law 43-1990). However, this does not cover all DNFBPS. (c) UIAF Resolution 363 of 2008 requires gold import and export companies, foundry houses, and international gold trading companies, (not classified as AML/CFT reporting entities) to report suspicious transactions. (d) Notaries have a dual regime (Article 7.2.1. of the Administrative Instruction nº 17 of the Superintendence of the Notaries. (October 27, 2016): the obligation to report all transactions to the UIAF (RON) and the duty to immediately report any suspicious transaction as soon as they perceive such, according to the red flags and the documents attached to the Public Deeds, the transaction might be deemed as suspicious on the terms of the Guidelines on AML/CFT for Notaries. According to 7.2.2 of the Resolution: "Notaries are not required to report STRs when a legal entity supervised by SFC is involved in the legal transaction." The reporting rules established for notaries and the exception is not in the standards. The Superintendence of Notaries informed the assessors that this rule will be amended. (e) Fiduciary companies must follow STRs requirements set in the SFC SARLAFT for financial institutions.

Criterion 23.2 – Obligations on the internal controls requirements set out in R.18.1 for the DNFBPs. (a) Casinos are required to have instruments for the adequate application of AML/CFT and internal control mechanisms (Articles 11–17 of Resolution Coljuegos 20161200032334 and Agreement 317-2016 Coljuegos). They must have alert signals listed by the regulations, technological tools that allow monitoring of operations, staff screening, code of conduct and training, internal SIPLAFT policies and procedures approved by the Board, officials in charge of the internal controls and the compliance with the measures approved, or designate a compliance officer in accordance with several requirements. (b) DNFBPs under Supersociedades supervision are requested to have detailed self-management and AML/CFT risk management systems that allow for identification of risks, their measurement, evaluation, control, and/or monitoring (Article 4 and Articles 7D–7G of the Legal Basic Circular of Supersociedades, SAGRLAFT). Compliance officers, screening procedures for the staff and training activities are also included in the SAGRLAFT system, but there is not a specific obligation of independent audits on AML/CFT. (c) Notaries must adopt internal control procedures and a list of obligations detailed in the instruction, including, among

others, to establish tools to identify unusual or suspicious transactions, to approve risk control policies, to designate a ML officer or coordinator, to have screening procedures when hiring employees and to develop training activities. (d) Fiduciary companies must have internal control requirements set in the SFC SARLAFT for financial institutions (see R.18). Regarding the requirements set out in R.18.2, it must be noted that Supersociedades SAGRLAFT sets out that when in a business group there is more than one required entity, "each one of them must adopt its own AML/CFT system" (Article.4), which is not in line with the standard.

Criterion 23.3 – Casinos have a specific obligation to apply enhanced CDD measures to operations and transactions with clients of high-risk jurisdictions when called upon to do so by the FATF (Article14 of Coljuegos Agreement 317-2016). DNFBPs under Supersociedades supervision should consider as risk factors those transactions or contracts with persons or entities from or located in jurisdictions designated by the FATF as noncooperative (Chapter X, Article 7D of Legal Basic Circular of the Supersociedades, SAGRLAFT). However, there is no obligation to apply countermeasures when dealing with persons from countries included in the FATF Public Statements (as required in R.19.2), and these obligations can only be demanded to the reporting entities as described in R.22. Notaries must apply enhanced CDD in transactions with natural and legal persons and financial institutions from countries for which the FATF makes a call in this regard (Article 4.3.1.2.5 of the Administrative Instruction nº 17 of the Superintendence of the Notaries). The type of intensified CDD measures to be applied must be effective and proportionate to the risks.

Criterion 23.4 – For most DNFBPS, except for those regulated in the OESF (fiduciary companies), there is no protection by a law for directors, officers, and employees from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory, or administrative provision, as it is requested in C.21.1. In the case of casinos, the Coljuegos Resolutions set out that no person in the company may disclose that a STR has been reported to the UIAF and, also, that reporting STRs cannot give rise to any responsibility (Article 10.2, para. 1) of Resolution Coljuegos 20161200032334 and Article 8 i)–k) of the Agreement 317-2016 Coljuegos). Regarding the notaries, the entity and the compliance officer shall guarantee the confidentiality of the STRs sent to the UIAF, which will not give rise to any responsibility (Article 7.2.2 Administrative Instruction nº 17 of the Superintendence of the Notaries). The DNFBPs regulated by the Superintendence of Companies must guarantee the confidentiality of the report of a suspicious transaction communicated to the UIAF (Article 8 Legal Basic Circular of the Supersociedades, SAGRLAFT).

Weighting and Conclusion: Casinos, notaries, and fiduciary services have STR obligations, but not all persons/entities of the DNFBPs sectors regulated by the Supersociedades—lawyers, accountants and real estate agents—are required to report STRs. Dealers in precious metals and precious stones are not classified as DNFBPs. Notaries should be required to report STRs even if a legal entity supervised by SFC is involved in the legal transaction. Groups should be required to implement group-wide programs on AML/CFT to all branches and subsidiaries of the group. Protection by law for DNFBPs staff for breaching restrictions on disclosure information should be enacted. **Recommendation 23 is rated partially compliant.**

LEGAL PERSONS AND ARRANGEMENTS

Recommendation 24—Transparency and Beneficial Ownership of Legal Persons

In its 2008 MER, Colombia was rated largely compliant with RRRRRRR.33 due to the difficulty in accessing accurate and up-to-date information on the BO and controllers of legal persons.

Criterion 24.1 – The different types, forms, and characteristics of legal persons that can be established or created are described in "Overview of Legal Persons and Arrangements" of this MER. The process for creating companies, their legal regime, and the information required are regulated in the Code of Commerce (Articles 294–497); the Law 222 of 1995—which creates the sole proprietorship companies—and the Law 1258 of 2008—which creates the SAS. This information is public and available. Noncommercial entities have legislation which sets their types, form, features, and process of creation (see R.8). Basic information on legal persons is also publicly available in the RUES (C. Commerce Article 26). However, there is no

description of procedures for obtaining and recording information on the beneficial ownership, BO, as defined by the standards—R.10 in paragraph 5(b)(i).

Criterion 24.2 – The NRA only covers those types of legal persons that are already considered as "reporting entities" under the Colombian AML/CFT framework: Financial Institutions (credit institutions, securities, insurance, fiduciary services), DNFBPs (gambling, real estate, mining, lawyers, accountants, notaries, football clubs, free trade zones, currency exchange, transporting companies, security companies, deposits, customs, airports, seaports). Regarding the health sector and NPOs it is unclear how the authorities assigned the corresponding score to each sector. However, the NRA does not include a ML/TF risk analysis on the different types of commercial companies as listed in the EOSF and Code of Commerce. ML/FT risks that may arise from SAS (54% of the companies in Colombia) were not assessed by the authorities. This type of company is regulated by Law 1258 of 2008, which simplifies the process of creation to encourage the formalization of economic activities that were not subject to regulations. SAS do not require public deeds for creation, just the authentication of a simple private document that can be signed directly in the Registry.

Basic information

Criterion 24.3 – Basic information must be included in the company's deed or private contract of constitution presented to the Commercial Registry of Confecámaras. In these documents companies are required to provide the name of the company, document of incorporation, form and status, legal representative, address, basic regulatory powers and list of Directors/Administrators (Articles 110-114 Code of Commerce). This information is held by the Commercial Registry and is publicly available (Article.26 C. Commerce).

Criterion 24.4 – The information referred to in criterion 24.3, as well as the initial information on the registration of the shareholders or members of the companies, the number of shares held by each shareholder and the categories of shares, the mechanisms of administering business and the powers and attributions of the associates, must be registered. The acts that modify or affect the ownership of the entities or their administration must be also registered in the commercial register. (Articles 28.6 and 7 C. Commerce). All companies must keep a "book of shareholders" with the updated information on the shares: new shares issued, number and date of registration, the owners, transfer of shares, embargoes and lawsuits and any limitations of dominance. This information is not publicly available, but could be required by the DIAN, FGN and the Supersociedades (195 C. Commerce) and can also be certified by the internal tax auditors for third parties when needed. Supersociedades and DIAN also databases hold databases with shareholders' information annually updated.

Criterion 24.5 – Acts and documents subject to registration will not produce effects, but from the date of registration (Article 29.4 of Code of Commerce) This means that information on 24.3 needs to be updated in a timely basis to have effect. In addition, legal persons must carry out the annual renewal of the commercial license in the respective Chambers of Commerce (Article 33 Code of Commerce) and must report and register in the registry any changes related to the legal status, list of directors, commercial activity, and change of address. The same shall be done in respect of branches, commercial establishments, and any act and documents subject to registration. Those who provide false information to the registry will be punished with fines or criminal sanctions set in the Penal Code (Article 38 Code of Commerce). As said for c.24.4 companies are required to keep an updated "book of shareholders".

Beneficial Ownership Information

Criterion 24.6 – In Colombia, there is not a specific regulation or mechanism to ensure that information on BO of a company is obtained by that company or to have reasonable measures to obtain and to hold up-to-date BO information available at a specified location in the country, and there is not a mechanism that ensures that BO information is determined in a timely manner by authorities. BO information is only partially available to Colombian authorities through different sources, as (i) the Commercial Registry, which may contain BO information for simple ownership structures, but not for joint-stock companies; (ii) the "book of shareholders," which contains updated information of all shareholders, new shares issued, number, date of registration, and transfer of shares, but BO information can only be obtained when shareholders are natural

persons, not when shareholders are legal persons or when foreign ownership is involved; (iii) the DIAN and Supersociedades databases with shareholders' information only annually updated, which after a cascade process of identification of the shareholders of each entity of the chain of property, could allow to identify the owners that are not legal persons; (iv) BO information obtained through the CDD process by financial institutions and DNFBPs, but this obligation was recently set in SARLAFT and SARGRLAFT. BO identification process is not in line with the standards (see R.10) and BO definitions used by each supervisor are different (e.g., SAGRLAFT does not require to identify natural persons for BO in the CDD process. The CDD process is regulated in Letter E, Article 7, Legal Basic Circular of Supersociedades, SAGRLAFT. The current CDD obligations on BO were included in SARLAFT by External Circular 055 of 2016, (December 22) enforced on March 31, 2017. Amendments to SAGRLAFT were approved on October 25, 2016. Therefore, all these sources have limitations to obtain in timely manner, accurate and updated BO information.

Criterion 24.7 – As seen for c.24.6, there is no specific regulation requiring accurate and updated BO information. The only rule in this regard is in Article 631 of the Tax Statute for obligations on automatic exchange information on tax purposes: Colombian companies that are subsidiaries or branches of national or foreign companies, permanent establishments of foreign companies, autonomous assets, collective investment funds, must identify their BOs as defined by Article 631-5 and, if requested by the DIAN, they must provide some specific information. However, Article 631 applies only for tax purposes to the specific types of companies mentioned above, and the BO definition of Article 631.5 is not in line with the requirements of BO set in the standard (see IN of R.10).

Criterion 24.8 – There is an obligation for the legal representatives and tax auditors of the legal persons to cooperate and to submit all the updated information on the company at the request of the competent authority (the DIAN, Supersociedades, or FGN). However, as stated for C.24.6, there are limitations to obtain available and up to date BO information, and the different definitions of BO are not in line with FATF standards.

Criterion 24.9 – All legal entities must keep the information, business correspondence, and records for at least ten years from the closing of activity or the date of the last entry (Articles 54 and 60 Code of Commerce). The liquidator of commercial companies must keep the books and papers for a term of five years, counted from the approval of the final settlement account (Article 134 Decree 2649 29 of December of 1993 of the General Accountings Regulations). However, the information to be kept does not include BO information as set in the standards.

Other requirements

Criterion 24.10 – LEAs and supervisors have the power to request and analyze the information required on the legal, accounting, economic, and administrative situation of any commercial company (Article 83 Ley 222 of 1995, which amends Book II of the Code of Commerce). However, this information does not include BO information of the own company as set in the standards. They have also access to information held by other relevant parties, as financial institutions, which may have BO information of their clients.

Criterion 24.11 – In Colombia, no company can have bearer shares since Decision 291-1990, Cartagena Agreement of the Andean Community of Nations. Bearer shares warrants do not have effect (see Article 654 of Code of Commerce).

Criterion 24.12 – There are not specific regulations on nominee shareholders and nominee directors in Colombian legislation, but requirements of the Code of Commerce (Article 110) would impede the use of nominees for the creation of companies. All other acts that may affect ownership or administration of the entities must be also registered in the commercial register to have effect against third parties (Article 28 Code of Commerce). Any shareholder may be represented at the Board or Assembly meetings by power of attorney granted in writing, indicating the name of the proxy and the date or time of the meeting or meetings for which the power is conferred (Article 184 Code of Commerce). In case of shares delivered in fiducia, the book of shareholders of the company must include the fiduciary company as the shareholder or partner acting

as spokesperson for the shares delivered in fiducia (Article 2.3.2 Part II, Title II, Chapter I of the Legal Basic Circular SFC, SARLAFT).

Criterion 24.13 – Cases of false data supplied to the Commercial Registry can be sanctioned according to the Penal Code, and the Chamber of Commerce shall be required to file a penal complaint (Article 38 Code of Commerce). Authorities can impose administrative sanctions (Article 58 Code of Commerce as amended by Law 1762-2015) for those who breach obligations on registration, record keeping, lack of correspondence of records with books of commerce, unduly changes in the books, fail to provide the information required by the authorities, etc. Those conducts might be sanctioned with fines between 10 and 1,000 official minimum wages (Col$737,717 x 1,000 = Col$737,717,000, i.e., $2,500 to $250,000 approx.), which is not dissuasive for bigger companies and groups (Article 58, Code of Commerce). In 2016, the country's 1,000 largest companies invoiced Col$693 billion and earnings for Col$45 billion. Authorities refer a draft law under parliament discussion will substantially increase the amount set. There are not specific sanctions for failing to hold or to provide BO information as set by the FATF standards.

Criterion 24.14 – Information registered in the RUES is public and available through the internet. Authorities (i.e., the UIAF, the National Police, and the FGN) can also access to back-up documents (not public information) held by the registries and share them with foreign counterparts. Shareholders´ information held in the supervisors' databases can also be exchanged. Updated information held by companies in the "book of shareholders" is only directly available for each supervisor, the DIAN (Article 63, Code of Commerce), or through a judicial order. Thus, exchange of this information is not immediate, but it is feasible in the framework of international cooperation agreements or instruments that allow to maintain the reserved nature of the information. However, noted in for c.24.6 and 24.7, there is no specific regulation requiring maintenance of accurate and updated BO information in Colombia as set in the standards. For obligations related to the automatic exchange of information on Tax purposes, Articles 631-4 of the Tax Statute states that the DIAN will establish by resolution which specific entities will provide information to fulfill the international agreements of automatic exchange of information, but only limited to certain types of financial accounts that are described in this article.

Criterion 24.15 – There is no procedure to monitor the quality of the assistance received from other countries in response to requests for basic and BO information or for locating BO residing abroad. Only the DIAN keeps track of the information requests received and sent in tax matters, which may include BO information.

Weighting and Conclusion: Colombia has taken significant steps to enhance the transparency of legal persons and arrangements. Basic information must be registered and annually updated in the Mercantile Registry and is publicly available. Companies must update information on the shareholders in the "book of shareholders," the DIAN, and in the database of Supersociedades. However, BO information is only partially available for the authorities, there are no processes to obtain or hold accurate and up-to-date information on BO in a timely manner as set by the standards.. **Recommendation 24 is rated partially compliant.**

Recommendation 25—Transparency and Beneficial Ownership of Legal Arrangements

Colombia was rated largely compliant with former Recommendation 34 in its 2008 MER.

Criterion 25.1– The most relevant legal arrangement is the fiducia (or "Mercantile fideicomiso:" 23,200 fiduciae). Fiduciary services can only be offered by fiduciary companies (Articles 1226–1240, Code of Commerce) which are financial institutions authorized and supervised by the SFC (Article 3, Decree 663 of 1993 Organic Statute of the Financial System; SFC Legal Basic Circular, SARLAFT Part II, Title II, Chapter I: Special Rules for Fiduciary Business). Fiduciary companies (26) can only engage in fiduciae as their exclusive business. Most fiduciary companies are subsidiaries of banks. All the information on the constitution and updates of each fiducia must be recorded by the fiduciary company and provided to the SFC through the online Business Registration Module for Fiduciae (External Circular SFC 065. 30-Dec._2008; Circular 45-2013; External Circular SFC 030 2015 amongst others). The Civil Code (Articles 793–822) permits civil fideicomisos, but this figure, mainly used for inheritance cases, is not very common. Identification of the parties and the conditions must be included in a public deed under a notary and duly

registered in the SNR. The goods/assets will only be transmitted to a beneficiary when the condition established in the fideicomiso is met (normally the death of the settlor). Until then, the settlor remains as the owner of the good and assets, unless other conditions are agreed in the deed, but funds/assets under this arrangement cannot be seized and are protected from third parties' claims.

Subcriterion 25.1(a) Fiduciary companies must comply with CDD obligations set for financial institutions by the SFC Legal Circular SARLAFT (SFC Legal Basic Circular, SARLAFT, Part 1, Title IV, Chapter IV, Article 4.2.2.2.1 on CDD). They must identify all clients who deliver funds or assets in fiducia (settlors) through a detailed mandatory application form, to verify this information, to have adequate knowledge of the economic activity and the characteristics of the transactions, and to identify BO of the settlor and beneficiaries. In addition, when the client is a legal person, the fiduciary companies will identify its ownership structure, comprising the identity of shareholders or associates who directly or indirectly have more than five percent of their capital, contribution, or participation in the entity (Articles 4.2.2.2.1.1.1 and 4.2.2.2.1.4.6 of SFC Legal Basic Circular, SARLAFT). The identification of the beneficiary is not necessary in the act of constitution of the fiducia, but it must be possible and be realized within the term of the fiduciary service, so that its purposes can have full effect (Article 4.2.2.2.1.4.2 of SFC Legal Basic Circular SFC SARLAFT SFCSFC and Article 1229, Code of Commerce)

Subcriterion 25.1(b) There is not specific obligation by law or regulations to hold basic information on agents or service providers involved in the fiduciary services, however, since fiduciary companies must present a detailed report on the management of assets delivered under a fiduciary business with all the information that affects the normal development of the work entrusted, they identify and keep information on the service providers of the company

Subcriterion 25.1(c) The records and documents shall be kept for a period of not less than five years (Article 96 of the Organic Statute of the Financial System, as amended by Article 22 of Law 795 of 2003).

Criterion 25.2 –Fiduciary companies must comply with the record-keeping obligations set in the Code of Commerce and the SFC SARLAFT (SFC Legal Basic Circular SARLAFT, Article 4.2.3 on record keeping), and maintain accurate and updated information on all the different elements of the fiduciae, following adequate standards and processes of management, custody and conservation. This information must be provided to the SFC.

Criterion 25.3 – Only fiduciary companies especially authorized by the SFC may have the status of fiduciary. These companies are duly identified as fiduciary companies when they engage in any business or transaction with the financial institutions and DNFBPs (Article 1226, Code of Commerce).

Criterion 25.4– Since they are financial institutions, the analysis made for R.9 and R.31 also applies for this criterion. For tax or judicial purposes, inspection, surveillance, and intervention of the state, the authorities may requirethe submission of any information, accounting books, and other private documents in the terms established by law (Article 15, Colombian Constitution). The legal principle of "habeas data" (Law 1266-2008) impedes fiduciary companies to provide financial institutions and DNFBPs with information on the ownership of funds and assets of the fiduciae managed without authorization of the client. However, pursuant to AML/CFT obligations, financial institutions and DNFBPs do not initiate relationships or carry out transactions with fiduciary companies without CDD of the clients who deliver funds or assets in fiducia (settlors).

Criterion 25.5 – Competent authorities, DIAN, SFC and FGN, have access to all the information held by the fiduciary companies and by financial institutions, including BO information of their clients obtained in the CDD process. However, they are not required to obtain and maintain BO information of the clients as set by the FATF standard. Financial authorities have also on-line access to the fiduciae information held by the SFC. The UIAF does not have this on-line access.

Criterion 25.6 –Basic information of the registries is public and available, but it does not always contain information on the fiduciae, which is held by the SFC and periodically updated by the fiduciary companies. The EOSF establishes that the SFC may share information with supervisors of other countries, and there is

no restriction for this cooperation (Article 83, Law 964 of 2005, as amended by Article 22 of Law 1328 of 2009). It might include basic and BO information of the participants available at the SFC, but BO information held by the SFC is obtained according to SARLAFT and may not be in line with the standard.

Criterion 25.7– The EOSF lays down a wide range of sanctions for fiduciary companies and their directors/managers for noncompliance with the obligations set out in the legislation or in the regulations and instructions issued by SFC (Articles 209–211, Decree 663 of 1993 Organic Statute of the Financial System, as amended by Article 45, Law 795 of 2003). For those infringements, the SFC may impose (Articles 102, 209 and 211.3, EOSF): warnings, admonitions, professional disqualification, managers/directors' removal, and fines up to Col$1,742,000,000 (approx. $600,000).

Criterion 25.8 – Failing to grant timely access to information on the fiduciary company is considered an infraction subject to sanction by EOSF. This type of infringement has a specific sanction in Article 208 n) and ñ) EOSF: the SFC may impose a fine up to 10 official minimum wages (COP 737,717 x 10= COP 7,377,170), without prejudice to any sanctions that may have arisen for violating the provisions governing the activities of institutions supervised by the SFC, which is not proportionate or dissuasive (i.e. approx. USD 2,500).

Weighting and Conclusion: Most criteria are rated met or largely met. Regulation of fiduciary services is very wide and detailed. Fiduciae can only be provided by Fiduciary companies which are financial institutions licensed and supervised by the SFC. The information on each contract of fiducia must be recorded and provided to the SFC. Relevant authorities have access to the information held by the fiduciary companies. There are some deficiencies on the BO information obtained and in the sanctions for infringements. **Recommendation 25 is rated largely compliant**.

SUPERVISION

Recommendation 26—Regulation and Supervision of Financial Institutions

Colombia was rated largely compliant with former Recommendation 23 in the 2008 MER. The 2008 MER found weaknesses in the supervision of cooperatives by the SES, in particular the lack of measures to combat ML/TF in the sector. In its 2009 follow up report Colombia reported that it had amended the applicable 2000 regulation (now Chap. XI of Title II of new Basic Legal Circular, External Circular 007 of 2008). The changes should allow for appropriate countermeasures for ML/TF.

Criterion 26.1 – The SFC is the AML/CFT supervisor for banks, securities and insurance institutions except for currency exchange firms. The SES is the supervisor for savings and loans cooperatives that engage in financial intermediation and the DIAN is the supervisor for currency exchange firms.

The National Government, through the MINTIC has been designated as the supervisor for postal (domestic) transfer operators. (Law 1369 of 2009 Article. 18). However, its functions specifically exclude supervision of AML and no mention is made about CFT (Article. 18.1).

Market Entry

Criterion 26.2 – All Core Principles financial institutions are subject to licensing by the SFC. (re: Political Constitution of Colombia, Article. 335, and EOSF). With respect to financial cooperatives, Law 19 2012 Article. 146 establishes the requisite registration obligations with the SES. Professional currency exchange services (currency and traveler's checks) supervised by DIAN require prior licensing to operate. (Decree 4048 of 2008 and DIAN Resolution 396 of 2005). With respect to financial cooperatives, the SES registers such entities pursuant to Law 454 of 2005 Article. 36, Law 19 Article. 146 of 2012, et al. The MINTIC registers PTOs. (Law 1369 de 2009 Article. 4). International money transfers conducted by foreign exchange market intermediaries and special financial services (*sociedades de intermediación cambiaria y de servicios financieros especiales* – SICA/SFEs), are authorized and supervised by the SFC (Decree 2555 of 2010 and Law 1328 of 2009). For postal domestic transfer operations, see Decree 1369 of 2009 (Article. 4) for

registration requirements. The licensing regime in Colombia effectively precludes the establishment or continued operation of shell banks.

Criterion 26.3 – The various sectorial law and regulations provide strict requirements and procedures to prevent the risk of criminals or their associates from owning, controlling or managing financial institutions. (SFC-Decree 663 of 1993 (as amended), DIAN-Resolution 396 of 2005, SES-Circular 2015 para. 3.4, MINTIC Resolution 3678 of 2013).

Risk-based approach to supervision and monitoring

Criterion 26.4 – (a) All banking, securities and insurance entities are subject to regulation and supervision by the SFC (Decree 2555 of 2009 and relevant regulations). The SFC is an omnibus supervisor for core financial institutions and conducts consolidated supervision of financial groups. These requirements also apply for non-core financial institutions subject to SFC supervision (including international money transfers and covered exchange firms) for purposes of (b) below. (b) For currency exchange firms, DIAN Decree 4048 of 2008 and resolutions thereunder establish regulatory and supervisory requirements over this sector but no regard to risk. For financial cooperatives, SES Law 454 of 1998 establishes supervisory requirements over this sector but no regard to risk. For PTOs, Law 1369 of 2009 establishes regulations and supervisory requirements but have no regard to risk for non-core financial institutions.

Criterion 26.5 –

Subcriterion 26.5 (a) The SFC conducts risk-based AML/CFT supervision including for financial groups. The Basic Legal Circular of 2014 establishes an assessment of ML/TF risks by financial institutions which are available to the SFC. Decree 2555 of 2010 requires the AML/CFT Division of the SFC to assess and monitor institutional risks of ML/TF to inform its supervisory activities. The main basis for doing this is enforcement of compliance with the risk-based SARLAFT applicable to the entities under its supervision. The SFC has also developed risk-based methodologies (e.g. risk assessment matrices) to assist it with the implementation of this requirement. With regards to currency exchange firms supervised by DIAN, the Colombia authorities did not provide information on whether there is a risk-based offsite and onsite framework for supervision that considers institutional and national risk factors that inform the frequency and intensity of supervision. For financial cooperatives, the SES (new SARLAFT of January 2017) requires periodic monitoring and internal quarterly reporting of institutional risk profile (para. 2.2.7.1.3.) as well as an annual report on risk management. DIAN indicates that it has implemented a risk matrix that includes an assessment of ML/TF risks but does not specify how this informs the frequency and intensity of onsite and offsite AML/CFT supervision that considers institutional, national and other risk factors. With regards to postal operations for domestic transfers, the MINTIC does not have a risk-based system of supervision per this criterion that considers institutional and national risks, or review of institutional and sectorial characteristics.

Subcriterion 26.5 (b) The SFC has not specified how the risk-based approach and risk profile of financial institutions and financial groups inform the frequency and intensity both offsite and onsite activities, or how the identified ML/TF risks of Colombia are considered in both offsite and onsite supervision.

Subcriterion 26.5 (c) It could not be established whether the frequency and intensity of AML/CFT supervision is determined by the characteristics of the financial institutions or groups.

Criterion 26.6 – (a) SFC: conducts periodic assessments of institutional risk profiles, including through risk assessment matrices, but mostly when preparing for onsite inspections. It also uses financial institutions' own assessment of risks that they are required to conduct quarterly. This information can be made available to the SFC during their offsite and onsite inspections activities but in practice it is not clear whether the SFC periodically receives such risk assessments and profiles for offsite purposes or only when preparing for onsite inspections. (Decree 2555 of 2010). There are no requirements for reviewing risk profiles where there are significant changes or events in the management and operations of financial institutions and groups. financial institutions also prepare an annual report on ML/TF risk management. (b) DIAN for currency exchange firms: The DIAN/SIPLA do not provide specifically for periodic review of risk profiles including when there

are major changes in operations and management. (c) SES for financial cooperatives/SARLAFT of January 2017 (para. 2.2.7.1.3.): Quarterly risk profile reports are prepared by cooperatives plus an annual report on risk management. It is not clear whether and when the SES periodically obtains and reviews such risk profiles nor if it reviews the profiles when there are significant changes to the management and operations of cooperatives. (d) MINTIC for postal operators/domestic transfers (see c.26.5 above). No provisions for periodic review of risk profiles.

Weighting and Conclusion: Except for SFC Supervisory approach of supervisors is not risk-based. **Recommendation 26 is rated largely compliant.**

Recommendation 27—Powers of Supervisors

Colombia was rated largely compliant with former Recommendation 29 in the 2008 MER. The MER found weaknesses in the supervision of cooperatives by the SES, in particular the lack of a specific mandate for AML/CFT supervision of the sector. In its 2009 follow-up report, Colombia informed that the SES inspectors were required to train management on the importance of sending STRs to the UIAF and that such training was conducted in many regions including high-risk ones. This action however did not specifically address the supervisory powers' limitations identified in the MER. The new January 2017 SARLAFT of the SES has addressed these issues.

Criteria 27.1 to 27.3 – Except for MINTIC (see c26.1 above), all the AML/CFT supervisors have adequate powers to supervise financial institutions under their jurisdiction. (SFC: Decree 2555 of 2010 and Resolutions/Circulars; DIAN: Decree 4048 of 2008 and Resolutions/Circulars; SES: Law 454 of 1998 as amended and Resolutions/Circulars (new SARLAFT of January 2017) broadly similar to those of the SFC; Law 1369 of 2009 and MINTIC Circulars provides for supervision of domestic transfer operators but the Law (article 18) specifically excludes AML supervision).

Criterion 27.4 – The range of sanctions for non-compliance especially with the sectorial SARLAFTs are contained in associated laws and decrees as follows: SFC (Decree 663 of 1993); SES (Law 454 of 1998); DIAN (fines and license cancellation under Decree 2245 of 2011 and Resolution No. 396 of 2005); MINTIC (Law 1369 of 2009) no specific sanctions are provided under the law or SARLAFT for the AML/CFT obligations imposed on PTOs.

Weighting and Conclusion: All the AML/CFT supervisors have adequate powers to supervise financial institutions under their jurisdiction, but there are no specific sanctions provided under the law or SARLAFT for the AML/CFT obligations imposed on PTOs. **Recommendation 27 is rated largely compliant.**

Recommendation 28—Regulation and Supervision of DNFBPs

Colombia was rated as partially compliant with former Recommendation 24 in its 2008 MER due to the lack of an effective monitoring system for casinos and notaries and the absence of a supervisory system for lawyers, accountants, dealers of metals and precious stones, and real estate agents

Casinos

Criterion 28.1 – (a) Casinos have specific laws and regulations which set the need of an administrative authorization and a concession contract with the Colombian government under regulated proceedings (Articles 7 and 33, Law 643–2001; Law 1755-2015; Decree 1278–2014; Article 1 of the Coljuegos Resolution nº 724-2013; and set the resources needed and prudential requirements of the possible concessionaire (Articles 17–21 of the Coljuegos Resolution nº 724 of 2013. Changes in the property or the management of the operators that are running casinos under a concession contract shall follow the same rules. (b) Operators must demonstrate not being involved in administrative or judicial proceedings on tax evasion or not being debtors of obligations related to contracts or authorizations for the operation of games (Article 10, Law 643-2001). However, there is no obligation for authorities to identify the BO of the casino´s operators. The SIPLAFT Resolution of Coljuegos only requires casino operators to approve internal

procedures to avoid that natural persons linked to criminal activities participate as shareholders, partners, managers, or BO (Article 9, Coljuegos Resolution 20161200032334). Regulations do not set the disqualification to operate casinos in case of criminal records of the shareholders, associates, administrators, or BO, but the Instruction for the revision of documents of the contracts of gambling institutions, issued by Coljuegos, requires authorities to consult if the applicants, their legal representative, and the five major partners have any records on tax, criminal, or disciplinary matters (Point 5.20 "Contratación Misional: Instructivo para la revisión de documentos soportes de juegos localizados." (c) Supervision powers on AML/CFT obligations include monitoring, onsite inspections, and requests to verify the level of compliance of casinos (Article 19, Coljuegos Resolution nº 20161200032334), but it is unclear what type of sanctions may be imposed in case of infringement on the AML/CFT obligations (Article 18, Coljuegos Resolution nº 20161200032334 and Law 643-2001 do not detail the sanctions for AML/CFT infringements).

DNFBPs other than casinos

Criterion 28.2 – The SNR oversees ensuring compliance of the notaries. Fiduciary services are supervised by the SFC (Articles 209-210 Decree Law 960/1970 and Article 11 of Administrative Instruction nº 17). The Supersociedades is responsible for lawyers, accountants, and real estate companies. However, as already stated for R.22 and R.23, most of the companies of these sectors are not classified as reporting entities because they need to comply with three requirements set in the AML/CFT regulations (SAGRLAFT, see R.22). Therefore, AML/CFT obligations are not mandatory and are not supervised for most of the companies for these sectors. Dealers in precious metals and precious stones are not specifically included in the list of the AML/CFT required sectors

Criterion 28.3 – Notaries and fiduciary companies are subject to supervision and monitoring on the compliance with AML/CFT requirements by the SNR and the SFC (Article 11.5 Decree 2723 of 2014 of Superintendence of Notaries). However, as stated for R.28.2, most DNFBPs under Supersociedades's supervision are not monitored on AML/CFT compliance. AML/CFT monitoring is only provided for those entities that met the conditions established in the SAGRLAFT. Dealers in precious metals and stones are not specifically included as AML/CFT required sector and are not monitored in this matter.

Criterion 28.4 –

Subcriterion 28.4 (a) The powers of the Supersociedades to monitor and ensure compliance of DNFBPs are sufficiently broad and adequate. Monitoring is the attribution of the Supersociedades to ensure that companies comply with the legislation. It shall be exercised on a permanent basis. In addition to the monitoring powers, the Supersociedades can make onsite inspections (ex officio or upon request), take measures to remedy any irregularities, and investigate the operations carried out by the company (Articles 82–86, Code of Commerce). The SNR exercises inspection, supervision, and control over the notarial public service and carries out general, special, or follow-up visits (Article 11, points 2 and 5, Decree 2723 of 2014). The SFC has also adequate powers to monitor compliance of fiduciary companies with AML/CFT obligations.

Subcriterion 28.4 (b) Fiduciary services can only be performed by credit institutions and fiduciary companies authorized by the SFC (EOSF Article 53.5). For notaries, access to this profession is prohibited for persons with criminal, administrative, or disciplinary convictions (Article 4, Law 588 of 2000). However, those requirements do not seem to apply to other categories of DNFBPs—lawyers, accountants, real estate companies, and dealers in precious metals and precious stones. There are no specific regulations to impede criminals to control the BO of the entity or to prevent holding a significant or controlling interest or a management function. There are no provisions regarding the control of changes in the ownership or changes in the beneficial ownership during the exercise of the activity.

Subcriterion 28.4 (c) Regarding the sanctioning regime, the Supersociedades (Article 86.3, Law 222) may impose fines up to 200 official minimum wages (Col$737.717 x 200 = Col$147,153.4, i.e., $50,000 approx.) for those who breach the Supersociedades orders, the laws, or their own statutes, which includes infringements to the AML/CFT regime (Article 7, points 6, 22, and 37 of the Decree 1023 of 2012 which modifies the Supersociedades and Article 106, EOSF (applicable based on Article 10.2 of Law 1121. See

also Article 86.3, Code of Commerce). This sanctioning system is very limited and does not include imposition of fines to directors and managers (Article 85.4, Code of Commerce). This system only permits the supervisors to order the entity to proceed with their removal if there are irregularities that merit so, without imposing any fines on individuals). The SNR may impose sanctions on disciplinary offenses to notaries in the performance of their duties which includes infringements on AML/CFT obligations (Article 11.6 of Decree 2723 of 2014). Possible sanctions include economic fines, disqualification, or suspension for the exercise of the profession of notary depend on the severity of the infraction (Articles 63–65, Law 734 of 2002 and Law 734-2002 on the Disciplinary regime of public officials). The SFC may impose sanctions for directors and managers of the fiduciary companies up to Col$1 million, $333 and may also decide their immediate removal (EOSF Article 209). For entities that have violated a rule of its statute or regulation, or any other law, the SFC may impose fines from Col$500,000 to Col$2,000,000, $166 to $666, (EOSF Article 211). These sanctions are neither proportionate nor sufficiently dissuasive.

All DNFBPs

Criterion 28.5 – SFC and Coljuegos have annual AML/CFT RBA supervision plans for their required subjects (including fiduciary companies and casinos). SNR performs AML/CFT supervision on notaries but not RBA supervision plan was provided. However, most lawyers, accountants and real estate companies are not subject to the AML/CFT requirements and are not monitored or supervised on the AML/CFT obligations (see 28. 2 and 3). Dealers in precious metals and precious stones are not specifically included in the list of the AML/CFT required sectors and are not monitored or supervised in this matter.

Weighting and Conclusion: Colombia has AML/CFT supervision authorities and systems for casinos, notaries and fiduciae; however, most criteria are rated partially met due to several deficiencies. The most relevant deficiency is that most persons/entities of the DNFBPs sectors regulated by the Supersociedades are not classified as reporting entities (lawyers, accountants, real estate agents and dealers in precious metals/stones) and, therefore AML/CFT obligations are neither mandatory nor monitored/supervised. Measures to prevent criminals or their associates from being professionally accredited or being the BO or holding a management function in DNFBPs are very limited. Sanctions for AML/CFT infringements of DNFBPs are not sufficiently dissuasive/ proportionate. **Recommendation 28 is rated partially compliant**.

Operational and Law Enforcement

Recommendation 29—Financial Intelligence Units

In 2008 MER Colombia was rated compliant regarding requirements on former Recommendation 26 (para. 2.5.3).

Criterion 29.1 – The UIAF acts as a national center for receiving and analyzing suspicious transactions reports and other relevant information related to ML/TF and its predicate offenses. Additionally, the UIAF is responsible for disseminating the result of such analysis: Articles 1 and 3 of Law 526 (1999), 4 of Law 1121 (2006), and 33 and 34 of Law 1762 (2015).

Criterion 29.2 – According to the above referred laws, the UIAF is the central and national agency responsible for receiving all relevant reports that are required by law and disclosed by reporting entities, including: a) STRs as required by R.20, and b) other relevant information related to ML/TF crimes and predicated offenses such as cash transaction reports, currency transaction reports, transportation of currency reports, wire transfer reports, remittances transaction reports and absence of STRs.

Criterion 29.3 – The UIAF has the authority to directly require any additional information from reporting entities that the Unit considers necessary and to exchange information with other national and international authorities to properly conduct its financial analysis. Also, UIAF has the legal authority to request information to all public entities, except for the information classified as confidential by the General Prosecutor's Office. Additionally, the UIAF has access to a wide range of financial, administrative and law enforcement information either by means of a memorandum of understanding between national authorities

or by direct request from UAIF to the authorities or reporting entities. Furthermore, the UAIF obtain economic, academic and statistic information from public and open sources. However, the UIAF does not have access to information collected by DIAN regarding information contained in cross border transportation of currency and BNIs written declarations. This information is submitted to the UIAF every three months (Articles 3 of Law 526, 1º and 4 of Decree 1497 and 3 of Decree 857).

Criterion 29.4 – Law 526, and Law 1762 and its corresponding amendments provide the competence and authority of UIAF to conduct operational and strategic analysis. The UIAF has a Deputy Director in charge of conducting operational analysis to follow the trail of transactions to determine the possible commission of ML/FT and its predicate offenses and determine links between targets and proceeds of crime. To that end, the UIAF uses all the information received from the reporting entities, national authorities and open sources. For strategic analysis, UAIF has a Deputy Director in charge of the gathering and articulating studies regarding techniques and trends for ML/FT purposes. The operational and strategic analysis conducted by the Deputy Directors are utilized to identify new sectors of the Colombian economy that ought to comply with existent national AML/CFT policies, like health sector due to the excessive amount of cash that is used in these services.

Criterion 29.5 – The UIAF is authorized to disseminate, either spontaneously or upon request, the results of its financial, operational and strategic analysis. These results can be shared with a wide range of judicial and administrative national authorities but also with counterparts of foreign countries. Additionally, the UIAF has the obligation to disseminate and exchange information between national and international authorities through secure and protected channels: Articles 3 and 4 of Law 526, and 10 and 11 of Law 1621 (2013).

Criterion 29.6 – Articles 9 and 11 of Law 526 and 33 and 38 of Law 1621 outline the UIAF's obligation to ensure the security and confidentiality of all the information received, created or disseminated by the UIAF. These regulations also include sanctions for public servants who do not comply with these requirements. Article 2.2.3.6.2 of Decree 1070 (2015) establishes the information classification levels as follows: top secret, secret, confidential and restricted. There is a strict security clearance process for the recruitment and continuity of UIAF's staff members, including specific training to staff members at all levels to aid their understanding of the responsibility that accompanies dealing with sensitive and confidential information. Articles 2.23.6.3 of Decree 1070; 14, 15 and 38 of Law 1621 and Directive Norm 001 (2013) further protect sensitive information by creating a closely monitored system to access intelligence information. Staff members and external persons can access the UIAF's premises subject to certain protocols to protect the Authority's information and information systems. Articles 6 and 7 of the UIAF's Protocol of Best Practices for Labor, Environmental and Adequate use of Facilities, 6 and 15 of Decree 857 (2014) and 8 of Decree 586 (2007) are instructive on these measures.

Criterion 29.7 – UIAF is autonomous and operationally independent. The UIAF is a public entity with its own legal personality, administrative autonomy and public funds. Articles 1, 3, and 4 of Law 526 and 68 of Law 489 (1988) grant the UIAF authority to analyze and request information to appropriate national authorities and autonomously decide to disseminate the results of these analysis to the General Prosecutor for corresponding legal actions. The provisions describe the UIAF's authority to coordinate arrangements with other national authorities and international counterparts for information exchange. As a decentralized entity, the UIAF is not within the structure of another public authority, instead is an attached entity to the MEF. The UIAF's functions are unique and distinct from other national security entities: Article 1 of Law 526. The UIAF has its own public funds and authority to request to the MEF the corresponding financial adjustments guarantee a sufficient budget to properly fulfill the UIAF's functions: Article 1 and 12 of Law 526.

Criterion 29.8 – The UIAF has been an active member of the Egmont Group since 2000.

Weighting and Conclusion: Since not all reporting entities are requested by law to submit STRs to the UIAF, and limited access to information of custom authorities, **Recommendation 29 is rated largely compliant.**

Recommendation 30—Responsibilities of Law Enforcement and Investigative Authorities

In 2008 MER Colombia was rated compliant regarding requirements for former Recommendation 27.

Criterion 30.1 – The FGN is responsible for conducting the crime investigations in Colombia (Article 250 of the Constitution). The prosecution has specialized crimes divisions on ML, Organized Crime, Terrorism, Corruption and Civil Forfeiture. Further, they are supported by the Technical Investigation Police, Judicial Police and National Police.

Criterion 30.2 – There is no obstacle for the development of parallel financial investigations. Law enforcement investigators of predicate offenses are authorized to pursue the investigation of any related ML/TF offenses during a parallel financial investigation and the FGN has instructed the opening of a financial investigation linked to an asset forfeiture process, independently of to the criminal process.

Criterion 30.3 – The FGN has the responsibility to identify and trace property subject to confiscation. It has also instructed that an asset forfeiture case must be open when conducting criminal investigations. This investigative function is broadly defined in the Political Constitution, the Code of Criminal Procedure and the Law of asset forfeiture. In addition, the prosecution oversees the ordering of precautionary measures.

Criterion 30.4 – The FGN is the only authority that can carry out financial investigations. There is no information of other competent authorities other than the Attorney General. The prosecution can rely on the different agencies to carry out its functions, but only the FGN can carry out the investigation.

Criterion 30.5 – The FGN is the authority in charge of ML investigations derived from corruption, it can require the assistance of the CGR and therefore it maintains the faculties granted for the identification and tracking of assets.

Weighting and Conclusion: All criteria are met. **Recommendation 30 is rated compliant.**

Recommendation 31—Powers of Law Enforcement and Investigative Authorities

In 2008 MER, Colombia was rated compliant regarding requirements for former Recommendation 28.

Criterion 31.1 – The FGN is empowered by Article 250 of the Constitution and Article 114 of the Penal Code and related articles to obtain relevant documents and information to aid investigations and related actions. The FGN is authorized to obtain financial records in possession of the reporting entities and any person in Colombia, search persons and premises for evidence, get testimonies of witnesses and obtain and seize evidence.

Criterion 31.2 – Articles 241 and 242 of the CC provides for an undercover agent. Agents may participate as police officers or private citizens, who may retain their identity during operations. Articles 233 and 235 of the Constitution provide legal authority to intercept communications after obtaining a judicial order. Article 236 provides for the possibility of accessing computerized systems, with Article 243 providing for controlled delivery for some serious crimes (not ML) or for continued criminal activity. A controlled delivery operation would only be possible in a ML case if the case concerns a continued criminal activity.

Criterion 31.3 – In addition to the general powers preview within the purview of the CC, which included the power to access all records from financial institutions, DNFBPS, and persons in general, the Fundamental Law of the Financial System in Article 105 specifically requires financial institutions to provide information to the FGN or the UIAF. Article 244 for the procedural code establishes that the FGN can access confidential information on databases, by these means the FGN can access relevant information and records maintained by the UIAF and other databases without prior notice to the person under investigation. The FGN is then able to identify, in a timely manner, whether natural or legal persons hold or control accounts.

Criterion 31.4 – According to articles 34 and 35 Law 1621/13 the FGN has the powers to obtain information held by the UIAF, intelligence information can only be used to guide and investigation but not as evidence.

Weighting and Conclusion: All criteria are met. **Recommendation 31 is rated compliant**.

Recommendation 32—Cash Couriers

In 2008 MER, Colombia was rated largely compliant regarding the requirements on former Special Recommendation IX (para. 2.7.3). Deficiencies with compliance were related to ineffective implementation of the requirements by some authorities. These issues are not assessed as part of technical compliance under the *2013 Methodology*.

Criterion 32.1 – Colombia has a declaration system for all incoming and outgoing cross-border transportation of currency and the full range of BNI (Article 5 Resolution (2013); Article 2 & 3 Resolution DIAN 63 (2016). This system applies to all natural and legal persons whether by air travel, land crossings or through mail and cargo.

Criterion 32.2 – In Colombia, the threshold to submit a written declaration to the relevant authorities is USD 10,000. This declaration system applies for all travelers or legal persons carrying amounts of currency or BNI above the threshold (Articles 2 and 3 of Resolution 63, and 2 of Resolution DIAN 87 (2016).

Criterion 32.3 –This criterion does not apply to Colombia, because the country applies a written declaration system.

Criterion 32.4 – Upon discovery of a false declaration or a failure to declare, DIAN has the authority to require additional information regarding the person, the carrier and the falsely declared assets. According to authorities, DIAN has the legal authority to request additional information on the origin and intended use of the currency and BNI: articles 9 Decree 2245 (2011) and 15 of Resolution 63.

Criterion 32.5 – Failure to comply with the Colombian declaration system constitutes an offence, which draws proportional administrative sanctions. In addition to General Prosecutor's Office authority to seize the falsely declared currency or BNI, there is a fine of 30% of the value of the falsely declared assets for the incoming transportation of currency and BNI, and 40% of the value of the assets for the outgoing transportation of currency or BNI as stipulated in Articles 13 and 14 of Resolution 63 and 3 of Decree 2245.

Criterion 32.6 – DIAN is obligated to submit quarterly reports containing information on investigations committed under their authority to UIAF. However, Articles 43 Law 1762 (2015) & 10 Law 526 impose no obligation to submit all information obtained through the written declaration system, and UIAF does not have direct access to information on the declaration systems. Additionally, DIAN's databases does not contain the entire information collected form the written declaration system, only the information submitted by the Central Bank, entity in charge of organizing and standardize information collected through the written declaration system.

Criterion 32.7 – According to the recently adopted Decree 390, Colombia has the authority to create coordination mechanisms between customs, immigration, and other appropriate authorities for the implementation of this recommendation. Additionally, Law 1762 created the National Commission against smuggling and predicate offenses such as money laundering. Articles 499 of Decree 390 (2016) and 31 of Law 1762 require member authorities of the Commission to adopt cooperation protocols to strengthen collaboration amongst them. However, there is not a collaboration agreement between DIAN and FGN for information sharing purposes and it is not clear if the referred coordination agreements are set up.

Criterion 32.8 – DIAN has authority to seize currency or BNI only when there is a false declaration or a failure to submit the declaration. Pursuant to Articles 4, 5 13 and 14 of Resolution 63, and Article 9 of Law 2245, authority to restrain currency of BNI when there is suspicion of a ML/TF crime is exclusive to the General Prosecutor and the FGN is the competent authority that initiate the corresponding investigation.

Criterion 32.9 – Custom authorities have the obligation to retain information when a declaration exceeds the threshold, there is a false declaration and exists suspicious of ML/TF. Also, authorities must facilitate information exchange and international cooperation regarding available data obtained through the written

declaration system, false declaration or failure to declare. As stated in criterion 32.6, DIAN does not have in its databases all the information from the written declaration system, so DIAN can only exchange available information with its international counterparts. Where suspicions of ML/TF surface, the information exchanged is through the General Prosecutor and their counterparts. This provision is contained in Articles 498 of Decree 390 and 44 of Law 1762.

Criterion 32.10 – Information acquired through the declaration system is classified, subject to confidentiality, and may only be used under strict safeguards. Trade payments or the freedom of capital movements are not restricted or affected by the declaration obligation.

Criterion 32.11 – Persons transporting currency and BNI related to ML/FT and predicate offenses are subject to the corresponding civil, administrative and criminal sanctions. Administrative sanctions are between 30 and 40% of the value of the undeclared currency or BNI. Customs authorities only have the power to seize funds related to false declaration or failure to declare. The FGN is the only authority to restrain currency or BNI once the relation with ML/FT offenses is determined. Colombia has relevant mechanisms allowing the management and disposal of property, currency and BNI frozen, seized, and confiscated: articles 509 of Decree 390, 2 and 3 of Law 2245, 83 of Law 906 (Criminal Procedural Code).

Weighting and Conclusion: Colombia has addressed several deficiencies identified in its last MER related to this recommendation. However, there are still some deficiencies associated with the customs authority. DIAN should design an appropriate mechanism to enable UAIF access all information obtained through the declaration system and not only those related to ongoing investigations. Secondly, DIAN should enhance compliance of inter-agency collaboration agreements for the correct implementation of this recommendation. Additionally, DIAN shall have the authority to seize currency or BNI in cases where there is a suspicion of ML/TF and predicate offenses. **Recommendation 32 is rated largely compliant.**

Recommendation 33—Statistics

Colombia was rated compliant in its 2008 MER regarding former Recommendation 32 (para. 7.1.2).

Criterion 33.1 –

(a) CONPES 3793 provides that the UIAF is required to procure a statistic system, to compile and collect official information related with the prevention and fight against money laundering and financing terrorism in collaboration with the DNI. Decree 3420 states that all relevant authorities related directly or indirectly with combating money laundering must report quarterly to the UIAF statistical information on the status and implementation of their functions. However, the requirements of Decree 3420 do not apply to information related to TF. Furthermore, authorities are not complying with their obligation to report quarterly to UIAF the corresponding statistical information, as stated in Article 13 of Decree 3420, so this national statistic system is not effectively working: articles 2 and 13 of Decree 3420, Objective 2 of CONPES 3793.

(b) and (c): The UIAF maintains comprehensive statistics on STRs received and disseminated by required reporting entities. The country has in place is a system managed by UIAF including some statistics regarding investigations, prosecutions, and seized and confiscated assets related to ML/FT, but competent authorities only update information every 12 months. Therefore, in the meantime the UIAF updates the statistic system with the public information available in open sources like webpages of diverse Ministries and the crime statistic system of National Police, among others, but sometimes this public information is not precise.

(d) Statistics regarding extradition and mutual legal assistance requests are organized by the MINREX and this information is sent to the UIAF every 12 months.

Weighting and Conclusion: Considering that the obligation to procure a national statistic system has not been looked after since 2013, and that this issue was a recommendation of both NRA of the country (NRA

2013 and NRA 2016), that information is not updated in a timely manner and that there is no coordination among national authorities for the organization of statistical information, **Recommendation 33 is rated partially compliant.**

Recommendation 34—Guidance and Feedback

Colombia was rated largely compliant with former Recommendation 25 in the 2008 MER. Weaknesses were identified with respect to guidance and feedback for DNFBPs notaries, the assessed sector. In its 2009 follow-up report, Colombia indicated that it had planned to provide guidance through training at the regional level to help resolve this deficiency, and that directives and feedback, as well as training, had been given to the gaming operators, especially with respect to their reporting obligations.

Criterion 34.1 – Legal provisions on guidelines to assist in applying AML/CFT measures are in place for financial institutions (EOSF Article. 325 as amended). However, no guidelines have been established nor feedback given to financial institutions. There are no specific provisions for DIAN issuing guidance and feedback for currency exchange professionals and no examples given of any issued. Same provisions as for SFC apply for SES (EOSF functions extended to SES) but the assessment team received no information on what guidelines and feedback have been given in practice. Legal provisions are in place for MINTIC (Resolution 2564 of 2016) but no information was provided on what guidance and feedback have been given.

DNFBPs

Coljuegos (casinos and games of chance): (Decree 1451 of 2015) No specific provisions for guidelines and feedback, including with respect to suspicious activity reporting. No information on any given in recent past. Decree 4144 of 2011 of the National Council of Games of Luck and Chance (Consejo Nacional de Juegos de Suerte y Azar – CNJSA) contains some provisions for the issue of guidelines to games of chance operators on legal matters but not on feedback. No information has been provided on any of the provisions.

SNR: For Notaries (Decree 2723 of 2014) Legal provisions for guidance are in place but none for feedback. Also, not clear if provisions apply to AML/CFT issues as it is mainly focused on the business activities of notaries.

Supersociedades: for traders and mining of precious metals and stones. Colombia states that the SOS also covers lawyers, accountants (limited to tax accountants) and real estate agents but it is not clear if it applies only when companies are involved. (Decree 1023 of 2012) The legal provisions do not apply to AML/CFT specifically and no provisions on feedback. Also, no information on any issued-on AML/CFT.

Weighting and Conclusion: No guidelines have been established nor feedback given to financial institutions, currency exchange professionals, casinos. **Recommendation 34 is rated partially compliant.**

Recommendation 35—Sanctions

Colombia was rated largely compliant with former Recommendation 17 in the 2008 MER. Weaknesses were identified with R.17 requirements with respect to effectively applying sanctioning requirements by the SES for the cooperatives sector and the National Health Superintendence (HHS for gaming operators). In the 2008 MER, it was noted that most DNFBPs (other than notaries) were not covered by the AML/CFT regime and that situation appears to continue based on Colombia's response to the TC with respect to R.35. In its follow-up report of 2009, Colombia indicated that the SES had not yet applied any sanctions for AML/CFT but that the NHS had applied sanctions against 35 operations for non-reporting violations.

Criterion 35.1 – There are a full range of financial and administrative sanctions (and in some cases criminal) that allow for proportional and dissuasive application of sanctions for all financial institutions except for postal operations (domestic transfers) where there is no clear link between the sanctions and the AML/CFT requirements.

DNFBPs:

Coljuegos (casinos and games of chance): The supervisory mandate and sanctioning powers are contained in various laws, decrees and agreements/resolutions (SIPLAFT) esp. Decree 1452 of 2015 (amending Decree 4142), Resolution 2016200032334, Decree 4144 of 2011, Law 1121 (in conjunction with the EOSF Article. 102-107), Agreement (SIPLAFT) 097 OF 2014.

Superintendence of National Health is also authorized (Law 1018 of 2007 Article. 6) to supervise certain gaming operations but no clear and adequate sanctions.

Superintendence of Notaries and Registry (notaries and registration agents for public documents): No criminal, civil or administrative sanctions are provided. Only disciplinary actions are available therefore there is no basis for applying proportionate and dissuasive sanctions are available. (Decree 2723 of 2014). No response or provisions for lawyers and accountants were provided by Colombia.

Superintendence of Companies: Various laws provide only for administrative sanctions (fines) of commercial companies. (Decree 1023 and Law 222). Authorities did not provide information regarding Real Estate Agents, Dealers in Precious Metals and Stones, or Fiduciary and Company Services Providers.

Authorities provided information on other supervisors on their supervisory and disciplinary powers that do not fall under financial institutions and DNFBP categories, e.g. NPOs (DIAN, Decree 624 of 1998), clubs and associations by municipal and other national bodies ("*entidades territoriales*, Law 1437 of 2011), religions organizations (Ministry of the Interior, Decree 782 of 1995), and sporting organizations (Coldeportes, Decree 407 of 1996).

Criterion 35.2 – The same issues and deficiencies that apply for c35.1 with respect to financial institutions and DNFBPs also apply to this criterion. Generally, the sanctions that apply to financial institutions and the covered DNFBPs also apply to officials (includes directors and management) of such entities.

Weighting and Conclusion: The range of sanctions available does not cover all DNFBPs, or their directors and senior management. **Recommendation 35 is rated partially compliant.**

INTERNATIONAL COOPERATION

Recommendation 36—International Instruments

Colombia was rated compliant with former Recommendation 35 and partially compliant with Special Recommendation I in its 2008 MER. While no shortcomings were identified about Recommendation 35, on Special Recommendation I the assessment team concluded that there was no regulatory system in place for applying UNSCR. In addition, assessors concluded that the private sector was not sufficiently aware of UNSCR's mandatory character.

Criterion 36.1 – Colombia is party to the conventions listed in the standard. Colombia signed the Vienna Convention on December 20, 1988; it was approved by Law 67 in August 1993, and entered force in September 10, 1993. The Palermo Convention was signed on November 15, 2000; it was approved by Law 800 in 2003 and entered force on November 15, 2004. The Merida Convention was signed on October 31, 2003; it was approved by Law 970 in 2005 and entered force on November 26, 2006. The Convention on the Suppression of Terrorist Financing Convention was signed on December 9, 1999; it was approved by Law 808 in 2003 and entered force on October 14, 2004. The Inter-American Convention against Terrorism was signed on June 3, 2002; it was approved by Law 1108 in 2006 and entered force on June 24, 2008.

Criterion 36.2 – Not all conducts specified in the Vienna, Palermo, Merida and TF Conventions are covered in Colombia (see Recommendations 3 and 5).

Weighting and Conclusion: Colombia is party to the conventions listed in the standard. However, not all conducts specified in the Vienna, Palermo, Merida and TF Conventions are covered in Colombia. **Recommendation 36 is rated largely compliant.**

Recommendation 37—Mutual Legal Assistance

Colombia was rated compliant with former Recommendation 36 and largely compliant with Special Recommendation V in its 2008 MER. While no technical deficiencies were identified in relation to Recommendation 36, on Special Recommendation V the assessment team considered that Colombia should seek to implement the regulations and agreements with foreign jurisdictions related to investigation of ML/TF cases.

Criterion 37.1 – The CPC regulates the MLA dispositions which are applicable to criminal processes (Articles 484 to 517), while the AFL has provisions applicable to asset forfeiture proceedings (Title VI). Article 484 of the CPC establishes as a principle that investigative authorities shall comply with international cooperation requests made in accordance with the Political Constitution, international treaties and relevant legislation. Regarding asset forfeiture processes, Article 208 of the AFL allows the implementation of investigative measures or injunctions to comply with international requests, whilst setting forth that such requirements should be executed in the shortest possible time. In turn, Article 209 AFL recognizes foreign judgments over assets located within the national territory. Article 211 AFL comprises the requirements for execution of a foreign judgment. Lastly, Colombia has entered 39 bilateral treaties with foreign countries on MLA. This framework allows the country to rapidly provide a wide range of MLA in relation to ML, associated predicate offences and TF.

Criterion 37.2 – The central authority for receiving MLA requests in criminal matters is the FGN, in accordance to the general principle set out in CPC Article 484. FGN has established the International Management Division, which oversees analyzing and processing MLA requests. This Division maintains statistics on MLA requests and follows the prioritization parameters established by Directive FGN 002/2015, which set out a comprehensive and adequate case prioritization policy. Colombia also informed that MLA requests are processed and managed through the FGN systems ORFEO and SIPRAIN, which allow the competent officials of DGI to monitor the status of the documents and the procedure given to legal assistance. Procedures in place allow the timely execution of the requests. Finally, requests which relate to the execution of a foreign judgment within Colombia should be conducted through MINREX, which refers the matter to the SCJ as set out in CPC Article 517.

Criterion 37.3 – MLA is not prohibited or made subject to unduly restrictive conditions in Colombia. MLA is specifically allowed in the CPC (Articles 484 and 489) as well as in the AFL (Title VI). The CPC only provides a limitation for those cases which are contrary to the values and principles established in the Political Constitution of Colombia (Article 489). Fundamental principles are established in Title I of the Colombian Constitution. The assessment team considers that such limitation does not constitute an unreasonable or unduly restrictive condition.

Criterion 37.4 – CPC and AFL do not impose restrictions on MLA because the offense is also considered to involve fiscal matters, nor on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs.

Criterion 37.5 – Colombia informed that the general provision established in Article 18 of the CPC would apply to MLA requests. This section provides that procedures are public unless the judge considers that it could endanger the victims, jurors, witnesses, experts and other parties, or that the public status may affect the national security or that it could compromise the success of the investigation, among other reasons. Authorities informed that the relevant information would be shared only with the prosecutor of the case, but there is no specific procedure or provision in place related to the duty to maintain the confidentiality of mutual legal assistance requests and the information contained in them, to protect the integrity of the investigation or inquiry.

Criterion 37.6 – Dual criminality is not a condition for rendering mutual legal assistance in Colombia, as set forth in CPC Article 489.

Criterion 37.7 – As referred above, dual criminality is not a condition for rendering mutual legal assistance in Colombia, according to CPC Article 489.

Criterion 37.8 – The powers and investigative techniques required under R.31 or otherwise available to domestic competent authorities are also available for use in response to MLA requests. CPC Article 484 provides that the judiciary and investigative authorities should take appropriate actions to comply with international requests which are made in accordance with the Political Constitution, international instruments and law regulating the subject. Moreover, CPC Article 486 sets forth that the FGN can authorize the presence of foreign officials to conduct measures within the Colombian territory, under the direction and coordination of a prosecutor and with the assistance of a representative of the Office of the Attorney General (*Procuraduría General de la Nación*).

Weighting and Conclusion: Colombia has a sound legal basis that allows them to rapidly provide a wide range of MLA in relation to ML, predicate offenses and TF investigations, prosecutions and related proceedings. Almost all criteria of Rec. 37 are fully covered. Notwithstanding the latter there is no specific procedure or provision in place related to the duty to maintain the confidentiality of MLA requests to protect the integrity of the investigation or inquiry. **Recommendation 37 is rated largely compliant**.

Recommendation 38—Mutual Legal Assistance: Freezing and Confiscation

Colombia was rated largely compliant with former Recommendation 38 in its 2008 MER. Notwithstanding the latter, assessors indicated that a law authorizing the sharing of confiscated assets with third countries was needed.

Criterion 38.1 – Colombia has the authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize, or confiscate: (a) laundered property from, (b) proceeds from, (c) instrumentalities used in, or (d) instrumentalities intended for use in, ML, predicate offenses, or terrorist financing; or (e) property of corresponding value. These measures can be implemented either in the framework of a criminal process (according to CPC Articles 82, 83, 85, and 489) or during an asset forfeiture process (as per Articles 16, 87, 88, 203, 212 AFL). For further information on these measures please refer to Recommendation 4.

Criterion 38.2 – Colombia has broad powers to provide assistance in response to requests for cooperation related to provisional measures and non-conviction proceedings aimed to obtain asset forfeiture and confiscation. Article 489 states that MLA can be provided even though the action is not criminalized under domestic law, unless it is contrary to the values and principles established in the Political Constitution. This provision also establishes that asset forfeiture or any other measure involving the loss or suspension of the disposal power over the assets declared by a foreign competent judicial authority may be executed in Colombia. As regards to asset forfeiture processes, Article 208 of the AFL allows the implementation of investigative measures or injunctions to comply with international requests, and at the same time, it sets forth that such requirements should be executed in the shortest possible time, even though it comprises requirements or proceedings not covered in the Colombian legal framework, as long as these are not contrary to fundamental principles or exemptions established in the relevant international cooperation treaties. Co-operation based on non-conviction based confiscation proceedings in circumstances when a perpetrator is unavailable because of death, flight, absence, or the perpetrator is unknown can be provided under the AFL provisions.

Criterion 38.3 –

Subcriterion 38.3 (a) – The CPC allows the FGN to coordinate the implementation of seizure and confiscation actions with foreign countries. CPC Article 487 provides that, in case of transnational offenses, the FGN may be part of an international commission aimed to collaborate with the investigation. The same section provides that the FGN may carry out relevant actions to strengthen the judicial cooperation with foreign countries, as well as to exchange technology, experiences, training or any other relevant activity. Moreover, CPC Article 489 states that asset forfeiture or any other measure involving the loss or suspension of the disposal power over the assets declared by a foreign competent judicial authority may be executed in Colombia, and that the FGN may create a fund of international judicial assistance which will receive such assets. Regarding to asset forfeiture processes, Article 203 of the AFL refers to the possibility of providing

international judicial cooperation in several areas such as investigation, localization, identification and implementation of measures aimed to obtain confiscation and asset forfeiture. Article 208 of the AFL allows the implementation of investigative measures or injunctions to comply with international requests.

Subcriterion 38.3 (b) – Colombia has mechanisms allowing the management and disposal of property frozen, seized, and confiscated. CPC Article 82 establishes that confiscated property will be transferred definitively to the FGN through the "Special Fund for Assets Management". CPC Article 86 further states that property subject to provisional measures will be managed for the Special Fund for Assets Management as well. The AFL Also provides a specific management mechanism for property frozen, seized, and confiscated in the framework of asset forfeiture proceedings. The FRISCO is granted with relevant management and disposing powers. This general framework is further regulated through Decree 2136/2015.

Criterion 38.4 – Article 214 of the AFL specifically establishes the possibility of sharing assets with other countries in the framework of asset forfeiture processes. In addition, Colombia has entered agreements with several countries, including the possibility of sharing confiscated property (e.g. agreements with USA, Argentina, Switzerland, Cuba, Ecuador, Spain, Mexico and Peru).

Weighting and Conclusion: Since all the criteria are met, **Recommendation 38 is rated compliant**.

Recommendation 39—Extradition

Colombia was rated largely compliant with the former Recommendation 39 in its 2008 MER. However, at that time assessors considered that not all ML predicate offenses were covered and that it could affect the scope of extradition related to ML arising from offenses not captured.

Criterion 39.1 –

Subcriterion 39.1(a) Colombia has mechanisms that enable the execution of extradition requests in relation to ML/TF. Extradition is provided in Article 35 of the Political Constitution, as amended by Legislative Act Nº 1/1997, and is further regulated by the CPC (Articles 490 to 514). In addition, Colombia has entered 24 bilateral agreements on extradition with foreign countries. In Colombia ML and TF are extraditable offenses. However, technical gaps related to criminalization of ML and TF, which are identified in Recommendations 3 and 5, could have an impact on extradition requests referred to criminal conducts not fully covered. All offenses in Colombia are extraditable except for political offenses, as per CPC Article 490. Additionally, it should be noted that Section 72 of the final agreement for the termination of conflict and the construction of a stable and durable peace signed between the Government and the FARCs establishes a new exception for extradition for actions related to the armed conflict which are object of the agreement.

Subcriterion 39.1(b) The Executive Branch has the authority to grant extraditions, while it requires prior approval from the Supreme Court of Justice. The FGN oversees the capture of the extraditable person, while the MINJUS oversees processing the extradition requests. The FGN is charged with processing the requests. Colombia has a case management system within the FGN (ORFEO System) and procedure for the timely execution of extradition requests, including prioritization. Moreover, FGN has established the International Management Division, which oversees analyzing and processing extradition requests. This Division maintains statistics and follows the adequate prioritization parameters established by Directive FGN 002/2015, which set out a comprehensive case prioritization policy.

Subcriterion 39.1(c) There are no unreasonable or unduly restrictive conditions on the execution of extradition requests. Article 493 CPC provides the requirements for granting extraditions. In turn, Article 494 CPC sets forth certain conditions that may be applied to extradition requests.

Criterion 39.2

Subcriterion 39.2 (a) Article 35 of the Political Constitution –as amended by Legislative Act Nº 1/1997- allows the extradition of nationals and foreigners. For Colombians by birth, extradition will be granted only for offenses committed abroad which also constitute offenses in Colombia.

Subcriterion 39.2 (b) Given that Colombian authorities can extradite Colombian nationals, this Criterion is not applicable.

Criterion 39.3 – Where dual criminality is required for extradition, the only requirements needed are a formal accusation and that the offense is punished with at least 4 years of imprisonment. It is not necessary that both jurisdictions place the offense within the same category of offense, or denominate the offense by the same terminology.

Criterion 39.4 – Colombia has simplified extradition mechanisms in place. CPC Article 500 provides the simplified extradition for cases in which the requested person renounces the ordinary procedure.

Weighting and Conclusion: Colombia has a solid extradition regime and ML and TF are extraditable offenses. Almost all criteria of Recommendation 39 are fully covered. However, technical gaps related to criminalization of both offenses could impact on extradition requests referred to criminal conducts not fully covered. **Colombia is largely compliant with Recommendation 39**.

Recommendation 40—Other Forms of International Cooperation

Colombia was rated compliant with former Recommendation 40 in its 2008 MER. No technical deficiencies were identified at that time. The requirements in new Recommendation 40 are considerably more detailed.

General Principles

Criterion 40.1 – Colombia has mechanisms allowing the UIAF, the FGN and LEAs in general to rapidly provide foreign counterparts with a wide range of cooperation in relation to ML, associated predicate offenses and TF. The SFC has signed MOUs with 24 foreign counterparts and 5 multilateral bodies, although beyond the framework of these MOUs the scope of the international cooperation allowed by the EOSF is more limited. The provision of international cooperation can take place upon requests as well as spontaneously, in accordance to the legal framework, MOUs and relevant agreements signed by competent authorities and their foreign counterparts.

Criterion 40.2 –

Subcriterion 40.2 (a) Competent authorities have lawful basis for providing co-operation. The UIAF has the authority to enter cooperation agreements with foreign counterparts (according to Article 3.2 Law 526/1999) and to cooperate with other AML/CFT units (as per Article 7.11 Law 526/1999). UIAF has signed 43 MOUs with foreign counterparts. In addition, Article 11 of Law 1621 of 2013, which applies to the agencies that are part of the Intelligence Community (including the UIAF), establishes that these shall cooperate with foreign counterparts. Moreover, the powers of coordination and cooperation for the exchange of information of members of the Intelligence Community are further detailed in Article 2.2.3.3.1 of Decree 1070/2015. Regarding financial supervisors, Article 326 of the Organic Statute of the Financial System provides that the SFC shall promote mechanisms for the exchange of information with foreign counterparts. Meanwhile, Article 22 of Law 964/2005 further broadens this faculty. The National Police has signed several international cooperation arrangements, such as with Interpol (Decree 216/2010) and Europol (Law 1582/2012). In turn, Article 4 of Decree 16/2014 establishes the duty of the FGN to provide international cooperation, and Section 631 of the Tax Statute allows the DIAN to exchange information with foreign counterparts.

Subcriterion 40.2 (b) Nothing prevents competent authorities from using the most efficient means to cooperate.

Subcriterion 40.2 (c) As a member of the Egmont Group, UIAF exchanges information with foreign counterparts through the Egmont Secure Web, which is a secure channel for providing international cooperation. In addition, both the National Police and the FGN are Colombia's point of contacts in the RRAG (see discussion in R.8), this being an important channel for exchanging relevant information with foreign

counterparts. The National Police also uses the channel provided by Interpol and Europol. Regarding financial supervisors, Article 45.8 of Law 510/1999 establishes that the SFC shall promote information exchange with foreign counterparts. Moreover, Colombia informed that DIAN, in its role as a World Customs Organization member, utilizes the information exchange mechanism of such organizations. Regarding the agencies integrating the Intelligence Community, Article 2.2.3.3.1 of Decree 1070/2015 establishes that, when information is exchanged with domestic or foreign counterparts, agreements, protocols, and MOUs may be signed, in which clear parameters aimed to protect the legal reserve, security and restriction of dissemination of information should be established.

Subcriterion 40.2 (d) The FGN, UIAF, and National Police have clear processes or systems for the prioritization and timely execution of requests. The DIAN and SFC have mechanisms allowing the execution of international requests. The SFC has internal procedures for the prioritization and timely execution of requests. At the time of the onsite visit, the DIAN did not have a manual or mechanism in place for that aim. After the onsite visit, the DIAN approved an internal procedure establishing mechanisms for the execution of international cooperation requests (PR-IC-0356).

Subcriterion 40.2 (e) The UIAF, National Police, and DNI have clear processes for safeguarding the information received. The DIAN and SFC have mechanisms allowing the execution of international requests. The SFC has a clear internal procedure for safeguarding the information received (the Information Security Policy, established in Document A-PT-GTI-001 approved by Internal Circular 5/2013, and the Information Security Policies Manual, set by the document A-MN-GTI-006). At the time of the onsite visit, the DIAN did not have a manual or mechanism in place for that aim, but approved PR-IC-0356 after the onsite visit.

Criterion 40.3 – Members of the Intelligence Community, the UIAF and SFC have legal powers to exchange information with foreign counterparts and to enter MOUs or bilateral or multilateral arrangements with them. The legal powers to exchange information with foreign counterparts can be exercised without the need of entering a specific agreement. The UIAF and SFC also have comprehensive networks of MOUs with a wide range of foreign counterparts. So far, the UIAF has signed 43 MOUs with foreign counterparts, while SFC has entered 29 bilateral and multilateral arrangements. DIAN has also signed several relevant agreements with foreign counterparts as well.

Criterion 40.4 – Colombia informed that competent authorities can provide feedback in a timely manner upon request. UIAF has included specific clauses regarding providing feedback in its MOUs.

Criterion 40.5 – Legal framework in Colombia does not prohibit or place unreasonable or unduly restrictive conditions on information exchange or assistance on any of the grounds listed in this criterion.

Criterion 40.6 – There is a robust legal framework in Colombia aimed to protect the adequate use of information exchanged between members of intelligence community (including the UIAF), in accordance to Chapters V and VI of Law 1621/2013 and Chapters 6, 7 and 8 of Title 3 of Decree 1070/2015. Moreover, MOUs signed by the UIAF comprise specific clauses aimed to protect the adequate use of information. In turn, Section 3 of Resolution DIAN 101/2015 includes a provision aimed to protect the adequate usage of information exchanged by the DIAN. MOUs signed by the SFC have provisions related to the adequate use of information exchanged. At the time of the onsite visit, the DIAN did not have clear internal controls to ensure that information exchanged is used for the intended purpose for, and by, the authorities for whom the information was provided. After the onsite visit, the DIAN approved PR-IC-0356, which establishes mechanisms for protecting the adequate use of information exchanged.

Criterion 40.7 – There is a robust legal framework in place aimed to protect the confidentiality of the information exchanged between members of Intelligence Community (the UIAF is part of this community), in accordance with Chapters V and VI of Law 1621/2013 and Chapters 6, 7 and 8 of Title 3 of Decree 1070/2015. In addition, the UIAF may refrain from sharing information with authorities when it considers that there are no legal grounds for the request, according to Article 6 of Decree 1497 of 2002. Moreover, MOUs signed by UIAF and SFC comprise specific clauses aimed to protect the confidentiality of the exchanged information. In turn, Section 3 of Resolution DIAN 101/2015 includes a provision aimed to protect the confidentiality of information exchanged by the DIAN.

Criterion 40.8 – The UIAF, the National Police, the FGN and the SFC can conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. This is not the case for DIAN.

Exchange of Information between FIUs

Criterion 40.9 – UIAF has adequate legal basis for providing co-operation on ML, associate predicate offenses and TF, in accordance with Article 3 Law 526/1999, Articles 10 and 11 of Law 1621/2013 and Article 2.2.3.3.1 of Decree 1070/2015. Moreover, UIAF has signed 43 MOUs with foreign counterparts.

Criterion 40.10 – Colombia informed that MOUs signed between the UIAF and its foreign counterparts include specific clauses concerning the provision of feedback, and that UIAF provides feedback upon request.

Criterion 40.11 – The UIAF has powers to exchange a wide range of information, including: (a) information accessible or obtainable directly or indirectly, under Recommendation 29; and (b) any other information which it has the power to obtain or access, directly or indirectly, at the domestic level, subject to the principle of reciprocity.

Exchange of information between financial supervisors

Criterion 40.12 – SFC, the main financial supervisor, has legal authority for providing cooperation with its foreign counterparts (regardless of their respective nature or status). Article 326.8 of the EOSF, amended by Article 45 of Law 510/1999, sets out the possibility of exchanging information with foreign counterparts, with respect to the exchange of supervisory information. Moreover, SFC has entered 29 bilateral and multilateral arrangements for international cooperation. In turn, DIAN can exchange information with foreign counterparts as set out in Decree 4048/2008. Regarding SES, there is no specific legal basis for providing co-operation with their foreign counterparts, although it is important to note that entities that fall under its regulation cannot have foreign branches nor they can operate in other jurisdictions.

Criterion 40.13 – The SFC and DIAN can exchange with foreign counterpart's information which is domestically available. Regarding SES, it is not able to exchange information with foreign counterparts, although it is important to note that entities that fall under its regulation cannot have foreign branches nor they can operate in other jurisdictions.

Criterion 40.14 – The SFC is able to exchange the following types of information when relevant for AML/CFT purposes: (a) regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors; (b) prudential information, such as information on the FI's business activities, beneficial ownership, management, and fit and proper test; and (c) AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, CDD information, customer files, samples of accounts and transaction information. However, it is not clear whether DIAN has a sound legal basis for providing cooperation with their foreign counterparts in this regard. Regarding SES, it is not able to exchange the of information when relevant for AML/CFT purposes, although it is important to note that entities that fall under its supervision cannot have foreign branches nor they can operate in other jurisdictions.

Criterion 40.15 – Colombia informed that there is no obstacle preventing the SFC from conducting inquiries on behalf of foreign counterparts, and, as appropriate, authorizing or facilitating the ability of foreign counterparts to conduct inquiries themselves in the country, to facilitate effective group supervision. Moreover, the latter is provided in Article 326.8 of the EOSF, amended by Article 45 of Law 510/1999. However, it is not clear whether DIAN have a sound legal basis for providing co-operation with its foreign counterparts in this regard. Regarding SES, it is important to note that entities that fall under its regulation cannot have foreign branches nor they can operate in other jurisdictions.

Criterion 40.16 – Financial supervisors in Colombia informed that they obtain prior authorization of the requested financial supervisor for any dissemination of information exchanged, or for using that information for supervisory and non-supervisory purposes.

Exchange of information between law enforcement authorities

Criterion 40.17 – Colombian LEAs can exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offenses or TF, including the identification and tracing of the proceeds and instrumentalities of crime. As set out in Article 11 of Law 1621/2013, agencies that are part of the Intelligence Community (including the UIAF) shall cooperate with foreign counterparts. Moreover, the powers of coordination and cooperation for the exchange of information of the members of the Intelligence Community are further detailed in Article 2.2.3.3.1 of Decree 1070/2015. In turn, the National Police has signed several international cooperation arrangements, such as with Interpol (Decree 216/2010) and Europol (Law 1582/2012). Furthermore, the FGN is authorized by Article 4 Decree 16/2014 to provide international cooperation.

Criterion 40.18 – Colombian LEAs can use their powers and investigative techniques (as described in R.31) to conduct inquiries and obtain information on behalf of their foreign counterparts. Article 4 of Decree 16/2014 authorizes the FGN to provide international cooperation. In addition, LEAs also respect conditions on use prescribed in the agreements signed with Interpol (Decree 216/2010) and Europol (Law 1582/2012).

Criterion 40.19 – CPC Article 487 provides that, for transnational offenses, the FGN may be part of an international commission aimed to collaborate with the investigation. The same section provides that the FGN may carry out relevant actions to strengthen judicial cooperation with foreign countries, as well as exchange technology, expertise, training or any other relevant activity. The National Police has entered relevant agreements with Interpol, Europol and Ameripol.

Exchange of information between non-counterparts

Criterion 40.20 – Competent authorities in Colombia do not have a legal framework specifically allowing them to exchange information indirectly with non-counterparts.

Weighting and Conclusion: Overall, Colombia has robust regime which allow competent authorities to rapidly provide a wide range of international co-operation to foreign counterparts, both under request and spontaneously. Most of the relevant criteria of Recommendation 40 are fully met or mostly met. LEAs have solid procedures for safeguarding the confidentiality of the information. Additionally, competent authorities do not have a legal framework specifically allowing them to exchange information indirectly with non-counterparts. **Recommendation 40 is rated largely compliant.**

Summary of Technical Compliance—Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) Underlying the Rating**
1. Assessing risks and applying a risk-based approach	LC	• Some sectors were not involved and there were data gaps during the NRA process. • Not all the risks of the 2013 and 2016 NRAs have been addressed in the AML / CFT Policies. • Some of the criteria related to FIs and DNFBPs obligations are partially met.
2. National cooperation and coordination	LC	• AML / CFT policies still do not fully reflect some of the risks identified in the NRAs. • There is a need to strengthen inter-institutional collaboration between the UIAF and the supervisors and the UIAF and the customs authorities. • It is not clear how these national mechanisms are applied to coordinate policies against proliferation financing.
3. Money laundering offense	LC	• Some predicate offenses are still not covered and there is no criminal liability for legal persons for ML.
4. Confiscation and provisional measures	C	
5. Terrorist financing offense	LC	• There is no criminal liability of legal persons for TF.
6. Targeted financial sanctions related to terrorism and TF	PC	• Freezing of terrorist assets is tied to asset forfeiture process. • Terrorist assets require a link to criminal activity to be frozen. • There is no process for unfreezing or returning the funds.
7. Targeted financial sanctions related to proliferation	NC	• There are no laws or regulations that require individuals or entities to freeze goods and assets related to the UNSC Resolutions on proliferation of WMD and its financing. • Freezing can only be applied after ordered by the prosecutor as precautionary measure under the AFL. • Assets require a link to criminal activity to be frozen.
8. Non-profit organizations	PC	• Colombia has not identified which subset of organizations fall within the FATF definition of NPO. • Colombia has not clearly identified the features and types of NPOs which are likely to be at specific risk for TF abuse. • Competent authorities have not reviewed the adequacy of AML/CFT regulations for relevant NPOs. • Colombian authorities have not periodically reassessed the sector by reviewing additional information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures • No outreach, training and communication initiatives related to ML/TF in the NPO sector falling under the

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) Underlying the Rating**
		scope of the FATF definition where implemented by competent authorities. • There are no comprehensive and clear policies in place concerning NPOs falling under the scope of FATF definition. • Colombia has not taken specific relevant actions to encourage NPOs to conduct transactions via regulated financial channels, wherever feasible. • Competent authorities have not taken steps to promote effective supervision or monitoring that demonstrates that risk-based measures apply to NPOs at risk for TF abuse. • Not all the relevant NPOs, particularly the religious and foreign NPOs, are subject to effective, proportionate and dissuasive sanctions for violations of their obligations.
9. FI secrecy laws	C	
10. Customer due diligence	PC	• There is no explicit obligation set forth in Law for financial institutions to apply CDD. • Except for SFC supervised entities, there is no legal obligation to identify and verify the identity of the BO. • There is no obligation to understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship. • Professional currency exchange firms are not required to conduct ongoing due diligence on the business relationship, including to scrutinize transactions. • There is no obligation to understand the customers' ownership and control structure. • financial institutions conducting business with trusts are not required to identify the trustees and any other natural person exercising ultimate effective control over the trust and to take reasonable measures to verify the information. • There is no requirement to apply the CDD requirements to existing customers based on materiality and risk. • There is no obligation for financial institutions under the supervision of MINTIC to apply enhanced due diligence measures where ML/TF risks are higher.
11. Record keeping	C	
12. Politically exposed persons	PC	• Only partial coverage of foreign PEPs, and persons who are or have been entrusted with prominent functions by international organization.
13. Correspondent banking	PC	• Payable through correspondent accounts (PTAs) are not addressed by the SARLAFT. • There are no prohibitions to enter or continue banking relationships with shell banks.
14. Money or value transfer services	C	
15. New technologies	PC	• There are no requirements for postal transfer operators.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) Underlying the Rating**
16. Wire transfers	PC	• There are no requirements in place addressing wire transfers from a single originator when these are bundled in a batch file. • There is no requirement for financial institutions to verify the information pertaining to its customer where there is a suspicion of ML/TF. • There is no requirement to include the account numbers or a unique transaction reference for the originator and the beneficiary. • The existing requirements do not explicitly address or differentiate the instances where the institution is acting as the intermediary institution, experiences technical limitations, lacks information required for the originator or beneficiary or is required to apply risk-based policies and procedures in the absence of information. • There is no requirement for money remitters or other transfer systems to obtain the originator's account numbers or a unique transaction reference.
17. Reliance on third parties	N/A	• Reliance on third parties is effectively prohibited.
18. Internal controls and foreign branches and subsidiaries	C	
19. Higher-risk countries	PC	• There are no provisions in place to apply countermeasures or the ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.
20. Reporting of suspicious transaction	LC	• Concerns regarding the scope of Colombia's financial sector reporting obligations related to the requirement to report transactions and attempted transactions.
21. Tipping-off and confidentiality	C	
22. DNFBPs: Customer due diligence	PC	• Most lawyers, accountants and real estate agents do not meet the requirements and thresholds set by regulations, so they are not subject to AML/CFT measures. • Dealers in precious metals and precious stones are not classified as DNFBPs. • CDD obligations are not set in a Law. CDD and BO identification of DNFBPs under the supervision of Supersociedades are not in line with R.10 requirements. • Notaries are not required to identify BO.
23. DNFBPs: Other measures	PC	• Most lawyers, accountants, real estate agents, and dealers in precious metals and stones do not have STR obligations. • Notaries are not required to report STRs.
24. Transparency and beneficial ownership of legal persons	PC	• There are no processes to obtain and hold accurate and up to date information on beneficial ownership.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) Underlying the Rating**
25. Transparency and beneficial ownership of legal arrangements	LC	• Deficiencies on obtained BO information and in the sanctions for infringements.
26. Regulation and supervision of financial institutions	LC	• Supervision and monitoring of non-core financial institutions is not risk-based. • Supervision of postal operations for domestic transfers is not risk-based.
27. Powers of supervisors	LC	• No specific sanctions are provided under the law or SARLAFT for the AML/CFT obligations imposed on postal transfer operators.
28. Regulation and supervision of DNFBPs	PC	• Coljuegos regulations do not require to identify the BO for casinos operators. • AML/CFT sanctions for casinos are not defined. • Most lawyers, accountants, real estate agents and dealers in precious metals/stones) are not subject to AML/CFT obligations. • Measures to prevent criminals or their associates from being professionally accredited, or holding or being the BO of a significant or controlling interest, or holding a management function in a DNFBP are very limited. • Sanctions for AML/CFT infringements of DNFBPs are not sufficiently dissuasive/ proportionate.
29. Financial intelligence units	LC	• UIAF does not have timely access to information DIAN declarations on cross border transportation of cash and BNIs.
30. Responsibilities of law enforcement and investigative authorities	C	
31. Powers of law enforcement and investigative authorities	C	
32. Cash couriers	LC	• Information obtained through the written declaration system is not readily available to UIAF. • There is not a collaboration agreement between DIAN and FGN for information sharing purposes and it is not clear if the referred coordination agreements are set up. • DIAN has authority to seize currency or BNI only when there is a false declaration or a failure to submit the declaration.
33. Statistics	PC	• Functioning of the national statistic system established in CONPES 3793 could not be established. • Authorities are not complying with their obligation to report quarterly statistical information to UIAF, as provided by law.
34. Guidance and feedback	PC	• No guidelines have been issued or feedback provided for financial institutions.
35. Sanctions	PC	• No criminal, civil or administrative sanctions are provided for DNFBPs.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) Underlying the Rating**
36. International instruments	LC	• Not all conducts specified in the Vienna, Palermo, Merida and TF Conventions are covered in Colombia.
37. Mutual legal assistance	LC	• There is no specific procedure or provision in place related to the duty to maintain the confidentiality of mutual legal assistance requests and the information contained in them, to protect the integrity of the investigation or inquiry.
38. Mutual legal assistance: freezing and confiscation	C	
39. Extradition	LC	• Technical gaps related to criminalization of both offenses could impact on extradition requests referred to criminal conducts not fully covered.
40. Other forms of international cooperation	LC	• At the time of the onsite visit, DIAN did not have internal procedures or systems for the prioritization and timely execution of international cooperation requests. • At the time of the onsite visit, DIAN did not have clear internal procedures for safeguarding the information received. • At the time of the onsite visit, the DIAN did not have clear internal controls to ensure that information exchanged is used for the intended purpose for, and by, the authorities for whom the information was provided. • DIAN is not able to conduct inquiries on behalf of foreign counterparts. • It is not clear whether DIAN has a sound legal basis for providing cooperation with their foreign counterparts in relation to regulatory, prudential and AML/CFT information. • Competent authorities do not have a legal framework specifically allowing them to exchange information indirectly with non-counterparts.