



Anti-money laundering and counter-terrorist financing measures

Republic of The Gambia

JUNE 2022

**Mutual Evaluation
Report**





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

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Executive Summary

1. This report summarises the anti-money laundering and counter-terrorist financing (AML/CFT) measures in place in The Gambia as at the date of the on-site visit from 23 August, 2021 to 3 September, 2021. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of The Gambia's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- a) Since its first mutual evaluation in 2008, The Gambia has strengthened its legal and institutional framework to comply with international AML/CFT Standards and enhance the regime's effectiveness. Despite the improvements, there are still some gaps in the legal framework as highlighted in the TC Annex.
- b) The Gambia has an evolving understanding of its ML and TF risks. In November 2020, The Gambia finalised its first National Risk Assessment (NRA), supplemented by assessments of the banking and real estate sectors, studies on drug trafficking and cash smuggling through the Banjul airport. Shortcomings were noted in the comprehensiveness of the NRA in some areas, and the scope of the exercise which impacted on the overall understanding of risks in The Gambia.
- c) The National ML/TF Risk Assessment Action Plan (2020-2023) (NRA-AP) and the strategies of some competent authorities address some key vulnerabilities highlighted in the NRA. While some authorities (for example, the Financial Intelligence Unit (FIU), The Gambian Police Force (GPF) the Drug Law Enforcement Agency, The Gambia (DLEAG) and the Central Bank of The Gambia (CBG) have allocated resources and begun to align some of their activities to address identified risks, it is too early to assess the impact of these activities on managing and mitigating risks. The absence of an AML/CFT policy based on the findings of the NRA and a monitoring mechanism for the NRA-AP pose some obstacles to the adoption of risk-informed frameworks or strategically guided priorities by competent authorities, as well as benchmarks for measuring The Gambia's progress in the implementation of relevant activities and the effectiveness of its AML/CFT regime.
- d) The strong co-ordination through the National Co-ordination Committee (NCC) and operational initiatives by law enforcement authorities (LEAs) are yet to lead to successful outcomes regarding identified high-risk areas and AML/CFT in general. The Gambia neither has a coordination mechanism nor demonstrated coordination efforts regarding proliferation financing (PF).

- e) LEAs have access but make limited use of financial intelligence to support their investigative activities. While LEAs consider the quality of the FIU's financial intelligence and analysis reports as good, these products are being underutilised by LEAs (other than Police) to support ML/TF investigations. The quality of the suspicious transaction reports (STRs) filed is generally considered to be good, but the non-filing of STRs by designated non-financial businesses and professions (DNFBPs) and most non-bank financial institutions (NBFIs) deprives the FIU of potentially valuable information to support analysis. The FIU has not yet conducted strategic analysis (produced strategic products) which calls into question whether STRs data is being fully exploited in a systematic and holistic way. The FIU can benefit from more human and financial resources to perform its functions optimally.
- f) Although LEAs have a broad range of powers and responsibilities to investigate and prosecute ML offences, parallel financial investigations have occurred largely in support of efforts to confiscate the proceeds of crime rather than ML investigation. There has been no conviction for ML, which is inconsistent with the risk profile of The Gambia. LEAs and the Ministry of Justice (MOJ) lack standard operational manuals, adequate resources and requisite skills to investigate and prosecute ML. Cooperation between LEAs during investigations is typically focused on predicate crimes with a little pursuit of ML.
- g) Despite its adequate legal basis for confiscation of criminal proceeds, The Gambia has achieved minimal results in pursuing confiscation measures which is somewhat consistent with its risk profile. There are challenges in identifying and tracing property, particularly connected to complex crime types and weaknesses with targeting, detecting and investigating currency and bearer negotiable instruments (BNIs) smuggled across its borders. There is no policy on confiscation of proceeds of crime.
- h) The FIU can identify potential TF cases through analyses of STRs. However, the non-filing of STRs by DNFBPs and most NBFIs, and the non-reporting of suspicious physical cross-border cash transportation impedes the ability of the Unit to identify potential TF cases. The Gambia has not criminalised the financing of individual terrorists for any purpose as well as foreign terrorist fighters. There is no formal operational coordination platform for TF efforts.
- i) The Gambia has not designated a competent authority for proposing persons or entities to the UNSCR 1267 Committee and in relation to UNSCR 1373. There is no mechanism for the timely dissemination of the United Nations Sanctions Lists. The Gambia lacks clear procedures for UNSCR 1373 and is not implementing the requirements of this resolution. Small and medium-sized FIs and DNFBPs have a low understanding of their obligations regarding TF-TFS. NPOs have a poor understanding of TF risks and CFT obligations. The NGO Affairs Agency (NGOAA) does not apply targeted monitoring of the NPOs.
- j) The Gambia does not have adequate framework/mechanism for implementing TFS related to proliferation. Reporting entities (except banks belonging to

international groups) have a low understanding of their PF obligations and do not implement the TFS related to PF.

- k) Commercial banks have a good understanding of their ML/TF risks and AML/CFT obligations, albeit at different levels of sophistication. The rest of financial institutions (FIs) and DNFBPs have a low understanding of their ML/TF risks and AML/CFT obligations. Overall, the application of preventive measures is strongest in the banking sector and low in the NBFIs and DNFBPs. The weak implementation of AML/CFT preventive measures by NBFIs and DNFBPs adversely affects the overall effectiveness of preventive measures in The Gambia.
- l) Risk-based AML/CFT supervision is relatively new. Most AML/CFT supervisory activities occur in the banking sector. Although AML/CFT supervision has been conducted in few NBFIs and DNFBPs, none of these uses a proper risk-based approach (RBA). Overall, some improvements are required regarding the AML/CFT supervisory regime of the FIU, especially in terms of depth, and follow up on recommendations of previous inspections. While a wide range of sanctions (especially administrative) are available to supervisors, they are not being applied in practice despite significant violations noted during AML/CFT supervision. The requirement for the FIU to apply to court for an order to enforce non-compliance with the provisions of the AML/CFT Act impedes the ability of the Unit to implement effective sanctions for compliance with AML/CFT obligations. Market entry controls to screen out criminality, particularly for some DNFBPs, need fundamental improvements.
- m) The Gambia has adequate legal framework for transparency of basic information, but there are significant deficiencies in the collection and availability of beneficial ownership (BO) information of legal persons. The Companies Registry is not obliged, by law, to collect and maintain similar information and lacks a database of all legal persons created in the country while existing information is rarely updated. As a result, where basic and BO information exist, these may not be accurate, up-to-date and timely.
- n) The Gambia has adequate legal basis for the widest range of international cooperation, including mutual legal assistance (MLA), extradition and the tracing of criminal assets. However, the authorities have made very limited use of MLA in relation to ML, associated predicate offences, TF and asset tracing. There has been no outgoing request for extradition. There are no measures in place to prosecute citizen fugitives that are not extradited. The FIU has made limited use of international cooperation with other FIUs and none with AML/CFT supervisors. Generally, inadequate resources and training impede the effective implementation of international cooperation.

Risks and General Situation

2. The main domestic proceeds-generating ML predicate offences are fraud, drug trafficking, theft/stealing or robbery, and bribery & corruption. There is no overall estimate available of

the value of criminal proceeds in The Gambia. Also, information on the techniques used for laundering the proceeds of crime in The Gambia is scanty.

3. Drug trafficking is one of the most prominent ML threats, generating large volumes of criminal proceeds in The Gambia. The Gambia is a noted transit route for illicit drugs (cocaine) from South America to Europe and other destinations. Since 2010, over four tonnes of cocaine bound for Europe with a street value estimated at over US\$1bn have been seized in The Gambia. Corruption was also endemic in the country during the administration of the former President, which ended in 2017 (see the Janneh Commission report). The Gambia also faces a high risk from informal money remitters whose size and activities are largely unknown to the authorities.
4. The real estate sector is considered the most vulnerable to ML risk, though FIs and some DNFBPs in The Gambia have medium ML/TF risks due to stronger controls. The predominance of cash transactions, the large informal sector, significant capacity and resource constraints of competent authorities increase the country's vulnerability to ML/TF. Similarly, porous land borders, weak cash controls at the borders, weak application of preventive measures, especially by NBFIs and DNFBPs, and the lack of supervision of most reporting entities, including DNFBPs for AML/CFT compliance also contribute to ML/TF vulnerabilities.
5. The risk of TF was assessed as low in the NRA by the authorities because The Gambia does not have any terrorist groups or individual terrorists operating within the country and has not suffered any terrorist attacks. Also, no funds have been raised within or moved out of The Gambia for TF purposes. While there is also no evidence of NPOs in The Gambia being abused for TF, the NRA noted that some NPOs receive donations from sources operating in countries with active threats of terrorism which exposes such NPOs to TF. Other factors that increase the country's vulnerability to TF include the porosity of its borders, reported links to a person designated by the United Office of Foreign Assets Control (OFAC), Office of Department of the Treasury, USA; three Gambians (residing outside the country) suspected to be involved in terrorist activities; and the low capacity of relevant authorities to monitor and investigate TF cases. The NRA did not cover issues relating to proliferation financing.

Overall Level of Compliance and Effectiveness

6. Since its last mutual evaluation in 2008, The Gambia's AML/CFT regime has undergone significant reforms. The enactment of the AML/CFT Act, 2012 (AML/CFT Act) established the FIU as an operationally independent body, reduced the threshold for ML predicate offences¹, designated authorities responsible for the implementation of various elements of the Act, provided adequate measures for tracing and confiscating criminal proceeds and assets of corresponding value, strengthened preventive measures and measures related to international cooperation, including MLA, extradition and asset tracing. While the FIU and/or CBG have also issued guidelines and policies for FIs and DNFBPs to facilitate the implementation of AML/CFT obligations, the Guidelines are not enforceable under the laws of The Gambia and the Assessment Team did not take them into account in their conclusions on analyses of technical compliance. All the categories of reporting entities listed in the

¹ The first MER concluded that The Gambia has adopted the threshold approach and has limited the predicate offences to include offences which attract imprisonment term of two years and above. (See paragraph 2, Executive Summary to the 2008 MER).

FATF standards, except capital market operators and virtual assets service providers (VASPs), exist in The Gambia and are subject to AML/CFT requirements.

7. The Gambia has implemented an AML/CFT system that is effective to a limited extent. Particularly, moderate results are being achieved in relation to the confiscation of proceeds and instrumentalities of crime. Fundamental improvements are needed to strengthen its understanding of ML/TF risks, measures to address the identified risks, including the maintenance of relevant national statistics to enable it to better understand the effectiveness of its AML/CFT regime, international cooperation, enhance the supervision of reporting entities and implementation of preventive measures, enhance the transparency of beneficial ownership of legal persons and arrangements, enhance the investigation and prosecution of ML/TF, and to ensure the effective implementation of TFS related to TF and PF. The ratings of the Immediate Outcomes result partly from the absence of substantiated information and contradictory data and statistics regarding the activities of The Gambian authorities, which significantly impeded a full and accurate understanding of The Gambia's ML/TF risks and the effectiveness of its AML/CFT system.
8. A number of technical compliance shortcomings are noted which present challenges for effectiveness. There are gaps with the criminalisation of migrant smuggling, designation of tax crimes as predicate offences of ML, confiscation of assets of corresponding value, comprehensive procedures for TFS related to TF, the legal basis for PF-related TFS, NPOs, politically exposed persons (PEPs), money or value transfer services (MVTs), new technologies, reliance on third parties, higher-risk countries, transparency of beneficial ownership of legal persons and arrangements, and the regulation and supervision of DNFBPs.

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

9. The Gambian authorities consider fraud, drug trafficking, theft/stealing or robbery, bribery and corruption, as the main domestic ML threats by the key AML/CFT authorities consistently, but their understanding of the relative scale of such threats as well as the vulnerabilities or channels exploited to launder the proceeds is less developed. Their understanding is further impaired by the lack of assessment of organised crime, illicit trafficking in stolen and other goods, and illicit arms trafficking and the ML/TF vulnerabilities of legal persons, virtual assets, the tourism sector, the features of the informal economy and the extensive use of cash. The threats arising from proceeds of foreign predicates is also understood only to a very limited extent. The authorities' understanding of TF threats is generally evolving but more developed with the State Intelligence Service (SIS), the Police, DLEAG and the FIU, while the MOJ has the least understanding. The authorities identify TF risks as mainly emanating from international terrorism, but the appreciation of inherent vulnerabilities could be improved significantly. While the authorities note some high-level vulnerabilities that could be exploited for TF, they are unable to determine if, or to what extent, such vulnerabilities are being exploited. The Gambia is yet to adopt a National Counter-Terrorism Strategy that incorporates CFT.
10. The NRA-AP provides some high-level strategies to address specific short-term systemic vulnerabilities, including legal, institutional and capacity gaps. The NRA-AP is further supplemented by the National Drug Controls Strategy and the National Security Strategy. The Gambia has drafted a National Counterterrorism Strategy (Strategy Against Terrorism (GAMSAT)).
11. The risk assessments identified higher-risk areas such as the banking, foreign exchange, remittance, real estate, casinos and DPMS sectors. The Gambia has adopted some

measures, including supervision of the real estate sector, to mitigate the risks in some of the sectors. The AML/CFT Guidelines for reporting entities allow the application of simplified measures for lower risk sectors. The NRA identifies low ML/TF risks for the Credit Union, Finance Companies, and the Village Savings and Credit Association (VISACAs), given their level of development and nature of services they provide in the context of The Gambia. However, the size of the informal sector and the use of cash in transactions as identified in the NRA increase the risk of ML.

12. Competent authorities are beginning to align their objectives and activities with national ML/TF risks and the NRA-AP. The MOJ and LEAs have been focused mainly on predicate offences rather than ML. Furthermore, complex and higher risk ML activities are not targeted partly owing to inadequate resources and the lack of specific policy guides to focus efforts on such cases. LEAs' activities are aligned with the TF risk only to the extent such risks are recognised. While the FIU has started aligning its resources to the supervision of some of the high-risk sectors identified in the NRA, especially the real estate agents, foreign exchange bureaus and banks) addressing certain aspects of ML risks, the extent to which the FIU has targeted ML/TF risks of other DNFBPs remains unclear.
13. The authorities cooperate and coordinate on AML/CFT policy and operational matters to some extent. The NCC was established, by the AML/CFT Act in 2012 to co-ordinate and foster co-operation among key stakeholders on all aspects related to the implementation of the AML/CFT Act. It played a central role in coordinating the NRA but is yet to produce any strategic AML/CFT policy initiatives for adoption by the Executive. Its agenda has been driven mainly by supervisory and law enforcement matters but relies heavily on the FIU for strategic guidance. In The Gambia, AML/CFT cooperation and coordination at the operational level is evolving, and requires improvement to enhance effectiveness, especially the widening of the scope of key risk areas for increased focus to ensure appropriate attention for all identified high risk areas. There is no coordination among authorities on PF matters.
14. Some private sector institutions, especially banks demonstrated awareness of the results of the NRA and complementary risk assessments. The authorities need to widely disseminate the results of the NRA to all stakeholders to enhance the level of awareness of the ML/TF risks in the country.

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

15. LEAs have access to a wide range of information sources that is necessary to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF. There is, however, limited use of financial intelligence for ML/TF investigation as evidenced by the low usage of disseminations from the FIU and the number of requests for information made by LEAs (except the Police) to the FIU.
16. Most STRs filed to the FIU are generated by the banking sector, with very few from the NBFIs. The FIU also receives cash transaction reports (CTRs) and wire transaction reports (WTRs) which have helped to enhance its analysis. The underlying suspicious crime for the STRs relate largely to fraud, drug trafficking, tax fraud, corruption, etc which reflect some of the major proceeds generating offences identified in the NRA report. While the quality of the STRs is generally good, the volume of STRs is low relative to the country's risk profile. DNFBPs and some NBFIs did not file any STR to the FIU even though some of the sectors (for example, remittance service providers, real estate agents and casinos) were

identified as posing higher ML risks. This limits opportunities to detect and investigate ML/TF offences, and thus presents a gap.

17. The non-filing of cross-border² cash and BNI disclosure reports to the FIU is another drawback on the opportunities for detecting and investigating possible ML/TF offences. Generally, the lack of adequate resources, low volume of STRs filed by commercial banks and the non-filing of STRs by DNFBPs and some NBFIs (some of which are assessed as medium to high risks in the NRA), and the inability of the FIU to conduct strategic analysis, contribute to the challenges faced by the Unit in effectively supporting the operational needs of LEAs.
18. The authorities identify and investigate ML cases to a minimal extent. Emphasis is placed on investigating predicate offences. While the authorities affirm that parallel financial investigations are undertaken in all predicate offences, they did not demonstrate the proactive identification and investigation of ML cases as a primary objective. While ML cases relating to fraud form the bulk of cases investigated, investigation and prosecution of ML activity are inconsistent with The Gambia's threat and risk profile. The Gambia has concluded the prosecution of one ML case related to fraud committed by a third party outside the country. This case did not result in conviction for the substantive ML charge. There are no concluded ML prosecutions relating to high-risk areas such as bribery and corruption, drug trafficking, trafficking in persons, sexual exploitation, migrant smuggling, theft/stealing or robbery, currency counterfeiting and forgery. Tax offences are not designated as ML predicates and migrant smuggling is not criminalised. While The Gambia did not consider the non-designation as an issue for ML purposes, no provision in the AML/CFT Act requires the GRA to investigate ML related to tax crimes or to refer potential ML to any competent authority (for example, the GPF) for investigation. As a result, there has been no ML investigation related to tax crimes.
19. Overall, the lack of results appears to be a consequence of the focus on the investigation of predicate offences rather than the proactive identification and investigation of wider ML networks and professional enablers. In the absence of conviction for ML, it is impossible to determine the proportionality, effectiveness and dissuasiveness of sanctions applied against natural and legal persons convicted of ML offences. The low sentence, including the suspended custodial sentence applied for the concluded ML case is not in line with The Gambia's risk and its judicial system, particularly considering the posture of the accused person and the maximum sentence prescribed for ML, which is proportionate to other economic crimes in The Gambia.
20. Over the last years, The Gambia has suffered from resource challenges which have impacted The Gambian society in general, and should also be considered in the overall context for AML/CFT strategy. As revealed by the report of the Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as Regards their Dealings with Former President Yahya A.J.J. Jammeh and Connected Matters (Janneh Commission), disproportionate amounts of resources were wasted, misappropriated and diverted during the 22 years of Ex-President Jammeh's Government which impacted on the country's already weak economic conditions and resource constraints faced by public institutions. The resource constraints are now being addressed by an increased budget allocation in the

² Although the FIU indicated that it receives cross border disclosure reports (CDRs) from the Customs there were no statistics to support the claim.

August 2021 Supplementary Budget towards the hiring of investigators and prosecutors for the GPF, DLEAG and MoJ.

21. The Gambia has adequate legislative measures that enables the confiscation of criminal proceeds. However, the country lacks a policy objective to pursue these measures in cases of ML, higher-risk predicate crimes and TF. The MOJ coordinates an Inter-Ministerial special task force on asset recovery with an internal unwritten policy emphasising asset forfeiture/confiscation in financial crime cases. The Gambia has pursued confiscation to some extent as manifested through the levels of confiscation of proceeds and instrumentalities of crime, mostly relating to drug offences and the recommendations of the Jannah Commission regarding proceeds derived from bribes and stolen public funds misappropriated by the former President of Gambia, Yahya Jammeh, his wife, family members and close associates. There have been no confiscations of property of equivalent value. In the absence of prosecution, no confiscation measures have resulted from TF cases. While the absence of such confiscations could be consistent with The Gambia's low TF risk profile, there are indications that this can be possible. The Gambia has not positively demonstrated that confiscation of falsely declared or undeclared cross-border movement of currency is being addressed and applied as an effective, proportionate, and dissuasive sanction. The Gambia has a predominantly cash-based economy and the use of cash has been assessed as high risk from a ML and TF perspectives, including cross-border movement. Overall, the confiscation of proceeds of crime does not reflect The Gambia's ML risk profile. The Gambia needs to adopt national AML/CFT policies to prioritise the confiscation of all types of assets related to ML and higher risk offences.

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

22. The pursuit of TF in The Gambia is coordinated through an Ad Hoc Task Force, which includes the relevant government security apparatus (the SIS, Counter-Terrorism Unit, GPF, DLEAG and other relevant institutions) – for the exchange of information. In the absence of a counter-terrorism strategy, it is impossible to determine the extent to which The Gambia has integrated TF investigations with wider strategies to combat terrorism in the country. Only one TF investigation has been conducted but could not be substantiated. While a low level of viable TF investigations and prosecutions may be consistent with The Gambia's risk profile, the one TF investigation initiated from fifteen STRs analysed by the FIU in the review period, is not sufficient to confirm the capacity of The Gambian authorities to identify and investigate potential TF cases. The Gambia has not criminalised the financing of individual terrorists for any purpose as well as the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training (foreign terrorist fighters).
23. The Gambia has implemented alternative measures, including sensitisation programmes for religious leaders, such as Imams and Christian leaders, on radicalisation to dismantle TF. In addition, the SIS has generated a targeted list and monitors the activities of persons on this list, while the DLEAG has a system that can monitor different social media platforms on suspicious activities relating to TF.
24. The Gambia has a system for TFS against terrorism, however gaps remain that undermine effectiveness. Despite some links with natural and legal persons designated or arrested by third countries concerning terrorism and its financing, The Gambia did not take similar actions, including the freezing of related assets pursuant to UNSCR 1373. Although the absence of UN designation proposals and domestic designations, with no assets frozen is in

line with the low TF risk in The Gambia, the limited understanding of TF risks could impact the implementation of TF-related TFS. Implementation of TFS obligations by the private sector is mixed but weak amongst smaller FIs and DNFBPs. Outreach and guidance by competent authorities has been very minimal.

25. The size of the NPO sector is estimated at above 5,000, with only 120 registered with the NGOAA. Notwithstanding, The Gambia assessed the TF risk associated with the 120 NPOs as part of the NRA and identified eleven of them as those with the highest risk of abuse for TF purposes. There are some general measures in place to mitigate TF risk in the sector, which The Gambia has assessed as being low. Competent authorities do not take a risk-based approach to supervision or monitoring of NPOs. Outreach to the sector has been largely administrative, and the authorities' effort, through questionnaires, to develop a risk-based approach to supervision shortly before the onsite visit could not be confirmed.
26. The Gambia has a regulatory framework (the AML/CFT Guidelines for FIs) that provides an obligation for FIs to implement TFS related to PF. However, this framework is not robust. Consequently, The Gambia lacks adequate framework that provides a comprehensive basis for the effective implementation of TFS related PF without delay. The Gambian authorities did not demonstrate availability of means to communicate to regulated entities and the general public designations relating to PF without delay. Whilst some large banks have some knowledge and implement PF requirements, they were generally unable to share practical examples of issues that would arise when implementing PF-related TFS. NBFIs and DNFBPs lack awareness and are not implementing TFS relating to PF. There have not been any investigations relating to PF and no funds or other assets have been frozen pursuant to TFS relating to PF. Other than the banking sector, supervisory authorities do not monitor NBFIs and DNFBPs for compliance with the requirements. There has been little or no training or outreach conducted to the reporting entities specifically regarding the PF and the application of TFS.

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

27. The AML/CFT Act is the primary legal framework for application of preventive measures for FIs and DNFBPs in The Gambia. However, there are some deficiencies in the AML/CFT law, including in relation to the definition of PEPs (R.12), MVTS (R.14), new technologies (R.15), etc which impact The Gambia's overall compliance.
28. Generally, foreign owned or controlled commercial banks demonstrated a good understanding of their ML/TF risks and AML/CFT obligations. They have also developed and applied appropriate AML/CFT controls and processes to mitigate risks, including CDD and transaction monitoring, as well as EDD measures on a risk-sensitive basis. NBFIs and DNFBPs exhibited relatively little to no understanding of ML/TF risks and obligations. Although they apply some elements of CDD; however, their efforts are not fully consistent with AML/CFT requirements, or the ML/TF risks they face. Overall, reporting entities have some challenges in the implementation of effective CDD measures, including the verification of beneficial owners. With respect to TFS, the banks belonging to international group have some measures to implement TFS, while other reporting entities demonstrated little or no awareness of TFS regimes and of their obligations and do not implement TFS.
29. The obligation to file STRs to the FIU is understood and applied by the banking sector. However, the same cannot be said about NBFIs which have over the period under review filed negligible number of STRs. No DNFBP has submitted STRs which could be attributed to the lack of understanding of the requirement, and weak supervision. Overall, the

negligible or non-filing of STRs by NBFIs and DNFBPs (some of which are assessed as medium to high risks) presents a significant gap.

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

30. The CBG generally applies strong market entry requirements for ensuring the integrity of the sectors which prevent criminals and their associates from holding or being a beneficial owner of significant interest or holding a management function in the financial institutions. The regulators of most DNFBPs, including the Geological Department, have inadequate market entry requirements. No competent authority has been designated for licensing or registering and regulating the real estate sector. The sector's SRB (AREC) does not have any legal backing and its membership is voluntary. As a result of weak controls, there are unregistered natural persons participating in some of the DNFBP sectors such as dealers in precious metals and stones (DPMS) and real estate agents.
31. The FIU and CBG demonstrated a good understanding of sectoral and individual institution ML/FT risk facing the banking sector. The understanding is derived from their involvement in the NRA, the post-NRA risk assessment of the banking sector and, individual banks risk profiling (based on yearly risk assessments submitted by the banks), and other operational activities. They both have a basic understanding of the institution-specific ML/TF risks of NBFIs. DNFBPs prudential supervisors and SRBs (especially of real estate sector - AREC), demonstrated limited knowledge and understanding of ML/TF risks present in their respective sectors.
32. The FIU applies an RBA to AML/CFT supervision, especially in the banking sector. AML/CFT supervision of banks by the FIU is generally reasonable. However, only negligible number of AML/CFT inspections have been carried out on NBFIs. The FIU has not yet developed or implemented AML/CFT risk-based supervision that showed the frequency and intensity of AML/CFT supervision of NBFIs were determined on the basis of ML/TF risks. Regarding DNFBPs, except for real estate agents, the rest have not been supervised or monitored for compliance with their AML/CFT requirements. In general, improvements are required in the AML/CFT inspection by the FIU, in relation to frequency of onsite visits, scope and depth of analysis on preventive measures covered during the onsite examinations, to ensure that inspections adequately reflect the risk and complexity of the sectors examined. Overall, as the primary AML/CFT supervisor for all reporting entities in The Gambia, the FIU lacks adequate resources (especially human and financial) to effectively undertake its supervisory roles.
33. The AML/CFT Act provides a wide range of sanctions for breaches of AML/CFT requirements. However, no sanction has been applied for violation of AML/CFT requirements in The Gambia. This may be partly attributed to the limitation in the AML/CFT Act that requires the FIU to apply to court for an order to enforce compliance by reporting entities with the requirements of the Act. In addition, the FIU considers it more appropriate to promote a culture of compliance amongst reporting before applying sanctions.
34. The FIU and CBG have provided some training and outreach programmes to reporting entities in order to improve their level of compliance. In addition, they have issued some AML/CFT Guidelines which have been useful in enhancing understanding of ML/TF risks by the reporting entities. However, the findings of the NRA have not been widely disseminated to all reporting entities to help the private sector identify and understand ML/TF risks. Overall, the impact of the initiatives (training, outreach programmes, etc) is varied, with the banks demonstrating a good understanding of the ML/TF risks and

AML/CFT obligations while understanding by the NBFIs and DNFBPs is evolving. Reporting entities, especially banks generally have a good working relationship with the FIU and CBG.

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

35. To a large extent, information on the creation and types of legal persons and arrangements in The Gambia available publicly. The Gambia has not assessed the ML/TF risks associated with legal persons and this, the ML/TF risks of legal persons are not understood.
36. The Gambia has a reasonable legal framework for transparency of basic information related to legal persons. Basic information of legal persons must be registered and is publicly available on application to the Companies Registrar. The Gambia has little or no mechanisms in place to test, monitor or verify the authenticity, accuracy and currency of identification and other documents submitted in the application to incorporate legal persons. Compliance with basic ownership registration requirements is undermined by the non-application of penalties to natural persons and legal persons.
37. There are deficiencies in the collection and availability of BO information. The primary source of beneficial ownership information on legal persons and arrangements is the information collected by reporting entities pursuant to their CDD obligations. The understanding of the concept of beneficial ownership and the level of compliance with BO requirements vary amongst reporting entities. In addition, the Companies Registry is not required to obtain and maintain BO information of legal persons. There is no mechanism in place for addressing the risks posed by foreign companies registered in The Gambia, including those with bearer shares, nominee directors and nominee shareholders.
38. While trusts and similar legal arrangements are rarely used in The Gambia, there are very limited measures in place to prevent their misuse for ML/TF.

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

39. The AML/CFT Act is a strong legal framework providing for the widest range of international cooperation, including MLA, extradition and asset tracing. The Central Authority Unit (CAU) of the MOJ is responsible for coordinating MLA and extradition requests. The Gambia recently adopted Guidelines to facilitate the efficient execution of MLA. However, the CAU lacks mechanisms to prioritise MLA requests received and ensure timely response. The CAU does not maintain a reliable database regarding the receipt, processing and dissemination of requests. The number of requests for MLA is low whilst requests for extradition are non-existent, both of which are inconsistent with the risk profile of The Gambia.
40. The FIU has low capacity to provide international cooperation on financial intelligence. LEAs demonstrated limited experience in joint investigation and controlled delivery procedures coordinated with foreign counterparts.
41. While The Gambia can share basic and BO information of legal persons and arrangements with international counterparts, where such information is available, in some cases they may be generally inadequate, inaccurate and not up to date. In the absence of requests for such information, it is impossible to determine the timeliness for providing such information to foreign authorities.

Priority Actions

- a) The Gambia should update its NRA to ensure comprehensive identification and understanding of the full range of ML/TF risks within the country. The update should include: (i) analysis and assessment of the risk posed by legal persons and arrangements; (ii) a comprehensive assessment of NPO sector; (iii) a more in-depth TF risk assessment; (iv) an assessment of VASPs; (v) PF risk, and (vi) an analysis of the international components of risks faced by the country. In addition, The Gambia should enhance the dissemination of the findings of the NRA to relevant stakeholders and take measures to ensure that reporting entities draw from the relevant outcomes of NRA to support or supplement their own risk assessments.
- b) The FIU should be adequately resourced (human, and financial resources) to enhance its analytical ability and operational capacity to better support financial investigations by LEAs. The FIU should conduct strategic analysis and also consider using specialized analytical software for reporting entities, which staff should be trained to use.
- c) The Gambia should prioritize investigation and prosecution of all types of ML offences and focus on parallel financial investigation when dealing with proceeds generating crimes. In particular, the country should pay attention to identifying, investigating, and prosecuting the different types of ML cases consistent with the ML threats facing the country; put in place measures, including training of LEAs to enhance financial investigations; and ensure that financial investigations are systematically undertaken when dealing with proceeds generating crimes. In addition, the FIU should improve its engagement and sensitization of LEAs to enhance the uptake and utilization of its intelligence for investigations.
- d) The Gambia should ensure that confiscation of criminal proceeds, instrumentalities and property of corresponding value are done as a matter of policy. In particular, The Gambia should pursue more assets tracing, restraints and confiscation for priority risk areas and more consistently confiscate smuggled cash/BNI. In this regard, the country should develop and implement a coordinated national confiscation policy/strategy.
- e) To address the technical shortcomings which impact the effectiveness of the AML/CFT system, The Gambia should, (i) designate tax crimes as ML predicate; (ii) criminalise attempted ML, migrants smuggling, market manipulation and the financing of individual terrorists and foreign terrorist fighters; (iii) empower the Companies Registry to obtain and maintain BO information and ensure application of proportionate and dissuasive sanctions against legal and natural persons who fail to meet their relevant obligations in order to promote the transparency of legal persons; and (iv) provide for the implementation of TFS against persons and entities involved in TF and the proliferation of weapons of mass destruction without delay, including imposing responsibilities on supervisors to monitor reporting entities and applying proportionate and dissuasive penalties for breaches; In addition, The Gambia should ensure that all related subsidiary legislation are published in the Gazette to have the force of law.
- f) The Gambia should review the relevant sections of the AML/CFT Act, 2012 that require the FIU to apply to courts for orders to enforce compliance with AML/CFT requirements to make the applications of sanctions easier for all practical purposes.

In addition, the country should broaden the scope of administrative sanctions for breaches of AML/CFT obligations

- g) The FIU should enhance risk-based AML/CFT supervision of banks, adopt and implement risk-based AML/CFT supervision for all NBFIs and DNFBPs, which should be informed by risk profile of the sectors and individual institutions, and apply effective, proportionate and dissuasive sanctions (especially pecuniary penalties) and remedial measures to ensure a positive effect on compliance by reporting entities. The Gambia should adequately resource the FIU, to enable it to effectively meet its AML/CFT supervisory responsibilities.
- h) LEAs should deploy measures that will prioritise and facilitate TF investigations and prosecution by building the operational capacity to identify, investigate and prosecute TF cases through the provision of specialised CFT trainings.
- i) The FIU should develop and implement mechanisms that promote and enhance ML/TF risk understanding by NBFIs and DNFBPs as well as their AML/CFT obligations, in particular, the application of EDD, implementation of TFS (UNSCRs), identification and verification of BOs, STR reporting and the application of a risk-based approach.
- j) The Gambia should undertake a comprehensive assessment of the ML/TF risks associated with each type of legal persons created in the country and implement appropriate measures commensurate with the risks identified.
- k) The Gambia should increasingly seek both formal and informal cooperation in relation to ML matters in line with its risk profile. This should include MLA to seek and provide evidence to support asset restraint and confiscations as well as ML and predicate offence prosecutions.
- l) The Gambia should strengthen the capacities of investigation and prosecution authorities, in particular by training and the allocation of sufficient human and material resources to these authorities to identify TF activity and conduct TF investigations effectively including conducting financial investigations as a matter of course when conducting investigations on terrorism and use of special investigative techniques
- m) The Gambia should develop and operationalise sufficient mechanisms and coordination to enable the effective implementation of UNSCRs relating to TF.

Effectiveness & Technical Compliance Ratings

01 Table 1. Effectiveness Ratings

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

Note - Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

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

Note - Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non-compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place in The Gambia as at the date of the on-site visit. It analyses The Gambia's 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 August 23-September 3, 2021.

The evaluation was conducted by an assessment team consisting of:

- a) Mr. Aminu Isah Buhari, Central Bank of Nigeria (Financial Sector /Risk Assessment Expert - Supervision)
- b) Mr. Seth Nana Amoako, Financial Intelligence Centre, Ghana (Financial Sector Expert – Preventive Measures)
- c) Mr. Franklin Campbell, Financial Intelligence Unit, Sierra Leone (Legal Expert)
- d) Her Honour Mrs. Jacqueline Ewusi – Sekyi Avotri, Judicial Service, Ghana (Law Enforcement Expert) (Formerly of the Economic and Organised Crime Office)

With the support from the GIABA Secretariat of Dr. Jeffrey O. Isima, Principal Officer, Research and Planning, Mr. Giwa Siman Sechap, Financial Sector Officer, and Mrs Gina Wood, Legal Officer. The report was reviewed by Mr. Donzo M. Fonsia, Central Bank of Liberia; Mr. Daniel O. Isei, Economic and Financial Crimes Commission, Nigeria; Mr. Phineas Rameshovo Moloto, Financial Intelligence Centre, South Africa and the FATF Secretariat.

The Gambia previously underwent a GIABA Mutual Evaluation in 2008, conducted according to the 2004 FATF Methodology. The 2008 evaluation has been published and is available at <http://www.giaba.org>.

That Mutual Evaluation concluded that The Gambia was Compliant with 3 Recommendations, Largely Compliant with 9 Recommendations, Partially Compliant with 17 Recommendations, and Non-Compliant with 19 Recommendations. One Recommendation was rated Not Applicable (NA). The Gambia was placed on the Expedited Regular follow-up process (annual reporting) immediately after the adoption of the MER in November 2008. However, as a result of failure to address some of identified strategic deficiencies in its AML/CFT regime, The Gambia was placed on the Enhanced Follow Up process from November 2011 to May 2014.

Through concerted efforts and high-level commitment, The Gambia was able to address the deficiencies and in November 2014, the GIABA Plenary returned The Gambia to Expedited Follow Up process. In line with the GIABA Mutual Evaluation Process and Procedures (ME P&P), The Gambia exited the follow-up process in November 2019 to enable the country prepare for its second round of mutual evaluation.

Chapter 1. ML/TF RISKS AND CONTEXT

42. The Republic of The Gambia is located in the West African region. It is the smallest country within mainland Africa. It is bounded in the east, north and south, by the Republic of Senegal and in the west by the Atlantic Ocean. The capital city is Banjul. The Gambia is one of the least developed countries in the world³ and is a low-income State⁴. The country was ranked 60th in the 2020 Global Peace index⁵ and is relatively peaceful.
43. The Gambia has a land area of 10,689 square kilometers⁶ and a population of 2.4 million (United Nations Population Fund estimate 2020)⁷, with Serrekunda and Brikama as the largest cities. The Gross Domestic Product (GDP) of The Gambia in 2019 was US\$1.76 billion⁸. The main economic drivers of The Gambian economy are tourism, agriculture and remittances. The Gambia is divided into five administrative regions [*Central River Region (CRR)*, *North Bank Region (NBR)* *Lower River Region (LRR)*, *Upper River Region (URR)* and *West-coast Region (WCR)*] and two city councils (*Banjul City Council*, and *Kanifing Municipal Council*). The administrative regions are further divided into Districts.
44. The Gambia is a constitutional democracy. It has a clear separation of powers, defined by the 1997 Constitution. The President is the head of State, the head of government and the Commander-in-Chief of The Gambia Armed Forces. Power is vested in the people, who are represented by the elected parliament. The Parliament is unicameral comprising 53 members, of which 48 are directly elected members and 5 are nominated by the President. The Parliament is led by a Speaker. Judicial power is vested in the judiciary, headed by the Chief Justice and comprising The Supreme Court; the Court of Appeal; the High Courts and Special Criminal Courts; the Magistrate Courts; Cadi Court, District Tribunals and other lower courts that may be established by an Act of the National Assembly. The Judiciary has jurisdiction in all civil and criminal matters throughout the country.
45. The laws of The Gambia, as defined in Article 7 of the 1997 Constitution, comprises the Constitution, laws enacted by the Parliament and subsidiary legislation made under those Acts, the common law, customary law and the Sharia law.
46. The Gambia is a member of the United Nations, African Union, World Trade Organization, Organization of Islamic Cooperation (OIC), African Development Bank (ADB), Economic Community of West African States (ECOWAS), and other international organizations. As part of ECOWAS, The Gambia is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), and endorsed the ECOWAS decision to adopt and implement the FATF standards and other relevant international instruments, including subjecting itself to mutual evaluation, aimed at combating money laundering

³ <https://www.un.org/development/desa/dpad/least-developed-country-category/ldcs-at-a-glance.html>

⁴ <https://data.worldbank.org/country/XM>

⁵ https://www.visionofhumanity.org/wp-content/uploads/2020/10/GPI_2020_web.pdf

⁶ The Gambia Bureau of Statistics, Demographic and Health Survey, 2013
<https://dhsprogram.com/pubs/pdf/FR289/FR289.pdf>

⁷ 2020 Population estimate by UNFPA <https://www.unfpa.org/data/world-population/GM>

⁸ <https://tradingeconomics.com/gambia/gdp>

(ML), terrorist financing (TF) and proliferation financing (PF) of weapons of mass destruction.

1.1 ML/TF Risks and Scoping of Higher Risk Issues

1.1.1 Overview of ML/TF Risks

47. According to The Gambia's NRA, The Gambia is exposed to medium money laundering (ML) risks. The main proceed generating ML predicate offences in the country are fraud, drug trafficking, theft/stealing or robbery, bribery and corruption, currency counterfeiting, trafficking in persons, forgery, migrant smuggling, environmental crime, and sexual exploitation. The Gambia's NRA describes cross-border trafficking of narcotic drugs (drug trafficking) as the main external threat. There is no overall estimate available of the value of criminal proceeds in The Gambia, and for the mentioned types of predicate offences, in particular. There is little information on the techniques used or the degree to which domestic or foreign proceeds are being laundered in The Gambia.
48. Drug trafficking is one of the criminal offences responsible for generating large volumes of criminal proceeds in The Gambia. The geographical position of the country makes it an attractive storage and transit route for illicit drugs (cocaine) from South America en route to Europe and other destinations. In 2010, about two tonnes of cocaine bound for Europe with a street value estimated at \$1bn was seized in The Gambia⁹. In 2019, substantial quantities of cocaine (56kg, 650g and 198mg) worth US\$2.3 million were seized¹⁰. Similarly, in January 2021, The Gambian authorities seized nearly three tonnes of cocaine (with a street value of about \$88 million¹¹) from a shipment of industrial salt originating from Ecuador, in one of the largest ever busts in West Africa¹². Drastic actions, including arrests and prosecution of drug traffickers have been made by the authorities over the years. For instance, in 2010, the President dismissed most of his senior security staff for their alleged involvement in drug trafficking, including the national Police chief and his deputy, the navy chief, the deputy army chief, the head of the National Drug Enforcement Agency, the deputy, and chief of operations¹³. In 2011, The Gambia sentenced eight foreign nationals to 50 years in prison for attempting to traffic 2.1 tonnes of cocaine worth about \$130 million into Europe¹⁴. Six hundred and ten (610) drug related arrests were made in 2019¹⁵, while in 2020, the authorities made 691 arrests (including local and foreign nationals) for drug trafficking¹⁶.
49. Bribery and corruption are yet another major ML threats in The Gambia that generate significant criminal proceeds. Transparency International's Corruption Perceptions Index

⁹ <https://www.bbc.com/news/10268510>.

¹⁰ Drug seizure statistics, 2019, provided by The Gambia

¹¹ <https://www.aa.com.tr/en/africa/gambia-arrest-warrant-for-suspect-in-largest-drug-bust/2111883>

¹² <https://www.reuters.com/article/uk-gambia-cocaine-idUSKBN29E09R>

¹³ <https://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West Africa TOC COCAINE.pdf>

¹⁴ <https://www.france24.com/en/20111012-gambia-jails-eight-foreigners-drug-trafficking-cocaine-50-years-prison>

¹⁵ Statistics provided by the country, 2021

¹⁶ Statistics provided by the country, 2021

ranked The Gambia 145th out of 176 countries in 2016¹⁷, underscoring the widespread corruption permeating all strata of the country. The findings of the Commission of Inquiry into the financial dealings of the former President, Yahya Jammeh, his family members and close associates¹⁸ highlight the systemic corruption and kleptocracy that hitherto characterised the country during that regime. Nevertheless, the country is taking steps to address corruption, and has managed to climb up the rankings in the past four years (102 out of 180 countries) in 2020¹⁹, and thus, ranks among the 50 percentile of the least corrupt countries.

50. With a reasonable diaspora population, The Gambia's remittance sector is an important source of revenue for the country. The National Development Plan (NDP), 2018- 2021, indicates that the diaspora population can be as high as 200,000, taking into account undocumented irregular migrants and the multigenerational diaspora²⁰. In 2017, estimated remittance inflow to the country was about US\$ 226.7 million²¹. In 2018, The Gambia was the second largest recipient of remittances in Sub-Saharan Africa in terms of Gross Domestic Product (GDP)²². It accounted for 15.09% of the total GDP in 2019²³. In 2020, remittance and capital transfers stood at \$588 million, a 78% rise compared with 2019²⁴. The NRA identifies informal money remitters as being high risk, with the size and activities of the sector being largely unknown to the authorities.
51. Banks have the strongest AML/CFT controls. The Gambia assessed the banking sector as having medium ML/TF risks because of the high transaction volumes, broad customer base, and varied products and services. The Gambia also identifies medium ML/TF risks for insurance companies, and other non-bank financial institutions (NBFIs), especially foreign exchange bureaus, remittance service providers, and Mobile Money service providers. The DNFBPs considered most vulnerable are the real estate agents (assessed as having high ML risk) due to the preponderance of cash transactions, the unknown number of operators and the lack of implementation of AML/CFT measures within this sector. Other DNFBPs assessed as having medium ML/TF risks include dealers in precious metals and stones (DPMS), lawyers, accountants/auditors, and casinos. The NRA identifies low ML/TF risks for the securities sector, Credit Union, and the VISACAS, given their level of development and nature of services they provide in the context of The Gambia.

¹⁷ https://images.transparencycdn.org/images/2016_CPIReport_EN_200406_153719.pdf

¹⁸ The Commission was established by the current government to investigate human rights violations, and other related issues including corruption by the previous administration- http://www.xinhuanet.com/english/2017-07/14/c_136442174.htm/

¹⁹ <https://www.transparency.org/en/cpi/2020/index/nzl>

²⁰ Gambia National Development Plan (NDP 2018-21), p.238, available at: <https://bit.ly/39G1paG>.

²¹ NRA

²² <https://www.chronicle.gm/gambia-sub-saharan-africas-2nd-biggest-recipient-of-remittances-as-a-share-of-gdp-world-bank/>

²³ https://www.theglobaleconomy.com/rankings/remittances_percent_GDP/

²⁴ <https://www.bloomberg.com/news/articles/2021-02-04/gambia-s-record-remittances-make-up-for-tourism-losses-imf-says#:~:text=Remittance%20and%20capital%20transfers%20stood,of%20its%20current%20IMF%20program.>

52. The predominance of cash transactions in the economy, large informal sector, and significant low capacity and resource constraints of competent authorities increase the country's vulnerability to ML/TF. Similarly, porous land borders, weak cash controls at the borders, weak application of preventive measures, especially by DNFBPs, and the lack of supervision of most DNFBPs for AML/CFT purposes also contribute to ML/TF vulnerabilities.
53. The NRA rates TF risk as low. The Gambia does not have any home-grown terrorist groups, or international terrorist organizations, groups or individuals operating within the country and has not suffered any terrorist attacks. In addition, no funds have been identified as either raised in and/or moved out of The Gambia for use in financing of terrorism within or outside of the country. There is also no evidence of Non-Profit Organizations (NPOs) in The Gambia being used for TF, and no known cases of terrorists on a global scale targeting The Gambia. Nonetheless, the NRA noted some factors that could make the country vulnerable to TF/terrorism. These include porous borders and low capacity of relevant authorities in monitoring and investigating TF. In addition, the NRA noted some concerns on the source of funding of some NPOs as some donors may be operating in countries with active threats of terrorism. The authorities have continued to monitor any potential activities that may support terrorism or that may be linked to terrorism and its financing.

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

54. The Gambia assesses its ML/TF risks formally through its NRA process. The World Bank risk assessment tool and the FATF Guidance on Assessing the Risk of ML/TF were adopted as the bases for the NRA. Experts from the World Bank and GIABA provided methodological support.
55. The process of developing the NRA was led by the Financial Intelligence Unit (FIU) and coordinated by the National Coordination Committee (NCC). The NRA was carried out by Technical Working Groups. The Working Groups consisted of representatives of relevant competent authorities (FIU, law enforcement agencies, supervisory authorities, etc) and private sector representatives²⁵. The NRA was conducted using the information obtained through interviews (meetings) and workshops, statistical and other data provided by government agencies and representatives of the private sector, open-source data, as well as expert opinions of the relevant agencies.
56. The NRA consists of an assessment of the national ML/TF threats and vulnerabilities and maps the inherent potential risk scenarios using ratings (i.e. very high, high, medium high, medium, medium low, and low) of individual threat and vulnerability profiles. All the risk levels indicated in the NRA are "residual risks", which were determined considering the effectiveness of the legal and institutional system, as well as the quality of compliance control systems across the sectors.
57. The NRA considered relevant data and information to adequately form conclusions about ML/TF risks. Nevertheless, certain shortcomings exist which could impact adversely on the overall understanding of the ML/TF risks in The Gambia. These include the absence of an assessment of ML/TF risk assessment of legal persons and arrangements, lack of in-depth assessment of NPOs, and the inadequate analysis of some inherent contextual factors that may influence the risk profile of a country, especially the informal economy (the features of the informal economy are not analysed in conjunction with the extensive use of cash in

²⁵ These include representatives of commercial banks, insurance companies, and some DNFBPs.

The Gambia). Furthermore, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in The Gambia. This gap is largely compensated for by other assessments (such as the banking sector risk assessment, and a study of the real estate sector) and operational activities of some of the competent authorities as evidenced by the level of understanding exhibited by some of the authorities during the onsite discussions.

58. The report of the NRA was formally adopted by the NCC on 26 November, 2020. The authorities have commenced the dissemination of the NRA report and its findings to the key stakeholders in the public and private sectors but this has not been widely done, especially for the private sector. Overall, the use of the results of its NRA to shape how The Gambia combats ML or TF is still at early stages. A four-year NRA-AP was developed based on the outcome of the NRA to address the key risks/deficiencies identified in the report. Implementation of the NRA-AP has commenced with some success recorded.

1.1.3 Scoping of Higher Risk Issues

59. In deciding what issues to prioritize for increased focus, the assessors reviewed material provided by The Gambia on their national ML/TF risks and information from reliable third-party sources (such as reports from other international organizations). The assessors focused on the following priority issues, which are broadly consistent with the issues identified in The Gambia's NRA.

- ***Informal Economy and Use of Cash:*** The Gambia is predominantly a cash-based economy with high informality index (informal economy). The preference for cash transactions by economic operators can facilitate the flow of money outside the conventional financial systems, thus making detecting illicit financial activity or tracking proceeds of crime quite difficult and this typically portends ML/TF risks. Transactions by DNFBPs, especially those within the high-risk sectors such as real estate agents are characterised by large cash transactions, while inadequate AML/CFT control measures are in place. The assessors paid particular attention to (a) the measures taken, including financial inclusion to minimise the use of cash and reduce the size of the informal economy; (b) extent the FIU is making effective use of cash transaction reports to identify ML and associated predicate offences; (c) the effectiveness of controls at the borders, and domestic cooperation between the Customs and other relevant authorities, with regard to cross-border physical transportation of currency and bearer negotiable instruments (BNIs); and (d) measures implemented by the financial sector, particularly banks, and real estate agents, to identify the source of funds in relation to cash transactions.
- ***Use of Financial Intelligence, and Investigation, Prosecution and Confiscation of Money Laundering:*** Fraud, drug trafficking, theft/stealing, bribery and corruption, and robbery are identified in the NRA as ML predicate offences that pose significant threat in The Gambia. The Assessment team focused on the extent to which ML is investigated as part of investigation of the main predicates and prosecution of ML offences arising from these predicates, and the extent to which confiscation of proceeds and instrumentalities of these crimes are pursued. Attention was also paid to the extent to which competent authorities access and use financial intelligence in ML investigations, effectively co-ordinate their actions when investigating ML resulting from the major predicate offences, as well as the extent to which relevant authorities are adequately resourced to identify and prosecute ML.

- ***Supervision of DNFBPs and Financial Institutions (FIs):*** GIABA Secretariat's Analysis of the 14th Follow-Up Report of The Gambia highlighted the lack of supervision of DNFBPs and some FIs for AML/CFT purposes. In light of the potential vulnerabilities and the weak supervision, particularly among DNFBPs and some key sub-sectors of FIs, the assessment team paid attention to supervisory authorities' understanding of sector risks (especially foreign exchange bureaus and remittance service providers, and the DNFBP sector, especially real estate agents, and lawyers); the extent to which these reporting entities are subject to a risk-based AML/CFT supervision; and the effectiveness of supervisory programmes. Also, assessors paid attention to the level of resources allocated, on a risk basis, to the supervision of FIs and DNFBPs for AML/CFT compliance, the nature and the extent of the supervisory actions, including the extent to which remedial actions and sanctions available are applied by supervisory authorities and their impact on reporting entities.
- ***Remittance Service Providers:*** Remittance is one of the major sources of foreign exchange to The Gambia. The NRA noted the activities of informal money remitters that could expose the country to the risks of ML/TF. Assessors paid attention to how effectively customer due diligence (CDD), transaction monitoring and other controls are applied within the sector, the actions taken by authorities to identify and close unlicensed providers and the extent to which emerging or new technologies are used in this area, and how the associated ML/TF risks are mitigated.
- ***The Real Estate Sector:*** Assessors paid special attention to how well operators of the sector understand its ML/TF risks and AML/CFT obligations, as well as the effectiveness of the measures to mitigate identified risks. Particular attention was paid to real estate agents, and lawyers (especially when they are involved in activities such as buying and selling of real estate). In addition, assessors focused on how the data and information obtained by real estate agents and lawyers is reliable and available to competent authorities.
- ***Vulnerabilities Related to Growth in Tourism:*** The tourism industry is a major contributor to the national economy of The Gambia. The NRA noted that the large number of tourists living temporarily in the country created an increased risk of sexual exploitation and potentially other crimes such as TF/Terrorism. The assessment team sought to understand the extent to which The Gambia has assessed and taken steps to mitigate the potential ML/TF risks posed by tourists as well as any resulting implications on the volume and nature of domestic predicate offences.
- ***Terrorist Financing:*** TF risk is rated low by the NRA. In view of the vulnerabilities identified in the NRA, including porous borders, low capacity of relevant authorities in monitoring and investigating TF, and some concerns on the source of funding of some NPOs as some donors may be operating in countries with active threats of terrorism, Assessors paid particular attention to TF detection and investigation and the extent to which NPO measures are being implemented.
- ***International cooperation:*** The Gambia is noted as one of the transit hubs / routes for illicit drugs, especially cocaine²⁶. The assessment team sought to understand international co-operation efforts pertaining to trans-national crimes such as drug

²⁶ https://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West_Africa_TOC_COCAINE.pdf;
https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/Statements63_02.03.2020/Country_03.03.2020/Gambia.pdf

trafficking and the extent to which the country pursues, through the different agencies including the Drug Law Enforcement Agency, the FIU, and the International Criminal Police Organisation (INTERPOL), necessary information, financial intelligence, and evidence to facilitates action against criminals and their assets.

1.1.4 Areas of Lesser Risk and Attention

60. The assessment team devoted lesser attention to the securities sector, Credit Unions and VISACAs due to their relatively lower level of ML/TF risks.

1.2 Materiality

61. The Gambia is a small, least developed economy, with a very narrow economic base. The country is heavily dependent on agriculture (one-third of GDP), tourism (one-fifth of GDP) and remittance (one-fifth of GDP)²⁷. Re-export trade accounts for almost 80% of goods exported, with China being the largest trading partner for both exports and imports.
62. The tourism industry accounts for approximately 16% - 20% of GDP, 18% of employment, and has attracted US\$ 45 million in foreign investment over the last 5 years²⁸. The tourism sector in The Gambia comprises accommodations, food and beverage services, recreation and entertainment, transportation and travel services. The sector has been susceptible to several external and domestic shocks, including the Ebola crisis of 2014 and the political impasse of 2016. Tourism had started to rebound in 2019 with tourist arrivals rising from 203,643 tourists in 2018 to 235,710 in 2019²⁹ until the outbreak of the COVID-19 pandemic, which negatively affected travel and tourism. The Gambia's comparative advantage is the proximity to Europe, all year-round tropical weather, English speaking populace, relatively low prices, peace and stability. The sizeable number of tourists living temporarily in the country creates an increased risk of sexual exploitation (NRA). Given the centrality and impact of the sector on the economy of the country, the sector is of significant importance in the AML/CFT context of The Gambia.
63. The Gambia has a sizeable remittance sector. From 2013 to 2017, remittance inflow to the country rose to US\$ 226.7 million³⁰. In 2018, The Gambia was the second largest recipient of remittances in Sub-Saharan Africa in terms of Gross Domestic Product (GDP)³¹. It accounted for 15.09% of the total GDP in 2019³². In 2020, remittance and capital transfers

²⁷ FIU of The Gambia, 2021

²⁸ The Gambia's tourism sector: Measuring its value chain and exploiting its potential", May 2019, - Ya Awa Nyassi Senior Planner, Ministry of Tourism & Culture of The Gambia. https://unctad.org/system/files/non-official-document/aldc2019_gambia_servicetrade_Nyassi_MOTC_en.pdf

²⁹ file:///C:/Users/hp/Downloads/Socio-Economic-Impact-COVID-19-Tourism-Gambia-Policy-Brief-2%20-UNDP-Gambia-April-2020.pdf

³⁰ NRA

³¹ <https://www.chronicle.gm/gambia-sub-saharan-africas-2nd-biggest-recipient-of-remittances-as-a-share-of-gdp-world-bank/>

³² https://www.theglobaleconomy.com/rankings/remittances_percent_GDP/

stood at \$588 million, a 78% rise compared with 2019³³. The main countries of origin of remittances are United States of America (USA), Italy, Spain, Germany, United Kingdom, France, Switzerland, Norway, Netherlands, Sweden, among others. Authorised licensees can provide remittance service, both for sending and receiving, up to a maximum of US\$10,000. Beyond formal channels, a survey in August 2019 suggests that 32.3% of The Gambia's total remittances were transferred through informal channels³⁴. Given the size of the sector, the volume of transactions, the activities of informal money remitters, and the cash-intensive nature of remittance services, the impact of this sector on the AML/CFT preventive system is of significant importance.

64. The Gambia's financial sector consists of commercial banks, insurance companies, foreign exchange bureaus, microfinance institutions and other non-bank finance companies. As at end of August 2021, The Gambia had 12 commercial banks, 8 of which are either subsidiaries or branches of foreign/ international banks (that is, foreign owned with over 75% ownership) while 4 are national banks. Similarly, out of the 11 insurance companies operating in The Gambia, 6 are wholly local while 5 have majority foreign ownership (ranging from 51% - 93%). There are 92 foreign exchange bureaus, 3 finance companies; 64 credit unions and other FIs.
65. Commercial banks dominate financial sector activity in The Gambia with a total asset base of about GMD58.82 billion (approx. US\$ 1.15 billion) at end of December 2020 - which is 70% of the total asset base [GMD84.029 billion (Approx. US\$ 1.64 billion)³⁵ of the entire financial sector. The banking sector handles large volume of activity or the largest number of transactions that occur in the financial system. It is interconnected with the international financial system and is therefore considered of greater importance in the AML/CFT context of The Gambia.
66. Other FIs, including insurance companies, collectively account for less than 1% (GMD3.708 billion) of the total financial sector assets (GMD54.57 billion (US\$ 1.07 billion)) as at end of 2019 (available information). Overall, given the size of these subsectors and the low level of operations they handle, their impact on the AML/CFT preventive system is of moderate significance, except the remittance service providers.
67. The vulnerability identified in the NRA relating to the high informality of The Gambian economy implies that the impact of DNFBPs on the AML/CFT system can be significant. Additionally, considering the problem of corruption as highlighted in the NRA, DNFBPs such as lawyers and real estate agents (recognised by the NRA as vulnerable to ML) are important actors in the ML/TF prevention system.
68. The size of the informal sector of The Gambia is significant and cash transactions are preponderant. Available data shows that over 60% of the population is engaged in the informal sector.³⁶ This simply means a substantial number of transactions are conducted outside the formal financial system. Though transactions in the informal sector are not

³³ <https://www.bloomberg.com/news/articles/2021-02-04/gambia-s-record-remittances-make-up-for-tourism-losses-imf-says#:~:text=Remittance%20and%20capital%20transfers%20stood,of%20its%20current%20IMF%20program.>

³⁴ <https://blogs.worldbank.org/african/how-covid19-changed-path-remittances-gambia#:~:text=Due%20to%20safety%20measures%2C%20COVID,4%20percent%20in%20September%202020.>

³⁵ FIU, 2021 – See Table 1 below.

³⁶ Financial Inclusion, 2021 by CBG. Available at file:///C:/Users/hp/Downloads/Financial-Inclusion.pdf

necessarily criminal in nature; nonetheless, the sector facilitates the development of illegal or criminal operations for lack of transparency and monitoring. The preponderant use of cash in transactions limits the transparency of economic actors and transactions, as well as heightens the difficulties in traceability of transactions. Although, The Gambia has taken some measures including the introduction of VISACAs, development of mobile money services, and the modernization of the payments system to reduce the level of cash transactions and the size of the informal economy, the informality index is still high and the use of cash in transactions is still prevalent and identified in the NRA as a risk factor for ML. The lack of policy on cash transaction limit further encourages widespread use of cash in transactions in the country. Overall, these factors constitute significant vulnerabilities, which may pose some challenges for the country in the effective implementation of the AML/CFT regime.

1.3 Structural Elements

69. In general, the key structural elements necessary for an effective AML/CFT system are present in The Gambia. Since 2017, the political environment has been largely stable and there is government accountability, the rule of law and an independent judiciary. There is strong political commitment to address AML/CFT issues. AML/CFT policy coordination is led by the NCC.

1.4 Background and Other Contextual Factors

70. The geographical position of The Gambia makes it vulnerable to abuse by transnational criminal organizations that continue to traffic various types of narcotic drugs from South America *en route* to Europe and other destinations. In January 2021, The Gambian authorities seized nearly three tonnes of cocaine from a shipment originating from Ecuador³⁷ – one of the largest seizures in the history of The Gambia.

71. Transparency International's Corruption Perception Index ranks The Gambia 102nd amongst 180 countries in 2020³⁸. This is one of the best results in the West African region for the year. The Gambia's percentile rank for the control of corruption in the Worldwide Governance Indicators likewise shows a marked improvement from 29.1 in 2017 to 45.19 in 2019³⁹. According to the 2019 Ibrahim Index of African Governance, The Gambia experienced significant improvement in governance quality in 2019, ranking 16th out of the 54 countries⁴⁰ from 33rd in 2016⁴¹. The current government has taken some steps to strengthen the anti-corruption fight in the country, including the establishment of the Commission of Inquiry and a Truth, Reconciliation and Reparations Commission, which amongst other things, had the mandate to investigate cases of alleged corruption, abuse of office and financial dealings by the previous administration. The government is also strengthening existing anti-corruption institutions (e.g., the National Audit Office (NAO), The Gambia Police Force, Finance and Public Accounts Committee (FPAC), Public

³⁷ <https://www.reuters.com/article/uk-gambia-cocaine-idUSKBN29E09R>

³⁸ <https://www.transparency.org/en/cpi/2020/index/nzl>

³⁹ <http://info.worldbank.org/governance/wgi/home/reports>

⁴⁰ <file:///C:/Users/hp/Downloads/2020-index-report.pdf>

⁴¹ <https://espas.secure.europarl.europa.eu/orbis/sites/default/files/generated/document/en/2017-IIAG-Report.pdf>

Enterprises Committee (PEC), The Gambia Public Procurement Authority (GPPA) and the Ombudsman), undertaken legal reforms, including ongoing process to repeal the Anti-Corruption Act, 2012, and plans to establish an independent Anti-Corruption Commission⁴².

72. The level of financial inclusion in The Gambia is low (35%)⁴³. The authorities are promoting financial inclusion by extending financial services through Microfinance Institutions (MFIs), VISACAs and the development of mobile money services. The usage of mobile money is gradually increasing in money transfers and popularity while other electronic payments and ATM usage are limited in urban areas and non-existent in rural settings. The Central Bank of The Gambia (CBG) and some private sector investors have established the GAMSWITCH aimed at facilitating financial inclusion through digital technology. The GAMSWITCH provides an avenue for expanding digital financial services through Points of Sale (POS), Automatic Teller Machines (ATMs), internet banking, and has the potential to reduce the level of cash transactions.⁴⁴ Although banks are offering some products such as agency financial services, mobile money services (mobile wallets - Qodoo, Afrimoney), cash power top-ups, Agency Banking, Xpress Account, and Rapid Transfer to encourage the use of the formal financial system, the NRA noted that their adoption is still minimal.
73. The FIU is a central operational entity in The Gambia's AML/CFT regime. In addition to its core functions (receipt, analysis and dissemination), the FIU is the competent authority with designated AML/CFT supervisory responsibility for both FIs and DNFBPs.

1.4.1 AML/CFT strategy

74. The Gambia has developed a four-year National ML/TF Risk Assessment Plan (2020-2023) based on the outcome of the NRA to address key risks/deficiencies identified in the report. The Plan highlights the key gaps identified in the NRA, the proposed measures/actions to be taken, expected outcomes, timelines for the implementation of each activity, as well as duly assigned responsibilities among stakeholder institutions. However, there is no implementation monitoring mechanisms for the Plan.
75. The Gambia has a National Security Strategy (2019) which incorporates TF elements. The Strategy brings together priorities across areas of national interest including, national security, counter-terrorism, transnational organised crime, and corruption. Overall, the National Strategy aims to guide the strategic direction and help further co-ordinate actions and guide prioritization. The Strategy has five pillars, including cooperation and collaboration amongst security forces. In addition, the country is on the verge of finalising a National Counterterrorism Strategy. On completion and adoption, this is expected to supplement or reinforce the National Security Strategy. Notwithstanding, specific issues of the financing of proliferation of weapons of mass destruction are not addressed in the National Security Strategy.

⁴² <https://www.statehouse.gm/intervention-president-adama-barrow-theme-year-%E2%80%9Cwinning-fight-against-corruption-sustainable-path>

⁴³ Financial Inclusion, 2021 by CBG. Available at file:///C:/Users/hp/Downloads/Financial-Inclusion.pdf

⁴⁴ Financial Inclusion, 2021 by CBG. Available at file:///C:/Users/hp/Downloads/Financial-Inclusion.pdf

1.4.2 Legal & institutional framework

76. The legal framework for AML/CFT in The Gambia is set out in the AML/CFT Act and regulations, the Criminal Code, the Criminal Procedure Code, the Drug Control Act (DCA) and related documents adopted by the Parliament and competent authorities in line with the Constitution of the country. The legal framework covers the criminalisation of ML, establishment and functions of the FIU, national coordination, preventive measures and supervision; provisional measures to prevent the dissipation of suspected proceeds and instrumentalities of crime, as well as terrorist funds and other resources; confiscation of proceeds and instrumentalities of crime; and international cooperation, including MLA and extradition.
77. There are concerns regarding subsidiary legislation issued by The Gambian authorities to ensure the effective implementation of some AML/CFT requirements. Section 11(d) of The Gambia's Interpretation Act, No. 11 of 1968 states that "subsidiary legislation shall be published in the Gazette and shall have the force of law upon the publication thereof or from the date named in the legislation". This is considered a fundamental principle of The Gambia's domestic laws⁴⁵ regarding the enactment of subsidiary legislation. Section 3 of the same Act defines "subsidiary legislation" to mean "any Proclamation, rule, regulation, Order, Notice, by-law or other instrument made under any Act or by or under any other lawful authority and having legislative effect". The Gambian authorities have issued AML/CFT Guidelines for FIs and DNFBPs; Regulation for the Provision of Mobile Money Services and Regulations to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures). However, these subsidiary legislation have not been published in the Gazette. Consequently, they are not considered in assessing The Gambia's technical compliance with the FATF Recommendations. Where the analysis of any criterion relies solely on the AML/CFT Guidelines, the criterion is considered as "Not Met" even though the instrument (Regulation/Guideline) is referenced. In addition, where the primary and subsidiary legislation are cited in the technical compliance analysis, the conclusion considered only the primary legislation. The non-consideration has impact on the analyses of Recommendations 1, 6, 7, 10, 12, 13, 14, 15, 16, 18, 19, 22, 25, 26, 27, 34 and 35. Also, assessment of the effectiveness of the AML/CFT system of The Gambia considered some measures taken in furtherance of the subsidiary legislation to facilitate the effective implementation of AML/CFT requirements, bearing in mind that the AML/CFT Act imposes a substantial number of obligations on reporting entities.
78. The AML/CFT Act establishes the NCC as the highest AML/CFT coordination body in The Gambia. It is responsible for fostering national coordination and cooperation and also oversees the implementation of the AML/CFT regime at the policy level. The Ministry of Finance and Economic Affairs chairs the Committee, with the FIU as the Secretariat.

⁴⁵ Fundamental principles of domestic law refers to the basic legal principles upon which national legal systems are based and which provide a framework within which national laws are made and powers are exercised. These fundamental principles are normally contained or expressed within a national Constitution or similar document, or through decisions of the highest level of court having the power to make binding interpretations or determinations of national law.

Membership of the NCC is drawn from all relevant authorities⁴⁶ involved in the implementation of AML/CFT in the country.

79. The institutional framework for AML/CFT is broad, involving a range of authorities. The key institutions responsible for AML/CFT in The Gambia include:

- **Attorney General’s Chambers and Ministry of Justice** is responsible for enforcing legislation on criminal law, as well as registration of companies, associations, and foundations. It also coordinates the prosecutions of criminal cases, including those related to ML/TF and plays key roles in international cooperation, including serving as the Central Authority for inbound and outbound requests for Mutual Legal Assistance (MLA) and extradition or giving effect to MLA and extradition requests.
- **Ministry of Finance and Economic Affairs** provides general support and ensures adequate funding for effective implementation of AML/CFT measures. The Ministry chairs the NCC which is the highest oversight body on AML/CFT in the country.
- **Ministry of Foreign Affairs, International Cooperation and Gambians Abroad** is responsible for transmitting the lists designations made by the United Nations Security Council related to terrorism, its financing, including notification of changes, to relevant competent authorities. It also coordinates all engagements with the relevant UN Committees on sanctions related matters. It is also responsible for the transmitting of MLA request received or sent via Diplomatic Channel.
- **Drug Law Enforcement Agency of The Gambia (DLEAG)** is responsible for combatting illicit drug trafficking. It has mandate for implementing all the measures for prevention, control and suppression of at the national level, and also to coordinate with other relevant authorities at international level, the fight against illicit trafficking in narcotics. Its mandate extends to the investigation of narcotic offences and related ML.
- **The Gambian Police Force (GPF)** is primarily responsible for law enforcement and crime investigation throughout The Gambia. Its mandates include to prevent crime, protect life and property, detect and prosecute offenders, maintain public order and ensure safety and security. The investigative functions of the Police, including investigation of financial crimes are conducted by the Anti-Fraud Squad Unit. Other Units that investigate predicate offences that are not fraud or financial crime related, include the Anti-Crime Unit, Serious Crimes Unit, and the Criminal Intelligence Unit.
- **Financial Intelligence Unit (FIU)** is responsible for receiving and analysing STRs and other information and disseminating the resultant financial intelligence to relevant competent authorities. The FIU also has mandate to supervise reporting entities (FIs and DNFBPs) for compliance with their AML/CFT obligations. It serves as the Secretariat of the NCC and also GIABA’s focal point on AML/CFT matters in The Gambia.

⁴⁶ The NCC comprises of the Ministry of Finance and Economic Affairs; Ministry of Justice; Ministry of the Interior; Central Bank of The Gambia; National Drug Law Enforcement Agency; Gambia Police Force; Gambia Revenue Authority; Gambia Immigration Department; State Intelligence Service (National Intelligence Agency); Ministry of Lands and Regional Governments; Ministry of Foreign Affairs; Ministry of Trade; Regional Integration and Employment, Gambia Institute of Chartered Accountants and Geological Department; Self-regulatory Organizations; and Designated Non-Financial Businesses and Professions.

- **Gambia Revenue Authority (GRA)** is responsible for the implementation of revenue and customs legislation within The Gambia. The Customs Department under the GRA manages The Gambia's cross border declaration system whereby currency and BNIs over USD10,000.00 or the equivalent being transported into or outside The Gambia through its entry and exit points must be declared.
- **State Intelligence Services (SIS)** coordinates the implementation of the Regulation on Combating the International Financing of Terrorism (Freezing, Seizure, Confiscation and Other Related Measures), 2014. Its functions also include the collection and assessment of any intelligence that may constitute a threat to the security of The Gambia and protecting the country from threats, including terrorism, money laundering and other serious crimes.
- **Courts** are responsible for resolving conflicts, prosecuting crimes, and ensuring the protection of the rights of citizens. The High Court of The Gambia has original jurisdiction for adjudication of cases relating to ML/TF.
- **The Gambia Tourism Board (GTB)** is responsible for licensing and regulation of casinos. It supervises casinos for prudential purposes.
- **Geological Department** supervises dealers in precious metals and stones for prudential purposes.
- **Central Bank of The Gambia (CBG)** supervises all financial institutions, including insurance companies operating in The Gambia. It is responsible for prudential supervision and regulation for all FIs.

1.4.3 Financial sector, DNFBPs and VASPs

80. This section gives general information on the size and make-up of the financial, and DNFBPs in The Gambia. Not all of the sectors are of equal importance, given the specific risks and context of The Gambia system. The level and types of ML/TF risks affecting individual reporting entities vary greatly, as do the ML/TF risks facing particular sectors.

81. An overview of the financial and non-financial sector is provided in Table 1.1 below. There are gaps in information available, particularly for DNFBPs. There are no VASPs licensed or registered in The Gambia.

Table 1.1 - Type & number of FIs and DNFBPs in The Gambia as at December 2020

Reporting Entities	Number	Size of the Sector (Total Asset Base in Dalasi)	% of the total asset base of the Financial Sector	Estimated % of GDP ⁴⁷
Financial Institutions				
Commercial Banks	12	58,820,091bn	70%	Based on real GDP = 95.49% Based on nominal GDP = 62.38%
General Insurance	9	572,917m	0.69%	Based on real GDP = 0.96%

⁴⁷ FIU, 2021 – Sourced from Gambia Bureau of Statistics website (GBOS)- www.gbosdata.org. The estimated percentage of GDP was arrived at using both Real GDP (GMD61.6 billion) and nominal GDP (GMD 94.3 billion) as at end December 2020

				Based on nominal GDP = 0.62%
Life insurance	2	183,910m	0.22%	Based on real GDP = 0.30%
				Based on nominal GDP = 0.20%
Insurance brokers	10	Not Available (NA)	NA	NA
Insurance agents	264	NA	NA	NA
Foreign Exchange Bureaus	127	19,964,704 (Market Turnover)	23.93%	NA
Credit Union	54	2,103,220bn	2.52%	Based on real GDP = 3.41%
				Based on nominal GDP = 2.23%
Finance companies	3	2,006,500bn	2.40%	Based on real GDP = 3.25%
				Based on nominal GDP = 2.12%
Mortgage companies	1	NA	NA	NA
Mobile Money Service Providers	2	356,161m	0.43%	Based on real GDP = 0.58%
				Based on nominal GDP = 0.38%
Remittance Service providers ⁴⁸	Not available (NA)	NA	NA	NA
VISACAs	25	NA	NA	NA
DNFBPs				
DPMS	7	NA (Not available)	NA	NA
Casinos	14	NA	NA	NA
Real Estate agents ⁴⁹	52	NA	NA	NA
Accounting firms	NA	NA	NA	NA
Auditors (sole practitioner or partner /employee of audit firm)	8	NA	NA	NA
Lawyers	275	NA	NA	NA

Source: The Gambia

82. The assessors ranked the sectors based on their relative importance in The Gambia's context given their respective materiality and level of ML/TF risks. The assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report, but is most evident in IO.3 and IO.4. Overall, the Assessment team gave the highest importance to commercial banks, remittance service providers, foreign exchange bureaus, lawyers and real estate agents based on market share,

⁴⁸ The number of Remittance Service Providers was not provided by the country.

⁴⁹ This represents only the number of real estate agents that voluntarily registered with the AREC (Self Regulatory Body for the real estate sector). Membership of this association is not compulsory. There are many agents that have not registered with AREC.

exposure to ML/TF risk, the volume of transactions, the cash-intensive nature of activities (especially remitters, lawyers and real estate agents), weak implementation of AML/CFT measures (especially lawyers and real estate agents), and insufficient AML/CFT supervision. Casinos and DPMS are weighted as moderately important based on exposure to ML/TF risks and lack of AML/CFT supervision. Insurance and securities sectors, other FIs and DNFBPs were considered as less important.

Heavily weighted

83. Banks, foreign exchange bureaus, remittance service providers, real estate agents and lawyers are weighted as heavily important based on their materiality and risk:

- a) The **banking sector** offers mainstream financial services, including current accounts, savings accounts, loans, mortgages, cash withdrawals, domestic and international transfers to the mass market and plays a predominant role in the country with 62.38% contribution to GDP as at 2020 (see Table 1.1 above). While the sector was assessed in the NRA as presenting a medium ML/TF risk because of reasonable AML/CFT control measures in place, however, given the relative size, volume and value of transactions, compliance challenges in some of the banks, ease of access and connection to international financial systems, the banking sector is weighted **heavily important** or most significant throughout this assessment.
- b) **Remittance service providers** – Operators in the remittance service providers sector include foreign exchange bureaus licences for this service, Ria, MoneyGram, Western Union, etc. The exact number of providers is not known as there are also cases of informal money remitters. Assessors considered the ML and TF risks associated with this sector globally, which could be regarded as high. From 2013 to 2017, remittance inflow to The Gambia rose to US\$226.7 million⁵⁰. In 2018, The Gambia was the second largest recipient of remittances in Sub-Saharan Africa in terms of Gross Domestic Product (GDP)⁵¹. The sector accounted for 15.09% of the total GDP in 2019⁵². In 2020, remittance and capital transfers stood at \$588 million, a 78% rise compared with 2019⁵³. The remittance sector was rated as medium for ML risk in the NRA. The Assessors weighted the sector **heavily important** because of its significant contribution to GDP (15.09% in 2019); the context of The Gambia being a cash-based society and remittance largely involving cash transactions, as well as the involvement of cash and movement of cross-border funds; their easy access; the inherent high risk features of remittance service providers that can be abused for the purposes of both ML and TF; the activities of informal money remitters (NRA); and the lack of AML/CFT supervision of this sector which further increases the ML/TF risks relative to activities of the sector.

⁵⁰ NRA

⁵¹ <https://www.chronicle.gm/gambia-sub-saharan-africas-2nd-biggest-recipient-of-remittances-as-a-share-of-gdp-world-bank/>

⁵² https://www.theglobaleconomy.com/rankings/remittances_percent_GDP/

⁵³ <https://www.bloomberg.com/news/articles/2021-02-04/gambia-s-record-remittances-make-up-for-tourism-losses-imf-says#:~:text=Remittance%20and%20capital%20transfers%20stood,of%20its%20current%20IMF%20program.>

- c) **Real estate sector:** The exact number of entities operating in the real estate sector in The Gambia is not known as there are many unregistered players. Key players or operators in the sector include real estate agents, real estate developers, and lawyers. As at the time of onsite, only 52 real estate agents have registered with Association of Real Estate Companies (AREC)⁵⁴. The sector is assessed in the NRA to have a high ML risk largely because of the preponderant use of cash to finance real estate transactions (outside the regulated financial sector), as well as the high patronage of The Gambians in diaspora. In addition, there is weak implementation of AML/CFT measures. Assessors took into consideration these factors, as well as the fact that real estate are usually the ML asset of choice, the lack of regulation, and limited AML/CFT supervision of the sector and weighted the sector as **heavily important**.
- d) **Lawyers** in The Gambia provide different types of services, including purchasing and selling of real estate (or arranging for the purchase and sell of real estate); managing of client assets, and creation of companies. The cash nature of business in the real estate sector, and other services such as creation of companies, as well as the low awareness of ML/TF risks and AML/CFT obligation, make lawyers /legal professionals exposed to ML risk, and thus they were assessed in the NRA as having Medium-Low ML/TF risk. Assessors considered these factors, as well as their easy access, coupled with lawyers' gatekeeper role and use in every phase of ML/TF in weighting them as **heavily important**.
- e) **Foreign exchange bureaux** – There are 127 registered bureaux which provide currency exchange service. Some of them also offer remittance services (NRA) which further increases the ML/TF risk presented by the sector. They are assessed in the NRA to have a medium ML/TF risk, because of the cash intensive nature of their business and the fact that transactions are done without proper due diligence. Assessors took into consideration these factors as well as the activities of unregistered bureaux, the ease of access, and the ability to process large cash transactions and weighted the sector as **heavily important**.

Moderately important

84. Casinos and DPMS are weighted as moderately important:

- a) **Casinos:** As at on-site date, there were 14 licensed casinos in The Gambia. Casinos were assessed as presenting a medium-high ML risk in the NRA due to the highly cash intensive nature of their activities, poor implementation of AML/CFT measures; weak licensing regime, and lack of AML/CFT supervision (although they are monitored by the CBG for prudential compliance). In addition, casino-based tourism⁵⁵ was identified in the NRA as a risk of ML as it involves cross border movement of people and funds. Casinos interviewed stated that the volume of their transactions and level of patronage were low. In addition, some of the casinos are relatively small businesses. In view of the size and volume of transactions, as well as prudential supervisory measures in place, assessors weighted this sector as **moderately important**.
- b) **DPMS:** The Gambia's mining industry is not developed, nor does the country possess large, discovered deposits of precious minerals or gems. DPMS in The Gambia mainly facilitate

⁵⁴ AREC is a voluntary association and lacks legal basis for supervisory oversight, including the power to sanction for non-compliance

⁵⁵ The Gambia is a tourist country and attracts many visitors who normally come in with cash whose source could not verified.

the importation of raw gold purchased on behalf of their customers from countries in the West African region (for example, Ghana, Mali, Senegal and Sierra Leone) and exportation of the same to foreign destinations, especially Dubai in the United Arab Emirates (UAE) and Angola. The Gambia has weak measures in place to regulate the importation and exportation of gold, including pre-departure screening (e.g. verification of weight, quantity, source, destination and documentation). Although The Gambia's NRA identifies the smuggling and purchase of precious metals and stones as potential conduits for ML/TF, it does not assess the DPMS sector to ascertain the depth of the sector's exposure to ML/TF risks. There are seven (7) registered dealers and also presence of unlicensed dealers in the country. Thus, there is no exact information on the number of DPMS in The Gambia, as well as the total trade (import and export) value of gold. Details on the size and makeup of the sector are unclear while The Gambia is being used as a transshipment point. In 2018, the Joint Airport Interdiction Task Force (JAITF) seized 33.5kgs of gold at the Banjul airport⁵⁶ while airport authorities in Istanbul, Turkey, seized 59.47 grams of gold dust following a search in the luggage of an inbound passenger from The Gambia.⁵⁷ In view of the small size of the sector and the absence of specific cases of misuse of the sector for ML/TF in The Gambia, the assessors weighted this sector as **moderately important**.

Less important

85. The insurance sector, securities sector and other financial institutions and DNFBBPs are weighted as less importance:

- a) **Insurance** - There are 11 insurance companies with 10 brokers and 264 agents. The market is underdeveloped with 9 companies, including Takaful (Islamic operator) underwriting general insurance business (i.e. non-life) and two underwriting life insurance. The NRA assessed the sector as Medium-Low risk. Assessor assigned less importance to the sector due to the lack of evidence of ML, small size and low penetration, and little contribution to the GDP (**0.06%** of GDP in 2020).
- b) The **Securities sector** comprises Treasury Bills, Sukuk Al- Salam, Pension Schemes, Fixed Deposits and Government Bonds. The sector was assessed as having low ML risk in the NRA. In the absence of a capital market in the country/ lack of trading in the capital market, and the fact that no case of ML has been linked to the sector, the sector is weighted less important.
- c) **Other FIs**, including Microfinance institutions, mobile money service providers, Credit Unions, VISACAs and **DNFBPs** such accountants/auditors, are weighted less important because of their small size, general low volume of transactions, existence of some control measures largely commensurate with their level of risks; and the fact that no case of misuse has been reported. The NRA found these to have, in general, a medium to low ML/TF risks.

56 Midterm Report of the UNODC Regional Programme for West Africa Two Years of Implementation July 2016 to July 2018 Published in November 2018.

57 Page 65, Fight against Smuggling Crimes, 2019.

1.4.4 Preventive measures

86. The AML/CFT Act is the main legal basis of AML/CFT obligations on the FIs and DNFBPs. The preventive measures apply to both FIs and DNFBPs and require them to apply CDD measures; keep records; file STRs to the FIU, undertake ML/TF risk assessment, etc. In addition to the AML/CFT Act, the FIU and CBG have issued AML/CFT Guidelines under the AML/CFT Act. However, while these Guidelines impose more detailed requirements on FIs and DNFBPs, they are not enforceable means within the meaning of the FATF standards and under the laws of The Gambia due to the lack of publication in the Gazette (see section 1.4.2). All categories of FIs and DNFBPs as required by the FATF Standards, except VASPs are covered by the preventive measures. Although the AML/CFT law does not expressly provide for simplified due diligence and exemption, these could be implied from the requirement for reporting entities to apply risk-based approach (RBA) in the Guidelines to FIs and DNFBPs⁵⁸. Neither the AML/CFT Act and nor the AML/CFT Guidelines require FIs and DNFBPs to incorporate the results of the NRA into their independent risk assessments.
87. Since the last Mutual Evaluation in 2008, The Gambia enacted a new AML/CFT Act in 2012 to improve consistency with international standards. The preventative framework is broadly in line with requirements of the FATF standards. However, some technical deficiencies remain, as outlined in the TC Annex. The Gambia is drafting a bill to amend the AML/CFT Act 2012 to address the observed deficiencies in the country's AML/CFT regime.

1.4.5 Legal persons and arrangements

88. The types of legal persons that can be created comprise companies (private limited liability companies, companies limited by shares, companies limited by guarantee, and branch of a foreign company/external companies); partnerships (limited partnership, general partnerships, firms); sole proprietorships (sole trader, individual entrepreneurship or proprietorship); and charitable bodies (charitable organisations, associations & foundations.⁵⁹ The Companies Act establishes the framework that regulates the different types and forms of legal persons in The Gambia as well as their characteristics, the process for their formation, and the information required to establish these types of legal persons. No risk assessment has been conducted in relation to understanding the vulnerabilities legal persons created in The Gambia are exposed to.
89. The Companies Department in the Ministry of Justice is responsible for registering various categories of businesses and charitable bodies in The Gambia. Basic information on the creation and the types of legal persons in The Gambia is not publicly available on the websites of Ministry of Justice (**Error! Hyperlink reference not valid.**www.moj.gm/companies-division). The Companies' Registry is not required to obtain and maintain BO information on legal persons. Consequently, reporting entities constitute the main sources for such information. However, the NRA highlights challenges regarding the availability of BO information.

⁵⁸ Para.2.2 of the AML/CFT guidelines for FIs, 2015 issued jointly by the FIU and CBG, and Paras 2.4, 2.5 and 8.13 of the AML/CTF Guidelines for DNFBPs 2016 issued by the FIU.

⁵⁹ <https://www.moj.gm/companies-division>

90. The laws of The Gambia permit the creation and operation of Trusts which are also recognised in most other common law jurisdictions. However, the authorities and reporting entities advised that the use of this vehicle in the country is extremely minimal. Generally, they are used for a range of purposes such as holding vehicles for family assets (such as the family home). The Companies Act, 2013, governs trusts and requires their registration with the Registrar General. However, the Trust Deeds are not filed with the Registrar while the management of trusts resides with legal practitioners. As at the onsite, only two Trusts Deeds were registered since 1983. Considering that professional trustees are not expressly required to disclose their status to FIs and DNFBPs when forming a business relationship, the lack of registration offers a high level of anonymity and the potential misuse of trusts created in The Gambia.⁶⁰ No information or statistics were provided on other types of trusts created in The Gambia. There is no information regarding the operation of foreign trusts in The Gambia.
91. Associations acquire legal personality upon registration. Associations may be registered with the Registrar of Companies as corporate bodies on authorisation by the community or association and subject to the provisions of the Companies Act.
92. The breakdown of legal persons registered in The Gambia is presented in Table 1.2 below

Table 1.2 -Types of Legal Persons and Arrangements in The Gambia as at August 2021.

Entity	Number	Description
Legal Persons		
Sole Proprietorship	232	A sole proprietorship is a type of business that is owned by one person. Sole proprietorships are easy to form unlike other business entities, and the owner benefits from the sole control of the business profits. As there is no legal distinction between the owner and the business entity, the owner is personally liable for all business losses and liabilities.
Private Limited Liability Companies	35	A private company means a company which by its articles (a) restricts the right to transfer its shares; (b) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, member of the company; (c) prohibits an invitation to the public to subscribe for any shares or debentures of the company. Two or more persons holding one or more shares jointly in this type of company are treated as a single member.
Companies Limited by Shares	NA	A company limited by shares means a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them.
Unlimited company	NA	Unlimited company means a company not having any limit on the liability of its members.
Companies Limited by Guarantee	4	A company limited by guarantee means a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.
Public Limited Liability Companies	NA	It is a company in which the liability of the members to contribute towards the assets of the company's debts upon winding up is limited. A Company may be limited either by shares or guarantee. Where a company is limited by shares, the member's liability is limited by the memorandum of Association to the amount unpaid on his shares when the Company is wound up.

60 Case 8:20-Cv-02071, Document 1 Filed 07/15/20, United States District Court for the District of Maryland United States of America, Plaintiff v. Real Property Located in Potomac, Maryland, Commonly Known As 9908 Bentcross Drive, Potomac, MD 20854 and all Appurtenances, Improvements, and Attachments Located Thereon, and any Property Traceable Thereto.

Branch of a Foreign company/External Companies	2	As per Section 584 of the Companies Act applies to foreign Companies, that is, companies incorporated outside the Gambia which after the commencement of this Act, establish a place of business within the Gambia.
Partnership	NA	Partnership is a relationship that subsists between persons carrying a business in common with a view to make profit.
Limited Partnership	NA	Limited partnership is formed by two or more persons which has one or more general partners and one or more limited partners and can carry on a banking business; a trust business; the business of Insurance, reinsurance, insurance agent, insurance adjuster or insurance broker.
General Partnerships	5	A General Partnership is a partner who is not limited a partner. A partner under the General Partnership is an agent of the firm and of the other partners for the purpose of the business of the partnership. Furthermore, an act done by a partner apparently connected with the ordinary course of business of the firm is binding on the firm and all the partners unless the partner so acting has no authority to act for the firm in the particular matter; and the person with whom he or she is dealing either knows that he or she has no authority or does not know or believe him or her to be a partner.
Firms		A firm means the group of persons who have entered into partnership with one another.
Co-operative Societies	NA	A group of societies whose object is to promote the economic interests of its members in accordance with co-operative principles or established with the object of facilitating its operations. They can be registered under the Co-operative Societies Act (CAP. 50:02) with or without limited liability provided that the liability of a society which includes at least one registered among its members shall be limited.
Legal Arrangements		
Foundations	NA	A Foundation is registered under the Companies Act 2013 as a Charitable Organisation/Association and its operational objective is beyond a single community level. A foundation is a separate legal entity similar to Limited companies but with an executive board and members as beneficiaries and not shareholders. It can be legal, created with a Constitution or a Memorandum and Article of Association which expresses its objectives and powers. However, a Foundation aiming to promote Sports or Education or Culture and related matters is registered as a Company Limited by Guarantee with a memorandum and article of association of the Company.
Community-Based Organisation (CBO)	278	A Community-Based Organisation is an organisation that provides social services at the local level. It is a non-profit organisation which operates within the confines of a particular community.
Non-Community-Based Organisation (Non-CBO)	43	A Non-Community-Based Organization (Non-CBO) is generally a formally structured organisation which operates beyond one's community or nationally and even internationally as the case may be. They are primarily concerned with development projects, or advocacy NGOs, which are primarily concerned with promoting a cause.

Source: The Gambia

1.4.6 Supervisory arrangement

93. The FIU has the mandate to supervise reporting entities (FIs & DNFBPs) with the requirements set out in the AML/CFT Act (§§5(e), 13 and 14, AML/CFT Act). Thus, the FIU is the primary competent authority with designated AML/CFT supervisory responsibility for overseeing compliance with AML/CFT requirements, including the implementation of TFS by FIs and DNFBPs. The FIU conducts joint AML/CFT onsite examination of banks with the CBG. The final AML/CFT onsite examination reports are transmitted to the banks by the FIU which is responsible for ensuring implementation of the remedial actions by the examined banks. There is no AML/CFT supervisory arrangements for VASPs in The Gambia.
94. The CBG participates in the AML/CFT examination of banks (as noted above). The CBG recently (August 20, 2021) created an AML/CFT Unit to further strengthen its role in AML/CFT activities, including collaboration with the FIU on AML/CFT inspections. The CBG also plays an important role in The Gambia's AML/CFT regime through

representation at the FIU Board, as well as the issuance of AML/CFT Guidelines⁶¹. In general, it is responsible for licensing and prudential supervision of all FIs, including banks, insurance companies and foreign exchange bureaus in The Gambia.

95. Registration and licensing of DNFBPs are undertaken through other legislation by a range of competent authorities or self-regulatory bodies, including Gambia Tourism Board; Geological Department; General Legal Council and The Gambia Institute of Chartered Accountants.

i. International cooperation

96. The Gambia has close cooperation with ECOWAS countries and other jurisdictions, including China (its major trading partner) and the United Kingdom with which it has strong economic and cultural ties. In general, The Gambia's system for international cooperation allows it to request and exchange information in the absence of formal cooperation agreements.
97. The Attorney-General is designated by the AML/CFT Act as the Central Authority for MLA in The Gambia and is responsible for receiving MLA requests from foreign jurisdictions and sending MLA requests to foreign jurisdictions. The Gambia can provide MLA to another country based on treaties, individual agreements or the principle of reciprocity. Such assistance includes the search, seizure and confiscation of property and other measures necessary to recover property subject to confiscation.
98. The country's extradition procedures are laid out in the Extradition Act 1986, which governs the extradition of persons to and from The Gambia. The Extradition Act designates the Attorney-General as the Central Authority for extradition. ML and TF are extraditable offences in The Gambia.
99. LEAs cooperate with foreign partners and have made and received requests on cases with their foreign counterparts regarding predicate offences via bilateral agreements. For instance, the DLEAG has bilateral agreement with its counterparts in Senegal, Guinea Bissau and Nigeria. The FIU has signed 17 Memorandum of Understanding (MoUs) with other FIUs, including FIUs in the GIABA region to facilitate exchange of operational information and one agreement is under discussion. As at the date of the onsite visit, the FIU had exchanged information with some of its foreign counterparts, including the FIUs of Ghana, Sierra Leone, Senegal, Liberia, Bangladesh and France. The FIU, as the designated AML/CFT supervisor, is authorised to cooperate and exchange information with authorities of other countries performing similar functions. However, this is being done through the CBG. The CBG cooperates in the supervision of the financial market and exchanges information to the extent necessary for the performance of its tasks. Overall, The Gambia engages in areas of informal international cooperation. Competent authorities also participate in various international AML/CFT fora and networks.

⁶¹ The CBG is empowered under s5(i) of the AML/CFT Act to issue guidelines in consultation with the FIU

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

- a) The Gambia has an evolving understanding of the ML risks facing the country. The Gambia has conducted an NRA and some sectoral risk assessments (SRAs) which provided some understanding of its ML risks. Given the role played by the NRA in the shared understanding of risks at the national level, weaknesses identified in the methodology and approach have a major impact on the overall identification and understanding of ML/TF risks in the country. In particular, the 2020 NRA do not sufficiently assess the informal sector and the extensive use of cash in the economy, the volume of threats associated with, the predicate offences and does not cover some important designated categories of offences like organised crime, illicit trafficking in stolen and other goods, illicit arms trafficking. ML/TF risks associated with legal persons, virtual assets and virtual assets service providers (VASPs), have not been assessed.
- b) The risks of terrorism and TF in The Gambia are considered low which does not appear reasonable due to some factors which the country highlighted in the NRA but did not take into account. Overall, the understanding of TF risk is fairly good, especially among relevant agencies (e.g., State Intelligence Service (SIS), Police, the FIU and the CBG), but low amongst other competent authorities.
- c) The NRA-AP addresses some of the key vulnerabilities highlighted by the NRA. Consequently, key ML investigators and prosecutors (the GPF, DLEAG and MoJ) lack a risk-informed enforcement frameworks or strategically guided priorities. The NRA-AP lacks a monitoring mechanism to assist The Gambia in assessing its level of implementation of the actions and in measuring its progress. The Gambia requires a more specific national AML/CFT policy with thematic plans, as well as technical and financial resources to address some main threats.
- d) Key national authorities, including the FIU, GPF, DLEAG and CBG, have taken steps to align some of their activities and priorities to be consistent with the identified risks. These include supervision of real estate agents, recruitment of additional staff for the FIU to enhance its supervisory capacity, and ongoing review of the AML/CFT Act to reduce the supervisory burden on the FIU. While these are important steps in improving overall effectiveness, however, it is too early to assess the impact of these activities in mitigating sophisticated risks posed by, for example, real estate agents. The MoJ, other competent authorities and self-regulatory bodies (SRBs) are yet to adapt their objectives and activities accordingly and require more resources to implement their activities commensurate with the identified risks.
- e) The Gambia has not, by law, allowed exemptions of any FATF Recommendations.
- f) The AML/CFT Guidelines for FIs and DNFBPs require the application of EDD measures where higher risks are identified and allow for simplified CDD measures where lower risks have been identified. However, there is no

requirement for the identified lower risks to be consistent with the country's assessment of its ML/TF risks.

- g) There is strong co-ordination and co-operation at the strategic level through the NCC platform and at the operational level through several operational initiatives. At the supervisory level, there is strong coordination between the FIU and CBG to enhance common understanding of risks and development of supervisory strategies. However, efforts are just beginning to lead to successful outcomes, notably in the review of the AML/CFT and drafting of the Real Estate Bill. The Gambia has no coordination mechanism and did not demonstrate coordination efforts regarding PF.
- h) FIs and DNFBPs were involved in the NRA process to some extent, and some workshops were organised for the individual sectors to present to them the sectoral results of the NRA. Overall, the awareness of the findings of the NRA varies amongst private sector institutions, with a few (e.g., lawyers) indicating, regarding their level of exposure to ML/TF risk, that the findings of the NRA are inaccurate.

Recommended Actions

The Gambia should:

- a) continue to enhance stakeholders' understanding of ML and TF risks by:
 - i. assessing the ML/TF risks of legal persons, virtual assets and VASPs, and conducting a follow-up assessment of its TF risks, including NPOs risk;
 - ii. deepening the use of additional information from outside The Gambia (e.g., reports from a wider range of international organizations) and further analysing external risks (such as cross-border criminality);
 - iii. strengthening the analysis of money flows and the methods and techniques used in moving the proceeds of crime, especially due to the prevalence of the use of cash in the country; and
 - iv. widely disseminate the results of the NRA to all private and public stakeholders, including conducting awareness-raising activities targeted at the NCC and highest risk sectors to improve their understanding of ML/TF risks at the national level.
- b) Regarding coordination and mitigation policies and measures:
 - i. Develop national AML/CFT policies, objectives and activities in a strategic framework that sets priorities for the country beyond 2023 to effectively mitigate the ML/TF risks identified;
 - ii. Ensure the allocation of technical and financial resources throughout the AML/CFT system, especially to the MoJ, GPF and DLEAG, according to the risks identified in the NRA; and

- iii. There should be greater coordination between the FIU and self-regulatory bodies (SRBs).
- c) Supervisors should, where necessary, incorporate identified ML/TF risks in the development of policies for the implementation of enhanced or simplified CDD measures.

100. 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, 33 and 34, and elements of R.15.

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

101. The Gambia has established a good understanding of its ML/TF risks through the conduct of its first NRA completed in November 2020, the banking SRA carried out by the FIU (with support from the CBG) in March 2020, risk assessment/profiling of air traffic flow (including tourism flights) in and out of the Banjul International Airport (BIA) carried out by the Joint Airport Interdiction Task Force (JAITF), a study of the real estate sector conducted by the Gambia Competition and Consumer Protection Commission (GCCPC) in 2020, activities of some authorities, reporting entities, and operational activities of law enforcement agencies. The Gambia has developed a four-year action plan (the NRA Action Plan) including required actions assigned to relevant agencies to address risks identified by the NRA. Some resources for relevant agencies have been provided for in a supplementary budget for 2021 approved by the National Assembly in August 2021. Appropriation of this budget is not evident in this assessment.
102. There are concerns regarding the concentration of AML/CFT functions and activities assigned to the FIU and the effectiveness of its structure, (i.e., strategic leadership and resources), to be able to successfully carry out these functions and activities. However, the CBG complements the FIU supervisory efforts in the sectors under its purview such as policy formulation and issuance.
103. The assessment team based its conclusions on a review of available risk assessments, discussions with Gambian government ministries, departments and agencies (MDAs) (including LEAs), other relevant agencies and reporting entities.

2.2.1 Country's understanding of its ML/TF risks

104. The Gambia has generally demonstrated an evolving understanding of the ML and TF risks to which it is exposed.
105. All the authorities contributed to the work on the NRA, which has helped to refine and share the understanding of risks since November 2020. The FIU has developed a more detailed analysis through its SRAs, thus demonstrating a good level of understanding of risks. Investigating and prosecuting authorities, and particularly the intelligence authorities, through their own analyses (JAITF reports) have also demonstrated a good understanding of national ML/TF risks. However, the conclusions on certain risk-related topics need to be improved significantly.
106. The Gambia conducted its first NRA using the World Bank tool. The assessment focused on identifying the ML/TF threats, vulnerabilities and consequences leading to the

publication of a document entitled National Money Laundering and Terrorist Financing Risk Assessment Report of The Gambia, 2020. The NRA process was led by the FIU with participation and inputs from relevant competent authorities and some private sector operators working in thematic groups.⁶² Public sector participants complemented those from the private sector by providing objective insights whilst those from the private sector provided first-hand experience given that they are more exposed to ML/TF risks. Data was collected using questionnaires, interviews, focus group discussions, process observation and document reviews.

107. The Gambia demonstrated an evolving understanding of the types of ML risks it faces, and its appreciation of the nature of these risks is evolving. Notably, The Gambia has identified its most material ML threats in terms of predicate offences, and in some sectors demonstrated a clear understanding of the nature of risk, for example in connection with banks. The authorities also recognised a limited range of vulnerabilities and mitigating factors in reaching conclusions on risks. In the NRA, The Gambia did not demonstrate a thorough ongoing understanding of the modes, methodologies, and typologies of how its ML threats manifest themselves in terms of key ML risks, for instance regarding corruption, especially related to PEPs and the specific sector(s) prone to corruption, the informal economy and virtual assets.
108. There is no information regarding the value of transnational movement of funds from The Gambia. Also, the ML/TF risk of smuggling and piracy are not assessed in the NRA but rated “Medium Low” and “Low”, respectively. It is unclear how The Gambia arrived at this conclusion. Also, while the ML threat of cybercrime is assessed no rating was assigned. However, the risk assessment earlier conducted by JAITF relating to flights in and out of BIA covered some aspects of smuggling (cash and other goods) leading to some cash seizures at the airport (see IO.8).
109. The NRA rates domestic drug consumption and transnational drug trafficking as medium risk for ML. The Gambia is a transshipment point for various types of hard drugs to Europe, USA, South America, Asia, Nigeria, Guinea Bissau as well as the Casamance region of Senegal through its air, land and sea borders. Due to its understanding of risks, the DLEAG has signed MOUs with its counterparts in Senegal (October 2018) Guinea Bissau (July 2019) and Nigeria (2021) to strengthen sub-regional cooperation in drug interdiction and nurturing interoperability among the law enforcement officers of the four countries.
110. The Gambia rated bribery and corruption as “medium” ML risk. Discussions with key authorities (e.g. the GPF and FIU) further demonstrated the authorities’ understanding of bribery and corruption-related ML risks, including specific forms of corrupt practices, arising in The Gambia, based on the current government’s efforts to strengthen the anti-corruption measures in the country. These include the findings of the Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices (the Janneh Commission), which revealed several properties allegedly stolen by PEPs with two real estates located outside the country. Though not reflected in the NRA report, the findings of the Janneh Commission have further enhanced the authorities’ understanding of corruption and methodologies deployed by criminals, especially PEPs to launder the proceeds of crime. The Gambia is strengthening anti-corruption frameworks (e.g., National Audit Office the

⁶² Members were drawn from the FIU, CBG, MoFEA, MOI, MOJ, Ministry of Lands, Regional Governance and Religious Affairs, Attorney General Chambers, Law Chambers, Judiciary, GTB, Geological Department, Auditing Firms, commercial banks, SIS, NAATIP, GRA, GID, DLEAG, GPF, NGO affairs Agency, NACCUG, microfinance institutions and other financial service providers, insurance companies, and forex dealers.

Police, PAC/PEF, the Gambia Public Procurement Authority and the Ombudsman, ongoing process to repeal the Anti-corruption Act, 2012, and plans to establish an independent anti-corruption commission.

111. The real estate sector is rated “high” risk based on inadequate regulation, absence of a clear and concise regulatory and supervisory framework in the sector, failure by real estate companies to pay capital gains tax, increase in the number of individual real estate agents or “middlemen”, fraud arising from multiple sales of land and utilisation of the proceeds for personal benefit. The high-risk rating for the real estate is supported by the authorities’ risk understanding which has resulted in the alignment of the FIU’s activities with the identified risk. For example, the FIU has commenced supervision of institutions in this sector and the AML/CFT Act is also being reviewed to designate a new supervisor for this sector.
112. Another sector is casinos, also rated “medium high” risk. Concerns raised related to the absence of AML/CFT supervision, inadequate training and the low level of awareness of the relevant regulations and laws specific to casino operators. No AML/CFT supervision has been undertaken in this sector by the FIU. Therefore, implementation of AML/CFT obligations among these entities, including risk assessments, risk-based CDD and record-keeping is very weak or non-existent. Since 2017, the FIU has organised only one training for casinos.
113. The DPMS sector, rated “medium risk”, is also highlighted. The NRA identifies The Gambia as a non-mining country but a transit point in the trade of precious minerals. It also notes an increase in the number of applications for Special Licences which it attributes to awareness creation by the Geological Department in 2017. As noted in Chapter 1, there is uncertainty regarding the size of the sector and evidence of the country being used as a transit point for gold smuggling. The Gambia intends to implement a disclosure system for physical cross-border movement of precious metals (gold, precious stones etc) in excess of US\$10,000 or its equivalent to address the current ML trend involving the use of precious metals by 30 June, 2022.
114. The Gambia rates its TF risk as “low” based on a combination of a low threat for TF and a high vulnerability for terrorism and its financing. The Gambia bases its conclusions on the absence of reported terrorism cases, nil responses filed by only FIs and NPOs regarding the UN Sanctions Lists communicated by the FIU to these entities from “2014 to 2019 and a low terrorism threat. The NRA identifies resource and capacity constraints as the main vulnerabilities affecting its understanding of TF risk. It recommends improvement in joint patrol on open borders, data management, timely information sharing, and increasing surveillance on the volume of migrant returnees from Libya to reduce the threat of terrorism. The AT is of the opinion that The Gambia does not thoroughly understand its TF risk.
115. The NRA-AP provides for the establishment of a committee to map out a National Counter Terrorism Strategic Plan, including information sharing and investigation of TF cases to mitigate terrorism and TF risks. The Gambia is yet to finalise the National Counter Terrorism Strategy referred to as Gambia’s Strategy against Terrorism (GAMSAT).
116. The NRA assesses the NPOs potential risk of exploitation for TF as “low”. This conclusion is based on the assessment of 120 NPOs registered with the NGOs Affairs Agency (NGOAA). However, the authorities estimate the number of NPOs in the country at more than 5,000. Out of the 120, the NRA identifies 11 NPOs with links to certain jurisdictions in obtaining funding which impact programme delivery. The NRA has recommended technical assistance to build the capacity of staff of the NGOAA to meet the

demands of its responsibilities, including the supervision and regulation of charities and other NPOs. To some extent, the NRA has enhanced the risk understanding of authorities TF risks of NPOs.

117. The Gambia's definition of "property" is broad enough to cover virtual assets (see c.3.4). This means that FIs, DNFBPs and VASPs can engage in activities covered by the FATF's Glossary definition of VASPs in the country. A September 2020 investigation report of the Fraud Squad of the GPF⁶³ and several websites advertisements show significant virtual asset activities in The Gambia. Notwithstanding, The Gambia has not identified and assessed the ML/TF risks emerging from virtual assets-related activities and the activities or operations of VASPs. The authorities consider virtual assets as a new phenomenon in The Gambia and the country's knowledge gap on virtual assets as posing a challenge in terms of having a sound understanding of the risk that will permit the development of effective mitigating measures to address related ML/TF risks. While the CBG has resolved not to licence VASPs that intend to operate in The Gambia, neither the CBG nor the Government of The Gambia has taken any action regarding virtual assets and VASPs.
118. While The Gambia rates access to and availability of beneficial ownership information of legal persons is rated "medium", the country did not assess the ML/TF risks associated with the different types of legal persons created in the country. However, findings of the Janneh Commission have enhanced the understanding of authorities of the risk associated with legal persons and arrangements. As regards legal arrangements, there has been no assessment of risk posed by both domestic and foreign trusts and other legal arrangements. Overall, The Gambian authorities did demonstrate a limited understanding of the vulnerabilities, and the extent to which legal persons and arrangements created in the country can be or are being misused for ML/TF.
119. Inadequate risk assessments are also noted in some areas such as the inherent contextual factors that may influence the risk profile of a country, especially the informal economy. For instance, the features of the informal economy are not well analysed in conjunction with the extensive use of cash in The Gambia. Furthermore, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in The Gambia. These represent gaps which adversely impact on the overall understanding of ML/TF risk in the country and could impede the development and implementation of appropriate risk mitigating measures. However, the NRA is not the only source of ML/TF risk understanding available to The Gambia. These other sources address some of the gaps in the NRA evidenced by the level of understanding exhibited by most of the authorities.
120. The pre-existing and post-NRA risk assessments were used as corroborating assessments to confirm the main ML/TF risks to which The Gambia faces. For instance, in June 2021, the FIU assessed the ML/TF risks of the banking sector and, like the NRA, rated the sector as having a medium ML risk. This SRA has updated the findings of the NRA regarding the banking sector and therefore enhanced the FIU's understanding of the sector in more detail at the institutional and sectoral levels.
121. Additionally, in 2018, the JAIF assessed/profiled air traffic (in and out) at the Banjul International Airport (BIA). The JAIF identified some high-risk flights in terms of drug trafficking for inbound, some for outbound and others for both. Also, the assessment of Tourism Flights identified as cash smuggling as an ML vulnerability. The findings of

63 The Molifa Drammeh case reported on 30 March, 2020.

these assessments were shared with LEAs, the GRA and GCAA which enabled these authorities to understand the country's ML/FT risks relating to drug trafficking and tourism even before the conduct of the NRA.

122. Furthermore, the GCCPC conducted a study in the real estate sector to have a deeper understanding of the sector, among other issues. Some of the findings and recommendations reflect those in the NRA relating to this sector. This study, though not a typical ML/FT risk assessment, provided a deeper understanding of the sector, which could be used to further update and compliment the ML/FT risks understanding in the NRA. The findings of this assessment were shared with the relevant MDAs in the country.⁶⁴

2.2.2 National policies to address identified ML/TF risks

123. ***National ML/TF Risk Assessment Action Plan*** - The findings of The Gambia's NRA form the basis of the National ML/TF Risk Assessment Action Plan (NRA-AP). The NRA-AP lays out series of actions to be completed between 2020 and 2023. It identifies responsible officials and agencies to oversee implementation and an estimated timeline for implementation.
124. The Gambian NRA-AP addresses specific short-term systemic vulnerabilities including legal, institutional and capacity gaps. These reforms are important steps for The Gambia to further address the identified ML/TF risks in the NRA. The NRA-AP is supplemented by other policies as stated in the other parts of the analysis in this IO.
125. The authorities have also started allocating resources to mitigate the risk identified. These include the employment of seven more staff for the FIU to enhance its supervisory capacity and plans to increase budget allocations for the Police and other authorities. Still, the country needs to provide additional technical and financial resources to the FIU, MoJ, GPF, and DLEAG to facilitate the effective implementation of the NRA-AP and other supplementary policies/strategies.
126. Based on the NRA-AP, The Gambia has increased the staff strength of the FIU, provided trainings to some reporting entities, commenced the supervision of the real estate sector, and a review of AML/CFT Act 2012 to reduce the supervisory burden on the FIU.

Supplementary Policies/Strategies

127. The Actions in the NRA-AP are not clearly prioritised. The Gambia has other relevant national strategies in place. Some of these strategies are informed by risk assessments, but contain some deficiencies, as discussed below:
128. ***The National Drug Controls Strategy (NDCS) (2019-2023)*** was adopted by the DLEAG to support the national objective of zero-tolerance towards drug abuse and trafficking. The NDCS is based on the DLEAG's understanding of the ML vulnerabilities of The Gambia as tourism centre where predicate offences such as prostitution, counterfeiting and the abuse/trafficking of illicit drugs occur frequently, and its proximity to the Americas and Europe which makes the country a potential drug trafficking transit

⁶⁴ Ministry of Lands and Regional Government, CBG, the FIU, National Assembly, Association of Real Estate Companies, MoJ, GPF, Consumer Protection Alliance and Local Area Councils.

route in Africa. The Strategy has five Priority Intervention Areas.⁶⁵ While the NDCS emphasises the importance of regular joint operations with other law enforcement agencies to intercept the supply of illicit drugs in The Gambia and beyond, it lacks the key ingredient of depriving drug traffickers of the proceeds of their crime. The absence of financial investigation as an integral part of the NDCS constitute a serious shortcoming in the DLEAG's efforts to combat drug trafficking and related ML offences. It is expected that the National Drug Control Policy and the investigation and prosecution manuals would provide the needed direction.

129. ***The National Security Strategy (2019)*** - brings together strategic priorities across areas of national interest including, national security, counterterrorism, transnational organised crime, and corruption. Overall, the National Strategy aims to guide the strategic direction and help further co-ordinate actions and guide prioritisation. The Strategy has five pillars, including cooperation and collaboration amongst security forces. However, specific issues of terrorism financing and the financing of proliferation of weapons of mass destruction are not addressed in the National Strategy.
130. ***The National Counter Terrorism Strategy*** - referred to as Gambia's Strategy against Terrorism (GAMSAT) has not been finalised and approved by the authorities. Generally, the Strategy aims to: Stop people from becoming terrorists; Stop terrorist attacks; Mitigate, contain and recover from the impact of a terrorist incident; and Strengthen protection against terrorist attacks. It identifies key actors, stakeholders and partners and provides for three implementation phases (2020-2021, 2022-2023 and 2024-Future). A copy of the Draft GAMSAT Advisory Paper was made available to the AT. The Advisory Paper is a sanitised document and as such did not contain enough information to facilitate a meaningful analysis to determine the identified risks, etc as the information may be too sensitive. Also, since GAMSAT is a draft and the Assessors did not use it in arriving at the overall conclusion of this IO.

2.2.3 Exemptions, enhanced and simplified measures

Exemptions Measures

131. The Gambia has not allowed exemptions relating to any of the FATF Recommendations or specific activity, type of customer or product or sector. The Gambia has not exempted any reporting entity from applying the FATF Recommendations.

Enhanced Measures

132. Reporting entities are required to apply enhanced measures when a higher risk of ML or TF is present. The FIU, CBG and the banks understand when EDD is required to be applied and what is required to be implemented. However, the NBFIs and DNFBPs generally have no or little of such understanding
133. Sector guidelines require reporting entities to apply simplified measures where the risks are low (-Para 2.30 and 5.3 of the AML/CFT guidelines for FIs and DNFBPs

65 DLEAG seeks to: (a) Develop a National Drug Control Policy to Strengthen the Legal and Regulatory Framework for Drug Control in The Gambia; (b) Intensify Demand Reduction Activities through Evidence Based Prevention, Treatment and Care; (c) Operate an Efficient, Effective and Professional Drug Law Enforcement Agency; (d) Combating the Cultivation, Production and Trafficking of Narcotics; and (e) Partnership Building for Resource Mobilisation.

respectively) and based on the ML/TF risk posed by the customer. Risk assessment framework must be flexible because the entity's risk profile may change. The application of SDD measures is always based on internal risk assessments. There is no evidence to show that NBFIs and DNFBPs are applying SDD measures

134. Reporting entities are also allowed to identify and monitor significant changes in their ML/TF risks and amend their procedures accordingly” (Para 2.5, AML/CFT Guidelines for FIs and DNFBPs, respectively). DNFBPs are also required to adopt a risk-based approach (RBA) in risk ranking existing customers into different risk classes (low, medium, and high) or by adopting a numbering system of 1 to 5 with 1 being the lowest risk and 5 being the highest risk. The risk rankings of customers must be documented and conducted for all existing customers, while enhanced due diligence must be applied where higher risks are identified. There is no requirement that the risk identified must be consistent with the country’s assessment of its ML/TF risks

2.2.4 Objectives and activities of competent authorities

135. Generally, the authorities are beginning to align their objectives and activities with the identified ML/TF risk. LEAs’ (e.g., GPF, SIS and DLEAG), and operational activities relating to predicate offences are according to identified risks and also targeted to address the consequences of the risk through investigations and prosecution to a minimal extent. Also, prosecution by the MoJ is not prioritised according to high-risk predicate offences identified at the national level. MoJ considers that the ML cases are very few and as such prioritisation is not too necessary as all the cases can be given the necessary attention. Notwithstanding, The Gambia also indicated that parallel financial investigations (PFI) is conducted for all predicate offences (see IO.7), which in the view of the AT should trigger more ML prosecutions. Therefore, the AT is of the opinion that the MoJ needs to prioritise the prosecution of complex ML cases consistent with the country’s risk profile.
136. The FIU has rightly focused its supervisory activities on the banking and real estate sectors, as higher-risk sectors under its supervision. The CBG has, in collaboration with and some private sector investors established the GAMSWITCH to facilitate access to basic financial services to unserved and underserved people and businesses through digital technology (POS, ATMs, internet banking), and reduce the level of cash transactions in the country.
137. The DPMS sector is an area that could benefit from more alignment of authorities’ objectives and activities with identified national risks. Discussions with GD and operators revealed the presence of unlicensed operators in this sector. Thus the AT accorded some weight to this sector. The GD has commenced aligning its licensing of operators and regulatory activities of this sector to address this risk. The GD has also engaged the Customs to cooperate in eradicating these unlicensed operators. However, the GD’s efforts (including coordination) are evolving and improving over the years and synergy can also be achieved through the Customs cooperative platforms with other LEAs such as the GPF and other countries.

2.2.5 National co-ordination and co-operation

138. Cooperation and coordination of exchange of information on activities to combat ML/TF is driven by the National Coordination Council (NCC) established by section 91 of the AML/CFT Act. In law, membership of the NCC comprises the Permanent Secretary of the Ministry of Finance and Economic Affairs; the Solicitor General and Legal Secretary; Permanent Secretary of the Ministry of Interior; First Deputy Governor of the Central Bank

of The Gambia; Director General of the National Drug Enforcement Agency; Inspector General of Police; Commissioner of Customs; Director of Immigration; Director General of the National Intelligence Agency; a representative of self-regulatory organizations; and representative of DNFBPs. In practice, the NCC comprises technical staff at operational level's functions (the Permanent Secretary of the Ministry of Finance and Economic Affairs (who chairs the meetings of the NCC); the Director of the FIU, his Deputy and two other staff members of the FIU; and senior officials of the Ministry of Justice, LEAs and other Government Departments and Agencies). The Minister of Finance appoints the Chairperson and members of the NCC while the Chairperson of the NCC co-opts officials of MDAs to participate in the meetings of the NCC depending on the expertise required.

139. The NCC meets monthly, and its discussions focus on AML/CFT issues such as the NRA, preparation of mutual evaluation follow-up reports to GIABA, follow-up on relevant Bills being handled by Government MDAs, and coordination issues. During its meetings, the NCC identifies weaknesses in the country's AML/CFT regime and, where necessary, exerts pressure on relevant stakeholders to address the concerns. For example, concerns raised by the NCC at its March 2019 meeting regarding the inability of the Geology Department to regulate the activities of entities under its supervision (particularly DPMS) for AML/CFT compliance, as well as the absence of ML charges during the prosecution of financial crimes have yielded some positive results, albeit very negligible (see IO 7). At the operational level, there are platforms for coordination between LEAs which are focused on key risk areas (e.g., drug related ML, border controls, Armed robbery/theft, etc). For example, the JAITF is focused on ML related to drug trafficking and is spearheaded by the DLEAG. This initiative was established in 2013 under the auspices of the UNODC Airport Communication Project (AIRCOP) and comprises the DLEAG, Civil Aviation Authority, Gambia Revenue Authority, Gambia Immigration and Gambia Armed Forces. On 19th March 2014, Members of JAITF entered into an MoU to cooperate with one another according to agreed procedures leading to several seizures related mainly to drugs, cigarettes/tobacco, imposter & document fraud, cash smuggling and environmental crime.
140. Significant domestic collaboration also exists amongst the various LEAs such as the GPF, DLEAG, SIS and Customs achieved via established platforms like the Joint Operations Centre (JOC) where the entire LEAs in the country have representatives working together on daily operational activities.
141. There is also good cooperation between LEAs and the FIU. For example, the GPF cooperated very well with the FIU during the period under review. From 2017 to 2021, the GPF made 85 information requests to the FIU on cases under investigation and received 82 responses. Similarly, GPF initiated investigation of four cases based on spontaneous dissemination by the FIU showing significant level of cooperation between the two authorities.
142. At the supervisory level, the FIU, being the AML/CFT supervisor cooperates well with the CBG to develop a common understanding of risk, among other objectives. They cooperate in, issuance of regulations and guidance to FIs, training, and sharing of information, among others. However, cooperation between FIU and DNFBP sector regulators is weak. Coordination between authorities and SRBs needs to be enhanced significantly as the only instance of such coordination relates to the drafting of the Real Estate Bill.
143. There are no coordination and cooperation frameworks for combating the proliferation of Weapons of Mass Destruction (WMD) and its financing in the Gambia (see IO.11).

2.2.6 Private sector's awareness of risks

144. The NCC adopted the NRA Report at its meeting held on 26 November, 2020 and the FIU disseminated the full NRA report to the relevant Ministries and Agencies. However, most reporting entities are yet to receive the full report, including the executive summary of the NRA. While some selected commercial banks, auditing firms, microfinance institutions, insurance companies, forex dealers and other financial service providers worked in the NRA's eight working groups, participation of other private sector institutions, including DNFBPs was confined to providing information requested in the form of questionnaires by the FIU through their regulatory authorities and oral interviews.
145. A high-level summary of the findings of the NRA has been shared with some private sectors in a few workshops. In addition, soft copies were shared with some reporting entities while the Unit has printed hard copies of the NRA which they intend to widely disseminate to stakeholders, including the private sector. Consequently, the private sector entities met during the on-site demonstrated general awareness of the findings of the NRA though this varied significantly within and across sectors. Banks (especially international banks) seem reasonably well aware of the ML/TF risks. Although the awareness of the risks identified in The Gambia within the financial sector is generally good, the awareness of this risk by the other FIs and DNFBPs, particularly local banks, MVTs, real estate companies, casinos and insurance companies requires fundamental improvements. In addition, the lawyers did not share the view that the legal professional sector has high levels of ML/TF risks. Most of the institutions met during the on-site, especially banks, have recently commenced aligning their operational activities with the outcomes of the NRA. Considering the materiality of the banking, forex bureaus, casinos, real estate and DPMS sectors to ML/TF risks, the assessment team places higher weight on these sectors.

Overall Conclusion on IO.1

146. The understanding of ML/TF risks is largely based on the NRA concluded in November 2020 and sectoral risk assessments conducted prior and sequel to the NRA. These assessments are limited by the inadequate or lack of assessment of some national and sectorial threats, the lack of assessment of some important predicate offences and estimated value of proceeds of crime in the jurisdiction. TF risks were not comprehensively assessed, and the rating did not consider some important factors raised in the NRA. The NRA-AP is composed mainly of legal and institutional reforms and does not include actions to address threats to the country and various sectors. The Gambia is yet to develop a National AML/CFT/CPF Policy to prioritise risk mitigation using a risk-based approach.
147. The FIU has rightly focused its supervisory activities on higher-risk sectors such as banks and real estate agents. Operational activities of GPF, SIS and DLEAG relating to predicate offences are according to identified risks and targeted to address the consequences of the risk through investigations and prosecution to a minimal extent. In

addition, the MoJ's prosecution is not prioritised according to the high-risk predicate offences identified at the national level. While the National Assembly approved the Supplementary Budget in August 2021 allocating additional funds for some authorities, appropriation of this budget is not evident in this assessment. The authorities are not using the results of the NRA as a basis to support the application of EDD or SDD.

148. The NCC has focused on the conduct of the NRA, preparation of mutual evaluation, follow-up reports to GIABA, follow-up on relevant Bills being handled by Government MDAs. During the period 2017 to 2021, there was little coordination and cooperation among the competent authorities for the development of AML/CFT policies. Exchange of information, coordination and collaboration among the competent authorities is apparent at the operational level to a good extent but needs to focus more on AML/CFT issues. Cooperation between the FIU and SRBs needs to be enhanced significantly. There was some coordination and cooperation on TF but none on PF.

149. The NRA included the participation of the private sector through submission of sector specific data. The private sector, including FIs and DNFBBs, displayed different levels of awareness of findings of the NRA. The NRA report was made available to some individual stakeholders at workshops organised for that purpose.

150. **The Gambia is rated as having a Low level of effectiveness for IO.1**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a) LEAs in The Gambia have access to a wide range of information sources but make limited use of financial intelligence to support their investigative activities. In general, the use of financial intelligence in ML/TF investigations remains low.
- b) The FIU produces good financial intelligence, which has been used by the LEAs to identify and investigate predicate offences and trace assets and to a lesser extent on supporting potential ML and TF cases. The FIU has access to information held by the public and private institutions used in analysis and production of financial intelligence to support operational needs of LEAs. Intelligence produced by the FIU reflect a few of the major risks of the country, especially fraud, and drug trafficking. However, the statistics provided do not provide a clear breakdown of use of the FIU's disseminations in initiating ML cases.
- c) Other than the Police, other LEAs rarely request for information from the FIU to facilitate investigations. In general, awareness of the potential of the FIU's database as an additional resource in the course of ML/TF and predicate offence investigations is still evolving given the limited number of requests for information made by LEAs (except the Police) in the review period.
- d) Banks account for the vast majority of STRs which is in line with exposure of the sector to risks. Some NBFIs (foreign exchange bureaus, microfinance institutions and mobile money operators) submitted a few STRs. The quality of the STRs is generally considered to be good. However, the total number of STRs filed to the FIU is considered low given the country's risk profile. The underlying suspicious crime for the STRs relate largely to fraud, drug trafficking, tax fraud, corruption, etc which reflect some of the major proceed generating offences identified in the NRA report. sixteen (16) TF- related STRs were filed to the FIU which appears to be consistent with the TF risk profile of the country. DNFBPs and some FIs did not file any STR to the FIU which deprives the FIU of potentially valuable information especially as some of the sectors (for example, casinos, DPMS and real estate agents) have been identified as posing higher ML risks. In addition to STRs, the FIU also receives CTRs and WTRs which have helped to enhance its analysis. The go-AML software procured recently is expected to facilitate reporting.

- e) Cross-border cash and BNI declaration reports are not filed to the FIU to enhance its analysis.
- f) The FIU does not have adequate human and financial resources to perform its functions to a greater level of effectiveness. Lack of adequate resources impeded the conduct of strategic analysis which is critical to identifying emerging risks and assisting law enforcement to pursue potential ML investigations in particular and contribute to broader AML/CFT initiatives in the country.
- g) The FIU does not provide regular and systematic feedback to reporting entities on the usefulness of the STRs filed to and analyzed to effectively impact on the behaviour of the reporting entities in respect of discharging their reporting obligations. Similarly, the FIU receives limited or ad-hoc feedback from LEAs on the extent to which FIU's financial intelligence support investigations. The lack of effective feedback to reporting entities and FIU undermines efforts to improve the quality of STRs of reporting entities and intelligence products of the FIU.
- h) The FIU and other competent authorities have good level of cooperation but exchange information to a limited extent. The cooperation is facilitated through operational cooperation platforms, FIU focal persons designated in some competent authorities, and MoUs executed by FIU with some authorities to strengthen operational cooperation and exchange of information. The FIU shares information with relevant competent authorities which has supported their operations. Overall, there are no concerns about the confidential handling of information.

ML Investigation and prosecution (Immediate Outcome 7)

- a) The Gambia's legal and institutional frameworks demonstrate a limited level of compliance with international standards due to gaps regarding attempted ML, the range of predicate offences and foreign predicates. These have some impact on effectiveness considering The Gambia's risk profile.
- b) The Gambia lacks a national policy that emphasises financial investigation as an integral part of law enforcement efforts, particularly in relation to high-risk proceeds generating offences. As such, LEAs do not prioritise ML investigations, and ML investigations do not regularly occur alongside investigation of predicate offences.
- c) While LEAs have a range of powers and responsibilities to investigate and prosecute ML offences, the authorities demonstrated only six examples of ML prosecutions (related to fraud) in the past five years and have only two ongoing investigations related to fraud. The Gambia demonstrated very few examples of cases pursuing stand-alone ML activities and investigations involving foreign predicates, with none related legal persons.
- d) Considering the number of investigations of high-risk proceeds generating predicate offences, the extent of ML investigations, prosecutions and conviction is inconsistent with the risk profile of The Gambia. Parallel investigations have only occurred largely in support of efforts to confiscate the proceeds of crime other than investigate the laundering of the proceeds of crime.
- e) While operational agencies have common platforms and actively cooperate and share information and resources on financial crimes, there is little evidence to show that these platforms are being used to share information that can facilitate ML investigations. A-FSU and SIU do not have dedicated investigation teams to target ML activities and most

of the authorities (for example, NAATIP and GRA) appear to lack awareness of ML or the value of “following the money”. Although prosecutors are not part of the investigative processes, they review files on completion of investigations and direct for further investigations, especially the gathering of evidence to substantiate a charge if need be before they decide to go to trial.

- f) The Gambia is yet to secure a conviction for ML for both natural and legal persons. Consequently, in the absence of ML convictions, it is impossible to determine the extent to which the different types of ML (for example, third-party laundering, stand-alone offence etc.) have been prosecuted and offenders convicted.
- g) The Gambian authorities (particularly the courts) have a fundamental lack of understanding of the legal requirements of the ML offence which was demonstrated in the Yankuba Jabbie case.
- h) While some investigators and prosecutors have undergone some training on ML, they lack adequate resources (including financial investigation tools and training) to address the ML risks adequately. In particular, the capacity of investigators and prosecutors within the Fraud Squad Unit of the Gambia Police Force (A-FSU) and the MOJ need to be enhanced significantly to enable them to investigate and prosecute the different types of ML cases consistent with the risk profile of the country.
- i) Cases bordering on economic and financial crimes, particularly ML, are assigned to the special criminal court. Like the LEAs, these courts lack adequate resources and training to function optimally.
- j) In the absence of ML convictions, it is impossible to determine the effectiveness, proportionality or dissuasiveness of sanctions applied against natural or legal persons convicted of ML.
- k) Although The Gambia has other criminal justice measures such as civil proceedings for the recovery of proceeds of crime in cases where an ML investigation has been pursued but it is not possible, for justifiable reasons, to secure a conviction for ML, such alternative measures have been applied to a very limited extent.

Confiscation (Immediate Outcome 8)

- a) The Gambia has an adequate legal framework that enables the authorities to confiscate the proceeds of crime through several measures and has provided some statistical figures to support the good use of these tools. The Gambia established the Jannah Commission following the exit of the former President to recover illicit assets amassed by the ex-president, his family members and close associates, including legal persons. The implementation of the recommendations of the Commission has led to the forfeiture of several types of assets accumulated by the ex-president through corrupt practices.
- b) Although The Gambia demonstrates awareness of the need to deprive criminals from their proceeds of crime, the country lacks a policy to confiscate the proceeds of crime. LEAs lack clear and current policies, within their investigation, on confiscation procedures to ensure that criminals are deprived of their illicit gains. Slow investigations impede the effective implementation of provisional measures and ultimate confiscation of proceeds of crime.
- c) Statistics provided demonstrate that LEAs use preventive measures to secure assets related to predicate crime to a large extent, and substantial sums have been forfeited on recommendations of the Jannah Commission. However, there is limited evidence to

demonstrate the overall effectiveness of the confiscation system in The Gambia, including the use of the FIU's financial intelligence to identify and trace property subject to confiscation. Drug activity reports provided showed that confiscation is pursued and applied to a very limited extent.

- d) The Gambia has legislation in place to address the threat of cross border movements of currency and bearer negotiable instruments that are falsely declared or undeclared. The Gambia has several individuals transiting its borders and touring the country each year, with only 17 cash seizures made since 2017. This does not appear to be commensurate with the risks faced.
- e) Authorities may confiscate proceeds involving equivalent value for ML and predicate offences however there are no examples of this in practice. The Gambian authorities do not consider this an issue since they believe that they are able to confiscate the proceeds. To some extent, confiscation results reflect the NRA crime types identified, and results are low in value, except for those confiscated based on recommendations of the Janneh Commission. Confiscation appears limited to a particular benefit for the predicate crime rather than an extended lifestyle approach through a wider ML investigation to ensure that benefits for criminal behaviour are removed.

Recommended Actions

Use of financial intelligence (Immediate Outcome 6)

- a) The authorities should ensure that the FIU is well funded, and adequately staffed (especially its Analysis and Research Department). In the immediate term, secondments from other key AML/CFT agencies to the FIU could be considered. In addition, the FIU should provide ongoing training to staff to effectively conduct strategic and improve operational analysis that is targeted to the operational needs of LEAs and other competent authorities based on the ML/TF risk profile of The Gambia. In particular, the FIU should ensure full deployment of the go-AML analytical software and provide requisite training to staff to enhance its operational efficiencies and better support financial investigations by LEAs.
- b) LEAs should significantly increase the use of financial intelligence to identify ML and TF cases in accordance with the country's risk profile. Authorities should take necessary steps, including raising awareness about the importance of using financial intelligence by different LEAs while pursuing predicate offences and ML/TF cases, and providing parallel financial investigations training, to ensure that LEAs are well equipped to appreciate the value and use of the financial intelligence and other information from the FIU to actively pursue ML/TF cases along predicate offences investigations. Creation of a national database to facilitate exchange of information could be beneficial for LEAs in their investigative activities. In addition, LEAs should be more proactive in requesting information from the FIU during their investigative activities (intelligence gathering and investigations of ML, FT and related predicate offences and the identification and the tracing of proceeds) and improve responses to FIU's requests.

- c) The FIU should implement necessary measures to improve the suspicious transaction reporting regime in The Gambia. In particular, the FIU should: (i) ensure that reporting entities strengthen or put in place systems and procedures to detect and file STRs consistent with their risk profile, (ii) strengthen collaboration with the relevant sector regulators and SRBs to enhance outreach and provide technical support (eg STR specific training, STR reporting typologies) to enhance the capacity of reporting entities to effectively identify and report STRs, (iii) provide appropriate risk indicators in the major threat areas (corruption, drug trafficking, etc) to ensure that reporting is further aligned with the risks facing The Gambia, and (iv) apply effective, dissuasive and proportionate sanctions, especially monetary penalties, to promote compliance with STRs reporting obligation.
- d) The FIU should pursue and develop strategic analysis to support the operational needs of LEAs, inform the objectives of reporting entities, as well as contribute to broader AML/CFT initiatives. Such analysis should identify emerging trends, patterns, typologies and vulnerabilities, as well as an appropriate response, which considers The Gambia's context.
- e) LEAs should provide regular and timely feedback to the FIU on the usefulness of the financial intelligence and information disseminated to them to enable the Unit to further improve on the quality of its intelligence, better support operational needs of LEAs, and maintain appropriate records on the use of its intelligence. The FIU should hold systematic meetings with all LEAs to discuss the use of its analysis products, and ensure effective implementation of the current Feedback Form. Similarly, the FIU should provide regular and systematic feedback to reporting entities on the usefulness of the STRs filed to it, including on a case-by-case basis, to further improve the quality of STRs.
- f) The Customs authorities should commence spontaneous submission of suspicious cross-border transportation disclosures to the FIU in order to enable the Unit to have more pertinent information to support analysis, and generate the kind of financial intelligence and information required to assist LEAs in relation to ML/TF cases related to physical cross-border movement of cash and BNI. In this regard, the FIU should proactively engage and sensitise the Customs authorities, while the Customs should strengthen mechanisms for detecting falsely/non-disclosed and suspicions of either ML or TF (which could arise even where disclosures are made).

ML Investigation and prosecution (Immediate Outcome7)

The Gambia should:

- a) adopt national policies and raise awareness of all LEAs and prosecution authorities to prioritise and conduct ML investigations and prosecutions alongside predicate offences and for standalone ML cases consistent with the country's risk profile and ensure that LEAs demonstrate such prioritisation;
- b) by law: (i) designate tax crimes as predicates to ML; (ii) explicitly extend the ML offence to foreign predicates; (iii) criminalise attempt to commit ML, migrant smuggling and market manipulation; and (iv) provide proportionate sanctions for ML offences;
- c) enhance the capacity of LEAs, including A-FSU, DLEAG, SIS, GID investigators and MOJ prosecutors through the provision of specialised training on investigation and prosecution with emphasis on building skills in information and evidence

- gathering and financial investigative techniques to identify and pursue complex cases;
- d) develop standard operating procedures or manuals that incorporate some form of checklist or outline of the essential elements for conducting to help structure each financial investigation and provide guidance to LEAs and the MOJ on investigation and prosecution of ML consistent with the risk profile of the country;
 - e) increase the number of ML investigations particularly those related to the ML threats or risk identified in the NRA;
 - f) develop guidelines for the prosecution of ML, to promote a consistent and effective approach to the prosecution of ML offences;
 - g) explore and implement measures, between MOJ and LEAs, to enhance the prioritisation of prosecuting ML cases and improve the prosecution rate of ML cases consistent with the risk profile of the country; and
 - h) organise specialised training programmes for judges using peer to peer modules with counterparts from other jurisdictions in adjudicating ML.

Confiscation (Immediate Outcome 8)

The Gambia should:

- a) adopt a policy develop and a national strategy for confiscating the proceeds and instrumentalities of crime, including related currency and BNI, outlining clear priorities as well as the roles and responsibilities for the courts, prosecutor, LEAs and the FIU, and identifying measurable performance metrics for each;
- b) allocate adequate resources and improve the capacity of the Customs Department and other LEAs to deal with cross-border movements of currency and BNIs;
- c) ensure that it has a system, across all agencies, to capture the seizure, confiscation and realisation of all assets seized within criminal investigations and provide a national overview of the effectiveness of the system to inform the NRA and subsequent ML/TF policies;
- d) improve the understanding of competent authorities (the courts, LEAs and prosecutors) on the value of ML/TF investigations in not only identifying clear assets but identifying the extended benefit obtained and assets that may be available for consideration by the courts for confiscation of equivalent value or tainted gifts; and
- e) actively pursue not only proceeds of crime but should also pay close attention to instrumentalities used in the commission of ML/TF and other predicate offences.

151. 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.1, R. 3, R.4 and R.29-32.

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

Background

152. The Gambia has established an FIU which is an operationally independent and autonomous statutory body. The FIU has responsibility for the receipt and analysis of

suspicious transactions and other reports from reporting entities, and dissemination of financial intelligence and other relevant information to LEAs to identify potential cases of ML, TF and associated predicate offences. It is also the designated AML/CFT supervisory authority for all reporting entities in The Gambia. However, the FIU is not adequately resourced to effectively perform all these functions, especially the supervisory role. The FIU has six departments, namely: Compliance and Prevention; Analysis and Research; IT; Legal; Procurement; and Administration and Finance. As at the time of the onsite, the Unit had 29 members of staff. The FIU is not yet a member of the Egmont Group of FIUs, but has commenced its membership application process.

3.2.1. Use of financial intelligence and other information

153. LEAs access and use financial intelligence and other information to identify and trace proceeds, and to support investigations and prosecutions of predicate offences, but do so to a limited extent in supporting ML and TF investigations and developing ML and TF evidence. The FIU has power to access a broad range of databases containing financial, administrative and law enforcement information which it can be used to develop intelligence. The investigative agencies and the FIU have exercised their statutory powers to some extent to access and obtain information held by public and private databases.
154. The main source of financial intelligence for the FIU are the STRs contained in its own database. The FIU also has access to a wide variety of public⁶⁶ and private sector information. It has access (indirect) to records and other information held by various public authorities, including Police (criminal records information), Gambia Revenue Authority (tax records), Immigration Service (identification records), and CBG and other regulatory authorities (supervisory information). Generally, where information is required from another government agency, a formal request is made to the agency. The turnaround time for the provision of information requested by the FIU is usually within two to five days but this timeframe is often exceeded in more complex cases. As indicated in Table 3.1 below, the FIU makes use of some of the sources of information to enrich analysis of STRs, leading to the production of good financial intelligence. During the review period, the FIU made 75 requests for information to competent authorities and received 37 responses, representing 49.33% of total requests made. As part of efforts to facilitate communication with the FIU, focal persons (representative of the National Coordination Committee in each agency) are designated in the relevant competent authorities, including the Police, and DLEAG. Despite these arrangements, the rate of response to the FIU requests stands at 49.33%, which did not support the claim by the FIU that the authorities respond to almost all their requests⁶⁷. It is the view of the Assessors that the moderate rate of response could be attributed to structural issues or the fact that some of the institutions do not have well-structured or organized databases that facilitate timely retrieval, processing, and dissemination of the information requested by the Unit.

⁶⁶ Law enforcement, financial and administrative and other publicly held information

⁶⁷ The FIU stated that some of the responses were received verbally and are not reflected in the statistics provided. In the absence of statistics to support this claim, it was difficult for the assessors to make a determination of actual rate of response to FIU's requests.

Table 3.1 Number of Request made by the FIU on Other Competent Authorities, Jan 2017 – Aug 2021

Institution	Number of Information Requested & Response Received									
	2017		2018		2019		2020		2021	
	Request	Response	Request	Response	Request	Response	Request	Response	Request	Response
Police			3	3	2	2	1	1	2	0
Central Bank	1	1	3	3	3	3	1	1		
GRA	1	1	3	2	4	2				
Geological Department	1	1	-	-	-	-	1	1	-	
NGO Affairs Agency	1	0	1	1						
Registrar of Companies	3	0	5	2	6	0	2	1	3	1
DLEAG			1	1	3	1			1	1
Immigration			2	2	1	0			1	0
Ministry of Interior			1	0	2	1				
NAATIP			1	1	1	1			1	0
Solicitor General			1	1	2	1				
SIS			1	0	4	0	1	0	1	0
MOFA					1	0	1	0		
GTB									1	1
TOTAL	7	3	22	16	29	11	7	4	10	3

155. Table 3.1 above indicates that the degrees to which the FIU has made requests to various authorities varies. Most of the requests were made to the Police (8), Gambia Revenue Authority (8) and the CBG (8) while 5 requests were made to the DLEAG. Overall, Assessors considered the number of requests, especially those made to the Police and DLEAG that handle some of the major proceeds generating crimes, very low (an average of 2 requests or less, per year). In addition, despite the relevance of the information (cross-border cash and BNI disclosure information) held by the Customs authorities, the FIU did not make any request to the Customs in the review period. Similarly, the Customs does not communicate such information spontaneously to the FIU (see Table 3.4). Thus, the FIU is deprived of information that could enable it to generate the kind of financial intelligence and information required to assist LEAs in relation to ML/TF cases related to cross-border cash or BNI disclosures. Given the potential TF risk associated with cross-border cash/BNIs movements, the FIU's lack of request for such information is a gap, capable of impacting its ability to conduct comprehensive analysis.

156. As at the time of the onsite, the FIU did not have access to commercial databases. This may be due to resource constraints given the payment of subscription. The FIU can

benefit from access to commercially available databases as this can enable it to access relevant information on, inter alia, PEPs, business associates/relationships and transactions, which may otherwise not be readily available in the public space, to augment its analysis.

157. The FIU has the power to request and obtain additional information useful for the performance of its duties (analysis of STRs) from any competent authority or reporting entity. The FIU has demonstrated the use of these powers to request additional information from reporting entities, regardless of whether such entities submitted the original STR or not (see Table 3.2). The requests are usually made when the FIU is undertaking its analytical work on STRs. The requests for additional information include bank statements, CDD information, transactions data, and methods of movement of funds including cross-border and domestic wire transfers. The results thereof augmented the analysis and the quality of financial intelligence and other information produced by the FIU in support of law enforcement operations. As at onsite, 87% of the additional requests made by the FIU were to commercial banks which hold the majority of financial information in the country, 12% to Microfinance institutions, and 1% to insurance companies. The FIU informed the Assessors that the reporting entities respond to the requests within a range of 24hrs to a week as a result of the good relationship it has with them. Most of the reporting entities interviewed confirmed this. During the review period, the FIU made 1,314 additional requests for information and received 1, 149 responses, representing 87.44% of total requests. (Table 3.2).

Table 3.2 No of Requests for Information made to Reporting Entities by the FIU, Jan 2017 – Aug 2021

Year	Banks		Microfinance		Insurance	
	Request made	Response received	Request Made	Response received	Request Made	Response received
2017	77	68	2	1		
2018	294	273	22	18	13	1
2019	356	313	50	46		
2020	281	242	52	40		
2021	136	118	31	29		
Total	1,144	1,014	157	134	13	1

158. In addition to STRs, the FIU receives threshold reports (CTRs and WTRs) from reporting entities (see Table 3.3). Similarly, the FIU receives, upon request or spontaneously, information from other FIUs through bilateral arrangements (see IO.2). This information is used to support its analysis.
159. LEAs, especially those responsible for ML/TF investigations, including the Police and DLEAG, have powers to access a wide variety of financial and other relevant information source of information deemed useful to support their investigations. The range of relevant sources of financial information includes information from reporting entities, landed property information, tax records, Customs' cross-border cash/BNI disclosure system, passport information, and company registry information - basic information on legal persons and BO information where it is collected (see IO.5). In addition, international data from INTERPOL are available and used. However, LEAs predominantly use this intelligence to gather evidence and trace criminal proceeds related to predicate offences.
160. GPF is the main LEA that regularly submits requests for financial intelligence to the FIU when information is needed in an investigation. Requests made by the other LEAs to the FIU is on a low scale (see Table 3.3). Based on the statistics provided by the country

(Table 3.3), the GPF made 132 requests to the FIU, DLEAG made four (04), Gambia Armed Forces made 2 requests, while NAATIP and SIS made one (01) request each. There were also requests made on the FIU by other competent authorities during the period under consideration, namely MoJ (4 requests), CBG, Ministry of Interior and Janneh Commission (1 request each). The FIU responded to 77.55% of the total number of requests made on it, indicating that the Unit responded to a substantial number of the requests made by LEAs and other competent authorities. The FIU attributed the pending requests largely to insufficient information on the requests made. The FIU stated that majority of the requests made by the Police relates to fraud while the few from DLEAG relate to drug trafficking. These reflect only a few of the main proceeds-generating predicate offences in The Gambia (see IO.1). As noted earlier, relevant competent authorities, including the LEAs have dedicated focal persons within their agencies to facilitate receipt or exchange of financial intelligence and other information from the FIU. Overall, the Assessors are of the view that the number of requests made by LEAs could be higher considering concerns regarding the prevalence of drug trafficking, corruption and other major predicate offences in The Gambia.

Table 3.3 Number of Request made by LEAs on the FIU, Jan 2017 – Aug 2021

Institution (e,g)	Number of Information Requested & Response Received									
	2017		2018		2019		2020		2021	
	Request	Responses	Request	Res	Request	Res	Request	Res	Request	Res
LEAs										
Police	5	5	36	34	37	30	38	22	16	9
DLEAG	-			-	1	1		-	3	3
NAATIP			1	1						
SIS			1	1						-
Gambia Armed Forces		-				-	1	1	1	1
OTHER COMPETENT AUTHORITIES										
CBG	1	1								
Janneh Commission			1	1						-
Ministry of Justice			2	2	1	0	1	1		
Ministry of the Interior	-	-	-	-	-	-	1	1	-	
TOTAL	6	6	41	39	39	31	41	25	20	13

161. The number of requests made to the FIU demonstrates a system that has room for significant improvement in terms of use of financial intelligence and other information. For instance, fraud and drug trafficking were identified as high proceeds generating crime in The Gambia. Therefore, 132 requests from the Police, and 4 requests from the DLEAG show that the scope and volume of information requests do not correspond to the needs of this LEA and the risk profile of the country. Assessors observed that, compared to the number of investigations related to predicate offences, the statistics provided suggest that the requests for information recorded during the period under review (see Table 3.3 above) were very low relative to investigations of predicate offences involving financial crimes (see IO.7). For instance, since 2017, the DLEAG has investigated 2,383 drug trafficking

cases and made only 4 requests to the FIU over the same period⁶⁸. Similarly, since 2017, the Police has investigated 1,958 cases involving predicate offences (of which 1,318 related to fraud), but made only 132 requests to the FIU in the review period. In general, it is the view of the Assessors that LEAs could have benefited a lot by seeking information from the FIU about the suspects' financial transactions. In addition, by not approaching the FIU for information on the predicate offences being investigated, the opportunity to detect proceeds of crime and other financial transactions associated with the predicate offences from available information may be missed. Although, the authorities indicated that apart from the FIU sources, the LEAs have access to a wide range of financial intelligence from other government agencies and powers to obtain information from reporting entities directly, no statistics were provided in this regard to enable assessors ascertain the extent to which these authorities effectively use other sources of information to investigate ML, predicate offences and TF.

162. Besides the reactive disseminations to the LEAs, the FIU also disseminates intelligence spontaneously to LEAs, especially the Police, DLEAG, and SIS when there are reasonable grounds to suspect ML or predicate offences (Table 3.6). The FIU mentioned that the spontaneous disseminations cover some key predicate offences in The Gambia, especially fraud, and drug trafficking. Thus, the disseminations align to some extent, with a few of the highest risk predicate offences for ML identified in the NRA.

163. The FIU rarely receives feedback from LEAs on the intelligence provided to them, notwithstanding the fact that the Unit always attached Feedback Form to the intelligence disseminated. LEAs interviewed indicated that though they do not complete and return the Feedback Form to the FIU, they sometimes highlight progress in the investigation process and also request for additional information on the FIU. There is no evidence of any regular operational meetings and discussions between the FIU and recipients of disclosure to discuss investigative priorities, analytical processes, development of indicators and assistance in the use of financial intelligence. Therefore, it may be difficult for the FIU to establish the priorities and needs for LEAs. Implementing the feedback system would benefit the entire upstream information chain up to the reporting entities.

164. In general, the LEAs interviewed expressed their satisfaction with the quality of the intelligence received from the FIU. They also confirmed that the intelligence provided by the FIU is helpful to their operational needs, and that response to requests is timely. The number of requests made on the FIU, especially by the Police suggests an appreciation of FIU's intelligence products. For instance, within the review period, the number of investigations supported by the FIU intelligence stood at 228 out of which 81 were proactive intelligence (Table 3.8), and 147 were responses to requests for information from different LEAs (Tables 3.7). In the same period, the FIU received 1 request from the Janneh Commission, and responded to same (see Table 3.7).

165. LEAs interviewed during the onsite indicated that they have access to information held by the GID. They intimated that through MoUs, they are able to exchange information

⁶⁸ The Gambia stated that a significant number of drug trafficking cases are related to cannabis, whose market value is not significant to warrant the conduct of a parallel financial investigation, bearing in mind, the need to prioritize. However, as noted in chapter 1, The Gambia is a transit route for cocaine and significant seizures of cocaine have been seized by The Gambia (eg 56kg, 650g and 198mg) worth US\$2.3 million in 2019; and in 2021 nearly three tonnes of cocaine (with a street value of about \$88 million) was seized by the authorities. Assessors believe these and more a sufficient to warrant a good number of request from the DLEAG to the FIU and thus, the country's claim cannot be sustained.

among themselves for the purposes of intelligence gathering, investigation and related matters involving ML/TF and any unlawful activity. LEAs and the FIU also make request to other competent bodies/agencies such as the Deeds Registry at the Registrar General's Office for information on property owners, company registry and shareholding information (see IO.5 for details).

166. Under the AML/CFT Act and the enabling Acts of some of the LEAs, including the Police Act, LEAs have powers to request and obtain financial information held by the private sector upon establishment of a suspicion and initiation of investigation. Some of the LEAs particularly Police indicated that they usually send a letter of request to the FIU or sometimes Request for Information targeted at the specific reporting entity holding that information. LEAs that have made requests to the private sector, especially banks, indicated that they receive the necessary data from the reporting entities within 24 hours or a few more days depending on the complexity of the requests. This was confirmed by some of the reporting entities interviewed during the onsite.
167. In relation to TF, the SIS and Police access and use intelligence from other sources to initiate or support TF/terrorism related investigation. There were 16 STR related to TF filed to the FIU during the review period. These were all analysed with one (1) dissemination made to the SIS. The Unit could not establish any underlying crime in the analysis of the remaining TF related STRs and thus kept the files in view. The one dissemination led to the investigations of one alleged TF case, which could not be substantiated, and thus not progressed to prosecution (see IO.9). In general, the FIU can identify potential TF cases through analyses of STRs filed by reporting entities while the close collaboration between the FIU and the SIS in the intelligence gathering stage in TF/terrorism related matters is a positive indicator.
168. It is the view of the Assessment team that the range of databases available to the FIU and the LEAs are reasonable to enable them to generate relevant financial intelligence and other information for criminal proceeds and TF. However, there are some impediments impacting the quality of operational financial intelligence gathered and its subsequent use for evidence gathering and tracing of criminal proceeds related to ML, underlying predicate offences and TF. For example, no STRs have been filed by DNFBPs and there have been very few STR filings from NBFIs. In addition, as noted earlier, the use of the FIU's intelligence in ML investigations is grossly inadequate, which could be due to the lack of capacities (including specialized human resources), and greater focus of LEAs on the use of intelligence in predicate investigations.

3.2.2 STRs received and requested by competent authorities

169. The FIU receives STRs and other transactions reports (CTRs and WTRs) from reporting entities as required under the AML/CFT Act. The FIU stated that it receives Cross Border Currency Declaration Reports from the Customs, however, no statistics were provided to support this claim. The STRs, CTRs and WTRs are filed to the FIU manually (in hard copies and CDs). The FIU recently acquired go-AML software but is yet to deploy it for its operations, including receipt of reports as the Unit is still being trained on its utilisation. It is expected that in the near future, FIs and DNFBPs will be able to submit STRs electronically through secured means provided adequate training and full awareness creation are undertaken to facilitate effective use of the online reporting tool.
170. Since 2017, the FIU has received a total of 234 STRs. Most of the STRs were filed by banks. The non-bank FIs filed negligible numbers while the DNFBPs did not file any. Of the total STRs filed, 218 (representing 93%) were ML-related, while 16 (representing

7%) were TF related. The suspected predicate offences contained in the STRs filed to the FIU by reporting entities are fraud, illicit trafficking in narcotic drugs and psychotropic substances, terrorist financing, bribery and corruption, smuggling, tax crimes, cybercrime, and participation in an organised criminal group and racketeering⁶⁹ which reflect some of the major proceed generating offences identified in the NRA report, and also appears to be consistent with the TF risk profile of the country (see IO.1). A few of the STRs were filed on grounds of suspicious cash transactions which is consistent with the cash-based nature of The Gambia's economy.

171. Generally, the FIU finds the STRs to be of good quality, especially those filed by the larger banks. The STRs contain relevant information such as details of the persons involved, the amount, account numbers and description of the suspicion, etc which form the basis of the FIU's analysis and intelligence generated to support LEAs' operations. In cases where there is missing or incomplete information, the FIU stated that it would contact the reporting entity and request it to provide the necessary information. However, the FIU was unable to provide specific information on the number of STRs with missing or incomplete information which would have assisted the Assessors to draw a conclusion in their analysis in this regard.

172. The FIU is the national central authority that receives, analyse, evaluates and process STRs and other reports. The total number of STRs and other reports received by the FIU during the period under consideration is provided in the Table 3.4 below.

Table 3.4 - STRs, CTRs and WTRs filed to the FIU by reporting institutions, 2017-August 2021

SECTOR	2017			2018			2019			2020			2021		
	STR	CTR	FTR	STR	CTR	FTR	STR	CTR	FTR	STR	CTR	FTR	STR	CTR	FTR
FINANCIAL INSTITUTIONS															
Commercial Banks	18	28,272	4,956	36	59,616	7,082	27	69,607	8,344	43	685,084	19,623	69	396,531	7,392
Bureau de Change	1			0			0			0			27		
Microfinance	5	0	0	1	746	0	2	1,013	0	1	4,010	0	0	10,824	0
Mobile Money	0			0			0			2			0		
Subtotal	24	28,272	4,956	37	60,362	7,082	29	70,620	8,344	46	689,094	19,623	96	407,355	7,392
DNFBPs															
	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OTHERS															
CTR Database	0			0			1			0			0		
Public Entities	0			0			0			1			0		
Subtotal	0			0			1			1			0		
GRAND TOTAL	24	28272	4956	37	60362	7082	30	70620	8344	47	689094	19623	96	407355	7392

173. As highlighted in the Table 3.4 above, a significant number of the STRs (over 82%) were filed by the commercial banks. Although the total number of STRs filed by banks may

⁶⁹ Statistics provided by the FIU on STRs received per predicate offences

seem consistent with the materiality and risk profile of the banking sector in The Gambia based on the volumes and values of transactions processed, given the significance of the sector and the risks it faces, the overall number of STRs filed by the sector is considered low. Foreign exchange bureaus, Microfinance institutions and mobile money service providers filed 11.97%, 3.85% and 0.85% respectively of the total STRs, which appears consistent with their materiality and risk profiles. The STRs are filed to the FIU within 72 hours of establishing suspicion by the reporting entities. STRs were also escalated from the FIU's own database. The FIU has an STR escalation mechanism /parameters in place that enables the escalation of STRs from the CTRs and WTRs in its data base. The parameters include the volume of transaction, parties involved in the transaction, purpose of the transaction/transfer, amongst others. Assessors were informed that CTRs and WTRs are reviewed on the basis of the parameters and escalated to STRs based on these parameters. In the review period, the FIU escalated one CTR to STR from its database. In addition, the FIU received one STR from a public institution in line with the AML/CFT Act which requires competent authorities that suspect any transaction to report to the FIU. No STR was filed by DNFBPs (some of which are considered medium to high-risk in the NRA), which is not consistent with the risk profile of the country.

174. Statistics in Table 3.4 above show that there has been a general positive trend in the receipt of STRs from reporting entities over the review period, except in 2019, when there was about 18% decrease (from 37 to 30). Although no explanation was provided for the decline in the number of STRs received in 2019, the country attributed the progressive rise between 2017 and 2018, and 2020 and 2021 to increase in awareness, training provided by the FIU, and the 16 TF related STRs filed by the various reporting entities. It is the view of the Assessors that based on the concerns around drug trafficking, corruption, etc (see IO.1) in The Gambia, the STRs received could be far higher than in Table 3.4 above. The total number of CTRs and WTRs filed to the FIU per year has followed a constant upward trend throughout the review period. The Gambia attributed this to the increasing number of reporting entities filing CTRs and WTRs and the requirement for banks to submit aggregate transactions that add up to the reporting threshold in order to check structured transactions. A CTR must be filed when a cash transaction exceeds GMD450,000 (US\$8,510) for individuals and GMD2 million (US\$ 37, 825) for corporations on a weekly basis. Similarly, a WTR must be filed when a transaction exceeds US\$15,000 or its equivalent in any currency and for individuals, enterprises, sole proprietorship, partnerships and other unincorporated businesses and US\$ 50,000 or its equivalent in any currency for companies and corporations. These reports have proven valuable to the FIU. For instance, they are most times included in the cases disclosed to LEAs, and secondly, as a prescribed report received by the FIU, the Unit can follow up with reporting entities on the subjects of any prescribed report in order to gather additional financial intelligence relating to them and their accounts. In view of the lack of supporting statistics, the team believes no CDR was filed to the FIU about suspicious cross-border transportation incidents in the review period. Although no specific reason was provided by the FIU or Customs for this, the team believes this could largely be attributed to capacity constraints at the Customs. This represents a gap especially as there is no evidence that the FIU request such information from the Customs.
175. Based on discussions with the FIU and reporting entities during the onsite, it is understood that the low number of STRs filed by some banks and NBFIs, and the non-filing of STRs by DNFBPs, could be due to inadequate supervision and monitoring of the sectors, the lack of sanctions for non-compliance with reporting obligations, inability of some of the reporting entities to detect suspicious transactions, and the lack of sector-specific AML/CFT guidance, especially to the DNFBPs (see IO.3). In addition, feedback from the reporting entities, especially banks during the on-site visit suggests that the practice of inviting

Compliance Officers to courts as witnesses during prosecution of cases in which they have filed STRs could discourage them for reporting STRs as they felt exposed. The low level or lack of reporting of suspicious transactions by some reporting entities (some of which are identified as medium to high risk in the NRA e.g real estate sector) is a serious concern. It is the view of the Assessors that this denies the FIU potential transactional and other information useful for conducting analysis and producing relevant financial intelligence for possible use by the LEAs, which have some adverse implications on the ability of the Unit effectively meet its domestic and international obligations. Overall, it limits the scope of information available for FIU analysis and ultimately, the availability of financial intelligence in the country. Notwithstanding, the FIU requests and receives information from reporting entities in the course of conducting its analysis function independent from filing a suspicious transaction report (see Table 3.2). However, the Unit has not made requests for additional information from the DNFBPs. Thus, Assessors concerns noted in relation to the adverse impact of non-reporting of STRs above remains.

176. The FIU acknowledges receipt of STRs but does not provide specific feedback to the reporting entity on the quality, usefulness and progress or outcome of the STR filed⁷⁰. Some of the reporting entities expressed a need for a robust and systematic feedback on specific STRs, which would further improve the compliance with reporting obligations and the STR quality. From discussions with the FIU, it was not clear that the Unit has taken any steps, to improve the quality and relevance of the reports filed. In particular, some of the reporting entities indicate that they are not aware of guidance products for STR filing, other than the STR reporting template provided by the FIU. There was no any firm confirmation from reporting entities interviewed on the usefulness of the feedback from the FIU on their ability to detect and file quality STRs. In addition, there is no platform that facilitates contributions from other stakeholders (LEAs; other end-users; etc) for improvement of the quality of STRs filed by reporting entities. Considering the relatively low number of STRs received per year, the evaluation team considers that many reporting entities would benefit from more systematic feedback from the FIU, including on a case-by-case basis.

3.2.3. Operational needs supported by FIU analysis and dissemination

177. The FIU produces good financial intelligence and information, which has been used by the LEAs to identify and investigate predicate offences and trace assets and to a lesser extent on supporting potential ML and TF cases. The FIU supports the operational needs of LEAs through proactive and reactive disseminations, all of which are developed through an analysis process. The operational analysis conducted by FIU incorporates all types of reports received depending on the relevance and complexity of the subject matter. The Unit indicated that the time taken to complete analysis of an STR varies – on the average, this could range from two days to two weeks from the date of receipt of an STR. The Unit uses MS Excel application to process STRs or perform analysis. Based on discussions with the FIU, it was clear that the current analytical tool is not adequate in mining relevant information to supports analysis and dissemination of intelligence to LEAs. As noted earlier, the FIU has procured a more sophisticated analytical tool (go-AML) which will soon be deployed for its analytical works. The Assessors were informed that, when STRs are received, they are entered into its database by the Information Technology Unit. The

⁷⁰ The FIU stated that it used to respond to each and every single STR from reporting entities, however, given the risk of tipping off, it considered it more appropriate to issue feedbacks on STRs periodically. However, no details were provided in this regard.

Compliance and Prevention Division checks for quality (accuracy and completeness), and thereafter, the STR is assigned to an analyst by the Director. The security of the submissions and storage of the information is achieved through protection from unauthorized access to information. The FIU indicated that it prioritises STR based on the complexity of cases, amount involved, and nature of underlying suspected offence (example – drugs trafficking, corruption or where there is TF related STRs). The Unit provided some instances where it prioritizes STRs for analysis on the basis of the parameters highlighted above. When analysing STRs, the analyst will review all data accessible to the FIU. This includes a combination of information held in the database of the FIU (CTRs and WTRs), accessed from public databases and other information (e.g., from internet search engines) to enrich the quality of the financial intelligence. The FIU also adds value to STRs by seeking additional information from reporting entities and other institutions, where necessary. This helps the FIU to identify links/relationships, movement of funds, assets likely to be proceeds or instrumentalities of crime. In general, financial intelligence reports produced by the FIU highlight relevant factual information, an analysis and assessment sections, which include details on the identified ML/TF suspicion and patterns.

178. Once analysis of STRs is completed, the FIU determines whether the elements of suspicion appear sufficient to justify the opening of a criminal case. If this is the case, it transmits the financial to the relevant agencies, depending on the suspected underlying crimes. Table 3.5 highlights the spontaneous disseminations by the FIU in the review period. The FIU indicated that the suspected underlying predicate offences identified in its disseminations include fraud, tax crime and drug trafficking which appears consistent with some of the main ML risk of The Gambia. Where the basis of dissemination cannot be established, the file is kept in view (KIV) and monitored. However, in instances where the FIU has reasonable grounds to believe that the transactions in question are not linked to any predicate offence, such cases are shelved. Some of the files are classified as “active”. These are STRs which some preliminary analyses have been conducted but the FIU is awaiting additional information requested from the reporting entities or public authorities to undertake a more thorough analysis. The Assessment team is concerned with the length of time it has taken for the FIU to receive the information requested, especially for the 11 active STRs since 2020.

179. The FIU has a written Operational Manual which serves as a guide to staff in their analysis. However, the manual can benefit from further review to amongst other things, incorporate criteria and indicators covering the prioritisation of cases.

Table 0.5. Number of STRs Received, Analyzed, Dissemination, KIV, Closed and Active by the FIU, Jan 2017 – August 2021

Year	No of STRs Received	STRs Analyzed	Dissemination	KIV	Closed	Active
2017	24	24	16	0	8	
2018	37	37	9	16	12	
2019	30	30	20	1	8	1
2020	47	36	28	2	6	11
2021	96	27	7	0	20	69
TOTAL	234	154	80	19	54	81

180. Of the total 234 STRs received by the FIU since 2017, the FIU analysed only 154, representing about 66% of the total STRs, with about 44% of the STRs yet to be analysed. The FIU attributed this to inadequate human resources and lack of sophisticated analytical software. As at onsite, the FIU had a total number of 29 employees, including 7 analysts. Overall, this highlights the challenges being experienced by the FIU regarding its ability to effectively support its partners. In addition, it suggests there is room for improvement in the human capacity by the FIU.

181. The result of the FIU analysis is largely disseminated spontaneously to The Gambia Police which received the highest number of disseminations (about 83%) during the review period (see Table 3.6). This appears reasonable as the Police deals with fraud which is one of the main predicate offences identified in the NRA. The FIU also provided spontaneous information to other competent authorities, including GRA, DLEAG and SIS. Although this effort is noted, the number of disseminations to these authorities, especially DLEAG is considered low, given concerns around drug trafficking.

Table 3.6 Proactive Disseminations by the FIU, Jan. 2017-Aug. 2021

Year	PROACTIVE DISSEMINATION BY AGENCY							Total
	Police	GRA	DLEAG	CBG	SIS			
2017	15	1	-	-	-	-		16
2018	8				1			9
2019	17	1	3					21
2020	25	3		3				31
2021	5	1	1					7
GRAND TOTAL	70	6	4	3	1			84

182. Regarding the analysis of requests from LEAs and foreign FIUs, upon receipt of these requests, the FIU conducts an initial review to verify if basic information are provided by the requesting authority to facilitate analysis, otherwise the requesting authority or agency is contacted for the relevant information. Generally, the FIU checks its database then (where necessary) requests additional information from other relevant stakeholders. The timeliness for responding to requests from LEAs and foreign FIUs varies depending on the nature of the request. In practice, responses are provided within a period of two days if the information or data are available in the FIU's database and the request requires limited analysis. Similarly, in a situation where more complex analysis is required, including obtaining information from reporting entities, it takes a longer time to provide the response. The FIU has provided some responses to requests made by LEAs to help them in their investigations and/or prosecutions (see Table 3.7). The outstanding responses in Table 3.7 could be as a result of insufficient information on the requests made by the requesting LEA, particularly the Police. In general, the FIU better supports the operational activities of LEAs through the provision of information upon requests. See Table 3.7 for dissemination made by the FIU to LEAs upon requests.

Table 3.7. Reactive Disseminations (Upon Request) by the FIU, Jan 2017 – Aug 2021

Institution (e.g)	Number of Information Requested & Response Received									
	2017		2018		2019		2020		2021	
	Request	Responses	Request	Res	Request	Res	Request	Res	Request	Res
LEAs										
Police	5	5	36	34	37	30	38	22	16	9
DLEAG					1	1			3	3
NAATIP			1	1						
SIS			1	1						
Gambia Armed Forces							1	1	1	1
Sub-Total	5	5	38	36	38	31	39	23	20	13
OTHER COMPETENT AUTHORITIES										
CBG	1	1								
Janneh Commission			1	1						
Ministry of Justice			2	2	1	0	1	1		
Ministry of Interior							1	1		
Sub-Total	1	1	3	3	1	-	2	2	-	-
TOTAL	6	6	41	39	39	31	41	25	20	13

183. Besides the LEAs, the FIU also supported the Janneh Commission of Inquiry with financial intelligence in relation to investigations into the financial dealings of former President Jammeh and his close associates. In this regard, the FIU requested financial information linked to the former President and his close associates from all the commercial banks. Over 150 bank accounts were provided, which were analysed and forwarded to the Commission. According to the NRA report, the financial intelligence provided laid a solid foundation for the Commission to effectively conduct its investigations. Consequently, funds totalling GMD100, 617,442 (approx. US\$1,922,014) and US\$498, 481 were recovered from hidden accounts with local banks and through the sale of some confiscated items.

184. FIU disclosures/disseminations to relevant LEAs vary across agencies. The decisions for proactive intelligence disseminations are taken on a case-by-case basis depending on the suspected underlying predicate offence, the risk profile of the subject and subject's associates, the nature of the case, etc. During the period under review, the FIU largely disseminated its spontaneous intelligence reports to the Police. Spontaneous disseminations to the DLEAG stood at 4 between January 2017 and August 2021. Although this is noted, given that drug trafficking was identified as one of the major predicate offences in The Gambia, Assessors believe that more proactive disseminations should have been made to the DLEAG to reflect one of the major ML risks (i.e drug trafficking) in the country. There was one proactive dissemination to the SIS by the FIU in relation to TF in 2018.

185. The Gambia claimed that all the spontaneous intelligence disseminated by the FIU (see Table 3.6) were used by LEAs to initiate ML/TF investigations as indicated in Table 3.8 below. However, statistics on information sources for ML investigations provided by the country under IO.7 (see Table 3.9) could not support this claim. While spontaneous intelligence disseminated to LEAs by the FIU (Table 3.6) is 81, the number of ML investigations resulting from spontaneous dissemination by the FIU in Table 3.9 stands at 43, representing 53%. Furthermore, as noted under IO.7 (Para 192), all the investigation files (especially from the Police and DLEAG which received over 91% of the FIU's spontaneous disseminations) reviewed by the team did not indicate that any intelligence

from the FIU was used to initiate ML investigation in the review period. With respect to TF investigation, the one (1) TF-related intelligence disseminated by the FIU in 2018, led to investigation (see IO.9). While it is not clear why majority of the spontaneous disseminations by the FIU could not result in the initiation of any ML investigations, it is the assessors view that this could be attributed largely to capacity constraint at the LEAs, especially as the LEAs confirmed the good quality of the intelligence received from the FIU. Overall, this supports the assessors' view that financial intelligence is largely used to support investigation of predicate offences by LEAs in The Gambia.

Table 3.8 Number of Investigations Resulting from FIU Proactive Intelligence, Jan 2017 – August 2021

Type of Crime	2017	2018	2019	2020	2021
ML	16	8	21	28	7
TF		1			
Others (predicate offences)					
TOTAL	16	9	21	28	7

186. The FIU has mandate to conduct strategic analysis under the AML/CFT Act. The FIU reported that its annual reports contain strategic information (method and trends identified in the STRs) which they believe, to some limited extent, represent product of strategic analyses. However, upon review of the reports the Assessors observed that the strategic information that were referenced are information extracted from STRs received, including currencies involved, suspected predicate offences, and nationalities of persons involved in the STRs. While this is noted, it still remains that, as at the time of onsite, the Unit was yet to conduct strategic analysis or produce strategic products. Strategic analysis is an important component of the AML/CFT framework as it provides insight for policy makers, competent authorities and other stakeholders on ML/TF risk, trends and methods. By conducting strategic analysis, the FIU among other things, would be able to support its law enforcement stakeholders, policy makers, and reporting entities in identifying possible services and sectors in The Gambia which are vulnerable to ML/TF. In addition, there is no indication that strategic analysis from the FIU's perspective formed a basis for the country's NRA. The lack of strategic analysis may be due to the lack of adequate resources (human, technical, and financial resources). Thus, it is not possible to ascertain any added value of strategic analysis to: the identification of geographic and systemic "hot spots"; identification of new and emerging phenomena; and provision of detailed lead information to LEAs / intelligence community. It is the view of Assessors that the lack of strategic analysis impacts adversely on the sharing of information to identify ML/TF risks, inform coordinated interventions, and promote a shared understanding of the risks facing the country. Thus, the FIU needs to build capacity to conduct strategic analysis in order to assist competent authorities and reporting entities in understanding ML/TF trends and methods in The Gambia.

187. As at the time of the onsite, the Unit had only seven (7) staff dedicated to analysis work. The analysts have participated in some training⁷¹ which meets their current needs to

⁷¹ These include *Regional Strategic Analysis Course for Financial Intelligence Units; Training on Forensic Accounting and Financial Investigation Techniques for Law Enforcement Agencies and FIU; Financial Investigations and Asset Recovery Training; GoAML Training/Training on GoAML Software Solution; and Training on the Conduct of National Risk Assessment.*

some extent. The FIU noted the need for additional staff, including analysts, to complement existing staff strength. The FIU can benefit from more advanced training on analysis, particularly with the procurement of the go-AML software.

188. In general, Assessors believe that the limited human resources or staff dedicated to analysis, low volume of STRs filed by commercial banks and the non-filing of STRs by some of the NBFIs and all DNFBPs (some of which are assessed as medium to high risks in the NRA, e.g real estate agents), and the inability of the FIU to conduct strategic analysis contribute to the challenges faced by the Unit in effectively supporting the operational needs of LEAs.

3.2.4. Cooperation and exchange of information/financial intelligence

189. The cooperation between the FIU and other competent authorities is generally satisfactory. However, they exchange information only to a limited extent. The Assessment team based this conclusion on the fact that LEAs and other competent authorities (with exception of the Police) make limited requests for information on the FIU (see Table 3.3). The FIU has designated focal persons in relevant domestic competent authorities aimed at facilitating information exchange, nevertheless this appears not to have been effectively utilized to facilitate information exchange between the FIU and the relevant agencies. The assessors observed that the use of informal relationships and communication within The Gambia is commonplace, and appears to be working well for the country. However, in the absence of statistics and case examples in this regard, the team was not able to make a determination of the effectiveness of informal cooperation. There are some operational cooperation platforms, such as the Joint Airport Interdiction Task Force (AIRCOP-JAITF) and the Joint Operations Centre (JOC). These platforms are operational and have recorded some achievements (see IO.1), however it is not clear how regularly they meet to share information or discuss AML/CFT related issues, including giving each other feedback.
190. Generally, LEAs and other competent authorities do not necessarily require MoU to cooperate and collaborate with the FIU. Nevertheless, the FIU has a formalised MoUs with the GRA on cooperation and exchange of information. The FIU demonstrated that it provides support to the GRA proactively (although at low end), by providing intelligence or information to support ongoing operations where appropriate (see Table 3.6). As noted in other parts of the report (e.g paras 209/210 under IO.7), the FIU has also provided financial intelligence to support ongoing investigation by LEAs. The CBG and the FIU cooperate in exchanging information for supervisory purposes, especially during joint onsite inspections of banks.
191. The FIU and other competent authorities take the necessary steps to protect the confidentiality of information that they store, use and exchange. Exchange of information with competent authorities is undertaken in a secured way through dedicated personnel on either side (dedicated staff at the FIU and focal person in other competent authorities). This procedure helps to safeguard and protect the information accessed or disseminated for use by competent authorities. As at the time of the on-site visit, there was no instance where the confidentiality of the information exchange between the FIU and competent authorities had been compromised.
192. The FIU is implementing IT security policies, and there are physical systems and processes in place for the security of information within the Unit, including perimeter wall

with security guards. In addition, financial intelligence products contain caveats that protect and restrict sharing with third parties as such intelligence are only for the intended recipient. Thus, the Unit's facilities appear secured enough to prevent unauthorised access and ensure safeguarding of the information. The FIU recently procured the go-AML analytical software. It is expected that when the go-AML is deployed for operations, it will provide further secured medium for sharing of operational intelligence between the Unit and LEAs.

Overall conclusion on IO.6

193. LEAs and FIU have access to a wide range of information sources. The STRs filed to the FIU are predominantly from banks with few from NBFIs. The number of STRs received is considered low and the quality is generally good. The non-filing of STRs by DNFBPs and some NBFIs raises serious concern as some of these entities are assessed as having medium to high risks (e.g real estate agents and lawyers), and also limits the scope of financial intelligence and other information shared by the FIU with LEAs. The FIU does not receive currency disclosure reports from the Customs and there is no evidence that it has made requests in this regard. The FIU produces and disseminates reasonably good financial intelligence to LEAs and other competent authorities. However, it does not have adequate human resources to exercise its core functions and assist the LEAs in a more effective manner to identify potential criminal proceeds and TF cases based on the risk profile of The Gambia. The lack of adequate analysts has also affected its ability to conduct strategic analysis which could inform LEAs and other competent authorities of ML/TF patterns and trends in a more systematic manner. Feedback to reporting entities by the FIU is not regular and systematic while limited feedback is provided to the FIU on the use of financial intelligence by LEAs. In general, the competent authorities use financial intelligence and other relevant information for ML and TF investigations to a very limited extent. The FIU and other competent authorities cooperate well but exchange information and financial intelligence to a limited extent.

194. **The Gambia is rated as having a low level of effectiveness for IO.6**

3.3. Immediate Outcome 7 (ML investigation and prosecution)

195. The Gambia's legal and institutional frameworks demonstrate, to a certain extent, compliance with international standards except for some minor gaps concerning attempted ML, the range of ML predicate offences, foreign predicates and the proportionality of sanctions (see TC Annex, R.3). These gaps have some impact on the effectiveness of ML investigation and prosecution. To comply with international standards, and considering its risk profile, The Gambia should address these gaps.

3.3.1. ML identification and investigation

196. Competent authorities responsible for investigating ML in The Gambia include the National Drug Enforcement Agency, and The Gambia Police Force s (§1, AML/CFT Act).

Customs Department is empowered to investigate ML related to the cross-border movement of currency and BNI and report seizures to the FIU. When investigating a criminal conduct or ML, a competent authority can apply to court for restraining orders to prevent the dissipation of property, or property tracking orders to determine ownership of property (§§51 & 61, AML/CFT Act). The Gambian authorities advised that all LEAs in the country are empowered to investigate ML without referring potential cases to a specific agency (for example, the GPF), taking account of its investigative expertise and presence across the country. Nevertheless, The Gambia did not demonstrate that services such as the Gambia Revenue Authority, State Intelligence Service (SIS) and the Gambia Immigration Department (GID)) have ever conducted ML investigations. In practice the GPF is the LEA investigating most ML cases, followed by the DLEAG to a very minimal extent.

197. Table 3.9 indicates that ML investigations are mainly based on financial intelligence disseminated by the FIU. However, investigation reports, especially from the GPF and DLEAG, reviewed showed that suspicious ML activities are identified largely through investigation of predicate offences. None of the investigation reports demonstrated the initiation of investigations based on the FIU's spontaneous disseminations within the review period. The Yankuba case which was initiated from the FIU intelligence commenced in 2013 which was outside the period under consideration. The authorities advised that no criminal activities were detected from the FIU intelligence to warrant investigation as the funds involved in the transaction were found to be originating from legitimate sources. However, Assessors have concerns regarding Gambia's statistics under IO.6 and those provided under IO.7 on ML investigations triggered by the FIU's disseminations (see Table 3.8 in IO.6 and Table 3.9). For example, while the GPF indicated that it conducts parallel financial investigations alongside all predicate offences, the data provided did not corroborate this assertion. In addition, the GPF and DLEAG did not demonstrate leads from other sources. For instance, there has been no ML investigation related to the identification of cross-border cash movement as a significant ML risk (see IO.8).

Table 3.9 Information sources for ML investigated by Gambian authorities, Jan. 2017- August 2021

Source	2017	2018	2019	2020	2021	Total (by source)
FIU spontaneous dissemination	12	8	11	12	..	43
Customs report on cross-border cash smuggling	-	-	-	-	..	0
Third-party notifications	-	-	-	-	..	0
Other intelligence sources	-	-	-	-	..	0
International cooperation	-	-	-	-	..	0
Predicate crime investigations	1	1	2	2	..	6
Total by year	13	9	13	14	..	49

Source: GPF & DLEAG

198. Overall, the authorities did not demonstrate the proactive identification and investigation of ML. ML cases are identified and investigated based on evidence arising from the specific predicate offence, rather than a broader identification of ML activities and, in particular, major proceeds-generating offences. Over the last five years, The Gambia has concluded one ML prosecution which resulted in conviction for attempted ML instead of the ML charge. The number of ML convictions is inconsistent with The Gambia's risk profile.

199. The Assessment Team based its conclusions on information provided by the Gambian authorities on: (i) the number of domestic proceeds-generating cases which had been recorded, investigated and prosecuted in The Gambia from 1 January 2017 to 30 August 2021; (ii) the number of parallel financial investigations conducted; (iii) other documents, including a case study and investigation reports presented; and (iv) interviews conducted during the on-site visit.

Identification and investigation of ML per LEA

The Gambia Police Force

200. The GPF has investigation Units, specifically the Anti-Fraud Squad Unit (A-FSU), Serious Crimes Unit, Criminal Intelligence Unit, and the Anti-Crime Unit. Officers of the A-FSU have been trained specifically on financial crimes and work as financial crime investigators. A-FSU is also responsible for investigating fraud, corruption, financial crimes and ML. Based on the institutional framework, the units are represented at the national and provincial levels.
201. While A-FSU investigates some predicate offences, it neither routinely undertake parallel financial investigations regarding serious unlawful conducts nor pursue ML. The statistics presented on the predicate offences investigated by A-FSU could have triggered more ML investigations during the period under review. AFSU conducts some basic financial investigation, but rarely evaluates criminal matters for potential ML because it lacks specialised training. Based on evidence gathered, A-FSU forwards a case file on predicate offence to the AIG (Crime Management Coordinator) with the recommended charges to be preferred against the suspect for evaluation and advice. When the AIG believes that ML has been established, the AIG refers the case to the MoJ for prosecution. The A-FSU did not demonstrate the proactive or broader identification and investigation of ML activities and, particularly, major proceeds-generating offences.
202. Available data suggests that the largest category of predicate offences investigated by A-FSU by far is fraud, and to a lesser extent forgery, counterfeiting and piracy of currency. While this is somewhat consistent with The Gambia's risk exposure, a negligible number of these investigations, especially related to fraud, are referred to the MOJ for prosecutions where the ML offence is charged alongside the predicate offence. During the review period, A-FSU concluded five ML investigations and referred them to the MOJ for prosecution. Investigation of two cases are ongoing. However, statistics on the concluded and ongoing investigations are not covered by the statistics provided.
203. A-FSU's activities are centralised and its operations are mostly limited to Banjul (the capital city of The Gambia). Thus, provincial Police officers conduct preliminary investigations on all financial crime-related cases and refer them to the A-FSU for further investigation. The Gambia affirms that provincial Police officers have limited knowledge and understanding in identifying ML and investigating financial crimes and ML compared to their counterparts in the urban areas. No information or data shows the number of cases referred by provincial Police to A-FSU.
204. Statistics also show that the Serious Crimes Unit investigated 372 robbery and murder cases (see Table 3.10), but none of them resulted in ML being charged. The Gambia attributes the general lack of ML charges to the nature of its economy, and the fact that it

records mostly petty crimes. Overall, the GPF sees inadequate resources in terms of working tools, communication tools and specialised training as impediments to investigating ML.

Table 3.10 Predicate offences investigated by Gambia Police Force, Jan. 2017 to Aug. 2021

Offence	2017	2018	2019	2020	2021	TOTAL
Obtaining by false pretences/fraud	227	244	271	390	186	1318
Murder	21	26	21	22	14	104
Grievous Harm	19	23	14	24	14	94
Kidnapping	5	1	6	1	2	15
Robbery	34	56	76	60	42	268
Theft	4	1	-	1	1	7
Extortion	-	-	-	3	3	6
Issuing of false cheque	10	7	7	10	-	34
Abuse of Office	1	1	3	-	-	5
Bribery	-	1	-	-	-	1
Cyber Crime	-	-	-	-	1	1
Forgery	12	14	12	13	4	55
Counterfeiting currency	8	8	10	10	14	50

Source: GPF

Box 3.1. Case Example – FI Platform Compromise and Funds Transfer Case

In March 2020, while investigating a fraud case involving \$29,330.00 transferred to MD to purchase Bitcoins in The Gambia on behalf of OGR (an individual resident outside The Gambia), A-FSU received a complaint from EFS (an Fa micro-finance business in The Gambia) had experienced a security breach and hackers had transferred funds to some individuals in The Gambia. OGR, MK (the lawful attorney of OGR), MD, LBS (MD's driver) and KB (MD's brother) were on the list of recipients of the transferred funds. MD's bank statement obtained from his bankers revealed transfers from three other persons being part of the funds transferred EFS and withdrawn from various locations in The Gambia. LBS and KB received commissions from MD for using their bank accounts in receiving some of the funds on behalf of MD. A-FSU recommended MD and BJ (another recipient of the transferred funds) for prosecution for ML.

DLEAG

205. The DLEAG has the mandate to conduct full-scale financial investigations related to drug trafficking offences and ML. The Sensitive Investigation Unit (SIU) of the DLEAG has investigative and operational mandates and undertakes special operations as an elite Unit with high tactical capability/capacity. The SIU investigates sensitive cases and cases with international dimensions, and serves as the transnational organised crime investigation hub. The Unit also investigates drug cases interdicted by frontline border commands namely, the airport, seaport and land border commands. The SIU identifies ML cases while investigating drug offences under the Drugs Act and suspected ML cases referred to it under the AML/CFT Act. Cases that fall under the domain of other LEAs – cash smuggling and

smuggling of contrabands to evade customs duty, document fraud and stolen items – are handed over to the relevant authorities (for example, Customs and GPF).

206. While DLEAG statistics show an increase in drug-related offences (trafficking and possession) (Table 3.11), it is yet to leverage its investigation of drug-related offences, identified as major proceeds-generating crimes, and The Gambia's position as a transit point for illicit drug trafficking, to identify ML cases consistent with the country's risk profile. Since 2017, the DLEAG has focused on around 774 serious drug trafficking or dealing cases. Over the same period, there were 1,609 possession cases some of which could be linked to more serious offences. However, it has investigated only two potential ML cases (see Boxes 3.2 & 3.4). The first investigation (stand-alone ML) was truncated due to the lack of information from foreign jurisdictions while prosecution of the second case (drug-related) is about to commence. During this period, four intelligence reports received from the FIU did not lead to ML investigations. The low number of SIU's ML investigations indicate insufficient attention by the authorities to drug-related ML although most of the cases may not involve high-level drug dealing generating significant proceeds.

Table 3.11 Investigation of Drug-related Offences, Jan. 2017 to Aug. 2021

Year	2017	2018	2019	2020	2021	Total
Cases	425	668	613	677	..	2,383
Trafficking	161	221	187	205	..	774
Possession	264	447	426	472	..	1,609
Arrests	468	686	610	691	..	2,455
Cases determined	130	202	145	..	..	477
Convictions	107	180	121	..	..	408
Acquittals	22	22	24	..	..	68

Box 3.2 Case Example – Suit No. HC/376/17/MF/099/FI

On 11 May, 2017 the SOS of the DLEAG arrested MEH in a hotel in Banjul in possession of two million four hundred and fifty thousand eight hundred and twenty-five dalasi (GMD2,458,825.00)(US\$ 46, 349). Most of the monies were transferred from Canada and USA via Western Union and Money Gram in more than 100 transactions over five weeks (from 18 April 2017 to 10 May 2017) through different senders recruited in both USA and Canada and more than 18 individuals recruited in The Gambia. Two of the transactions were conducted through a bank, while the rest were received through local foreign exchange bureaux. A reconciliation report generated from the laptops of the suspects and receipts recovered during the investigation revealed a transfer of four million six hundred and twelve thousand eight hundred and thirteen dalasi (GMD4,612,813.00) (US\$86, 952) representing five days' transactions and wire transfers involving seven million dalasi (US\$150,000.00) conducted within five weeks. Some of the funds were transferred outside the country through forex bureaux. Nine individuals of different nationalities communicated through two WhatsApp Groups, Senegambia (5 members) and Black & White (4 members) in support of these activities. The MoJ obtained a freezing order pending investigation. However, after unsuccessful MLA requests to both USA and Canada through the MOJ, DLEAG truncated the investigation. Subsequently, the court discharged the freezing order on 7 June 2018.

207. The FIU plays a significant role in identifying and tracing the flow of funds during the parallel financial investigation of the predicate offences which are investigated, particularly by the SIU. Upon request, the FIU obtains information from banks to assist the authorities to “follow the money”. Under §45, AML/CFT Act, the FIU has powers to request the provision of specific account information (for example, account opening packages, including KYC forms, statement of accounts) and to freeze bank accounts for ten days (§33, AML/CFT Act). The FIU shares the information it obtains from FIs without analysis to trace the fund flows for use by LEAs. The FIU disseminates the information to LEAs for intelligence purposes only and not as evidence in a court of law. The authorities collect the evidence through court orders for use in court to support criminal charges.
208. Assessors note that LEAs request to the FIU to freeze bank accounts pending the outcome of the investigation is not supported by law. The FIU’s power under section 33 of the AML/CFT Act to freeze bank accounts is triggered by the reporting of suspicious transactions. This enables the FIU to make the necessary inquiries concerning the transaction and inform and advise a competent authority regarding the suspicion. While this practice allows LEAs to take timely action to secure suspected proceeds of crime, it reduces protection for the FIU against potential suits claiming the wrongful freezing of bank accounts. To avoid such situations, LEAs are encouraged to apply for restraining orders under section 51 of the AML/CFT Act.
209. The MOJ conducts searches at the Registrar General and the Companies Registry to identify registered properties of individuals and entities suspected to be involved in or associated with the prime suspect(s) in the commission of criminal offences under investigation, applies for restraining orders and facilitates requests for MLA regarding information related to cases under investigation.
210. The potential ML cases identified and most ML investigations conducted are linked directly to the investigation of the predicate offences with quite less emphasis on the proactive identification and investigation of ML cases, as well as the networks and professional enablers behind or linked to the predicate offence. The Gambian authorities can address this gap through the development of the capacities of the A-FSU and SIU to focus proactively on ML cases and to identify and investigate third-party ML, professional enablers and ML networks related to the predicate offences.
211. In the absence of information regarding the volume of threats associated with each predicate offence, it is difficult to determine the specific offences generating the highest proceeds. However, it is safe to highlight that most of the predicate offences (including environmental crime) are major proceeds generating crime which entail ML activity. Most of the ML cases charged are self-laundering which are prosecuted alongside the predicate offence. The ML aspect charged often relates to the immediate dealing in the proceeds of the predicate offence committed by the defendant or a close associate of the defendant. The authorities rely on the same evidence developed by the parallel financial investigation to prove the predicate offence and confiscate assets to prove the ML offence, while the ML charge also follows the charge for the predicate offence. The focus on predicate offences has impeded The Gambia’s effectiveness in dealing with the broader ML activities, including third party ML.

ML investigation by other authorities

212. In addition to the GPF and DLEAG, several other authorities have powers to investigate specific predicate offences. These include the Gambia Immigration Department (GID) which manages breaches of immigration laws; the Gambia Revenue Authority (GRA) which investigates tax crimes and smuggling offences; National Agency against Trafficking in Persons (NAATIP) which is responsible for receiving and investigating reports on activities of trafficking in persons in collaboration with GPF or GID. These authorities have some structural and technical deficiencies, which question their impact on the overall effectiveness of The Gambia's ML investigation, prosecution and related confiscation of proceeds crime efforts.
213. The Irregular Migration Unit (IMU) of the GID is responsible for investigating ML linked to illegal migration and related matters. It screens and processes travellers at points of entry/exit, and has the mandate to prevent and detect human trafficking, migrant smuggling and false travel documentation. The IMU has seven staff who have no special training in ML. During the onsite, it was apparent that the authorities had limited awareness of the ML risk presented by migrant smuggling and human trafficking. From 2020 to 2021, GID deported thirteen (13) foreign nationals involved in various criminal activities, including sexual offences against minors, illicit drugs, murder and immigration offences. However, GID demonstrated limited appreciation of the seriousness of the risk posed by these offences. The Department focuses on detecting document fraud to also investigate potential ML relating to migration offences, including human trafficking and migrant smuggling. The authorities advised on a case involving illegal immigration where the investigation covered obtaining money by deceit and ML without providing further details. IMU considers the lack of criminalisation of migrant smuggling, training and resources as the main obstacles to the detection, investigation, prosecution and conviction of offences under its purview. In December 2020, The Gambia launched a National Migration Policy to provide a national framework for migration management, to better coordinate and define roles and responsibilities of the various stakeholders involved in migration management among others. However, the Policy does not integrate AML issues to facilitate related ML investigations. The Gambia has also drafted a Smuggling of Migrants Bill to criminalise migrant smuggling and address related matters. The Gambia should ensure compliance of the envisaged Act with international standards and provide relevant authorities with adequate resources and training for its effective implementation.
214. **GRA** has the mandate to investigate all breaches of revenue and customs related legislation, including tax crimes and the smuggling of goods and contrabands. To implement the provisions of the Customs laws, all officers have the same powers, authorities and privileges given by law to members of the Police Force (§5, Customs Act). The Intelligence and Investigation Department (IID) is responsible for gathering intelligence information and investigating taxpayers that fail to comply with their tax obligations. Intelligence gathering and investigation involve the analyses of GRA and third-party data to identify high-risk taxpayers requiring investigation. Cases handled by the IID include suspected tax fraud (tax evaders), non-registrants, defaulters in filing and payment and tax avoiders. IID investigates cases based on the GRA's audit and compliance reviews of taxpayers' history of compliance or non-compliance, class of business conducted, intelligence information, random case selection and other matters considered relevant for the assurance of revenue collection.
215. The GRA is the second highest recipient of the FIU's financial intelligence disseminations (see Table 3.6). Also, in 2016, the FIU issued an AML/CFT Training Policy Guidance for the GRA (for both staff and board members of Customs, revenue and tax administration), and requiring special attention for staff at border posts. Nevertheless, GRA demonstrated limited awareness of the ML risks presented by tax crimes, particularly those

related to smuggling, in The Gambia. The GRA is primarily focused on ensuring that defaulters pay the appropriate taxes in addition to the imposition of administrative fines without pursuing potential ML elements in tax crimes nor referring such cases to the GPF for investigation.

216. From January 2020 to August 2021, the GRA investigated four tax-related cases. Two related to the under-declaration of capital gains tax contrary to section 245 of the Income and Value Added Tax Act while the others related to the smuggling of petroleum products contrary to section 239 (a) of the Customs and Exercise Act and possession of uncustomed goods contrary to section 240 of the Customs and Excise Act GRA settled one of the Capital Gains Tax by payment of tax due and penalty and secured a conviction for the smuggling case. The remaining two cases are pending in court. The absence of information regarding the monetary value and the profile of the persons involved in the cases provided, as well as the lack of information on cases handled by the GRA before 2020 demonstrate a lack of attention to tax crimes highlighted by The Gambia's NRA.⁷²
217. As noted earlier, tax crimes are not designated as predicate offences of ML. This means that despite the possibility of setting up a team of sectoral investigators for complex cases of tax crimes involving ML, The Gambia did not conduct any joint ML investigations with tax elements or components, wherever committed. As of the on-site visit, the authorities did not consider the non-designation of tax crimes as an impediment to ML investigation and prosecution, hence the dissemination of financial intelligence and issuance of training policy for the authority. Considering that the failure to submit tax returns could also involve some tax fraud matters, the non-designation of tax evasion as a predicate offence could impede The Gambia's ability to investigate and prosecute tax fraud or customs-related ML cases. Also, no provision in the AML/CFT Act or Customs Act requires the GRA to investigate ML related to tax crimes or to refer potential ML to any competent authority for investigation. The Gambia needs to amend the AML/CFT Act to designate tax crimes (related to direct taxes and indirect taxes) as a predicate offence of ML. The Gambia also needs to ensure that the GRA is adequately trained to identify related ML cases and refer them to the GPF for further investigation.
218. *Customs*, a department under the GRA, regulates the physical cross-border movement of funds, goods and other forms of value, accompanied or unaccompanied, and monitors the ML risks related to such movements under the AML/CFT Act. "Goods" includes all kinds of articles, wares and merchandise (§3, Customs Act). Customs is empowered to investigate ML related to cross-border disclosure of currency and BNI by travellers at points of entry and exit. It has powers to search, seize and detain these assets for not more than ten (10) days on suspicion of false disclosure, non-disclosure or ML/TF and report seizures immediately to the FIU (§48-50, AML/CFT Act). During the review period, The Gambia did not investigate ML related to cross-border smuggling of currency and BNIs.
219. *NAATIP* is empowered to investigate and prosecute human trafficking cases reported by the public or otherwise coming to its notice or knowledge strengthen cooperation between the A-G, the GPF, and other public authorities and LEAs in the eradication of trafficking in persons (§§14(j) and (q), Trafficking in Persons Act, 2007 (TIPA)). A trafficking victim or any other person with information about trafficking can file a complaint with the Police or other security services at the designated places. TIPA provides for the confiscation of property acquired by traffickers from the commission

72 See page 26, 2020 NRA.

trafficking activities. In this regard, NAATIP, by itself or in collaboration with other LEAs and border officials investigate trafficking in persons cases referred to it by individuals and competent authorities within and outside The Gambia. NAATIP forwards investigation reports to the MOJ for legal opinion before prosecution while the GPF prosecutes TIP cases before the magistrate court. Since 2017, NAATIP has investigated 33 TIP cases involving more than 71 suspects (see Table 3.12). Most of the cases involved the transportation of victims from The Gambia to foreign countries for purposes of sexual exploitation and domestic servitude which generate more proceeds than internal trafficking. The authorities prosecuted six TIP cases. There is no evidence of parallel financial investigations being conducted alongside investigation for TIP. NAATIP lacks adequate training and resources to conduct parallel financial investigations related to trafficking in persons.

Table 3.12 Investigation and Prosecution of Trafficking in Persons, Jan. 2017 – Aug 2021

Year of Offence	2017	2018	2019	2020	2021	Total
Cases Reported	4	5	12	12	48	81
Number of suspects	..	..	23	48	..	71
Investigations Initiated	4	5	12	12	48	81
Investigations Concluded	2	3	5	4	5	19
Prosecutions Commenced	-	1	3	0	2	6
Prosecutions Concluded	-	-	0	0	0	0
No. Convictions Secured	-	-	0	0	2	2

Source: NAATIP

220. **Anti-Corruption Commission:** The Anti-Corruption Act, 2012 (ACCA), established the Anti-Corruption Commission (ACC) and sets out punishment for public officials involved in corruption. The Commission is empowered to investigate and recommend to the Director of Public Prosecutions (the MoJ), the prosecution of any acts of corruption or other matters prescribed under the ACCA (s.5(c)). This means that the ACC must refer corruption-related ML to the MOJ for prosecution. However, the ACC is not operational. In the absence of the ACCA, the A-FSU investigates corrupt practices. While the statistics provided by the authorities show that most ML investigations and prosecutions undertaken in The Gambia emanate from predicate offences investigated by the A-FSU, none of the ML cases related to corruption offences (see Table 3.10). In addition, the adverse findings of the Janneh Commission against the former President, some of his family members, close associates and entities did not trigger any ML investigation and prosecution.

Domestic coordination of ML investigations amongst LEAs

221. While operational agencies have common platforms and actively cooperate and share information and resources on financial crimes. However, there is little evidence to show that these platforms are being used to share information that facilitate ML investigations. The Gambian authorities form ad-hoc task forces comprising investigators from other units of the GPF and from other LEAs to facilitate a successful investigation of complex cases, including ML. While prosecutors at the MOJ are not involved of investigations, they review investigation reports and direct for further investigations, especially the gathering of evidence to substantiate a charge, when necessary, before deciding to go to trial. Generally, the extent to which this arrangement fosters effective coordination, and the sharing of financial intelligence to support investigations related to ML and associated predicates offences at the national level appears very limited due to the negligible number of cases prosecuted. The number of ML cases investigated by the GPF

and DLEAG and referred for prosecution are very negligible considering the significance of fraud and drug trafficking which The Gambia considers as high-proceeds generating offences in the country's context.

222. Further, The Gambia lacks a clear national policy which prioritises the investigation of ML offences, with a focus on parallel investigations for the high-risk proceeds generating offences. While the NRA recommends improvement in stakeholder coordination, particularly in the use of parallel investigation, the NRA-AP does not cover this measure to enable competent authorities to align their activities accordingly, which constitutes a significant risk of ML activities. Greater cooperation between the other investigative agencies in The Gambia to prioritise the identification of ML and/or indicators of ML and efficiently refer matters to the A-FSU for investigation will increase the ML investigation and prosecution.

Staffing and training of investigative authorities

223. The investigative and prosecution authorities have inadequate financial and technical resources to identify and investigate ML cases. In terms of human resources, the lack of personnel and specialisation adversely impacts the number, quality and timeframes of investigations. Concerning the investigative authorities, A-FSU has 14 financial investigators at the headquarters in Banjul, with none specialised in ML matters. SIU has four (4) financial crime investigators. NAATIP has three investigators responsible for general TIP investigations. They have a very basic understanding of ML and proceeds of crime. Regarding prosecution, the MOJ has five staff dedicated to ML prosecution nationwide and provides legal opinion on investigation reports.
224. These numbers are inadequate in view of the number of organised and serious financial crime cases. In particular, the staff of A-FSU is insufficient in view of the number of the financial crime recorded. Furthermore, the lack of specialised human resources and dedicated staff to AML impedes the effective conduct of ML investigations. The MoJ has suffered from serious resource deficiencies and lack of prosecutors for several years which has impacted operational capabilities.
225. On training, A-FSU and SIU have staff with limited specialised training in parallel financial investigations. Since 2017, three staff of A-FSU and SIU have received specialised training in ML investigation, while some participated in general training on general economic and financial crime, including ML investigation, organised by technical assistance providers (see Table 3.13). These training programmes are largely short term and not detailed enough to provide the required capacity.
226. Regarding financial resources, The Gambia did not provide information on the specific budgetary allocations for investigation and prosecution authorities. They form part of the main budgets for the respective competent authorities. In August 2021, the Gambian National Assembly approved the Government's Supplementary Appropriation Bill submitted by the Minister of Finance and Economic Affairs to address operations, including catering for the needs of the DLEAG, of the last five months of 2021. Implementation of the approved supplementary budget was not evident during the on-site visit.

Table 3.13 - Resources for ML Investigation and Prosecution, Jan 2017 – Aug 2021

Authority	2017	2018	2019	2020	2021
	Staff Dedicated to ML Investigation/Prosecution				
GPF	17	16	14	14	14
DLEAG					

MOJ	1	2	2	5	5
General Training on ML Investigation/Prosecution					
GPF	06	06	04	04	07
DLEAG					
MOJ	5	3	4	1	3
Specialised Training on ML Investigation/Prosecution					
GPF	NIL	NIL	NIL	2	2
DLEAG				1	
MOJ	1	1	1	2	3
Dedicated Budget for ML Investigation/Prosecution					
GPF	There is no dedicated budget for ML investigation/prosecution. However, it is part of the main budget for the respective institutions.				
DLEAG					
MOJ					

Source: GPF, DLEAG and MOJ

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

227. ML activity is not being investigated and prosecuted consistently with The Gambia's risks profile. Only seven ML investigations have been concluded in the last five years with none leading to a conviction. The Gambia faces significant ML risks posed by high-risk proceeds generating offences. As described in IO.1, The Gambia concluded and adopted its first NRA in November 2020 which identifies 13 predicate offences as major threats for ML. Fraud, drug trafficking, trafficking in persons, sexual exploitation, bribery and corruption, migrant smuggling, theft/stealing or robbery, currency counterfeiting and forgery were rated as medium-risk predicate offences. Predicate offences related to tax evasion, environmental crime and smuggling were rated as medium-low.
228. The seven ML investigations mentioned above related to fraud (06) and drug trafficking (01). No ML investigations have been conducted in relation to bribery and corruption, migrant smuggling, theft/stealing, currency counterfeiting, forgery and sexual exploitation. From January 2017 to August 2021, 4403 investigations were initiated for predicate offences with seven leading to an ML charge (see Table 3.10).
229. Drug offending - The Gambia faces domestic and international ML threats arising from domestic drug consumption and transnational drug trafficking. The Gambia's national statistics reveal that over 60% of the population of The Gambia is made up of youths and a high number of them (between the ages of 13 and 30 years) are engaged in the abuse and trafficking of illicit drugs.⁷³ The country is also a transit point for various types of hard drugs through its air, land and sea borders⁷⁴. However, there is no information on the value of the illicit funds associated with drug trafficking and whether they are laundered in or through the financial system of The Gambia.
230. There is an increase in drug-related offences (trafficking and possession) with 2445 arrests (see Table 3.11). Still, the DLEAG is yet to leverage its investigation of drug-related offences and The Gambia's position as a transshipment point for illicit drug trafficking, to pursue ML cases consistent with the country's risk profile. The DLEAG's Drug Control Strategy (2019-2023) does not emphasise financial investigation as an operational part of

⁷³ Page 26, Drug Control Strategy (2019-2023)

⁷⁴ Page 20, 2020 NRA.

the agency's overall drug interdiction efforts. The Gambia is yet to prosecute a drug-related ML offence. The biggest challenges appear to be in investigating larger scale ML cases of cross-border drug trafficking, including a lack of intelligence available to target ML cases to investigate the flow of proceeds of crime from these large importations and the profit-taking level of related criminal enterprises. DLEAG has recently investigated an ML case related to large scale drug importation. Most of the drug-related offences investigated and prosecuted are related to the possession and trafficking of cannabis. However, authorities indicated that investigations are sometimes slow resulting in a backlog of cases from previous years. For instance, while 686 and 627 cases were registered in 2018 and 2019 respectively, less than 20% of these cases seemed to have been determined.⁷⁵

231. As highlighted in IO.1, there is no information on the value of the illicit funds associated with drug trafficking and whether they are laundered in or through the financial system of The Gambia. The Gambia attributes its lack of action and absence of information regarding the value of funds to its position as a transit point and that most of the traffickers/culprits do not operate bank accounts in the country, and among them are also many foreigners. The DLEAG's Drug Control Strategy (2019-2023) does not include measures prioritising ML of drug trafficking to reflect its position as a storage and transit route for cocaine by international organised criminal groups.
232. ***Fraud/obtaining by false pretences/Issuing of False Cheques/Forgery*** – despite the very significant threat from fraud, including tax crimes (see 2.2 above) over the last five years, there have been no successful fraud-related ML prosecution. Eleven out of 1407 investigations concluded resulted in convictions for predicate offences (see Table 3.14). Regarding tax offences, the FIU refers a low number of financial intelligence to the GRA and there is no evidence demonstrating investigation/prosecution/conviction for ML of the proceeds of tax crimes. The NRA highlights inadequate tax database, registration and monitoring systems and the lack of reportage, records or prosecution of tax offences. In the last five years, The Gambia has prosecuted four tax crimes-related cases without prosecuting the ML aspect of the cases. The Gambia has scoping issues regarding tax crimes which it needs to address to comply with the FATF standards.
233. ***Corruption & bribery*** - The authorities secured convictions for 12 corruption-related predicate offences (see Table 3.14 below), but none on ML. The Gambia considers its ratification of the Merida Convention, the ECOWAS Protocol against Corruption and the Palermo Convention, as well as the activities of the Finance and Public Accounts Committee (FPAC), the Gambia Public Procurement Authority, the Office of the Accountant General and the Internal Audit Directorate, as important efforts in ensuring accountability and combating the misuse of funds in the public sector⁷⁶. Still, the recent initiatives to uncover corrupt practices perpetrated by officials of the immediate past government, particularly the former President and his close family members and associates did not lead to ML investigation and prosecution.
234. In terms of investigation of the crime of ML associated with ***trafficking in persons (TIP)***, 33 cases were reported, investigation of 10 have been completed and four have been formalised. Of the cases completed, a conviction has been secured for the predicate offence and in a case for facilitation (see Box 3.3). The main form of exploitation is sexual

⁷⁵ The number of cases determined in 2019 do not exclusively represent the cases registered in 2019 alone. Drug Law Enforcement Agency, The Gambia (DLEAG) Annual Activity Report 2019, page 55.

⁷⁶ Page 27, 2020 NRA.

exploitation with most of the victims originating from Nigeria. No ML investigation has been conducted. Therefore, no conviction has been secured for the crime of ML related to trafficking in persons, due to inadequate training and resources of LEAs.

Box 3.3 - CASE NO. BMC/CC/154/2021 - IGP V LAMIN SILLAH, OMAR FAAL AND SUTAY MARONG

The defendants were charged before the Magistrate Court with "acting as intermediary contrary to section 29(3) and (4) of the Trafficking in Persons Act, Cap 23:04 Vol. III, Laws of The Gambia". On or about 9 June 2021, at Gunjur Village and in diverse places within the West Coast Region of The Gambia, the defendants allegedly jointly mobilised and received monies from various people for the purpose of facilitating their travel to the Canary Island (Spain). A boat engine and 29 life jackets were tendered as evidence. Both defendants pleaded guilty and were convicted and punished by a fine of Fifty Thousand Dalasis (GMD 50,000.00) (US\$942) and imprisonment for fifteen years and the exhibits forfeited to the State.

235. In the above case, The Gambia demonstrated a low appreciation of the trafficking in persons offence, as well as its links to ML. The Court appeared to have confused the offence of trafficking in persons with migrant smuggling. According to the UNODC, migrant smuggling is the facilitation, for financial or other material gain, of irregular entry into a country where the migrant is not a national or resident. The criminals behind this highly profitable business seize the opportunity created by the need or desire of people to escape not just poverty and lack of employment opportunities but also natural disaster, conflict or persecution. On the other hand, section 28 of the TIPA rightly criminalises trafficking in persons which is intended for exploitation within or across national borders. The Court's observation that "the legislations in their wisdoms surely scrutinised the ravaging effects of illegal migration of immigrants to the Western part of the world (Europe) where thousands lost their lives during the journey to come out with this punitive legislation [the TIPA] which some may consider as harsh, to serve as a deterrent" corroborates the Assessors view. Regarding the ML aspect, it was noted that the authorities focused on the instrumentalities without regard to the proceeds.

236. *Migrant smuggling* is considered an emerging threat due to the use of the country as a centre for the smuggling of migrants from all over West Africa because of its border and logistical characteristics, in addition to the fact that the activity has not been criminalised in The Gambia.⁷⁷ Of particular concern is the absence of criminalisation of this activity. This could impede The Gambia's effort to address its significant migrant smuggling risks, particularly those emanating from organised criminal rings in Senegal. The Gambia needs to enact the Migrant Smuggling Bill to criminalise this activity.

Table 3.14 Money Laundering Investigations/Prosecutions by Type of Predicate Offence, Jan 2017 – Aug 2021

⁷⁷ Page 30, 2020 NRA.

Type of Predicate Offence	2017	2018	2019	2020	2021	Total
<i>Drug Predicate Offences</i>						
Number Reported	425	668	613	677		2,383
Number of Investigations Conducted	425	668	613	677	-	2,383
Individuals charged with ML	-	-	-	-	2	2
No. ML counts laid	-	-	-	-	6	6
<i>Fraud/obtaining by false pretences/Issuing of False Cheques/Forgery</i>						
Number Reported	249	265	290	413	190	1407
Number of Investigations Conducted	249	265	290	413	102	1319
Individuals charged with ML	-	-	-	-	1	1
No. ML counts laid	-	-	-	-	1	1
<i>Corruption (Bribery/Abuse of Office/Extortion)</i>						
Number Recorded	1	2	3	3	3	12
Number of Investigations Conducted	1	2	3	3	3	12
Individuals charged with ML	-	-	-	-	-	0
No. ML counts laid	-	-	-	-	-	0
<i>Robbery/Theft Predicate Offences</i>						
Number Recorded	38	57	76	61	43	234
Number of Investigations Conducted	38	57	76	61	43	234
Individuals charged with ML	-	-	-	-	-	0
No. ML counts laid	-	-	-	-	-	0
<i>Offences to the person (Murder, Grievous Harm, Kidnapping & Trafficking in Persons)</i>						
Number Recorded	49	55	53	47	30	275
Number of Investigations Conducted	49	55	53	47	30	275
Individuals charged with ML	-	-	-	-	-	-
No. ML counts laid	-	-	-	-	-	-
<i>Other Predicate Offences (Cybercrime & Counterfeiting of Currency)</i>						
Number Recorded	8	8	10	10	15	51
Number of Investigations Conducted	8	8	10	10	15	51
Individuals charged with ML	-	-	-	-	-	0
No. ML counts laid	-	-	-	-	-	0
<i>Total</i>						
Number Recorded	770	1055	1045	1211	281	4362
Number of Investigations Conducted	345	387	432	534	193	1891
Individuals charged with ML	-	-	-	-	-	3
No. ML counts laid	-	-	-	-	-	7

Source: GBF-AFSU, DLEAG, NAATIP etc.

237. Based on the foregoing, the Assessors concluded that the investigation of ML to date is not consistent or proportionate with the number of predicate crime investigations undertaken in The Gambia. The shortcomings identified under IO.1 impact the extent to which ML activity is being investigated and prosecuted consistently with The Gambia's threat and risk profile. As noted in Chapter 2, there are no substantive national efforts in place to coordinate the detection, investigation and prosecution of ML offences, nor are there national AML/CFT policies. There are also concerns about the process and some of the conclusions that have been drawn regarding the NRA (see IO.1). As a result, investigative resources are not allocated based on identified high risk areas. Given the resource constraints of the GPF and DLEAG, the pursuit of ML cases does not appear to be a priority.
238. To address this low level of ML investigations and prosecutions, The Gambia needs to establish a comprehensive policy that sufficiently emphasises financial investigation as an integral part of law enforcement efforts. The policy should set clear objectives, dedicated actions, provide for sufficient resources, training for investigators and prosecutors, and use of available legal tools in a comprehensive, creative, consistent and committed manner. Based on the policy, relevant authorities, particularly GPF, DLEAG and MOJ should adopt strategies that set out high-level targets for depriving criminals of the proceeds of criminal activity, with a focus on asset recovery, which is the basis for a "follow the money" approach for ML.

Box 3.4 Criminal Case No. HC/417/21/CR/104/A0

BK-Drug Trafficking

On 7 January, 2021, DLEA seized 118 bags of cocaine at the Seaport, Banjul leading to the arrest of SN whose name appeared on the bill of lading and identification of BK as the owner of the drugs. The cocaine amounted to 2 tons, 925kg and 850grams, with a monetary value of over 88 million Dollars while the bags were labelled as industrial salt imported from Ecuador, South America by CTC. At the request by the DLEA on 13 January, 2021, INTERPOL issued a Red Notice for the arrest of BK.

A taskforce comprising officials from the DLEAG and other services was constituted to investigate the case. The investigation revealed that BK:

- a) had three different nationalities (French, Gambian and Malian), with different bio data information;
- b) was part of a drug trafficking organisation that organised the consignment of cocaine shipped into the Gambia;
- c) organised and facilitated the shipment of the consignment and was also the recipient of the consignment in the Gambia;
- d) facilitated the registration of three legal persons: (CLT) on 12 April, 2019, as a limited liability company as brokers and dealers in General Goods and Services-Import and Export; BCT Ltd, incorporated on 1 October 2020 as Import & Export of general Merchandise; LPP by DK Beauty Ltd, incorporated on 11 April, 2019 as a hairdressing, cosmetics and Allied activities;
- e) had a three-bedroom apartment purchased with physical cash at EUR 241.000.00, a Range Rover, Volkswagen Beetle, White Speed Boat, six accounts with Ecobank and Zenith Bank linked to BK.

BK and SN are charged with conspiracy to commit drug trafficking, aggravated drug trafficking and ML. A warrant has been secured for the arrest of BK. SN is in prison custody pending arraignment before the High Court for plea taking and hearing, while BK will be tried in absentia due to his conduct of evading prosecution.

Source: SIU

3.3.3. Types of ML cases pursued

239. Few investigations and one prosecution of the various types of ML activities have occurred, but mainly in the context of predicate crime, which did not lead to a conviction of a substantive ML charge. The Gambia focuses more on the prosecution of predicate offences. Typically, the prosecutors review case files taking into consideration relevant evidence in the case before they recommend further investigations and present potential ML cases in court. The judges are inclined to convict for the predicate offences given that predicate offences are often supported with more tangible evidence and typically attract severe penalties. ML offence is more challenging to prove coupled with inadequate training. However, the penalty for ML as provided in the legislation is severe enough.
240. LEAs in The Gambia have investigated several predicate offences without focusing on the ML components that could facilitate a full-scale investigation into proceeds of crimes. Cases filed by prosecutors contain charges related to predicate offences and a very limited number of ML charges. As such, the number of ML investigations concluded is negligible compared to those on predicate offences.
241. Most ML cases pursued are for self-laundering and third-party laundering while none of the cases pursued led to a conviction of the primary ML offence. In the *Yankuba* case, the Court convicted the defendant for attempted ML under section 149 of the Criminal Procedure Code even though the defendant was not charged with attempted ML despite the significant efforts made by the defendant to conceal the source of funds and retransfer the funds. This suggests a lack of capacity to pursue crimes subject to stronger sanctions, including corruption-related crimes.
242. *ML based on a foreign predicate* – Through the definition of “criminal conduct”, The Gambia’s AML/CFT Act implicitly extends the predicate offences for ML to unlawful conduct that occurred outside the country (c.3.6). LEAs and the MOJ did demonstrate very limited experience of investigating, and prosecuting ML with foreign elements. The Gambia attributes this low level of experience to the absence of responses to requests for information from foreign counterparts (see Case Box 3.1). However, it is also noted that although A-FSU obtained information from São Tomé and Príncipe on the source of funds in the *Yankuba Case*, the court convicted the defendant of attempted ML, though not charged alongside conspiracy to commit felony under the Criminal Code (Box 3.5). This means The Gambia’s inability to prosecute ML with foreign elements does not necessarily depend on the absence of information from foreign counterparts (see IO.2).
243. *Third party ‘professional’ ML or Standalone ML* – Investigation of stand-alone ML offences are virtually non-existent whether it be in relation to those involved with the predicate offending or so-called third-party professional launderers.
244. The Gambian authorities did not demonstrate experience in investigating the use of opaque company structures involved in ML, as well as charging and prosecuting legal

persons involved in ML. While some effort was made to trace assets of the three companies registered by BK, these companies and their officers were not charged alongside the two natural persons as being used in facilitating or committing ML. This constitutes a gap, particularly for significant profit generating transnational crime types (especially drug importations), considering The Gambia's risk.

245. There is a considerable gap between the number of investigations relating to predicate offences and the number of ML investigations. The authorities do not prioritise ML investigations due to the absence of policies that could guide such investigations. The number of parallel ML investigations is inconsistent with the number of predicate offences that could generate significant illicit funds.

Prosecutions

246. The Office of the Director for Public Prosecutions (DPP) at the Attorney General's Chambers and the Office of the Inspector General of Police prosecute all offences against the laws of The Gambia. The MOJ prosecutes cases before the superior courts whilst prosecutors assigned to the Police prosecute cases at the magistrate courts. In the review period, the MOJ secured several convictions relating to predicate offences. For instance, during the review period, the A-FSU investigated 1318 cases related to "obtaining by false presences/fraud" while the MOJ prosecuted and secured convictions for 11 cases on fraud and related offences representing less than 1% of the cases investigated by A-FSU. From the analysis, it is possible the prosecutors assigned to the Police prosecuted the 1318 cases investigated by A-FSU. There is no information regarding the number of convictions secured by police prosecutors to better conclude on their capacity to prosecute their cases.
247. The Gambia has made some efforts aimed at improving the capacity of investigators and prosecutors. However, the investigation and prosecution of ML are not consistent with the ML threats in the country and does not reflect the Gambia's risk profile. The Gambia has not secured a conviction for ML. The low number of ML prosecutions is inconsistent with the ML threats posed by the numerous proceeds generating offences in the country.
248. The Gambia lacks adequate capacity within the various LEA's and other competent authorities to investigate and prosecute all types of ML cases. The DLEAG demonstrated a reasonable level of capacity to identify ML cases and initiate investigations and they are doing well with joint investigations of ML as well as investigation and prosecution of possession and trafficking in drugs.
249. With specialised training in ML identification and investigations, LEAs will have the requisite capacity to conduct parallel ML investigations alongside the predicate offence. There is the need to train the relevant competent authorities especially GPF, DLEAG among others in detecting and investigating all the various types of ML since the choice of any investigative technique may be relevant to the type of ML offence.
250. The judicial authorities also require specialised training, especially peer to peer training from colleague judges in other jurisdictions, to enable them to execute their mandate effectively.

Table 3.15 Conviction of predicate offences, Jan 2017 –Aug 2021

Nature of offence	2017	2018	2019	2020	2021(Jan – Aug.)	Total
Conspiracy	2	8	5	6	5	26
Homicide Offences (murder, manslaughter)	5	3	5	6	3	21
Grievous bodily harm	3	-	-	-	3	6
Sexual offences	15	11	7	7	10	50
Drug Trafficking	107	180	121	-	-	
Trafficking in persons	-	-	-	-	1	1
Theft, robbery and related offences	13	9	7	25	21	75
Arson	3	-	2	-	-	5
Economic Crimes/Financial Crimes	2	-	-	-	-	2
Corruption and related offences	2	-	-	-	-	2
Fraud and related offences	5	1	1	3	1	11
Total Number of convictions	157	212	150	47	44	610

Source: MOJ

Box 3.5 0- The State v Yankuba Jabbie, ...No. HC/061/16/CR/014/AO

The defendant and his wife received Sixteen Million, Three Hundred and Thirty-Nine Thousand, six hundred and fifty-one Dalasi and seventy-one bututs (GMD 16,339,652) (US\$ 308,005) through bank transfer into their joint account in three instalments from 18 September, 2013 to 29 October 2013. The defendant could not explain the source and intended purpose of the funds. The bank filed an STR to the FIU on 27 December, 2013 and the account was blocked. He made frantic efforts to transfer the funds outside The Gambia and was arrested when he went to the bank to pursue the retransfer. Investigation revealed that the funds related to abuse of functions, embezzlement and the laundering of customers deposit at a bank in a foreign country which the perpetrator, a former bank manager, was facing trial for those offences. Bank records also showed that the account was opened for hotel and real estate businesses. The charges preferred against the defendant were Conspiracy to commit felony contrary to section 368 of the Criminal Code and ML contrary to section 22(a) of the AML/CFT Act. The accused was discharged of the ML offence and convicted for attempted ML because “he was never given the opportunity to turn the illegitimately obtained property into a seemingly legitimate property” (i.e., the accused was unable to convert the property). Considering the age of the defendant, and being a first-time offender, the Court sentenced the defendant to five years imprisonment for the offence of conspiracy and five years for the offence of attempt to commit a felony, both sentences to run concurrently. In further exercise of its discretion, the Court substituted the custodial sentences with a fine GMD500,000.00 (US\$ 9,425) and suspended the sentence for seven days to enable the defendant to pay the fine. On 15 February, 2021, based on an application by the MOJ, the Court ordered the confiscation or forfeiture of the whole amount transferred into the defendant’s account plus the interest accrued over the years to the state and through the Minister of Justice, shall do the needful as per the Mutual Assistance Agreement between São Tomé and Príncipe and The Gambia.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

251. In The Gambia, ML is punishable by up to ten years’ imprisonment, in the case of an individual including a director, employee or agent of a reporting entity without the option of a fine, while a corporate entity is liable to a fine of not less than ten million Dalasis (US\$ 188, 501) (§22, AML/CFT). Legal persons and their officers are also subject to the

revocation of the licence, administrative proceedings and cancellation of professional membership (§24, AML/CFT Act).

252. The maximum sentence prescribed for ML is proportionate to other economic crimes in line with that for corruption (7 years imprisonment), grievous harm (seven years imprisonment), extortion (3 years imprisonment), theft (5 years imprisonment), stealing (7-10 years), robbery (14 years imprisonment) obtaining by false pretences (3 years imprisonment), bribery (7 years), forgery (3 years imprisonment), or trafficking in persons (15 years to life).
253. The Gambia is yet to secure a conviction for ML offence, both for natural and legal persons. In the case of Yankuba Jabbie, the Court convicted the defendant of attempted ML under section 364 of the Criminal Code⁷⁸ and section 149 of the Criminal Procedure Code⁷⁹ when it was not possible to convict the defendant of ML as the prosecution failed to prove his guilt beyond reasonable doubt. The court imposed a fine of five hundred thousand Dalasi (GMD500,000.00) (US\$9,425) and ordered the forfeiture of the proceeds of crime to the States (see case Box 3.5). The Gambia is yet to repatriate the funds to STP (see I.O 8). The Court's consideration for the sentence was based on the age, criminal profile of the defendant, a first-time offender and his inability to use the funds. While it is noted, in this case that the absence of criminalisation of attempted ML did not impact the court's decision, assessors believe that the Court could have imposed a higher sanction if the AML/CFT Act had criminalised attempted ML and provided appropriate punishment. Again, substitution of the custodial sentence with a fine of less than US\$10,000 (about 3% of the amount laundered) and suspension of the prison sentence for a period seven (7) days is not proportionate or dissuasive.

3.3.5. Use of alternative measures

254. The Gambia has other criminal justice measures such as civil proceedings for the recovery of proceeds of crime in cases where an ML investigation has been pursued but it is not possible, for justifiable reasons, to secure an ML conviction. In the MEH case, the DLEAG truncated the investigation due to the absence of information from foreign jurisdictions. In contrast, in *The State v. Yankuba Jabbie & Jarrai Gasama*. After the judgement, the MOJ obtained a freezing order in 2015. The MOJ filed a motion on 28 October, 2020 for forfeiture of the funds. On 15th February 2021, the Court confiscated the GMD16,339,652 (approx. US\$ 308,000) with interest accrued over six years to the State and through the Minister of Justice.
255. Section 22(a) of the AML/CFT Act covers ML offences committed by a natural person while section 2 of the same Act provides for the physical and mental elements of the ML offence, as well as ancillary offences, except attempt. From the judgement in the YJ case, it is possible to identify that the defendant was charged with conversion, transfer, concealment and disguise of the illicit origin of proceeds, which the prosecution had to prove beyond reasonable doubt. While the AML/CFT Act does not criminalise attempts to

⁷⁸ “When a person intending to commit an offence, begins to put his or her intention into execution by means adapted to its fulfilment, and manifests his or her intention by some overt act, but does not fulfil his or her intention to such an extent as to commit the offence, he or she is deemed to attempt to commit the offence. »

⁷⁹ “When a person is charged with an offence, he or she may be convicted of having attempted to commit that offence, although the attempt is not despatched.”

commit ML, the penalty provided by section 364 of the Criminal Code is considered as proportionate to the offence committed. The Assessors believe that the choice of ML charges had an adverse impact the prosecution's ability to secure a conviction for ML. Considering that YJ made significant attempts to transfer or conceal the ill-gotten gain, the Court should have convicted him of ML. This is because the purpose of concealment is to defeat or avoid prosecution and confiscation. Consequently, the alternative measure does not appear to be justifiable as it diminished the importance of or was used as a substitute for prosecution and conviction for the ML offence.

Overall conclusion on IO.7

256. The Gambia is yet to adopt measures to prioritise and pursue ML investigations in line with its risk profile. The rate of ML investigations and prosecutions, especially related to fraud and drug offences, are not in line with the risk such offences pose to The Gambia. Investigation and prosecution are non-existent for the other major predicate offences, including corruption and trafficking in persons. The lack of conviction for ML in the past five years does not reflect the understanding of ML risks of relevant authorities including judicial authorities. The Gambia lacks procedures on how other authorities would refer an ML case to the GPF who has a better level of expertise and presence in the country for investigation. As of the on-site visit, no referral had occurred. Concerns regarding the range of predicate offences, attempted ML, foreign predicates and the proportionality of sanctions have some impact on the country's effectiveness regarding ML investigation, prosecution and conviction.

257. Overall, The Gambia requires fundamental improvements to demonstrate that the component parts of its system (investigation, prosecution, conviction, and sanctions) are functioning coherently to mitigate the money laundering risks, and the prospect of detection, conviction, and punishment dissuades potential criminals from carrying out proceeds generating crimes and money laundering.

258. **The Gambia is rated as having a Low level of effectiveness for IO.7.**

3.4. Immediate Outcome 8 (Confiscation)

259. The Gambia has a generally comprehensive conviction-based and non-conviction - based confiscation legal basis to recover assets through different measures including proceeds and instruments of crime and property of corresponding value. Generally sound provisional measures are available. However, the recovery of proceeds and instrumentalities of crime have occurred to some extent and there have been no confiscation of property of corresponding value. The Gambia is yet to adopt and implement an AML/CFT strategy/policy focused on following money trails consistent with its risk profile. The assessment team based its conclusions on a review of implemented provisions of the Constitution and existing laws regarding the identification, seizure and confiscation of criminal assets, as well as the discussions held with various authorities, in particular the MOJ and investigative authorities, including the GPF, DLEAG, and statistics provided by The Gambia, and a review of cases illustrating The Gambia's implementation of seizure and confiscation measures.

General rules and procedures

260. The Constitution of the Republic of The Gambia, the AML/CFT Act, the Drug Control Act and the Criminal Code Chapter 10 Volume III of the Revised Laws of the Gambia provide a comprehensive legal framework for confiscation of all types of property, including virtual assets, as well as property of corresponding value. The President of The Gambia can institute a Commission of Inquiry to inquire into matters of public interest, including public and private sector corruption (Article 200, Constitution of The Gambia). The findings of a Commission of Inquiry operate as a judgment of the High Court for purposes of appeal. Adverse findings are subject to appeal before the Gambia Court of Appeal. Asset forfeiture resulting from the adverse findings of a Commission of Inquiry is non-conviction based following a forfeiture order issued by the Court on application by the MoJ (§22, 1997 Constitution of The Gambia).
261. The standard of proof in civil forfeiture proceedings is proof on a balance of probabilities. The forfeiture laws extend to proceeds and instrumentalities of ML and its predicate offenses; profits derived from those offences; and property of corresponding value held by the criminal defendant or third parties, and unclaimed cash or negotiable BNI seized and detained pursuant to cross-border disclosure measures. Identification and seizure of proceeds of crime by LEAs depend on the type of the predicate offence involved. However, LEAs have limited training on asset investigation. The Gambia needs to improve the expertise and other resources of LEAs to implement measures on freezing and confiscation of proceeds of crime.
262. The MOJ applies to the High Court for confiscation/forfeiture orders following a criminal conviction or a decision to forfeit criminal assets in cases it handles.

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

263. The Gambia's Constitution, AML/CFT Act and Drug Control Act provide a comprehensive legal framework for the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value. The AML/CFT Act has also introduced a civil-forfeiture regime where cash seized and detained pursuant to cross-border disclosure system, or in cases when the suspect has absconded or died before he has been prosecuted or convicted. In those circumstances, confiscation/forfeiture can be made without the need for a criminal prosecution or conviction. Non-conviction-based forfeiture can also occur after obtaining a court order based on the adverse findings of a Commission of Inquiry in the absence of an appeal against the findings.
264. The Gambia has pursued few confiscation measures, mainly in relation to instrumentalities used in drug offences, while a recent effort of the Government targeting the immediate past president, his family members and close associates has resulted in some forfeitures. These results are somewhat consistent with the country's ML risk profile.
265. LEAs and other authorities (for example, the DLEAG, GPF, GRA (Customs), GID and the FIU, freeze and seize assets to prevent their dissipation during investigations. The Customs Department refers cash seizures to the FIU when they reasonably believe that the cash is of a criminal origin or intended for the commission of a crime. In cases of false or non-disclosure of cash, or suspicion of the origin or intended purpose, Customs officers seize and detain cash for not more than 10 working days pending investigation. The duration for detention of cash is extended for up to two years for justifiable reasons based on Court Orders which are discharged on release of the cash to the person from whom it is seized or

to other persons claiming interest by a Court order or the authorised officer following Court proceedings. The Gambia has no SOP in place which require a determination and provides timelines to initiate a parallel ML investigation concerning seized cash and BNI.

266. As highlighted in IO.6 and IO.7, there are challenges with asset tracing investigation to identify tainted assets. A-FSU and, to a lesser extent, the DLEAG, rely on the FIU to identify the financial assets of suspects and freeze bank accounts pending the outcome of investigations. Freezing or restraining orders obtained by the FIU and LEAs are valid for ten days and six months, respectively. Assessors have raised concerns regarding LEAs' lack of use of the FIU's database and reliance on the FIU to freeze financial assets during investigations (see section 3.3.1). In addition, an extended period on the validity of orders issued under section 51 of the AML/CFT Act is more realistic because LEAs often require additional time to gather compelling evidence that will satisfy the courts to convict an accused person or confiscate/forfeit tainted property and assets of corresponding value.
267. Depending on the nature of the offence, the MOJ, GPF or DLEAG apply to the Magistrates Court and High Court for confiscation/forfeiture orders following a criminal conviction or a decision to forfeit criminal assets. While The Gambia indicated that the MOJ coordinates an Inter-Agency special task force on asset recovery, no information was provided to demonstrate the activities undertaken by this task force.
268. Effective management of restrained and seized assets was demonstrated to some extent. The Gambia has legislation relating to the management of restrained, seized and confiscated property during criminal proceedings. The court directs regarding the disposal of property. Perishable goods are sold and the proceeds deposited in an interest yielding account managed by the CBG pending investigation, prosecution or conviction. Cash subject to a restraining order is maintained in an interest-yielding account until the final determination of the case or when it is no longer necessary to restrain the property. A financial institution which maintains restrained funds must disclose the status of the funds to the MoJ.
269. Confiscated property is vested absolutely in the Government and disposed of consistent with the directions of the court. The authorities demonstrated the effective recovery of proceeds and instrumentalities of crime, mostly relating to the drug-related cases. The Gambia is making efforts to confiscate proceeds of bribes and embezzlement revealed by the Janneh Commissions of Inquiry in relation to the immediate past president, his wife and close associates. No confiscations of property of equivalent value were carried out. Authorities indicated that there were 16 cases where confiscation of instrumentalities happened between the period 2017-2020.
270. They also stated that the Inter-Ministerial Task force on Asset recovery coordinated by the MOJ office has an internal unwritten policy emphasising the importance of asset forfeiture/confiscation in financial crime cases. Although assessors could not ascertain how this policy works, in the absence of any document provided, they agreed that the confiscation of the various means of conveyance under the various cases were effective and there was motivation by the authorities to recover even the instrumentalities especially where drug trafficking is involved. However, the effectiveness relating to the cited cases could have been better augmented by an overall national strategy on confiscation concentrating on all the high proceeds generating crimes identified by the NRA. There are no provisional and confiscation measures resulting from TF cases.

3.4.2 Confiscation of the proceeds of predicate offences committed abroad and proceeds moved to other countries

271. While the NRA report indicates one case where proceeds of foreign predicates were laundered in The Gambia, it provides little information on the volume of proceeds of predicate offences committed abroad and laundered in the country. During the on-site visit, authorities did not provide sufficient information (investigation reports or incoming requests for international cooperation) to enable the assessors to determine the veracity of this assertion.
272. The Gambia is less active in identifying, seizing proceeds of predicate offences committed abroad or moved to other countries. The Gambia demonstrated two cases where proceeds of crime were moved abroad. In the first case, stolen funds were traced to Ghana and repatriated to The Gambia on request, while the proceeds in the second case were traced to the USA during investigations by the Janneh Commission's⁸⁰ The authorities need to improve their capacity to seek assistance from foreign jurisdictions to ensure the effective identification of proceeds of crime located abroad.
273. There has been one case on confiscation involving proceeds from a foreign predicate offence (see Box 3.6). The Gambia had no case involving instrumentality of a foreign predicate offence located in its territory.

Box 3.6 The State vs. Yankuba Jabbi and Jarai Gassama -

In 2015, the High Court froze GMD16, 339,651.71 (approx. US\$ 310, 639) being suspected proceeds of financial misappropriation transferred from São Tomé and Príncipe into the bank account of the first respondent and his wife (the second respondent) in 2013. The MoJ applied for a confiscation order on 28 October, 2020 which the Court granted on 15 February, 2021 in addition to a payment of interest accrued on the funds over six years and repatriation of the funds to São Tomé and Príncipe. The MoJ is yet to repatriate the funds to São Tomé and Príncipe.

274. While The Gambia has legal basis to share confiscated assets (§86, AML/CFT Act), authorities are yet to implement this provision as no such case has occurred.

Confiscation of the proceeds of predicate offences committed in The Gambia

275. The Gambia's asset recovery framework has primarily been non-conviction and conviction-based, and restitution heavily relied upon the identification and quantification of the value of ill-gotten assets. The enactment of the AML/CFT Act in 2012 introduced value-confiscation ("realisable property") but the system has not yet been tested. The various cases analysed by the assessment team indicate that the judicial authorities confiscate mainly instrumentalities of crime, particularly in relation to drug-related offences. These confiscation orders were obtained in respect of automobiles and motorcycles on which drugs were found and were made from 2017 to 2021. Table 3.16 indicates that during January 2017-August 2021, based on 16 of the cases concluded, the Court deprived criminals of

⁸⁰ Page 6, Volume 3, Special Landed Properties

GMD1,000,000 (approx. US\$ 19, 011) and 46 instrumentalities comprising nine motor vehicles, seven motorbikes, one Boat Engine and 29 Life Jackets. There is no information on the monetary values of these properties.

276. Recently, very important results have been achieved through forfeiture based on the recommendation of a Commission of Inquiry to probe the financial dealings of Mr. Yahya Jammeh, immediate past President of The Gambia, his family members and close associates (see Box 3.8). Table 3.17 indicates that in 2019, the authorities confiscated 2,838 movable and 85 immovable property (including livestock) which represent some of benefits derived from the corrupt practices of Mr. Jammeh and two of his close associates. Assessors toured one of the properties confiscated from the former President which the Government of The Gambia has allocated to the FIU for use as offices. Constraints regarding the disorganised state of the records in the Deeds Registry and missing records at the Department of Lands and Surveys (DLS) impacted the timely identification of some of the properties. Also, on 1 June 2020, the Court of Appeal, in Civil Appeal no. GCA 046/2019, held that recommendations of a commission of inquiry were mere advisory some of which require an additional legal steps to execute. Consequently, the Attorney-General committed to suspend all sales of properties flowing from the Janneh Commission recommendations until a final pronouncement is made on the matter. Although the Supreme Court overturned the Court of Appeal's decision dismissing Kharafi's application for stay of execution of the adverse findings against him, the Supreme court emphasized the need for the Attorney-General to respect his undertaking not to enforce the recommendations of the Janneh Commission concerning Kharafi pending the determination of the substantive appeal (Paragraph 3, page 14, SC CA No. 006/2020). The substantive appeal is pending.

277. There is no information regarding the monetary values of the assets confiscated or forfeited. There has been no confiscation of property of equivalent value.

Table 3.16 Instrumentalities confiscated, Jan 2017 – Aug 2021

Year	2017	2018	2019	2020	2021	Total
Cases	4	5	3	2	2	16
Persons involved	8	9	3	2	6	23
Confiscation orders	4	5	3	2	2	16
Property laundered	-	-	-	-	-	-
Proceeds	-	-	-	-	GMD1,000,000 (US\$18,553)	GMD1,000,000 (US\$ 18,553)
Instrumentalities	4	7	3	2	30	46
Property of equivalent value	-	-	-	-	-	-
Funds confiscated	-	-	-	-	-	-
Value of assets	..	..	..	..	..	..

Source: DLEAG

Table 3.17 Quantity of Assets forfeited based on the Janneh Commission of Inquiry Report, Jan. 2017- Aug 2021

Name	Movable Assets	Immovable Assets	Remarks
President Y.A.J.J Jammeh	2143	64	Movables included baking and related equipment; office equipment, furniture; solar machine, generators

			and borehole drilling machines vehicles; gas cookers, refrigerators, televisions
BABA JOBE	14	695	Movables included cattle, horses, rams, Zebra and Hyenas
Gen.Sulaiman Badjie	-	7	..

Box 3.7 -Example - Confiscation of instrumentalities of drug offences

The State Vs. Sedia Ndow,Ebrima Bittaye and Ousman Kante (2021) - HC/240/21/CR/064/AO

On 30 May, 2021, the defendants were charged with two counts of conspiracy to deal in prohibited drugs (225kg of cannabis and 760 grammes of Cannabis Resin (Hashish)) and dealing in prohibited drugs contrary to the section 53(1) (a) and 33(1) (c) of the Drug Control Act 2009, respectively. They pleaded guilty to the charges and were convicted on their pleas. They were sentenced to forfeiture of two of the two of the three trucks used in transporting the drugs and six hundred thousand Dalasis (US\$11, 310) paid by a person at large to purchase fish to cover up for onward transmission of the drugs, and a fine of GMD1,000,000 (US\$ 19,011.00) each, and given different payment terms. There is no information regarding the monetary value of the vehicles forfeited.

Box 3.8 Findings of Commission of Inquiry leading to forfeiture

On assumption of office by the current administration, preliminary reports received from public institutions , including the CBG, Social Security and Housing Finance Corporation, Gambia Ports Authority, Gambia Telecommunications Company Limited, National Water and Electricity Company Limited, AMRC, Gambia National Petroleum Corporation the withdrawal and use of substantial funds on instructions or directives from the Office of the President during the tenure in office of former President Jammeh, often for unknown purposes. It was discovered that bank accounts were opened into which funds paid by members of the public and intended for the State were directly controlled and expended by former President Jammeh or on his instructions. The former also allegedly accumulated at least 131 known landed properties registered in his name or in companies and foundations in which he had shares or an interest; and operated at least 89 private bank accounts directly or through those companies or foundations. Based on these reports, the Court, on application by the MOJ on 21 May 2017 under section 51(3) of the AML/CFT Act, made an interim order restraining the former President and all other persons from dealing with the identified properties and appointed a receiver to manage the companies. On 12 July, 2017, the President, in exercise of his powers under Section 200 of the 1997 Constitution of the Republic of The Gambia and the Commissions of Inquiry Act Cap 30:01 Vol 5 of the Laws of The Gambia, issued a *Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as Regards Their Dealings with Former President Yahya A. J. J. Jammeh and Connected Matters (the Janneh Commission)* through Gazette Legal Notice 15 of 2017, ISSN 0796. The Commission, which was tasked to probe into the financial dealings of the individuals from July 1994 to January 2017, sat from 10 August 2017 and submitted its report to the President on 29 March 2019. It identified three institutions and 37 individuals directly involved in the financial dealings and activities of Ex-President Jammeh, his family members and close associates. It is also identified offences committed by these persons, and made recommended measures to recover and restore relevant assets.

The former President was found to have acquired more than 281 (two hundred and eighty-one) high valued landed properties throughout the country with two located abroad⁸¹. Adverse findings were also made against several natural and legal persons who facilitated the Ex-President's activities. Depending on the findings made, the Commission recommended forfeiture of tainted properties and prosecution of the Ex-President and the other persons for theft, economic crimes and corruption promptly. The Government of The Gambia accepted the Janneh Commission's recommendations to forfeit the assets identified to the State (see Table 3.17).

On July 15, 2020, the United States Department of Justice filed a civil forfeiture complaint, seeking the forfeiture of a Maryland property acquired with approximately \$3,500,000 in corruption proceeds by Jammeh, through a trust set up by his wife, Zineb Souma Yahya Jammeh. On 15 September, 2020, the U.S. OFAC designated Zineb for her role in providing support to a person previously designated for her own corrupt behaviour.

278. No provisional or confiscation measures have been implemented regarding TF. The authorities indicate that they did not consider it necessary to freeze or seize relevant funds or other assets related to TF as they did not have any cause to do so. They believe that the non-implementation of freezing measures is consistent with the low-risk rating assigned to TF. The Gambia has investigated a potential TF case based on FIU intelligence (See analysis and Box 4.1 under IO9). In addition, Box 3.9 indicates that there was evidence of strong presence of terrorist financiers during the review period. Based on this, the assessment team concluded that Gambian authorities are not proactive in identifying and tracing terrorist funds or any other assets that are, or may become, subject to confiscation. Considering the general implementation of provisional and confiscation measures in the country, Assessors believe that the inactivity is more related to the lack of capacity to pursue financial investigations to identify some assets for the purpose of recovery.

Box 3.9 Example of potential TF assets in The Gambia

On 17th May 2018, the U.S. Department of the Treasury, pursuant to Executive Order (E.O.) 13224 listed Mr. Muhammed Ibrahim Bazzi, a Lebanese tycoon, as a Specially Designated Global Terrorist. The U.S. indicated that "Mohamed Ibrahim Bazzi, ... Provided Hizballah [sic] with millions of dollars from his transcontinental business holdings. He leveraged his political relationships to build a vast petroleum, mining, milling, and energy services empire that, again, spanned Europe, the Middle East, and Africa, all to Hizballah's [sic] benefit. Bazzi is now struggling to maintain his business ties to Belgium, Benin, Cote d'Ivoire, Iraq, the Gambia [sic], Lebanon, and Sierra Leone,". Bazzi was also believed to be engaged in narcotics trade which has proliferated in failed states in Africa. This belief was linked to the seizure of two Tonnes of cocaine worth \$1 billion of which the owner or sources remain a mystery. The U.S. also suspected Bazzi as a player in nebulous business relationship between Yahya Jammeh on one hand, and Iranian government and Hezbollah on the other. The U.S. Treasury also designated five of Mr. Bazzi 's companies on the same date including Global Trading Group N.V. and Euro African Group Ltd

81 Including private residential and commercial properties, ten islands, eight forest parks, twenty six wildlife reserves and wetlands. The properties were placed in seven categories: properties can be placed in seven (7) broad categories (1) Properties acquired by outright purchase; (2) Properties seized and/or appropriated from 3rd parties; (3) Public land grants by the State and District Authorities; (4) Public land grants by the State and District Authorities (General); (5) Community allocations of land; (6) Land in the process of being leased; and (7) Properties with pending claims.

both registered in The Gambia. As one of the three people the U.S. Government imposed sanction on as a proxy for the Iranian government financing Hezbollah.

The Gambia Government White Paper on the Report of the Janneh Commission disclosed serious adverse findings against Bazzi, including his involvement in extensive business dealing with the former President through Bazzi's companies and award of contracts by several public institutions, including in relation to the purchase and supply of petroleum products, from which the ex-president received bribes.

Based on the findings of the Janneh Commission, and strengthened by the U.S. designation, the Government of The Gambia declared Bazzi *persona non grata* and permanently banned his companies (19 in all) from participating in any Government procurement and forfeited their shares to the State.

Despite the foregoing, the Gambian authorities did not take any steps to freeze assets belonging to Bazzi

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

279. The Gambia implements a disclosure system for cross-border transportation of currency or bearer negotiable instruments (BNI) which requires all travellers entering or leaving The Gambia with cash or BNI above US\$7,500 or its equivalent in GMD or any amount prescribed by the CBG to declare to Customs officers at the point of entry or exit. The Act defines "point of entry" to mean the airport, seaport and land border posts. While the Act does not define "points of exit" it makes adequate provisions for outbound travellers. The Customs Department of the GRA is responsible for monitoring disclosures and has powers to seize and detain cash and BNI (see R.32).
280. The authorities have a reasonable knowledge of the major risks related to cross-border cash movements, especially in connection with drug trafficking and tourism. While The Gambia understands the need to address the identified risks, no sanctions have been applied for cross-border movements of cash and BNIs that are the subject of false disclosure/non-disclosure. The assessment team based its conclusions on the statistics provided on cash seizures by the Customs and Police (see Table 3.18), the operations and mechanisms used by The Gambia to target illicit cross-border movement of cash, and discussions with officials of the JAITF, especially the Customs, Police and DLEAG.
281. Methods used by the Customs to detect cross-border currency and BNI that are suspected to relate to ML/TF and associated predicate offences or that are falsely/not disclosed include passenger profiling and physical examination. Customs officers screen passengers leaving or arriving in The Gambia through the Banjul airport using X-ray machines and conduct physical checks at land borders in relation to cash/BNI carried by passengers. The officers stop passengers and question them regarding the sums in their possession. They require the passengers to present the cash/BNI and, if not satisfied, they conduct a search of the passenger's person and luggage. The authorities advised that the determination of which passenger to check is triggered by risk-profiling, which is standard for all passengers. Specifically, the authorities identify targets through the detection of behavioural abnormalities. The identification of targets through behavioral abnormalities appears to cast doubts on the efficiency of the passenger screening. Customs could improve its detection of suspicious cross-border movement of cash and BNI by integrating intelligence received from domestic and international authorities into its targeted screening of high risk travellers. However, travellers do not appear to be informed of disclosure requirements as there are no notices posted at entry and exit points to that effect. While

noting that “ignorance of the law is no excuse”, Assessors believe that explicit notification of disclosure requirements to travellers will enhance the overall effectiveness of the disclosure system, including The Gambia’s ability to successfully prosecute false disclosures.

282. Table 3.18 indicates that since 2018, Customs and the Police have affected 19 cash seizures (17 at the airport and two at the Gibiro border) with a value of US\$ 518,881. The majority of the seizures involved foreign nationals. The amounts seized range from approximately four thousand to two hundred and fifty thousand United States dollars. While Customs and Police indicated that they reported these seizures to the FIU, the Unit could not provide statistics to corroborate this claim. There is no information on the number of incoming and outgoing incoming currency/BNIs detected during this period, and a breakdown of statistics on disclosures made during this period. The absence of detailed statistics poses a challenge in determining the effectiveness of the cross-border regime of the country and the FIU’s use of Customs reports in its operational intelligence to identify trends in the ML/TF environment and inform authorities appropriately.
283. Since the majority of seizures are made by Customs officers, they mainly conduct cash seizure and detention proceedings under the AML/CFT Act when it is necessary to detain the cash for more than ten working days. The cash is kept in an interest-yielding accounts maintained by the CBG.
284. Contravention of the disclosure obligation constitutes an offence punishable on conviction by a fine of not less than GMD10, 000 (US\$ 190.00). This amount is not proportionate and dissuasive. Still, The Gambia did not demonstrate the imposition of a fine for failure to declare or false declaration, forfeiture of unclaimed cash or confiscation based on conviction for ML, associated predicate offence or TF. The Gambia indicated that there had been no cause to confiscate seized funds or impose fines on passengers for disclosure violations. However, The Gambia provided the same statistics as confiscation of cash by the JAIF and reported to the FIU. The inconsistencies in the information/statistics regarding cash seizures impeded the Assessors’ ability to have a clear picture of this aspect of the currency and BNI disclosure system. The AML/CFT Act does not provide for administrative sanctions for non-disclosure and false disclosure of currency and BNI. Fines for false/non-disclosure is conviction-based while forfeiture of unclaimed currency /BNI must occur two years of the currency/BNI being seized or detained (§48(3) and (4), AML/CFT Act). These impede the effective application of sanctions for disclosure breaches in a timely manner and can be exploited by criminals for corruption purposes. On the other hand, false or non-disclosure of currency imported by aircraft or ship attracts a penalty of GMD2,500 (US\$47.05) (§48, Customs Act) which is considered very low and ineffective in preventing illicit financial flows across The Gambia’s borders. There is no indication that this penalty has been applied in practice.
285. Customs officers are responsible for customs surveillance at the airport, seaport and land borders. The Customs officers have powers to inspect persons and luggage regarding the obligation to disclose cash/BNI in addition to their general inspection activities. There is no information on the human and technical resources available for cross border efforts. Based on discussions with Customs officers, more training and sensitisation on AML/CFT issues is required as currently their understanding of connected risks appear basic.
286. There is no information on the number of cross-border movement disclosures made by travellers to facilitate a determination of the annual average volume of funds imported, exported and transiting through The Gambia. There were five seizures in 2018 and this number increased to nine in 2019. However, the number of seizures decreased to one in

2020. The increase in disclosures was due to the findings of risk assessment/profiling of air traffic flow in and out of Banjul International Airport (BIA) and risk assessment conducted on Tourism Flights identified as vulnerable to cash smuggling and ML conducted by the JAITF in 2018. The decrease in disclosures in 2020 was due to the impact of the Covid-19 pandemic and its attendant restrictions, which led to a decrease in transport traffic and a steep decline in tourism activities which spilled over to 2021. However, as seen in Table 3.18, the volume of cash seizures made in 2021 compared to those of 2019 and 2019 demonstrate the Gambia's exposure to potential cross-border ML threats, including proceeds from tax evasion, drug trafficking, fraud, human trafficking and migrant smuggling, organised crime and other criminal conduct entering the country's market from abroad. Most of the seizures involved foreign nationals.

287. Currency smuggling is an issue in The Gambia. The distribution of seizures between the airport and other entry and exit points, the low number of seizures and the lack of confiscation indicate a lack of attention and capacity to address ML/TF risks related to cross-border movement of cash and BNI. In order to play a meaningful role in the general AML/CFT architecture of The Gambia, Customs needs to undertake vigorous training in sensitisation on ML/TF issues as currently their understanding of connected risks appear basic.

Table 3.18 Cash Seizure by Customs Department and Police, January 2017-August 2021

Year	2017	2018	2019	2020	2021	Total
No. seizures	0	5	9	1	4	19
Total (US\$)	0	49,882.00	127,219.00	16,650.00	325,130.00	518,881

Source: Customs and Police

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

288. Given that The Gambia has conviction and non-conviction-based confiscation/forfeiture system, and provides for the confiscation of assets of equivalent value, the very low prosecution rate for all crimes need not have direct impact on the effectiveness of the confiscation regime.

289. The low number of confiscation cases, range of assets targeted, and the amounts recovered demonstrate that The Gambia confiscation results achieved is negligible in light of the country's assessment of ML/TF risks.

290. The Gambian authorities lack policies that prioritise the confiscation of illicit proceeds and instrumentalities of crime. The assessment team based its conclusions on the cases provided, demonstrating focus on instrumentalities of crime, the pursuit of forfeiture for corruption by the former President, his family members and close associates; and discussions with LEAs during the on-site visit.

291. The Gambia has a satisfactory legal framework on confiscation of all types of proceeds and instrumentalities of crime and the asset management system for forfeited assets of the Former President and his close associates. Still, the authorities do not appear

to regularly use provisional and confiscation/forfeiture measures, including for the cases on offences identified as high proceeds-generating. No substantive ML case has been determined. However, the Yankuba case (involving a foreign predicate-fraud) which led to the confiscation of US\$355,555.50 is noted. Forfeitures made pursuant to the Government White Paper on the findings of the Jannah Commission are also noted regarding the combating of illicit proceeds (grand corruption). However, the ACC is not operational and the other agencies leading the fight against corruption do not conduct robust financial investigations to follow the money. Save for drugs and corruption confiscations have not been indicated for other high-risk offences. It is arguable that even the corruption related confiscation that targeted grand corruption on members of the former government only leaving out other corrupt public officers and leaving behind petty corruption in The Gambia.

292. The other LEAs do not appear to conduct parallel financial investigations, trace and identify assets, apply for freezing or seizure orders to preserve assets before the final determination of cases.
293. The Gambia demonstrated a low number of cash seizures, some involving high amounts, and none of them has led to ML charges being preferred or cash being confiscated. The volume of cash being moved by individuals is steadily increasing. There is no confiscation linked to TF. While this may be consistent with The Gambia's risk profile, assessors believe that the authorities need to do more to address TF risk, irrespective of the level, due to the country's apparent links to some persons and entities subject to USA's OFAC measures.
294. The Gambia is yet to adopt an AML/CFT policy and priorities to address the risks identified in the NRA adequately. Also, national anti-crime policies do not integrate measures to deprive criminals of the proceeds of their crime. Objective 4.1 of the NRA-AP recognises inadequate training for LEAs and prosecutors in relation to financial investigations and prosecutions as a source of risk and requires stakeholders⁸² to provide relevant trainings for LEAs and prosecutors by 31 December 2023.

Overall conclusion on IO.8

295. The Gambia has comprehensive laws for seizing and confiscating the proceeds of ML/TF offences, as well as assets of corresponding value. Confiscation results and the types of offences on which confiscations are based are consistent with its risk profile to some extent. Implementation of measures to detect the cross-cross-border movements of cash and BNIs is weak in terms of capacity and coverage. There is the need to adopt a policy to prioritise the seizure and confiscation of criminal proceeds consistent with the risk profile of the country. Major improvements are needed.
296. **The Gambia is rated as having a Moderate level of effectiveness for IO.8.**

82 GPF, DLEAG, SIS, GID, GRA, FIU, MOJ, MoFEA, MOI and development partners

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

TF investigation and prosecution (Immediate Outcome 9)

- a) The FIU can identify potential TF cases through analyses of STRs filed by reporting entities. The 16 TF related STRs received by the FIU led to the investigation of one alleged TF case, which could not be substantiated. The non-filing of STRs by some non-bank financial institutions and DNFBPs, and the limited reporting of suspicious physical cross-border transportation of currency by Customs impedes the FIU's ability to identify potential TF cases. The Gambia police did not demonstrate the ability to identify this activity. TF investigations are usually conducted by an ad hoc Task Force with expertise drawn from relevant units of the Police. The Gambia has not prosecuted any terrorism financing case to date, which appears to be consistent with its risk profile.
- b) Although The Gambia has not experienced any case of terrorism within its territory, the country's geographical location, the porosity of its borders, the potential risk of the donors of some NPOs identified as operating in countries in proximity of an active terrorist threats, and the risk of young Gambian migrants being recruited by terrorist organisations expose the country to the risk of terrorism financing. In addition, two Gambian citizens were arrested in Italy for openly declaring their allegiance to ISIS as foreign terrorist fighters. The Gambia has not criminalised the financing of individual terrorists for any purpose as well as foreign terrorist fighters. The Gambia is yet to adopt a national counter-terrorism strategy, which incorporates TF elements.
- c) There is good cooperation and coordination between the SIS, Gambia Police, DLEAG and other relevant agencies for exchange of information. However, the authorities lack a formal operational coordination platform for TF.
- d) The maximum sentence prescribed for TF is proportionate to other economic crimes. However, in the absence of TF prosecutions or convictions, the assessment team could not determine the effectiveness of the proportionality and dissuasiveness of the sanctions applied.
- e) The Gambia has implemented alternative measures, including sensitisation programmes for religious leaders, such as Imams and Christian leaders, on radicalisation to dismantle TF. The SIS has generated a targeted list and monitors

the activities of persons on the targeted list. The DLEAG monitors the different social media platforms on suspicious activities relating to TF.

TF preventive measures and financial sanctions (Immediate Outcome 10)

- a) The Gambia has not designated a competent authority with the responsibility of proposing persons or entities to the UNSCR 1267 Committee and in relation to UNSCRs 1373. The legal framework for UN TFS on TF is not adequate to ensure implementation “without delay”. There is no framework set for identifying and designating persons and entities pursuant to UNSCR 1267/1989 and 1988 and UNSCR 1373. The implementation of the TFS under UNSCR 1267 (1999) is therefore not effective, while the requirements of UNSCR are not being implemented. However, The Gambia has mechanisms under domestic regulation to deprive terrorists, terrorist organisations and terrorist financiers of their funds and other assets related to TF activities through criminal processes. There are no sanctions for non-compliance with TFS obligations. The lack of proposals for UNSCR 1267 designations and the absence of freezing of funds and other assets are consistent with the country’s poor understanding of its TF risk profile. The lack of these measures could also be due to deficiencies in the legal framework, especially the absence of designation mechanisms or procedures.
- b) The designation procedures for UNSCR 1373 are not clearly stipulated, while the system is not being implemented. The Gambia lacks an evidentiary standard of proof of reasonable grounds or reasonable basis for deciding whether to propose designation, procedures and standard forms to be followed in listing targets in furtherance of the UN sanctions regimes.
- c) Banks that are members of financial groups demonstrated some understanding of TF-related UN TFS requirements. Understanding of these requirements among small and medium-sized FIs and DNFBOs is poor. Tools used for the implementation of TFS by some banks allow them to screen their customers against the different Sanctions Lists, but no positive matches have been detected. The Gambia’s mechanism does not ensure the immediate communication of additions and amendments to the UN Sanctions Lists to reporting entities, and not all entities receive the Lists. The implementation of the TFS requirements by the private sector is therefore weak. Outreach provided to reporting entities has not been comprehensive. It is not clear whether changes to the UNSCR 1267 and 1988 are made available to reporting entities.
- d) The Gambia made efforts to assess the TF risks of the NPO sector. The NPO sector was considered within the 2020 NRA as a variable for assessment of the country’s TF vulnerabilities. The exercise led to the identification of a subset of NPOs that fall under the FATF definition and are likely to be at risk of TF abuse by virtue of their characteristics. However, the assessment did not cover a significant number of NPOs operating in The Gambia as they were not registered with the NGOAA. A general AML/CFT outreach was conducted to the NPO sector in 2014 and 2016, but not based on NPO sector vulnerabilities for TF, and not reaching out to the donor community. NPOs demonstrated a poor awareness that they could be abused for TF purposes. The NGOAA demonstrated a weak understanding of the risk in the NPO sector and is not applying targeted monitoring of the NPOs.
- e) Measures taken by The Gambia for implementing the UN TFS and preventing the abuse of NPOs for TF purposes are not considered adequate. The Gambia is yet to review the adequacy of measures, including laws and regulations, relating to the NPO sector that

may be used for TF support in order to take proportionate and effective actions to address the risks identified.

PF financial sanctions (Immediate Outcome 11)

- a) The Gambia has a regulatory framework (the AML/CFT Guidelines for FIs) that obliges FIs to implement PF-related TFS. However, the freezing obligation is limited to wire transfers. Overall, The Gambia's frameworks, including guidelines or implementing texts to establish a mechanism for the effective implementation of TFS related to PF are inadequate.
- b) There is no mechanism for the timely dissemination of the lists of designated persons as the lists are disseminated manually by the FIU. Thus, The Gambia does not implement TFS without delay
- c) No assets of persons linked to relevant DPRK or Iran UNSCRs have been identified in The Gambia and thus, no funds or other assets associated with PF have been frozen in the country.
- d) Limited understanding of TFS impedes the FIU's supervision of banks regarding the implementation of PF-TFS. Supervision of NBFIs and DNFBPs on PF matters is non-existent. No sanction has been imposed in relation to PF TFS.
- e) Banks, particularly the large ones that are part of international groups, demonstrated a more advanced understanding of their obligations regarding PF-related TFS and have taken some steps to comply with their obligation. NBFIs and DNFBPs demonstrated low understanding and do not implement PF-TFS. No guidance on procedures for the implementation of the TFS has been provided to reporting institutions
- f) The authorities, especially Customs (in charge of import and export control) demonstrated low understanding of PF and associated risks. In addition, collaboration between the relevant agencies on PF issues is practically non-existent.

Recommended Actions

TF investigation and prosecution (Immediate Outcome 9)

- a) The Gambia should adopt the counter-terrorism strategy and create awareness of the National Security Strategy among LEAs to facilitate the identification, investigation and integration of TF with counter-terrorism operations.
- b) LEA's, the FIU, intelligence agencies and prosecutors should deploy measures that would prioritise and facilitate TF investigations and prosecutions by building the operational capacity, including the generation, dissemination and use of TF related financial intelligence to identify, investigate and prosecute TF cases through the provision of specialised CFT trainings.
- c) The Gambia should provide prosecutors with the requisite specialised training and tools to facilitate successful TF prosecution.

- d) The authorities should enhance their understanding of TF risk by updating the National TF risk assessment. The updated TF risk assessment should lead to the adoption of a solid CFT National Strategy.
- e) The authorities should build the capacity of the Counter-Terrorism Unit, provide it with adequate human and logistics resources to facilitate the fight against TF. The capacity of the Gambia Police should be built in the area of specialised human resource for understanding of financial intelligence relating to TF, identifying TF cases, including identifying the specific roles of terrorist financiers and investigating TF cases. In addition, the NRA should lead to the development of a robust and comprehensive National Strategy on CFT.
- f) The authorities should establish centralised platforms specifically for coordination and collaboration of competent authorities in charge of countering TF.

TF preventive measures and financial sanctions (Immediate Outcome 10)

The Gambia should:

- a) Establish a comprehensive legal framework for the implementation of TF-related UN TFS by: (i) ensuring implementation of TFS without delay; (ii) designating a competent authority for proposing designations to the relevant UN Sanctions Committee; (iii) establishing formal mechanisms (for example, providing the HTC and NIA with powers), and developing formal and detailed procedures (including standard forms) for proposing designations to the UNSC 1267/1989 and 1988 Committees and making domestic designations, expanding the scope of countries that can request designations, identification of targets for designation in respect of Resolution 1373 de-listing of persons and entities and unfreezing assets, setting out sanctions for non-compliance with freezing obligations.
- b) Ensure the immediate communication of the designations and amendments in the TF-related UN-TFS to all relevant stakeholders.
- c) Continue to raise NPOs awareness regarding the risks to which they may be exposed and follow up on NPOs identified as having high TF risk.
- d) Develop guidelines and regulations and create continuous awareness of such guidelines and regulations among LEAs, NPOs and DNFBPs.
- e) Conduct an in-depth and comprehensive risk assessment of the NPO sector to identify the actual number and subset of NPOs that may be vulnerable to TF abuse by virtue of their activities. Provide targeted outreach to NPOs and the donor community on potential vulnerabilities of NPOs to TF. Sensitise FIs and DNFBPs (particularly for small and medium-scale FIs and DNFBPs) on TFS related to TF to ensure their understanding and implementation of their TF-related TFS obligations.
- f) Enact the NPO Bill 2018 and ensure the effective supervision or monitoring of the NPOs at TF risk.
- g) Build the capacity of the supervisors of the NPO sector and Charitable organisations to undertake sustained awareness-raising and activities on the risk of TF for the benefit of the most vulnerable NPOs.

PF financial sanctions (Immediate Outcome 11)

- a) The Gambia should establish a comprehensive legal framework, including strengthening existing regulatory framework, to ensure effective implementation of TFS related to PF without delay.
- b) The FIU should establish efficient mechanisms to disseminate the sanctions list and ensure that the list is disseminated to all reporting entities, LEAs and other relevant sectors in a timely manner. The FIU could consider creating an official website to publish the sanctions lists and any updates in real-time and promptly send updates to all reporting entities to facilitate the freezing of funds and other property of persons and entities involved in the financing of proliferation, without delay.
- c) The FIU should include implementation of PF TFS in its supervisory activities for NBFIs and DNFBPs and ensure they are subject to regular monitoring, comprehensive in terms of inspections for TFS relating to PF for banks, and require corrective measures and/or apply proportionate and dissuasive sanctions for non-compliance with implementation of TFS related to PF.
- d) The Gambia should ensure that reporting entities understand their obligations regarding TFS relating to PF. In particular, supervisors should: (i) provide comprehensive guidance focusing on implementation in practice (such as freezing) and tailored, as appropriate, to specific sectors; (ii) carry out training and awareness raising for relevant authorities and reporting entities, focusing on those sectors that are likely to have higher exposure to PF activity and where the understanding of the obligation is lower, as well as the processes to be followed where such persons and assets are identified; and (iii) ensure reporting entities conduct ongoing regular monitoring to proactively identify assets subject to sanctions.
- e) The Gambia should establish appropriate PF related cooperation and coordination mechanisms, with a view to enhancing their ability to identifying individuals and entities involved in sanctions evasion.

297. 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. 1, 4, 5–8, 30, 31 and 39.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

298. The Gambia's legal framework to fight TF is in line with international standards to a minimal extent. Deficiencies are noted in relation to the financing of individual terrorists for any purpose and travel of foreign terrorist fighters. The main authorities responsible for CTF are the GPF, SIS, FIU and MOJ.

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

299. There has been no TF prosecution or conviction in The Gambia. However, considering the deficiencies identified in the NRA, the Assessors cannot make a decisive conclusion that this is in line with the country's risk profile. Details on The Gambia's understanding of TF risks are further discussed below.

300. The FIU has analysed fifteen TF-related STRs and disseminated one intelligence report to the SIS, as noted under IO.6.
301. The Gambia assessed the risk of TF as part of the NRA, which concluded that the risk of terrorism and TF in the Gambia is low. The NRA indicates that The Gambia's geographical proximity to other countries directly affected by terrorism and terrorism related activities (such as the emergence of Boko Haram, Islamic State of Iraq and Syria (ISIS) and their affiliates operating in many West African countries), and its porous borders make the risk of terrorism and TF real. However, the NRA is more focused on terrorism activities than TF as it does not indicate the type of terrorist financing assessed by the country. The Gambia demonstrates a weak understanding of TF risk when it believes that TF issues become important when a country experiences terrorism.
302. As a source point for migrant smuggling, The Gambia is primarily exposed to the risk of terrorists and terrorist financiers seizing the opportunity presented by migrant smuggling from The Gambia to recruit and train young Gambian migrants in terrorist training camps in Niger and Libya. Migrant smuggling and trafficking from The Gambia to Libya through Agadez, Niger, is a great concern as the network is becoming a major potential source of funding for terrorist recruitment.
303. The Gambian authorities believe that the ISIS presents a threat in The Gambia, especially, through social media propaganda and therefore had adopted measures such as monitoring social media platforms and generating a target list and monitoring persons on the target list. In April 2017, a Gambian national was arrested in Naples, Italy, on suspicion of involvement in planning a terrorist attack in France and other parts of Europe. The suspect recorded a video of himself pledging allegiance to ISIS. The Italian counter-terrorism authorities intercepted the video recording and arrested the suspect before he could execute the planned attack (NRA report).
304. Again, in June 2017, another Gambian national was arrested in Naples, Italy on suspicion that he participated in planning a terrorist attack in Europe. Both are currently detained in Sicily, Italy, whilst their case is being investigated for terrorism and terrorism related activities. The NRA does not state whether any of the suspects was radicalised in The Gambia or whether any of them received funding from The Gambia. The assessment team concluded that, overall, the risk rating in the NRA appears not consistent with the country's risk profile.

4.2.2. TF Identification and investigation

305. The SIS (Counter Terrorism Unit), DLEA, The Gambia Police and the FIU play key roles in the identification of TF cases. These agencies are mandated also to share information with other relevant agencies for purposes of initiating and supporting investigations. One of the ways of identifying TF is through financial intelligence disseminated to the LEAs by the FIU. One of the 16 TF-related STRs filed to the FIU resulted in one dissemination which necessitated an investigation by SIS. The Gambia has a cross-border cash/BNI declaration system in place. However, seizures arising from false or non-declaration have not been linked to any TF activity. Competent authorities, especially LEAs and SIS, generally understand the TF risk, and the legal framework on TF is satisfactory.
306. The Police, SIS are the lead agencies for investigating both terrorism and TF offences. SIS collaborates with other agencies and exchanges information with them,

particularly when dealing with suspected cases of terrorism and terrorist financing. The Gambia authorities have investigated one potential TF related case (see Box 4.1).

Box 4.1 - Investigation of a potential TF case based on FIU's intelligence

In 2018, an FI filed an STR to the FIU regarding the financial activity of an Islamic NPO. The main objective of the NPO is to bring together non-formal Islamic education centers under one umbrella and support them through the provision of aid. An amount of One Million Dalasi was deposited into the NPO's account. On analysis of the STR, the FIU forwarded intelligence report to the SIS which initiated investigations to ascertain the NPO's source of funding and its links to any extremist individuals, groups or terrorist organisations and, TF elements. During investigations, executive officers of the NPO were interrogated and a printout of telephone conversation obtained to ascertain the jurisdiction(s) of their contact. It was revealed that their contacts were from The Gambia, West African, Asia, Europe and the Americas. The NPO submitted records of donations received from various individuals within The Gambia, Angola, France, Germany, Italy, Spain, Switzerland, U.K (United Kingdom) and USA to the SIS. The investigations did not establish a link between the NPO and extremist individuals, groups or foreign organisations.

307. The Gambia authorities, especially the SIS, are aware of the risk and impact of terrorism and its financing. They appear to attach significance to terrorism and TF cases and understand the need to escalate and respond quickly to events as required. A criminal investigation is opened when a reasonable suspicion is strong enough. There is evidence to suggest that some LEA's have received training in the countering of financing of terrorism. These trainings were however few and far between. Notwithstanding the preceding sentence, there was limited evidence of the conduct of comprehensive financial investigations in the case above.
308. There is no evidence of collaboration between foreign counterparts in the above case, and investigation conducted in the above case appears limited. It is unclear if The Gambia focuses on identifying and investigating TF when investigating terrorism related cases. In the case as cited in Box 4.1, it is not certain whether the authorities used all available CFT tools effectively to support broader investigation and whether financing of terrorism was considered and pursued comprehensively from the beginning of the investigation.
309. The Counter Terrorism Unit of the SIS monitors suspected foreign nationals, especially those from high-risk jurisdictions in relation to matters of terrorism and not specifically on terrorist financing. The Gambia has organised training programs for Imams and religious leaders as a measure to de radicalization its citizens.
310. While there is no indication of TF in The Gambia, the country as a tourist destination, its geographical proximity to countries directly affected by terrorism and terrorism related activities, the porosity of its borders, the cash-based nature of the economy, and challenges of verification of identification documents, all constitute risk factors.

4.2.3. TF investigation integrated with and supportive of national strategies

311. The Gambia adopted a National Security Strategy (NSS) as a means of implementing the National Security Policy, 2019. The NSS is built on five pillars as follows: protection of the national sovereignty and territorial integrity; good governance, respect for human rights and the rule of law; cooperation and collaboration amongst security forces; nationalism, positive image and prestige; and socio-economic development. This strategy is classified and contains aspects and levels of tactical action in CFT matters. In particular, it provides for cooperation, collaboration and coordination of intelligence gathering systems of the security institutions. It also provides for development of strategies for combating ML and TF in line with international treaties/ conventions, and establishment of the National Joint Intelligence Committee for coordination of all intelligence activities.
312. In the area of information sharing, Section 43.2.5 of the Strategy stipulates the cooperation and information sharing between public and private sectors, especially between financial institutions and counter terrorism authorities, with respect to individuals, entities and organisations that could be related to money laundering activities and financing of terrorist groups and/or activities. Section 43.2.6 provides for improving coordination of the intelligence gathering of the security institutions in disseminating their intelligence to the Joint Intelligence Centre to ensure better flow of intelligence.
313. The strategy sets out objectives for the general strengthening of the TF system, for the improvement of the TF prevention subsystem and the financial detection and intelligence subsystem, among others. A substantial number of actions are outlined in the strategy to facilitate the implementation of the Strategy. However, implementation of the strategy has not commenced.
314. The Gambia is yet to adopt a Counter Terrorism Strategy

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

315. As noted in the analysis of technical compliance, the penalties available for natural persons convicted of TF (not less than 10 years' imprisonment) are considered proportionate and dissuasive. The maximum sentence prescribed for TF is therefore proportionate to other economic crimes such as corruption (7 years imprisonment), grievous harm (seven years imprisonment), extortion (3 years imprisonment), theft (5 years imprisonment), stealing (7-10 years), robbery (14 years imprisonment) obtaining by false pretences (3 years imprisonment), bribery (7 years), forgery (3 years imprisonment), or trafficking in persons (15 years to life).
316. In the case of a body corporate a fine of not less than ten million Dalasis. After convicting a corporate body, the court may make an order for the revocation for the licence of the corporate body or organisation. Also, a supervisory authority or self-regulatory organisation of a corporate body convicted of TF may initiate civil or administrative proceedings against that corporate body and its employees or revoke the licence or cancel the professional membership of the corporate entity or employee.
317. In the absence of any convictions of TF, it is not possible to assess whether the criminal sanctions applied, in practice, are effective, proportionate and dissuasive.

4.2.5. Alternative measures used when a TF conviction is not feasible (e.g. disruption)

318. Disruption measures through freezing and seizure are deployed to address TF activities. The IGP can seize funds where there are reasonable grounds to suspect that they are intended to be used for the purpose of terrorism; belong to, or are held on trust for, a

proscribed organisation; or represent property obtained through an act of terrorism, whether any proceedings have been brought for an offence in connection with the terrorist funds.

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

Overall conclusions on IO.9

320. The TF risk profile of The Gambia was rated low as captured in the NRA. The country has not prosecuted any TF case. The Gambia's criminalisation of TF does not include the financing of an individual terrorist and foreign terrorist fighters. The Gambia links the TF offence to the commission of a terrorist attack. The authorities focus their effort on de-radicalisation. Competent authorities lack adequate skills and resources to identify, investigate and prosecute TF. As a result, there has been no investigation, including identifying the specific role played by TF financiers. The absence of a counter terrorism strategy is a deficiency in the Gambia's effort to combat TF. In the absence of TF prosecutions, no sanctions have been imposed for TF. Therefore, it is difficult to determine the effectiveness, dissuasiveness and proportionality of the sanctions imposed on natural and legal persons and the implementation of alternative measures to dismantle TF activities. The Gambia requires fundamental improvement to demonstrate effective investigation and prosecution of TF.

321. **The Gambia is rated as having a low level of effectiveness for I.O.9**

4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

4.3.1. Implementation of targeted financial sanctions for TF without delay

322. The legal framework to combat TF at the domestic level is the Regulation to combat the International Financing of Terrorism (Tracing, freezing, seizure and confiscation) and other related measures), 2014. The National Intelligence Agency (NIA) is the competent authority responsible for coordinating and implementing the process for the freezing of funds and assets of organisations and individuals (Regulation 14, IFTR). The NIA is supported by the Anti-Terrorism Committee (referred to as the Committee) and the FIU in the implementation the regulations.
323. The Gambia has not designated a competent authority with the responsibility of proposing persons or entities to the UNSCR 1267 Committee and in relation to UNSCR 1373 and the absence of mechanisms and procedures in implementing TFS. It is unclear how the Gambia may proceed to implement TFS pursuant to UNSCR 1267/1989/1988 and 1373 (see R 6). However, there are some provisions in Regulation 2014 as to how to deal with the list of designated persons issued by the United Nations or Regional Member States of Ecowas. Particularly, the IFTR provides for the freezing, seizure and confiscation of funds and assets without delay. This measure is to prevent the potential flight or dissipation

of terrorist-linked funds or other assets within hours for the purposes of UNSCR 1267(1999) and UNSCR 1373 (2001).

324. The Gambia has not proposed designations to the UNSCR 1267/1989 or 1988 Committees and has also not received any request from other countries to designate or take freezing actions under UNSCR 1373.
325. The Ministry of Foreign Affairs receives the UN list of designated persons and entities that are subject to TFS and within 48 hours shares it with the NIA. The NIA shall, within 48 hours of receipt of such list from the Ministry of Foreign Affairs, take all the necessary measures to disseminate such list to the FIU for distribution to all reporting entities. However, in practice, upon receipt of the designated list by the Ministry of Foreign Affairs, same is either disseminated to the FIU or Ministry of Justice instead of the NIA. The Ministry of Foreign Affairs could not ascertain the number of times they have received and disseminated the UN Sanctions List, however the FIU indicated that between 2014 and 2019 they have received from the Ministry of Foreign Affairs and disseminated the UN Sanctions List about three (3) times to reporting entities within 48 hours to conduct searches on their respective databases and to determine whether they have relationships with individuals or organisations on the List. Upon dissemination of the list to reporting entities, responses received indicate a negative match. In respect of one of the letters which the FIU disseminated to all Banks and Insurance companies dated 3 December, 2019 responses received by the FIU from some of the banks ranged between three weeks to about five weeks, indicating a negative match. In situations where there is a match, that reporting entity or agency shall prevent that designated person or entity from conducting any transaction with the reporting entity as provided for under Regulation 2014 and file immediately a suspicious transaction report with the FIU. The Director of the FIU may freeze such funds not more than ten working days in accordance with section 33 (4) of the AML/CFT Act. The MOFA claimed that the list is transmitted manually either to the MOJ or FIU within 48 hours, however this claim could not be confirmed by the assessors. FATF jurisprudence has established that the definition of “without delay” means within 24 hours. Although the time within which the List is transmitted by the MOFA could not be confirmed, the timeframe does not fall within the FATF definition of “without delay.” The implementation of TFS is therefore not effective.
326. The List is not widely disseminated to all persons and entities within The Gambia’s territory and not all reporting entities receive the Sanctions List from the FIU. Certain entities met, particularly DNFBPs, lack awareness of or how to access these Lists. Therefore, most reporting entities, especially DNFBPs, do not screen transactions against the sanction list. Some FIs and subsidiaries of international groups acknowledged that they have once received the List, however, in compliance with their obligations they regularly and directly consult the Sanctions List on the UN website and have also subscribed to software that allows them to screen customers and transactions against the different Sanctions Lists.
327. The List is shared manually by the FIU with the NGO Affairs Agency (the supervisory body for NGOs) for onward dissemination to registered NPOs. However, some of the NPOs had no knowledge of the List and their obligations upon receipt of the list. Due to lack of resources and awareness, small and medium scale FIs, DNFBPs and NPOs are unable to access and use the List and updates published by the relevant United Nations Sanctions Committee.
328. The Gambia has not proposed any natural or legal person for designation under UNSCR 1267/1988 and the country has not received any request for a third-party

designation pursuant to UNSCR 1373. Although the TF risk in The Gambia is considered by the NRA as low, there are knowledge and technical compliance gaps as regards the implementation of TF-related TFS. The scope of the TF Regulations is restricted to ECOWAS member States, thus limiting the number of third countries that can request designation. In addition, the FIU does not have a procedural manual/ guidance note to assist reporting entities to apply TFS, where necessary.

329. The FIU does not adequately monitor the implementation of TFS by the reporting entities.

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

330. There are various categories of NPOs in The Gambia, including agriculture, food, health, water, sanitation, education, micro financing, peace and human rights, informal economic activity, anti-corruption campaigning, security, environmental, rural and urban development and social welfare. NPOs are expected to register with the Registrar of Companies either as companies limited by Guarantee or charitable organisations, associations or foundations and operate for two years before they can register with the NGOAA to qualify for NPO status. Registration is on presentation of a certificate of incorporation, Memorandum of Understanding with a donor partner, Tax identification Number (TIN) certificate, bank account and constitution. The authorities estimate that more than 5,000 charitable organisations are operating in The Gambia. However, only 120 NPOs are registered with the NGOAA. the lack of information on the exact number of NPOs can be attributed to the pre-registration requirement to operate as companies or charitable organisations for a minimum of two years. The Gambia has drafted the NGO Bill 2018, which among others seeks to make it mandatory for all NPOs to register with the NGOAA.

331. The Association of Non-Governmental Organisations (TANGO) is the platform for most NPOs in The Gambia. It is a voluntary association with membership of about 105 that seeks to unite NPOs through dialogue and organising events. The NPO stakeholders have a poor understanding of their AML/CFT obligations, thus increasing the risk for NPOs to be misused by criminals for illicit activities, including TF. In this regard the FIU organised an awareness creation programme for NPO sector in the year 2016, which falls out of the assessment period.

332. In 2019, the NGOAA conducted a mapping exercise to obtain accurate and up-to-date data on registered NPOs and their activities in The Gambia. Only 97 (62 local and 35 international) of the 120 NPOs were identified and evaluated. Only 66 of them had valid status/licences. Criminals can exploit unregistered charitable organisations, foundations and companies as NPOs for TF purposes.

333. Chapter 3 of the 2020 NRA considered the TF vulnerabilities of the NPOs registered with the NGOAA. The NPO sector was rated low for its TF vulnerability and The Gambia's overall TF vulnerability is assessed at the low level. Regarding the substance of the analysis, the NRA indicates that the Companies Act (2013) and the NGO Affairs Agency Decree (comprising the Protocol of Accord and Code of Conduct) are the main legal frameworks for the registration of all NPOs in The Gambia. It is noted that except the Companies Act, there has been no legislative change concerning NPOs since the 2008 mutual evaluation. Notwithstanding, the NRA did not analyse the relevant provisions of these legislative instruments and their impact on TF vulnerabilities in the NPO sector.

334. The NRA states that out of the one hundred and twenty (120) registered NGOs, only eleven (11) were Islamic inclined and therefore propagate only Islamic related activities in their dealings. The Gambia expressed concerns regarding the sources of funds of these NPOs on the assumption that some donors may be operating in countries that are in proximity to active terrorist threats. It noted the inordinate delays in wire transfers for NPOs especially those with donors from Middle Eastern countries due to enhanced scrutiny by intermediate and correspondent banks which impact their programme delivery. Based on their sources of funds, the NRA identified these eleven (11) NPOs as being vulnerable to TF.⁸³ The NRA demonstrates The Gambia's attempt to assess the TF risks of the NPO sector. However, considering the estimated number of legal persons or arrangements or organisations carrying out different types of "good works" in the country and the type of information used, the Assessors concluded that the NPOs assessment was not comprehensive.
335. The NGOAA is responsible for supervising and monitoring the activities of NPOs but not assigned AML/CFT responsibilities. The NGOAA's first and second quarter monitoring reports for 2021 focused on the collection of information on the different activities undertaken by the NPOs, NPOs compliance with the submission of annual plans of action, financial and activity reports and their integration with the local communities in the areas they are operating. The NGOAA is developing an CFT risk-based supervision framework for NPOs and has administered relevant questionnaires to NPOs in that regard. The questionnaire was not made available to the assessment team for verification and its administration was not captured in the NGOAA's 2021 Quarterly Reports. The Gambia has not adequately demonstrated the application of a risk-based approach measures to identify all NPOs vulnerable to TF. Stakeholders in the sector had no knowledge of the UN Sanctions List and their obligations and demonstrated limited knowledge of the abuse of the NPO sector for TF. The lack of comprehensive legal framework, the lack of supervision and monitoring of the activities of the NPO in the area of AML/CFT, the lack of a comprehensive SRA to identify the types of NPOs that are most vulnerable to misuse for TF and the application of risk-based approach to supervise and monitor their activities constitute major deficiencies in The Gambia's AML/CFT system.

4.3.3. Deprivation of TF assets and instrumentalities

336. The Gambia has a legal framework that provides and allows for the confiscation of assets and instrumentalities of terrorists, terrorist organisations and terrorist financiers. However, the framework does not ensure implementation without delay and is not set for identifying and designating persons and entities pursuant to UNSCRs 1267/1989 and 1988 and 1373. FIs, especially banks that are subsidiaries of foreign groups, have appropriate tools to ensure implementation of TFS related to TF without delay.
337. The Gambia has not frozen assets pursuant to the sanctions regimes under UNSCR 1267/1989, 1988 or 1373. The Gambia is yet to deal with any real TF case. The country has not carried out any deprivation of TF assets and instrumentalities linked to TF activities belonging to individual terrorists, terrorist organisations and terrorism financiers through a criminal, civil or administrative process. There has been no TF prosecution in The Gambia and therefore no associated restraint or forfeiture of TF assets and instrumentalities.

⁸³ Page 139, 2020 NRA.

4.3.4. Consistency of measures with overall TF risk profile

338. The Gambia has an overall low TF risk profile. The country is yet to identify any natural or legal person targeted by a freezing request, nor has it identified any funds or other assets of individuals or entities in the country or frozen any funds or other assets under the UNSCRs. The country has not carried out any deprivation of assets and instrumentalities linked to TF activities belonging to individual terrorist, terrorist organisations and terrorism financiers. The NRA identified 11 out of the 120 registered NPOs as those engaged in Islamic related activities, with their source of funds from Middle Eastern countries, thus raising some concerns, as some donors may be operating in countries that are in close proximity to jurisdictions that represent an active terrorist threat, such as Iraq and Syria. NPOs do not have adequate knowledge of AML/CFT issues and their vulnerability to TF threats.
339. The Gambia has shortcomings in its technical compliance regarding legal authorities and procedures or mechanisms to collect or solicit information to identify persons or entities based on reasonable grounds for designation, among others (see R. 6). Given the risk noted in the NRA and existence of about 5,000 charitable organisations which have not acquired the status of NPOs, authorities need to address these shortcomings to avoid possible abuse in future.
340. Even considering The Gambia's TF risk profile as low, as a cash-based economy with porous borders and a tourism designation country, the existence of 11 NPOs engaged in only Islamic related activities with source of funds originating mainly from the Middle Eastern Countries would potentially impact TF activity in the country, if proper and effective monitoring and registration mechanisms are not put in place. Measures should be put in place to ensure comprehensive implementation of TFS through the timely designation to all reporting entities, enhanced guidance, education and outreach, and a clear legislative mandate for the supervision of TF-related TFS.

Overall conclusions on IO.10

341. The Gambia has designated a Competent Authority for freezing. However, the implementation of TF related TFS under UNSCRs 1267 (1999) and 1373(2001) is not effective. Communication, transmission or dissemination of the Sanctions List to all reporting entities is not effective since most of the reporting entities did not receive the sanctions list. Only FIs, particularly subsidiaries of international groups, have a relatively good understanding of their obligation to implement TFS related to TF. Small and medium-scale FIs and DNFbps are not aware of the sanctions lists and do not have a good understanding of the TF risks and their obligations to implement TF related TFS linked to terrorism and its financing. NPOs have not been sensitised on their obligations to implement TF related TFS linked to terrorism and its financing. The absence of meaningful supervision of reporting entities combined with the limited guidance on TFS implementation and the lack of outreach to reporting entities contribute to the lower levels of understanding of TFS measures by some reporting entities potentially reduced their effectiveness. Increased guidance and outreach would assist reporting entities in understanding the roles of different competent authorities. The Gambia has not conducted a comprehensive SRA of NPOs to accurately identify the types of NPOs vulnerable to being exploited for TF purposes to enable it to apply targeted and

proportionate measures to them using a risk-based approach. A large number of charitable organisations are not registered as NPOs for which the potential for TF abuse is high because as it stands, they are not subject to monitoring or oversight to reduce this risk. Again, the Gambia has not carried out any deprivation of assets and instrumentalities linked to TF activities. Measures to implement TFS and disrupt suspected terrorist and their financiers should be more effective.

342. **The Gambia is rated as having a low level of effectiveness for I.O 10.**

4.4. Immediate Outcome 11 (PF financial sanctions)

343. The Gambia's exposure to WMD-related sanction evasion is generally low. The Gambia does not host an embassy of either Iran or DPRK. In addition, no sanctioned entities have been identified as operating in or moving funds or assets through The Gambia. Similarly, there are no economic or commercial dealings /trade relationships between The Gambia and Iran or DPRK during the period under review. Notwithstanding, The Gambia's ports are transshipment points, which may create some inherent risks in respect of PF.

344. The Gambia does not possess an industrial base for dual-use or other WMD-relevant technologies.

345. There are no comprehensive guidelines nor general awareness by competent authorities and reporting entities in The Gambia on how to deal with their obligations in relation to the financing of proliferation.

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

346. The Gambia has a regulatory framework (the AML/CFT Guidelines for FIs issued jointly by the FIU and CBG) that provides an obligation for FIs to implement TFS related to PF. The existing framework is not comprehensive as it does not cover DNFBPs. Overall, there is no adequate legal framework that provides a comprehensive basis for the effective implementation of TFS related to PF without delay in The Gambia.

347. The AML/CFT Guidelines for FIs provides for an obligation for the implementation of TFS related to PF for FIs. In particular, Paragraph 20 of the Guidelines prohibits FIs from *conducting transactions for or on behalf of individuals and entities designated by the UN Security Council Resolutions on terrorism, terrorist financing, proliferation of weapons of mass destruction and other subsequent resolutions or other sanction regimes of the UN*. In addition, *all cross-border wire transfers should be checked against the UN Designated Persons List and where there is a match, the FI should immediately freeze the transaction(s) and/or fund(s) and immediately file STR to the FIU*. Consequently, FIs have some basis to freeze targeted funds. However, this requirement is not applicable to DNFBPs while the freezing obligations is restricted to cross-border wire transfers. Overall, there are no comprehensive guidelines or implementing texts to establish a mechanism that will facilitate the effective implementation of targeted financial sanctions related to proliferation financing or aid the competent authorities and reporting entities' understanding of the obligation to implement TFS in relation to the financing of proliferation in The Gambia.

348. In relation to the communication of the designations, as noted under IO.10, there is no mechanism for the timely dissemination of the Lists to all reporting entities and other relevant stakeholders. Thus, The Gambia does not implement TFS without delay as the list

that trigger asset-freezing restrictions are disseminated manually by the FIU to FIs, particularly banks and insurance companies and this could take some days after UN listings, especially owing to administrative procedures, such as drafting of letters and internal approvals. In addition, the transmission of the sanctions list from the Ministry of Foreign Affairs to the FIU for onward dissemination to the private sector and other stakeholders could take some time (see IO.10). The FIU presented the assessors with samples of letters sent to banks and insurance companies. However, there was no process in place to notify reporting entities or others of updates to Iran and DPRK designations, although the FIU's letters included links to the UN Security Council website Lists. The Sanction Lists are not disseminated to other FIs, DNFBPs and other relevant stakeholders which represent a gap in the implementation of TFS relating to PF.

349. As with TFS related to TF, the large banks belonging to international groups have sanctions screening tools to identify the individuals and entities targeted by these sanctions and do not need to rely totally on communication from competent authorities to freeze targeted funds. However, they were generally unable to share practical examples of issues that would arise when implementing measures and could not demonstrate that they adequately monitor transaction activities (e.g. supply or sale of dual-use goods or provision of sensitive services). Other FIs and DNFBPs are not implementing TFS relating to PF. As no comprehensive guidance has been provided in relation to TFS related to PF, the level of awareness on countering PF among the various reporting entities (other than some banks) is generally very low and almost all reporting entities interviewed were not implementing TFS in relation to PF. It is the assessors' view that, the implementation of targeted financial sanctions relating to proliferation financing, pursuant to Resolutions 1718 and 1737 is not being implemented without delay in The Gambia.

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

350. As at the date of the on-site visit, no funds or other assets of designated persons/entities had been identified or frozen in The Gambia
351. Commercial banks, particularly banks that are part of international group interviewed during the onsite visit, indicated that they have some internal measures, including screening their customers against databases provided by the group (database covers sanctions lists, including Iran and DPRK lists), to implement the TFS relating to PF and understand that if there is a positive match they should act without delay. As at the time of onsite visit, no PF-related assets had been identified with a view to freezing such assets in accordance with the relevant UNSCRs on PF. Given the limited provisions on implementation of the TFS relating to PF, it will be unclear to the banks that are aware of the TFS related to PF implementation obligations what steps they could take in case there is a match.
352. In general, it is the view of the assessors that the challenges associated with the timely access to accurate and up to date beneficial ownership information (see IO.5) could impact the ability of the country in relation to the identification of assets and funds held by designated persons and entities. In particular, this affects the capacity of reporting entities and authorities to identify the use of legal persons and arrangements to evade sanctions and the effectiveness of the regime by limiting its ability to identify assets held by designated persons.
353. As noted above, the AML/CFT Guidelines for FIs is inadequate to facilitate the identification of assets or constructive system for effectively identifying the funds or other

assets of individuals and entities designated by the United Nations Security Council. In addition, authorities interviewed, especially the Customs demonstrated low knowledge on sanctions evasion threats and typologies, including the ways that TFS may be evaded. As regards export control, it appears that there is limited inter-connection between the export control regime and the AML/CFT regime. Specific coordination on PF between the relevant agencies is practically non-existent. No investigations or prosecutions has been conducted in relation to PF in The Gambia. The Gambia has never co-sponsored nor proposed a designation to the UN, as no activity falling within the scope of the UNSCR regimes was detected to the knowledge of authorities nor reported by foreign jurisdictions.

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

354. Within the financial sector, banks, particularly the large ones that are part of international group, show a more developed understanding of their obligations regarding financial sanctions related to proliferation financing and have some mechanisms and tools that could allow them to comply with this obligation. From discussions, these large banks seem to comply with their obligations by applying on-boarding and real-time screening of their client base and transactions against PF-related TFS lists. Some of them indicated that they would refrain from executing any transactions with Iran and North Korea. Assessors observed that the desire by these banks to ensure compliance is largely attributable to their group policy and linkages with the global markets. The AML/CFT onsite inspection reports of banks reviewed by the team cover sanctions screening. Some of the reports indicate that the FIU looked at the application of PF checks on a sample of clients and transactions during its onsite visit. In general, the reports noted deficiencies in the application of sanctions screening by some of the banks examined. In addition, some of the banks do not have automated process to screen customers against the UN and other Sanctions lists which could inhibit effective implementation of their PF related obligations. Some of the banks, especially the smaller ones interviewed generally do not differentiate between TF-related TFS and PF-related TFS. In general, the understanding of how banks deal with assets identified when there is a match cannot be assessed due to no matches nor potential matches found yet. Moreso, there is no robust guidance on procedures for the implementation of the TFS in The Gambia. Examination reports of non-bank FIs and DNFBPs reviewed did not cover sanctions screening and therefore, it is difficult for the assessors to ascertain the extent of their compliance as it is not clear if the FIU verifies the inclusion of the PF international sanctions in the internal procedures and internal regulations and looks at the application of PF checks on a sample of clients and transactions, amongst other things, during its onsite visits. In relation to other reporting entities, they exhibited little to no understanding and awareness of the obligations regarding targeted financial sanctions relating to PF and have not taken any steps to implement targeted financial sanctions related to PF.
355. Though The Gambia has provided some trainings to reporting entities, it is not clear if those training include specific modules on PF related issues (such as specific training on reporting entities obligations in monitoring of UNSC lists, and training on immediate and confidential communication procedures on PF matters) as understanding of and compliance with PF obligations remain very low, especially amongst NBFIs and DNFBPs. There is no evidence that the authorities undertake outreach to at-risk sectors, especially FIs involved with trade finance (particularly when there are cross-border transactions involving natural and legal persons), and funds transfer business operators on TFS relating to PF issues. Furthermore, other than banks and insurance companies, other FIs and DNFBPs do not receive the UN sanctions list from the FIU or their prudential supervisory authorities, while the sanctions lists are also not on the FIU's website, which would have facilitated

awareness/understanding of these reporting entities on PF related issues. The AML/CFT Guidelines for FIs only provided the obligation without further details to facilitate FIs knowledge or understanding and compliance with the obligations on PF issues. These, combined with limited or lack of supervision, likely contributed to reporting entities demonstrating significant variation in their understanding of, and approach to implementing TFS, from not taking any steps to implement TFS through to large multinational reporting entities with systems designed to fulfil their legal obligations globally. The team observed that for many of the NBFIs and DNFBPs interviewed, financing of proliferation is a fairly new area of discipline and there is the need for adequate training in this field. Overall, Assessors believe that competent authorities have not engaged the reporting entities sufficiently to ensure they comprehensively understand and comply with their PF obligations. No VASP has been licensed or registered in The Gambia. Thus, it was not possible to ascertain their level of understanding and compliance with TFS obligations.

356. It is the view of the assessors that TFS implementation could be challenged by CDD/EDD and ongoing monitoring issues among FIs and DNFBPs described in IO.3 and IO.4. The findings of poor compliance in some of the reporting entities from FIU inspections for TFS compliance indicate a vulnerability for sanctions evasion.

4.4.4. Competent authorities ensuring and monitoring compliance

357. The FIU is the primary supervisory body responsible for monitoring the implementation of PF-related obligations by reporting entities in The Gambia. Supervision on implementation of TFS is a part of the wider AML/CFT inspection conducted by the FIU.
358. Some FIs, particularly banks, have established filtering mechanisms and tools that incorporate preventive measures and Sanctions Lists for proliferation financing. The FIU is monitoring banks to ensure compliance in the implementation of their obligations regarding, among others, targeted financial sanctions relating to financing of proliferation. In the course of on-site supervision in banks, the FIU verifies the inclusion of the PF international sanctions in the internal procedures and looks at the application of PF checks on a sample of clients and transactions. However, the general inadequacy of especially human resources dedicated to the supervision of reporting entities and the limited number and scope of supervisory actions undertaken by the FIU, particularly on NBFIs and DNFBPs impact the effective monitoring of PF-related TFS (see IO 3). As regards NBFIs and DNFBPs, the Assessment Team noted that the inspection conducted by the FIU on a few of these entities did not cover TFS relating to PF. Thus, in practice, the FIU is not undertaking compliance monitoring for PF for NBFIs and DNFBPs, and no sanctions have been applied by the Unit with regard to compliance with the TFS related to PF regime. This may be due to the absence of the appropriate legal frameworks for the implementation of TFS relating to the financing of proliferation. No sanctions for TFS breaches were imposed so far.
359. Generally, besides the FIU which exhibited some understanding, other prudential supervisory authorities demonstrated a low understanding of the obligations related to the TFS. The lack of expertise in most competent authorities and reporting entities could be a contributory factor to the failure to effectively implement targeted financial sanctions related to the financing of proliferation of WMD in The Gambia.

Overall conclusion on IO.11

360. The Gambia's implementation of TFS occurs with delay. While foreign banks have adopted their parent organisations' PF processes and screen transactions, all other FIs and DNFBPs do not conduct screening, reflecting the absence of meaningful supervision for TFS implementation, limited guidance and the lack of outreach to reporting entities on TFS. No funds or assets have been identified or frozen in The Gambia in relation to TFS relating to PF. The Gambia is not monitoring and ensuring compliance with TFS for PF, especially by NBFIs and DNFBPs.

361. **Gambia is rated as having a low level of effectiveness for IO.11**

CHAPTER 5: PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions & VASPs

- a) The level of understanding of ML/TF risks and AML/CFT obligations varies across the FIs. While large and foreign owned or controlled banks demonstrated a good level of understanding of ML/TF risks and AML/CFT obligations, the rest of the FIs demonstrated a mixed but generally low level of understanding of ML/TF risks and AML/CFT obligations.
- b) The large and foreign owned or controlled banks demonstrated good knowledge of AML/CFT requirements and are generally applying mitigating measures commensurate with the identified risks. The measures include but not limited to CDD, transaction monitoring and customer screening. The rest of the FIs generally have less robust or inadequate mitigating controls in place.
- c) CDD requirements are largely complied with by most FIs, although stronger in the banking sector. The obligation to refuse a transaction and refuse or terminate a business relationship if CDD process cannot be completed is generally understood by commercial banks. However, statistics or case examples on relationships or transactions declined or rejected were not provided by the banks to ascertain effective implementation. Generally, banks have challenges in the implementation of effective CDD measures, including the verification of beneficial owners. Banks apply on-going monitoring of customers based on risk. This approach is less developed or non-existent in the other FIs. Record-keeping requirements are generally well understood by the financial sector. However, application is more robust among the commercial banks.
- d) Commercial banks generally apply EDD measures in higher risk situations. Application of EDD measures on all higher risk customers and products, PEPs, wire transfers, TFS, higher risk countries and new technologies is limited or non-existent in the rest of the FIs.
- e) Overall, commercial banks exhibited a satisfactory understanding of their reporting obligations and predominantly accounted for the STRs, CTRs and WTRs filed to the FIU. Reporting by NBFIs is very low, as most of them had not submitted any STRs during the review period. The total number of STRs submitted to the FIU is considered generally low given the significance of the banking sector and other FIs and the risks they face. On the whole, the low STRs submitted to the FIU are of good quality and reflected some of the major proceeds generating crimes in The Gambia.
- f) Commercial banks belonging to international groups exhibited a good understanding of the requirements in relation to TFS relating to TF and have deployed Sanctions screening, including automated software for monitoring

individuals and entities on the UNSC and other Sanctions Lists. Local banks and the rest of the FIs demonstrated limited to no understanding in this regard.

- g) Adequacy of internal controls, policies and procedures vary by type of FIs, but more robust in the banks, especially those belonging to international financial groups. Deficiencies were noted in the internal controls and procedures of some of the banks, including the lack of adequate resources (especially human resources) for AML/CFT compliance functions, independent AML/CFT reviews, and ongoing staff training. Application of internal control procedures by NBFIs varies but generally fall short of the desirable standards in this regard as the internal control procedures are either rudimentary, or lacking in some instances.
- h) No entity has been licensed or registered in The Gambia to operate as VASPs. Similarly, reporting entities do not have customers that are VASPs or involved in cryptocurrency exchanges.

DNFBPs

- a) Overall, DNFBPs exhibited low understanding of sector specific ML/TF risks and AML/CFT obligations. This may largely be attributable to the lack of institutional risk assessment and AML/CFT compliance monitoring by the FIU. Majority of the DNFBPs were not aware of or had only recently become aware of the findings of the NRA /NRA report.
- b) The mitigating controls applied by DNFBPs are weak and limited and thus, not commensurate with the risk profile of the DNFBPs sector.
- c) Implementation of record-keeping measures and the application of CDD and enhanced measures by DNFBPs vary but generally weak compared to the financial sector. Ongoing transaction monitoring is ineffective and DNFBPs do not take necessary steps to identify and verify BO and to apply EDD measures when dealing with higher risk customers.
- d) There was no STR filed by the DNFBPs during the review period. This may be attributable to inadequate or absence of AML/CFT compliance supervision.
- e) Internal controls and procedures across the DNFBP spectrum are generally non-existent, or where they exist, are very weak.

Recommended Actions

FIs & VASPs

- a) The FIU should ensure that NBFIs conduct institutional ML/TF risk assessment, using the NRA report as a starting point, to enable them to understand their ML/TF risks and apply commensurate mitigating controls as informed by the risks identified. FIs with the highest materiality and exposure to risk such as foreign exchange bureaux and remittance service providers should be the priority targets for such actions. Similarly, the FIU should ensure that commercial banks

review their own ML/TF risk assessments to take into account the findings of the national ML/TF risk assessments.

- b) FIs should: (i) develop appropriate tools and implement rigorous controls concerning PEPs, (ii) have effective mechanisms to adequately identify and verify UBO, and (iii) maintain accurate and up-to-date records on BO information. In order to facilitate effective implementation of CDD measures, including identification of beneficial ownership by FIs, The Gambia should, amongst other things, consider: (i) establishing a centralised national identification database by consolidating existing databases on international passports, driver's license, national identity card, etc and ensuring the regular update of data and accessibility by FIs and other users; and (ii) improving the address/identification system in the country.
- c) The FIU should take necessary measures to improve the quality and volume of STRs by banks, and ensure that NBFIs, especially those identified as high risk, detect and file STRs to the FIU. Such measures should include: (i) ensuring that NBFIs develop appropriate internal mechanisms to detect and file STRs consistent with their risk profile; (ii) enhancing engagement with FIs on reporting obligation; (iii) improving technical support (eg. STR specific training, STR reporting typologies or indicators) to enhance the capacity of FIs to effectively identify and report STRs, including TF related STRs; (iv) providing appropriate risk indicators in the major threat areas (corruption, drug trafficking, etc) to facilitate identification of STRs in these areas; (v) providing robust and systematic feedbacks to FIs on the STRs filed; and (vi) application of effective, dissuasive and proportionate sanctions, especially monetary penalties, to promote compliance with STRs reporting obligation. In addition, authorities should, as much as practically possible, avoid inviting Compliance Officers as witnesses to give evidence in courts related to STRs filed as this will address the apprehension by FIs to file STRs, and potentially increase the number of STRs.
- d) The FIU should ensure that NBFIs implement a risk-based approach to AML/CFT controls, especially in relation to EDD, ongoing due diligence and establishment of beneficial owners of their customers, while commercial banks strengthen implementation of their AML/CFT programmes. They should undertake rigorous and sustained awareness campaign amongst NBFIs especially those identified as higher risk, including foreign exchange bureaus, and monitor implementation, including application of sanctions in case of violations, to enhance compliance.
- e) The authorities should ensure that TFS is properly understood, and that FIs should implement necessary procedures and transactions monitoring mechanisms to effectively implement TFS.
- f) FIs (other than commercial banks belonging to international financial groups) should establish or strengthen internal controls measures, including adequately resourcing compliance functions, regularly undertaking independent AML/CFT reviews, and providing continuous training on AML/CFT requirements to staff for effective implementation of their AML/CFT obligations. The FIU should take the necessary steps to ensure compliance by FIs.

DNFBPs

- a) The FIU and sector specific prudential supervisors should ensure that DNFBPs conduct ML/TF risks assessment, taking into account the results of the NRA, in order to inform the implementation of AML/CFT controls commensurate to the risks identified. They should disseminate the results of the NRA to all DNFBPs (prioritising high risks DNFBPs eg real estate agents and lawyers) and make them aware of the ML/TF risks to which they are exposed.
- b) The FIU should: (i) undertake rigorous and sustained awareness campaign and training amongst DNFBPs, particularly those identified as higher risk, (e.g real estate agents and lawyers), (ii) develop sector specific AML/CFT guidelines for DNFBPs to facilitate understanding of their AML/CFT obligations especially in relation to EDD, on-going due diligence and UBO, and (iii) supervise/monitor implementation, including application of sanctions in case of breaches, to promote compliance. Awareness raising campaigns and development of guidelines should be undertaken in collaboration with the relevant SRBs/industry associations and prudential supervisors.
- c) The FIU should take enhance measures, including awareness raising, provision of appropriate guidance, and sector specific training on reporting obligations to ensure that DNFBPs especially those identified as high risk in the NRA, are adequately aware of their reporting obligations and are detecting and filing STRs and CTRs to the FIU.
- d) The FIU should ensure that DNFBPs understand and effectively apply targeted financial sanctions.
- e) The FIU should ensure that DNFBPs establish appropriate AML/CFT functions, internal policies/procedures, and provide on-going training on AML/CFT requirements to staff for effective implementation of their AML/CFT requirements.

362. The relevant Immediate Outcome considered and assessed in this chapter is 10.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6 and 29.

5.2. Immediate Outcome 4 (Preventive Measures)

363. The AML/CFT Act is the main piece of legislation setting out the AML/CFT obligations of reporting entities in The Gambia. It sets out the preventive measures reporting entities must comply with. While the Act generally covers the necessary components, there are some deficiencies with The Gambia's technical compliance with the FATF Standards that impact the country's overall effectiveness. These deficiencies are in relation to new technologies, MVTs, PEPs, higher risk countries etc.
364. Considering the relative materiality and risk in The Gambia context, the implementation issues were weighted heavily for the commercial banks, remittance service providers, real estate agents, lawyers/Independent Legal Practitioners, and foreign exchange bureaus (bureau de change). Casinos and DPMS were weighted as moderately important. Insurance companies, other financial institutions and other DNFBPs were weighted as less

important. There are no capital market operators and VASPs in The Gambia. The CBG informed assessors that no entity has been licensed or registered in the country to operate as VASP. Similarly, reporting entities interviewed, particularly commercial banks, indicated that they do not have customers that are VASPs or involved in cryptocurrency exchanges. No weight was placed on capital market operators and VASPs as they do not exist in The Gambia. The rationale for this is explained in chapter 1 (under structural elements) and summarised as follows:

Most heavily weighted

- a) **The Commercial Banks:** This sector was assessed Medium Low risk for ML/TF in the NRA, however based on the size, volumes and values of transactions processed, and interconnection to the global financial system, the Assessment Team assigned greater weighting to this sector.
- b) **Remittance Service Providers.** This sector was rated Medium Low for ML/TF in the NRA. Assessors considered the global ML/TF risk associated with this sector which can be classified as high.
- c) **Real Estate Agents:** The preponderant use of cash to finance real estate transactions, the unorganised nature of the sector, and weak regulation or monitoring for AML/CFT compliance make the sector vulnerable to ML risk. The sector was assessed as having high ML/TF risk in the NRA.
- d) **Lawyers/Independent Legal Practitioners:** This sector is regulated by the Legal Practitioners Act (LPA) and assessed as Medium *Low* for ML/TF in the NRA. Lawyers are involved in sales and purchase of real estate and to a limited extent in other relevant activities (eg creation, operation or management of legal persons or arrangements). ML/TF risk understanding and implementation of AML/CFT obligations by lawyers is weak. Lawyers are weighted as moderately important based on exposure to ML risks.
- e) **Foreign Exchange Bureaux:** This sector was assessed as having Medium ML/TF risk in the NRA. Assessors considered the activities of unlicensed foreign exchange operators, the cash intensive nature of the business, and the low understanding of ML/TF risks and implementation of preventive measures which expose the sector to considerable high risk of ML.

Moderately weighted:

- a) **Casinos -** The sector was assessed as Medium High risk for ML/TF in the NRA but Assessors assigned moderate weighting to the sector because casinos are wholly owned and managed by foreign nationals and due to the gap in AML/CFT supervisory attention given by the FIU.
- b) **DPMS** was rated medium in the NRA for ML/TF risk. Assessors considered this sector as moderately important because of the low awareness of ML/TF risk and AML/CFT obligations by DPMS, weak regulation of activities of DPMS that had given rise to the operation of some illegal DPMS in the country, as well as the ease of concealability and ability to smuggle precious metals and stones through the country.

Less important:

- a) The insurance sector is underdeveloped with low insurance penetration, low volume of operations, and only two insurance companies offer limited life insurance products. The sector's contribution to GDP in 2020 was about 1% (NRA report). Though the sector was rated as having medium low risk for ML in the NRA, Assessors assigned less weight to the sector for reasons noted above.
 - b) Other FIs and DNFBPs are less developed with low volumes of transactions and coupled with the fact that, so far, no evidence of ML or TF case has been linked to any of these sectors, assessors are of the view that their risks and their impact on the AML/CFT preventive system may not be very significant and thus weighted them less important. There is no operational /active Securities sector in The Gambia.
365. The Assessors met with a number of reporting entities from each sector. The sample consisted of large, medium and small sized entities. The Assessors findings on Immediate Outcome 4 are based on interviews with a range of private sector representatives, reviewing onsite examination findings, data and statistics from supervisory activities, discussions with supervisors, data on STRs, discussions with the FIU and information from The Gambia's NRA report, with respect to materiality and risk of each sector.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations**Financial Institutions and VASPs**

366. The understanding of ML/TF risks and AML/CFT obligations varies across the entire financial sector. Large banks belonging to international financial groups that the Assessors met conduct robust institutional risk assessments of their customers, products, geographic location, transactions, payment channels, etc that inform them of any exposures to ML/TF risks. These categories of banks have benefitted from their group practices whose policies require regular comprehensive group-wide risk assessments and developing mitigating measures commensurate with the risks identified. As a result, they have put in place good AML/CFT procedures to address the risks identified by relying on the AML/CFT Act and group AML/CFT policies taking into consideration the peculiarities of The Gambia. The small to medium size banks demonstrated varying level of understanding of ML/TF risk facing them. They do not have robust risk assessment framework in place, have not undertaken comprehensive business-wide risk assessment and as a result have lower understanding of risks affecting their operations.
367. Generally, risk assessment is conducted on an annual basis by banks. The large banks particularly the foreign-owned or controlled banks, also review on ad hoc basis in response to specific risk events (e.g. significant changes in business, or if new products come on line). The onsite examination reports for banks noted shortcomings with regard to the internally developed ML/TF risk assessment of some of the banks, especially the small to medium size banks. This confirms the findings of the Assessors that some of the banks are yet to conduct comprehensive institution-wide ML/TF risk assessment.
368. A review of the institutional risk assessment reports of banks made available to the Assessment team, indicate that the internal assessments cover critical areas such as risks for customers, products/services, transactions, delivery channels etc. With regards to the methodology, they assessed frequency of occurrence, impact and effectiveness, with three

levels of classification (High, Medium, and Low). For those who opted for ranking, they used scores for the different criteria established for businesses and individual clients. Generally, Assessors found the risk assessment reports of large banks belonging to financial groups more comprehensive.

369. The Assessment team observed that there is uniformity across the commercial banks regarding some customer types, services, delivery channel and geographical location that are identified as potential areas of high risk on which enhanced due diligence measures are applied. For instance, they identified cross border transactions/remittances, PEPs, casinos and the real estate agents as vulnerable areas. There is a clear consensus among the banks, that associated vulnerabilities and high-risk factors include cash transactions. Similarly, they identified corruption, and tax evasion as some of the major criminal activities generating illicit proceeds, consistent with the findings of the NRA. They further indicated that majority of the proceeds of such criminal activities were mainly channelled through the real estate sector. Assessors believe the seeming uniformity in risk understanding could be attributed to the internal risk assessment that has been undertaken by the commercial banks (albeit at different level of robustness) and their involvement in the NRA (as noted below) which provided a broad understanding of the risk in their operating environment.
370. The participation of the commercial banks in the Working Groups for the NRA contributed to some level of understanding of risks and AML/CFT obligations. For instance, the NRA impacted the banks' understanding of risks posed by some sectors, such as real estate agents and casinos which are identified as high to medium, high risk respectively in the NRA. The commercial banks consider that these two sectors pose high ML risks, as sometimes it is difficult to determine the sources of deposits generated from real estate business and gambling winnings and the effectiveness of the due diligence measures applied by real estate agents and casinos is not reliable. In addition, the entities deal largely in cash. The banks interviewed agreed with the medium low rating assigned to the sector. As the NRA report was disseminated to the banks just about the time of the onsite, the relevant findings of the NRA were yet to be incorporated into their own compliance programmes where necessary, including updating institutional and customer ML/TF risk profiles.
371. In relation to understanding of AML/CFT obligations, the large banks particularly the foreign-owned or controlled banks, demonstrated in-depth and up-to-date understanding of their AML/CFT obligations as set out in the AML/CFT Act and the need to implement internal systems and controls. They are aware of the relevant laws and the AML/CFT Guidelines for FIs jointly issued by the FIU and CBG. The small to medium banks demonstrated a reasonable understanding of their AML/CFT obligations, but some are yet to establish appropriate or comprehensive compliance systems and controls.
372. **Remittance Service Providers** met during the onsite include a combination of local and international players. The service providers interviewed by the Assessment team, especially those with affiliation to international remittance companies, demonstrated a better understanding of ML/TF risks associated with their business, none of the service providers indicated they have conducted internal risk assessments. The service providers affiliated to international remittance companies have reasonably good understanding of their AML/CFT obligations and have implemented some policies and procedures which include procedures for KYC, record keeping, etc. Before remittances are processed, they require information on identification, address, source of funds, etc. Some of the service providers interviewed participated in the NRA but are not aware of the findings in the NRA report relating to their sector. This largely because the NRA report has not been widely disseminated to reporting entities.

373. **Foreign Exchange Bureaux** have a low level of understanding of the ML/TF risks facing their operations and AML/CFT obligations. The bureaux interviewed demonstrated low understanding of ML/TF risks and their AML/CFT obligations. They do not have mechanisms in place to conduct internal risk assessments on their products and services and as a result, have little understanding of the risk facing them. Although some of them participated in the NRA, they are not familiar with the risks facing the sector as contained in the NRA. They however did not express objection to the medium rating assigned to their sector in the NRA. The sector is not being supervised or monitored for compliance with AML/CFT requirements which may partly contribute to their lack of understanding of risk and AML/CFT obligations.
374. The **Mobile Money Service Providers** representatives interviewed by the Assessors portrayed a general understanding of their ML/TF risks on account of their affiliation to their group or GSM Association (global association that supports and promotes mobile operators using the GSM mobile standard). Though the mobile money service providers were not part of the NRA exercise, some of them participated in the validation workshop and demonstrated limited understanding of the risks relating to their sector. They exhibited fair understanding of their AML/CFT obligations and have some control measures, including KYC, transaction limit, and record keeping in place.
375. The rest of the FIs, including **insurance companies**, and **microfinance institutions** have not undertaken any form of ML/TF risk assessments of their customers, products, services, delivery channels and geographical locations, and as a result, have little understanding of the risk they face. Representatives of these entities interviewed were unable to clearly articulate how ML or TF might occur within their institutions or sectors, as well as demonstrated a lack of systematic understanding of AML/CFT obligations. Overall, they demonstrated low understanding of their ML/TF risks and AML/CFT obligations, although they have established some basic control measures such as KYC and record keeping in place. Some of these FIs participated in the NRA exercise but generally exhibited limited awareness of the findings of the NRA, which may largely be attributed to the non-dissemination of the report to them. A few of these institutions interviewed, especially the insurance companies did not agree with the medium low rating assigned to their sector in the NRA report. They believe the risk in the sector should be low because majority of them do not offer life insurance products, there is low volume of transactions, low penetration of the insurance sector, while the size of the sector and its contribution to the GDP is negligible [just about 1% of GDP (NRA Report)]. The lack of AML/CFT supervision of these institutions (see IO.3) by the supervisors contributed to the low understanding of AML/CFT obligations.
376. In general, the FIU's engagement with some of the FIs and industry associations, especially the Compliance Officers Association of banks, trainings provided, as well as issuance of Guidelines (eg AML/CFT Guidelines for FIs) contribute to some awareness and enable some FIs to understand their AML/CFT obligations. As noted under IO.3, the Guidelines issued by FIU and CBG have enabled some of the FIs to develop their internal procedures, which provided some understanding of their AML/CFT compliance obligations.

DNFBPs

377. In general, the level of understanding of sector specific ML/TF risks and AML/CFT obligation is low across the DNFBPs sector. DNFBPs interviewed have not conducted any form of ML/TF institutional risk assessments to assist in understanding of their ML/TF risks. In fact, they do not understand how to identify the ML/TF risks encountered by them

in their operations. Although a few of the DNFBPs interviewed by the Assessment team during the on-site visit participated in the NRA exercise, they demonstrated limited knowledge of risks specific to their sectors in the NRA, while others were not aware of the relevant findings of the NRA. Overall, DNFBPs have limited or lack proper appreciation of the existence and extent of ML/TF risks in The Gambia, which is largely due to the late dissemination or lack of wide dissemination of the NRA report or its findings to reporting entities and other stakeholders. In relation to understanding of AML/CFT obligation, few of the DNFBPs interviewed demonstrated fair understanding of their AML/CFT obligations. The majority of the DNFBPs could not effectively explain the AML/CFT requirements regarding reporting of STRs, compliance functions, conducting risk assessment, how to obtain information about the purpose and intended nature of the business relationship; application of EDD for high-risk customers and BO and TFS related obligations, among other requirements. The AML/CFT Guidelines for DNFBPs issued by the FIU and some limited training and awareness provided by the Unit account for the fair understanding of AML/CFT obligation in some of the DNFBPs.

378. Discussions held with the **Real Estate Agents** indicate that they have low understanding of their ML/TF risks and AML/CFT obligations. They do not have mechanisms that can assist them assess and understand their ML/TF risk, and are not familiar with the risks facing the sector, including those contained in the NRA. Formalistically, the industry recognises or mentions cash transactions as ML indicator. However, the Assessment team is not confident that the associated risk is well understood and/or appropriate measures are applied. Although the FIU has commenced some engagements, including awareness raising and AML/CFT inspection in the sector, these are still at early stages or recent. For instance, the inspection of the sector commenced in June 2021. The real estate sector, which has no restrictions on entry for agents, is active, highly unorganised and membership of the industry association (AREC) is not mandatory. Given the preponderant use of cash in transactions and indications that some criminal proceeds are channelled through the real estate sector, it remains without saying that the sector is highly vulnerable to ML as noted in the NRA

379. **Lawyers** in The Gambia offer various services for and on behalf of their clients, including buying and selling of real estate, formation of companies, and in some instances act as trustees, and directors or even manage companies for their clients. However, lawyers interviewed by the Assessors demonstrated low level of understanding and awareness of ML/TF risks. Although they have had minimum level of engagement with the FIU in terms of awareness and training, the level of understanding of their obligations under the AML/CFT Act is limited. For instance, the lawyers require basic information from their clients, such as their name, address, place of work and identity documents, but AML/CFT is not the focus in this process. They showed a low understanding, particularly regarding BO information of legal persons and arrangements as well as the sources of funds. Although the FIU has issued a general AML/CFT Guidelines for DNFBPs, the lawyers appear not to be aware of this, which may have contributed to the low level of understanding of their AML/CFT obligations. While the lawyers interviewed were not part of the NRA process and not aware of the findings of the NRA, they did not share the view that the legal professional sector has high levels of ML/TF risks .

380. **Casinos** operating in The Gambia are owned and run by foreign nationals and the players are both locals and foreigners. Casino operators interviewed exhibited low understanding of ML/TF risks associated with their business activities. They demonstrated little understanding of some elements of their AML/CFT obligations, especially CDD and record keeping. Based on discussions with the casinos, Assessors noted that measures

implemented by casinos to address their risks are not always commensurate with the specific risks associated with their business and appear to be more focused on the gambling business e.g. using transaction monitoring to identify problem gamblers.

381. **DPMS:** The DPMS demonstrated a low level of awareness of ML/TF risks, and their AML/CFT obligations. Assessors noted that they are yet to understand the importance of their role in addressing the ML/TF risks they face.
382. Other DNFBPs including **Accountants/Auditors** interviewed demonstrated low understanding of their AML/CFT obligations and the ML/TF risks. They do not have mechanisms in place to conduct internal risk assessments and as a result, have little understanding of the risk facing them. The low understanding of ML/TF risks and AML/CFT obligations by accountants/auditors could be compounded by the low understanding by these reporting entities of the specific category of activities that trigger obligations under the AML/CFT Act. In addition, the Assessment team noted that there was little or no consideration for AML/CFT issues, such as suspicious transactions reporting when accountants/auditors are providing services to clients.

5.2.2. Application of risk mitigating measures

383. The AML/CFT Act and Guidelines in The Gambia require reporting entities to apply AML/CFT measures on the basis of identified ML/TF risks. The Assessment team found that there is significant variance in the practical application of mitigating measures between and within FIs and DNFBPs in The Gambia. In general, the commercial banks affiliated to international financial groups implement more rigorous mitigating measures (such as several levels of senior management approvals and on-going monitoring) on customers, transactions, services etc considered high risk, including PEPs, cash-intensive industries (e.g., real estate and forex bureau businesses), casinos and cross-border wire transfers. From discussions with the banks, the Assessment team noted that there is more rigour on these clients, products, and service than on those considered posing lesser ML/TF risks. In this regard, FIs with institutional ML/TF risk assessments, particularly banks have different mitigating controls for each type of risk identified consistent with the customer or transaction.
384. The rest of FIs and DNFBPs interviewed by the Assessment team demonstrated a limited or complete lack of application of the appropriate mitigating controls such as suspicious transaction reporting, screening of customers or transactions prior to approval, including using commercial databases for screening of customers and transactions against UNSCRs Targeted Financial Sanctions List. Overall, the AML/CFT mitigation measures applied by these entities are weak or inadequate.
385. The Assessment team observed that the deficiency noted in relation to the lack of application of sanctions for violation of the requirements of the AML/CFT Act and relevant regulations detrimentally affects the application of risk-based measures in The Gambia across most sectors. For large banks belonging to international financial groups, this has a more limited impact on effectiveness as these FIs implement parent jurisdiction AML/CFT requirements, but for other FIs and all DNFBPs, this significantly impacts on effective application of risk mitigation measures.

*Financial Institutions and VASPs***Banks**

386. Commercial banks operating in The Gambia implement policies and controls commensurate with the level of risks identified through their individual risk assessments. The measures applied by the large commercial banks belonging to international financial groups were the most matured. They have developed more sophisticated AML/CFT systems and controls. Their AML/CFT policies and procedures include a broad range of measures to mitigate ML/TF risks and a “three lines of defence” (business, compliance and audit) has been established for ML/TF risk management involving also boards and senior management. They typically use a risk scoring model for customers, which categorises customers’ risk profiles (typically high, medium and low risk), and apply differentiated mitigating measures: for high risk customers more scrutiny is applied, such as obtaining and analyzing additional information; obtaining senior management approval (e.g. in case of PEPs), and closer on-going monitoring. They have software/tools that allow them to identify inconsistencies with parameters of a customer profile, monitor transactions of their customers and flag unusual transaction, and to check for sanctioned persons and entities (sanctions screening). Similarly, they have identified certain types of transactions (e.g cash deposit, cross-border wire transfers, correspondent banking), delivery channels (e.g., non-face-to face) and geographical location (high-risk jurisdictions such as Iran, and North Korea) as requiring rigorous risk mitigating measures. This practice strengthens ongoing monitoring, contributing to a sound implementation of risk mitigation measures. Whilst the other commercial banks still assess customer risk and develop profiles, in general, these assessments and ML/TF risk mitigating measures in place are less sophisticated. For example, they have relatively weaker transaction monitoring and internal control procedures. Some of them lack or have less developed automated transaction monitoring system.
387. The practice of risk categorization by commercial banks at the time of on-boarding, assessment of their customers’ ML/TF risks levels, assessment of new products, etc contribute to the appropriate application of mitigating measures. However, the lack of robustness in the internal risk assessment in some of the banks impact adversely on the adequacy or extent of mitigation measures applied by them.
388. Most commercial banks (like other FIs), indicated the use of cash as a risk given the volume of cash transactions in The Gambia is still very substantial (notwithstanding that the use of cashless payments is rapidly increasing). However, it was not clear what measures commercial banks apply to perform enhanced CDD on cash transactions (receipts and payments), especially as there is no cash transaction limit in The Gambia.
389. The Assessment team reviewed the AML/CFT inspection reports conducted by FIU on commercial banks to ensure a balanced approach was taken towards understanding the extent to which banks implement mitigation measures. Deficiencies highlighted in the examination reports include lack of robust ML/TF risk assessment in some banks which raises concerns on the abilities of such banks to effectively implement mitigation measures commensurate with their risks.
390. **Foreign Exchange Bureaux** generally do not implement proportionate risk mitigating measures. Existing measures across the foreign exchange bureaux interviewed are inadequate to deal with the specific risks of the sector, such as the cash intensive nature of the business, and activities of unlicensed operators, and the fact that transactions are done

over-the-counter without proper due diligence, which considerably expose the sector to the risk of ML/TF. It emerged from the discussions that Foreign exchange bureaus have not established internal policy to mitigate the risk of ML/TF. Given the low understanding by the bureaus of the risks associated with their own businesses, there are concerns regarding the extent to which they understand the basics of the RBA, and implement commensurate mitigation measures on that basis. A review of one onsite inspection report conducted in the sector for AML/CFT compliance, highlighted several weaknesses in the application of risk mitigation measures.

391. In relation to **Remittance and Mobile Money Service Providers**, they have established mitigation measures which are reasonably commensurate with the level of the risks they face. In particular, majority of the service providers are affiliated to globally licensed and recognised providers who apply, to the extent possible, the policies and procedures of the parent companies. Representatives of mobile money service providers interviewed demonstrated a reasonably good understanding of the mitigation measures they are applying. For example, they require registration and photograph during onboarding of customers, which are used for risk classification of customers. For customers rated as high risk, they apply enhanced CDD measures. Similarly, remittance service providers implement appropriate mitigation measures. They have transaction limit. A customer cannot transact above the set limit, without authorization from the operator for an upgrade to the next tier which requires more CDD and the authority cannot be granted at mobile agent level. In general, the wider implementation of a RBA across the remittance service providers sector, is stronger amongst providers belonging to international remittance businesses.
392. The **Insurance sector** in general and life insurers in particular showed a weak implementation of appropriate mitigating measures. Insurance companies interviewed, generally apply basic mitigation measures. Customer risk categorization is rarely done due to lack of capacity and risk assessment framework. Overall, application of risk mitigation measures by especially life insurance companies is not commensurate with their risk, given the low understanding of the risks associated with their businesses.
393. Other FIs, including rural community banks, credit unions and microfinance institutions, generally have weak internal systems and controls to adequately mitigate ML/TF risks associated with their businesses. Most of them approach their risk mitigating measures in a rule-based manner. They do not have procedures for identifying and verifying the source of funds of clients. In general, the level and quality of risk mitigating measures applied by these entities is weak.

DNFBPs

394. DNFBPs do not apply risk mitigation measures. Despite the fact that some DNFBPs were rated high risk in the NRA report, they had not conducted risk assessments, and applied corresponding risk mitigation measures and did not have AML/CFT programmes, policies and procedures for risk mitigation including customer identification measures in place.
395. Discussions with the **Real Estate Agents** indicate that they are not applying mitigating measures that are commensurate with the ML/TF risks prevalent in their sector. Although they require some basic CDD information from their clients, they do not classify their customers in risk categories, and do not pay attention to ascertaining the origin of the source of funds of their clients. The FIU commenced the inspections of some real estate agents in June 2021. Sample reports of the onsite inspections reviewed by the Assessors indicated significant deficiencies in the application of mitigation measures by the inspected agents, including the lack of risk assessment. These deficiencies highlight the need for real estate agents to strengthen their application of risk mitigating measures.

396. **Lawyers** demonstrated limited implementation of AML/CFT mitigation measures. For instance, while lawyers require some basic information from their clients, such as their name, address, place of work and identity documents, they do not classify their customers in risk categories which would have provided a basis for application of appropriate mitigation measures. In addition, where they are involved in real estate transactions, they do not pay attention to ascertaining the origin of the source of funds of their clients, as well as the identity of buyer / beneficial owners.
397. The **casinos**, which are rated medium high risk for ML/TF in the NRA, do not implement proportionate mitigating measures. Casino operators interviewed exhibited limited knowledge of their AML/CFT obligations and ML/TF risk which contributed to the non-implementation of appropriate mitigation measures. They do not have mechanisms to monitor suspicious activities, lack internal controls, awareness and training programme for staff, etc.
398. **DPMS** have not started applying mitigating measures that are commensurate with the ML/TF risks prevalent in their sector. This could be attributed to the lack of understanding of their AML/CFT obligations, and the lack of AML/CFT supervision.
399. Overall, the weak implementation of mitigation measures by DNFBPs may be due to the lack of a risk assessment, a limited understanding of their obligations, the absence of comprehensive sector specific guidelines, and AML/CFT monitoring. This is a major concern as some of the DNFBPs are assessed as medium to high ML risk in the NRA.

5.2.3. Application of CDD and Record-keeping requirements

400. The AML/CFT Act and Guidelines require FIs and DNFBPs to adopt and implement CDD and record keeping measures. These frameworks also recognise a risk-based approach to CDD measures commensurate to customer and transactions risk levels. Some FIs have assessed their risks, and based on the understanding of the risks, applied commensurate CDD measures to manage and mitigate the risks identified. Reporting entities demonstrated varying levels of effectiveness in applying CDD requirements, but implementation is generally better in the FIs (especially commercial banks) than among DNFBPs. Assessors noted that, a common challenge across all sectors is the verification of BO information. Record-keeping requirements are generally understood and implemented, although more robust in the FIs.

Financial Institutions

401. **Commercial Banks** -in The Gambia, especially the ones belonging to international financial group, demonstrated good knowledge of the applicable requirements related to CDD and apply more comprehensive CDD measures, including ongoing monitoring, and adopting a risk-based approach. They identify the clients and, where applicable, the beneficial owner, and then establish for each client a profile based on the customer knowledge information received during the establishment of the business relationship. The other banks demonstrated a less sophisticated implementation of CDD requirements, including ongoing monitoring, and do not fully apply a risk-based approach taking account of inherent risks arising from their own customers, products, services and distribution channels.
402. Most commercial banks have established Customers Acceptance Policy, which amongst other things, highlights identification and verification procedures for customers. For identification purposes, customers are required to present their IDs, complete Account

Opening Form describing the nature of their business, source of funds and wealth, and provide relevant KYC documents, contracts, information related to the management and ownership structure of the company. This information helps the banks to understand the purpose and intended nature of business relations and is generally used to establish a profile of the customers against their on-going activities which will be monitored. In particular, in the case of a natural person, the information collected at the account opening stage includes full names, date of birth, country of origin, permanent residential address, proof of national identity (passport, or driver's license), residence permit (in case foreign nationals) etc. For legal persons or arrangement, they seek and obtain CDD information such as articles of association, memorandum of association, certificate of incorporation, identity of beneficial owners, principal shareholders and physical addresses, and any other person authorised to act on behalf of the legal person or arrangement. Although the banks are aware of the requirement to conduct further CDD measures by identifying and verifying the customers where there is suspicion of ML/TF or where they have doubts about the veracity of the previously obtained customer identification data, it is not clear, if this is done in practice. The banks stated that in circumstances when CDD is incomplete or if they are unable to obtain the necessary or missing information from the customer, they refuse to establish business relations or carry out operations. The Assessors could not, however, ascertain the veracity of the claim in the absence of supporting documents, such as statistics of relationships or transactions declined or rejected.

403. The identification and verification procedures for customers that are legal persons are applied to directors and other legal representative of legal persons. The various forms of identification documents for a natural person include national ID card, drivers' license, and passport, which are obtained at the point of on-boarding of the customer. Where the customer is a legal person or legal arrangement, Certificate of Incorporation, Memorandum and Articles of Association, Board resolution, etc are required. Discussions with majority of the banks indicate that, identification and verification of identity documents present some challenges, reinforcing findings in the NRA report.
404. Generally, commercial banks are aware of BO information requirements. However, in practice, identification and verification of ultimate beneficial owners (UBOs) are applied at varying degrees across the banking sector. Commercial banks belonging to international financial groups demonstrated a higher understanding and application of UBO verification measures compare to other banks. Overall, CDD on BO by international banks is considered moderate. Majority of the banks determine the BOs primarily based on legal ownership, self-declarations (information on the account opening forms), and information on documentation such as articles of association, and minutes from meetings of shareholders in order to satisfy themselves that they have found out the beneficial owner of a legal person or legal arrangement. Banks generally verify BOs for shareholders with 10% and above shareholding interests. Some few banks do contact the Company Registry to verify BO information, especially on customers that are legal entities (see IO.5). Generally, banks indicate that they will decline the business relationship where they cannot establish the BO and the risk is very high, but where the risk is tolerable, they can accept the business relation but apply enhanced controls to mitigate and manage the risk. However, no specific statistics were provided to the team on the number of relationships declined. Discussions with the banks indicate that they still have some challenges with the verification of beneficial owners.
405. Non-face-to-face business relationships, which involve remote opening of accounts, are understood as particularly risky requiring enhanced due diligence measures. In these cases, as a prerequisite, the copies of ID documents must be sent via post and e-mail, and

the client must take a photo of himself at registration. Additional verification measures are taken, such as sending a letter to the customer's registered address, to ensure that the addressee is aware that a bank account is being opened on his/her behalf. It was not clear, if banks require the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards, as additional measure to mitigate the ML/TF risk associated with this service. Some of the banks interviewed indicated that they have established specific policy for non-face-face relationship. However, copies of these were not provided to the Assessors.

406. The remittance service providers appear to have a good understanding and application of CDD requirements. Beyond collection of identification documents, they also require information on source of funds in the case of a cross border transfer. Mobile money service providers also implement a fairly good CDD process compared to the remaining NBFIs. However, they do not identify source of funds and rarely go beyond collection of identification documents. Foreign exchange bureaus operators interviewed do not have internal KYC/CDD policy and procedures. Customer identification by these entities is weak, and where CDD information is provided by customers, they rely on the information provided and do not conduct further verifications and analysis. Other FIs including the MFIs undertake KYC during account opening or customer on-boarding, but this process is not robust and thus deficiencies exist in the application of KYC and CDD measures. In addition, they do not identify beneficial owners.
407. The other non-bank FIs have varying levels but generally low compliance with CDD requirements compared with the commercial banks. The insurance companies interviewed indicated that, they collect basic KYC information of their customers when starting business relationship or underwriting of insurance policy. However, the Assessment team noticed that the information collected by the insurance companies are not verified. The institutions interviewed do not have approved policies and programmes to guide application of CDD measures and continuous monitoring of policy holders. There was no evidence that insurance companies, including insurance brokers and agents do refuse customers or business owing to incomplete CDD. The insurance companies demonstrated good understanding of their record keeping obligations and are aware that records should be kept for a minimum of 5 years after terminating business relation or end of transaction. Some of the institutions interviewed indicated that their records or information are stored manually which in the view of Assessors could make it difficult to search for the oldest information when required.
408. Discussions with FIs during the on-site indicate that ongoing monitoring mechanisms vary across the FIs. Commercial banks, especially the ones belonging to international financial group use IT systems that employ built-in scenarios to identify unusual activities or connections, while most non-bank FIs that do monitor customers' transactions do so manually. FIs, especially large banks belonging to international group update CDD data regularly and high-risk customers are subject to more frequent updates. Such updates include examining whether transactions carried out are consistent with customer profiles or expectations about the intended nature of business relations.
409. Specific deficiencies highlighted by the FIU in its onsite examination reports of banks and insurance companies concerning CDD include incomplete KYC information, and lack of evidence of source of funds(see IO.3). Although authorities have not conducted AML/CFT inspections in the remaining FIs to ascertain their level of compliance with CDD measures, the general challenges associated with implementation of CDD measures in the inspected institutions will also apply in their cases. CDD deficiencies relate to the essential

preventive measures expected to be in place at FIs, the lack of which poses the risk that FIs may not always know who they are entering into a business relationship with to provide financial services.

410. All FIs are well aware of their record-keeping obligations. They are required under the AML/CFT Act to keep records obtained through CDD/EDD measures, on transactions executed and other relevant correspondence. All the FIs that met with the Assessment team during the onsite indicated that they have record keeping policies and that documents are kept for at least 5 years as required by the law. However, given the deficiencies noted with respect to CDD by the FIU in the FIs that have been supervised, and indeed the weak application of CDD measures noted by the team in some of the FIs met during the onsite, concerns exist regarding the comprehensiveness of the information maintained by most FIs.

DNFBPs

411. Assessors noted that the CDD and record keeping measures implemented by DNFBPs sectors vary but is generally low or much less comprehensive compared to the financial sector.
412. Casinos, DPMS, lawyers and real estate agents make some efforts to identify their clients, but they do not have specific identification procedures and do not undertake verification. The basic identification data obtain by these entities (e.g name of the client, in some cases asking for the ID to confirm the person's identity) is mostly due to their professional requirement rather than for AML/CFT purposes. They are unfamiliar with the requirements of conducting ongoing due diligence of their customers and do not implement BO requirements.
413. In general, DNFBPs have not conducted risk assessments in order to be able to apply commensurate CDD measures to manage and mitigate the risks identified. In addition, they do not take steps to identify beneficial owners. There was no evidence or cases where transactions or business relationship were refused as result of incomplete CDD across DNFBPs. The insufficient knowledge in the area of AML/CFT and the absence of appropriate AML/CFT supervision in the sector largely account for the weak implementation of CDD measures by DNFBPs.
414. DNFBPs generally implement record keeping obligations but at different levels of robustness, ranging from moderate to low.

5.2.4. Application of EDD Measures

415. The application of EDD measures varies among reporting entities. The variations in the application of enhanced measures commensurate with the specific ML/TF risks per sector is as a result of the gap in sector specific understanding of risks. In general, banks, especially large foreign-owned banks exhibited more developed AML/CFT framework and have invested in name sanction screening tools to identify PEPs and persons designated under TFS. Other banks lack robust automated systems and rely largely on manual checks to apply enhanced measures. Some of the reporting entities, especially banks are aware of the requirements with respect to dealing with customers from higher risk jurisdictions and implemented some controls to comply with such requirements.
416. Other than banks, and some few insurance companies, foreign exchange bureaus and real estate agents, the FIU has not conducted AML/CFT inspections in the remaining NBFIs and DNFBPs. Therefore, a view on the extent of compliance by the unsupervised

entities could not be clearly determined. This highlights a gap in supervisory oversight to demonstrate how well most of the sectors apply EDD measures commensurate with their risks.

Financial Institutions and VASPs

Politically Exposed Persons (PEPs)

417. Interviews with FIs highlighted that the application of the PEP requirements varies across the sectors. Generally, banks have a good understanding of the enhanced measures required in relation to PEPs, and have measures in place to determine whether the customer and the beneficial owner are PEPs. However, this is stronger in larger banks with affiliation to international financial groups which most often leverage on group-wide resources and infrastructure, and have a better on-going transactions monitoring measures using sophisticated technologically appropriate mechanisms to monitor transactions and other PEP activities.
418. Assessors noted that despite the limitation in the definition of PEPs in the AML/CFT Act, which excludes PEPs linked to international organisations and the fact that the requirement for FIs to establish risk management systems to determine whether a customer or the BO is a PEP does not cover new customers, banks generally undertake enhanced due diligence procedures on the full spectrum of PEP types. The banks use different sources of information, including media reports, and commercial databases (e.g World-Check) with embedded PEP lists from OFAC, EU, etc, to identify and monitor clients who are PEPs. Some of the banks mentioned that they have developed internal PEPs list and noted the need to keep the list updated. They also noted that due to The Gambia's small population, changes become widely known relatively quickly and therefore banks are more readily able to identify PEPs.
419. When a customer is determined to be a PEP, banks treat them as high-risk customers and apply enhanced measures. Such measures include establishing source of income and of wealth, obtaining approval from senior management to establish the relationship, and enhanced ongoing monitoring of the relationship. They also take reasonable steps to identify and verify a PEP until they are satisfied that a PEP has been identified or that the risk exposure can be mitigated. Where they cannot manage the risk, they do not accept the proposed relationship or terminate an existing relationship. Assessors noted that banks mainly use a self-declaration for establishing source of funds and source of wealth without further verification. Generally, banks indicated that they found it challenging sometimes to determine close associates of PEPs and admitted experiencing practical difficulties in identifying them. As a matter of practice, banks retain PEPs' high-risk status and apply enhanced due diligence even when a customer is no longer a PEP because of the likelihood of the PEPs maintaining influence post political life.
420. With the exception of the remittance services providers, especially those affiliated to international remittance businesses that exhibited a more developed understanding of the requirements for EDD where a PEP is identified, the rest of the FIs have little appreciation of the concepts of EDD and on-going monitoring of transactions. Remittance services providers affiliated to international remittance businesses remittance services providers, indicated that they use sanction screening systems or have subscribed to commercial databases for PEP screening, however, the extent to which they ensure on-going monitoring of PEP relationship could not be established. In general, the application of enhanced CDD measures relating to PEPs appears challenging to majority of NBFIs as they could not convincingly demonstrate that EDD is carried out for PEPs e.g. source of wealth, source of

funds checks. Overall, it is the view of Assessors that, in view of some challenges in the identification of the beneficial owner by FIs, as mentioned earlier, this could hinder FI's ability to identify the beneficial owner of the legal person in case he is a PEP.

421. A review of the reports of the AML/CFT onsite inspections undertaken by the FIU on commercial banks indicated that, some of the smaller banks lacked effective tools to detect PEPs, and rigour in collecting information from clients during on-boarding. Significant deficiencies were also noted in relation to the identification of PEPs by NBFIs inspected. Discussions with the NBFIs and some of smaller banks during the onsite confirmed the findings by the FIU. These are important gaps that impact adversely on the ability of such smaller commercial banks and NBFIs to effectively identify PEPs.
422. Generally, the DNFBPs have little or no understanding of the concept of PEPs and their obligation to apply EDD measures. Assessors noted that the DNFBPs generally treat PEPs like any other ordinary customers and request the same CDD information. This may be attributed to the lack of risk assessment, absence of policies and procedures on PEPs and limited capacity to implement AML/CFT requirements, including EDD. The absence of management information systems in relation to all types of PEPs by the DNFBPs poses higher ML risks, particularly given most of the DNFBPs were identified as having medium to high ML risks in the NRA. The outcome of the FIU onsite visit to some few real estate agents indicate that these entities are in non-compliance with PEP requirements, which corroborates the findings by the Assessment team.

Correspondent Banking

423. Banks in The Gambia are all respondent banks and as such, are subjected to stringent ongoing due diligence by correspondent banks in other jurisdictions. Assessors noted that, because of their respondent status, the banks generally appear to follow a careful approach to ensure EDD and AML/CFT obligations were broadly adhered to in order to avoid the risk of losing their international correspondent banking relationships. Banks have defined policies and procedures, including the requirement to obtain senior management approval before establishing a new correspondent banking relationship. There have been no cases reported of correspondent banking relationships with shell bank.
424. There does not appear to be similar correspondent-type relationships outside of banks.

New Technologies

425. Commercial banks apply EDD in relation to new services and products, and the use of new (developing) technologies in business, for instance, internet banking and debit cards. They indicated that they conduct a ML/TF risk assessment before launching a new product or service to determine the related threats and vulnerabilities. The results of the risk assessment are used to determine the level of controls to be applied including setting transaction limits. A few of the banks indicated that risk assessment of new products is done at group level and undergoes a series of internal approval processes before being launched. The controls described by the banks appear to be adequate and positive. The commercial banks interviewed indicated that all new products require the approval of senior management and the relevant regulator before being launched and a risk assessment is one of the requirements. This was confirmed by the CBG during the onsite visit.
426. Mobile money service providers have reasonable measures to detect and mitigate the risks posed by the nature of the business relationship, transaction and payment method.

For instance, they have put in place control measures, such as threshold limits on transactions to manage ML/TF risks associated with the technological advancement.

427. The rest of the FIs have not assessed the risk of new technologies, and did not demonstrate that they are taking reasonable measures to detect and mitigate the risks posed by the nature of the business relationship transaction and payment method.

428. In relation to DNFBPs, the use of new technologies by these entities is less common. Discussions with the DNFBPs during the onsite indicate that they do not implement any measures to detect and mitigate the risks posed by the nature of the business relationship, transaction and payment method.

Wire transfers

429. Domestic and cross-border wire transfer services in The Gambia are mostly offered by banks, remittance service providers and mobile money service providers. The banks that were interviewed by the Assessors demonstrated a good understanding of the risks involved in such transactions. They indicated that wire transfer transactions are usually classified as high-risk and are subject to enhanced measures, including real time screening. They apply EDD and additional controls required to mitigate the relevant risks. Most banks indicated that they use SWIFT for conducting cross border wire transfers and are generally complying with the SWIFT messaging standards. They stated that they have measures in place to monitor on continuous basis wire transfer transactions in order to verify whether they contain detailed information relating to originator and beneficiary such as such as names, address, amount, unique reference, and date, among others. Where such information is incomplete, they indicated that they do not execute the wire transfer and where the transaction is suspicious, they report it to the FIU.

430. The mobile money service providers only transfer money locally as at the time of onsite. They indicated that they have transaction limits in place for which an individual can be allowed to send above the limit but enhanced CDD measures will generally be applied. The measures put in place by these entities, include the collection of relevant customer identification information at the initiation of a transaction and at the point of pay-out. Remittance service providers provide occasional wire transfer services. These providers, especially those affiliated to banks or internationally recognised money transfer businesses, apply the standards of the banks in relation to cross border wire transfer obligations. They obtain the required information including originator and beneficiary information such as names, address, amount, unique reference and date when processing transactions. Where the information is incomplete, the transaction will be rejected or not be processed.

431. The Gambia implements a wire transfer reporting regime. The 2018 and 2019 annual reports of the FIU indicate that a total of 7, 154 and 8,737 respectively, wire transfer reports⁸⁴ were reported to the FIU concerning cross border wire transfers, which is an indication that they are monitoring wire transfers. However, it is not clear if any of the STRs filed to the FIU relates to wire transfers as no information was provided in this regard. Although the FIU covers wire transfers in its onsite inspections, the onsite focus on the reporting of wire transfer reports. The reports had no information on the application of enhanced measures for wire transfers, nor did they highlight any deficiencies in this regard. Considering the absence of information on the application of enhanced measures for wire

⁸⁴ Wire transfer reports are threshold-based reports submitted to the FIU weekly (US\$15000 for individuals and US\$50,000 for corporations)

transfers in the banks and the lack of AML/CFT supervision for remittance service providers and mobile money service providers, no conclusions can be reached as to the level or adequacy of compliance with these obligations.

Targeted Financial Sanctions

432. Interviews with the private sector highlighted that the level of awareness regarding implementation of TFS varies across different financial sectors. Commercial banks (especially foreign-owned/controlled banks) have good understanding of their requirements in relation to TFS relating to TF. The large local banks and foreign controlled banks interviewed indicated that they have automated sanctions screening software which flags possible matches of individuals and entities on the UNSCRs Lists, and others such as the OFAC Sanction List. For example, they have acquired sanctions screening which enable them to regularly receive the UNSCRs and OFAC Lists (including instant notification of changes to the Sanctions Lists) and run them against their own customer database and transactions for any possible match. They indicated that customers are screened before the establishment of a business relationship and during that relationship (where there are transactions) for potential hits. The smaller banks that have not acquired relevant software, conduct the sanctions screen manually, which could be challenging.
433. The rest of the FIs and DNFBPs met at the onsite demonstrated little to non-existent understanding of TFS related obligations. Most of them are unaware of the UNSCRs (and relevant successor resolutions) as well as relevant sanction lists and are not implementing any measure to identify among their clients the persons and entities whose assets should be frozen.
434. Discussions with the reporting entities indicated that they have not had a match relating to the names of the individuals and entities on the UN Sanctions Lists, except a few banks which indicated that they had some matches with entities on the OFAC List⁸⁵ and reported to the FIU, which demonstrates a positive practice.
435. From discussions with national authorities during the onsite, it appears there was no clear established mechanism to communicate the designations to reporting entities for implementation. Within the review period, the authorities disseminated the Sanctions List three times (twice in 2018 and once in 2019 - evidences were provided to the AT) to reporting institutions. From interviews with the FIs, only very few banks indicated they received the lists from the authorities. The banks generally access the lists from the commercial databases they subscribed to. Assessors noted that, there was no clear guidance to the reporting entities on how to use the list (see IO.10)⁸⁶.
436. The FIU inspection reports of 2021 reviewed by the Assessors found weaknesses in the sanctions screening especially by local banks. For instance, the reports indicated that some of the commercial banks lack automated or efficient tools to identify sanctioned persons without details on the level of compliance on issues relating to TFS. Thus, while some of the banks conducted these checks, the extent to which these can be determined as

⁸⁵ The banks usually severe relationship with such customers before filing STR to the FIU

⁸⁶ The FIU stated that some of the trainings provided to FIs particularly relate to the implementation of TFS. However, they team could not confirm this from available supporting documents provided by the country.

effective is low, particularly as there is no effective monitoring mechanism to ensure these measures are being applied as required.

Higher Risk Countries

437. Banks, especially the foreign owned banks demonstrated better awareness of the obligations to apply EDD to higher risk countries. Generally, banks indicated that enhanced measures, such as scrutinizing transactions coming from or going to such countries would be applied when dealing with higher risk countries including Syria, Iran and North Korea. The other FIs demonstrated lack or limited understanding of higher risk countries. Despite ML/TF risks of some of the DNFBPs, they do not apply EDD measures regarding transactions and business relationships arising from the jurisdictions identified by the FATF. This is mainly due to the lack of understanding of ML/TF risks and their AML/CFT obligations which are contributed to by the lack of supervision.
438. Interviewed reporting entities did not indicate that information is proactively communicated by the authorities about updates/changes to higher risk countries identified by the FATF, including advice on the counter measures they are expected to consider. In addition, the FIU's inspection reports reviewed by the Assessors did not cover this aspect. Thus, no conclusions can be reached as to the level or adequacy of compliance with this requirement.

5.2.5. Reporting obligations and tipping off

Reporting generally

439. There are three types of reports submitted to the FIU: (a) Suspicious Transaction Reports (STRs), (b) Currency Transaction Reports (CTRs), and Wire Transfer Reports (WTRs). CTRs and WTRs are threshold reports (reports that are filed when the transaction amount exceeds the designated threshold). In the case of CTRs, the threshold is D450,000 (approx.. US\$8, 482) for individuals and GMD2million (approx.. US\$37, 700) for corporations, while for WTRs it is US\$15000 for individuals and US\$50000 for corporation. Although all FIs and DNFBPs are subject to the same reporting obligation, in practice, commercial banks predominate the filing of STRs with no STRs submitted by DNFBPs to the FIU in the review period.
440. In general, commercial banks are aware of their reporting obligations. The internal process and procedures for filing reports are incorporated within the AML/CFT policies and procedures of the banks. Most of the banks stated that they have automated systems in place for monitoring and detecting suspicious activities. The automation is based on pre-defined parameters. Reports to the FIU are filed manually (hard copies or electronic devices such as CDs). Compliance Officers interviewed stated that they have sufficient independence to file STRs, without the permission or review of the Board of Directors or Head Office (where applicable). Statistics provided by the country indicate that, the number of STRs filed during the review period by the local banks are lower compared to the foreign owned banks. In general, the FIU has expressed satisfaction on the quality of STRs submitted to it.
441. The rest of the FIs and DNFBPs demonstrated limited understanding of the process of identifying and reporting suspicious transactions. With the exception of the foreign exchange bureaus, mobile money service providers, and microfinance institutions, the remaining FIs have not filed STRs over the period under consideration. None of the DNFBPs filed STRs or CTRs to the FIU in the review period. The DNFBPs and NBFIs that

did not file STRs during the review period covered some of the heavily weighted sectors (eg real estate agents, lawyers and remittance service providers).

442. The statistics of STRs, CTRs and WTRs filed by reporting entities to the FIU from 2017 to August 2021 is presented in the Table below.

Table 5.1. STRs, CTRs and WTRs filed to the FIU by reporting entities, Jan 2017-August 2021

SECTOR	2017			2018			2019			2020			2021		
	STR	CTR	WTR	STR	CTR	WTR	STR	CTR	WTR	STR	CTR	WTR	STR	CTR	WTR
FINANCIAL INSTITUTIONS															
Commercial Banks	18	28,272	4,956	36	59,616	7,082	27	69,607	8,344	43	685,084	19,623	69	396,531	7,392
Bureau de Change	1			0			0			0			27		
Microfinance	5	0	0	1	746	0	2	1,013	0	1	4,010	0	0	10,824	0
Mobile Money	0			0			0			2			0		
Subtotal	24	28,272	4,956	37	60,362	7,082	29	70,620	8,344	46	689,094	19,623	96	407,355	7,392
DNFBPs															
OTHERS															
CTR Database	0			0			1			0			0		
Public Entities	0			0			0			1			0		
Subtotal	0			0			1			1			0		
GRAND TOTAL	24	28272	4956	37	60362	7082	30	70620	8344	47	689094	19623	96	407355	7392

443. As indicated in the table above, about 99% of the total STRs filed with FIU was from the FIs, with over 82% coming from the commercial banks for the period under review. Most of the reports in the banking sector come from the larger banks, with other banks showing a very mixed picture. Overall, although the total number of STRs filed by banks may seem consistent with the materiality and risk profile of the banking sector in The Gambia based on the volumes and values of transactions processed, given the significance of the sector and the risks it faces, the overall number of STRs filed by the sector is considered low. Some of the Compliance Officers interviewed expressed concern in the practice where they are invited to testify in the courts as witnesses and noted the need for their protection by the authorities. It is the view of the Assessors that the practice of inviting Compliance Officers to courts as witnesses could be a discouraging factor for reporting STRs. In addition, the lack of sophisticated automated process for monitoring transactions in some of the banks as noted the inspection reports of the FIU, and acknowledged by some of the banks during interviews, implies that such banks do not have an effective surveillance of suspicious transactions, which in the views of the Assessment team, adversely impact on their capacity to effectively identify and report STRs. Foreign exchange bureaus, Microfinance institutions and mobile money service providers filed 11.97%, 3.85% and 0.85% respectively of the total STRs, which appears consistent with their materiality and risk profiles.

444. Fraud, illicit trafficking in narcotic drugs and psychotropic substances, terrorist financing, bribery and corruption, smuggling, tax crimes, cybercrime, and participation in an organised criminal group and racketeering are the main suspected underlying predicate

offences relating to the STRs filed to the FIU⁸⁷. Overall, these reflect some of the major proceed generating offences identified in the NRA report. One of the banks stated that it had filed some STRs on grounds of suspicious cash transaction (which is consistent with the cash-based nature of The Gambia's economy). The Gambia attracts a number of tourists/non-residents, therefore the risk of one-off transactions where there is no business relationship with the FI (i.e. occasional transactions) is high. This is indicative of further opportunities for these sectors to be alert to suspicious activity and report suspicion when it is reasonable to do so. The 2017 and 2019 annual reports of the FIU noted that the use of wire transfers is the main financial service highlighted in some of the STRs filed to the Unit. This makes the wire transfer reporting regime a positive development in The Gambia.

445. STRs filed to the FIU rose from 24 in 2017 to 37 in 2018 but declined to 30 in 2019, and rose from 30 in 2019 to 47 in 2020. This was followed by a sharp increase to 96 in August 2021. The country attributed the increase in 2018 to the 16 TF related STRs filed by banks, on and the progressive rise between 2019 and 2021 to increase in awareness and training provided by the FIU. Nonetheless, Assessors are of the view that the sharp rise in 2021 which was largely accounted by one bank that reported 36 of the total 96 STRs filed appears to be a defensive reporting⁸⁸, although this is an isolated instance, rather than a trend. The CTR and WTR volumes have been on the steady increase, from 2017 to 2020. This appears a positive step, however, given the cash nature of the country's economy, this could be significantly improved. Sixteen (16) of the STRs filed to the FIU relate to TF. Although the FIU analysis on this STRs did not establish any case of TF, it is an indication that FIs, especially banks have some capacities to detect TF related STRs. In general, the low number of TF related STRs reflects the risk profile of the country given the low rating for-TF risk in the NRA (see IO.1).

446. Feedback by FIU to reporting entities on the quality of STRs is limited and only largely relate to acknowledging receipt to reporting entities on STRs filed. Some of the FIs that submitted STRs noted the need for the FIU to provide more robust, structured and systematic feedback to reporting entities.

447. As noted above, DNFBPs and some non-bank FIs did not file report to the FIU during the review period. Assessors attribute this to the limited or lack of awareness of risk and AML/CFT obligations; lack of or limited supervision and monitoring of the sectors; the non-application of proportionate and dissuasive sanctions and enforcement actions by supervisors for non-compliance with AML/CFT obligations, inadequate or lack of training on AML/CFT issues; absence of ML/TF typologies and risk indicators, as well as lack of sector-specific AML/CFT guidance, especially to the DNFBPs. Overall, the non-reporting of STRs by these entities is a major concern as some of them (e.g real estate agents and lawyers) are considered to have medium to high risks in the NRA.

Tipping Off

448. The Assessment team noted that, there is generally a good understanding of tipping-off obligations by banks, which is well incorporated in their AML/CFT policies and procedures and the training programmes for employees. For the non-bank FIs and DNFBP

⁸⁷ Statistics provided by the FIU on STRs received per predicate offences

⁸⁸ In terms of trends, the bank filed 7 STRs in 2017, 2 in 2018, 9 in 2019, 5 in 2020 and 36 in the 8 months of 2021. In the absence of any justifiable reasons for the significant rise in the number of STRs filed by this bank in 2021, assessors believe this may be defensive filing, although the country does not think so.

sectors which have not filed STRs, Assessors are unable to draw conclusions as to whether tipping off measures exist or any available tipping-off preventive measures are effective. Overall, as at the time of onsite visit, there was no reported case of breaches or concerns in relation to tipping off.

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

Financial Institutions & VASPs

449. In general, banks have adequate internal AML/CFT controls and procedures. These include the implementation of due diligence measures, keeping documents, appointing Compliance Officers with requisite skills, screening programmes for staff on recruitment, and training employees, allocating an independent audit function to test compliance with policies, internal controls and procedures at the group level.
450. AML/CFT Compliance Departments at most of the banks have human and logistic resources and have the power to make independent decisions whether or not to file STRs, access information and to seek information and documents from all the divisions and departments, which allows the effective implementation of the AML/CFT requirements. However, in two banks, the compliance functions are not independently structured (they are located within internal control or legal departments), do not report directly to senior management, and do not have enough human resources. It is the view of the Assessors that the location of compliance functions in other departments could adversely impact on the independence of the Compliance Officers, while the inadequacy of human resources could negatively affect the implementation of AML/CFT programmes, especially the reporting of STR.
451. The controls adopted by banks operating in The Gambia are similar, as they rely on the applicable legal and regulatory frameworks, and the procedures vary due to the banks' structures and because some of them are part of a financial group whose policies may include additional or different procedures. For instance, for banks which are part of a group, group-wide AML/CFT programmes ensure that stricter standards are implemented when there are jurisdictional differences.
452. The banks interviewed highlighted that, they conduct periodic AML/CFT trainings for their staff including senior management and that such training is mostly undertaken by the Compliance Officers. The trainings are conducted either on a face-to-face basis or through e-learning platform. Training of new staff is also done before the staff starts accessing the system.
453. Understanding and application of internal controls varied among NBFIs but generally rudimentary, and in some instances, lacking. Majority do not have AML/CFT compliance functions, and where they exist, they are not well-structured, not adequately resourced and rarely subject to internal audits. Most of them have conducted little to no training on AML/CFT, have either not started developing training programmes, and for those that have started, the programmes are not sufficiently sophisticated to improve the skills of staff with key AML/CFT responsibilities. Some of the FIs interviewed indicated that they received training from the FIU which corroborates information and statistics on training to FIs provided by the country.

454. The onsite inspection reports by the FIU identified some shortcomings in the automated monitoring processes in some few banks due to lack of efficient tools, and inadequate staff training on AML/CFT issues (see IO.3). These are significant shortcomings, since robust and effective preventive measures can only be applied by reporting entities if their staff have proper training and while automated monitoring process is essential to facilitate identification and reporting of suspicious transactions.
455. There are no legal or regulatory requirements, which impede the implementation of internal controls and procedures to ensure compliance with AML/CFT requirement.

DNFBPs

456. DNFBPs generally do not have internal AML/CFT policies, controls, and procedures or where they exist, are less developed. They do not have structured compliance functions, no designated AML/CFT compliance officers to oversee the implementation of their AML/CFT controls, and rarely train staff on AML/CFT issues.

Overall conclusions on IO.4

457. FIs in The Gambia, particularly the large banks have a good understanding of the ML/TF risks and have accordingly implemented AML/CFT preventive measures to mitigate against the identified risks including application of EDD measures, leveraging on international group systems. The rest of the FIs and DNFBPs could not effectively demonstrate that they do understand the ML/TF risks and are effectively implementing the AML/CFT obligations. Reporting entities do not have effective mechanisms to adequately identify and verify BO. Reporting entities, except banks belonging to international financial groups, lack knowledge of their obligations on TFS relating to TF and PF. There is low level of suspicious transaction reporting by banks, with some FIs submitting very few STRs intermittently and no STRs filed by DNFBPs. Banks, especially foreign owned, have put in place strong internal controls, which include various lines of defense but this is less developed or lacking in the rest of FIs and DNFBPs. Overall, some of the FIs and DNFBPs, including the heavily and moderately weighted sectors, have only achieved effective implementation to a negligible extent.
458. **The Gambia is rated as having a low level of effectiveness for IO4.**

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions and VASPs

- a) The CBG has market entry controls in place in order to prevent criminals and their associates from holding significant or controlling interest or holding a management position in financial institutions. These include fit and proper assessments on shareholders, directors and senior management. These measures are well applied for banks. For NBFIs, the CBG does not verify incorporation documents, and beneficial ownership. In addition, criminal background checks are rarely conducted for shareholders and directors of NBFIs.
- b) The FIU and CBG demonstrated a good understanding of sectoral and individual institution ML/FT risk facing the banking sector. The FIU in collaboration with the CBG conducted a sectoral risk assessment for banks, which allows them to form a clear understanding of the ML/TF risks faced by the banks at institutional level. Both supervisors have only a basic understanding of the institution-specific ML/TF risks of NBFIs. Overall, the understanding of risk by the FIU and CBG is derived from their involvement in the NRA, operational activities in addition to and the sectoral risk assessment of banks.
- c) The FIU applies a RBA to AML/CFT supervision in the banking sector. AML/CFT supervision of banks by the FIU is generally reasonable to determine the level of compliance and the required remedial actions and sanctions for non-compliance. Nevertheless, it can benefit from some improvements, including the depth of analysis on issues covered during onsite visit, and follow up actions on recommendations from previous onsite examinations. The FIU has not yet commenced RBA to AML/CFT supervision of NBFIs, nonetheless it has conducted AML/CFT inspections in some NBFIs. The FIU has resource constraints which have negatively impacted on its capacity to effectively supervise and monitor all FIs for compliance with AML/CFT requirements.
- d) The AML/CFT Act provides a wide range of sanctions for breaches of AML/CFT requirements, however, no sanction has been imposed by the FIU for AML/CFT breaches identified. Although the FIU pursues a programme of applying remedial measures where breaches are found, there is limited evidence that the Unit applies remedial measures in an effective manner. The few sanctions applied by the CBG relate to prudential compliance. The non-application of AML/CFT related

sanctions could be attributed to the limitation in the AML/CFT Act that requires the FIU to apply to court for orders to enforce compliance with the requirements of the AML/CFT Act. In addition, the FIU considers it more appropriate to promote a culture of compliance amongst reporting entities before applying sanctions.

- e) The FIU in conjunction with the CBG have issued AML/CFT Guidelines for FIs, and have undertaken independently or jointly, some outreach and training/awareness-raising initiatives to promote the understanding and implementation of AML/CFT obligations by FIs. However, the AML/CFT Guidelines have not been published in the Gazette and thus, are not enforceable. Overall, the impact of the initiatives varies, with banks demonstrating a good appreciation of ML/TF risks and AML/CFT obligations than NBFIs.

DNFBPs

- a) With the exception of the GLC and GICA, other licensing authorities of DNFBPs do not have adequate measures or procedures to restrict market entry for AML/CFT purposes and prevent criminals and their associates from holding a significant or controlling interest, or holding a management position in a DNFBP. There is no licensing authority for the real estate agents and thus, real estate agents are not subject to licensing or registration requirements.
- b) The FIU demonstrated an evolving understanding of the ML/TF risks facing reporting entities in the various DNFBP sectors. The understanding is based primarily on the NRA. The FIU has not yet developed the necessary supervisory tools/methodologies that can provide it with comprehensive information on the nature of ML/TF risks at the level of individual institutions, and consequently, is yet to adopt a risk-based approach to AML/CFT compliance supervision.
- c) Only the real estate agents have been supervised for AML/CFT compliance in the DNFBP sector by the FIU. The sector was prioritized for inspection following the outcome of the NRA which identified real estate sector as high risk. No sanction has been applied to DNFBPs for non-compliance with AML/CFT obligations during the review period.
- d) General AML/CFT guidance has been provided to the DNFBPs by the FIU. However, the Guidance is not enforceable as it has not been published in the Gazette. Technical support (eg training) to the DNFBPs on AML/CFT is limited and still evolving. Overall supervisory actions have little impact on compliance with AML/CFT obligations by DNFBPs

Recommended Actions

Financial Institutions and VASPs

- a) CBG should strengthen licensing regime for NBFIs by applying ‘fit and proper’ tests evenly and comprehensively across all NBFIs on an ongoing basis to

adequately deter criminals or their associates from participating in the ownership, control or management of the FIs.

- b) Risk-based AML/CFT supervision should be enhanced for banks and introduced for NBFIs. In general, The Gambia should ensure the appropriate scope and depth of supervision for all the different categories of its FIs, taking into account the sector-specific vulnerabilities, particularly the higher risks of the banking, foreign exchange and remittance service providers sectors. In particular, the FIU should: (a) adopt robust risk assessment methodology, including risk classification/mapping and take appropriate steps to fully understand the ML/TF risks of the NBFIs to ensure its supervisory activities are guided by risk considerations, (b) develop appropriate risk based supervisory framework to guide its supervisory activities of NBFIs; (c) build technical capacity to adequately supervise and enforce compliance with AML/CFT requirements of all FIs; and (d) commence risk based supervision for AML/CFT for NBFIs in collaboration with the CBG.
- c) The FIU should, in collaboration with the CBG follow up on AML/CFT compliance deficiencies observed during inspections to ensure that they have been rectified and apply appropriate sanctions where compliance deficiencies have not been rectified.
- d) Adequate resources (material, human and technical) should be provided to the FIU to enable effective risk-based supervision and monitoring of FIs, including expanding the coverage of inspections being carried out.
- e) The Gambia should consider designating the CBG as an AML/CFT supervisor to compliment the supervisory role of the FIU and increase the number of onsite inspections, especially for NBFIs.
- f) Supervisory authorities should ensure application of a wide range of sanctions, especially monetary penalties, and enforcement actions, which are dissuasive, proportionate and effective on FIs that violate AML/CFT requirements to ensure effective implementation of the AML/CFT requirements. In this regard: (i) The Gambia should review the relevant sections of the AML/CFT Act, 2012 that require the FIU to apply to courts for orders to enforce non-compliance with the AML/CFT requirements to make the applications of sanctions easier for all practical purposes; (ii) Supervisors should ensure that all subsidiary legislation issued are published in the Gazette to have the force of law; (iii) supervisors should strengthen political will aimed at ensuring effective implementation of administrative sanctioning regime, especially monetary penalties; and (iv) sanctioned institutions should be compelled to publish in their annual reports the sanctions imposed on them to serve as deterrence.
- g) The FIU and CBG should continue systematic outreach, training, and feedback to FIs, having regard to their sectoral risk profiles in order to promote adequate understanding of the ML/TF risks facing them and proper implementation of mitigating controls on a risk-sensitive basis.
- h) The Gambia should consider regulating VASPs, even though these entities may not currently exist in the country. In this regard, regulatory authorities should,

amongst other things, consider developing appropriate licensing /registration procedures for VASPs.

DNFBPs

- a) The GTB, Geological Department, GICA and GLC should be granted AML/CFT supervisory powers to enable them to monitor and supervise entities under their remit (casinos, DPMS, lawyers, accountants, respectively) for AML/CFT compliance. The Gambia should also designate appropriate competent authorities or SRBs as AML/CFT supervisory authorities for other DNFBPs such as real estate agents, as the FIU does not have sufficient resources to effectively cover all such sectors. The authority(ies) or SRBs should be vested with adequate powers and be provided with adequate technical, human and material resources .
- b) Licensing authorities for DNFBPs should strengthen licensing/registration regimes for entities under their purview, especially higher-risk sectors (eg casinos, real estate agents, DPMS), which have weak or no entry controls and ensure that there are consistent controls to prevent criminals owning, controlling or operating businesses in these sectors.
- c) The Gambia should enhance the monitoring or supervision of DNFBPs for AML/CFT compliance. In this regard, the FIU in collaboration with relevant prudential supervisory authorities, should develop and implement robust risk assessment methodology, including risk classification/mapping to better understand the ML/TF risks of the entities they supervise; develop appropriate risk based supervisory framework to guide their supervisory activities; and build necessary technical capacity to adequately supervise and enforce compliance with AML/CFT requirements. Supervisors should take into account the outcomes of the NRA in their AML/CFT supervisory activities. Overall, The Gambia should prioritise the monitoring or supervision of higher-risk DNFBPs as identified in NRA, especially real estate agents, lawyers and DPMS as well as ensure that supervisors apply sanctions where appropriate against DNFBPs that do not comply with their AML/CFT requirements.
- d) The Gambia should allocate adequate resources for DNFBP supervision, especially for the higher risk sectors. In particular, the supervisory resources of the FIU should be increased to enable it effectively monitor DNFBPs for AML/CFT compliance.
- e) The FIU in collaboration with DNFBPs prudential supervisors and SRBs should undertake systematic outreach, training, and feedback to DNFBPs, especially those identified as higher risk in order to promote adequate understanding of the ML/TF risks facing them and proper implementation of mitigating controls on a risk-sensitive basis. In addition, they should develop and issue well structured, practical and sector-specific AML/CFT guidance to DNFBPs to further promote understanding of their AML/CFT obligations

459. 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.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

6.2. Immediate Outcome 3 (Supervision)

460. The FIU is the primary competent authority with AML/CFT supervisory responsibility for both FIs and DNFBPs in The Gambia. There are sector specific regulatory authorities for FIs and DNFBPs (see Chapter 1). The CBG is the licencing authority for FIs in The Gambia. The securities sector in The Gambia is not developed and there is no capital market activities and thus, the stock exchange is not operational in the country. Similarly, authorities indicated that VASPs do not exist in The Gambia. Most DNFBPs are licensed by various relevant competent authorities, including the Gambia Tourism Board (casinos), Geological Department (DPMS); GICA (Accountants/auditors), and GLC (lawyers). The various authorities have established licensing/registration arrangements in respect of the entities under their purview. However, the application of licensing requirements is more robust in the financial sector. AML/CFT supervision in the financial sector requires some improvements in depth and scope while AML/CFT supervision is still nascent for DNFBPs. No AML/CFT sanctions have been applied on reporting entities for non-compliance with AML/CFT requirements.
461. The conclusions in IO.3 are based on statistics and examples of supervisory actions provided by The Gambia; guidance issued by the competent authorities; discussions with supervisors and other relevant authorities; and representatives of reporting entities.
462. For the reasons of their relative materiality and risk in context of The Gambia, implementation issues were weighted heavily for the banking sector, foreign exchange bureaus, remittance service providers, real estate sector and lawyers; moderately heavy for casinos and DPMS, and less heavily for less important sectors (insurance sector, MFIs, etc). The rationale for this is explained in chapter 1 (under structural elements) and summarised in the previous chapter.

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

463. The Gambia has a number of regulatory bodies charged with market entry responsibilities. The Central Bank of The Gambia (CBG) is the apex regulatory authority with responsibilities for overseeing market entry for financial institutions (banks, insurance companies and other FIs). DNFBPs are licensed/registered by various relevant competent authorities. These include the GLC (lawyers), GICA (Accountants/auditors); the Geological Department of the Ministry of Petroleum and Energy (DPMS), and Gambia Tourism Board (casinos). As at the time of onsite, there was no competent authority designated for licensing or registering and regulating the real estate sector. The sector's SRB (the Association of Real Estate Companies (AREC)) does not have any legal backing and membership is voluntary.
464. All the regulatory authorities have licensing/registration frameworks in respect of the entities under their purview, but their robustness varies significantly by sector. Generally, CBG demonstrated effective application of licensing requirements for banks, followed by insurance and then other FIs. For DNFBPs, the GLC and GICA have good market entry framework for lawyers and accountants and demonstrated a good application of measures aimed at ensuring that criminals and their associates are prevented from being professionally accredited. Other DNFBP regulatory authorities, such as GTB, and the Geological Department did not demonstrate adequate application of measures to prevent criminals and their associates from entering the market as owners or holders of a significant management functions in the various respective DNFBPs. Gaps were observed in their procedures, including the lack of background checks, lack of ongoing assessments of the

suitability of persons holding management functions, and with respect to changes in such persons. As noted above and further discussed below, real estate agents were not subject to licensing or registration requirements, at the time of the assessment. According to the NRA report, the real estate sector had a high ML risk. The authorities did not have statistics regarding the number of real estate agents and the size of the sector in relation to the country's GDP.

Financial Institutions and VASPs

465. The CBG has measures in place to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in FIs. CBG's licensing requirements are detailed and require the applicants to submit a written application along with various information and documents such as Memorandum and Articles of Association, certificates of incorporation; directors and senior management officers, academic and professional certificates, identification documents for natural persons; proposed required capital, names and permanent address of every person who subscribes to 10% or more shares. With regard to banks, shareholders having at least 10% of the share capital are required to provide information on the source of the funds or legality of funds used to subscribe to the company's capital. The implementation of the measure on the source of funds helps in preventing illicit funds entering the financial market. The CBG conducts checks to verify the information provided, including requesting information on the criminal background from the Police; checking information on education, previous work experience, the source of funds, and beneficial ownership information. CBG also checks open-source data for information on the reputation and integrity of new shareholders. In addition, as part of the approval process, the CBG also makes an on-site visit to certify the address and suitability of the premises as a mechanism to prevent shell banking. In respect of the fitness and propriety of a foreign applicants (where the applicant is from another jurisdiction), information is requested from the counterpart supervisory authority regarding the integrity and competence of the applicant before approval is granted. Some examples of cooperation with foreign supervisors, especially the Central Bank of Nigeria (CBN) were provided by the authorities.
466. The CBG measures involves assessment of fitness and propriety of proposed significant shareholders (holding 10% or more shareholding), beneficial owners, directors and senior management of the applicant at the point of market entry. CBG's fitness and propriety assessments entail an examination of an applicant's good character, experience and competence/capability; and financial soundness. The fit and proper assessments also include criminal background checks by Police and the evaluation of the integrity of shareholders, directors and administrators with particular regard to criminal proceedings or convictions. The information is applied to determine the suitability of the applicants. The CBG also considers if the person has ever been bankrupt; convicted of a felony or an offence involving dishonesty; or under suspension from office by the order of the court; or if the person has been a director or indirectly concerned in the management of a banking institution whose license has been revoked or an institution that has been wound up by a court of competent jurisdictions. Consideration is also given to the identity of existing or proposed significant shareholders (10% and above) of the applicant or the bank applying for license. The CBG requires banks to inform it of any changes in the names of persons who own more than 10% of the shares.
467. In general, the CBG fit and proper test for shareholders and senior management of FIs is applied at the application stage and thereafter after every two years and/or on the occurrence of specified events such as significant changes following entry, including post-

licence acquisition of a significant interest in the entity. In particular, the CBG applies continuous post-entry ‘fit and proper’ test to existing shareholders and persons in management functions through off site analysis of periodic returns by reporting entities and on-site examinations to maintain their integrity or suitability. FIs under the supervisory purview of CBG are required to communicate any changes in ownership or management function to CBG for approval upon Fit and Proper test. However, it is not clear what measures the CBG has to check or identify possible non-reported changes as AML/CFT onsite inspection reports reviewed by the team did not cover this aspect.

468. The CBG indicated that where there are missing information in the application requirements, applicants are giving time to provide such information. The CBG cited some instances to demonstrate that where there is doubt about the trustworthiness of the information provided during the licensing or market entry process, they are able to seek additional information to verify the accuracy of information.

469. Discussions with the CBG during the on-site indicate that entry measures are adequately applied in the case of banks and less so regarding the insurance companies and other FIs. For applications relating to NBFIs (insurance companies and other FIs), the CBG does not carry out verification of incorporation documents, and beneficial ownership. In addition, the CBG rarely conducts criminal background checks for shareholders and directors of NBFIs. These gaps could present ML/TF risks to the NBFIs or creates weak links for criminals or their associates to infiltrate the system.

470. There was a moderate number of new entrants into the financial sector during the review period. Most of the new entrants were from the OFIs sectors (see Table 6.1 below).

Table 6.1 Applications received, approved and rejected by the CBG, Jan. 2017-August 2021

Year	No of Applications			No of Applications			No of Applications		
	Banks			Insurance Companies			Other FIs ⁸⁹		
	Received	Granted	Rejected	Received	Granted	Rejected	Received	Granted	Rejected
2017	4	2 (review ongoing)	2 (applications abandoned by applicants)	1	1	0	79	77	2
2018	0	0	0						
2019	0	0	0						
2020	0	0	0						
	Summary of reasons for rejection								
	-			-			No reasons for rejection was provided		

471. A review of the statistics on applications received, processed and rejected by the CBG in the period under review (see Table 6.1) indicates that the apex bank received 4 applications for banking license, out of which two licenses were granted and two rejected. The two rejected applications were abandoned by the applicants due to their inability to meet capital requirements and fit and proper test. Except for informing the applicants that their applications have been rejected, the CBG took no further actions, including filing a suspicious report to the FIU, investigating the applicants, and possible blacklisting. This

⁸⁹ Three (3) of the applications relate to Microfinance Institutions in 2017 (all granted), while the remaining 79 applications relate to foreign exchange bureaus (year of applications not provided) with 2 rejections.

could create an opportunity for these applicants to enter the financial system through other sub-sectors such as the NBFIs where the licensing control measures are not comprehensively applied or by applying for licence to authorities in other sectors in The Gambia or act as beneficial owners to other applicants. In relation to the insurance sector, the CBG received and approved one application during the period under consideration. Similarly, the CBG received 79 applications with respect to other FIs and approved 77 while 2 were rejected. No reason was provided for the two rejected applications. In general, the statistics demonstrate the ability of the CBG to implement licensing controls, including declining applications where the applicant failed to meet the licensing requirements.

472. Notwithstanding that the authorities said VASPs do not exist in The Gambia, there is the need for the country to recognize this emerging sector and likely ML/TF risk it could pose, and begin to consider developing and implementing an appropriate regulatory framework.

DNFBPs

Casinos

473. The Gambia Tourism Board (GTB) is the designated authority for the licensing of Casinos in the country. In general, the GTB can suspend or revoke a license where the holder of the license ceased to be a fit and proper person. This presupposes that the licensing procedures requires applying fit and proper test or that this is conducted on the applicant at the application stage. How the fitness and properness of holders is monitored for any changes is not clear.
474. Before being granted license, applicants for casino business must be a registered company. As part of the approval process, applicants for casinos license must provide proof of the lawful origin of the capital for the intended operation or in the case of a renewal, the origin of its additional capital, if any, and submit a certificate of character issued by the Gambia Police Force to ensure the applicant does not have a prior criminal record. Discussions with the GTB indicates that the measures in place do not include AML/CFT components and appears limited to the licensing stage. In addition, GTB does not verify the submitted documents while its fit and proper test does not extend to beneficial owners; significant shareholders or senior management, and associates of criminals. Furthermore, GTB's licensing process does not include the screening of foreign owners against sanctions lists. In addition, GTB does not liaise with supervisory authorities in other jurisdictions to determine the integrity or suitability of foreign applicants, as well as does not verify the sources of their funds. These present significant concerns as all casinos in The Gambia are owned by foreigners, some of which are from high-risk countries. There were no evidence that the application for a license has been refused by the authorities or the applicant has withdrawn the application for a license.
475. Lawyers, notaries, accountants, and auditors operate systems aimed principally at professional standards, with adequate criminal checks. The General Legal Council (GLC), and Gambia Institute of Chartered Accountants (GICA), have registration procedures for membership which are similar to fit and proper requirements. Integrity and good reputation of applicants are checked before granting a license. For instance, the GLC requires new members to provide at least two references certifying the applicant is fit and proper, from senior lawyers, and a criminal certificate on absence of criminal records from the Gambia Police Force. Similarly, for accountants, applicants must register as a chartered accountant subject to obtaining proof that he/she is a person of good character and has not been convicted of an offence involving fraud or dishonesty in any country. Both GLC and GICA

undertake on-going reviews of the professional conduct of their members. Though this process is yet to integrate AML/CFT elements, it however, provides some controls that help to prevent criminals or their associates from operating within the sectors. In case of breaches of ethical and integrity standards, GLC and GICA can apply disciplinary actions, such as suspension and withdrawal of licenses but no such actions have been taken in the context of AML/CFT; and statistics on any other actions taken were not provided to the assessors. There is no evidence that GLC and GICA have rejected some applications on the basis of failure to meet membership requirements.

476. DPMS are required to be licensed by the Geological Department of the Ministry of Petroleum and Energy. The licensing procedures require identification of all applicants; evidence of funding; and disclosure of ultimate beneficiary, if they represent the interests of third-parties. Applicants are also required to submit articles and memoranda of association, which detail the ownership structures of their institutions. Licenses approved are non-transferable, thereby ensuring that all license holders are properly identified. However, these measures do not cover criminal record searches and the Geological Department does not verify the documents submitted. Between 2019 and August 2021, the Department received fifteen (15) applications and approved seven (7). The remaining 8 applications were rejected because of the applicants' failure to submit all the required documentation, including evidence of funding. The GD did not take any further action after the rejection of the licences as in the case of CBG discussed above.
477. Discussions with the Department indicate that it does not carry out foreign checks to ascertain the suitability and integrity of applicants that are foreigners, its licensing process does not cover screening against sanctions lists and it does not verify source of funds provided by applicants. These present significant risks as there are a lot of cross boarder activities in the DPMS sector sometimes involving countries vulnerable to terrorism financing
478. There are little or no entry requirements or specific measures, including fit and proper test to prevent criminals or their associates from owning, controlling or managing a real estate agent or infiltrating the sector. This is of particular concern for real estate agents in light of their high ML/TF risk. The sector's SRB (the Association of Real Estate Companies (AREC)) does not have any legal backing to regulate the sector and membership is voluntary. The sector is highly unorganised, with many agents not registered with AREC or any competent authority nor regulated. These expose the sector to significant ML/FT risks.
479. Overall, although some of DNFBPs are registered as companies under the Companies Act, there are capacity and resource constraints at the Registrar General's Department to carry out proper background checks, including on the directors, senior management of the DNFBPs. Further, the DNFBP regulatory bodies do not subject market participants to TFS screening. These coupled with weak regulation/monitoring, and proliferation of unregistered DNFBPs, especially in the real estate sector create a gap for possible infiltration of criminals and their associates within the DNFBP sector.

6.2.3. Supervisors' understanding and identification of ML/TF risks

Financial Institutions and VASPs

480. Generally, the FIU and CBG have a good understanding of the ML/TF risks facing the banking sector. The understanding is driven mainly from their operational activities (onsite and offsite supervision) and their participation in the NRA. In addition, the FIU in

collaboration with the CBG conducted a sectoral ML/TF risk assessment (SRA) for the banking sector that identifies the level of risk of each bank which further enabled them to have a better understanding of the nature of risks in the banking sector. The FIU and CBG have not yet started performing institution-specific ML/TF risk assessments for NBFIs and as such only have a basic understanding of the institution-specific ML/TF risks of the NBFIs.

FIU

481. The FIU is the primary AML/CFT supervisor for all financial institutions in The Gambia. The FIU generally demonstrated a good understanding of the ML/TF risk facing FIs, though it could be further strengthened, especially in the NBFIs. The FIU relied on various sources of information to enhance its understanding of ML/TF risks facing FIs, including information and data acquired through AML/CFT off-site supervisory activities, inspections reports, suspicious transactions reports, cash threshold report, and engagement with the FIs when training is delivered. In addition, the Unit, was closely involved in the development of the NRA. Since the scope of the NRA included identification and assessment of ML/TF threats and vulnerabilities in The Gambia, it served as a useful source of information/data to the FIU and contributes to its understanding of ML/TF risks in the FIs and the country in general.
482. The FIU has conducted a sectoral risk assessment (SRA) / institutional risk assessments for the banking sector (in collaboration with the CBG) which enabled it to understand the nature of risks and categorize the ML/TF risk levels of the banks into three categories, namely; low, medium and high. The assessment utilizes information from a variety of data sources, including the findings of the AML/CFT controls from 2019 supervisory activity (inspections, AML/CFT meetings, etc.), inputs drawn from returns from banks, including information on their internal ML/TF risk assessment, and FIU information on suspicious transactions reports, cash threshold reports, etc. In particular, the ML/TF risk factors applied in the assessment process include the customer type, product and services, delivery channels and geographic locations. The assessment also encompasses analysis of other factors such as AML/CFT compliance programme/ quality of controls, including sanctions screening, and the quality of the ML/TF risk management controls being implemented by banks. The FIU generated the first set of risk ratings for the banks in March 2020 and is yet to be updated. As of the onsite, there were 3 banks rated high for ML/TF risk (all local banks), 6 banks rated medium, and 2 low. The information from this assessment assists the FIU to identify the banks that are likely to be misused to launder or channel the proceeds of the identified major proceeds-generating crimes. The assessors' view is that the process and results of the SRA were reasonable to enable the FIU to understand the risks facing the individual banks and the banking sector in general.
483. In relation to the NBFIs (insurance companies, foreign exchange bureaus, remittance service providers etc), FIU's understanding of risks across these entities varies but generally basic and derives largely from the NRA. The FIU has not conducted any systematic sector or institutional risk assessment in the NBFIs, and therefore demonstrated a limited understanding of risks existing in the individual institutions. Overall, in the absence of any firm-specific ML/TF risk assessment, understanding of risk at individual institutional level in the NBFIs is considered low.

CBG

484. The CBG exhibited a good understanding of the ML/TF risks in the banking sector. The understanding is derived largely from its analysis of periodic risk assessment reports it receives from banks, its participation in the NRA, joint AML/CFT examination of banks with FIU, sectoral risk assessment conducted with the FIU in the banking sector, and to some extent from its operational activities (onsite and offsite supervision).
485. In general, the CBG performs prudential institutional risk profiling of FIs under its supervisory purview on an on-going basis to inform their understanding of the risks that are inherent in these entities. The risk profiling exercise is reviewed periodically and incorporates some elements of ML/TF risks, especially in the case of banks. For instance, under the AML/CFT Guidelines for FIs, financial institutions are required to submit their internal risk assessments reports to the CBG. In addition, as part of supervisory requirements, financial institutions are required to submit periodic returns to the CBG. Analysis of the information obtained through the returns and internal risk assessments of banks contribute to the CBG's understanding or views of the risks facing the banking sector. Authorities met during the onsite demonstrate that they are able to classify banking institutions according to their risk profiles on the basis of this mechanism / approach. However, NBFIs are generally yet to establish good risk management practices which impact on the CBG's overall understanding of risk across these sectors.
486. The CBG actively participated in the NRA exercise completed in 2020 along with other stakeholders. The scope of the NRA included assessment and identification of ML/TF threats and vulnerabilities in The Gambia which provided some useful source of information that contributes to CBG's understanding of ML/TF risks in the financial sector.
487. The joint inspections undertaken by the FIU and CBG, especially in the banking sector also contributes to CBG's risk understanding. Similarly, the CBG also liaises with the FIU on information on statutory disseminations from the Unit (e.g information on suspicious transactions reports, cash threshold reports, etc). This information is analyzed along with information on periodic returns submitted by banks which contribute to the CBG understanding of the risk in the banking sector.
488. The CBG supported the sectoral ML/TF risk assessment of the banking sector carried out by the FIU in March 2020 that enhanced its understanding of the ML/TF risks within the sector. Discussions with the representatives of the CBG during the onsite indicate that they have a general but low understanding of ML/TF risks in the other NBFIs sectors. For instance, the CBG is aware of the main risk of money laundering through the insurance companies – such as the surrender of a retirement policy a few months after purchase - but it has not yet conducted a comprehensive study of the nature and level of risk in the sector.

DNFBPs

489. The FIU, Geological Department, Gambia Tourism Board, GLC, and GICA, have a basic understanding of the ML/TF risks associated with the DPMS, casinos, lawyers and accountants respectively which is primarily based on their participation in the NRA and experience garnered from operational activities. The NRA report indicated that vulnerability of the entire DNFBP sectors was high largely because of several factors, including ineffectiveness of compliance functions, weak capacity for suspicious transaction monitoring and reporting; high level of informality; exposure to cash-intensive transactions; the poor level of awareness of AML/CFT obligations, and prevalence of the unregistered market players. However, the analysis and conclusions did not benefit from the analysis of

inherent risks within the sectors such as the nature and scope of products/ services, delivery channels etc which impacts on the overall level of understanding of risks by the FIU.

490. The FIU have not identified and assessed the ML/TF risks of the DNFBBs sectors at the institutions level. As a matter of fact, it had not even developed capacity (including tools and methodology) to identify, assess and maintain understanding of the ML/TF risks facing the respective individual reporting entities in the DNFBBs sector. In general, the understanding of ML/TF risks by the FIU is evolving after the NRA.
491. Discussions with the regulators of the DNFBBs during the onsite highlighted that, except for the NRA exercise and meetings of the NCC, the various DNFBBs regulators and the FIU do not effectively collaborate to routinely share information to inform each other's understanding of DNFBB sectors risks including ML/TF risks. A stronger collaborative and co-operative framework between the FIU and the DNFBBs regulators is encouraged to safeguard against the ML/TF risks to which The Gambia is exposed.

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

Financial institutions and VASPs

492. The FIU is the mandated competent supervisory authority, with responsibility for supervising AML/CFT compliance of FIs. The application of risk-based approach to AML/CFT supervision by the FIU is at an early stage for banks and yet to commenced for NBFIs. The risk-based approach to FIU's supervisory activities in the banking sector is determined by institutional risk levels first developed by the FIU in March 2020. Risk ratings as determined by a matrix provide the basis for FIU's supervisory actions; mainly the scope and frequency of onsite inspections. At the time of the onsite, this methodology was recently implemented and yet to be applied across the other sectors. The FIU has a Risk-Based Supervisory Framework which guides its supervision on a risk sensitive basis. In addition, it has developed an AML/CFT Examination Manual to serve as a guide to FIU's staff to further strengthen AML/CFT inspection in the banking and other relevant sectors.
493. FIU's AML/CFT supervisory framework combines desk-based reviews (off site inspections), and on-site inspections. Off-site inspections are carried out by the FIU obtaining periodic information from FIs, particularly banks in order to ascertain exposures to ML/TF risks. The results of off-site inspections are used to direct risk based supervisory activity or as a basis for further onsite inspections, when they provide triggering information.
494. The on-site inspections are undertaken to verify the general compliance by FIs with provisions set forth in AML/CFT Law, and AML/CFT Guidelines, in the context of AML/CFT requirements, countering PF and correct application of TFS (and the correct functioning of AML/CFT controls adopted) which concern the overall business situation of the FIs. Generally, the duration of each on-site inspection depends and could range from a day up to a week and half, depending on the size, complexity and maturity of the reporting entities.
495. The supervision of FIs is based on a Supervisory Plan. In the case of banks, the Annual Supervisory Plan is prepared by the FIU in collaboration with the CBG and it is based on ML/TF risk factors, and NRA results. The supervisory plan also takes into account the materiality of the banks.
496. The FIU has conducted onsite examinations of some financial institutions, especially commercial banks, insurance companies and a few NBFIs. The onsite

examination of the commercial banks was conducted jointly with the CBG. Both institutions exchange valuable information relating to areas of high risk to concentrate on before and during the onsite. The final AML/CFT onsite examination reports are transmitted to the banks by the FIU with copies forwarding to the CBG.

497. Coverage of onsite inspections for banks include the reviews of AML/CFT policy and procedures, client identification/CDD, record keeping, PEPs, transaction monitoring, correspondent banking, sanctions screening, identification of suspicious transactions, and risk assessment and management. The examination for the insurance companies and other NBFIs covers only AML/CFT policy; CDD; and Internal controls while critical AML/CFT requirements such as risk assessment, reporting of suspicious transactions, and record keeping were not covered. Overall, a review of the onsite examination reports on FIs conducted by the FIU revealed a lack of comprehensiveness or low depth of analysis of the elements covered in the reports. The FIU issued a report to the FIs highlighting the deficiencies noted during the examination and also making recommendations. Copies of the FIU AML/CFT onsite examination reports, especially for the banks are also shared with the CBG.
498. In general, the findings of the onsite examinations by the FIU indicated significant deficiencies across all the FIs, especially the NBFIs. The main shortcomings noted by the FIU across the NBFIs examined include deficiencies in CDD, lack of or deficient AML/CFT policies, and weak internal controls. In relation to the banks, the reports highlighted shortcomings in CDD, deficiencies in AML/CFT policies, lack of effective tools to detect suspicious transactions and sanctioned persons in real time in some banks, and inadequate AML/CFT training for staff. The letters transmitting the findings of the FIU to the examined entities required the institutions to take necessary steps to address the observed shortcoming. For banks, they are expected to remedy the identified deficiencies within 3 months and provide report to the FIU and CBG on the level of implementation. No evidence of remediation status report by the examined banks was provided by the FIU or CBG to show that identified deficiencies have been addressed by the banks. The FIU only followed up in few cases on recommended actions during the next onsite examination. This means that the significance and urgency that some recommendations required are not being considered, thus identified deficiencies may remained unaddressed for a longer period. With respect to NBFIs, they are required to remedy the deficiencies within six (6) months while the FIU will conduct a follow up examination thereafter to ascertain the level of implementation. No evidence of follow up examination was provided by the FIU in this regard.
499. The FIU and CBG determine the frequency of on-site inspections of banks by a number of factors, including the risk of individual banks. In terms of determining the scope of AML/CFT examination, the FIU conducts some risk scoping exercise prior to an on-site examination and reviews the extent of compliance during the examinations with respect to the requirements imposed under AML/CFT law. During the onsite examination, the FIU uses examination procedures contained in the examination manual.
500. Even though there was an isolated case where the FIU and CBG jointly conducted an ad-hoc prudential inspection during the review period. The FIU could not demonstrate that, regardless of its supervisory plan, should specific events take place in the course of a year, it is able to pro-actively undertake ad-hoc AML/CFT inspections of individual institutions or horizontal reviews of specific sectors with regard to identified issues. Information was not provided to the evaluation team on the number of cases where the FIU initiated AML/CFT ad-hoc inspections based on information it received either from its own activities or following a notification from other competent authorities.

501. In relation to the availability of resources for supervisory activities, the FIU does not have adequate financial and human resources to perform its supervisory functions. The Unit has a Compliance and Prevention Division dedicated to AML/CFT supervision with 7 staff (three of which were recruited at about the time of the onsite and yet to be trained to assume full duty). The evaluation team believes this number is grossly inadequate given the fact that the Unit has overall responsibility to supervise all FIs for AML/CFT compliance.

502. Between 2017 and August 2021, the FIU conducted 27 AML/CFT on-site inspections on banks, 1 on insurance companies, 1 on foreign exchange bureaus and 1 on microfinance institution (see Table 6.2). The table below provides an overview of the number of on-site inspections undertaken by FIU during the review period. No inspection was undertaken for some important NBFIs such as the remittance service providers. Overall, the assessment team believes the negligible number of onsite inspections during the review period, especially for the foreign exchange bureaus sector and non-supervision of remittance service providers may be due to inadequacy of human, and financial resources within the FIU for supervisory functions.

Table 6.2 Number of AML/CFT onsite inspections by Supervisors, Jan 2017- August 2021

Type of Reporting Entity	2017	2018	2019	2020	2021
Financial Institutions					
Banks	2	3	12	0	10
Insurance Companies	1	0	0	0	0
Microfinance Companies	0	0	0	0	1
Foreign exchange Beurau	0	0	0	0	1
DNFBPs					
Real Estate	0	0	0	0	3
Other DNFBPs	0	0	0	0	0
Total	3	3	12	0	15

503. On the basis of statistics in the above table, it is apparent that the frequency, intensity and scope of FIU's on-site examinations is grossly inadequate considering the size and materiality of the sectors under their supervision. For instance, only one (1) inspection was conducted on foreign exchange bureaus while none on remittance companies during the review period. Given the ML/TF risk level of foreign exchange bureaus and remittance companies (assessed as having relatively high exposure to ML risk in the NRA), the FIU should scale-up the frequency of its supervisory oversight of these sectors on risk basis. Similarly, the supervision of banks should be scaled up given that the significance of banks in the financial sector.

504. The CBG was responsible for conducting AML/CFT inspections in The Gambia until 2013 when the FIU was established (created out of the CBG). The CBG continued to provide support, especially accommodation, staffing and supporting the Unit's AML/CFT supervisory role until 2015 when the FIU exited from the CBG to its own office accommodation. Since then, the CBG designated two staff within its Supervision Department for its AML/CFT related functions, including collaboration with the FIU on AML/CFT onsite inspections. The CBG formally created an AML/CFT Unit on August 20,

2021. This Unit is expected to further enhance the role of the CBG in AML/CFT related operations, including collaboration with the FIU on AML/CFT supervision. However, as at the conclusion of the onsite on September 3, 2021, the Unit has not formally commenced operation. Besides the two (2) staff currently on this function., the resources available to this Unit could not be ascertained. As noted earlier, the CBG and the FIU collaborate on supervisory activities. They share information and coordinate their supervisory efforts through joint on-site inspections, especially of banks. Both authorities have drafted a Memorandum of Understanding to further strengthen their cooperation. The current collaboration between the CBG and FIU is positive and beneficial to both authorities as it promotes, for instance, a consistent interpretation of legislation, and should be extended to the supervision of NBFIs.

505. Overall, the lack of or negligent number of AML/CFT supervision for the insurance sector and other FIs makes it difficult for the evaluation team to ascertain their level of compliance with AML/CFT obligations. The evaluation team believes the supervisory authorities require significant technical, financial and human resources to be able to adequately undertake its AML/CFT supervisory role.

VASP sector

506. Currently no VASPs have been registered or licensed in The Gambia. Currently, the CBG licenses all FIs operating in The Gambia and it is expected that should the country decides to register/license and regulate VASPs in the future, these will be done by the CBG. Although there is no evidence that any unauthorized VASPs is operating in the country, no supervisory action has been taken to identify any unauthorized VASPs that might possibly be operating in the country.

DNFBPs

507. The FIU commenced the supervision of DNFBPs, particularly the real estate agents, for AML/CFT compliance in June 2021. The FIU informed the assessors that the focus on real estate agents follows the findings of the NRA which identified the real estate sector as high risk. As at the time of onsite, 3 real estate agents have been examined for AML/CFT compliance (see Table 6.2 above). The selection of the real estate agents subject to inspection was done based on their size and/or materiality within the real estate sector. Thus, supervision conducted by the FIU on real estate agents is not fully risk-based, and nascent, while the frequency and intensity of supervision is limited. The FIU does not systematically supplement their onsite programme with offsite monitoring to allow targeted onsite inspections.
508. A review of the onsite examination reports on real estate agents conducted by the FIU shows a similar pattern with that of the FIs - a lack of comprehensiveness or low depth of coverage of AML/CFT issues. The examinations covered some key areas such as KYC/CDD; record keeping, suspicious transaction reporting, PEPs, AML/CFT compliance programme, and risk assessment. The supervision did not cover the implementation of TFS. Overall, the reports of the onsite examinations noted general non-compliance by the real estate agents with AML/CFT requirements. There was no evidence that the findings of the on-site visits were shared with the supervised entities and no information was provided by the FIU on what actions they have taken to ensure these entities address the observed deficiencies.

509. In general, the limited or lack of supervision of DNFBPs for AML/CFT has adverse impact on the monitoring of the implementation of AML/CFT measures by DNFBPs. Overall, the vulnerability of the DNFBPs to ML/TF, the weak implementation of AML/CFT measures across the various sub-sectors, and the lack of AML/CFT supervision/monitoring, are serious gaps that present DNFBPs as a weak link in the overall AML/CFT supervisory regime of The Gambia.

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

Financial institutions, VASPs and DNFBPs

510. There is a range of criminal, civil and administrative sanctions available to supervisory authorities to apply to natural and legal persons that fail to comply with AML/CFT requirements in The Gambia. These sanctions include revocation or withdrawal of license, suspension/removal from office of directors or other employees, banning of officials from employment, suspension of operations, and monetary penalties. In practice, these sanctions are rarely applied by the supervisory authorities notwithstanding cases of non-compliance with AML/CFT obligations identified during inspections.

511. The FIU identifies AML/CFT violations largely during the onsite inspections. After onsite inspections, reports of the findings of the FIU are issued to the reporting entities (except the real estate as noted above), outlining deficiencies noted during the onsite examination that should be addressed. The inspected entities are required to report remediation progress. Thus, the use of remedial measures (especially recommendations directing the FIs to implement actions to rectify the observed deficiencies) has been the predominant focus of the FIU in dealing with non-compliance. This measure is never accompanied with monetary sanctions, which in the views of the assessors, is a more effective way of compelling compliance. This is particularly important given the persistent concerns on non-compliance by reporting entities, especially weak implementation of CDD measures and the low or lack of reporting of suspicious transactions. From discussions with FIU, it appears the Unit justifies its approach with the fact that the orders made to the reporting entities are generally followed eventually in the context of the recommendations and actions taken for their implementation. However, there is negligible evidence of follow-up actions undertaken by the FIU to verify implementation of the recommendations and check the extent to which the breaches for non-compliance were rectified. For instance, only in very few instances, the FIU reviewed implementation of findings of previous inspections as part of its next onsite inspection. In these few instances, the Unit found that a number of the deficiencies identified in previous examinations have not been rectified. Still no sanctions were applied. Consequently, it is the views of the assessors that the FIU has not demonstrated the will to apply appropriate sanctions for non-compliance with AML/CFT requirements.

512. The CBG has applied some sanctions, including written orders/warnings, monetary fines, and board reconstitution, on financial institutions for non-compliance with its guidelines and directives. However, these sanctions relate to prudential and not AML/CFT compliance.

DNFBPs

513. No sanctions have been applied to DNFBPs for non-compliance with AML/CFT requirements. The FIU has conducted inspection of some real estate agents. Assessors noted from the sample reports provided that corrective measures were recommended, but no penalty or effective, dissuasive, or proportionate enforcement actions have been taken against the estate agents.
514. Overall, no sanctions were applied for the AML/CFT deficiencies identified by the FIU on the inspected FIs and DNFBPs. This may be partly due to legal constraint in the AML/CFT Act (see R.35) which requires the FIU to apply to court where a reporting entity fails to comply with its obligations under the Act. Although this provision constraints the powers of the supervisors to directly apply administrative sanctions in case of violations under the AML/CFT Act as they have to apply to court, there is no evidence that the FIU has applied to court and encounter challenges. Overall, given the provision of Footnote 86 of the FATF Methodology which states that *sanctions should be directly or indirectly applicable for a failure to comply*, the team believes the lack of application of sanctions by the FIU is largely due to the lack of will. In the absence of AML/CFT-related sanctions, assessors could not assess their effectiveness, proportionality and dissuasiveness.

6.2.6. Impact of supervisory actions on compliance

515. In general, supervisory actions have more positive impact on compliance in the banking sector compared to other FIs. The CBG and FIU have taken some supervisory actions, including onsite inspections, engagement with banks / Compliance Officers Associations, and training, which have improved, to some extent, the level of compliance of banks with AML/CFT obligations. For instance, positive results have been observed especially in the areas of ML/TF risk assessment by banks, improvement in quality and quantity of STRs filed to the FIU, enhanced staff training, improved collaboration with the FIU, and improved oversight and understanding of ML/TF risks by the board and senior management of banks and the adoption of more comprehensive AML/CFT policies and procedures. In addition, the discussions between banks and the FIU during the onsite meetings on the findings of the onsite examinations, including deficiencies identified, enabled some of them to take corrective measures and improve their compliance. However, as noted earlier the FIU rarely follow up to verify that the onsite inspection recommendations have being fully implemented (except in few instances where this was covered as part of subsequent onsite visit). In addition, the FIU did not provide any evidence of progress reports provided by the banks on the status of implementation of deficiencies identified by the Unit in its previous examination. In general, the approach to monitoring the implementation of remedial actions to address AML/CFT deficiencies by the FIU is inadequate and thus the desired impact on compliance is not well achieved. This results in situations where deficiencies are not being remediated in a timely manner, creating ongoing deficiencies in mitigating ML/TF risks. It is important that the FIU steps up follow up inspections and ensure that where remedial actions remain outstanding after the required timeframe, it should consider taking enforcement actions.
516. In relation to NBFIs, the impact of supervisory actions on compliance is limited in some FIs, especially foreign exchange bureaus, microfinance institutions and insurance companies, and lacking in other FIs. The emerging level of understanding and application of the AML/CFT requirements, in some NBFIs is a direct result of combination of the inspections carried out, the workshops and the sensitization sessions organised for some of

the sectors and the issuance of guidelines and directives to assist FIs to comply with the AML/CFT requirements. The evaluation team observed that the level of compliance behaviour by a few NBFIs have changed as a result of supervisory actions. For example, from 1 STR filed in 2017, the foreign exchange bureaus submitted 27 STRs to the FIU in 2021 (see IO.4).

517. Overall, the impact of supervisory actions on compliance in the financial sector is reduced by the low level of inspections, the type of remedial action taken by the FIU for rectification of compliance issues, not having a process in place to follow-up on corrective actions and inability of supervisors to apply sanctions for AML/CFT breaches /lack of enforcement actions.
518. With regards to DNFBPs, the FIU has conducted some outreach activities, including sensitizations and training relating to AML/CFT. In particular, in 2019, the FIU with support from GIABA under the EU project, trained 32 real estate agents; 19 legal practitioners and accountants; and 31 casinos on AML/CFT obligations. Similarly, 27 casinos and DPMS were trained on AML/CFT by the FIU in 2021. In addition, the FIU developed AML/CFT Guidelines for DNFBPs to raise supervised entities' awareness on their AML/CFT obligations. However, the impact of such activities on compliance is still negligible. The FIU started onsite inspection of the real estate agents shortly before the onsite. The impact of this supervisory action in this sector cannot be assessed fully as the inspections are quite recent and no specific information is available.
519. In general, supervisory authorities should improve implementation of actions and initiatives that can positively impact on compliance by reporting entities. In addition, they should consider maintaining relevant information and statistics about their supervisory initiatives. This will assist them in demonstrating what action they are taking, including how FIs and DNFBPs respond to supervisory actions, in order to show over time, that supervision and monitoring can improve the level of AML/CFT compliance within the private sector.

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

520. The AML/CFT Guidelines for FIs issued jointly by the FIU and CBG; and other sectoral Guidelines issued by the CBG, including the Guidelines for Mobile Money Financial Services, and Operating Guidelines for Foreign Exchange Bureaus, have in general, contributed to a good understanding by FIs of their AML/CFT obligations. For instance, the Guidelines have enabled some of these institutions to develop their internal procedures. However, the Guidelines have not been published in the Gazette. Consequently, they are not enforceable. In addition, given the recent revisions to the FATF standards, the Guidelines (especially the AML/CFT Guidelines for FIs and DNFBPs, and AML/CFT Risk Assessment and RBA Guidelines for Reporting Entities) should be updated accordingly to be in line with the international AML/CFT standards.
521. The FIU has provided some training on AML/CFT to some FIs with a view to promoting their understanding of ML/TF risk and AML/CFT obligations. In 2019, the FIU trained 60 participants (19 from banks and 41 from foreign exchange bureaus); 392 participants from the banking sector in 2018; 104 participants from banks and other FIs; 79 participants from the banking sector and other FIs in 2019; and 220 participants from the banking and other FIs. The trainings covered a broad range of subjects, including STR Reporting; CDD, provisions of the AML/CFT Act, risk-based approach and FATF

Recommendations. Between 2017 and 2021, the authorities provided only 18 trainings to FIs on AML/CFT, most of which are focused on the banking sector. Assessors are of the view that the trainings provided so far are inadequate and limited and not adequately spread to other FIs, especially those identified as medium and high risk in the NRA. The FIU should prioritise and intensify its training programme for the sectors rated medium and high risk in the NRA, while the CBG needs to complement the efforts of the FIU in order to broaden coverage of reporting entities, and ultimately enhance compliance.

522. The inspected entities, especially banks, receive some feedback from the FIU on the outcomes of the on-site inspection on AML/CFT and remedial measures required to address observed shortcomings which contributes to these entities understanding. In particular, outcomes of the inspections enable the FIU to provide tailored guidance, based on deficiencies identified, to encourage and assist the inspected FIs to improve their application of preventive measures. Furthermore, the FIU provides feedback (although limited) to reporting entities aimed at enhancing reporting entities' understanding of reporting obligations (especially STRs). The evaluation team observed a differential impact of these initiatives on reporting entities. For instance, banks demonstrated a good understanding of their obligations and generally have reasonably good AML/CFT internal control programmes. On the other hand, understanding of AML/CFT obligations as well as ML/TF risks among non-bank FIs is mixed but generally low or evolving.
523. The FIU and CBG participate in the periodic meetings of the Chief Compliance Officers of Banks. This platform creates an opportunity for information exchange and experience sharing between the supervisors and bank compliance officers on regulatory and compliance issues which enhance understanding of the banks on their AML/CFT obligations and ML/TF risk.
524. The FIU has a functional website and its annual reports are publicly available. These are additional source of information and awareness for reporting entities. The FIU should issue strategic products in order to promote understanding of ML/TF risk and AML/CFT obligations by reporting entities.
525. Notwithstanding the initiatives highlighted above, a number of NBFIs met during the onsite visit, did not demonstrate a sound knowledge and understanding of key AML/CFT risks to which they are exposed. Thus, more work is required in respect of raising compliance levels of the NBFIs, including outreach by the supervisors (the FIU and CBG).
526. Regarding DNFBPs, limited activities (outreach, training, sensitization, etc) have been undertaken as at the time of onsite visit to promote understanding of AML/CFT requirements and ML/TF risks by DNFBPs. The FIU has issued AML/CFT Guidelines for the DNFBPs. Notwithstanding, some of the DNFBPs met during the onsite visit do not have a clear understanding of the ML/TF risks to which they are exposed to, as well as their AML/CFT obligations. Overall, significant efforts, including trainings, awareness programmes and conducting of onsite examinations, are still needed to raise awareness of the DNFBPs. The FIU and other DNFBP prudential supervisors should be adequately resourced, in order to be able to effectively undertake activities that can promote understanding of entities under their supervisory purview.
527. The NRA exercise carried out in collaboration or with the participation of reporting entities provided some understanding of the threats and vulnerabilities in each sector. Nevertheless, the NRA report or findings were not widely disseminated to all reporting entities in the various sectors, with some receiving the NRA report only during the onsite visit, due partly to the time taken to print it in sufficient quantity. The Gambia should

consider publishing the NRA report in the websites of the FIU and other relevant authorities to further enhance a wider dissemination of the findings of the NRA/NRA report. Ultimately, this will contribute to enhancing understanding of the risk identified by reporting entities, especially as it relates to their particular sectors.

Overall conclusion on IO.3

528. There are generally fit and proper controls in place to prevent criminals or their associates from controlling or being the beneficial owner of FIs. CBG applies adequate market entry requirements, including Fit and Proper assessment in the banking sector but does not adequately do so in the insurance and OFIs sectors under its supervision. Most DNFBP regulators do not have adequate procedures to restrict market entry for AML/CFT purposes and prevent criminals and their associates from controlling or being the beneficial owner of a DNFBP. Application of the fit and proper procedures varies across the DNFBP regulators but is generally weak.
529. The FIU's understanding of risks at the sector-level is generally good based on the NRA and its understanding of risks at institution-level is detailed based on the yearly risk assessments submitted by the banks and the banking sector risk assessment it carried out in March 2021. As for insurance and other financial institutions level, the understanding of FIU is low. Understanding and identification of ML/TF risks by DNFBPs supervisors are very weak.
530. While a risk based supervisory framework has been established by the FIU, current AML/CFT supervisory resources are not sufficient to implement it. AML/CFT supervision focuses mainly on the banking sector and negligent in the non-banks FIs and DNFBPs. The limited or non-existent supervision of high-risk non-bank FIs and DNFBPs (such as foreign exchange bureaus, remittance service providers, DPMS and real estate agents) is a serious concern. In general, the FIU is overwhelmed and overburdened with AML/CFT supervision of the entire reporting entities. In the view of assessors, the lack of AML/CFT supervisory mandate for other supervisors, the lack of adequate technical capacity in most of the other regulators, and the financial and human resources constraints constitute limitations and negatively impacts the effectiveness of supervision in The Gambia.
531. The FIU has not imposed any sanctions on FIs for non-compliance with AML/CFT obligations throughout the review period. In addition, FIU does not follow up on the implementation of remedial actions previously issued to affected institutions except in few instances where it does so as part of subsequent onsite visits. This presents a gap as recommended actions may not be implemented timely which can have adverse impact on compliance level by the examined institutions. Also, the requirement for a court conviction in the AML/CFT Act hinders effective application of administrative sanctions by supervisors.
532. Issuance of guidance, outreaches and training have been conducted by the FIU and FIs supervisors to promote understanding of ML/TF risks and AML/CFT obligations of FIs. Other than the banking sector, these efforts have little impact on compliance by FIs. Limited guidance and outreach activities have been undertaken in the DNFBP sector. In addition, the Guidelines issued by supervisors have not been published in the

Gazette and are thus not enforceable. Overall, fundamental improvements are required to achieve an appreciable level of effectiveness.

533. **The Gambia is rated as having a Low level of effectiveness for IO.3.**

CHAPTER 7 – LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

- a) The Gambia's legal and institutional frameworks governing legal persons and arrangements are fairly developed, although some critical gaps remain. The main laws governing legal persons and arrangements are the Companies Act and the Single Window Business Registration Act. In addition to the laws, the Company Registrar issues a checklist, which details the names, residential address and occupation of persons applying to incorporate a company.
- b) There is no legal requirement for the Companies Registry to obtain and maintain BO information during company formation. However, relevant competent authorities do sometimes obtain BO information on legal persons and legal arrangements from reporting entities. Considering the challenges regarding compliance with AML/CFT obligations and limited AML/CFT supervision of reporting entities, Assessors could not ascertain the extent to which the authorities obtain adequate, accurate or current BO information of all types of legal persons and arrangements in a timely manner.
- c) Basic information is made publicly available through the registry managed by the Companies Registrar. However, the Registry is under-resourced and does not take the appropriate measures to ensure the accuracy of information held.
- d) The Gambia has not assessed the ML/TF risk of legal persons and arrangements. Thus, relevant competent authorities have low understanding of the risk associated with these entities, and the extent to which legal persons (both foreign and domestic), can be or have been misused for ML/TF purposes.
- e) The Gambia does not have a comprehensive database of all legal persons and arrangements created and operating in the country.
- f) The measures to prevent the misuse of legal persons and legal arrangements in The Gambia are inadequate. For instance, while The Gambia recognises the creation and operation of trusts, it has no registration requirements for these vehicles.
- g) While The Gambia prohibits companies from issuing bearer shares or having Nominee Directors, there are no mechanisms in place to address the risk posed by foreign companies registered in the country who are permitted under the laws of their home countries to issue bearer shares or have nominee directors.

- h) The Company Registry has powers to institute prosecutions on legal persons who fail to comply with the rules and requirements. However, it has not undertaken any prosecutorial action to sanction any legal person or arrangement. Effectiveness, proportionality and dissuasiveness of sanctions cannot, therefore, be ascertained.

Recommended Actions

- a) The Gambia should conduct a comprehensive assessment of the ML/FT risks associated with all types of legal persons and arrangements created in the country and disseminate the findings to all stakeholders. The country should also implement measures to mitigate the identified risks.
- b) The Gambia should introduce and/or enhance requirements/mechanisms for obtaining and maintaining BO information on legal persons and legal arrangements. These mechanisms should ensure that the (BO) information is adequate, accurate and current and also accessible to competent authorities in timely manner. In particular, the Companies Registrar should set up and maintain databases for BO information
- c) The Gambia should issue and publish the registration requirements for trusts.
- d) The authorities should resource the Companies Registrar's office with sufficient capacity to verify the information on basic ownership filed and carry out enforcement actions against non-compliance.
- e) The authorities should amend the Companies Act to ensure administrative sanctions are available against both legal persons and natural persons who fail to meet the relevant obligations in order to promote transparency of legal persons and arrangements. In addition, they should empower the Companies Registrar to impose effective, proportionate and dissuasive sanctions for violations of obligations related to the transparency of legal persons and arrangements, and maintain statistics on sanctions imposed in that regard.

534. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

535. The creation of the various types of legal persons in The Gambia is governed by the Companies Act, 2013, the Single Window Business Registration Act 2013 and the guidelines on requirements for incorporation issued by the Registrar of Companies. The

Companies Act established the Registrar of Companies with a mandate to register all public and private legal persons and arrangements. The different types of legal persons and arrangements registered in the Gambia are briefly described in Table 1.2. All Legal persons created nationally or from a foreign country who intend to incorporate in The Gambia must deliver registration documents or its Certificate of Incorporation (in the case of a foreign company) together with Photo identification of its shareholders to the Registrar of Companies for approval and registration before commencing operations in The Gambia.

536. Trusteeships are recognised under Gambian law. The Trustee Companies Act 1993, for instance, recognises the creation and registration of Companies as Trustee Companies. There are however no registration requirements for trusts.

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

537. The processes for the creation of legal persons, including sole proprietorship or partnership, as well as the procedure for obtaining and recording basic information are described in statutes and are publicly available on the website of the Companies Registry .⁹⁰ available Information on the various types of legal persons and arrangements, including their and all registration and incorporation, applicable fees, prescribed forms and other requirements are available on the website of the Companies Registrar.
538. A promoter⁹¹ is required to pay the prescribed fee and complete the prescribed form which is submitted with relevant documentation such as National Identification Card, or in the case of a foreign company, a copy of each shareholder's passport and the company application for tax identification number. The provision of photo identification for all shareholders/owners though not a legal requirement is mandatory pursuant to the discretionary powers conferred on the Registrar of Companies by the Company's Act of The Gambia. However, the documents are not verified by the Registrar of Companies before issuance of the certificate of incorporation and commencement of business.
539. The Registrar of Companies is also the Registrar for the Single Window Business registration project established as a one-stop shop which is intended to fast track the processing of company registration in The Gambia. The one-stop shop for registration of legal persons has registry clerks that facilitate the completion of registration forms. A file is then opened for each applicant. The Companies Registry then inputs the information provided in an automated process for the registration of legal persons. After input in the system, the registration and fulfilment of the criteria set, a synchronised registration number is allocated to the business /company as a combined business registration number, taxpayer identification number, and social security employer registration number.
540. The legal system of The Gambia is based on common law principles. Thus, express trust arrangements can be established in The Gambia. In The Gambia, trusts are typically established by lawyers or TCSPs. However, authorities stated that the use of express trust arrangements in The Gambia is quite minimal, and members of the legal profession met by

⁹⁰ <https://www.moj.gm/companies-division>

⁹¹ A promoter is a person who starts up a business, particularly a corporation, including the financing. The formation of a corporation starts with an idea

the assessment team had limited information on trust arrangements. Lawyers in The Gambia have low understanding of their obligations under the AML/CFT Act. They obtain basic information on their clients at the point of initial contact, but do not verify the identity of the clients or beneficial owners.

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

541. The Gambia has not assessed the ML/TF risk associated with legal persons. Although the country has conducted a risk assessment, the NRA covered an assessment of the different sectors in The Gambia and not a specific assessment of the risks of legal persons in the country. Consequently, the vulnerabilities and associated ML/TF risks of legal persons are understood to a limited extent. No information was provided to the assessment team on the vulnerabilities of the types of legal persons in the country. Also, competent authorities did not demonstrate that they have sufficiently identified, assessed or understood the ML/TF risks of legal persons.
542. The Gambia demonstrated a limited knowledge of how legal persons in the country can be or are being used for ML/TF. The Assessors based their conclusion on a review of The Gambia's assessment of the availability of BO information in the NRA; discussions with LEAs, the Companies and Deeds Registrars, the FIU, sector regulators, FIs and several DNFBBPs.
543. The NRA highlights significant challenges in accessing BO information of legal persons. The challenges include the absence of beneficial ownership requirements, inadequate mechanisms to access sufficient BO information by company inspectors, as well as incomplete documentation, unresolved detail irregularities and lack of proper establishment of BO information. These challenges impede The Gambia's ability to ensure the transparency of legal persons created in the country.
544. The threats posed by corruption, drug trafficking and fraud and the high vulnerability of some FIs and DNFBBPs portends high ML risks to legal persons in The Gambia as showed by the NRA. Indeed, the authorities' experience of investigating ML and financial crime involving legal persons, particularly as revealed by the findings of the Janneh Commission (related to grand corruption) and the BK case (drug trafficking), in which legal persons were used to launder the proceeds of crime, contributes to the identification and understanding of risks of legal persons. The Gambia's NRA also revealed that transactions conducted by DNFBBPs had a 'very high' level of vulnerability to ML/TF. Also, services provided by legal professionals and Notaries Public are indicated as being highly vulnerable to ML. The NRA further noted and the assessment team confirmed that business transactions in these sub-sectors are largely cash-intensive and AML/CFT control measures being implemented by DNFBBPs is weak.
545. Whilst the authorities responsible for the incorporation of legal persons demonstrated a fair knowledge of the risk inherent in the use of corporate vehicles, the specific risks posed to legal persons in The Gambia are yet to be assessed. Ultimately, authorities have not identified, assessed and understood the extent to which all types of legal person created in the country can be or are being used for ML/TF purposes. The Gambia has not reviewed the relevant legal and regulatory frameworks on legal persons. The authorities have reviewed cases in which corporate vehicles have been misused for criminal purposes in The Gambia but have not fully implemented the recommendations made by the

Janneh Commission⁹², or examined international threats and vulnerabilities associated with legal persons incorporated in The Gambia. The Gambia has not conducted risk assessment of legal persons and arrangements.

546. The Company registry has a presence in only two out of the five regions in The Gambia which suggests the possibility of unregistered legal persons operating in The Gambia. Company Inspection is very limited and seldom conducted due to human, financial and mobility challenges. Thus, the Companies Registry requires adequate resources and training to be able to play a meaningful role in the assessment of ML/TF risks of legal persons across the country.
547. Regarding legal arrangements, there has been no assessment of the ways they could be misused for ML/TF in The Gambia. The authorities indicate that legal arrangements constitute a very small sector (both in terms of the numbers of trusts and the significance of the assets held in trust), and therefore believe that they pose a minimal risk based on materiality. There is no information regarding the operation of foreign trusts in The Gambia. The Trustee Companies Act Cap 94, volume 15 laws of The Gambia require the registration of trusts. The Gambia also leverages the AML/CFT Act and its GDDs to regulate activities relating to professional trustees that are DNFBPs and are subject to relevant AML/CFT obligations. While this could significantly mitigate the risk of misuse, the lack of robust implementation of CDD measures, particularly among NBFIs and DNFBPs, suggests a need to identify their underlying vulnerabilities, particularly in the light of revelations by the Janneh Commission that former President Jammeh and his wife established and used two foundations for acts other than their stated objectives.⁹³ For instance, the identification and understanding of the types of trusts that are used and whether there are any specific characteristics that may make them vulnerable, or whether any STRs filed relating to trusts, may reveal any underlying vulnerability.

7.2.4. Mitigating measures to prevent the misuse of legal persons and arrangements

548. The Gambian authorities have put in place some measures and controls in the Companies Act to prevent the misuse of legal persons. All legal persons are required to register at the Company Registry. The Registry requires identification documents to corroborate basic information provided by the promoters of a company. In addition, companies are required by the Companies Act to update their records with the Registry. However, there are sanctions for non-compliance by companies and it is difficult to get companies to comply with the requirement. Also, the Company Registry does not verify the

92 The Janneh Commission found that some of the properties obtained by Former President Jammeh were purchased in the name of Kanilai Group International Ltd (KGI), and most of the properties were purchased in the name of Kanilai Family Farms Ltd (KFF); that former President Jammeh owned 99% of the shares in KFF and the other 1% nominal share was in the name of his brother ASJ. Moreover, KFF also owned 79% of the shares in KGI, while the remaining 29% of the shares was held in trust by his wife Zineb Jammeh for her children M&M Jammeh (page 10, White Paper on Janneh Commission Report).

93 It is alleged that through a trust established by Zineb, Jammeh and Zineb purchased the Defendant Property - a multi-million-dollar mansion located in Potomac, Maryland, USA - using funds acquired through illicit means, including theft from his people and by receiving bribes from numerous businessmen operating in The Gambia during the years he was in power. The two were Trustee and Successor Trustee for the MYJ Trust, respectively. (Case 8:20-cv-02071 Document 1 Filed on 15/07/20).

accuracy of the information it receives, or the authenticity of the documents submitted to it at the point of incorporation, but it ensures that the information provided to it is complete.

549. The authorities are more concerned about ensuring fast-tracked incorporation of companies as against verifying the identification documents provided to the Registry. They believe that the potential of promoters presenting fake registration documents is very high. In this regard, the authorities rely on mandatory statutory declarations of company directors regarding the veracity of the information provided. Where false identification card is discovered, sanctions can be imposed upon conviction, and the company's certificate revoked. However, The Gambia demonstrated no instance of prosecutorial action and hence no sanctions have been imposed or enforced.
550. Similarly, the Companies Act and the Single Window Business Registration Act requires companies to maintain basic information, including a register of shareholders. This information is also held by the Company's Registry and is publicly available but information in the system dates only from 2014 and not before. Therefore, it is possible that unregistered legal persons may be operating in The Gambia.
551. In 2013, The Gambia abolished Share Warrants and required companies with valid share warrants to cancel them and enter the names of the bearers in the register of members within thirty days on entry into force of the Companies Act. Persons whose warrants were cancelled and registered became members of the company from the date the warrants were cancelled (§ 128, Companies Act 2013). Nominee directors and shareholders are also recognised under Gambian laws (§73 -77, Companies Act). However, only public companies are required to maintain information on persons holding shares of which they are not the beneficial owners. Substantial shareholders of public companies are also required to provide names and addresses and give full particulars of the shares held personally or by a nominee and also name the nominee. The requirements for the disclosure of the beneficial interest and the substantial or nominee shareholder by only public companies constitute major shortcoming in The Gambia's legal framework in ensuring the transparency of legal persons and preventing them from being misused for ML/TF purposes and should be addressed considering the country's risk and context.
552. FIs Reporting entities are required to obtain and maintain detailed records of their customers, including legal persons and arrangements and make the information readily available to the FIU and other competent authorities upon request for purpose of investigation and prosecution of criminal conduct.
553. As regards trustees, there is no express provision that requires professional trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out occasional transactions. The only mitigating measure to this regulatory gap is that FIs and DNFBPs are required to, on their own, identify and verify the identity of customers when it is unclear whether the customer is acting on his own behalf (§25, AML/CFT Act). This indicates that reporting entities do not routinely verify the identity of trustees which is inconsistent with the FATF requirement. Verification of the identity of a customer, including trustees, should occur as a matter of course
554. Overall, the mitigating measures which have been implemented by the authorities do not add to much effectiveness in preventing the misuse of legal persons for ML/TF as these are not developed and targeted at addressing identified risks of the different types of legal persons created in the country.

555. In order to implement effective mitigating measures to prevent the misuse of legal persons and arrangements for ML/TF purposes, the Company Registrar's office needs to be well equipped with human resource capacity to be able to verify information and enforce compliance with transparency obligations. The Companies Act 2013⁹⁴ is yet should be amended to require the disclosure of BO information. The Gambia should consider deploying appropriate infrastructure to host a BO register for the collection and management of the BO data at the Registrar's Office.
556. .As part of its revenue collection obligation, GRA should collect basic information on legal entities. All legal persons making disclosure to the GRA are required to hold bank accounts and are subject to CDD requirements. However, the GRA is not required to obtain and maintain BO information.

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

557. Competent authorities can obtain the following basic information on legal persons created in The Gambia in a timely manner from the Company Registrar by making a written request through the MOJ: Name of the company; Incorporation number; Date of incorporation; Registered office/address of the company; share capital; names of shareholders including details on numbers of shares held; names of directors; business activity of the company including Memorandum and Articles of incorporation; information on annual returns filed by the company; name of company secretary. The storage of information is manual and partly electronic (commencing the period 2014). The electronic register facilitates a rapid search of the manually stored archives. Authorities at the Company Registrar's office stated that response to a request for information from LEAs and other competent authorities take almost immediately. However, in situations of urgency, competent authorities and LEAs can obtain the required information without the need for a formal letter of request.
558. The requests for data are not submitted electronically. The CRO is in the process of electronically uploading more information on all types of legal persons on their website. After concluding this process, the CRO will have the possibility of receiving requests and submitting responses electronically. The information will also be accessible. The CRO has been receiving and providing timely responses to requests for information from competent authorities. It did not indicate which competent authorities requested for the information. LEAs can, during their investigation, access basic information held by the Company Registry in a timely manner.
559. During the review period, the Companies Registrar received an unspecified number of requests from the investigative authorities and the Janneh Commission through the MOJ. The requests to the Companies Registrar through the MOJ mainly related to enquiries on the BK Case for relevant information relating to some companies allegedly link to the suspect (see Box 3.4 under IO.7).
560. Legal persons are not mandated to provide BO information at the Company Registrar's Office, thus, BO information will only be available where the indicated shareholders are the actual owners. LEAs use other sources of information, including FIs, especially the commercial banks, to obtain basic information. Access to BO information of legal persons with foreign parent companies is however more difficult. FIs, especially banks

typically maintain basic information of legal persons and arrangements. The authorities, including the LEAs have wide powers to obtain BO information, when available at the FIs. While banks generally obtain and verify basic information, other FIs and most DNFBPs do not typically maintain basic information.

561. The requirement for identification of documents before incorporation enhances the accuracy of records although the lack of verification of such documents limits this accuracy. Although companies are required to maintain some basic information at their registered offices, the Companies Registrar does not inspect companies' shareholder registries to ascertain the currency or accuracy of such information. Similarly, companies do not comply with their obligation to file basic information at the CRO and notify the CRO within 14 days of any change in director(s), shareholding structure, business address, among other requirements. The non-compliance impedes the CRO's ability to maintain up-to-date information. The CRO recently made a media announcement, requiring non-compliant companies to update their records within a certain timeframe. The CRO is yet to monitor records to ensure the currency and accuracy of information within its domain. The Gambia has drafted AML Regulations to address the requirements for BO information in a comprehensive manner.

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

562. DNFBPs including lawyers and accountants, who typically create legal persons and arrangement in The Gambia are required to conduct CDD. However, some of the lawyers interviewed by the assessment team seemed to be unaware of any obligations to conduct CDD or obtain beneficial ownership information from their clients especially where such clients intended to establish a trust or create a legal person. Authorities did not provide a comprehensive statistic on trust arrangements and further indicated that trust arrangements are rare. The Assessment team was shown two trust deeds containing the settlor and beneficiary details, but these documents were executed in 1983 suggesting that Trusts are rarely used or if used to a large extent are not sent for registration.
563. No information was available on the procedure to obtain beneficial ownership information on legal arrangements by the competent authorities. Neither was any information available as to the number of times that competent authorities requested beneficial ownership information on legal arrangements, whether the information was provided and, if so, the time period in which the information was provided.

7.2.7. Effectiveness, proportionality and dissuasiveness of sanctions

564. The Companies Act 2013 provides sanctions against legal persons who fail to comply with information requirements including notification of change of director or keeping records, among others. Sanctions in the Company's Act are imposed upon a conviction for non-compliance with the duty relating to ensuring appropriate location of the register of members, proper indexing of members, and opening of register for inspection and lack of notification of change of the location of the register. No sanction has been applied the period 2017-2021. The lack of enforcement of sanctions will have an adverse impact on the veracity of the records. The AML/CFT Act also has varying levels of sanctions ranging from a two-year term of imprisonment to the imposition of a fine, the application of administrative "type" sanctions such as removal of a manager, barring a

person from employment⁹⁵ and refusal to renew a reporting institution's license among other penalties. In the absence of decided cases, it is impossible to determine the effectiveness of sanctions imposed.

Overall conclusion on IO.5

565. There is a low level of understanding of ML and TF risks relating to legal persons and arrangements in The Gambia. The country is yet to identify and assess the ML/TF risks of legal entities created and operating in the country, including having measures in place to address related risks posed by foreign companies having nominee directors and shareholders or bearer shares. While FIs and DNFBPs, including lawyers, are required to conduct CDD, the requirement to verify beneficial ownership information on legal persons and arrangements is discretionary (based on the reporting entities' reasonable belief) and does not occur as a matter of course. Weaknesses in the implementation of CDD requirements indicate gaps in the availability of beneficial ownership information. This weakness is exacerbated by the lack of requirement for the Companies Registry to obtain and maintain accurate and updated beneficial ownership information on legal persons and arrangements, inadequate resources and mechanisms at the Registry to ensure the accuracy and currency of relevant information held and weak sanctions regime against persons for non-compliance with transparency obligations. As a result, where BO information exist, these are not adequate, accurate and current. While The Gambia is not a regional and global financial centre, the weaknesses in the implementation of transparency obligation exposes entities created and operating in the country to criminal elements for ML/TF purposes, including sanctions evasions. Consequently, fundamental improvements are needed to ensure that legal persons and arrangements are prevented from misuse, and information on their beneficial ownership is adequate, and accurate and current.

566. **The Gambia is rated as having a Low level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

- a) The Gambia utilises both formal and informal channels to pursue and request international cooperation, usually based on international treaties, agreements and MOUs. The MOJ is the Central Authority Unit (CAU), responsible for coordinating MLA and extradition requests. The CAU lacks mechanisms to prioritise the MLA requests received and ensure timely responses. The CAU lacks resources and robust case management system for the receipt, processing and dissemination of requests. The country does not fully utilize formal MLA channels. Assessors attributed the non-execution of MLAs to inadequate training and ability to process MLA requests.
- b) The Gambia did not execute any formal extradition requests due to the lack of extradition treaty/agreement with the requesting States, while one was refused due to the fugitive's nationality, Gambian. The country did not execute any MLA requests during the review period which is inconsistent with its risk and context. The Gambia did not demonstrate that it is routinely seeking formal legal assistance and extradition from foreign countries to pursue ML and associated predicate offences which have transnational elements. The number of requests for MLA is very negligible while requests for extradition are non-existent. Both are incommensurate with the risk profile of the country.
- c) Information provided by The Gambia showed limited referral for action beyond the MoJ. Most of the requests were handled by the MoJ and are ongoing. The limited referral mechanism beyond the MOJ appears to be a major impediment to better cooperation.
- d) The Gambia can share basic and BO information on legal persons and arrangements with international counterparts. Where available, basic and BO information of legal persons and arrangements are inadequate, inaccurate and outdated. However, in the absence of requests for such information, it is impossible to determine the timeliness for providing such information to foreign authorities.
- e) While the FIU has demonstrated some responsiveness to international cooperation, it has not done so in a timely manner. Although the FIU is not yet part of the Egmont Group, its application is ongoing. The absence of spontaneous disclosures and non-membership of the Egmont Group impedes the FIU's ability to exchange information with the broadest range of foreign FIUs.

- f) Although LEAs are members of asset recovery and MLA networks, no information demonstrated how they have leveraged these networks to conduct ML investigations, receive or provide any ML or TF related information requests.
- g) The Gambia demonstrated limited experience of formation of joint investigation teams or undertaking controlled delivery procedures coordinated with foreign counterparts. The Gambia is not making full use of these tools in an appropriate manner in line with its position as a major storage and transit route for illegal drugs.
- h) The FIU did not seek and provide cooperation in relation to AML/CFT supervision of reporting entities.

Recommended Actions

- a) The Gambia should provide constructive and timely MLA. In this regard, the country should ensure that the CAU and the FIU have effective case management systems that allow the prioritisation of MLA requests received, monitor their progress and provide feedback on the status of such requests.
- b) The Gambia should provide training and capacity building on making and processing requests for international cooperation to all relevant staff.
- c) The Gambia should through the diplomatic channels, actively pursue feedback and strengthen cooperation with major western jurisdictions it is presently experiencing challenges in terms of feedback.
- d) The authorities should actively pursue cooperation with FIUs and LEAs of source and destination countries including Brazil and Spain to assist in curbing drug trafficking which is a major risk in The Gambia. The lack of responses to requests by these countries should lead The Gambia to sign more bilateral agreements to pursue criminal matters, including ML with transnational elements.
- e) The MOJ should seek to actively create a referral mechanism with relevant AML/CFT authorities such as the FIU and the Ministry of Foreign Affairs thereby improving collaboration on international cooperation in the country.
- f) The FIU should enhance cooperation from foreign counterparts on AML/CFT, including exchanging information consistent with The Gambia's risk profile. In doing so, the FIU should continue to sign more MoUs with countries of strategic interest and vigorously pursue its Egmont Group membership application.
- g) The authorities need to better utilize existing networks (e.g. ARINWA, WACAP), supervisory planning, conduct joint supervision and sharing examination reports, where appropriate.

567. 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 and elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

568. The Gambia can use diplomatic channels and cooperation with treaty partners (bilateral and multilateral) for MLA requests. It has bilateral, MLAT and MLAA with some countries and regions. There is no information on the number/percentage of incoming requests received based on treaties and agreements.
569. The Gambia demonstrated an effort in simplified extradition but needs to improve regarding other aspects of international cooperation. The assessment team based its conclusions on a variety of information provided by The Gambian authorities, including discussions held with relevant authorities during the on-site visit, data and statistics maintained by the MOJ, as well as qualitative and quantitative information maintained by a range of agencies on 'informal' cooperation. The team considered feedback provided by the Global Network as part of the ME process on their international cooperation experience with The Gambia. The Assessors also reviewed some cases and other information demonstrating the practice of international cooperation taking into account The Gambia's risk and context. Only one (Macau China Interpol) out of 13 countries reviewed regarding the quality of international cooperation from the Global Network requested information from Interpol Gambia. INTERPOL Gambia did not execute the request. The other 12 had no prior experience on international cooperation with The Gambia.

8.2.1. Providing constructive and timely MLA and extradition

570. The Gambia has been inactive in providing formal international cooperation, including extradition and MLA. The Attorney-General's Chambers (AGC) embedded in the Ministry of Justice is the Central Authority for the purposes of MLA and extradition requests made to The Gambia. The AG's Office has three staff who are responsible for processing requests for international cooperation along with their prosecution duties. While there are a few requests, these have not been executed. The growing number of MLA requests from five (05) in 2019 to twenty-three (23) in 2021 demonstrates the need to increase the resources and streamline processes of the AG's Chambers to absorb the MLA workload from the normal prosecution duties and facilitate the timely execution of requests.
571. In the Gambia, MLA requests made by foreign jurisdictions are forwarded through the Ministry of Foreign Affairs, International Cooperation and Gambians Abroad (MOFA) through diplomatic channels. The Solicitor General at the AGC is the focal person for MLA and extradition.
572. Since 2017, The Gambia has received 55 MLA requests through the MOFA, including a request each on ML and TF (see Table 8.1). Countries which made the MLA requests include the Netherlands (fraud, embezzlement, ML and participation in a criminal organisation with the intent to commit fraud), Italy (TF), Spain (confirmation of phone number), Germany (theft of an aircraft/procurement fraud), Sweden (identification of a Gambian national), USA (request for documents), and Sudan (theft of an aircraft/procurement fraud). The majority of the requests related to the interviewing of witnesses and suspects. The sources of the request reflect The Gambia's context as a transshipment point for illicit drugs and illegal rosewood trade, as well as a source and destination country for human trafficking, migrant smuggling and illicit trafficking in small arms.

Table 8.1 Incoming MLA requests received by The Gambia, Jan 2017 – Aug. 2021

MLA	2017	2018	2019	2020	2021	Total
Requests received on Predicate Offences	5	6	5	15	21	52
Requests on ML	-	1	-	-	1	2
Requests received on TF	-	-	-	-	1	1
Requests executed	-	-	-	-	-	0
Requests refused	-	-	-	-	-	0
Withdrawn	-	-	-	-	-	0
In progress	-	-	-	-	-	-
Total	5	7	5	15	23	55

Source: MoJ

573. Information provided by The Gambia showed limited referral for action beyond the MoJ. Most of the requests are being handled by the MoJ and are ongoing.
574. The Gambia did not execute any of the MLA requests received. The MLA process is designed to take about two months, but in practice no requests have been executed, meaning the average time for executing MLA is several years. While the authorities did not provide reasons for the non-execution of the requests, the AT believes that the lack of execution may emanate from inadequate training on international cooperation matters.
575. Co-operation and co-ordination with requesting States to facilitate the execution of requests, including addressing deficiencies in the requests and follow-up matters were demonstrated to some extent. However, the same is not the case regarding arrangements at the AGC to monitor the status of incoming MLA requests.
576. The Gambia did not provide information on MLA requests related to asset identification and freezing. There is no information regarding how The Gambian authorities carry out coercive measures (restraint, freezing orders) in response to international requests. There is no information regarding the freezing of funds of an international terrorist or coercive measures executed under an MLA or their use as a priority, as well as reasons for refusal and abandonment of such requests.
577. There is no data or statistics regarding the number of requests refused or abandoned, the reasons for the refusal or abandonment of such requests was not provided. In the absence of execution, it is not possible to determine the quality and constructive nature of MLA requests related to asset forfeiture. Feedback received from the Global Network corroborates the country's inactivity regarding international cooperation. In addition, The Gambia has no case management system in place to process incoming MLAs and it appears that there is no system of prioritisation of cases. Given the increasing number of requests made to the country (twenty-one (21) in 2021 compared with five in 2019), the lack of mechanisms in place to monitor the movement and ensure timely execution of MLA requests appears to impede the efficient management and processing of incoming requests. The monitoring mechanism should enable the authorities to follow-up on MLA request and ensure timely communication with requesting States to address gaps in their requests.

Extradition

578. During the review period, The Gambia received five extradition requests related to unspecified predicate offences (see Box 8.2 below).
579. While the number of extradition requests remains low, the authorities, as in the case of MLA, demonstrated a limited ability to execute extradition requests successfully as the country did not execute any requests from 2017 to 2019. Four of the five requests were not executed because the requesting States did not have extradition agreements or treaties with The Gambia and were not Commonwealth countries. The remaining one, which was received from Senegal and related to a murder case, was also refused because the fugitive was a Gambian. The prosecution of the suspect is ongoing. There is no information on requests that has been withdrawn or whether they are still in progress.
580. There were no ML/TF related requests for extradition which is inconsistent with the risk profile of the country (see Table 8.2). However, considering that the absence of incoming requests is not within the control of The Gambia, the Assessors placed less weight on this in the overall conclusion.

Table 8.2 Incoming Extradition requests for ML, FT and associated Predicate Offences, Jan 2017- Aug 2021

EXTRADITION REQUESTS	2017	2018	2019	2020	2021	Total
Requests received from other countries (predicates)	-	1	1	2	1	5
Requests executed	-	-	-	-	-	-
Requests refused	-	1	-	-	-	-
Requests on ML	-	-	-	-	-	0
Requests on TF	-	-	-	-	-	0

Source: MoJ

Simplified extradition

581. The Gambia can provide simplified extradition based on the Agreement on Cooperation on Criminal Matters between the Police of member States of ECOWAS which permits the surrender of suspects or fugitives to another member State based on warrants of arrest or court judgments. Simplified measures are also possible where fugitive consents to waive formal extradition proceedings. The process entails a written request from the requesting state to the relevant authority based on an MoU and transmitted through the INTERPOL NCBs. On receipt of this request, the relevant agency forwards the request to surrender the individuals concerned to the Ministry of the Interior who after consideration of all surrounding circumstances consents in writing to the relevant agency to handover the wanted persons to the requesting state. This was done in the Mother Boat Drug Seizure case involving the trafficking of 750kgs of cocaine in Box 8.1 below leading to the surrender of a Lebanese and a Belgian by DLEAG to the OCRTIS in Senegal.

Case Box 8.1 - The Mother Boat Case – Senegal

On the night of 30-31 October 2019, the Senegalese navy and the Spanish Coast Guard intercepted a vessel named 'Ginaccious with a Dutch flag and another vessel without a flag. The search effected on the two vessels led to the discovery of 750kg of cocaine in the 1st vessel. The crew members Messrs JS, FB, SL, AM and SRC were arrested and arraigned before a court of law.

On the 1 November 2019, DLEAG seized a boat named "MOS52" at a harbour in Banjul and arrested two crew members: Mr. FDC, holder of a Belgian Passport and Mr. AL holder of a Moroccan passport and a Netherlands ID Card for investigation.

Investigation revealed that the boat and the two crew members were linked to the criminal entity that organised the trafficking of 750kg of cocaine seized in Senegal.

On 30 December 2019, National Central Bureau/Interpol of Senegal requested DLEAG through NCB/INTERPOL Gambia to hand over the two arrested suspects and the seized vessel to OCRTIS Senegal.

By letter dated 21st January 2020, the Ministry of Interior of Gambia approved Senegal's request and on 3 February 2020, the Director DLEAG conveyed the decision of Gambian Authorities to hand over the designated arrested persons including their travel documents but not the vessel to OCRTIS, Senegal for further investigation.

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

MLA and Extradition

MLA

582. The Gambian authorities seek assistance through the same channels for inbound requests. However, on-site meetings with Gambian authorities indicated that law enforcement agencies rely more on informal channels for co-operation with their counterparts and seldom consider MLA requests as investigative tools, as informal channels were considered to be more expedient. While informal co-operation is generally a faster means of obtaining the information requested, there are circumstances with transnational elements where formal MLA requests are required, such as the evidential use of materials in domestic proceedings and pursuing ML, associated predicate offences and TF.

583. Information provided by The Gambia indicates that since 2017, The Gambia has made eight requests for MLA mainly on predicate offences. There was one request for ML and none for TF. Two of the requests were made by the DLEAG to Canada, Turkey and USA in 2017 and 2021, respectively. The country could not establish the predicate offence in the first case. The requests sought related to the verification of business dealings of a foreign individual connected with an alleged ML case and the source of funds of his alleged customers in the USA and Canada. The second case related to drug trafficking and ML. A review of the case files showed that The Gambia's challenges emanate from its lack of response to requests for relevant information from foreign States, the quality of requests made and the absence of bilateral or multilateral agreements with the requested States as demonstrated in the cases in Box 8.2

Box 8.2

Example 1 - State v Maroune El Haoud and Others

In 2017, while investigating a suspected ML involving GMD 2,458,825.00(US\$45,576) by a Turkish national who absconded from The Gambia and seven other individuals, the DLEAG sought assistance from Canada, Turkey and USA to verify the business dealings of the Turkish and the sources of funds from his alleged customers in Canada and USA. The AGC provided the DLEAG with extracts from the MLA requirements of Canada and USA as a guide to forward a specific request. The AGC also advised on the absence of MLA Treaties between The Gambia, Canada and USA and the AGC's intension to rely on the principle of reciprocity. The Turkish Embassy, through the MOFA, requested the DLEAG to furnish the Embassy with factual information on the case and evidence gathered for further transmission to the relevant Turkish authorities for their thorough investigation. The DLEAG discontinued the investigation due to the lack of information from the USA and Canada. On 14 May 2018, the High Court ordered the release of the whole amount to the applicants.

Example 2 - BK case

During investigation into a drug and ML case in 2020, the DLEAG requested assistance from INTERPOL for the arrest and extradition of the suspect. The request did not mention the wanted person and his role in the drug trafficking offence. The INTERPOL advised the DLEAG to provide a summary of precise and clear facts describing the crime committed by the subject as the request did not mention the wanted person and the person's role in the drug trafficking. Following this, the DLEAG provided the relevant information using the "Draft Red Notice Application Form".

Extradition

584. The Gambia did not seek any extradition during the period under review. The low number of outgoing requests for ML and associated predicate offences is not commensurate with the risk profile of The Gambia, which tends towards transnational crime because of its geographical location as a transit point for illicit activities, such as the growing trend of drug trafficking. As shown in Table 8.3, more than ten percent of suspects arrested for drug related offences between 2017 and 2020 were foreign nationals comprising mainly West Africans and Europeans, while some of the Gambian nationals arrested were recruited by foreign nationals (some resident outside The Gambia) for a fee. The profile of the suspects should have necessitated some requests for extradition of suspects, especially in Senegal.
585. The Gambia did not make any TF-related request for extradition. The lack of outgoing MLA requests in relation to TF is consistent with The Gambia's TF profile as assessed by authorities.
586. The Gambia does not have guidelines or procedures for outgoing requests for international cooperation.

Table 8.3 Drug Offences with Possible International Elements, Jan. 2017 – Aug. 2021

Year	No. Cases	No. Arrests	Nationals	Foreigners	Predominant Foreign Nationality
2017	425	468	427	41	Senegal (27), Nigeria (5), Mali and Guinea Bissau (3 each), 3 other countries (1 each).
2018	668	686	610	76	Senegal (47), United Kingdom (8), Guinea Bissau (8), Nigeria (4), Guinea (2), 7 other countries (1 each).
2019	613	610	543	67	Senegal (38), Guinea Bissau (9), Nigeria and Guinea (5 each), United Kingdom and Lebanon (2 each).
2020	677	691	612	79	Senegal (47), Nigeria (12), France (4), Britain (4) Guinea (2), 4 other countries (1 each).
2021	..	70	66	4	Senegal (3), Guinea Bissau (1)
Total	2383	2525	3257	267	263 suspects from - Senegal (159), Nigeria (26), Mali (3) Guinea Bissau (22) United Kingdom (14), Guinea (9), Lebanon (2), France (4), and 14 other countries (1 each).

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

587. The Gambia makes use of other forms of international cooperation for AML/CFT purposes, through the LEAs and the FIU. The regulatory authorities in Gambia, especially the CBG, also collaborate and exchange information with home State regulatory authorities.

588. The Fraud Squad at the GPF conducts international cooperation between police authorities. The GPF can exchange information with more than 190 countries and regions via the ICPO-INTERPOL. It serves as a contact point for inquiry assistance from domestic to foreign investigation authorities. Relevant staff members are engaged in the exchange of information. As of 2021, the GPF had a specific arrangement with the Senegalese police regarding the exchange of criminal information, cooperation and exchange of information and experiences concerning police operations. Together with ICPO-INTERPOL mechanism, the operational needs of the GPF are covered by these arrangements to some extent.

589. As shown on Table 8.4, since 2017, the GPF has made 21 requests for information and related matters and received seven (07) responses from Senegal (2), the Netherlands (1), United Kingdom (1), South Africa, Congo and Malaysia (1), Guinea Bissau (1) and UAE (1). This demonstrates The Gambia's willingness to seek international cooperation in criminal matters. However, details of the requests were not available to enable the determination of effectiveness. The lack of responses should lead The Gambia to sign more bilateral agreements to pursue criminal matters, including ML with transnational elements.

Table 8.4 Requests made to INTERPOL by the Fraud Squad Unit, Jan 2017 – Aug 2021

Year	2017	2018	2019	2020	2021	Total
Number of requests	4	3	7	4	3	21
Response(s)	1	1	3	2	0	7

Source - Fraud Squad Unit

590. The Gambia is a member of international networks like, the Asset Recovery Inter-Agency Network for West Africa (ARINWA), the West African Network of Central Authorities and Prosecutors (WACAP) and various arrangements with foreign counterparts. These networks provide platforms for asset recovery practitioners in participating countries to exchange information in ML, confiscation and promote mutual legal assistance

mechanisms among prosecutors in different countries, particularly those responsible for international cooperation in criminal matters, among other things. However, The Gambia did not demonstrate how it has leveraged these networks to seek cooperation.

FIU

591. The FIU co-operates with foreign FIUs, including members of the Egmont Group, and regardless of the nature of its counterpart FIU (e.g. administrative, law enforcement, judicial or other). The FIU is a member of the Forum of Financial Intelligence Units of GIABA Member States which aims to strengthen cooperation amongst members in exchanging relevant information on ML/TF matters or performing joint actions such as typologies studies. The Forum meets at the margins of GIABA Plenary meetings. The FIU signed co-operation agreements with the other sixteen members of the Forum and another foreign counterpart. The FIU is not a member of the Egmont Group. Its non-membership of the Egmont Group and, the number of MoUs limits its ability to cooperate with the widest range of foreign counterparts. The FIU has submitted an unconditional application for membership to the Egmont Group and is fully engaged in the application process. Consequently, the first Onsite Review for the membership was undertaken in 2018.
592. The FIU exchanges information through a secure official email address. Since 2017, the FIU has made nine (09) information requests. The countries that received the requests were Hong Kong (02), while the Comoros Islands, Ghana, India, Morocco, Netherlands, Nigeria and the United Kingdom received one request each. Only Ghana responded to the request made to it (see Box 8.2). Notwithstanding the lack of responses, the of requests made to these countries is inconsistent with The Gambia's risk profile and questions the FIU's basis for signing these MOUs. Table 8.5 provides a breakdown of statistics of requests made by the FIU since 2017.

Table 8.5. Number of requests made by the FIU to Foreign Counterparts & Responses Received, Jan 2017-Aug 2021

Year	2017	2018	2019	2020	2021	Total
Request(s)	-	2	2	4	1	9
Response(s)	-	0	0	1	0	1

Source - FIU

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

Exchange of Information between FIUs

593. FIU provides information to foreign FIUs upon request. The average response timelines for requests range from two to nine months which appears excessive.
594. Information is exchanged with a limited number of foreign counterparts, both within and outside the subregion. Since 2017, the FIU has received nine (09) requests and responded to five (05) of the requests (see Table 8.4). Senegal is the top requesting country with three requests followed by France and Sierra Leone with two requests each. Bangladesh and Liberia made the least number of requests (one each). The FIU responded to the requests of Bangladesh and Liberia, while the remaining countries received a response each. FIU information indicates that responses to the remaining four requests are pending as such none has been refused or withdrawn. However, no reasons were given for the delays. There is no information on the nature of the requests made and feedback from the international community regarding the quality of the assistance provided by the FIU.

595. The FIU demonstrated no spontaneous dissemination of information to foreign FIUs and other foreign competent authorities because it saw no reason to disseminate. As noted under IO.6, the lack of adequate resources impeded the conduct of strategic analysis which is critical to identifying emerging risks and assisting law enforcement to pursue potential ML investigations and contribute to the broader AML/CFT initiatives in the country.
596. Overall, the Unit has demonstrated active assistance to foreign counterparts to a good extent but needs to improve on the timelines for responding to requests. The FIU also needs to make good efforts in spontaneous dissemination of information to relevant foreign authorities. The conduct of strategic analysis could enhance the FIU's proactive approach to provide assistance internationally.
597. The FIU has no formal procedures, including timelines for processing received requests. The FIU should have a case management system in place to track and monitor information requested and exchanged, including responses received from other jurisdictions, and a mechanism to follow up on the requests.

Table 8.6 Requests made to the FIU by Foreign Counterparts & Responses Provided, Jan 2017-Aug 2021

Year	2017	2018	2019	2020	2021	Total
Request(s)	2	-	1	3	3	9
Response(s)	2	-	1	1	1	5

Exchange of information between financial supervisors

The FIU

598. As the AML/CFT supervisor, the FIU did not demonstrate cooperation, including exchanges of AML/CFT related information, participation in bilateral meetings, technical assistance programmes or joint examinations with its foreign counterpart supervisors. Overall, considering that the FIU is the sole AML/CFT supervisory authority of the most important financial sectors in The Gambia, some of which are subsidiaries of foreign institutions (particularly Nigerian banks), the lack of co-operation with its foreign counterparts constitutes a serious shortcoming.

Central Bank of Gambia

599. As the main regulator of FIs in The Gambia, the CBG exchanges regulatory and prudential information with foreign counterparts to a limited extent. International cooperation is carried out in the framework of the College of Supervisors of the West Africa Monetary Zone (CSWAMZ) on which Senegal sits as an observer⁹⁶. Since 2017, the CBG has shared information with other counterparts in the region through the CSWAMZ.

⁹⁶ The CSWAMZ meets once in a quarter to discuss developments and challenges relating to the banking and financial sectors, among other matters. Since 2017, the CBG has shared information with other counterparts in the region through the CSWAMZ.

600. Considering the dominance of Nigerian banks in The Gambia, the CBG has signed an MOU with the Central Bank of Nigeria (CBN) to ensure that the operations of the cross-border branches, representative offices and subsidiaries of banking organisations under their jurisdictions are prudently conducted. It is also to ensure consolidated banking supervision. The MoU recognises the importance of mutual assistance and provides for information sharing. However, the CBG did not exchange any information with CBN specifically for AML/CFT purposes. This lack of action may be attributed to the lack of powers under the AML/CFT Act as a financial supervisor.

Exchange of information between law enforcement authorities

Law Enforcement Agencies

601. LEAs in The Gambia can exchange information with their foreign counterparts (in some cases this is subject to a data sharing agreement or memorandum of understanding). The LEAs also exchange information through liaison officers at the embassies.

GPF

602. The Police exchanges information with counterparts typically channelled through the INTERPOL platform. INTERPOL Gambia has a manual filing system to track incoming and outgoing requests. Notwithstanding, responses to the requests appear to be timely and adequate. Authorities also utilise the West Africa Police Information System (WAPIS) to transfer and hand over suspects to foreign countries in the region. GPF INTERPOL demonstrated an understanding of the INTERPOL processes and good collaboration between member States.

603. No statistics were provided by INTERPOL-Gambia regarding incoming requests making it difficult to do a critical analysis of the information provided.

604. Similarly, However, INTERPOL and NCB of Gambia demonstrated an understanding of the INTERPOL procedure and collaboration with member States and provided statistics to support the assertion that they had handled a number of simplified rendition cases. Authorities from NCB indicated that there has been no successful hand over of suspects from NCB to other jurisdictions and hand over of suspect from NCB Banjul to other jurisdictions.

605. The DLEAG demonstrated limited cooperation with its foreign counterparts. In general, there is minimal cooperation with their foreign counterparts as regards sharing information and FIU noted that they rely on DLEAG and the GPF for this purpose. The ML offences investigated so far save for one, do not have trans-national elements. Nevertheless, other associated predicate offences have transnational elements. In particular, drug trafficking which has transnational elements has been indicated as posing significant threat in the country.

606. Regarding exchange of information through informal networks, in 2021, The Gambia received one request through ARINWA to provide any information about all kinds of assets possessed by two foreigners suspected of engaging in fraudulent manoeuvres to evade the tax due in France by organising hunting holidays in The Gambia for French clients. The Gambia is yet to respond to this request.

International cooperation between non-counterparts (see criterion 40.20)

607. No legal provision empowers competent authorities to co-operate with non-counterparts. However, the authorities advised that no legal provision prevents them from

requesting information indirectly foreign authorities, regardless of their nature. They also advised that the principle of reciprocity is prerequisite for this cooperation. The Gambia provided one case evidencing cooperation with non-counterparts (see the BK Case in Box 8.2).

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

608. Competent authorities can share basic information on legal persons registered in The Gambia. The Office of the Registrar of Companies can provide basic information on legal persons upon request from LEAs and by extension upon request from international counterparts. The FIU upon receipt of a request from an international counterpart requesting for basic information on legal persons will make a request for the information to the ORC, which holds the information. Under the existing legislative framework, legal persons and arrangements are only mandated to disclose BO information if they are public companies. However, FIs are mandated to obtain and maintain basic owner information. Banks in particular, typically obtain and keep basic information when conducting CDD and this information is accessible upon request by LEAs and the FIU. Thus, Gambian authorities are able to provide basic information held by FIs, especially commercial banks to foreign counterparts if requested. However, it appears The Gambia has not received such a request. Thus, the timelines of a response to a request for such information cannot be ascertained. The ORC has not yet commenced the process of fully implementing a Beneficial Ownership Disclosure Road Map therefore, BO information is yet to be collected and maintained at the ORC.

Overall conclusions on IO.2

609. The Gambia has a relatively sound framework for both formal and informal international cooperation and has executed no extradition requests. The lack of responses to MLA requests means the average response time is several years or more. The Gambia has made a negligible number of formal requests for international cooperation. The lack of execution of requests received and the number of outgoing requests for formal and informal cooperation related to ML is inconsistent with The Gambia's risk profile and reflects LEA's focus on predicate offence investigations and the negligible number of ML investigations described under IO.7. There has been no international cooperation by the FIU in relation to AML/CFT supervisory matters. There has also been no cooperation related to the exchange of BO information. Overall, given the risk profile of the country, The Gambia does not appear to engage proactively in international cooperation with counterparts and fundamental improvements are needed.

610. **The Gambia is rated as having a Low level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

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 Mutual Evaluation Report.

As noted in section 1.4.2 of this report, the subsidiary legislation issued by The Gambian authorities that have not been published in the Gazette including the AML/CFT Guidelines for FIs, the AML/CFT Guidelines for DNFBPs; Regulation for the Provision of Mobile Money Services, and the Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures, were not taken into account in assessing The Gambia's technical compliance with the FATF Recommendations as they are not enforceable. Consequently, throughout the TC Annex, where the analysis of any criterion relies solely on the AML/CFT Guidelines/Regulation, the criterion is considered as "Not Met" even though the Guidelines/Regulation is referenced. In addition, where the relevant law is cited and it is not sufficient but complimented by the AML/CFT Guidelines/Regulation, the rating will also be impacted accordingly

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 2008. This report is available from www.giaba.org.

Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new Recommendation which was not evaluated in the 1st MER of the Gambia by GIABA.

Criterion 1.1 - The Gambia identified and assessed its ML/TF risks through the conduct of the first National Risk Assessment (NRA) concluded in 2020. The NRA exercise was coordinated and led by the FIU using the World Bank methodology and the FATF Guidance. The process had the active participation of officials from both public and private institutions who were put into technical working groups.

The assessment considered the national threats and vulnerabilities of specific sectors against the national combating ability of The Gambia. It also identified the most prevalent proceeds generating predicate offences committed in the Gambia to include fraud, drug trafficking, theft/stealing, corruption & bribery, and robbery. The overall national ML risk was assessed as "medium", while the national TF risk was assessed as "low". However, the assessment did not cover proliferation financing, legal persons and arrangements, virtual assets and VASPs and other potential risk areas.

Some national authorities have conducted thematic and standalone assessments of relevance to ML/TF risks, for example on trends in illicit drugs trafficking and cash smuggling through the Banjul International Airport (JAITF, 2018), or on ML/TF risks in the real estate sector (GCCPC) and the banking sector (FIU, 2021). The pre-existing and post-NRA risk assessments or risk typologies were used as corroborating assessments to confirm the main ML/TF risks to which The Gambia faces. For example, the FIU's post NRA banking sector ML/FT risk assessment served as an update of the NRA and therefore enhanced FIU's understanding of the sector in more detail at the institutional and sectoral levels, in addition to the NRA findings.

Criterion 1.2 – Section 91 of the AML/CFT Act designates the National Coordinating Committee (NCC) as the body responsible for coordinating and fostering cooperation amongst key

stakeholders on all aspects related to the implementation of the AML/CFT Act. The Chair of the NCC appointed the FIU as the coordinator of the NRA exercise.

Criterion 1.3 – The Gambia has committed under Objective 5 of the NRA Action Plan to regularly update the NRA, with the next first update scheduled for December 2023. The banking sector risk assessment has already been carried out to update the ML/TF risks of the sector, thus updating the NRA.

Criterion 1.4 – Stakeholders were exposed to the findings of the NRA report during the validation workshop of the NRA held in November 2020. The FIU has commenced the dissemination of hard and electronic copies of the NRA report to stakeholders. However, there is no confidential version of the NRA. In addition, the Gambia has no specific mechanisms to provide information on the results of the risk assessment to all relevant competent authorities and self-regulatory bodies, FIs and DNFBBs.

Criterion 1.5 – Measures adopted by The Gambia to complement the application of RBA include: (i) to ensure that measures for preventing or mitigating ML/TF are commensurate with the risks identified and (ii) to produce an NRA Report and NRA-AP (the findings and recommendations in the NRA report will help inform the implementation of effective measures to mitigate the risks identified). The NRA-AP does not specifically address the allocation of resources or implementation of additional measures that would address the deficiencies identified by the NRA other than the need for more funding for AML/CFT programs. Also, the subjective assessment of the ML/TF risks by authorities may inhibit The Gambia’s ability to allocate adequate resources to implement appropriate prevention and mitigation measures at a national level.

Criterion 1.6 (N/A) – The Gambia has not exempted the application of any of the FATF Recommendations requiring FIs and DNFBBs to take certain actions even when there is a proven low risk of ML/TF. Consequently, The Gambia applies all the FATF Recommendations requiring FIs or DNFBBs to implement AML/CFT measures.

Criterion 1.7 –

- a) - The Gambia requires reporting entities to apply EDD measures where higher risks are identified (Para 2.30 & 3.24 of the AML/CFT Guidelines for FIs and para 5.1 of the AML/CFT Guidelines DNFBBs) including greater scrutiny on PEP accounts and/or transactions monitoring to detect patterns of transactions that may suggest abuse of office or other corrupt practices or misuse of government property (para 4.96(iii) of the AML/CFT guidelines for FIs, 2015).
- b) - When conducting risk assessments, reporting entities are obliged to consider potential ML/TF risks arising from the transactions, products/ services and delivery channels including new technologies (Para 2.13, AML/CFT Guidelines for FIs 2015).

Criterion 1.8 - Reporting Entities are allowed to apply simplified measures where the risks are generally low (–Para 2.30 and 5.3 of the AML/CFT guidelines for FIs and DNFBBs respectively) and on the basis of the ML/TF risks posed by the client. risk assessment framework must be flexible because the entity's risk profile may change. The reporting entity must also be able to identify and monitor significant changes in its ML/TF risks and amend its procedures accordingly” (Para 2.5 of AML/CFT Act). Para.5.4 of the same guidelines further require DNFBBs to adopt a risk-based approach (RBA) in risk ranking existing clients into different risk classes (low, medium and high) or by adopting a numbering system of 1 to 5 with 1 being the lowest risk and 5 being the highest risk. The risk rankings of clients shall be documented and shall be conducted for all existing customers.

Criterion 1.9 – All FIs are required to conduct ML/TF risk assessments and adopt appropriate internal control measures to manage and monitor the risk in line with the requirement of R.1 (Para.2.2 of the AML/CFT guidelines for FIs, 2015), while Para.2.1 of the AML/CFT guidelines for DNFBPs 2016 requires all reporting entities, including the DNFBPs, to conduct counter ML and combating of terrorism financing risk assessment on an annual basis and report the result of their assessment to the FIU of The Gambia and their regulators.

Criterion 1.10 – The obligation for reporting entities to *identify, assess and understand* their ML/TF risks is covered under the AML/CFT guidelines for FIs 2015 and DNFBPs, 2016. It also provides for all reporting entities to document and keep their ML/TF risk assessment up to date and have a mechanism for providing the result of their assessment to competent authorities.

- a) - Para.2.6 of the AML/CFT Guidelines for FIs require all FIs to document their risk assessment in writing and keep them up-to-date. Each reporting entity, regardless of its size and complexity, is required to develop adequate risk management systems for ML/TF. While Para.8.17 of the AML/CFT Guidelines for DNFBPs requires DNFBPs to keep the ML/TF risk assessment up-to-date by setting up and describing the process of periodically reviewing the risk assessment. The entity must therefore also stay up-to-date with ML/TF methods, trends and international developments in the area of AML/CFT and domestic legislation.
- b) – Para. 2.6 of the AML/CFT Guidelines requires all FIs to conduct a business-related assessment of their ML/TF risks. To execute this, FIs are required to take appropriate steps to identify and assess the ML/TF risks related to their customers, countries or geographical areas, products, services, transactions and delivery channels. Risk assessment is necessary as it enables a reporting entity to focus its AML/CFT efforts and to adopt appropriate measures to optimally allocate the available resources while S.8.5 and S.2.3 of the AML/CTF guidelines for DNFBPs, 2016, requires all DNFBPs to take appropriate steps to identify and assess the ML/TF risks related to their customers, countries or geographic areas, products, services, transactions and delivery channels.
- c) - The AML/CFT Guidelines for FIs and DNFBPs require all FIs (S.2.6) and DNFBPs (S.8.5 and S.2.1) to keep their risk assessments up to date.
- d) - The mechanism for providing the risk assessment information to competent authorities is maintained in Para.2.2 of the AML/CFT guidelines for FIs: “...The results of the risk assessment should be communicated to the Board of Directors, Senior Management and other staff of the FI, the appropriate supervisor, and the FIU. While Para .2.1 of the AML/CTF guidelines for DNFBPs 2016 state: “All reporting entities, including the DNFBPs, are required to conduct ML/TF risk assessment annually and report the result of their assessment to the FIU of The Gambia and their regulators.”

Criterion 1.11 [Not Met]:

- a. - FIs and DNFBPs are required to develop and implement programmes, including internal policies, procedures and controls for the prevention of ML/TF. The policies, procedures and controls are to be approved by senior management (Paras. 2.22 and 2.23 AML/CFT Guidelines for FIs and Paras. 8.5 and 8.14 of the AML/CFT Guidelines for DNFBPs).
- b. – Para.8.15 of the AML/CFT guidelines for DNFBPs and Para.2.24 of the AML/CFT Guidelines for FIs states that “Management should be able to adequately manage ML/TF risks, verify the level of implementation and functioning of the ML/TF risk controls, and to ascertain that the risk management measures correspond to the entity’s risk analysis. The entity should therefore establish an appropriate and continuing process for ML/TF risk monitoring and review.

Para 2.25 of the same guidelines states further that monitoring of ML/TF risks should include; (i) The results of the monitoring process, (ii) Findings of internal controls, (iii) Reports of organisational units in charge of compliance and risk management, (iv) Reports of internal auditing, and reports of the person authorised for detecting, (v) Monitoring and reporting of STR to the FIU and (vi) Findings contained in the supervisors inspection reports on AML/CFT.

- c. Para.5.1 of the AML/CFT guidelines for DNFBPs requires DNFBPs to apply EDD on customers assessed as presenting a higher risk for ML/TF on a risk sensitive basis. Para.2.30 of the AML/CFT Guidelines for FIs requires FIs to adopt RBA and direct more resources to high-risk areas, while Para.2.23 of the AML/CFT guidelines for FIs 2015 further states that “policies and procedures should enable the entity to effectively manage and mitigate the identified risks and focus its efforts on areas in its business, which are more vulnerable to ML/TF misuse.

Criterion 1.12 – The Gambia permits simplified due diligence measures where low risk has been identified by reporting entities and criteria 1.9 to 1.11 are met. Simplified due diligence is not permitted when FIs (Para.2.30 of the AML/CFT Guidelines for FIs) or DNFBPs (Para.2.4 and Para.2.5 of the AML/CTF Guidelines for DNFBPs) suspect any crime, including ML or TF.

Weighting and Conclusion

The Gambia identified and assessed its ML/TF risks through the conduct of the first National Risk Assessment (NRA). In addition, some national authorities have conducted thematic and standalone assessments of relevance to ML/TF risks. However, the NRA did not cover proliferation financing, legal persons and arrangements, virtual assets and VASPs and other potential risk areas. The country has communicated the results of the NRA to some stakeholders. The NRA-AP does not specifically address the allocation of resources or implementation of additional measures that would address the deficiencies identified by the NRA other than the need for more funding for AML/CFT programmes. Also, the measures to address criteria 1.7 to 1.12 are set out in the Guidelines which is not an enforceable means and therefore not taken into account in rating compliance with those criteria. These are considered moderate shortcomings in the broader context of The Gambia. The team gave significant consideration to c1.1 in the overall rating of this Recommendation. **R. 1 is rated PC.**

Recommendation 2 - National Cooperation and Coordination

The Gambia was rated NC with former R.31 in its first MER due to the following deficiencies: no agency was mandated to coordinate the Government’s AML/CFT policies and international relations; the mechanisms for domestic cooperation and coordination were not effective, and the level of consultation among the critical AML/CFT bodies was minimal.

Criterion 2.1 – The Gambia’s 5-year National Strategy on AML/CFT expired in 2019. However, the country recently developed a four-year NRA Action Plan (2020-2023) following the completion of the National Risk Assessment (NRA) Exercise in 2019. The Action plan is designed to address the identified risks in the NRA under 6 key objectives. Furthermore, there are also other policies/strategies that complement the NRA-AP.

Criterion 2.2 – National Coordinating Committee (NCC)⁹⁷ as established by S.91 of the AML/CFT Act, is the highest AML/CFT policy-making body in the Gambia and is responsible for coordinating and

⁹⁷ The NCC comprises of (a) Permanent Secretary of the Ministry of Finance and Economic Affairs; (b) Solicitor General and Legal Secretary; (c) Permanent Secretary of the Ministry of Interior; (d) First Deputy Governor of the Central Bank of The Gambia; (e) Director General of the National Drug Enforcement Agency; (f) Inspector General

fostering cooperation amongst key stakeholders. The FIU was appointed by the Chairman of the Committee to be the Secretariat for the Committee.

Criterion 2.3 – The NCC serves as the platform for policymakers to cooperate and coordinate in relation to the development and implementation of AML/CFT Policies in the Gambia. At the operational level, there are also mechanisms for cooperation among domestic stakeholders too. These include the JAITF comprising representatives of Law Enforcement Agencies, which cooperate to identify and apprehend drug trafficking, smuggling and other related crimes at the airport. JAITF is focused on ML related to drug trafficking and is spearheaded by the DLEAG all the JAITF members signing MoU agreeing to cooperate with one another according to agreed procedures. There is also mechanisms for domestic collaboration amongst the various LEAs such as the GPF, DLEA, SIS and Customs. These collaborations are achieved via established platforms like the Joint Operations Centre (JOC) where the entire LEAs in the country have representatives working together on daily operational activities.

There is also good cooperation between LEAs and the FIU. For example, the GPF cooperates very well with the FIU during the period under review. From 2017 to 2021, the GPF has sent 85 requests to the FIU on cases under investigation, out of which 82 were responded to by the FIU so far. There were also 4 cases under the GPF's investigation that originated from the FIU showing significant level of cooperation between the two authorities.

At the supervisory level, the FIU being the apex AML/CFT Supervisor, cooperates well with the CBG to develop a common understanding of risk, development of policies/strategies, among other objectives. They cooperate in areas of joint AML/CFT examinations of banks, issuance of regulations and guidance to FIs, training, and sharing of information, among others. However, cooperation between FIU/CBG and other supervisors especially the DNFBPs sector is weak and evolving.

The Gambia also has a number of platforms that bring together public and private sector representatives. For example, the CBG and some private sector investors have established the GAMSWITCH aimed at facilitating financial inclusion through digital technology. It provides an avenue for expanding digital financial services through POS, ATMs, internet banking, and has the potential to reduce the level of cash transactions.

Criterion 2.4 – The Gambia has not adopted any coordination mechanism to combat PF.

Criterion 2.5 – The Gambia does not have a national data protection and privacy legislation that conflict with AML/CFT requirements. However, there are independent agency policies on Data Protection and Privacy rules guiding data usage and exchange of information. For example, s5 of the FIU Information Communication Technology Security Policy provides the standards on data confidentiality and integrity. Additionally, S.5 (b) & (P) of the AML/CFT Act provides for the exchange of information, including publicly available information, amongst agencies and/or the private sector in furtherance of the AML/CFT Regime.

Weighting and Conclusion

The Gambia has established a National Coordination Committee as the highest policy making body on AML/CFT matters composed of key stakeholders. The NCC is responsible for coordinating and fostering

of Police; (g) Commissioner of Customs; (h) Director General of Immigration; (i) Director General of the National Intelligence Agency; The following Ministries were Co-opted: (j) Permanent Secretary of the Ministry of Lands and Regional Governments; (k) Permanent Secretary of the Ministry of Foreign Affairs; (l) Permanent Secretary of the Ministry of Trade, Regional Integration and Employment, Gambia Institute of Chartered Accountants, Geological Department

cooperation amongst key stakeholders. While Gambia's 5-year national AML/CFT strategy expired in 2019, an NRA Action Plan for 2020-2023 was developed to address the identified risks in the NRA. There is no coordination mechanism in place to combat PF. **R. 2 is rated LC.**

Recommendation 3 Money Laundering Offence

The first MER rated The Gambia PC on the former R.1 and LC on the former R.2. The technical deficiencies related to the lack of criminalisation of the full range of predicate offences (counterfeiting and piracy of products, smuggling, piracy, illicit arms trafficking and insider trading and market manipulation) and a two-year threshold for predicate offences. The assessment also identified technical deficiencies on R.1 and R.2 related to ambiguity in designating the authorities responsible for the implementation of the Money Laundering Act (ML Act), the lack of training and resources for investigators and prosecutors responsible for the implementation of the AML Act, and the lack of effectiveness of the ML Act, now covered, respectively, under R.30, R.31 and IO.7.

Criterion 3.1 -The Gambia has criminalised ML in line with the Vienna and Palermo Conventions to a large extent (§§1 and 22, AML/CFT Act). The ML offence covers the following activities:

- a) the conversion or transfer of property knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the proceeds or helping any person who is involved in the commission of the predicate offences to evade the legal consequences of his or her action;
- b) the concealment or disguise of the true nature, source, location, disposition, movement, or ownership of rights in respect of property knowing that such property is the proceeds of crime; and
- c) the acquisition, possession or use of property knowing at the time of receipt that such property is the proceeds of crime.

Criterion 3.2 - The Gambia extends the ML offence to the range of offences listed in Schedule II of the AML/CFT Act (§2, AML/CFT Act). The lists cover the categories of predicate offences set out in the Glossary to the FATF Methodology, except tax crimes. While the tax evasion offence is broad, it refers to the evasion of import and export taxes (§172, Customs Act, CAP 86:01). Therefore, the ML offence does not cover tax evasion. The Gambia considers the ML threat of tax evasion as "medium-high" due to inadequate tax database, registration and monitoring systems, with low use of technology.

Market manipulation and migrant smuggling are not criminalised. Migrant smuggling poses significant risk to The Gambia due to the absence of a legal framework and its porous borders, while market manipulation is considered to pose low risks to the country due to the absence of a capital market in The Gambia. Assessors consider the non- criminalisation of migrant smuggling and market manipulation, and the non-inclusion of tax crimes as predicate offences as moderate shortcomings in the AML/CFT system of The Gambia.

Criterion 3.3 (N/A) - The Gambia does not apply a threshold-based approach.

Criterion 3.4 - The ML offence extends to any property that is derived, obtained or realised, directly or indirectly, by any person from criminal conduct. The definition of property covers currency and asset of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing the title to, or interest in such assets, including but not limited to bank cheque, money order, shares, securities, bond draft, letter of credit, whether situated in The Gambia or elsewhere, including legal and equitable interest in such property) and proceeds (§2, AML/CFT Act). These properties are regardless of their value and the definition is broad enough to cover virtual assets.

Criterion 3.5 The Gambia has no specific provision indicating that when proving that property be the proceeds of crime, it is not necessary that a person is convicted of a predicate offence. However, the country

has secured a conviction for attempted ML in the absence of conviction for the predicate offence. This means that ML conviction can be possible without conviction or proof of the predicate offence.

Criterion 3.6 - Under section 4(2) of the Criminal Code 1933, unlawful activity includes those activities that occurred outside of The Gambia. Therefore, The Gambia can prosecute offences committed outside The Gambia (§4, Criminal Code).

Criterion 3.7 - The ML offence also applies to persons who committed the predicate offence where the person converts or transfers property to conceal or disguise the illicit origin of the property (§§ 2 & 22, AML/CFT Act).

Criterion 3.8 - It is possible for the intent and knowledge required to prove an ML offence to be inferred from objective factual circumstances (§24(4), AML/CFT Act). In the case of a legal person, it is sufficient for the prosecution to show that a director, officer, employee or agent of the legal person, acting in the course of employment or agency intended to commit the ML offence (§24(5), AML/CFT Act). The intent required may also be established when determining the reasonableness of a decision made or an action taken. The court is required to determine the matter objectively having regard to the factual and surrounding circumstances of the decision or action (§38, AML/CFT Act). (See also Lt. Gen. L.T. Tamba & S.F, V The State (2014-2015) GSCLR at 223 which considers that circumstantial evidence can be sufficient to ground a conviction, but the conclusions reached from the circumstances must be through deductive reasoning and not speculation; and it must be open to only one interpretation that points exclusively to the guilt of the accused).

Criterion 3.9 - The ML offences are punishable by up to ten years' imprisonment (§22, AML/CFT Act). There is no option of a fine against a natural person convicted of ML, or a specific breakdown of punishment for the different degrees of involvement in ML activities, as well as aggravating circumstances and aggravating circumstances involving a criminal group. The range of sanctions for ML is higher than those applicable to some other economic crimes under The Gambian legal system, such as corruption and extortion which range from three to seven years' imprisonment. Therefore, the applicable sanctions for ML are dissuasive but not sufficiently proportionate.

Criterion 3.10 - Criminal liability and proportionate, dissuasive sanctions apply to legal persons convicted of ML, without prejudice to the criminal liability of natural persons (§§22, 24 and 88, AML/CFT Act). Sanctions against legal persons include a fine of not less than ten million Dalasis (approx. US\$ 185,356), revocation of licence, permanent ban or suspension from business or professional activity for up to five years, cancellation of professional membership, (§§22 and 88, AML/CFT Act). These sanctions also apply to directors, employees or agents of reporting entities (§§ 22, AML/CFT Act), directors, officers, partners, controllers, principals and agents of corporate entities (§ 88-90, AML/CFT ACT). They are liable to a term of imprisonment of not less than ten years, without the option of a fine. The supervisory authority or self-regulatory body (SRB) of the legal person can subject the legal person to civil or administrative proceedings and revocation of licence or cancellation of the membership (§24, AML/CFT Act).

Criterion 3.11 – There is a range of ancillary offences to the ML offence, including participation in, association with or conspiracy to commit, aiding and abetting, facilitating and counselling the commission of the specified ML offences (§§2, AML/CFT Act and 111, Criminal Procedure Code). Ancillary offences are punishable as the principal offence (§23, Criminal Code).

Weighting and Conclusion

The Gambia has met most of the criteria. However, there are concerns regarding the scope of ML predicate offences, which exclude tax evasion, migrant smuggling and market manipulation. The Gambia lacks specific breakdown of punishment for different degrees of involvement in ML activities which is minor, since the same impliedly is provided for under section 22 of the AML/CFT Act. Finally, the applicable sanctions for ML are dissuasive but not sufficiently proportionate to ML. The exclusion of tax evasion as

a predicate offence, and the absence of a legal framework on migrant smuggling and the country's porous borders relatively given that migrant smuggling also poses a significant risk and an emerging threat (both internal and external) to The Gambia. **R. 3 is rated PC.**

Recommendation 4 – Confiscation and Provisional Measures

In its 1st MER, The Gambia was rated LC with these requirements. The MER identified effectiveness issues related to the mechanisms for efficient tracing and identification of ML and TF cases, the capacity of the FIU to receive and analyse STR to assist the LEAs in the investigation of ML/TF cases, and the lack of training for personnel of LEAs, the FIU, the CBG and the prosecutors on the application of freezing and confiscation measures. These issues are discussed under IO.8.

Criterion 4.1 - To some extent, The Gambia has measures, including legislative measures, that enable the confiscation of the following, whether held by criminal defendants or by third parties:

- a) - property laundered (§57(1)(a), AML/CFT Act).
- b) – proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in, ML or predicate offences (§57(2)(b), (c) and (e), AML/CFT Act).
- c) - property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism and terrorist acts (§57(2)(b), (d) and (e), AML/CFT Act). There are no measures to confiscate such property in relation to terrorist organisations.

The Court can make a confiscation order in respect of property mentioned in (a) to (c) on conviction of a person of a criminal conduct, ML/TF and on satisfaction of the Court that the person derived, obtained, or realised property directly from the commission of the offence and on application by the competent authority or a person authorised by the competent authority (§57(1), AML/CFT Act).

- d) - *property of corresponding value* where the property, instrument or any part of the property or instrument, or interest thereof cannot be made subject to a forfeiture or confiscation order, and in particular (a) cannot, on exercise of due diligence be located; (b) has been transferred to a third party in good faith under a lawful transaction; (c) is located outside the country; (d) has been substantially diminished in value or rendered worthless; or (e) has been co-mingled with other property that cannot be divided without difficulty. Consequently, the Court can order the perpetrator to pay an amount equal to the benefit derived (§57 (3), AML/CFT Act).

Criterion 4.2 [Met]

- a) – The Gambia has legislative measures to identify, trace and evaluate property subject to confiscation (§§61, AML/CFT; 70, 71, 73, 94(1),97 and 104, DCA; and 36(3),39 and 43, ACCA). These measures are undertaken through production orders, including information relating to property and financial records, tracking and monitoring orders, and powers of entry, search, and seizure.
- b) - The powers available to seize or freeze assets exist in various legislations. These include sections 51 and 56 of the AML/ CFT Act; section 38 of the Anti-Corruption Commission Act; section 104 of the Drugs Control Act 2003; §§104,137,146,147,153,154 and 157, Customs Act, and the ITFR. A restraining order prohibiting a person from disposing of or otherwise dealing with such property can also be made (§51, AML/CFT Act). Sections 75 and 51 of the AML/CFT Act give LEAs the option to decide to opt for procedures under either section of the law. Section 75 covers freezing and forfeiture under international cooperation, while section 51 provides for general restraint of property. Furthermore, any police officer may seize property if the officer has reasonable grounds to believe that the property will be so disposed of or removed (§56, AML/CFT Act).
- c) - The court has powers to set aside the disposal or dealing with the property and can also void actions taken to prejudice competent authority's ability to freeze, seize or recover property subject to confiscation (§§ 54, 56 and 60, AML/CFT Act).

- d) **[Met]** - A wide range of investigative powers including those described in R. 31 such as the production of records held by financial institutions, the search of persons and premises, taking witness statements, seizing and obtaining evidence, undercover operations, intercepting communications, accessing computer systems, controlled delivery and inspection of a consignment by mail through the postal services are available to various competent authorities under their respective legislations (§54, AML/CFT Act and §§21,36,39,41 and 43, ACA; §63, 64, 65, 66 and 67, DCA 2003).

Criterion 4.3 - The Gambia protects the rights of bona fide third parties who obtain property in good faith. The interested party must file a claim of interest before the court within thirty days. The court is obliged to consider the interest of the third party (§§ 57(5), AML/CFT Act).

Criterion 4.4 - Section 51 of the AML/CFT Act provides for the disposal of frozen, seized, or confiscated property. Sections 51 of the AML/ CFT Act empower the court to give directions as to the disposal of property. Section 58 of the AML/CFT Act vests confiscated property absolutely in the Government and requires their disposal consistent with the directions of the court. There are no mechanisms in place to manage frozen or seized properties before the final disposal of such properties.

Weighting and Conclusion

The Gambia meets most of the criteria under R.4. Deficiencies identified are the lack of measures to confiscate property related to terrorist organisations and the absence of mechanisms to manage frozen or seized properties before the final disposal of such properties. **R. 4 is rated LC.**

Recommendation 5 - Terrorist Financing Offence

In its last MER, The Gambia was rated LC on SR II. The deficiencies related to issues of effectiveness now discussed under IO.9.

Criterion 5.1 - The AML/CFT Act and the Anti-Terrorism Act, 2003 (Act No. 6) (amended by Act No. 2 of 2008 (ATA)), create TF offences that extend to terrorist acts under the ATA and the provision or collection of funds to individual terrorists or terrorist organisations. Terrorist offences cover acts that constitute offences under the ATA, a counter-terrorism Convention, and those intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the acts, by their nature or context, aim to intimidate a population or to compel a government or an international organisation to do or to abstain from doing any act (§2, AML/CFT Act and ATAA). These are in line with Article 2.1(a) and (b) of the TF Convention.

The TF offence applies to any person who wilfully provides (whether by giving, lending or otherwise making available), collects funds or property, invites a person to provide (facilitates) financial or other related services with the intention that the funds or property should be used, or having reasonable grounds to believe that they are to be used, in whole or in part, to carry out a terrorist act (§§23, AML/CFT Act/§§6, 11(1), 12(1), 13(1), 18-22 ATA).

The TF offence also applies to the solicitation of or tendering for support for an act of terrorism or a terrorist organisation (§6(a) and (b), ATA). Support includes the offer or provision of material assistance, weapons (including biological, chemical or nuclear weapons, explosives), training, transportation, false documentation or identification, offer or provision of moral assistance, including an invitation to adhere to a proscribed organisation (§6(4), ATA).

Section 13 of ATA focuses on the intention or knowledge that funds or property will be used in whole or in part to facilitate or carry out an act of terrorism or to benefit any person who is facilitating or carrying out an act of terrorism or be used by or for the benefit of a terrorist organisation.

The *mens rea* (intent) element covers the provision or collection of funds with the unlawful intention, as well as the unlawful knowledge, that they will be used to carry out a terrorist act (“with the intention that they should be used”, or “having reasonable grounds to believe”).

Criterion 5.2 - The TF offence extends to a person who wilfully provides or collects funds, directly or indirectly, with the intention that they should be used, or in the knowledge that they are to be used, in full or in part to facilitate or carry out an act of terrorism (§6§,11(1) and 12(1), 18,19,20 and 21ATA), or to benefit any person or terrorist group carrying out a terrorist act or benefit any person facilitating or carrying out a terrorist act or to be used by a terrorist organisation (§13(1), ATA. (See the definition of funds in criterion 5.3). The TF offence does not cover the financing of an individual terrorist for any purpose.

Criterion 5.2^{bis} - The TF offence does not specifically include financing the travel of individuals who travel to perpetrate, plan, prepare or participate in terrorist acts or provide or receive terrorist training. The Gambia seeks to rely on Section 35(1)(e) of the ATA prohibits any person, whether within or outside The Gambia, from giving money or goods to, or performing services for any other person or anybody or association of persons to support or promote incursions into foreign States to engage in hostile activities. Hostile activities are defined to include the overthrow by force or violence of the government of the foreign State, engaging in armed hostilities, causing, by force or violence, members of the public to be in fear of suffering or death or personal injury, causing death or injury to the head of state or other public office holders or damaging government property (§ 34 (3) ATA).

Also, section 36(1) of the ATA prohibits a person in The Gambia from recruiting another person to become a member or to serve in any capacity with a body or association of persons the objectives of which are, or include, engaging in a hostile activity in a foreign State. These provisions are not fully consistent with the requirements of criterion 5.2^{bis} as they do not cover the preparation or planning of terrorist acts or provision or receipt of terrorist training. Besides, they do not cover the full spectrum of terrorist acts (for example, treaty offences), including the intention to compel a government or an international organisation to do or to abstain from doing any act.

Criterion 5.3 - The definition of funds under the AML/CFT Act includes “financial assets, property of every kind, whether tangible or intangible, moveable or immovable, legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such funds or other assets, including but not limited to bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets (§2, AML/CFT Act). Property means “currency and asset of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible whether situated in the Gambia or elsewhere and includes any legal or equitable interest in any such property” (§2, AML/CFT Act). The words “however acquired” clearly covers property from a legitimate or illegitimate sources. The definition does not explicitly cover other assets which potentially may be used to obtain funds, goods or services.

Criterion 5.4 - The TF offence does not require that the funds have been used to carry out or attempt to carry out a terrorist act (§§11 and 12, ATA). Likewise, when representing acts of organisation, provision and collection of funds or assets of any kind to finance a terrorist organisation, a member or an individual terrorist with the intention that they are to be used or knowing that they will be used, in whole or in part, “in any type of terrorist activity or acts or to a terrorist organisation or its members, regardless of the link or the occurrence of the terrorist acts and even if they are not deployed in the national territory”.

Criterion 5.5 - It is possible to infer, from objective factual circumstances, the intent and knowledge required to prove the TF offence (§24(4), AML/CFT Act). Also, The Gambian authorities clarified that where there is a question whether an act was intentional or done with knowledge or intention, the fact that the act formed part of a series of similar occurrences, in each of which the persons doing the Act was concerned is relevant (§16, Evidence Act, 1994).

Criterion 5.6 - Proportionate and dissuasive sanctions are available for natural persons convicted of a TF offence. An offence under section 24 of the AML/CFT Act is punishable by imprisonment for a term of not less than ten years.

Criterion 5.7 - Legal persons can be liable for TF where it is proved that the act or omission that constituted the offence took place with the knowledge, authority, permission or consent or connivance of a director, controller or officer concerned in the management of the legal person or attributed to the neglect of any director, manager, secretary or another officer of the legal person, or any person purporting to act in any such capacity (§§23, 88-90, AML/CFT Act and §68, ATA). In this regard, the liability of the legal person will not prejudice that of the natural person. Sanctions available for a legal person convicted of TF include a fine of not less than ten million Dalasis (US\$200,000 approximately), the revocation of licence, cancellation of professional membership, forfeiture of assets and winding up (§§23, 24(3), 57 AML/CFT Act). Officers of legal persons convicted of the TF offence are liable to terms of imprisonment ranging from ten to twenty years (§§18-22, ATAA, and §23 and 24, AML/CFT Act). These sanctions are considered proportionate and dissuasive.

Criterion 5.8 – It is an offence under the laws of The Gambia to:

- a) attempt to commit the TF offence (§23(b), AML/CFT Act; §66(1), ATA; §§ 364 and 365, Criminal Code; and §149, Criminal Procedure Code);
- b) participate as an accomplice in a TF offence or attempted offence (§§23(b), AML/CFT Act; §66(1) ATA; §368, Criminal Code)
- c) organize or direct others to commit a TF offence or attempted offence (§23(b), AML/CFT Act; §66(1)(b) and (c), ATA; or
- d) contribute to the commission of one or more TF offence(s) or attempted offence(s), by a group of persons acting with a common purpose (§2, AML/CFT Act; §24, Criminal Code).

Criterion 5.9 - The Gambia has designated TF as a predicate offence for ML (Schedule II, AML/CFT Act).

Criterion 5.10 - TF offences apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is/are located or the terrorist act(s) occurred/will occur. Under section 64 of the ATA, The Gambian courts have jurisdiction to try and punish offences under sections 5(1)(b) (providing logistics, equipment or facilities for a terrorist meeting), 6(supporting acts of terrorism), 11 (financing international terrorism), 15 (hostage-taking), 18 (terrorist funding) or 19 (dealing in terrorist property) if the act is done or completed outside The Gambia and

- a) the victim is a citizen of The Gambia or has an effective link with The Gambia or is dealing with or on behalf of the Government of The Gambia;
- b) the alleged offender is in The Gambia; or
- c) the alleged offender is in The Gambia, and The Gambia does not extradite him or her.

The select cases aspect limits the scope of chargeable offences. For instance, they do not cover offences under sections 12 (providing or collecting property for certain activities), 13 (collecting, providing, making available etc., property or services for terrorism), 14 (using or possessing property for terrorism), 20 (fund-raising), 21 (funding arrangements), and 22 (using or possessing money for purposes of terrorism).

Weighting and Conclusion

The TF offence provided for in the AML/CFT Act and the ATA are consistent with the majority of the criteria of the R 5. However, shortcomings are noted regarding the financing of an individual terrorist for any purpose, financing the travel of foreign terrorist fighters and the scope of the court jurisdiction over the

person alleged to have committed the TF offence, the lack of explicit inclusion of oil and other natural resources in the definition of funds, and the lack of explicit provision for other assets which potentially may be used to obtain funds, goods or services. The Assessment team believes that the overall low TF risk of the Gambia does not commensurate with the low rating because of the geographical location of the country, the porous nature of its borders, cash economy of the country designation of the country as a tourist hub (see KF b I.O9) **R. 5 is rated PC.**

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

The first MER rated The Gambia PC on Special Recommendation III. The Technical Compliance shortcomings related to the absence of procedures and mechanisms to implement the obligations to unfreeze funds and delist persons under UNSCR 1267, ensure prompt response to requests from other countries, and monitor reporting entities for compliance with freezing requirements. There were effectiveness issues regarding coordination of freezing measures by various agencies involved in the implementation of freezing measures, the non-receipt of guidance by FIs on how to identify and freeze terrorist funds and the absence of training of staff of The Gambian Police and CBG on how to implement the requirements of SR III. The Gambia has passed the Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other Related Measures, 2014 (ITFR) to address the gaps. The ITFR defines designated persons to mean a natural or legal person or organisation designated by the Sanctions Committee pursuant to a UNSCR or those natural or legal persons or organisations designated in the regional and national list pursuant to a UNSCR. However, the ITFR is not enforceable and not considered in the conclusions of the analysis. Effectiveness issues are discussed under IO.10.

Criterion 6.1 - In relation to designation under UNSCR 1267/1989 (Al Qaida) and 1988 sanctions regimes:

- a) - The Gambia has not designated a competent authority with the responsibility for proposing persons or entities to the 1267/1989 and 1988 Committees for designation.
- b) - The Gambia does not have provisions or mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council resolutions (UNSCRs). Instead, Regulation 20 of the ITFR requires law enforcement agencies to coordinate their efforts, use and share intelligence materials in developing each case of designation. Also, the powers of the National Intelligence Agency (NIA) and the High Anti-Terrorism Committee (HTC) are limited to the collation, update, review and dissemination of the Sanctions List. There is no information regarding the membership of the HTC
- c) - The Gambia has not set an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” for deciding whether or not to propose designation and whether such proposals for designations would not be conditional upon the existence of a criminal proceeding.
- d) - The ITFR does not require the authorities to follow the procedures and (in the case of UN Sanctions Regimes) standard forms for listing, as adopted by the relevant Committee (the 1267/1989 Committee or 1988 Committee).
- e) – The ITFR does not state that The Gambia will provide as much relevant information as possible on the proposed name; a statement of case which contains as much detail as possible on the basis for the listing; and (in the case of proposing names to the 1267/1989 Committee), and specify whether the country’s status as a designating State may be made known.

Criterion 6.2 - In relation to designations pursuant to UNSCR 1373:

- a) - The NIA, in coordination with the committee and competent authorities is required to collate, update and review the list of designated persons issued by regional member States of ECOWAS or the Government of The Gambia (§7(1) of the (ITFR). However, The Gambia has not identified a member of the executive or a court as having the responsibility for designating persons or entities that meet the specific criteria for designation, as outlined in UNSCR 1373; as put forward either on

the country's motion or, after examining and giving effect to, if appropriate, the request of another country. Also, the scope of application is restricted to ECOWAS countries and the Gambia declaration is focused on international terrorist instead of domestic terrorists.

- b) The Gambia does not have clear provisions on the mechanism(s) for identifying targets for designation, based on the designation criteria set out in UNSCR 1373. Instead, Regulation 20 of the ITFR requires law enforcement agencies to coordinate their efforts, use and share intelligence materials in developing each case of designation. Also, the powers of the National Intelligence Agency (NIA) and the High Anti-Terrorism Committee are limited to the review and dissemination of the Sanctions List (post designation matters).
- c) As regards receiving a request, there is no provision in any legal instrument requiring the authorities to make a prompt determination of whether they are satisfied, according to applicable national principles that the request is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee meets the criteria for designation in UNSCR 1373.
- d) - The Gambia has not set an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" for deciding whether to propose a designation, and whether such proposals for designations should not be conditional upon the existence of a criminal proceeding.
- e) - The Gambia lacks provisions on requesting another country to give effect to the actions initiated under the freezing mechanisms. There is no requirement to provide as much identifying information, and specific information supporting the designation, as possible.

Criterion 6.3

- a) As noted in criteria 6.1 and 6.2, The Gambia has neither designated competent authority(ies) nor have an explicit mechanism for designating persons or entities that meet the criteria for designation. Even if the competent authority(ies) exists, there are no legal authorities and procedures or mechanisms to collect or solicit information to identify persons or entities that, based on reasonable grounds, or a reasonable basis to suspect or believe, meet the criteria for designation.
- b) There are no legal authorities and procedures or mechanisms for competent authorities to operate *ex parte* against a person or entity that has been identified and whose proposed designation is under consideration.

Criterion 6.4 - Regarding designations pursuant to UNSCR 1373, the NIA must within 48 hours on receipt of the List of designated persons or entities through the Ministry of Foreign Affairs, take all necessary measures to disseminate the list to the GFIU for distribution to FIs, DNFBPs and other entities as may be required (Reg. 7(3), ITFR).

On receipt and dissemination of the List, the Director of the NIA must convene an emergency meeting of the HATC after consultations with the Attorney-General (reg.7(4), ITFR). The GFIU is also required to distribute all Lists of designated persons or entities to all competent authorities and reporting entities within 48 hours after receiving the Lists from the NIA (reg.16, ITFR).

The Director of the NIA may, without prejudice to section V of the regulation, cause to be frozen instantaneously, the funds or other assets of a designated person or group on the list for a maximum period of 48 hours pending GFIU initiating action and must ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of that designated person or group, and immediately inform the HATC (reg.28, ITFR).

Reporting entities or agencies in The Gambia are required to screen their customers or persons they deal with against the List and verify any name match through their supervisory authorities, or where a supervisory authority does not exist, through the GFIU.

Where there is a match of any customer of a reporting entity or agency that reporting entity or agency must freeze the funds or other economic resources of the designated person or entity and file an STR with the

GFIU immediately. The STR must state the information or matter on which the suspicion is based and any information held on the designated person or entity or by which the designated person or entity can be identified, the nature and quantity of any funds or economic resources held by the reporting entity for the designated person or entity at any time up to five years before the designation (reg.27(1) and (2), ITFR). The requirement for reporting entities to state their bases for suspicion regarding a designated person or entity appears to oblige reporting entities to act on suspicion, which is inconsistent with the FATF requirement regarding post-dissemination reporting. Also, there is no requirement for all persons to freeze funds and other economic resources and file STR without prior notice to the designated person or entity.

The obligation to take action under UNSCR 1267 without delay is triggered by a designation by the UN Sanctions Committee and dissemination of the List (reg.7(3), ITFR). The obligation to take action under UNSCR 1373 is triggered by designation at the national level, as put forward either on The Gambia's motion or at the request of another country (reg.7(3)-(5)). The scope of third countries is restricted to ECOWAS members States.

FATF jurisprudence has established that the definition of "without delay" means within 24 hours. Consequently, the timelines for the dissemination of information is inconsistent with the FATF standards. Also, in the absence of freezing of funds and other assets, it is impossible to determine the timelines for these actions.

Criterion 6.5 - The NIA, the HATC and the GFIU are responsible for implementing and enforcing TF-TFS, in accordance with the following standards and procedures:

- a) All reporting entities within The Gambia are required to freeze the transactions and or funds of designated persons or entities, including cross-border wire transfers without delay. The requirement applies to both persons or entities designated in the context of UNSCRs 1267 and 1373 (regs.18(2) and 27(1), ITFR). Freezing of funds and other economic resources is also possible through an Order issued by the High Court on application and establishment beyond doubt that the designated person is the owner, controller or beneficiary of the funds or economic resources (reg. 21, ITFR). On receipt of the List of Designated Persons, the Director of the NIA is required to institute preventive measures, by order in writing or electronic mail or any other means of communication and cause to be frozen instantaneously, the funds or other assets of designees for a maximum period of 48 hours pending the GFIU initiating action and ensure that funds or other assets are not made available to the designees (reg.28, ITFR). Freezing orders and freezing of funds and other assets must take place without prior notice to the designated persons or entities (reg.25(1) and (2), ITFR). The definitions of funds and other assets are broad and cover financial assets property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in the funds or other assets, including bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit, and any interest, dividends or other income on or value accruing from or generated by the funds or other assets (reg.1, ITFR).

The relevant provisions requiring the freezing of funds focus on reporting entities and not all natural and legal persons in The Gambia, which limits the scope of application of the requirement to freeze without delay. Also, although regulation 27 of the ITFR refers to "economic resources", it does not define this terminology.

- b) The obligation to freeze extends to (i) all funds or other assets owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat (reg.21, ITFR); (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities (reg.23, ITFR); and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities (reg.1, ITFR), as well as (iv) funds or other assets of persons or

entities acting on behalf of, or at the direction of, designated persons or entities (regs.22 and 23, ITFR).

- c) All natural and legal persons in The Gambia are prohibited from making any funds or other assets frozen under the Regulations available directly or indirectly to or for the benefit of a designated person or entity (reg.32, ITFR); or participating knowingly or intentionally in any activity that circumvents any provisions under the Regulations (reg.33, ITFR). The provisions extend to entities owned or controlled, directly or indirectly, by designated persons or entities; and persons or entities acting on behalf of, or at the direction of, designated persons or entities. Although there is no explicit provision for nationals and all legal persons to make frozen funds or other assets available to designated persons or entities when licensed, reg. 38 of the ITFR envisages this situation in respect of payment of legal fees. However, regulation 41 provides for access to frozen funds and other assets to meet the basic needs of designated persons or entities consistent with the requirements of Article 1 of UNCR 1452. The ITFR does not provide for authorisation in coordination with the relevant Sanctions Committee. The provisions focus on UNSCR 1373.
- d) - The Gambia has mechanisms to communicate designations to the financial sector and DNFBPs immediately upon taking such action. The GFIU circulates the List to all competent authorities and reporting entities within 48 hours per the distribution flow chart set out in the First Schedule of the ITFR. The NIA, through the Attorney-General, maintains and disseminates a comprehensive and updated list of designated persons or entities to the relevant authorities. Also, the GFIU writes to FIs periodically and provides them with the hard copies of the names of the individuals listed by the UNSCR, as well as the link to the website of the relevant Sanctions Committee, to enable FIs to easily access such names promptly. In the forwarding letter, the GFIU requests FIs to search their client database to establish if any of the listed persons maintains a financial or business relationship with the FI. If there is a positive match, the FI must immediately freeze the account and file an STR to the GFIU. The scope of sources of the Sanctions List is limited to the UN, ECOWAS member States and The Gambia thus limiting the implementation of TF-TFS by The Gambia.
- e) - FIs and DNFBPs are required to report any assets frozen or actions taken related to designated persons or entities by filing STRs to the GFIU (regs. 18(2), 27(1) and 51, ITFR). The report must include information on the nature and amount or quantity of any funds or economic resources held by the reporting entity for the person or entity at any time up to five years before the designation. FIs and DNFBPs must also report if they have reasonable cause to suspect that a person is a designate person and that person is a customer of their institution, they must also state the nature and amount or quantity of any funds or economic resources held by the reporting entity for the person or group at any time up to 5 years prior to the designation being made (Regulation 27).
- f) - Freezing decisions under the ITFR protect the rights of bona fide third parties acting in good faith (reg.24, ITFR).

Criterion 6.6 - The following procedures are in place for de-listing, unfreezing and providing access to funds or other assets of persons or entities which do not, or no longer meet the criteria for designation:

- a) A designated person or entity who objects and wishes to have his name removed from the UN List may apply to the relevant UN Committee through the A-G for removal from the List (reg.42(1)(b), ITFR). The Committee shall inform all institutions holding funds or assets that are the subject of freezing and instructions for delisting and unfreezing of funds and other assets, which is issued publicly (reg. 42(2), ITFR). Where the A-G reasonably believes that a designated person is deceased, the A-G must request the Sanctions Committee, through the Ministry of Foreign Affairs, to delete the name and other details of the designated person (regs.45(b) and 46, ITFR).
- b) A person who objects to the inclusion of his name on The Gambia List and wishes to have his name deleted from the List must apply to the HATC which shall recommend its approval to the A-G (reg.42(1)(a)). Where the HATC decides to de-list, it is required to inform all institutions

- holding funds or assets that are subject of a freezing decision and publish instructions for delisting and unfreezing of funds and other assets (reg. 42 (2), ITFR).
- c) The Gambia does not have procedures to allow, upon request, review of the domestic designation before a court or other independent competent authority. The ITFR focuses on de-listing. Regarding the Regional List, a designated person or entity is required to apply through the A-G to the relevant ECOWAS authority. Without prejudice to available procedures, a designated person on the Regional List who is resident in The Gambia can petition The Gambian Government to review the ECOWAS List together with justification and relevant information in support of the petition (reg.44(1) an (2), ITFR). The Government must review the justification and relevant information and consult the country that proposed the designation (reg.44(3)). The designating country may request for additional information from The Gambia regarding the petition following the review of which the Government of The Gambia shall persuade the designating Government to submit a joint or separate request for delisting to the relevant UN Sanctions Committee pursuant to the no-objection procedure without any accompanying request from the original designating Government (reg. 44).
 - d) With regard to designations pursuant to UNSCR 1988, The Gambia does not have procedures to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including those of the Focal Point mechanism established under UNSCR 1730.
 - e) With respect to designations on the Al-Qaida Sanctions List, The Gambia does not have procedures for informing designate persons or entities of the availability of the United Nations Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions.
 - f) The Gambia does not have procedures to unfreeze the funds or other assets of designated persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by a freezing mechanism (that is, a false positive), upon verification that the person or entity involved is not a designated person or entity.
 - g) There is a scoping issue regarding third countries. The GFIU is required to communicate de-listing to the financial sector and the DNFBPs upon receipt of such List from the NIA through the A-G and Minister of Foreign Affairs (regs. 15 and 30, ITFR). For local designations, the HATC is required to communicate de-listing decisions to all institutions holding funds or assets that are the subject of a freezing decision and publish instructions for unfreezing of funds and other assets. There are no timelines for communicating de-listing and unfreezing to FIs. In addition, communication is restricted to reporting entities and other relevant institutions and does not include other persons or entities to cover the wide range of recipients envisaged by criterion 6.6(g).

Criterion 6.7 - There is a scoping issue regarding third countries. Access to frozen funds or assets is provided for in regulation 41 of the ITFR which allows the High Court to authorize the use of part of frozen funds to cover basic needs of the designated persons or entities and other expenses, including food, rental, education, fees, charges, real estate, mortgage, medical bills, taxes, insurance premium and others. The designated persons or entities or their authorised representatives must apply to the High Court with supporting documents for consideration. The High Court Judge shall consider the application and may grant, vary or refuse the request made in the application as considered reasonable in the circumstances (reg.41(1-3)). The ITFR is silent on authorisations related to freezing decisions pursuant to UNSCR 1267.

Weighting and Conclusion

The ITFR covers some of the requirements of R.6, TFS regime for TF, which covers some of the elements required by the criteria of Recommendation 6. Some of the elements covered relate to domestic designations in accordance with UNSCR 1373. Provisions are not in place to ensure the implementation of UNSCR 1267, 1989 and 1988. For instance, on designations pursuant to UNSCR 1988, The Gambia does not have

procedures to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 committee, including those of the focal point mechanisms established under UNSCR 1730. Also, regarding designations on the Al-Qaida sanctions lists, the Gambia does not have procedures for informing designated person or entities of the United Nations Office of the Ombudsperson pursuant to UNSCRs 1904,1989,2083 to accept delisting petitions. Again, the ITFR does not cover procedures to allow upon request review of a domestic designation before a Court or other independent competent authority. The ITFR focuses on de-listing and silent on review. The ITFR is silent on authorisations related to freezing decisions pursuant to UNSCR 1267. Further, the ITFR is silent on the detailed procedure for communicating the designated list and delisting list from the Ministry of Foreign Affairs to the Attorney – General and Minister of Justice for transmission to the NIA and GFIU and the subsequent transmission from the GFIU to competent authorities and reporting entities. However, the ITFR is not enforceable. **R. 6 is rated NC.**

Recommendation 7: Targeted Financial Sanctions Related to Proliferation

This is a new requirement of the FATF which was not assessed in the first round.

Criteria 7.1 The UNSCRs related to the prevention, suppression and disruption of PF and its financing (for both DPRK and Iran) are implemented based on paragraph 5.20 of the AML/CFT Guidelines for FIs which requires FIs to freeze funds of designated persons and entities within 24 hours of detecting a match. In practice, actions to implement the sanctions are generally not initiated “without delay”, due to the FIU’s late and sporadic communications of the Consolidated Sanctions Lists to only banks and insurance companies. However, this is partially mitigated by larger banks use of software that enable them to access the Sanctions List independent of the FIU’s dissemination. There are no requirements in place for DNFBPs to implement PF-related TFS. Also, the Assessment team could not establish the roles of the MOFA and the MoJ in the implementation of PF-TFS.

Criterion 7.2 Paragraph 5.20 of the AML/CFT Guidelines for FIs provides for the implementation of PF-related TFS which is not considered as an adequate legal authority. Also, The Gambia has not identified competent authorities responsible for implementing and enforcing PF-TFS which is in accordance with the following standards and procedures:

a) - FIs are required to freeze, without delay, the transaction(s) and/or fund(s) and immediately file STR to the FIU not more than 24 hours from the point of discovering the match (para 5.20, FIs Guidelines). The freezing requirement targets only FIs and does not extend to all natural and legal persons within The Gambia, and other assets. Implementation is triggered by discovery of a match instead of designation of the person or entity and covers only international wire transfers. There is no requirement to freeze without prior notice to designated persons and entities.

b) - The freezing obligation:

i) extends to funds related to cross-border wire transfers (para. 5.20, AML/CFT Guidelines for FIs). This limits the scope of funds subject to freezing to those related to wire transfers. The Guidelines does not define “funds” and does not require the freezing of other assets that are owned or controlled by the designated person or entity, regardless of their link to a particular act, plot or threat of proliferation. In the absence of freezing actions, it is impossible to determine the scope of funds. Also, the obligation is limited to FIs. These are significant gaps in the implementation of the PF-TFS requirements.

ii) impliedly extends only to funds related to cross-border wire transfers that are wholly owned by designated persons or entities (para. 5.20, AML/CFT Guidelines for FIs). ~~or~~ In the absence of clear provisions and implementation of this requirement, it is impossible to determine whether they apply to funds jointly owned or controlled, directly or indirectly by designated persons and entities.

iii) does not cover the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities.

iv) does not extend to funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities.

c) - FIs are prohibited from conducting transactions for or on behalf of individuals and entities designed by the UN Security Council Resolutions on terrorism, terrorist financing, proliferation of weapons of mass destruction and other subsequent resolutions or other sanction regimes of the UN. The scope of application of this provision is limited and inconsistent with the FATF standards as it covers only FIs and excludes other nationals, any persons and entities, including DNFBPs within The Gambia. The license aspect is not covered.

d) - The Gambia has not established a mechanism for communicating designations to financial institutions and DNFBPs. The FIU notifies banks and insurance companies regarding updates to PF-related designations through letters which include links to the UNSC website. However, the communications do not occur immediately upon taking the designation action and do not reach all reporting entities.

e) - FIs are required to check all cross-border wire transfers against the UN Designated Persons List and where there is a match, they should immediately freeze the transaction(s) and/or fund(s) and immediately file STR to the FIU (Reg.5.20, Guidelines for FIs). This obligation is limited in scope regarding targeted funds. It does not apply to other assets and reporting entities. There is no requirement to report other transactions, including attempted transactions.

(f) - The Gambia has not adopted measures which protect the rights of bona fide third parties acting in good faith.

Criterion 7.3 - For FIs, the FIU monitors only banks to ensure compliance with PF-TFS obligations while DNFBPs are not subject to these requirements. There are no sanctions for violation of PF-TFS obligations.

Criterion 7.4 The Gambia has not developed and implemented publicly known procedures to submit de-listing requests to the Security Council in the case of designated persons and entities that, the view of the country, do not or no longer meet the criteria for designation, including those related to: (a) petitioning for de-listing at the focal point; (b) unfreezing in cases of false positives upon verification; (c) access to funds or other assets; (e) mechanisms for communicating de-listings and unfreezings to the financial sector and DNFBPs and guidance.

Criterion 7.5 No provision permits the addition to the accounts frozen pursuant to UNSCRs 1718 or 2231 of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen.

Weighting and Conclusion

Whilst The Gambia has introduced Guidelines for FIs to implement TFS related to proliferation, the Guidelines are not enforceable and thus not taken into account in the compliance rating of the relevant criteria. In addition, concerns remain regarding the implementation of TFS without delay; the definition of funds; the scope of prohibited activities and obliged persons and entities, reporting obligations; the lack of sanctions to ensure enforceability of freezing obligations or prohibitions on providing funds; inadequate communication mechanism for designations and de-listings; and the lack of guidance on freezing obligations. These are major shortcomings to the country's implementation of PF-TFS. **R. 7 is rated NC.**

Recommendation 8 – Non-Profit Organisation

The first MER rated The Gambia PC with the former SR. VIII. The deficiency was that NPO's were largely vulnerable to terrorist and terrorist groups. The Gambia has conducted a sectoral risk assessment of NPOs

to determine their exposure to TF. The country has drafted the NPO Bill (2018) to ensure the adequacy of laws that relate to NPOs, including those at risk.

Adoption of a Risk-Based Approach

Criterion 8.1

- a) In the Gambia, NPOs are either Community or Non-Community-Based. A Community-Based Organisation (CBO) provides social services at the local level and operates within the confines of a particular community. A Non-Community-Based Organisation (Non-CBO) is generally a formally structured organisation which operates beyond a community or nationally and even internationally. A Non-CBO is primarily concerned with development projects, or advocacy NPOs, which are primarily concerned with promoting a cause. The Gambia has one hundred and twenty (120) registered NPO's though the authorities estimate the existence of more than five thousand (5,000) of them in the country. While The Gambia's NRA identifies NPOs as generally being of low risk in terms of TF vulnerability, it considers eleven NPOs that are Islamic-focused and engage in Islamic-related activities such as Islamic schools, Madrassas and Islamic Foundations as vulnerable to TF abuse. This conclusion is mainly based on concerns that some of the donors of the identified NPOs may be operating within close proximity to jurisdictions that represent active terrorist threats (page 139, NRA).
- b) The Gambia has identified the nature of threats posed by terrorist entities to the NPOs at risk and how terrorist actors may abuse those NPOs. The Gambia notes in its NRA that inherent TF risk is linked to inadequate annual and financial reporting, lack of awareness of terrorism and TF, lack of awareness and sector guidelines or regulation on AML/CFT, poor internal governance as well as the integrity and calibre of Board Members. Based on these risk factors, and the fact that most of these NPOs mainly receive funds jurisdictions in a region where active terrorist organisations operate, The Gambia has concluded that terrorist financiers may abuse the identified NPO sector to recruit terrorist and spread their ideologies, which may involve falsely posing as a legitimate charity, by exploiting legitimate charities to disguise financial flows, or by diverting funds intended for legitimate uses to finance terrorism. Considering the low number of NPOs reviewed by the NRA, The Gambia's conclusion is not well justified.
- c) The NGO Decree, 81 (NGOD), the main legal instrument regulating the activities of NPOs in The Gambia, established the NGO Affairs Agency (NGOAA) in 1996. The Protocol of Accord and the Code of Conduct of the NGO Decree describe the relations between the government and NPOs and outline the relationship between NPOs/ Communities/Donors/ other NPOs, respectively. Article 13 of the Protocol of the Accord provides for the submission of returns, a detailed annual report, a work plan for the following year, audited accounts and budget at least three months after the program year. NPOs register with the Registrar of Companies either as companies Limited by Guarantee or charitable organisations, associations or foundations. NPOs are required to register with the NGOAA by presenting a certificate of Incorporation from the Registrar of Companies.

The Association of Non-Governmental Organisation (TANGO), a self-regulatory body, is a Platform for most NGOs/CSOs in The Gambia. Membership comprises both Local and International NPOs. Members are required to submit annual reports and work plans to the NGOAA and TANGO to renew their status. NPOs can face sanctions for breach of regulatory procedures, including the revocation of the Protocol of Accord where an NPOs activities are found not to conform with Government's development agenda or detrimental to the integrity of the Government and the peace and stability of the country (Art. 18, Protocol of Accord, NGOD).

The Gambia is reviewing the adequacy of measures, including laws and regulations that relate to the subset of the NPO sector identified by the NRA as being vulnerable to abuse for terrorism

financing support to be able to take proportionate and effective actions to address the risks identified. The NPO Bill (2018) seeks to make it mandatory for all NPOs to register with the NGOAA to facilitate the effective control over the activities of NPO, the Registrar of Companies and the NGOAA will censure all NPOs to facilitate direct supervision and control over their activities. The licensing of NPOs will be within the remit of the NGOAA. It should be noted that the FATF standards require a risk-based approach related to NPOs at risk of TF abuse. In this regard, the Bill should seek to make specific provisions for the identified NPOs sector within available resources.

- d) The Gambia reviewed the NPO sector during the NRA concluded in 2020. Subsequent NRAs will include the review of the sector to identify new information and developments on the sector with potential vulnerabilities to terrorist activities. It will also recommend relevant measures to address the identified vulnerabilities. Considering the number of NPOs reviewed as opposed to the actual number in existence, Assessors believe that the action taken is not sufficient to comply with the requirement of this sub-criterion.

Sustained outreach concerning terrorist financing issues

Criterion 8.2

- (a) The Gambia relies on the Protocol of Accord and the Code of Conduct in Decree 81 to ensure accountability, integrity and public confidence in the administration and management of NPOs. NPOs are required to:
- i. register with the Registrar of Companies as a Company Limited by Guarantee or a charitable organisation, association or foundation which clothe them with legal authority to pursue activities in their areas of interest and national development objectives;
 - ii. obtain a clearance from the community development officer of the area council that the NPO can operate in the community through the endorsement of its constitution by the development officer;
 - iii. register with the NGOAA by presenting a certificate of incorporation from the Registrar of Companies. The Registrar of companies verifies the status of the chairperson by reviewing the resolution of the Board of the NPO;
 - iv. renew registration every twelve months;
 - v. at the beginning of each year/the government's fiscal year, deposit with the NGOAA, a detailed plan of annual work programme and budget have Constitutions stipulating their organisational goals (Article 13, Protocol of Accord);
 - vi. update their information anytime there are changes and during the renewal of their registration; and
 - vii. submit annual audited accounts and budget at least three months after the end of the programme year to show proof of activities carried on within the financial year.
- (b) - The FIU, in collaboration with the NGOAA, organised training programmes from 2014-2016 for stakeholders in the NPO sector. The content of the training sessions included the vulnerability of the NPO sector to TF and the various methods or mechanisms that can be used to mitigate vulnerabilities and protect against abuse of the NPO sector for TF. The sessions were mainly facilitated by the staff of the GFIU. However no specific outreach programme has been conducted for NPOs at risk to TF. There has been no outreach programme to the donor communities.
- (c) - The Gambia has not conducted outreach on TF with the 11 Islamic NPOs identified as high risk following the limited NPO sector risk assessment conducted by the Gambia. However, the training

programme was facilitated by the GFIU in collaboration with the NGOAA which sought to raise the level of awareness of NPOs to the risk of TF abuse. The training programmes also featured best practices that NPOs can utilise to mitigate their vulnerabilities to the risk of TF abuse.

- (d) - NPOs are encouraged to open bank accounts and to conduct their transactions using FIs, all of which are subject to CDD requirements. For the purpose of identification of NPOs and charities the financial institutions are required to obtain the foundations charter and any official document which shows proof of establishment among others as provided for under sections 4.68 to 4.70 of the Anti-Money Laundering & Combating Terrorism Financing Guidelines for Financial Institutions in The Gambia, 2016.

Targeted risk-based supervision or monitoring of NPOs

Criterion 8.3 - The NGOAA is responsible for clearing, registration, monitoring the NPO's activities, including accounting for end-user duty waivers and other concessions through the relevant sector Ministries and Departments, as well co-ordination between the NPO and the relevant entities (Art. 4, NGOAA Decree 81). The Gambian authorities did not demonstrate that risk-based measures apply to NPOs at risk of TF abuse. The country is yet to implement the recommendations of the NRA regarding the NPOs at risk of TF abuse.

Criterion 8.4

- a) The NGOAA is empowered under Article 4(f) to facilitate, monitor and evaluate the activities of NPOs at community levels. Any voluntary organisation, an association of person or civil society whether locally formed or otherwise, whose purpose is charitable and wishes to be accorded the status of a non-governmental organisation, must apply to the NGOAA for a clearance certificate before it is registered as a charitable organisation under the Companies Act (Art. 10, Decree 81), while existing NPOs are required apply to the NGOAA for registration under Decree 81 (Art. 11, Decree 81).
- b) The Schedule to the NGOAAD (the Protocol of Accord to be signed between the Government of The Gambia and individual NPOs) empowers the Government to revoke the Protocol of Accord where the activities of an NGO do not conform with Government's development agenda or are detrimental to the integrity of the Government and the peace and stability of the country. An NGO can be deregistered in these instances. These sanctions have not been applied, therefore the effectiveness, proportionate and dissuasiveness cannot be determined. In addition, they do not cover persons acting on behalf of erring NPOs.

Effective information gathering and investigations

Criterion 8.5

- a) The NGOAA serves as an administrative link between NPOs and the Government (§4, NGOAD). It works closely with the CBG and FIs to verify funds remitted to NGOs from local or international sources. The NGOAA collaborates with embassies and other international organisations who may wish to verify the background of a specific NGO domiciled in The Gambia. Similarly, the Association of Non-Governmental Organisations (TANGO), the umbrella organisation of NPOs in The Gambia with membership across the different types of NPOs, also serves as a platform for effective co-operation and co-ordination among and between NGOs and NPOs in the Gambia. Decree 81 is not explicit on the role of the NGOAA in ensuring co-operation, co-ordination and information sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs in the exchange of information and operational assistance.

- b) The Gambia Police Force serves as the main agency that investigates all predicate offences, including crimes involving charitable organisations, NPOs. NPOs suspected of being exploited or actively supporting terrorist activity or organisations presenting vulnerability of abuse for TF, would be subject to investigation by the Police. Again, the State Intelligence Services (SIS), National Intelligence Agency (NIA) also have powers to investigate crimes relating to terrorism and TF.
- c) The GPF has powers to preserve law and order, the protection of property, prevent and detect crime, apprehend offenders and enforce all laws and regulations with which they are charged (§4, Police Act). Therefore, the GPF can request information from NPOs and also apprehend offenders. The SIS and NIA also have similar powers. Section 5 of the AML/CFT Act empowers the FIU to collect any information that it considers relevant to criminal conduct, ML activity or TF that is publicly available, including commercially available data-base or information that is collected or maintained, including information stored in a database maintained by the government. The FIU can also request information from reporting entities, any supervisory agency, self-regulatory organisation and any law enforcement agency. However, not all NPOs are registered. Thus, information on unregistered NPOs might not be accessible to competent authorities.
- d) The NCC serves as the national platform for policy and strategy development as well as information sharing on pertinent issues related to the fight against ML/TF (§91, AML/CFT Act). It comprises representatives of competent authorities in the fight against ML/TF. At the level of the NCC, issues relating to an NPO suspected to be involved in TF and or raising funds for a terrorist organisation, or whether the NPO is being exploited as a conduit for TF or whether the NPO is diverting funds meant for legitimate purposes to finance terrorism or terrorist activities can be discussed and such information shared with competent authorities.

Criterion 8.6 - Section 4(c) of the AML/CFT Act empowers the FIU to exchange information with similar bodies in other countries as regards ML, financing of terrorism and other criminal conduct. The FIU can respond to an international request for information regarding an NPO suspected of TF or involved in other forms of terrorist support.

Section 72 of the AML/CFT Act provides for mutual legal assistance, such may include a case of NPOs suspected of TF.

Weighting and Conclusion

The NGOAAA had the mandate to monitor the activities of NPOs, however, the said monitoring exercise is not detailed for instance what is entailed in the monitoring exercise, frequency of the monitoring among others. The Gambia lacks effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of those NPOs. Decree 81 is not explicit on the role of the NGOAAA in ensuring co-operation, co-ordination and information sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs in the exchange of information and operational assistance. Again, membership of TANGO is voluntary, it is therefore not clear how TANGO can facilitate co-operation and co-ordination among NPOs. **R. 8 is rated PC.**

Recommendation 9: Financial Institution Secrecy Laws

The Gambia was rated LC with former R.4 in its 1st MER. The main deficiency was that, secrecy clauses in other laws and potentially new laws would inhibit access to financial information or intelligence. Since the last MER, The Gambia enacted some laws, including the AML/CFT Act and NBFIs which contributed to addressing this deficiency.

Criterion 9.1 - There are no FI secrecy laws that inhibit the implementation of AML/CFT measures in The Gambia.

- a) *Access to information by competent authorities:* Competent authorities in The Gambia have statutory powers to request information from reporting entities (see Recs 27, 29 and 31). Sections 5(c), 13 (1)(2) of the AML/CFT Act and s28 of the BA, 2009 set out the powers for the FIU and the CBG to access information. Similar powers are set out in s44 and 88 of the Insurance Act, and s37 (2)-(4) of the NBFIA Act, 2016, which authorizes the CBG to access information to support its statutory activities. The AML/CFT Act, ACC Act, National Drugs Control Act, etc establish law enforcement powers during a criminal investigation for compelling the production of documents or records from any individual or entity.
- b) *Sharing of information between competent authorities:* Information can be shared among competent authorities both domestically and internationally. This is ensured through various provisions. Section 36 of the AML/CFT Act has broad provision for disclosure of information by competent authorities notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any other law. This general provision is supported by specific information-sharing powers in the AML/CFT Act and other laws. Section 4(b) of the AML/CFT Act empowers the FIU to make information available to domestic competent authorities, including investigating authorities, and intelligence agencies to facilitate the administration and enforcement of the laws of the country, including the AML/CFT Act. Sections 4(c), 5(o) and 17 of the AML/CFT Act empower the FIU to exchange or share information with institution or agency of a foreign state or an International Organisation with similar powers and duties, subject to obligations of confidentiality, to prevent ML/TF or related offences. Similarly, s.18 of the AML/CFT Act empowers the FIU to enter into an agreement or arrangement regarding the exchange of information with any other institution or agency of a foreign state or organisation with similar powers and duties. Moreover, the FIU has entered into 17 bilateral arrangements for international cooperation with its foreign counterparts. Section 44 of the CBG Act permits the CBG to exchange information relevant for the performance of its function. Under s72(2) of the same Act, the CBG can enter into agreements for the exchange of information and cooperation with other domestic financial authorities and foreign supervisors. LEAs exchange information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences and TF through the INTERPOL platform and CISSA. At the domestic level, a range of mechanisms exist for LEAs to exchange information at operational level (see analysis of R.2).
- c) *Sharing of information between FIs:* There are no FI secrecy laws that restrict the sharing of information between FIs where this is required by R13, 16 or 17.

Weighting and Conclusion

The Gambia has met all the requirements of R 9. **R. 9 is rated C.**

Recommendation 10: Customer Due Diligence

The Gambia was rated PC with former R.5 in its 1st MER. The main deficiencies were: CDD requirements on one-off transactions, and obligation under SR VII for identification of wire transfer originators were not covered under R.5, ineffective implementation of CDD, and TF was not explicitly covered in the Guidelines for CDD.

Under R.10, the principle that FIs should conduct CDD should be set out in law. In The Gambia, the general requirement for FIs to conduct CDD is provided under s25 of the AML/CFT Act. In some cases, the specific CDD requirements are set out in the AML/CFT Guidelines for Financial Institutions in the Gambia, 2015 which makes it a necessity for FIs to have regard to the Act, and Guidelines when applying CDD measures in The Gambia.

Criterion 10.1 - Financial Institutions are prohibited from opening or keeping anonymous accounts in fictitious names (s28(2), AML/CFT Act).

Criterion 10.2 - FIs are required to undertake CDD measures when:

- a) - Establishing business relations (§25(1)(a), AML/CFT Act);
- b) - Carrying out occasional transactions exceeding GMD200, 000 (approx. US\$4,000), whether the transaction is carried out in a single transaction or in several transactions that appear to be linked (s25(2)(e), AML/CFT Act);
- c) - Carrying out an electronic fund transfer/wire transfers (domestic or international) (s25(1)(b) of the AML/CFT Act). Although there is no specific reference to occasional transactions, the provision is broad and covers occasional transactions that are wire transfers in the circumstances covered by Recommendation 16;
- d) - There is a suspicion of ML/TF (s25(1)(c), AML/CFT Act); or
- e) - There are doubts about the veracity or adequacy of previously obtained customer identification data (s25(1)(d) of the AML/CFT Act);.

Criterion 10.3 - FIs are required to identify the customer (including whether permanent or occasional, and whether a natural or legal person or legal arrangement), and verify the customer's identity using reliable, independent source documents, data or information (§25(1), AML/CFT Act). The identity of natural persons is verified on the basis of identity documents, such as national identity card, drivers' licence, passport or other official identification document that ensure high degree of reliability (Paras 4.17 and 4.20(i) of the AML/CFT Guidelines for FIs). Legal persons are verified based on the data or documents obtained from official corporate registers or other reliable and independent sources (Paras 4.35 - 4.38 of the AML/CFT Guidelines for FIs).

Criterion 10.4 - FIs are required to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person. The FI shall verify the authorisation to act on behalf of the customer by a duly certified or signed letter of authority, official judgment or equivalent documents (§25 (2)(c)(iv), AML/CFT Act).

Criterion 10.5 - FIs are required to identify and verify the identity of the ultimate beneficial owners of transactions when they have reasonable grounds to believe that a customer is acting on behalf of a third party (§25(3), AML/CFT Act). Para 4.12 (c) of the AML/CFT Guidelines stipulates the obligation to identify the beneficial owner and the adoption of measures to verify the identity of the beneficial owner in relation to legal persons or arrangements. Measures needed for satisfactory performance of this function include identifying the natural persons with a controlling interest and identifying the natural persons who are the main players of the legal person or arrangement. However, in the case of the AML/CFT Act, the measures to identify and verify the identity of the beneficial owner are limited to transactions and situations where FIs believe that the customer is acting on behalf of another person. Also, the requirement is not linked to using relevant information or data obtained from reliable sources.

Para 4.9 of the AML/CFT Guidelines for FIs stipulates that where there are underlying beneficial owner, the true nature of the relationship between the beneficial owner, and the account signatories must also be established and appropriate enquiries carried out on the beneficial owner, especially if the signatories are acting on the instructions of the beneficial owner(s). These provisions do not require FIs to use information obtained from a reliable source in verifying the identity of the beneficial owner.

Beneficial owner is defined as the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted; or a person who exercises ultimate effective control over a legal person or arrangement (§1, AML/CFT Act).

Criterion 10.6 - FIs are required to obtain information on the intended purpose and nature of the business relationship (§25 (2)(a), AML/CFT Act, and Para 4.13, AML/CFT Guidelines for FIs). However, there is no obligation for FIs to understand the purpose and intended nature of the business relationship.

Specific CDD measures required for legal persons and legal arrangements

Criterion 10.7

- (a) FIs are required to conduct ongoing due diligence on business relationships. This shall include scrutiny of transactions undertaken throughout the course of that business relationship to ensure that the transaction being conducted are consistent with the FI's knowledge of the customer, their business including the source of funds, where necessary (§30(2), AML/CFT Act). However, consideration of the customer's risk profile is not covered.
- (b) (**Not Met**) There is no obligation for FIs to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records particularly for higher risk categories of customers.

Criterion 10.8 - FIs are required to understand the ownership and control structure of customers that are legal persons or legal arrangements (§25(2)(c)(ii), AML/CFT Act. However, there is no requirement for FIs to understand the nature of the customer's business.

Criterion 10.9 - For customers that are legal persons or legal arrangements, FIs are required to identify the customer and verify its identity through the following information:

- a) - Name, legal form and proof of incorporation or similar evidence of establishment or existence (s25(2)(c)(i), AML/CFT Act;);
- b) – The powers that regulate and bind the legal person or arrangement, as well as the names of directors (understood to be persons holding senior management position) (§25(2)(c)(iii), AML/CFT Act; .
- c) (**Partly Met**) – The address of the legal person or legal arrangement (s25(2)(c)(i), AML/CFT Act;). The provision does not however specify that it should be the address of the registered office and, if different, a principal place of business.

Criterion 10.10

- a) For customers that are legal persons, FIs are required to identify the beneficial owner and take reasonable measures to verify the identity of such persons (Para 4.12(c), AML/CFT Guidelines for FIs). Measures needed for satisfactory performance of this function require identifying the natural persons with a controlling interest and identifying the natural persons who are the main players of the legal person. FIs are also required to identify and verify identities of shareholders holding 10% of shares and above (Paras 4.39(xiv); and 4.41(viii) of the AML/CFT Guidelines for FIs). This is understood as an indication of a natural person who could exert controls through ownership interest.
- b) To the extent that there is doubt regarding the beneficial owner(s) or where no natural person exerts control through ownership interests, FIs are not required to verify the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means.
- c) There is no requirement to identify individuals holding senior management positions when no natural person can be identified under (a) or (b).

Criterion 10.11

- (a) For customers that are legal arrangements, Para 4.12 (c) of the AML/CFT Guidelines for FIs requires FIs to identify the beneficial owner and take reasonable measures to verify the identity of

such persons. Measures needed for satisfactory performance of this function, include identifying the natural persons with a controlling interest and identifying the natural persons who are the main players of the legal arrangement. In addition, Paras 4.12 (d), 4.57 and 4.58(b) of the AML/CFT Guidelines for FIs require FIs, in the case of trusts, to identify the settlor, the trustee or person exercising effective control over the trust and beneficiaries. This includes an individual who has the power whether alone or jointly or with the consent of another person can: (a) dispose of, advance, lend, invest, pay or apply the trust property; (b) vary the trust; (c) add or remove a person as a beneficiary or to or from a class of beneficiaries; (d) appoint or remove trustees; (e) or direct the conduct of (a) to (d) or withhold consent to exercise or veto the exercise of powers such as mentioned in (a) to (d). Para 4.54 of the AML/CFT Guidelines also requires FIs to verify the identity of the provider of funds for a trust or settlor and all those who have the power to remove the trustees.

- (b) The general requirement for FIs to identify the beneficial owner of customers that are legal arrangements and take reasonable measures to verify the identity of such persons apply (Para 4.12 (c) of the AML/CFT Guidelines for FIs). However, there is no explicit requirement to obtain the identity of persons in equivalent or similar positions.

CDD for Beneficiaries of Life Insurance Policies

Criterion 10.12 - Other than the general CDD requirements on customers and beneficial owners, there are no explicit CDD requirements regarding the beneficiaries of life insurance and other investment related insurance policies. Thus, no provisions meet the requirements under c10.12(a)-(c).

Criterion 10.13 - There are no requirements for FIs to include the beneficiary of a life insurance policy as a relevant risk factor when determining whether to apply enhanced CDD measures.

Timing of verification

Criterion 10.14 - FIs are required to undertake CDD measures to verify the identity of the customer and the beneficial owner before establishing the business relationship or during an already established relationship (Para 4.1, AML/CFT Guidelines for FIs).

- a) - FIs are permitted to complete customer verification after the establishment of a business relationship within a reasonable time (§25(1), AML/CFT Act, and Para 4.7, AML/CFT Guidelines for FIs). This is understood to be that such verification should occur as soon as reasonably practicable.
- b) - The requirement to complete verification within a “reasonable time” after establishing the business relationship is understood to be intended not to interrupt the normal conduct of business. However, there is no express provision that this is essential not to interrupt the normal conduct of business.
- c) There is no requirement that the deferment of verification to post-establishment of a business relationship should be done provided the ML/TF risks are low or the ML/TF risks are effectively managed.

Criterion 10.15 - There is a general requirement for FIs to put in place measures to manage ML/TF risks (Paras 2.23, and 3.7, AML/CFT Guidelines for FIs). However, there is no specific requirement that FIs should adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification.

Existing Customer

Criterion 10.16 - There is a general requirement for CDD to be undertaken in the course of an already established relationship (Para 4.1, AML/CFT Guidelines for FIs). This obligation implies that FIs are to

regularly review any customer data and information obtained during the process of due diligence to ensure the adequacy of the data obtained or data obtained are up-to-date. Similarly, there is a broad requirement for FIs to apply risk-based approach in AML/CFT measures, including CDD (Para 2.30 of the AML/CFT Guidelines for FIs). However, there is no explicit provision that requires FIs to apply CDD requirements to existing customers based on materiality and risk.

Risk-Based Approach

Criterion 10.17 - Para 2.30 of the AML/CFT Guidelines for FIs requires FIs to apply risk-based approach. FIs are required to perform enhanced due diligence measures where ML/TF risks are higher. The Guidelines stipulates some higher ML/TF situations where the enhanced CDD is applied, including where there is suspicion of ML/TF (Para 2.30, Guidelines); PEPs (Para 4.94 of the Guidelines); and non-face-to-face customers (Para 4.87).

Criterion 10.18 - There is a general obligation for FIs to conduct ML/TF risk assessment (Paras 2.2; and 2.6 of the AML/CFT Guidelines for FIs), apply RBA and use simplified AML/CFT measures, including simplified CDD in areas where the ML/TF risks are generally low – rather than lower (Para 2.30 of the AML/CFT Guidelines for FIs). Simplified measures, including simplified CDD are not acceptable whenever there is suspicion of ML/TF. Notwithstanding, there is no explicit provision for FIs to apply simplified CDD measures where lower risks have been identified, through an adequate analysis of risks by the country or the FI.

Failure to satisfactorily complete CDD

Criterion 10.19

- a) FIs are not allowed to open an account, commence business relationship or perform the transaction or maintain a business relationship if they are not able to comply with relevant customer due diligence measures (§26 (1), AML/CFT Act and Para 4.120, AML/CFT Guidelines for FIs).
- b) FIs are required to consider making a suspicious transaction report to the FIU where they are unable to comply with relevant CDD measures (§26 (2), AML/CFT Act, and Para 4.120, AML/CFT Guidelines for FIs).

CDD and tipping -off

Criterion 10.20 - There is no obligation for FIs not to pursue the CDD process, and instead file an STR, where they form a suspicion of ML or TF, and they reasonably believe that performing the CDD process will tip-off the customer.

Weighting and Conclusion

The basic requirements for CDD are set out in the AML/CFT Act. Although the AML/CFT Guidelines for FIs contain requirements for some criteria (e.g. c.10.10, 10.11, 10.17 and 10.18), the Guidelines is not enforceable. This is considered a moderate shortcoming given the provisions in the AML/CFT Act. . Also, the lack of requirements in relation to beneficiaries of life insurance policies is given minimal weight due to the low materiality of the insurance sector in The Gambia. **Recommendation 10 rated PC.**

Recommendation 11: Record Keeping

In its 1st MER, The Gambia was rated PC with former R.10. The main technical deficiencies were the implementation of the record keeping requirements which did not cover all reporting entities, and ineffective implementation of the record keeping requirements under the Anti-Money Laundering Act.

Criterion 11.1 - FIs are required to maintain all records of transactions (domestic and international) carried out by them for a minimum of five (5) years from the date of the transaction (§ 27(1)(b)(2), AML/CFT Act).

Criterion 11.2 - FIs are required to maintain all records obtained through customer identification, including those obtained through the conduct of enhanced due diligence; account files and business correspondence; all business transaction records; and results of any analysis undertaken for at least five (5) years from the date the account is closed or business relationship terminated (§ 27(1)(a)(2), AML/CFT Act). The requirement to maintain “all business transaction records” is broad and covers occasional transactions in the context of c11.2.

Criterion 11.3 - Section 27 (3)(a) of the AML/CFT Act requires FIs to maintain records in a way that would sufficiently enable the transaction to be readily reconstructed at any time by the FIU or competent authorities to provide, if necessary, evidence for prosecution.

Criterion 11.4 - FIs are required to keep or maintain records in a manner and form that enables them to comply immediately with requests for information from the FIU, competent authority or law enforcement agencies (s27(3)(b) and (5)(b) of the AML/CFT Act,).

Weighting and Conclusion

The Gambia meets all the requirements of R.11. R. 11 is rated C.

Recommendation 12: Politically Exposed Persons (PEPs)

The Gambia was rated PC with R.6 in its 1st MER. The shortcomings relate to the lack of requirement to obtain senior management approval to continue the business relationship entered into with PEP before the person became a PEP, lack of definition of PEPs in the ML Act, and ineffective implementation of the risk-based approach in the identification of PEPs by FIs.

Criterion 12.1 - Section 2 of the AML/CFT Act defines PEP as: (a) a person who is or has been entrusted with a prominent public function domestically or in a foreign country, such as Heads of State or of government, senior political party official, a senior government official, judicial or military official; (b) a person who is or has been an executive in a foreign country of a state owned company; or (c) or any immediate family members or close associates of the persons mentioned in (a) and (b).

- a) Paragraph 4.96(i) of the AML/CFT Guidelines for FIs requires FIs to develop clear procedures within their processes and procedures that would enable them to determine if an already existing customer or policy holder has subsequently become a PEP. This requirement does not cover new customers.
- b) FIs are required to obtain senior management approval before establishing a business relationship (§25(2)(d)(i) of the AML/CFT Act). This provision does not cover existing customers.
- c) Section 25(2)(d)(ii) of the AML/CFT Act and Para 4.96(ii) of the AML/CFT Guidelines for FIs require FIs to take reasonable measures to establish the source of funds or wealth of PEPs. However, this section of the Act does not appear to cover beneficial owners identified as PEPs as required by the criterion.
- d) Section 25(2)(d)(iii) of the AML/CFT Act, require FIs to conduct regular enhanced monitoring of the business relationship with PEPs.

Criterion 12.2 - The analyses under c12.1 and the shortcomings also apply to c12.2. The definition of PEPs did not cover persons who are or have been entrusted with a prominent function by an international organisation as stated in the FATF Glossary. This presents additional deficiency in relation to the requirement under c12.2.

Criterion 12.3 - FIs are required to apply relevant requirements under c12.1 and c12.1 to family members and close associates of PEPs (s2 of the AML/CFT Act). However, the family members and close associates of PEPs linked to international organisations are not covered in view of the non-coverage of this category of PEPs in the definition of PEPs.

Criterion 12.4 - Para 4.96(1) of the AML/CFT Guidelines requires FIs, including insurance companies, to establish clear procedures within their processes and procedures that would help in determining if a an already existing customer or policy holder has subsequently become a PEP. Policy holder is broad, and could include life insurance policies. However, there is no express requirement for FIs to take reasonable measures to determine whether the beneficiaries, or the BO of the beneficiary, are PEPs. Other elements of c12.4 such as the requirement to consider making a suspicious transaction report are not fulfilled. The deficiency in the definition of PEP noted under c12.1, also impacts on c12.4.

Weighting and Conclusion

The requirement for FIs to establish risk management systems to determine whether a customer or the BO is a PEP is set out in the AML/CFT Guidelines which is not enforceable. . In addition, the requirement to obtain senior management approval does not cover existing customers while the definition of PEP does not cover PEPs linked to international organisations. Due to the non-materiality of the insurance sector, the issues relating to life insurance are given minimal weighting. **R. 12 is rated PC.**

Recommendation 13: Correspondent Banking

The Gambia was rated PC with former R.7 in its first MER. The main deficiencies included the lack of direction in respect of AML/CFT responsibilities of each institution in the corresponding relationship, lack of measures concerning maintenance of ‘payable through account’ and ineffective implementation of measures under R.7 by the FIs.

Criterion 13.1 In relation to cross-border correspondent banking and other similar relationships, FIs must

- a) collect sufficient information about respondent institution to understand the nature of respondent’s business and determine from publicly available sources its reputation and the quality of supervision the institution is subjected to (§25(5)(b)(c), AML/CFT Act). Para 4.130(v) of the AML/CFT Guidelines for FIs requires FIs to establish whether a respondent bank has been subject to a ML/TF investigation or regulatory action. However, the Guidelines’ contribution to this sub-criterion is minor;
- b) assess the respondent institution’s AML/CFT controls (§ 25 (5)(d) of the AML/CFT Act);
- c) obtain Senior Management approval before establishing any new correspondent relationships (§ 25(5)(e), AML/CFT Act,);
- d) document the respective responsibilities of the correspondent and the respondent institutions (§25(5)(f), AML/CFT Act).

Criterion 13.2 – With respect to “payable-through accounts”, FIs are required to satisfy themselves that the respondent bank: (a) has performed CDD obligations on its customers that have direct access to the accounts of the correspondent bank, and (b) is able to provide relevant CDD information upon request to the correspondent bank (§ 25(6), AML/CFT Act,).

Criterion 13.3 - Para 4.122 of the AML/CFT Guidelines for FIs prohibits FIs from entering into or continuing a correspondent banking relationship with shell banks, or establishing relations with respondent FIs that allow their accounts to be used by shell banks.

Weighting and Conclusion

The Gambia met some of the requirements of R.13. However, the provisions requiring FIs to establish whether a respondent bank has been subject to a ML/TF investigation or regulatory action and prohibiting FIs from entering into or continuing a correspondent banking relationship with shell banks, or establishing relations with respondent FIs that allow their accounts to be used by shell banks are in the Guidelines which is not an enforceable means. These are considered a significant shortcoming and weighted heavily. **R 13 is rated PC.**

Recommendation 14: Money or Value Transfer Services (MVTS)

The Gambia was rated NC on former SR.VI in its 1st MER. Key technical shortcomings found related to the lack of Guidance to MVTS regarding their obligations under the ML Act. Also, there were effectiveness issues related to the lack of monitoring of MVTS for AML/CFT compliance and ineffective implementation of this Recommendation by FIU which the MER now discusses under IO 3.

Criterion 14.1 - Section 6 of the NBF Act requires MVTS to be licensed by the Central Bank before conducting business.

Criterion 14.2 - The Gambia has not taken any specific actions with a view to identifying natural or legal persons that operate MVTS without licences and sanction them. Although Para 4.6 of the Regulation for the Provision of Mobile Money Services, 2011 empowers the CBG to revoke or suspend the license of any provider which does not comply with the provisions of the Regulation, there is no express sanctions for providers that operate without a licence.

Criterion 14.3 - MVTS are reporting entities under the AML/CFT Act (Part 1 of Schedule 1 to the AML/CFT Act) and subject to AML/CFT supervision by the FIU – the designated authority for the supervision of reporting for AML/CFT compliance (§§5(e), 13 and 14, AML/CFT Act)..

Criterion 14.4 – MVTS licensed by the CBG may outsource operational functions of its provision of payment services (that is, provide payment services through an agent) [Para 7.0 of the Regulation for the Provision of Mobile Money Services). In this case, they must inform the CBG 60 days prior to the utilisation of the agent (Para 6.2, Regulation for the Provision of Mobile Money Services). There are also procedures under Para 6.2 which the CBG can use to access information from the agents. Although the procedures allow MVTS to maintain a list of their agents, this obligation is not explicitly provided. In addition, it appears the lists of the agents are only accessible to the CBG and not to other competent authorities in the country.

Criterion 14.5 - Para 6.2(d) of the Regulation for the Provision of Mobile Money Services requires MVTS providers using agents to forward to the CBG their approved Policies and Procedures for the agents. The Policies and procedures must include AML controls to be implemented by the agents. However, there is no requirement that the MVTS should monitor their agents for compliance with the AML controls.

Weighting and Conclusion

MVTS are required to be licensed by the CBG and are subject to AML/CFT supervision by the FIU. However, no specific action has been taken with a view to identifying natural or legal persons that operate MVTS without licences. Elements of the requirements in relation to c14.4 and c14.5 are set out in the Regulation for the Provision of Mobile Money Services which has not been published in the Gazette and thus not enforceable. The AT gave greater consideration to c14.1 and c14.3 in the overall rating of this Recommendation. **R. 14 is rated PC.**

Recommendation 15: New Technologies

The Gambia was rated LC with former R.8 in its 1st MER. The main deficiency related to inadequate application of the measures and policies under the Guidelines on Electronic and Internet Banking which the MER now discusses under IO.4.

Criterion 15.1 (Not Met) - FIs are required to assess the ML/TF risks associated with development of new products and new business practices, including new delivery mechanisms, and the use of new technologies for both new and existing products (Paras 2.13; 2.7, and 3.6 of the AML/CFT Guidelines for FIs; and Paras 2.4-2.5 of the AML/CFT Risk Assessment and RBA Guidelines for Reporting Entities). The Gambia has conducted a national ML/TF risk assessment (NRA). The NRA includes a section on risks presented by new products, services and delivery channels, including internet and mobile banking, but the country has not fully identified and assessed the ML/TF risks of new or developing technologies. However, there is no specific requirement in law or Guidelines requiring The Gambia as a country to identify and assess ML/TF risk that may arise in relation to the development of new products and new business practices.

Criterion 15.2

- a) Para 2.28 of the AML/CFT Guidelines for FIs requires FIs to conduct ML/TF risk assessment prior to launching the product or activities. This provision does not cover the requirement to undertake risk assessments of new technologies prior to the launch or use of such technologies.
- b) Paras 2(14-19) and 3.7 of the AML/CFT Guidelines for FIs require FIs to have appropriate measures to mitigate the risks associated with new products and services, and delivery channels. FIs are required to have policies and measures in place to prevent the misuse of technological products or platforms in ML/TF schemes (Para 4.100 of the AML/CFT Guidelines for FIs).

Criteria 15.3 -15.11 –There are no measures that have been undertaken to address requirements relating to VAs and activities of VASPs

Weighting and Conclusion

Elements of the requirements under c15.1 and c15.2 are set out in the AML/CFT Guidelines which is not an enforceable means. There are no requirements for FIs to undertake risk assessments of new technologies and to do so prior to the launch or use of such technologies. In addition, there are no measures that have been undertaken to address requirements relating to VAs and activities of VASPs. The deficiencies relating to c15.3-c15.11, including the lack of identification and assessment of ML/TF risks emerging from virtual asset activities and the activities or operations of VASPs, and the lack of framework for the prohibition or regulation / supervision of VASPs are considered important gaps and are weighted significantly in the overall rating of R15. **R. 15 is rated NC.**

Recommendation 16: Wire Transfers

The Gambia was rated NC with former SR VII in its 1st MER. The key technical deficiency related to the absence of legislation or guidance to ensure compliance with this Recommendation. There was an effectiveness issue related to the lack of supervision by the CBG to ensure NFIs' implementation of the requirements of SR VII which the MER now discusses under IO.3.

Criterion 16.1 – FIs must ensure that all cross-border wire transfers are always accompanied by the following:

- a) Required accurate originator information (§ 29(1), AML/CFT Act):
 - i. the name of the originator (para 5.4(i), FIs Guidelines);
 - ii. originator account number where such an account is used to process the transaction (para 5.4(ii), FIs Guidelines) or, in the absence of an account, a unique transaction reference number which permits the traceability of the transaction (Para 5.4 (viii), AML/CFT Guidelines for FIs); and
 - iii. the originator's address, or national identity number, or date and place of birth (Para 5.4 (ii), AML/CFT Guidelines for FIs).
- b) Required beneficiary information:
 - i. the name of the beneficiary (para 5.4(iv), FIs Guidelines); and
 - ii. the beneficiary account number where such an account is used to process the transaction (para 5.4(v), FIs Guidelines) or, in the absence of an account, a unique transaction reference number which allows the traceability of the transaction (Para 5.4 (viii) of the AML/CFT Guidelines for FIs).

Criterion 16.2 - In the event that several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, ordering FIs are required to include, in the batch file, required and accurate originator information, and full beneficiary information, that is fully

traceable within the beneficiary country; as well as the originator's account number or unique transaction reference number (Para 5.5 of the AML/CFT Guidelines for FIs).

Criterion 16.3 - The Gambia does not apply a *de minimis* limits for the requirements of criterion 16.1.

Criterion 16.4 – A *de minimis* threshold is not applied for wire transfers.

Criterion 16.5 - Section 29(1) of the AML/CFT Act requires FIs undertaking wire transfers, including domestic wire transfers, to ensure that the information accompanying the wire transfer includes originator information as indicated for cross-border wire transfers under c.16.1. As described in R9, the authorities can have access to information held by FIs.

Criterion 16.6 - The analysis in criteria 16.5 is relevant. There is no specific provision requiring the ordering FI to make the information available within three business days of receiving the request either from the beneficiary FI or from appropriate competent authorities. However, competent authorities can compel the immediate production of records of any business transaction (including wire transfers) conducted by or for a person as well as correspondence relating to transactions as is necessary to enable the transaction to be readily reconstructed at any time by the FIU or competent authority (§§27(5) AML/CFT Act).

Criterion 16.7 – Ordering FIs are required to maintain all originator and beneficiary information collected in accordance with Recommendation 11 (§27(1)(a)(b)(2) and §29(1), AML/CFT Act).

Criterion 16.8 – Paragraph 5.7 of the AML/CFT Guidelines for FIs prohibits the ordering FIs to execute the wire transfer if it does not comply with specific requirements set out in Para 5.4 (the requirements of c16.1 - c16.7).

Intermediary Financial Institutions

Criterion 16.9 - For cross-border wire transfers, paragraph 5.9 of the AML/CFT Guidelines for FIs requires intermediary FIs to ensure that all originator and beneficiary information that accompanies a wire transfer is retained with the transfer.

Criterion 16.10 - This requirement is covered under Para 5.9 of the AML/CFT Guidelines for FIs which provides that, where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, a record, should be kept, for at least five years, by the receiving intermediary FI of all the information received from the ordering FI or another intermediary FI.

Criterion 16.11 (Not Met) - Intermediary FIs are required to take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information (para 5.10 of the AML/CFT Guidelines for FIs). However, there is no specific reference that the measures must be consistent with straight-through processing as required under c16.11.

Criterion 16.12 - Intermediary FIs are required to have effective risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer; and the appropriate follow-up action (Para 5.11 of the AML/CFT Guidelines for FIs). If the intermediary FI has not been provided with the required information (payer or payee data), it shall consider filing an STR (Para 5.10 of the AML/CFT Guidelines for FIs).

Beneficiary financial institutions

Criterion 16.13 - Beneficiary FIs are required to take reasonable measures to identify cross-border wire transfers that lack required originator or required beneficiary information. Such measures may include post-event monitoring or real-time monitoring where feasible (Para 5.13 of the AML/CFT Guidelines for FIs).

Criterion 16.14 – For cross-border wire transfers, paragraph 5.14 of the AML/CFT Guidelines for FIs requires a beneficiary FI should verify the identity of the beneficiary, if the identity has not been previously verified. The Gambia does not apply a de minimis threshold for cross-border wire transfers and as such this applies to all transfers. The information must be retained by the FI for at least 5 years (s27(1)(a)(b)(2) of the AML/CFT Act, and Paras 7.4 and 7.13 of the AML/CFT Guidelines for FIs).

Criterion 16.15 - Beneficiary financial institutions are required to have effective risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and the appropriate follow-up action (including filing an STR to the FIU (Para 5.14, AML/CFT Guidelines for FIs).

Money or value transfer service operators

Criterion 16.16 (Not Met) - Paragraph 5.16 of the AML/CFT Guidelines for FIs particularly applies to MVTS providers and requires them to comply with the wire transfer requirements as described in R.14 above. The minor deficiencies identified throughout R. 14 apply.

Criterion 16.17 (Not Met):

- a) [Not Met] In the case of an MVTS provider that controls both the ordering and the beneficiary side of a wire transfer, the MVTS provider should take into account all the information from both the ordering and beneficiary sides. However, this is not linked to the filing of an STR (Para 5.16, AML/CFT Guidelines for FIs);
- b) Although there is a general requirement for reporting entities, including MVTS providers to file suspicious transactions, there is no specific obligation for MVTS provider that controls both the ordering and the beneficiary side of a wire transfer to file an STR in the country affected by the suspicious wire transfer and to make relevant transaction information available to the FIU.

Implementation of Targeted Financial Sanctions

Criterion 16.18 - FIs are required to take freezing action and refuse transactions with designated persons and entities, as per obligations set out in the relevant UNSCRs relating to the prevention and suppression of terrorism and TF, such as UNSCRs 1267 and 1373, and their successor resolutions in relation to all transactions, including wire transfers (Para 5.20 and 5.21, AML/CFT Guidelines for FIs).

Weighting and Conclusion

The Gambia did not meet most of the criteria under this Recommendation because the requirements of R16 are largely set out in the AML/CFT Guidelines for FIs which is not enforceable. This is considered a major shortcoming and is weighted heavily in R.16. **R. 16 is rated NC.**

Recommendation 17: Reliance on Third Parties

The Gambia was rated Not Applicable in the 1st MER because reporting entities were not permitted to rely on intermediaries or other third parties to perform any of the elements of the CDD process under Money Laundering Act.

Criterion 17.1 FIs are allowed to rely on a third party or introduce business concerning elements a-c of the CDD measures set out in FATF Recommendation 10 (§25(7), AML/CFT Act). However, there is no express provision that the ultimate responsibility for identifying and verifying the identity of the customer remains with the FI relying on the third party. However:

- a) FIs are required to immediately obtain information concerning elements (a) – (c) of the CDD measures set out in R.10 from the third party (§25(7)(a), AML/CFT Act). The shortcomings in R10 impact on the rating.

- b) FIs are to ensure that copies of identification and other relevant documentation related to CDD requirements are made available by the third party upon request without delay (§25 (7)(b), AML/CFT Act).
- c) FIs are required to satisfy themselves that the third party upon whom reliance is placed, is regulated and supervised for compliance with CDD and record keeping obligations set out in Part v of the AML/CFT Act (§25 (7)(c), AML/CFT Act).

Criterion 17.2 – FIs are not required to have regard to information available on the level of country risk when determining in which countries a third party that meets the conditions can be based.

Criterion 17.3 – This requirement does not apply to The Gambia because there are no financial groups or FIs which have branches/subsidiaries outside the country (see c18.2).

Weighting and Conclusion

The Gambia allows FIs to rely on third-parties to perform elements of CDD. However, there is no express requirement that the ultimate responsibility for identifying and verifying the identity of the customer remains with the FI relying on the third party. In addition, there is no provision that meet the requirements of c17.2, and also, the shortcomings under R.10 impact the overall rating of this Recommendation. **R. 17 is rated PC.**

Recommendation 18: Internal Controls and Foreign Branches and Subsidiaries

In the 1st MER, The Gambia was rated NC on R.15 (Internal Controls) and NC on R.22 (Foreign Branches and Subsidiaries). The shortcomings identified included the lack of direct obligation to appoint Compliance Officers at Senior Management level, the absence of training on AML/CFT measures for most staff of FIs. There were also effectiveness issues across all FIs which the MER now discusses under IO.4.

Criterion 18.1 - The AML/CFT Act requires FIs to develop and implement programmes (policies, procedures, and systems) against ML/TF but there is no requirement that these should be drawn with regard to the ML/TF risks and size of the business. However:

- a) - FIs are required to appoint a Compliance Officer with responsibility for the institution's compliance with its AML/CFT obligations (§39(1)(a) of the AML/CFT Act). The compliance officer must be appointed at senior management level and have the relevant qualifications and experience to enable the compliance officer to respond sufficiently to matters relating to the reporting entity and the conduct of its business (§39(2)(a), AML/CFT Act);
- b) - FIs should have screening procedures to ensure high standards when hiring employees or assigning them duties under the AML/CFT Act (§39(b)(vi), of the AML/CFT Act);
- c) - Section 39(1)(a)(v) and (c) of the AML/CFT Act requires FIs to train their officers, employees and agents. However, this provision does not cover the requirement that this should be on ongoing basis. Although Para 3.32 requires FIs to ensure on-going training programme for officers and employees, the training programme should be reviewed periodically to accommodate changes in the ML/TF risk faced by the reporting entity and the operating environment, and must include all categories of employees, including the board of directors (Para 3.28, AML/CFT Guidelines for FIs), the Guidelines is not enforceable.
- d) - FIs should perform independent audit to test the compliance of its AML/CFT procedures and system (§39(d), AML/CFT Act).

Criteria 18.2 – c18.3- There are no financial groups or FIs which have branches/subsidiaries outside The Gambia.

Weighting and Conclusion

The programmes to be implemented by FIs under criterion 18.1 are not required to be based on the ML/TF risk and size of the business while trainings are not required to be on ongoing basis. These are considered minor shortcomings. Criteria 18.2-18.3 are not applicable. **R. 18 is rated LC.**

Recommendation 19: Higher Risk Countries

The Gambia was rated PC on R.21 in its 1st MER. The key shortcomings included the lack of provision to apply appropriate counter-measures with countries not complying with the FATF Standards and ineffective measures to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries. Concerns about the ineffective implementation of the provisions of the ML Act to countries that do not apply AML/CFT measures are discussed under IO.4.

Criterion 19.1 - There are special monitoring of certain transactions and relations with persons in jurisdictions that do not have adequate systems in place to prevent or deter ML/TF (§30 (1) (b), AML/CFT Act). Under Para 2 of the AML/CFT Guidelines for FIs, FIs have broad obligations to apply EDD to higher risk categories of customers, business relationships or transactions, which could include those from higher-risk countries. However, there is no explicit requirement that this should be based on the call by the FATF.

Criterion 19.2

- a) As described in c.19.1, under the AML/CFT Guidelines, FIs can apply EDD to business relationships and transactions with persons from high-risk jurisdictions.
- b) There is no existing legal basis which requires the application of countermeasures within the framework of element (b) of this criterion

Criterion 19.3 - The FIU provides some updates to FIs during AML/CFT trainings of reporting entities and engagement with the Committee of Chief Compliance Officers Forum regarding countries which have weaknesses in their AML/CFT systems or changes to the FATF list of jurisdictions that have strategic deficiencies in their AML/CFT/PF regimes. FIs are also encouraged to regularly visit the FATF website for countries in the FATF public statements. FIs that have not been trained and do not belong to the Committee of Chief Compliance Officers Forum are excluded. Overall, there are insufficient measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

The broad obligation for FIs to apply EDD to higher risk categories of customers, business relationships, or transactions, which could include those from higher risk countries is set out in the AML/CFT Guidelines for FIs which is not enforceable. . In addition, there is no existing legal basis which requires the application of countermeasures within the framework of elements (a) and (b) of c19.2, and there are insufficient measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT system of other countries. **R. 19 is rated PC.**

Recommendation 20: Reporting of Suspicious Transactions

In its 1st MER, The Gambia was rated NC on R.13 and SRIV. The major shortcomings identified in the MER included the non-criminalisation of the full range of predicate offences required under R.1, lack of guidance or directive from the FIU to the FIs and DNFBPs to report STRs linked to TF, and no training had been provided to most of the reporting entities, particularly the DNFBPs on the reporting of STRs.

Criterion 20.1 - Reporting entities are required to report suspicious transactions under the AML/CFT Act. Reporting entities that have reasonable grounds to suspect that any transaction may be related to the commission of a criminal conduct, a ML or TF are required to as soon as practicable after forming that suspicion, but no later than three working days, make a report of the transaction to the FIU (§33 (1), AML/CFT Act). The requirement to report STRs no later than three working days from the date of detection of the suspicion is considered as sufficiently prompt.

Criterion 20.2 – Section 33 (1)(a) of the AML/CFT Act, 2012 require reporting entities to file STRs, including attempted transactions. No restrictions exist as to the amount of the transaction.

Weighting and Conclusion

The Gambia has met all the requirements of R.20. **R. 20 is rated C.**

Recommendation 21: Tipping-Off and Confidentiality

In its 1st MER, The Gambia was rated C on R.14.

Criterion 21.1 - Section 37(1) of the AML/CFT Act states that, a reporting entity, its directors, officers, partners, or employees who submit reports or provide information in accordance with the Act, and in good faith, shall not be liable to criminal, civil, disciplinary or administrative proceedings for breach of any restriction on disclosure of information imposed by contract or any legislative, regulatory or administrative provisions, regardless of the result of the report. .

Criterion 21.2 - Section 34 of the AML/CFT Act prohibits a reporting entity, its officers, employees or agents or any other person from disclosing to any person that an STR or related information has been or may be made to the FIU. A person who violates this provision is liable on conviction to a fine of not more than 10,000 Dalasis (approx. US\$ 200) or imprisonment of not more than two years or to both the fine and imprisonment (§34(6) of the AML/CFT Act). The AML/CFT Act provides for some exceptions, including where the disclosure is ordered by a court on application by a competent authority, is made to a supervisory authority for the purpose of carrying out the supervisory authority’s functions, or made to an officer, employee or agent of a reporting entity for any purpose connected with the discharge of his/her duties (§34(2)(3)(4), AML/CFT Act).

Weighting and Conclusion

The Gambia has met all the requirements of R.21. **R. 21 is rated C.**

Recommendation 22: DNFBPs: Customer Due Diligence

The Gambia was rated NC with R.12 in its 1st MER because of serious gaps in the rules with respect to customer due diligence for DNFBPs and non- implementation of the Money Laundering Act.

DNFBPs are part of reporting entities required to comply with the provisions of the AML/CFT Act. All categories of DNFBPs as required by the FATF Standard are covered in the AML/CFT Act.

Criterion 22.1 - DNFBPs are required to comply with the CDD requirements set out in R.10. However, the deficiencies identified under R10 also apply to DNFBPs, and impact on the rating for c22.1 as follows.

- a) Casinos: Under ss 25-27 and 39 1(b)(i) of the AML/CFT Act, reporting entities, including casinos are required to implement customer identification requirements under the Act. Section 42(2) of the AML/CFT Act requires casinos to verify the identity of a person who buys or exchanges chips or tokens for a sum exceeding GMD10,000 (approx. US\$200). Similarly, Para 3.2 of the AML/CFT Guidelines for DNFBPs require DNFBPs, including casinos to implement customer due diligence measures. In particular, Para 3.4.1 of the AML/CFT Guidelines for DNFBPs requires casinos to conduct CDD when undertaking transactions involving an amount equal to or above three thousand United States Dollars (US\$ 3,000) or its Dalasis equivalent.
- b) Real estate agents: The requirements for reporting entities to implement CDD measures under section 39 1(b)(i) of the AML/CFT Act and Para 3.2 of the AML/CFT Guidelines for DNFBPs also apply to real estate agents. Although there is no express provision linking the CDD obligation to the buying and selling of property (real estate), the provision is broad and can apply whenever the real estate agent is involved in a transaction for a client concerning the buying and selling of real estate, as both parties become the clients of the real estate agent, for which it has to comply with the CDD related requirements.

- c) Dealers in precious metals and dealers in precious stones are subject to general CDD requirements provided under s39 1(b)(i) of the AML/CFT Act and Para 3.2 of the AML/CFT Guidelines for DNFBBs. Under Para 3.4.1 of the AML/CFT Guidelines for DNFBBs, they are required to apply CDD measures when conducting transactions over USD15,000 or its equivalent in Dalasis. Although there is no specific reference to cash transactions, the term “transaction” is broad and is understood to include cash transactions.
- d) Lawyers, notaries, other independent legal professionals and accountants are reporting entities and are subject to the CDD obligations under s39 1(b)(i) of the AML/CFT Act and Para 3.2 of the AML/CFT Guidelines for DNFBBs. The CDD obligation is open ended and thus, can covers all the activities stated under c22.1(d).
- e) Trust and Company Service Providers are designated as reporting entities and are thus, required to comply with the CDD obligations stipulated under s39 1(b)(i) of the AML/CFT Act and Para 3.2 of the AML/CFT Guidelines for DNFBBs. The CDD obligation is open ended and thus, can covers all the activities stated under c22.1(e).

Criterion 22.2 - DNFBBs are subject to the same record-keeping requirements as FIs under the AML/CFT Act (see analysis of R.11).

Criterion 22.3 – DNFBBs are required to comply with the requirements on PEPs under the AML/CFT Act (see analysis on R.12). See also Para 3.2(e); 5.7; 5.8 of the AML/CFT Guidelines for DNFBBs. The deficiencies identified under R.12 also apply, except for the deficiencies regarding life insurance beneficiaries which do not apply to DNFBBs.

Criterion 22.4 - DNFBBs in The Gambia are required to comply with the same requirements on new technologies as FIs under section 39(e) of the AML/CFT Act. See also Paras 2.6, 8.13, and 8.7 of the AML/CFT Guidelines for DNFBBs. The analysis and conclusions made under c15.1 and c15.2 apply to c22.4. Similarly, the deficiencies identified under R.15 also apply

Criterion 22.5 - DNFBBs are required to comply with the same third-party reliance requirements as FIs under the AML/CFT Act (see analysis of R17). Unlike the AML/CFT Guidelines for FIs, Para 4.1.3 of the AML/CFT Guidelines for DNFBBs explicitly places the ultimate responsibility for identifying and verifying the identity of the customer on the DNFBB relying on the third party.

Weighting and Conclusion

The Gambia meets c22.2 and partly meets c22.1, c22.3, c23.4 and c22.5. The deficiencies identified in R10, R12, R15 and R17 also apply here. In addition, some of the provisions are set out in the AML/CFT Guidelines for DNFBBs which is not enforceable. **R. 22 is rated PC.**

Recommendation 23: DNFBBs: Other Measures

The Gambia was rated NC with former R.16 in its 1st MER. Key deficiencies identified by the assessment relate to the lack of implementation of the requirements of R.16, absence of requirement to appoint a Compliance Officer at senior management level, and DNFBBs were not obliged to pay special attention to businesses with countries that do not sufficiently apply the FATF Recommendations.

Criterion 23.1 - DNFBBs are subject to the same STR reporting requirements as FIs (see analysis of R.20). All DNFBBs are required to comply with the STR requirements set out in R.20 (§33(1), AML/CFT Act) in line with the following requirements set out in the FATF standards:

- a) - Lawyers, notaries, other independent legal professionals and accountants are required to report STRs to the FIU, when they engage on behalf of, or for a client, in a financial transaction associated with the activities listed in Criterion 22.1(d)(§41(e), AML/CFT Act). These requirements do not apply to privileged communication, whether oral or written, between a lawyer and a client (§33(5)

and (6) in the circumstances described in footnote 67 of the FATF Methodology. They do not apply to information consisting wholly or partly of, or relating partly or wholly to receipts, payments, income, expenditure or financial transactions of a person contained in or comprising the whole or part of any book, account, statement or other record prepared or kept by the lawyer in connection with a trust account of the lawyer.

- b) - Dealers in precious metals or stones - are required to report STRs when they engage in a cash transaction, or interrelated transactions, with a customer equal to or above US\$ 15000 or its equivalent in any currency (§41(c), AML/CFT Act).
- c) -Trust and company service providers - are required to submit STRs when, on behalf or for a client, they engage in a transaction in relation to the activities described in criterion 22.1(e) (§41(d), AML/CFT Act).

Criterion 23.2 - The requirements of R.18 in respect of FIs equally apply to DNFBPs. See analysis under R.18 (internal controls).

Criterion 23.3 - DNFBPs are required to comply with the same higher-risk countries requirements as FIs under the AML/CFT Act. See analysis of R.19.

Criterion 23.4 - DNFBPs are subject to the same requirements as FIs regarding tipping-off and confidentiality. See analysis of R.21.

Weighting and Conclusion

The Gambia meets c23.1; c23.2; c23.4. The deficiencies identified in R19 also apply here, especially under c23.3. **R. 23 is rated LC.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

The first MER rated The Gambia PC with these requirements. The technical deficiency related to an absence of a requirement to verify information filed with the Registrar and the timely availability of information of records. There were effectiveness issues regarding the accessibility to and adequacy of data, and the lack of a storage system for information, which is now discussed under IO.5.

Criterion 24.1 – The Gambia has mechanisms to identify and describe the different types, forms, and basic features of legal persons created in the country. The Gambia has four categories of legal persons (Companies (Private Limited Liability Companies, Companies Limited by Shares, Companies Limited by Guarantee, Public Limited Liability Companies and Branch of a Foreign company/External Companies); Partnerships (Limited Partnership, General Partnerships, Firms); Sole Proprietorships (Sole Trader, Individual Entrepreneurship or Proprietorship); and Charitable Bodies (Charitable Organisations, Associations & Foundations) (§7, Companies Act, 2013 and §1 of the Single Window Business Registration Act 2013). Legal persons created in foreign countries must deliver relevant documents to the Registrar of Companies for registration before commencing operations in The Gambia (§585, Companies Act). Information on the features and process for establishing the types of legal persons (companies, associations and foundations) is publicly available online on the website of the Companies department under the Ministry of Justice headed by the Registrar of Companies ([https:// www.moj.gm/companies-division](https://www.moj.gm/companies-division)).

Companies are established following registration with the Companies department/registry which can be processed online. The process for obtaining and recording basic information on legal persons is publicly available. The Companies Registry is not required to obtain and record beneficial ownership information of legal persons.

Criterion 24.2 – The Gambia has not assessed the ML/TF risks associated with all the different types of legal persons in the country.

Criterion 24.3 - All companies created in The Gambia are required to register with the Registrar of Companies, which records the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers, and a list of directors. Companies must submit a memorandum of articles or in the case of a foreign company, a copy of statute, charter, or instrument under which the company was incorporated, stating among other items, the name of the company, nature of business and business address. Submission of a valid proof of identity for directors and subscribers is also mandatory (§13, Companies Act and §13(2), the Single Window Business Registration Act). Upon incorporation, companies submit registration information to the Registrar of Companies (§22, Companies Act).

Criterion 24.4 - Companies are required to have a registered office in The Gambia and provide the address to the Registrar. They are also required to maintain certain documents, including the memorandum of association (setting out the company's name, the nature of the business, or business, nature of objects for which it was established, restrictions if any on the powers) (§§ 13 and 14; first schedule (specifically to tables B, C and D), Companies Act).

Section 324(2) of the Companies Act, 2013 requires companies to maintain accounting records for six years from the date on which they were made. Section 62 of the Companies Act provides for the register of members and section 62(1) requires every company to keep a register of its members and enter the particulars required by this section in the register. This includes the number of the shares held by each member, distinguishing each share by its number (so long as the share has a number) and, where the company has more than one class of issued shares, by class; and right of a member to attend meetings and vote (§218 (1), Companies Act).

Criterion 24.5 - Gambia has specified in its law the obligation to update the information referred to in criteria 24.3 and 24.4. The requirements for the prompt updating of companies' information are set out in §§17,30, 31,130,241 and 24 of the Companies Act 2013. Section 23 of the Single Window Business Registration Act 2013 prescribes updating the information within 14 days. However, the authorities do not specifically verify the accuracy of information it receives for registration of companies.

Criterion 24.6 - Public companies are required to request for the disclosure of a beneficial owner and may provide beneficial ownership information to the Registrar of Companies (§73, Companies Act). The requirement to obtain and provide BO information is permissive and does not apply to private companies.

The AML/CFT Act defines a beneficial owner to include a person who exercises ultimate effective control over a legal person or arrangement. The Companies Act sets out certain rights and obligations for the ultimate beneficial owners of a legal entity in this regard. FIs and DNFBPs are also required by law to obtain and maintain BO information (§25(2)(c)(ii), AML/CFT Act).

Criterion 24.7 – There is no express legal obligation for reporting entities to obtain and maintain BO information. Competent authorities are not required to determine the mechanisms by which adequate, accurate and current information on the BO can be kept and there appear to be no sufficient mechanisms to provide timely access to the information by reporting entities, competent authorities, including law enforcement, the FIU, and supervisory and judicial authorities. The authorities did not indicate that mechanisms had been put in place to ensure BO information is accurate and up to date.

Criterion 24.8 (a), (b) and (c)

Competent authorities are to put in place mechanisms to access BO information. Also, section 27(5) of the AML/CFT Act requires reporting entities to make records available to competent authorities for investigation and prosecution of criminal conduct. However, there is no express provision mandating companies to be accountable to competent authorities to provide all basic information. and available beneficial ownership information or further giving assistance to authorities.

Criterion 24.9 - The Company Registry maintains the information and records for 6 years after the dissolution of the company (§323, Companies Act). Information and records that are kept include the names and address of members, the date of registration and cessation of membership, day to day entries of all sums of money received, a record of assets and liabilities of the company, statement of stocks and all goods purchased and sold (§§323 and 324(2), Companies Act). However, this requirement to keep records does not appear to cover the company itself or its administrators, liquidators or other persons involved in the dissolution of the company. Reporting entities are required to maintain information on customers that are legal persons, for five years after the legal person ceases to be a customer of the professional intermediary or FI (§ 27(2), AML/CFT Act).

Criterion 24.10 – Competent authorities, and in particular LEAs can obtain access upon request to relevant information on basic and beneficial ownership information held by reporting entities, the company registry, or any other relevant person, government ministries, department, and agencies upon request to assist in the investigation and prosecution of a criminal conduct (§27(5), AML/CFT Act and §309, Companies Act). There are no timelines for obtaining access to such information.

Criterion 24.11 – Section 128 of the Companies Act prohibits companies from issuing share warrants. Companies that had valid bearer shares on commencement of the Companies Act were required to, within thirty days of entry into force of the Act, convert the share warrants into registered shares. A person whose name is entered in a company’s register of members of their holding of a share warrant becomes a member of the company with effect from the date on which the cancelled share warrant was issued.

Criterion 24.12 - The Companies Act allows companies to have nominee shareholders and nominee directors and requires the disclosure of information on nominee shareholders in the case of a public company (§73-77). Section 73 of the Companies Act requires any member of the company to indicate the capacity in which the member holds any shares in the company including the identity of the beneficial owner, or persons interested in the shares. The Act does not appear to cover nominee shareholders in respect of private companies.

Criterion 24.13 - The Companies Act imposes liabilities, proportionate and dissuasive sanctions on legal and natural persons for not complying with requirements of the law (see Table below).

Requirement	Provision	Available Sanction for Non-Compliance	Aggravated sanction	Liability
Provision of information on location of the companies register.	§ 63, Companies Act.	Default for 28 days -	5,000 dals. and daily default of 500 dals (§63(2)).	Every officer of the defaulting company
Maintenance of index of members at all times at the same place as the register of members.	§ 64		1000 dals. daily (§64(4)).	Every officer
Provision of copies of register and index for inspection within a stipulated period.	§ 66	A fine not more than 50 dals.		The company, and every officer of it who is in default shall be guilty of an offence
Disclosure of beneficial interest in shares of a public company.	§§ 73 and 74	Imprisonment for a term of not more than 6 months or to a fine of 25 dals. for each day during which the default continues (§73(4)(a)).		

Any person who makes or authorizes the making of a statement that is false or misleading or omits in purported compliance with notice, makes a statement which he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, commits an offence and is liable on conviction to a fine of twenty-five Dalasis for every day during which the default continues or imprisonment for a term of six months (§73(4)(b), Companies Act). A person is not guilty of an offence under subsection (4) (a), if the person proves that the information in question was already in the possession of the company or that the requirement to give it was for any other reason frivolous or vexatious reason.

Criterion 24.14 - Section 5(a)-(c) and (p) of the AML/CFT Act empowers the FIU to facilitate the access by foreign competent authorities to basic information held by company registry in response to a request for information under the laws of The Gambia. The exchange of any such information is subject to an existing agreement especially where the information is not publicly available.

- a) Where basic information is available on the Company registry website, foreign competent authorities can only access such basic information as legislative requirements on company formation publicly available on the Company website, (<https://www.moj.gm/companies-division>)
- b) The FIU and law enforcement authorities can exchange information on shareholders using their channels of cooperation (see R.40).
- c) The FIU and LEAs have investigative powers to obtain BO information (to the extent that it is available in The Gambia) on behalf of their foreign counterparts (see R. 37 and 40).

Criterion 24.15 – The Gambia does not have a legal provision or mechanism in place to monitor the quality of assistance received from other countries in response to requests for basic and BO information or assistance in locating beneficial owners residing abroad.

Weighting and Conclusion

The Gambia has not conducted a risk assessment of the ML/TF risk associated with all the different types of legal persons in the country. The Gambia limits the disclosure of information on nominee shareholder to public companies. There are no explicit measures in place to ensure that companies update the beneficial ownership information. There is no mechanism for the verification of information on legal persons. There

are no explicit provisions or measures in place to ensure that companies co-operate with competent authorities. There are no sanctions to deal with failure to provide beneficial ownership information. As regards nominee shareholding and directors, there are no mechanisms to ensure that criminals do not abuse private companies for ML/TF. **R. 24 is rated PC.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In its last MER, The Gambia was rated NC with the former R.34. there were effectiveness issues related to the unavailability of accurate BO information promptly, understaffing and lack of the necessary equipment and resources to set up a database for legal arrangements and beneficial owners, and the absence of a transparent verification process to validate the information submitted on beneficial owners. These issues are discussed under IO.5.

Criterion 25.1-

(a) The Trustee Companies Act - Cap 94:04 Vol. 15 Revised Laws of The Gambia, 2009 (TCA) provides for the incorporation of Trust and Company Service Providers in The Gambia. Trust Companies also have to comply with the provisions of the Companies Act 2013 of The Gambia. Express trusts can be established in The Gambia. Paragraph 3.5.5 of the Guidelines and Directives for DNFBPs 2016 (GDDs) requires DNFBPs including Trust companies to collect evidence of the existence of legal entities to include the identities of management, shareholders and beneficial owners.

An FI named trustee or providing services for the trust must disclose the name of the trust, nature and type of trust, the country of establishment and the identity of the natural person providing the funds (Paragraph 4.57 of the Guidelines and Directives for Financial Institutions (FI) (GDFs). Trust, nominee and fiduciary agreements are documents that may substantiate the identity of legal persons. These must be adequate, accurate and have current information on the trustee, settlor, the protector and beneficial owner or the natural person exercising ultimate effective control over the trust.

(b) - Trustee companies are required to have their accounts audited by a person registered as an accountant with a professional body of accountants approved by the Registrar (§8, Trustees Companies Act). However, there is no specific requirement to hold basic information on accountants. In addition, trustee companies are not required to hold basic information on other regulated agents of, and service providers to the trust, including investment advisors or managers and tax advisors.

(c) - Professional trustees are required to maintain information on the identity of the settlor, the trustee(s), the protector, the beneficiaries, or the class of beneficiaries. Section 27 (2) (a) of the AML/CFT Act requires TCSPs to maintain books and records evidencing the *identities* of customers and beneficial owners. This information should be held during the business relationship and for not less than five years from the date the business relationship ends.

Criterion 25.2 – There is no express obligation for information on the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust to be kept accurate and as up to date as possible and updated on a timely basis. However, FIs and DNFBPs are required to keep CDD information on customers up-to-date and updated on a timely basis. The customers include those listed.

Criterion 25.3 – Section 25(3) of the AML/CFT Act, paragraphs 3.6.7 of the GDDs and 4.5.5 of the G-FIs provide measures to ensure that a person discloses to FIs and DNFBPs whether the person is acting on behalf of another person when conducting a transaction or undertaking. This would include a person who is a trustee for an international or a domestic trust whether the domestic trust involves a business activity or not. However, there is no express provision that requires professional trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction. The provisions of the AML/CFT Act cited above operate where the FI or DNFBP has reasonable grounds to believe that the customer is acting on behalf of a third party, which is inconsistent

with the FATF standards. The FATF requirement to obtain details of trustees is not based on the reporting entity's reasonable belief that the customer is acting on behalf of a third party. This should occur as a matter of course.

Criterion 25.4 - Trustees are not prevented from providing information relating to the trust to competent authorities, FIs and DNFBPs. Competent authorities such as the FIU and LEAs can obtain this information from reporting entities and other competent authorities. As indicated above, FIs and DNFBPs can obtain this information when conducting CDD (paragraph 4.5.5, G-FIs and para. 3.6.7, G-DNFBPs).

Criterion 25.5 - LEAs have the powers necessary to obtain information held by trustees and other parties in line with the AML /CFT Act and the ACCA. The FIU may request and obtain information from reporting entities, supervisory authorities or any law enforcement agency, a government institution (§5 (b and c), AML/CFT Act). Also, the Chairman of the Anti-Corruption Commission can obtain information and compel the production of documents (§43, ACCA). FIs and DNFBPs are required to keep records and information which shall be made available on a timely basis to the Unit as well as other competent authorities and supervisory bodies (§27, AML/CFT Act).

Criterion 25.6 – There is no specific requirement or mechanism in place in The Gambia to support the rapid provision of information, including BO information on trusts to foreign competent authorities. In this regard, the general provisions on international cooperation described in Recommendations 37 and 40 apply.

Within the framework of MLA, The Gambia may provide, through diplomatic channels, basic corporate and BO information based on request from foreign authorities (§72(2) and 82(d), AML/CFT Act). In the case of MLA requests based on applicable bilateral or multilateral treaties, the MOJ (the central authority) who receives MLA requests from foreign authorities through the MOFA may provide the evidence directly to the requesting country without using diplomatic channels (Part IV, MLA Guidelines (Transmission of an MLA Request)).

Regarding other forms of cooperation, the FIU can provide international co-operation in relation to information, including beneficial ownership information, on trusts and other legal arrangements to an institution or agency of a foreign State or an international organisation with similar powers and duties based on terms and conditions set out in an agreement or arrangement between the GFIU and the foreign State regarding the exchange of such information. Information provided must be used for purposes relevant to investigating ML/TF or an offence that is substantially similar to either offence, kept confidential and only be disclosed with the consent of the FIU (§17(2)(a) & (b), AML/CFT Act). As a result, the GFIU can:

- a) facilitate access to basic or beneficial information of companies and legal arrangements where information is held by the registrar of companies (§§5(b) and 17(2)(a) & (b), AML/CFT Act); and
- b) exchange domestically available information on the trusts or other legal arrangements for purposes relevant to investigating ML/TF or criminal conduct (§§5(o) and 17(2)(a) & (b), AML/CFT Act).

The Gambia's Guidelines for providing MLA allows LEAs to receive enquiries directly from LEAs in foreign jurisdictions, which in some cases may be subject to a data sharing agreement or memorandum of understanding (Part IV (Law Enforcement (Police) Cooperation)). Based on the MLA requirements of the AML/CFT Act which applies to LEAs, The Gambia can use its competent authorities' investigative powers to obtain BO information of trusts on behalf of foreign counterparts. However, information may not be provided rapidly due to the absence of accurate and up-to-date information on legal arrangements.

Criterion 25.7 – FIs are required to ensure that trustees provide beneficial ownership information. Trustees are legally liable for any failure to perform the duties relevant to meeting their obligations. FIs have the right not to continue with business relation for instance if a trustee does not provide beneficial ownership information. Section 300(1) of the Criminal Code Cap 10.01 imposes sentence of seven years for any person convicted of disposing or converting of a trust property. Subsection 2 allows civil proceedings to be

instituted with sanctions by a judge in chamber in addition to criminal punishment. These criminal and civil penalties are arguably proportionate and dissuasive to a large extent.

Criterion 25.8 - Sanctions apply to professional trustees (FIs and DNFBPs) who intentionally or by gross negligence fail to make the information available promptly in response to a lawful request by a competent authority (§88(3), AML/CFT Act). Non-professional trustees are also obliged to keep records. Thus, sanctions can be imposed on this class of trustees. The Gambia however demonstrated limited use of trusteeships in the country. In addition, supervisory authorities and the FIU may apply sanctions where FIs and DNFBPs do not comply with their AML/CFT obligations under the AML/CFT Act (§88, AML/CFT Act). The sanctions range from a maximum five-year term of imprisonment to the imposition of a fine not exceeding twenty million Dalasi (approx. US\$ 400) or to both the fine and imprisonment, among others.

Section 300(1) of the Criminal Code Cap 10.01 imposes a sentence of seven years for any person convicted of disposing or converting of a trust property. Subsection 2 allows civil proceedings to be instituted with sanctions by a judge in chamber in addition to criminal punishment.

Also, a court may in addition to other penalty ban a convicted person from providing the service or pursuing the business or profession which provided the opportunity for committing the offence for a least five years or permanently (§88(4), AML/CFT Act).

Weighting and Conclusion

The Gambia relies on the AML/CFT Act and its GDDs to regulate activities relating to professional trustees who form part of DNFBPs and are subject to relevant AML/CFT obligations. However, the Guidelines are not enforceable. In addition, although express trusts can be established in The Gambia, trustees of express trusts are not obliged to hold adequate, accurate and current information on the trustee, settlor, protector, and beneficial owner of trusts which is considered a significant shortcoming and weighted heavily under the Recommendation. **R. 25 is rated PC.**

Recommendation 26: Regulation and Supervision of Financial Institutions

In its 1st MER, The Gambia was rated NC with former R.23. The shortcomings included ineffective implementation of AML/CFT supervisory regime, MVTS & foreign exchange dealers not covered under the supervisory regime, the lack of risk assessment and limited supervisory resources which the MER now discusses under IOs. 4 and 3.

Criterion 26.1 - The FIU is the authority designated for the supervision of reporting entities, including FIs in relation to compliance with AML/CFT requirements in The Gambia (§§5(e), 13 and 14 of the AML/CFT Act). The FIU also has the mandate to supervise for implementation of TFS obligations (Para 10 of the Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures), 2014). The CBG has specific provisions in its enabling Act which empower it with prudential supervisory responsibilities over FIs (§§5, 6 and 71 of the CBG Act; and §27 of the Banking Act, 2009 (Banking Act)). See also section 3 (1) of the Insurance Act 2006; and §§3, 33-42 of Non-Bank Financial Institutions Act (NBFIA), 2016 for CBG's prudential supervisory role over insurance and other NBFIs. Though the CBG does not have express supervisory mandate for AML/CFT compliance in the AML/CFT Act, under s5(i) of the Act, the CBG is empowered to collaborate with the FIU in the issuance of AML/CFT Guidelines for FIs. There are no Capital Market Operators (CMOs) in The Gambia. All other FIs listed in the FATF Glossary are subject to AML/CFT supervision by the FIU.

Criterion 26.2 - All Core Principles FIs in The Gambia (banks and insurance companies) are required to be licensed by the CBG (§§3 and 12 of the Banking Act; and § 6(1)(d)(i) of the CBG Act, 2018). Similarly, other FIs, including foreign exchange bureaus are required to be licensed by the CBG (s 6 (1)(i) of the CBG Act; §6, NBFIs Act).

The licensing regime in The Gambia effectively precludes the establishment or continued operation of shell banks. In addition, the Banking Act contains a set of obligations including minimum capital requirements,

reporting obligations, risk management, management structure and internal control, that banks have to comply with (§§ 4, 24, 25, 26, 34 etc Banking Act), therefore shell banks cannot be established or operated in The Gambia. Although Para 4.122 of the AML/CFT Guidelines for FIs, 2015 prohibits FIs in the Gambia from entering into or continuing a correspondent banking relationship with shell banks and protect against establishing relations with respondent foreign FIs that allow their accounts to be used by shell banks, the Guidelines is not an enforceable means.

Criterion 26.3 - The CBG takes regulatory measures to prevent criminals and their associates from holding (or being a beneficial owner of) a significant or controlling interest, or a management function in an FI. Section 4 of the Banking Act (BA), 2009 provides the general procedure of issuing bank license. Before a person is appointed to a management position in any bank, the approval of the CBG is required (§§31 and 32 of the BA, 2009). The approval process includes a fit and proper test. The CBG fit and proper test criteria include good character, experience and competence/capability (s 4(3)(a)(b) of the BA, 2009). The CBG also considers if the person has ever been bankrupt; convicted of a felony or an offence involving dishonesty; or under suspension from office by the order of the CBG (s 33(1)(a)(b)(d) of the BA, 2009); or if the person has been a director or indirectly concerned in the management of a banking institution whose licence has been revoked or an institution that has been wound up by a court of competent jurisdictions (s33(3)(4) of the BA, 2009). Consideration is also given to the identity of existing or proposed significant shareholders (10% and above) of the applicant or the bank applying for licence (s4(2)(d) of the BA, 2009). Banks are required to notify the CBG of changes in the names of persons who own more than 10% of the share of the bank (S4(14)(b) of the BA,2009). The CBG fit and proper test is applied at the application stage and thereafter after every two years and/or on the occurrence of specified events which include new appointments of directors and other top management staff. Although the CBG fit and proper test also covers beneficial owners (Paras 4.1 & 12.1 of the CBG Guideline on Fit & Proper Persons Test, 2014), and home regulator checks (Para 11.5 of same Guideline), the Guidelines is not enforceable.

The CBG conducts fit and proper tests on directors or persons concerned with the management of OFIs as part of the application process (§§6(2)(c) and (4) (a), NBFIs Act, 2016). In addition, the CBG considers the identity of persons with significant shareholding in the other FIs (§6(2)(b) of the NBFi Act). With respect to foreign exchange bureaus, all appointments to senior management and the board of these entities are subject to prior approval by the CBG, and such individuals must be fit and proper persons (§§26 and 27, NBFi Act;). The CBG also obtains the identity of shareholders (Para 3 (I)(i)), while changes in the senior management of NBFIs, including foreign exchange bureaus must be communicated to the CBG (§26(5), NBFi Act), and prior approval of CBG must be sought for any transfer of shares in NBFi, including foreign exchange bureaus (§ 25(1)(2), NBFi Act).

Criterion 26.4

- a) The prudential supervision of core principles FIs is carried out by the CBG (§71 of the CBG Act). Sections 5(e), 13 and 14 of the AML/CFT Act empower the FIU to supervise core principles FIs for compliance with the requirements of the AML/CFT Act. The FIU conducts AML/CFT examinations of FIs independently or jointly with the CBG. The AML/CFT supervision of banks by the FIU is on risk sensitive basis but that of the insurance companies is not. The AML/CFT Examination Manual for FIs contains comprehensive risk based supervisory procedures. Under s27 (2) of the BA, 2009, the CBG is empowered to carry out examination of a banking institution and its associates or affiliates in the Gambia (understood to be consolidated supervision) to determine the condition of the bank and its compliance with the requirements of the Act. The CBG implements Basel Core Principles (BCP), which includes requirements for consolidated supervision. As such it has general powers to undertake consolidated supervision. However, as a supervisor for the insurance sector, CBG is not a member of the International Association of Insurance Supervisors (IAIS). Thus, in the absence of any specific provision in the Insurance Act for CBG to undertake

consolidated supervision, the Bank may not have powers to carry out consolidated supervision within the insurance industry.

- b) For the other FIs, including foreign exchange bureaus, the FIU is responsible for their supervision and compliance with AML/CFT requirements (§5(e), 13 and 14 of the AML/CFT Act). However, supervision of OFIs is essentially prudential and not risk-based and is therefore done without regard to the ML/TF risk in the sectors.

Criterion 26.5

- a) FIs are required to conduct ML/TF risk assessments and communicate the results of the risk assessment to the CBG and the FIU (Para 2.2 of AML/CFT Guidelines for FIs). The results of the risk assessments, especially from the banks, are submitted to the CBG and FIU as part of periodic returns which are analysed during the offsite review (by FIU and CBG). The outcome of the offsite reviews enable the FIU and CBG to assess and evaluate the risks of ML/TF for each of the institutions, which provided some basis for the onsite visit. However, there is no specific requirement for FIU or the CBG to have regard to the risks posed by a financial institution or group when determining the scope and frequency of their supervision.
- b) The NRA of The Gambia was recently concluded, and the report was formally adopted in November 2020. The frequency or focus of AML/CFT inspections (offsite and onsite) by the FIU is placed significantly on the banking sector identified by the NRA as having high vulnerabilities, which reflects part of the general country risk. The FIU sectoral risk assessment carried out in March 2020 was also used for on-site examinations of banks that followed.
- c) In general, the FIU takes into consideration characteristics of institutions and sectors when planning and undertaking supervision. As described in (a) above, the FIU combines the analysis of FIs (especially banks) risk assessment results and other information to construct the risk profile of each bank which enables them to determine the frequency and intensity of AML/CFT inspection of individual institutions.

Criterion 26.6 - FIs are required to submit results /reports of their ML/TF risk assessments to the FIU and relevant supervisors (Para 2.2 of the AML/CFT Guidelines for FIs). The reports enable the FIU and supervisors, especially CBG to make a judgement about the risk of non-compliance of a particular FI and are used in assessing risk. The CBG and FIU review and assess ML/TF risk profile of FIs, especially banks prior to onsite examination and also update the risk profile of an FI when there are changes in the management of the FI, or in case of any major events (e.g. negative news received from internal or external sources). However, this is not done when there are changes in the operations of an FI.

Weighting and Conclusion

There is a designated authority for the supervision of FIs in relation to compliance with AML/CFT requirements. FIs are required to be licensed and are generally subject to extensive fit and proper requirements for shareholders, directors and senior management. The AML/CFT supervision of banks by the FIU is on risk sensitive basis. However, the supervision of NBFIs is not risk-based. Some elements of the requirements of c26.5(a) and the requirements for c26.6 are set out in the AML/CFT Guidelines which is not an enforceable means. Identified shortcomings are considered minor in the context of The Gambia. **R. 26 is rated LC.**

Recommendation 27: Powers of Supervisors

In its previous MER, The Gambia was rated NC on R.29 because of ineffective implementation of supervisory powers under the ML Act, lack of AML/CFT supervision of FIs, NFIs and DNFBPs and lack of measures for ongoing AML/CFT supervision/monitoring of compliance by FIs.

Criterion 27.1 - The FIU has powers to supervise, monitor and ensure compliance by financial institutions with AML/CFT requirements (ss 5(e), 13 and 14 of the AML/CFT Act). The FIU also has power to supervise and ensure compliance with TFS obligations [Para 10 of the Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures), 2014]. Under s71(1) of the CBG Act 2018 and ss 35-42 of the NBFIs Act, 2016, the Central Bank is empowered to conduct prudential supervision of financial institutions (banks and non-bank financial institutions). In general, the FIU and CBG have powers, including powers to require the production of documents, conduct offsite and onsite inspections, provide guidance, and ensure compliance with the provisions of the AML/CFT law and relevant regulations (§§ 5(c)(i), 13 (1)(2), AML/CFT Act; §28, Banking Act, etc). However, the power to supervise for compliance with TFS obligation is set out in the Regulation to Combat the International Financing of Terrorism which is not an enforceable means.

Criterion 27.2 – The CBG and FIU have the power to conduct off-site and on-site inspections of FIs. Sections 5(e), 13 and 14 of the AML/CFT Act empower the FIU to carry out AML/CFT examinations of reporting entities, including financial institutions. Other laws give specific powers to the CBG to supervise FIs (§71(1), CBG Act; §27, BA, 2009; and §35-42, NBFIs Act) for prudential purposes.

Criterion 27.3 - Sections 5(c) and 13 (1)(2) of the AML/CFT Act empower the FIU to request and obtain or compel the production of relevant information from reporting entities for the performance of its functions. Section 28 of the BA empowers the CBG to access information from banks and their affiliates/associates for the purpose of examination or inspection. In particular, s28(b) requires banks to supply all information required by an examiner. There are similar provisions in the Insurance Act (§§44 and 88). Under s37 (2)-(4) of the NBFIs Act, 2016, the CBG has powers to compel non-bank financial institutions to make available any information for the purpose of examination or inspection. Failure to provide the requested information attracts sanctions (§14, AML/CFT Act).

Criterion 27.4 - Sections 9 and 37 of the Banking Act 2009 give the CBG powers to impose sanctions on banks, including revocation of license, suspension/removal from office of directors or other employees, and application of monetary fines. Similarly, s43 (2) of the NBFIs Act empowers the CBG to impose a range of sanctions on NBFIs, including limiting their operations, removal of officers/directors from office, and revocation of license. Under the AML/CFT Act, the FIU and supervisors are empowered to impose a range of disciplinary and financial sanctions on FIs if they fail to comply with requirements in the AML/CFT Act. Under §14 (3)(4)(5) of the AML/CFT Act, upon determining that the reporting entity is in non-compliance with the requirements under the Act, the court shall require the entity to pay a fine (§14(5)(a)), or request the supervisory authority to bar specific individuals from employment; replace or restrict the powers of managers, directors or controlling owners of such a reporting entity; to suspend or withdraw the licence of the reporting entity (§14(5)(b-d) of the AML/CFT Act). In addition, s24 of the AML/CFT Act permits the supervisory authority of a corporate entity convicted of ML or TF to initiate civil or administrative proceedings against the corporate body and its employees.

Weighting and Conclusion

The Gambia has met most of the requirements of R.27. However, the power to supervise for compliance with TFS obligation is set out in the Regulation to Combat the International Financing of Terrorism which is not an enforceable means. **R. 27 is rated LC**

Recommendation 28: Regulation and Supervision of DNFBPs

In its 1st MER, The Gambia was rated LC with requirements of this Recommendation (formerly R.24). There were effectiveness issues related to inadequate application of LEAs' powers and ineffective investigations of ML/TF which are now discussed under IO.3.

Criterion 28.1 - Casinos are designated as reporting entities and are therefore subject to AML/CFT regulation and supervision in the Gambia.

- a) Casinos are subject to licensing by the Gambia Tourism Board (§32(1), The Gambia Tourism Board Act, 2011; Para 103 of the Tourism Regulation, 2011).
- b) The Gambia has taken some regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest or being a casino operator. Section 38(1)(a) of the of The Gambia Tourism Board Act, 2011 provides that the Board can suspend or revoke a license where the holder of the license ceased to be a fit and proper person. This presupposes that the licensing procedures require applying fit and proper test or that this is conducted on the applicant at the application stage. Section 42 of AML/CFT Act requires applicants for casinos license to provides proof of the lawful origin of the capital for the intended operation or in the case of a renewal, the origin of its additional capital, if any, to the supervisory authority. However, the fit and proper test appears to only apply to the person seeking to obtain a licence to operate a casino. It does not extend to beneficial owners, significant shareholders or senior management.
- c) Casinos are subject to supervision for compliance with AML/CFT requirements as they are designated as reporting entities (Part II of Schedule I, AML/CFT Act; Para 9.1, AML/CFT Guidelines for DNFBPs). The FIU has the power to conduct examinations or inspections and obtain access to any document of reporting entities, including Casinos (s13 of the AML/CFT Act). The Gambia Tourism Board has authority to supervise casinos for compliance with prudential requirements (s16 of The Gambia Tourism Board Act, 2011).

DNFBPs other than Casinos

Criterion 28.2 - The FIU is the designated competent authority responsible for monitoring the compliance of all categories of DNFBPs with AML/CFT obligations (s13 of the AML/CFT Act; Paras 1.2.1 and 1.18 of the AML/CFT Guidelines for DNFBPs, 2016). In particular, s13(2), empowers the Unit to conduct onsite inspections and obtain required data to perform its functions, while s14 of the same Act grants powers to the FIU to enforce compliance of reporting entities, including DNFBPs. In addition, there are other sector specific prudential supervisors. These include the General Legal Council (GLC) which regulates lawyers (Legal Practitioners Act), The Gambia Institute of Chartered Accountants (GICA), which regulates the accountants and audit firms (Financial Reporting Act, 2013); Geological Department of the Ministry of Petroleum and Energy which regulate dealers in precious minerals and metals. Association of Real Estate Companies (AREC) is the SRB for the real estate sector in The Gambia. However, there is no legal backing for the Association and membership is on a voluntary basis. Therefore, the AREC does not have the powers to monitor members for compliance with AML/CFT requirements or sanction them for non-compliance. These limitations are mitigated by the designation of the FIU as the overall AML/CFT supervisor for all DNFBPs.

Criterion 28.3 - The FIU is empowered by s13 and 14 of the AML/CFT Act to monitor compliance by reporting institutions. This extends to all DNFBPs. See analysis under c28.2 for some sector specific prudential supervisors.

Criterion 28.4

- a) The FIU has powers to monitor compliance by DNFBPs, including general powers to supervise, obtain information, carry out inspections (s13 of the AML/CFT Act). However, it lacks powers to directly impose and enforce administrative sanctions and penalties for breach of the AML/CFT Act as this requires a court process (s14 of the AML/CFT Act.). There are sector specific supervisors for some of the DNFBPs (see c28.2), with prudential supervisory powers.

- b) There are some measures to prevent criminals from being professionally accredited or holding significant ownership or controlling positions in DNFBPs. The professional licenses granted by SRBs to, especially accountants and lawyers require the absence of criminal record. Section 16(2) (a) of the Legal Practitioners Act, 1988 requires persons to "... produce testimonials sufficient to satisfy the [General Legal] Council that he or she is a person of good character..." before admission as a legal practitioner in The Gambia. Section 28(3)(a) of the Financial Reporting Act, 2013 provides for the registration of an applicant as a chartered accountant subject to obtaining proof that the applicant "... is a person of good character and has not been convicted of an offence involving fraud or dishonesty in any country. Dealers in precious minerals and metals are required to be licensed by the Geological Department of the Ministry of Petroleum and Energy (s15 of the Mines and Quarries Act). The licensing procedures requires information on forecast and plans of operations, financial and technical resources, details of area in respect of which the license is sought, details of minerals the applicant is seeking to mine, etc – s10-13 of the Mines and Quarries Act. Regarding restricted Minerals (eg precious minerals), the application for license must contain personal information of the applicant, physical address of business, evidence of funding and evidence on source of minerals (s5 of the Restricted Minerals Regulations, 2018). Overall, existing requirements or measures do not cover beneficial owners, and are not comprehensive enough to adequately prevent criminals or their associates from holding a significant or controlling interest, or holding a management function, or being an operator in these DNFBPs. In addition, the real estate sector SRB (AREC) does not have any legal backing and membership is on a voluntary basis. There are little or no entry requirements or similar measures supervised by any competent authority with respect to real estate agents.
- c) The FIU (Supervisor of DNFBPs) has power to deal with failure to comply with AML/CFT requirement by DNFBPs. Under s14(5)(c)(e) the court that can request a supervisory authority, including the FIU or self-regulatory organisation (SRO) to bar specific individuals from employment; suspend or withdraw the licence of a reporting entity. Criminal sanctions, including imprisonment term of not less than ten years are also provided in the AML/CFT Act. In addition, SROs, especially the Institute of Chartered Accountants, and the Bar Association can sanction, including withdraw of the professional licenses granted to members for professional misconduct or violation of licensing conditions. Similarly, the Geological Department has authority to apply a range of sanctions, including cancellation or suspension of license, penalty of GMD50,000, suspension of operations on DPMS for violation of prudential requirements (s25 of Mines and Quarries Act; s15 of the Restricted Minerals Regulations). The sanctions highlighted above are considered dissuasive and proportionate and are applicable to both natural and legal persons

Criterion 28.5 - There is no requirement for the FIU to review the ML/TF risk profiles and risk assessments prepared by DNFBPs and take the result of the review into consideration and develop and implement a risk-based approach to supervision. The FIU has developed a risk based supervisory framework for AML/CFT supervision of DNFBPs. Detailed supervisory procedures are contained in the AML/CFT Examination Manual for DNFBPs 2015. AML/CFT supervision in the DNFBP sectors is at nascent stage with few onsite inspections undertaken for the real estate sector. However, these are not on risk sensitive basis.

Weighting and Conclusion

DNFBPs have designated supervisor for AML/CFT compliance in the Gambia. The FIU (designated AML/CFT supervisor of DNFBPs) has powers to impose administrative sanctions in line with R.35 to deal with violations of AML/CFT requirements. Regulatory measures are not robust enough to prevent criminals or their associates from owning and or managing casinos and other DNFBPs in the Gambia which is considered a significant gap. In addition, there is no requirement for supervisory authorities to review the ML/TF risk profiles and internal risk assessments prepared by DNFBPs. **R. 28 is rated PC.**

Recommendation 29 - Financial Intelligence Units

The Gambia was rated NC with the former R.26 in its first MER. The main deficiencies related the absence of a functional FIU due to its lacks of human and material resources to efficiently and effectively discharge its primary responsibilities, the lack of a clear legal basis in the ML Act regarding the operational autonomy of the FIU, the absence of a secure environment for the receipt and storage of STRs, non-inclusion of the DNFBPs covered in the ML Act as reporting entities in the strategy plan of the FIU, and the lack of requirement for FIs to submit STRs related to Financing of Terrorism.

Criterion 29.1 - Section 3 of the AML/CFT Act establishes The Gambian FIU as an independent legal entity. It is empowered to receive and analyse reports (including but not limited to STRs) and other information relevant to ML, TF and associated predicate crimes, from reporting entities and other sources (§5(a)(d) of the AML/CFT Act) and disseminate the results of its analysis to any relevant competent authority (§5(f) of the AML/CFT Act).

Criterion 29.2

(a)- STRs – The FIU is the central agency for the receipt of STRs from reporting entities (§33(1) of the AML/CFT Act). This provision obliges reporting entities that have reasonable grounds to suspect that any transaction may be related to the commission of a criminal conduct, a ML or TF to as soon as practicable after forming that suspicion, but no later than three working days, make a report of the transaction to the FIU (see also Para 6.15 of the AML/CFT Guidelines for FIs, and Para 4.2.1 of the AML/CFT Guidelines for DNFBPs). The Assessment Team consider the requirement to report STRs no later than three working days from the date of detection of suspicion as sufficiently prompt.

(b) Other disclosures – In addition to STRs, the FIU also receives Cash Transaction Reports (CTRs), and Foreign Wire Transfer Reports (FWTRs) from FIs on a periodic basis (Paras 8.2 and 8.6 of the AML/CFT Guidelines for FIs). Furthermore, s5(a) of the AML/CFT Act empowers the FIU to receive reports and information from competent authorities voluntarily provided to them which relate to suspicion of criminal activity, ML or TF.

Criteria 29.3 :

(a) –The FIU has the power to request and obtain additional information from reporting entities on parties or transactions to any report (s5(j) of the AML/CFT Act). Similarly, Para 6.106 of the AML/CFT Guidelines for FIs, and Part 7 of the AML/CFT Guidelines for DNFBPs empower the Director of the FIU, to make request for additional information from the entity that filed the suspicious transaction report or from any other reporting entity in order to facilitate the analysis process.

(b) – Section 5(b)(c) of the AML/CFT Act authorises the FIU to access the widest possible range of financial, administrative and law enforcement information that it requires to properly undertake its functions. In particular, the FIU can access information from any public body (supervisors, LEAs etc.) or available databases, including commercially-owned databases, necessary for performance of the operations of the Unit.

Criterion 29.4 :

- a) - The FIU conducts operational analysis based on the information it receives from reporting entities and other sources of information, including from publicly available sources to pursue proceeds of crime and TF. Section5(d) of the AML/CFT Act requires the FIU to analyse, and assess all reports and information received and disseminate intelligence derived from reports or other information it receives to the appropriate competent authorities.

- b) - Section 5(m) of the AML/CFT Act, requires the FIU to conduct research into trends and developments in the area of ML and financing of terrorism and ways of detecting, preventing and deterring ML and the financing of terrorist activities. As at the time of the on-site visit, no strategic analysis had been conducted by the FIU.

Criterion 29.5 - The GFIU has power to disseminate financial intelligence and other relevant information spontaneously to any relevant domestic competent authority, an agency of a foreign State and/or an international organisation with similar powers and duties (s5(o) of the AML/CFT Act). There is no express provision or requirement for the FIU to make disseminations upon request. Nonetheless, there is a general obligation for the FIU under s4(a) of the AML/CFT Act to make information available to other relevant competent authorities to facilitate the administration and enforcement of the laws of the country, including the AML/CFT Act. In practice, the FIU disseminates intelligence reports upon request.

In relation to the use of dedicated and secure channels for dissemination, majority of the financial intelligence reports are delivered by hand and signed for by dedicated staff and thus ensuring, that unauthorised access is prevented. No challenges were identified, particularly given the small size of the country, and proximity of the offices of most competent authorities to the FIU. A few intelligence reports are exchanged via secured/dedicated email platforms.

Criterion 29.6

- a) – The FIU has in place policies and procedures that govern security and confidentiality of information, including procedures for handling, storage, dissemination, and protection of, and access to, information. These are encapsulated in the Information Communication Technology (ICT) Security Policy, 2015. The Policy addresses ICT principles and policies that must be adhered to by all users of computer systems within the FIU, including user responsibility, data confidentiality and integrity, security and propriety of information, access permits and restrictions, as well as compliance measure [Paras 2-5 of the ICT Security Policy, 2015].
- b) – Section 12(4) of the AML/CFT Act requires the Director and other Staff of the FIU to be subjected to security screening before assuming office. The Operational Manual of the FIU sets out the procedures for handling both incoming and outgoing confidential information. Staff are clear of their levels as regards the handling of information and intelligence. The office of the Director is the central point by which information may be received and disseminated from the FIU.
- c) – Physical access to the FIU premises is restricted. The FIU is situated in a secured location, with the premises surrounded by a security fence. Entry into the location is through a staffed security check point. Access to IT systems and databases is restricted. Personalised access privileges to the databases of the FIU are used to implement differentiated access to confidential information so that employees can only use those components of the system that are relevant to their official duties [Para 3.7(1.7.1 and 1.7.2) of the ICT Security Policy].

Criterion 29.7 :

- a) – The GFIU is established by s3 of the AML/CFT Act as an independent legal entity with authority to make autonomous decisions to analyse, request and disseminate information to the appropriate competent authority (s5 (c)(d)(f) of the AML/CFT Act). The FIU is fairly adequately resourced to carry out its functions. The Director of the FIU is appointed by the President after consultation with the Board and Public Service Commission (s10(1) of the AML/CFT Act) for a five-year term, renewable once (s10(2) of the AML/CFT Act). The Director shall hold office on terms and conditions specified in the letter of appointments (s10(3) of the AML/CFT Act). The terms and conditions are not specified in the Act and thus, there are no clear grounds on which the President could dismiss the Director of the FIU before the end of his tenure. This could be a potential risk in

terms of the removal of the Director from office before the end of his tenure. There is a governing Board for the FIU with responsibilities limited to policy formulation and implementation (s6 of the AML/CFT Act). The Director is responsible for the day-to-day operations of the FIU and reports to the Board (§11(1), AML/CFT Act) on general administrative matters.

- b) – The Unit can enter into arrangements or engage independently with other domestic competent authorities involved in AML/CFTT or foreign counterpart. Section 5(p) of the AML/CFT Act empowers the FIU to “enter into any agreements or arrangements with any government institution or agency regarding the exchange of information⁹⁸”. Similarly, s18(1)(2) of the AML/CFT Act authorize the FIU to enter into agreement with agency of a foreign state or an International Organisation with similar powers and duties and exchange information relevant to the investigation or prosecution of a criminal conduct, a ML or a financing of terrorism offence with such agencies. In this regard, the FIU has to date, signed 17 MoUs with its foreign counterparts.
- c) (N/A) - The FIU is an independent administrative authority (s3 of the AML/CFT Act).
- d) – The FIU has its own resources, including financial and human resources to carry out its functions. The FIU’s budget is agreed upon by the Board of the Unit, negotiated with the Minister of Finance [s20(1) of the AML/CFT Act] and approved by Parliament [s19(a) of the AML/CFT Act]. The FIU can also receive funds also from other permitted sources [s19(b)(c) of the AML/CFT Act]. Overall, the FIU has decision-making power on the allocated resources and funds obtained from other sources. The Director of the Unit has the power to relocate the FIU staff to other departments and is also competent to decide on the operational international travel of the FIU personnel. Hence, these mechanisms safeguard the FIU operational independence.

Criterion 29.8 - The FIU has officially applied for membership of the Egmont Group, and is fully committed to the process. It is working with its sponsors (the FIUs of Ghana and Nigeria) in this regard. The first Onsite Review was undertaken in 2018.

Weighting and Conclusion

The Gambia has met most of the criteria. However, there is no express requirement for the FIU to disseminate information upon request. In addition, the FIU has not conducted any strategic intelligence. **R. 29 is rated LC.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

The first MER rated The Gambia NC on the former Recommendation 27. The technical deficiency related to the absence of a coordination framework for the exchange of information and intelligence among LEAs. There were also effectiveness issues related to the lack of investigation and prosecution of ML/TF; the lack of capacity of the FIU to coordinate efforts related to the development of guidance, training programs, and policy for the relevant agencies; absence of training for prosecutors at the A-G’s chambers and staff of LEAs for the investigation and prosecution of ML/TF, which are discussed under IO.7.

Criterion 30.1 –The Gambia has designated LEAs with the responsibilities for ensuring that ML, associated predicate offences and TF are properly investigated, within the framework of national AML/CFT policies. The GPF is the primary investigating agency for ML and TF but the NIA, the DEA, the National Guard (NG) and the Customs Service have investigation mandates (AML/CFT Act; the ATA; NIAD; the ECD; and the DCA. The DEA has powers under sections 44,66,67,70, 75 and 78 of the DCA) to investigate drug-related offences, which is a predicate offence of ML.

Criterion 30.2 - LEAs such as the GPF, NIA, DEA that are responsible for investigating predicate offences can pursue a parallel investigation of related ML and TF cases. LEAs can independently investigate ML/TF

⁹⁸ At the domestic level, the FIU has signed an MoU with GRA

offences while investigating predicate offences and can generally transfer a case to another agency, if necessary.

Criterion 30.3 – The Gambia has designated authorities, including Police, Customs, and DEA, with powers to trace and initiate freezing and seizing of property that is, or that may become, subject to confiscation (see R.4).

Criterion 30.4 - The Department of Customs of the Gambia Revenue Authority has powers to search and seize undeclared currency or BNI and prohibited goods. The customs officers also exercise powers of arrest as any police officer would. Apart from LEAs, as well as the Director General of DEA under the Drug Control Act 2013, have the responsibility of pursuing financial investigations.

Criterion 30.5 - The ACC has powers to identify, locate, or quantify property and seizure of assets (§§39, 40, 44, ACCA). The powers of the ACC for instance may be increased to allow it to administratively freeze a property before applying for a confirmation order by the Court and identify and locate property without an order of the court. The ACCA allows the enforcement of any other law or regulation relating to corruption, economic and financial crime including the criminal code (§57(f), ACCA). However, the ACC is not yet operational.

Weighting and Conclusion

There are designated LEAs responsible for ML and TF cases. LEAs have a wide range of powers that they exercise during investigations and prosecution of unlawful activities, including ML, TF, and predicate offences. However, the ACC exists in law only and is not in operation. This represents a challenge to the country's legal framework. **R. 30 is rated LC.**

Recommendation 31–Powers of law enforcement and investigative authorities

The first MER rated The Gambia LC with former R. 28. There were effectiveness issues related to the lack of proper application of LEAs powers and the absence of effective ML/TF investigations which are now discussed under IO.7.

Criterion 31.1

Based on Court orders, on satisfaction of reasonable grounds to do so, competent authorities conducting investigations of ML, associated predicate offences and TF can obtain access to all necessary documents and information for use in those investigations, and in prosecutions and related actions. These include powers to use compulsory measures to:

- a) compel any person or reporting entity to produce documents relevant to identify, location or quantity of property of a person or necessary to identify the transfer of property to that person as well as all information obtained about any business transaction conducted by a suspect with the reporting entities before or after the date of the court order to determine whether any property belongs to, is in the possession of or under the control of any person. In case of non-compliance, delay or obstruction regarding the execution of the order, the LEA can enter premises and remove any material document or article for the purpose of executing the order (§61, AML/CFT Act). “Person” means any natural or legal person and including a body of persons (§1, AML/CFT Act).

The Chairperson of the ACC may by notice in writing, request for documents, from any person, public body or FI, the production of banker's books, safe – deposit boxes, copies of any bank accounts or any documents relating to any person under investigations (§§ 41,42 and 43, ACCA). The DLEAG has powers to ascertain whether the property is the proceeds of or an instrumentality of a drug offence and may enter any premises at any time and, with such force as is deemed necessary, require such relevant information, returns, accounts, books or other documents in the custody of such person as the Agency may consider fit and proper within the circumstances (§60,

DCA). DLEAG can also compel the production of financial and business records and obtain access to data in a computer system to assist in proving a drug-related offence (§§66 & 67, DCA, respectively). Failure to comply with an order made under sections 66 or 67 of the DCA is an offence punishable on conviction to imprisonment for a term of not less than five years without an option of a fine.

b) - search persons and premises under the following circumstances:

- i. In relation to ML, associated predicate offences and TF under the AML/CFT Act, on satisfaction that any person has failed to comply with, is delaying or is otherwise obstructing the execution of a production order, enter the premises of the person, search the premises and remove any material document or article to execute the order (61(2)). This provision applies to the police, DLEAG and other authorities acting on behalf of these LEAs.
- ii. *Under the Criminal Procedure Code* - Whenever a person is arrested by a police officer, the arresting police officer may search the person and place in safe custody all articles other than necessary wearing apparel on the suspect, as well as other articles which may furnish evidence against the suspect regarding the alleged offence committed (§13(1) & (2)). A police officer can also search premises (dwelling and business places) when the officer has reason to believe that material evidence can be obtained in connection with an offence for which an arrest has been made or authorised and take possession of anything which might reasonably be used as evidence in criminal proceedings (§93).
- iii. ii. *Under the DCA* – When a Narcotics Control Officer, a police officer, customs officer or any other person acting in exercise of his or her powers has reasonable grounds to suspect that a person is in possession of a controlled drug, the officer may search and detain for the purpose of proceedings under the DCA, anything which appears to be evidence of a drug-related offence. Any of the mentioned officers may also, based on a warrant, enter (if necessary, by force) the premises or place named in the warrant to search the premises and any person found on the premises and retrieve a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if concluded be an offence under the DCA (§72(1)(b)). This provision applies to offences committed or intended to be committed against a corresponding law in a foreign country.
- iv. *ACCA*- the Chairperson of the ACC can obtain an order of the court to enter any premises belonging to, or in the possession or control of any person named in the Order, search the person or any person named, remove documents or material to execute the request as directed in the order. The Commissioner may obtain the order of the court to search during investigations. The Directors General of the DCA and NIA also have powers to issue a warrant to search any person, premises, and vessel for obtaining information (§§72 and 122, DCA and §§13 (1), NIAA).

c) - There is no requirement in law for competent authorities to take witness statements during investigations. However, investigation reports reviewed show that competent authorities investigating ML, associated predicate offences and TF are able to take witness statements.

d) - See criterion 31.1(b).

Criterion 31.2 - LEAs benefit from a wide range of special investigative powers to gather evidence.

- a) Competent authorities such as a Narcotics Control Officer, a Police Officer not below the rank of Superintendent or a Customs Officer not below the rank of Assistant Collector or any authorised person, acting under approval in writing can conduct undercover operations a specified period and for specified persons to conduct (§64, DCA). This provision only applies to only drug-related offences. As regard drug-related ML, the DCA covers only third-party laundering (§44) which is limited in scope. There are no provisions relating to undercover operation when investigating self-

laundering and third-party laundering related to other predicate offences, the remaining categories of predicate offences and TF.

- b) The Director General of the NIA can issue a warrant authorising interference with any wireless telegraphy (§14, NIAA). A Narcotics Control Officer, a police officer not below the rank of Superintendent or customs officer not below the rank of Assistant Collector can obtain a court order to permit an authorised officer to covertly monitor, intercept and record the communications of a person (§63, DCA). The IGP also has the power to inspect a consignment by mail through the postal services to determine that the consignment may contain evidence of the commission of an offence under the DCA (§65(1), DCA). Offences under the DCA include third party laundering of narcotic drug offences. These provisions do not extend to drug-related self-laundering, ML, other predicate offences, ML and TF.
- c) LEAs can apply for a court order to obtain access to data stored in a computer system (§ 67(1), DCA). Also, the head of the agency may, without a warrant, search, seize and take possession of a computer, a computer disk or other article.
- d) Section 64 of the DCA enables law enforcement agents to undertake controlled deliveries with the approval in writing of a Narcotics Officer, a police officer not below the rank of Superintendent or a Customs Officer not below the rank of Assistant Collector. The provision does not cover other predicate offences and ML.

Criterion 31.3

- a) - LEAs have powers to request for information held by FIs to identify accounts, including accounts held by a natural or legal person (§§5, AML/CFT Act, 66, DCA and 43 (W), ACCA). LEAs can apply for a court order directing a reporting entity to produce all information obtained by the institution about any business transaction conducted by or for the entity during a period before or after the date of the order.
- b) – Competent authorities have procedures to identify assets without prior notification to the owner and, may apply to the court for property tracking or monitoring order to identify, locate or quantify property. Court orders to identify property are typically made without prior notification to the owner.

Criterion 31.4 - Competent authorities investigating ML, predicate offences and TF can obtain information from the FIU based on section 5(f) of the AML/CFT Act which empowers the FIU to disseminate information within The Gambia and elsewhere. Section 117 of the DCA provides that the Agency shall, on request by a foreign state, cooperate and exchange information relating to drug matters, demand the reduction and drug-related crimes.

Section 43 of the ACC Act empowers the Commission and Officers to request information. Even though the FIU is not specifically mentioned, these agencies can request information from the FIU.

Weighting and Conclusion

Gambia's competent authorities have powers to facilitate investigations by requesting documents, obtaining written statements, and conducting a search, arrest, and seizure of properties, among other things. Investigative techniques, including undercover operations, intercepting communications, and controlled delivery are limited to drug-related offences. However, there are no provisions relating to undercover operation when investigating other criminal conduct, including ML, predicate offences beside drug crime, and TF. **R. 31 is rated LC.**

Recommendation 32 – Cash Couriers

In its first MER, The Gambia was rated NC on SR. IX. The technical deficiencies related to the absence of disclosure/declaration system for cross-border transportation of currency, and lack of coordination between the relevant authorities, including Customs and the FIU, as to how to deal with cross border currency

detection. The country also lacked statistics on declarations made at the borders. Also, there were effectiveness issues now discussed under IOs. and 8.

Criterion 32.1 - The Gambia has adopted a disclosure system for incoming and outgoing cross-border transportation of currency and BNIs. The disclosure is required for all physical cross-border transportation of currency or BNI, whether by travelers or through mail and cargo (§48, AML/CFT Act).

Criterion 32.2 – The Gambia operates a disclosure system, therefore this criterion does not apply.

Criterion 32.3 - All persons leaving or arriving in The Gambia in possession of more than seven thousand five hundred United States dollars (USD 7,500) or its equivalent in Gambian Dalasis or an amount prescribed by the Bank, in cash or BNI on their person or in their luggage must disclose the currency or BNI to a customs officer at the point of arrival or departure, including the airport, seaport and land borders (§48(1), AML/CFT Act). The Gambia's disclosure system does not explicitly require travelers to give a truthful answer and provide the authorities with appropriate information upon request, but travelers are required to make an upfront written declaration, which is not fully consistent with the FATF standards regarding the disclosure system.

Criterion 32.4 - Upon discovery of the failure to disclose currency or BNI, the Customs officer is not authorised to request and obtain further information from the carrier with regard to the origin of the currency or BNIs, and their intended use. The Customs Officer is authorised to seize the currency and BNI and report such seizure to the FIU immediately (§§48 and 49, AML/CFT Act). Regarding the authority to request and obtain further information from the carrier with regard to the origin of the currency or BNI, and their intended use, The Gambia has implicit provisions demonstrating that such enquiry occurs post-seizure where the Court is satisfied that the continued detention of the currency or BNI is justified while its origin or derivation is further investigated (§50(1), AML/CFT Act). This is not consistent with the requirement of this criterion.

Criterion 32.5 - Failure to disclose cash or BNI is an offence that attracts a fine of not less than ten thousand Dalasis (USD200 approximately) on conviction (§48(2), AML/CFT Act).

Criterion 32.6 - A customs officer who seizes cash and bearer negotiable instruments under sub-section (6) shall immediately report such seizure to the GFIU. Also, the Gambia Revenue Authority submits periodic reports of inbound and outbound declarations of currency to the FIU as an administrative procedure to strengthen the AML/CFT framework. The FIU may request additional information such as tax profile or business registration data on the STR from the Gambia Revenue Authority.

Criterion 32.7 - There are mechanisms in place for coordinating among customs and other authorities at the airport (Joint Airport Interdiction Taskforce) but not at the borders, as well as seaports, working together on issues related to the implementation of cross-border disclosure of currency and BNIs.

Criterion 32.8 - A Customs officer can stop or restrain currency or BNIs to ascertain whether evidence of ML/TF may be found in cases:

- a) where the officer believes or has reasonable grounds to suspect that cash or BNI found during an examination or search or being imported or exported may relate to the commission of ML/TF or criminal conduct (§§48(6) and 49, AML/CFT Act). The definition of criminal conduct covers any crime punishable by imprisonment for not less than six months or a crime committed outside The Gambia, which, if committed or done in The Gambia, would constitute an offence with similar punishment (§1, AML/CFT Act); or
- b) where there is a false disclosure (§48(2), AML/CFT Act).

Criterion 32.9 - There are no legal restrictions on providing international cooperation and assistance regarding any information on cross-border disclosure of currency and BNI. To facilitate such cooperation,

The Gambia Revenue Authority retains all declarations, which include the amount of currency or BNI disclose and identification data of the bearer; including where

- a) there is a false declaration; and
- b) there is a suspicion of ML/TF.

Criterion 32.10 - Information gathered through the declaration system is subject to the rules applicable to competent authorities on confidentiality and proper use of such information (§34, AML/CFT Act). There are no indications that trade payments or free movement of capital are restricted or affected by the obligation to disclose currency or BNI.

Criterion 32.11 - An authorised officer can seize and detain any cash or BNI imported or exported from the Gambia if the authorised officer has reasonable grounds to suspect that it is derived from criminal conduct, an ML offence or an offence of financing of terrorism or intended by any person for use in the commission of a criminal offence, an ML or TF offence (§49, AML/CFTA Act). Authorised officers can seize and detain currency or BNI for ten working days subject to the grant of an extension by a Court for continuous detention of not more than three months (§50, AML/CFT Act). Upon application on notice to all parties, the period for detention may be extended for a total period not exceeding two years.

Where the seized currency or BNI has not been claimed by any person within two years of it being seized or detained, an authorised officer may apply to the Court that the currency or BNI be forfeited to the State.

Persons transporting currency or BNIs related to ML/TF and /or predicate offences are subject to prosecution and upon conviction to payment of a fine of not less than ten thousand Dalasis (approx. US\$ 186)(§48, AML/CFT Act). Again section 49 of the AML/CFT Act provides for non- conviction-based confiscation in line with Recommendation 4. The section states that an authorised officer may seize and detain any cash or bearer negotiable instrument being imported into or exported from The Gambia in any form or manner if the authorised officer has reasonable grounds to suspect that is derived from criminal conduct, an ML or TF offence; or intended by any person for use in the commission of criminal conduct or an ML offence or an offence of financing of terrorism.

Weighting and Conclusion

The declaration of currency and bearer negotiable instruments is provided for under section 48 of the AML/CFT Act, 2010 and specific points of entry means, the airport, seaport and land border posts. Transportation of currency and BNI through the mail is not specifically mentioned. However, section 125 of the Customs Act CAP 86:01, 2009 empowers a customs officer to open and examine anything whatsoever which is prohibited or restricted by law. Minor improvements are required. **R. 32 is rated LC.**

Recommendation 33 – Statistics

In its first MER, The Gambia was rated NC with these requirements. The deficiencies related to the absence of statistics of STRs received by the FIU, data system for recording received data on STRs and CTRs, annual report by the FIU, information related to prosecution and investigation of ML cases under the ML Act or the DCA, records on assets seized, frozen, confiscated and forfeited, as well as MLA and extradition matters initiated and concluded by the SOSFA or SOS for Justice Department. The deficiency regarding the use of statistics are covered under the effectiveness assessment. Since the last MER, the Methodology for assessing compliance with R.33 has changed significantly.

Criterion 33.1- The Gambia maintains statistics on matters relevant to the effectiveness and efficiency of its AML/CFT systems, however not all statistics are sufficiently maintained as follows:

- a) – The FIU is empowered to compile statistics and records (§5(h), AML/CFT Act). The data on STRs received by the FIU is maintained and broken down by type of reporting entity that filed the STRs, number of STRs analysed, number of intelligences disseminated to competent authorities. There is also a breakdown of STRs received and intelligence disseminated per predicate offence.

- b) –The FIU has the powers to request, receive and maintain statistics (§5(h), AML/CFT Act). Overall, statistics on ML/TF investigations, prosecutions and convictions are maintained independently by the relevant competent authorities.
- c) - *Property frozen; seized and confiscated* - The relevant competent authorities maintain statistics in relation to property frozen, seized and confiscated, although the FIU has the power to request, receive and maintain same as indicated in (b) above. Some statistics were provided to the assessment team in this regard.
- d) - *MLA or other international requests for cooperation made and received* – The Gambia provided statistics of MLA requests made and received, as well as, statistics on other international requests for cooperation requests (received/responded to and made/received response). However, some of the statistics appear not to be sufficiently maintained as they lack some details such as timing of response.

Weighting and Conclusion

The FIU and other competent authorities maintain statistics on matters relevant to the effectiveness and efficiency of the AML/CFT system. However, not all statistics are sufficiently maintained. **R. 33 is rated LC.**

Recommendation 34 - Guidance and Feedback

In its first MER, The Gambia was rated NC with the former R.25. The main deficiencies relate to the lack of guidelines to DNFBPs on STR submissions, absence of a formal feedback and training to especially DNFBPs, and there was no effort to implement the provisions of Recommendation 25 by The Gambian authorities.

Criterion 34.1 - Guidance - Section 5(i) of the AML/CFT Act empowers the FIU to issue guidelines to reporting entities in consultation with supervisory authorities. Similarly, s71(3) of the Banking Act empowers the Central Bank to issue guidelines. The authorities have issued some guidelines on AML/CFT in order to set a common minimum standard for the understanding of ML/TF risks and ensure compliance by the FIs and the DNFBPs with AML/CFT requirements in the country. These include the AML/CFT Guidelines for FIs in The Gambia, 2016 jointly issued by the Central Bank of The Gambia and the FIU; and the AML/CFT Guidelines for DNFBPs and the AML/CFT Risk Assessment and RBA Guidelines for Reporting Entities issued by the FIU. These Guidelines are detailed and include a number of indicators to assist reporting entities in identifying and reporting suspicious transactions. For instance, the guidelines for DNFBPs incorporates STR reporting template to facilitate the filing of STRs. Similarly, the Guidelines on risk assessment clarifies the obligation on risk assessment on all customers. The Central Bank has also independently issued some regulations, including the *Regulation for the Provision of Mobile Money Services, 2011*; the *Revised Regulations for the Licensing and Operations of Foreign Exchange Bureaus, 2019*, and the *Insurance Regulation, 2005*. However, these Guidelines/Regulations have not been published in the Gazette and thus not enforceable.

Feedback - Under s5 (1) of the AML/CFT Act, the FIU is required to periodically provide feedback to reporting entities and other relevant agencies on the outcomes relating to reports or information received. The FIU provides feedback to reporting entities in relation to the STRs received, including advising if the STR does not meet the quality requirements, or information is incomplete. Where information is incomplete, the FIU will require the reporting entity to provide additional information in relation to the submitted STR and will give further guidance to the entity. In addition, the FIU provides feedback to reporting entities following onsite inspections and also in its published annual report which includes information on reports received, and intelligence disseminated⁹⁹. The FIU regularly attends the meetings

⁹⁹ Annual Reports available on the website of the CBG (eg 2016 and 2017)

of the Committee of Chief Compliance Officers Forum where it shares some best practices on AML/CFT controls and provides some general feedback on STRs received. During the review period, the FIU delivered training on AML/CFT, including how to identify and submit STRs. However, there is inadequate provision of feedback especially on patterns and trends of ML/TF to the reporting entities which are essential to improving the understanding and implementation of AML/CFT obligations.

Weighting and Conclusion

In its capacity as the primary AML/CFT supervisor, the FIU has developed outreach activities with reporting entities and provides guidance and feedback on the AML/CFT measures, including on the quality of the STRs. However, there is inadequate provision of feedback especially on patterns and trends of ML/TF to the reporting entities which are essential to improving the understanding and implementation of AML/CFT obligations. In addition, the Guidelines/Regulations have not been published in the Gazette and thus not enforceable. **R. 34 is rated PC.**

Recommendation 35: Sanctions

The Gambia was rated PC with former R.17 (Sanctions) in its 1st MER due to non-implementation of relevant sanctions by authorities across all sectors and lack of statistics on previous sanctions imposed on NFIs and other FIs.

Criterion 35.1 - Under s14 (3)(4)(5) of the AML/CFT Act, the FIU must apply to court where a reporting entity fails to comply with its obligations under the Act. Upon determining that the reporting entity is not in compliance with the requirements under the Act, the court shall require the entity to pay a fine (§14(5)(a)), or request the supervisory authority or self-regulatory organisation to bar specific individuals from employment; replace or restrict the powers of managers, directors or controlling owners of such a reporting entity; to suspend or withdraw the licence of the reporting entity (§14(5)(b-d), AML/CFT Act).

Section 43(1)(2) of the NBFi Act empowers the CBG to amongst other things, suspend or remove from office the chief executive officer and any director of an NBFi; and revoke the licence of a NBFi where the entity fails to comply with the provisions (such as records keeping), of the Act or regulations issued under the Act. Other than the suspension of officials and revocation of licence, the CBG does not have power to apply other forms of administrative sanctions under the NBFis Act.

The CBG has powers to revoke the licence of any bank that fails to comply with any provision of the Banking Act or any regulation made under the Act (§9, Banking Act). Section 69 provides for a fine of GMD20,000 (approx. US\$388) or a term of imprisonment of not more than two years or both for any official of a bank convicted of an offence under the Act. The fine and imprisonment terms are viewed as non-dissuasive and not proportionate. In addition, other than the revocation of licence, the CBG does not have power to apply other forms of administrative sanctions under the Banking Act.

Although the NBFi Act and the Banking Act mandate the CBG to issue guidelines and sanction FIs for non-compliance with the guidelines, there are no specific AML/CFT requirements in the NBFis and Banking Acts and there is no clear link between AML/CFT Act and the NBFi and Banking Acts in relation to sanctions. Therefore, s43(2)(2) of the NBFi Act and Article 9 of the Banking Act which empower the CBG to apply sanctions to FIs for failure to comply with any provision of the NBFi and Banking Acts or any regulation made under the Acts do not extend to non-compliance with the requirements of the AML/CFT Act.

Under para. 4.6 of the Regulation for the Provision of Mobile Money Services, 2011, the CBG is empowered to suspend or revoke an approval granted to operators for failure to comply with the provisions of the regulation, including risk management, and record keeping. Similarly, under Para 5 of the Revised Regulations for the Licensing and Operations of Foreign Exchange Bureaus, 2019 the CBG has powers to revoke or suspend the licence of any forex dealer that contravenes the requirements of the Regulation, including compliance with AML/CFT requirements provided in Para 10 of the Regulation.

Paras 7.1 and 7.2 of the AML/CFT Guidelines for DNFBPs prescribe a fine of GMD10,000 (approx. US\$195) upon conviction for a person who violates the provisions of AML/CFT Act, especially tipping off and operation of accounts in fictitious names. A breach of the AML/CFT Guidelines for FIs also attracts penalty. For instance, under Paras 8.4 and 8.8 of the Guidelines, failure to file CTRs and WTR attracts a penalty of GMD1000 (approx. US\$20) per day for each transaction from the day transaction occur. Considering that some FIs and DNFBPs are high risk, the fine/penalty in the Guidelines are not considered dissuasive and proportionate. The Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures, 2014, provides for a prison term of 2 years for any Gambia citizen (non-Gambians excluded¹⁰⁰) convicted of an offence under the regulation (Para 55). Similarly, a reporting entity that fails to submit report, or freeze funds and assets of designated persons and entities or fails to comply with the directives issued by competent authorities under the Regulation is liable to a fine of GMD1 million (approx. US\$ 19,417) or three (3) times the value of the amount involved [Paras 56-58 of the Regulation]. While the fines are considered proportionate and dissuasive, the prison sentence is not.

The Regulations and AML/CFT Guidelines highlighted above have not been published in the Gazette as required by the Interpretation Act of The Gambia. Consequently, they are not enforceable. In addition, the range of administrative sanctions provided in both the AML/CFT Act and AML/CFT Guidelines appear limited in scope as there is no specific mention of some sanctions such as written warnings; orders to comply with specific instructions; and ordering regular reports from the institution on the measures. Overall, although these Guidelines are referenced in the analysis, they are not given any weight as they are not enforceable /qualify as enforceable means. Regarding Recommendation 8, the NGOs Act, 2009 did not provide for any sanction. Section 14(2) of the Act provides that the government shall use any conciliatory measures to remedy any breach by any NGO. Thus, The Gambia cannot apply effective, and dissuasive sanctions for violations of the requirements applicable to NPOs.

Criterion 35.2 - The sanctions provided in the AML/CFT Act apply to both legal and natural persons, including directors and senior management of reporting entities who are proven to be responsible for violation under the AML/CFT Act (s14(4)(5), AML/CFT Act). In particular, the administrative sanctions discussed under c.35.1 (eg barring specific individuals from employment; replacing or restricting the powers of managers, directors or controlling owners) can be imposed on directors or senior management for failure to ensure compliance of a reporting entity with AML/CFT requirements (§14(5)(b-d) of the AML/CFT Act). However, the limitation on the scope of administrative sanction noted under c35.1 has some impact on c35.2.

Weighting and Conclusion

There is a range of criminal, civil and administrative sanctions applicable to natural and legal persons that fail to comply with AML/CFT requirements under the AML/CFT Act, and the Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other related Measures. However, the administrative sanction in the AML/CFT Act appears limited in scope. There is no clear link between AML/CFT Act and the NBF and Banking Acts in relation to sanctions and thus, the sanctions in the NBF and Banking Acts cannot be applied in respect of the AML/CFT Act. The Regulations and Guidelines have not been published in the Gazette, thus the sanctions there are not enforceable. In addition, there are no sanctions applicable to NPOs. **R. 35 is rated PC.**

Recommendation 36 – International instruments

¹⁰⁰ This gap is mitigated by the sanctions, including TF related sanctions, provided under the AML/CFT Act which are broad and cover both nationals and foreigners

The first MER rated The Gambia LC with the former R.35 and SR I. The technical deficiencies related to the non-ratification of the TF Convention and the absence of a coordination mechanism for the implementation of the ATA. The MER also identified effectiveness issues regarding the implementation of the ML Act, ATA, and the DCA across all the agencies, which are now assessed under IO.2.

Criterion 36.1 – The Gambia is a party to the Vienna Convention, the Palermo Conventions, United Nations Conventions against Corruption (the Merida convention), and the TF Convention. The Gambia ratified the Vienna Convention in June 1994, TF Convention on 8th July 2015 and the Palermo Convention in August 2014. The country acceded to the Merida Convention on 8th July 2015.

Criterion 36.2 – *Implementation of the Vienna Convention:* The Gambia has largely implemented the relevant articles of the Vienna Convention through Drug Control Act, 2003, the AML/CFT Act, 2012, and through bilateral and multilateral treaties. There are minor gaps in The Gambia’s implementation of articles relating to the ML offence (as discussed under R.3), MLA (as discussed in R. 37), confiscation (as discussed under R.4) and moderate gaps related to MLA in confiscation (R.38)

Implementation of the Palermo Convention: The Gambia has largely implemented the relevant articles of the Palermo Convention through the AML/CFT Act. However, there are minor deficiencies in its implementation in relation to the ML offence (as discussed under R.3), cross-border transportation of currency and BNIs (as discussed under R. 32), as well as confiscation, MLA (as discussed under R.4 and R. 37). It has moderate gaps in MLA related to confiscation (as discussed under R.38). There is limited implementation of articles relating to measures to enhance cooperation and prevention.

Implementation of the Merida Convention: In 2012, The Gambia enacted an Anti-Corruption which established the Anti-Corruption Commission. The Commission is not operational. The country has drafted an Anti-Corruption Bill to address gaps in the 2012 Act in line with the provisions of the Convention. In the absence of the standalone law, the most relevant anti-corruption legislation in the Gambia are the Constitution, the Criminal Code, the Criminal Procedure Code, the AML/CFT Act, the Economic Crimes Act, the NIAA and the Evidence Act. The most important authorities in the fight against corruption are the Attorney General’s Office, the Director of Public of Prosecutions (DPP), the GPF, the SIS and the FIU. The Gambia has implemented the obligations provided under the Convention to a limited extent and there are minor gaps related to the confiscation of property related to terrorist organisations and mechanisms to manage frozen or seized assets before the final confiscation of such assets (as discussed under R. 4), MLA, extradition and other forms of international cooperation (as discussed under R. 37, 39 and R. 40), and moderate deficiencies in MLA related to confiscation (as discussed under R.38).

Implementation of the TF Convention: The Gambia has partly implemented the relevant articles of the TF Convention. TF is criminalised under AML/CFT Act and the Anti-Terrorism Act (§§23, AML/CFT Act/§§6, 11(1), 12(1), 13(1), 18-22 ATA). As analysed in detail under R. 5, TF is criminalised based on the TF Convention. However, there are minor gaps in terms of the financing of an individual terrorist for any purpose, other assets that potentially may be used to obtain funds, goods or services and the scope of chargeable offences and cash couriers. The financing of foreign terrorist fighters is not criminalised.

Weighting and Conclusion

The Gambia is party to all the relevant international conventions and has largely implemented the relevant articles of those conventions. The deficiencies indicated under R. 3, 4, 5, 32, 37- 40 apply. **R. 36 is rated LC.**

Recommendation 37 - Mutual legal assistance

The first MER rated The Gambia NC with the requirements of the former R.36 and SR V. The technical shortcomings related to the lack of comprehensive MLA legislation, the limited scope of countries with which The Gambia could cooperate (those with bilateral or multilateral treaties with The Gambia); and the absence of MLA guidelines or procedures for the LEAs to facilitate the effective execution of MLA

requests. There were effectiveness issues related to the timing of responses to requests and the lack of mechanisms for coordinating the seizure and confiscation of assets. The new AML/CFT Act widens the scope of countries with which The Gambia can cooperate and provides procedures for requesting and executing MLA.

Criterion 37.1 – The Gambia has a legal basis that allows the country to rapidly provide a wide range of Mutual Legal Assistance (§72, AML/CFT Act). This includes entry and search (§73), obtaining evidence (§76), freezing seizure and forfeiture (§75) relating to predicate offences, ML or TF. It is not clear if the provisions on grounds for refusal apply to requests for MLA on predicate offences where there is no parallel ML investigation or prosecution. The Gambia can assist foreign States even in the absence of a treaty. Furthermore, ss 115-125 of the DCA allows for MLA in investigation and proceedings relating to drugs offences but assistance in this regard can only be provided if the requesting State undertakes in writing to render similar assistance to The Gambia if a request is made in that regard (§115(2), DCA). The absence of criminalization of migrant smuggling, tax fraud and market manipulation will impact the rating for this criterion.

Criterion 37.2 – The AG of the Gambia is the central authority for the transmission and execution of requests (§72, AML/CFT Act). The Gambia does not appear to have clear processes to prioritise and execute MLA requests as well as a case management system to monitor the progress of requests.

Criterion 37.3 – The Gambia would refuse a request for MLA if (a) the action sought by the request is contrary to the Constitution of The Gambia; or (b) the execution is likely to be prejudicial to the national interest; and (c) under the law of the requesting State, the grounds for refusing a request from another state is substantially different from the preceding grounds; or (d) there is insufficient information to facilitate the execution of the request (§§77 & 84, AML/CFT Act). These are not unreasonable or unduly restrictive. It is not clear if this applies to requests for MLA on predicate offences not specifically linked to ML.

Criterion 37.4 –

- a) The Gambia does not refuse a request for MLA on the sole ground that the offence involves fiscal matters (§77, AML/CFT Act);
- b) Secrecy or confidentiality of FIs and DNFBPs does not constitute a ground for denying a request, except for legal professional privilege and professional secrecy. A request for MLA must give particulars sufficient to identify any reporting entity believed to have information, documents or materials relevant to the investigation or prosecution of ML, TF or other criminal conduct or a person convicted of any of these offences (§82(d), AML/CFT Act).

Criterion 37.5 – The confidentiality of the material provided by requesting countries in relation to international MLA requests is provided under s85(2) of the AML/CFT Act. The authorities stated that the requests received by the country from foreign countries were treated confidentially.

Criterion 37.6 – The Gambia requires dual criminality for non-coercive actions (s77 of the AML/CFT Act).

Criterion 37.7 - There is no explicit requirement that both countries place the offence in the same category or denominate the offence by the same terminology. The Gambia may provide assistance if the investigation, prosecution, making or execution is a criminal matter under the laws of The Gambia (§, 77(2), AML/CFT Act).

Criterion 37.8

- a) Sections 73, 75, 79 and 81 of the AML/CFT Act grant authorities a wide range of investigative powers to execute mutual legal assistance, including search, seizure, requests for relevant documents. Under ss122-125 and 135 of DCA, a Narcotics Control Officer or a Police Officer has

a broad range of powers including powers to search, seize as well as request for the production of documents to facilitate a request for MLA.

- b) The range of investigative techniques such as undercover operations, wiretapping, interception of communications is available for the purpose of MLA (§§63 and 64 of the DCA). However, the investigative techniques are limited to drug offence.

Weighting and Conclusion

The Gambia has a legal basis that allows competent authorities to provide the widest range of MLA. However, tax crimes are not designated as ML predicates, while migrant smuggling and market manipulation are not criminalised. Tax crimes and migrant smuggling are moderate deficiencies considering The Gambia's risk and context while market manipulation pose a lower risk due to the absence of a capital market. Cumulatively, these gaps could impede the ability of the authorities to provide MLA on these offences. There is no process to prioritise and execute MLA requests, or a case management system to monitor incoming and outgoing requests. Also, more complex investigative techniques can only be used in response to MLA related to drug offences. Regarding dual criminality, the AML/CFT law does not address situations where offences are not categorised or denominated by the same terminology. **R. 37 is rated LC.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

The first MER rated The Gambia NC with the former R.38. The technical deficiency related to the lack of coverage of all the minimum designated categories of offences in the FATF glossary. The MER identified effectiveness issues related to the slow and ineffective execution of MLA requests, the absence of an asset forfeiture fund or the sharing of assets with other countries which are now discussed under IO.2.

Criterion 38.1 - Under the AML/CFT Act, the Gambia has the authority to take action in response to requests by foreign countries to identify, freeze, seize, and confiscate: **(a)** laundered property from, **(b)** proceeds from, **(c)** instrumentalities used in, or **(d)** instrumentalities intended for use in, ML, predicate offences of TF (§§72 and 75, AML/CFT; §§117 and 135, DCA; and §§39, 42 and 44, ATA). The Gambia does not have the legal basis to provide MLA to seize and confiscate property of corresponding value. The country has not designated tax crimes as ML predicates, nor criminalised migrant smuggling and market manipulation. Therefore, it is impossible to execute requests related to these offences. It is also unclear whether The Gambia has processes in place to ensure that expeditious action is taken in response to requests.

Criterion 38.2 - The Gambia lacks the legal basis to provide assistance on requests for cooperation made on the basis of non-conviction-based confiscation proceedings.

Criterion 38.3

- a) - The Gambia can coordinate seizure and confiscation actions with other countries (§§ 74, and 75(1)(a) of the AML/CFT Act).
- b) - Section 75(b) of the AML/CFT Act requires the Court to give direction regarding the disposal of property frozen or confiscated for the purpose of determining any dispute to its ownership or other interest, proper administration, payment of debts and other matters relevant to the property. This does not demonstrate a robust mechanism for managing seized, frozen and confiscated assets.

Criterion 38.4 – Regarding assets sharing, the Minister of Justice has the power to order the confiscation of the whole or part of property, or its value to the requesting state where an international arrangement requires or permits or in the interest of comity (s86 of the AML/CFT Act, and s44(5) of the ATA).

Weighting and Conclusion

National laws enable The Gambia to act in response to requests by foreign countries to identify, freeze, seize and confiscate laundered property. However, The Gambia has not criminalised migrant smuggling

and market manipulation, which means the country cannot provide international cooperation related to these offences. In addition, The Gambia does not have a robust mechanism for managing assets; and lacks the legal basis to seize and confiscate property of corresponding value and request cooperation on non-conviction-based confiscation proceedings. **R. 38 is rated PC.**

Recommendation 39 – Extradition

The first MER rated The Gambia NC with the requirements of R.39 due to the restriction of extradition requests to the list of extraditable offences. It was not possible to request extradition based on warrants. Every extradition request had to go through the Attorney General and the courts. There was no simplified process for executing extradition requests.

Criterion 39.1 The Gambia can execute extradition requests on ML/TF without undue delay.

- a) –Both ML and TF are extraditable offences under §87, AML/CFT Act.
- b) – The Gambia does not have a case management system and clear processes for the timely execution of extradition requests including prioritisation where appropriate;
- c) – The Gambia does not place unreasonable or unduly restrictive conditions on the execution of extradition requests (§7, Extradition Act, 1986). A request will not be granted where it is contrary to public policy¹⁰¹.

Criterion 39.2 - The Gambia can extradite any person who commits an extraditable offence, except its nationals (§10, Extradition Act; ss45 and 46 ATA).

Where the Attorney-General refuses to extradite a national the matter would be referred to a competent authority for further investigations and prosecution.

Criterion 39.3 – ML and TF are extraditable offences (§87, AML/CFT Act) The activity must be an offence against the laws of the declared Commonwealth country or foreign State, as the case may be, which, however described in that law, falls within any of the descriptions set out in the Schedule of the Extradition Act and is punishable under that law with imprisonment for a term of not less than twelve months or any greater punishment and would constitute an offence against the laws of The Gambia or a foreign jurisdiction (§6(a)&(b), Extradition Act).

Criterion 39.4 – The Gambia can provide simplified extradition based on the Agreement on Cooperation in Criminal Matters between the Police of member States of the Economic Community of West African States (ECOWAS) which permits the handing over of suspects or fugitives to another member State based on warrants of arrest or court judgments. There is a mechanism for waiving the court proceedings where the person to be extradited does not object to the extradition.

Weighting and Conclusion

The Gambia has measures for extradition. However, some gaps identified in relation to a case management system for the timely execution and prioritisation of extradition requests and the criminalisation of migrant smuggling and market manipulation may impact the scope of application of these measures. Considering **the R. 39 is rated LC.**

Recommendation 40 – Other forms of international cooperation

¹⁰¹ This is taken to include: instances where the offence for which a person is accused is of a political character, or the request is made for the purpose of punishing a person on account of his religion, race, nationality or political opinion .

The first MER rated The Gambia PC with the requirements of R. 40 and LC on SR V. The technical deficiencies related to the non-coverage of tax offences as ML predicates; the absence of a rapid, effective mechanism for granting cooperation to other counterparts; the lack of spontaneous and timely exchange of information; and the absence of a direct exchange of information with counterparts as authorities had to channel most requests through the SOSFA.

Criterion 40.1 –The Gambia’s legal and institutional framework allows its authorities to participate in international and regional organisations and networks (such as the Interpol, and ARINWA), as well as bilateral cooperation through a number of MOUs. The exchange of information can spontaneous or upon request. Legislation allows for a wide range of information to be exchanged with foreign authorities in relation to ML, associated predicate offences and TF.

Criterion 40.2

Competent authorities can provide international cooperation as follows:

- a) The Gambia’s FIU can exchange information (spontaneously or upon request) with other FIUs or an agency of a foreign State and/or an international organisation with similar powers and duties (§§4(c) and 5(o) of the AML/CFT Act). The FIU has also entered into several MOUs with foreign FIUs to facilitate information exchange. These provisions have not been used regarding the FIU’s role as the AML/CFT supervisor for reporting entities in The Gambia. The Gambia Police can spontaneously and by request exchange information through international channels, such as INTERPOL and West Africa Police Information System (WAPIS). the CBG can exchange information with overseas regulatory authorities (§72(2), CBG Act) and has signed some MOUs in that regard . The DLEAG can disclose information to overseas drug enforcement agencies (§§15(2) and 117, DCA). It also uses a range of cooperative arrangements for the exchange of information on matters of common interest with other drug agencies, including bilateral MOUs with some key partners. There appear to be no similar powers in respect of which other competent authorities such as the GID, NAATIP and GRA can provide the widest range of international cooperation. Instead, these authorities rely on bilateral and multilateral arrangements to be able to exchange information spontaneously and upon request with their foreign counterparts.
- b) – Nothing prevents The Gambian authorities from using the most efficient means to co-operate. Competent authorities, including the FIU and the Attorney-General can cooperate directly with international counterparts (§§18 and 72, AML/CFT Act). The use of the WAPIS and INTERPOL systems ensure prompt and efficient provision of assistance.
- c) - Competent authorities have clear and secure gateways, mechanisms or channels for cooperation and exchange of information. LEAs carry out international cooperation through the channels and tools of communication determined under appropriate international agreements, direct channels, and tools within international regional organisations, such as INTERPOL’s I-24/7 system used by the Police and WAPIS. Other authorities cooperate with foreign counterparts on the basis of MoUs to ensure that information is provided efficiently, timely and securely. However, there is no information available on the secure gateways and mechanisms used by some competent authorities, including The Gambia Tourism Board and Geological Department.
- d) – Competent authorities do not have internal guidelines or written procedures that explicitly set out the prioritisation and timeliness for execution of requests. In practice, competent authorities prioritise requests on a case-by-case basis based on the time sensitivity and severity of the matter.
- e) – Generally, documents prepared and obtained by government officials shall be appropriately managed (filed and maintained). This would apply to safeguarding the information received from foreign authorities. Unauthorised disclosure of information contemplated under the Act is prohibited. In addition, safeguards for confidential information are provided in accordance with MoUs (§31(1), AML/CFT). For the FIU, information obtained through international cooperation is used only for the purposes for which it was obtained, should be treated in a confidential manner

and not be further disclosed without the express consent of the Financial Intelligence Unit (§18(3), AML/CFT Act]. Also, officials of the FIU are prohibited from disclosing any information (which could include information on international cooperation) that come to their knowledge in the performance of their functions (§16, AML/CFT Act). The Central Bank of the Gambia Act also provides for all employees and members of the board to swear an oath of secrecy that information exchanged be kept secret and used for official purposes only (s.25 Central Bank of Gambia Act). Drug Law Enforcement Agency also has a clear provision that information exchanged between the DLEAG of Gambia and Central Office for the Suppression of Illicit Drug and Precursor Chemicals Trafficking (OCERTID), Senegal is used only for the purpose for which the information was sought. (Clause 3(1-4).

Criterion 40.3 – Bilateral or multilateral agreements or arrangements to co-operate are negotiated and signed in a timely way, and with a wide range of foreign counterparts. Under ss5(o),17 and 18 of the AML/CFT, the FIU can enter into an agreement or arrangement in writing with a foreign counterpart when necessary or desirable for the discharge or performance of its functions. The GFIU has signed MoUs with seventeen (17) with countries including Benin, Cabo Verde, Ghana, Liberia, Togo, Sierra Leone and Angola. The NDLEAG is authorised to enter into agreements and MoUs with foreign counterparts with a view to enhance co-operation and has signed bilateral and multilateral MoUs with its foreign counterparts, including Guinea Bissau, Senegal and the United Kingdom. Other competent authorities can exchange information following the signing of agreements, or through international organisation networks such as WACAP and ARINWA. Regarding multilateral cooperation, the Customs is a signing party of the World Customs Organisation (WCO) multilateral MoU. The Gambia Police exchanges information with several countries and regions via INTERPOL. Intelligence and Securities agencies exchange information with their counterparts under the West Africa Bureau of the Committee of Intelligence and Security of Africa (CISSA). The CBG also shares information with other supervisory authorities, especially in the region under WAMZ. Overall, The Gambia has demonstrated the ability to negotiate and sign, in a timely way, and with the widest range of foreign counterparts, or joined organisations or networks permitting the exchange of information outside MLA.

Criterion 40.4 –The FIU is obliged to provide feedback periodically to relevant agencies (including foreign counterparts) on the use or outcomes of the information provided under the Act (s5 (m) of the AML/CFT Act). The FIU has a feedback form which reports on the usefulness of the information for the entity receiving the information. For the other authorities, while there is no specific requirement for requesting competent authorities to provide feedback on request and in a timely manner to competent authorities from which they have received assistance, on the use and usefulness of the information obtained, there are no legal and practical obstacles to providing such feedback, which is provided in practice. However, information regarding the issue of timeliness of the feedback was not provided.

Criterion 40.5 - The Gambia does not prohibit or place unreasonable or unduly restrictive conditions on the provision of exchange of information or assistance. In particular, competent authorities do not refuse a request for assistance on the grounds that:

- a) the request is also considered to involve fiscal matters; and/or
- b) laws require financial institutions or DNFBPs to maintain secrecy or confidentiality (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies); and/or
- c) there is an inquiry, investigation or proceeding underway in the requested country unless the assistance would impede that inquiry, investigation or proceeding; and/or
- d) nature or status (civil, administrative, law enforcement, etc.) of the requesting counterpart authority is different from that of its foreign counterpart (§§5(o)(p) and 17 of the AML/CFT).

Criterion 40.6 - Controls and safeguards exist for the FIU to ensure that information it exchanges is used only for the purpose for which the information was sought or provided (§18, AML/CFT Act). The Central Bank of the Gambia Act also provides for all employees and members of the board to swear an oath of secrecy that information exchanged be kept secret and used for official purposes only (s.25 Central Bank of Gambia Act). Drug Law Enforcement Agency also has a clear provision that information exchanged between the DLEAG of Gambia and OCTRIS of Senegal is used only for the purpose for which the information was sought. (Clause 3(1-4).

Criterion 40.7 –The oath of secrecy for staff members in competent authorities as well as some MoUs signed by competent authorities contain a confidentiality clause and competent authorities adhere to these requirements. Rules in place for safeguarding and confidentiality of information and documents held by competent authorities in Gambia apply also to documents and information exchanged with or received from foreign counterparts. For example, the FIU has a legal basis to insist on minimum protection for information exchanged with designated authorities and may only provide information when satisfied that a foreign designated authority has given appropriate undertakings to treat reports received confidentially and not further disclose the same without the express consent of the FIU (§17(2)(b), AML/CFT). Also, confidentiality requirements exist for customs officers and the breach of these requirements constitutes an offence (§§30 &31, Customs and Excise Act) Article 14 of INTERPOL’s Rules on the Processing Data outlines confidentiality provisions for its members.

Criterion 40.8 - Competent authorities can conduct inquiries on behalf of foreign counterparts and exchange all information that would be obtainable by them if such inquiries were being conducted domestically. The FIU may seek and obtain information in The Gambia following a request received from a foreign counterpart (§5(o), AML/CFT Act). The Police Force can carry out an investigation on behalf of a counterpart if a request for information is made by a foreign counterpart. In particular, Article 10 (2), 19 and 20 of the INTERPOL Rules provide for the provision of information related to an criminal investigation or to the criminal history and activities of a person and for conducting investigation to fulfil these rules. The CBG can exchange information relating to its regulated entities with foreign counterparts. The DLEAG is able to conduct enquiries on behalf of its foreign counterparts.

Criterion 40.9 – Sections 5(f)(h)(o)(p) and 17, AML/CFT provides the FIU with adequate legal basis for providing international cooperation on ML, associated predicate offences and TF).

Criterion 40.10 – The FIU can provide feedback to its foreign counterparts upon request and whenever possible, on the use of the information provided, as well as on the outcome of the analysis conducted, based on the information provided (§5(1), AML/CFT Act).

Criterion 40.11 – The FIU has the power to exchange: (a) information required to be accessible or obtainable directly or indirectly as required under R.29 (§§ 4(c),5 (o) and 17 of the AML/CFT Act), and (b) other information which it can obtain or access, directly or indirectly, at the domestic level (ss4(b) and5(p) of the AML/CFT Act).

Criterion 40.12 - The FIU is the primary AML/CFT supervisor. It has the legal basis to co-operate and exchange supervisory information related to or relevant to AML/CFT purposes with any agency of a foreign state (including foreign supervisory counterparts) with similar powers and duties (§17, AML/CFT Act). The FIU did not provide information of any MoUs/agreements negotiated and/or concluded with other country supervisors to facilitate information exchange. The CBG is authorised to cooperate with other country financial sector supervisory authorities (§72(2), CBG Act). This cooperation could include information sharing for supervisory purposes. The CBG can cooperate through agreements signed with its foreign counterparts. However, since the Central Bank Act does not have AML/CFT provisions, the exchange of information by the CBG may not relate to those matters. The CBG has cooperation agreement with other members of the College of Supervisors of West African Monetary Zone (CSWAMZ), which permits the exchange of relevant information between the respective Central Banks.

Criterion 40.13 – The FIU and CBG can exchange information with foreign supervisory counterparts, information domestically available to them, including information held by FIs, in a manner proportionate to their respective needs (§17, AML/CFT Act and §72(2), CBG Act).

Criterion 40.14 – The AML/CFT and CBG Acts have broad provisions which enable the FIU and CBG to share and exchange any information with foreign regulators. Under s72(2) of the CBG Act, the CBG can exchange information with its foreign counterparts, which includes regulatory information, prudential information, fit and properness information. However, the CBG Act does not expressly provide for exchange of information on AML/CFT. It is not clear if this is covered in MoUs entered into by the CBG. The CBG also conducts joint inspections with foreign supervisors where information is shared. Based on s17 of the AML/CFT Act, the FIU can exchange information, especially AML/CFT information with foreign financial supervisors.

Criterion 40.15 – There is no legal or practical obstacle for financial supervisors to conduct inquiries on behalf of foreign counterparts, or to authorise and facilitate the ability of foreign counterparts to conduct the inquiries themselves in the country. These activities are among the mandates of CBG’s international cooperation covered in the CBG Act, while there is no specific provision to allow them explicitly to conduct such supervisory activity. There are some instances that the CBG conducted supervisory cooperation with foreign counterparts, especially the Central Bank of Nigeria (CBN) regarding the inspection of banks. CBG supports the CBN to inspect Gambian branches of Nigerian banks. The FIU and DELEAG also conduct inquiries on behalf of foreign counterparts and to facilitate the ability of foreign counterparts to conduct the inquiries themselves in the country.

Criterion 40.16 – Section 5(o) of the AML/CFT Act regulating the powers of the FIU to cooperate with “foreign financial supervisors” does not establish any requirements for prior authorisation to be obtained from foreign counterparts on the dissemination of the exchanged information/use of information for supervisory/ non-supervisory purposes.

The CBG Act does not require the Bank to seek the prior authorisation of a designated authority, including when it is under legal obligation, for any dissemination of information it receives. However, paragraph 17 of the MoU between the CBG and CBN requires that information shared should only be used for lawful supervisory purposes while paragraphs 18 and 19 of the MoU require disclosure in accordance with conditions attached to the provision of information and prior notification to the originator of the information, respectively.

Criterion 40.17 – The Gambian Police Force as a member of INTERPOL can exchange domestically available information with foreign counterparts. Section 14 (b) of the Customs & Excise Act empowers them to share information, official report or other documents with foreign counterparts. In addition, Customs as a member of World Customs Organisation can share domestic information with other jurisdictions. The DLEAG can exchange domestically information available with foreign counterparts for intelligence or investigative purposes in relation to drugs offences (§115(2), DCA). Cooperation in the framework of ARINWA allows the Police and other relevant LEAs to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, including the identification and tracing of the proceeds and instrumentalities of crime.

Criterion 40.18 - LEAs can conduct inquiries and use domestically available powers and investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts. For instance, the DLEAG has a wide range of special investigative powers to gather evidence or conduct inquiries and obtain information on behalf of foreign counterparts. The Gambian Police Force as member of INTERPOL can use its powers, and its investigative techniques, to assist its counterparts. Such engagements are governed by the rules of the INTERPOL. Police also exchange information within the framework of the West Africa Police Information System (WAPIS) and bilateral agreements with other countries. The Customs as a

member of WCO can provide assistance and exchange information internationally with other Customs in the World.

Criterion 40.19 – LEAs in The Gambia have no legal impediment for forming special law enforcement task forces in specific cases to enter into and participate in joint investigative teams in relation to ML, TF and predicate crimes. However, there is no specific provision on joint investigation teams with foreign authorities. LEAs rely on other mechanism such as bilateral and multilateral arrangements to enter into and participate in joint investigative teams with foreign counterparts in relation to ML, TF and predicate crimes.

Criterion 40.20 –. The FIU can exchange information with other international organisations (§17(2) of the AML/CFT Act). There is no legal provision that prevent other authorities from requesting information indirectly to whichever foreign authorities. As in all cooperation, principle of reciprocity is prerequisite for cooperation. In addition, information can also be exchanged with non-counterpart through FIU-FIU channels.

Weighting and conclusion

In general, competent authorities have basic competence to provide international cooperation and The Gambia mostly meet the criteria under R.40. However, some gaps remain that could impede international cooperation, including the lack of criminalisation of human trafficking and market manipulation, lack of an explicit provision requiring financial supervisors to conduct inquiries on behalf of foreign counterparts or facilitate the ability of foreign counterparts to conduct inquiries themselves in the country or to facilitate effective group supervision and the lack of specific provisions for prior authorisation or consent of the requested financial supervisors to disclose information exchanged. **R. 40 is rated LC.**

Summary of Technical Compliance – Key Deficiencies

Annex Table 1. Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> • Non-comprehensiveness of the NRA Action Plan with regards to allocation of resources for the mitigation of ML/TF
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> • There is no coordination mechanism in place to combat PF
3. Money laundering offences	PC	<ul style="list-style-type: none"> • The AML/CFT Act restricts the ML offence to the predicate offences listed in its Schedule II, which excludes tax crimes. • The Gambia has not criminalised migrant smuggling and market manipulation.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • There are no mechanisms in place to manage frozen or seized properties before the final disposal of such properties.
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> • The TF offence does not cover the financing of an individual terrorist for any purpose. • The financing of foreign terrorist fighters is not criminalised.
6. Targeted financial sanctions related to terrorism & TF	NC	<ul style="list-style-type: none"> • Provisions are not in place to ensure the effective implementation of the requirements of UNSCR 1267/1989 (Al Qaida) and 1988 sanctions regimes and 1373. •
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> • The Gambia has not adopted measures legislation or measures and procedures to implement TFS to comply with UNSCR regarding the prevention, suppression and disruption of proliferation of WMD and its financing
8. Non-profit organisations	PC	<ul style="list-style-type: none"> • Decree 81 does not provide effective, proportionate and dissuasive sanctions • Decree 81 is not explicit on the role of the NGOAA in ensuring co-operation, co-ordination and information sharing. • Membership of TANGO is voluntary, it is therefore not clear how TANGO can facilitate co-operation and co-ordination among NPOs

Recommendations	Rating	Factor(s) underlying the rating
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> The Recommendation is fully met.
10. Customer due diligence	PC	<ul style="list-style-type: none"> Some of the requirements for CDD in place in The Gambia are provided in the AML/CFT Guidelines for FIs which is not enforceable.
11. Record keeping	C	<ul style="list-style-type: none"> The Recommendation is fully met.
12. Politically exposed persons	PC	<ul style="list-style-type: none"> The requirement for FIs to establish risk management systems to determine whether a customer or the BO is a PEP does not cover new customers The definition of PEP does not cover PEPs linked to international organisations
13. Correspondent banking	PC	<ul style="list-style-type: none"> FIs are not prohibited, by law, from entering into or continuing a correspondent banking relationship with shell banks or establishing relations with respondent FIs that allow their accounts to be used by shell banks.
14. Money or value transfer services	PC	<ul style="list-style-type: none"> No specific action has been taken with a view to identifying natural or legal persons that operate MVTs without licences. There is no specific requirement for MVTs providers that use agents to monitor them for compliance with AML/CFT programmes
15. New technologies	NC	<ul style="list-style-type: none"> There are no requirements for FIs to undertake risk assessments of new technologies and to do so prior to the launch or use of such technologies There are no provisions that meet the requirements of c15.3-c15.11
16. Wire transfers	NC	<ul style="list-style-type: none"> The provisions relating to the requirements under R16 are largely set out in AML/CFT Guidelines which have not been published in the Gazette and thus not enforceable. .
17. Reliance on third parties	PC	<ul style="list-style-type: none"> There is no express requirement that the ultimate responsibility for identifying and verifying the identity of the customer remains with the FI relying on the third party. There is no provision that meet the requirements of c17.2. The shortcomings under R.10 apply.
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> The programmes to be implemented are not required to be based on the ML/TF risk and size of the business Trainings are not required to be on ongoing basis

Recommendations	Rating	Factor(s) underlying the rating
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • There is no explicit requirement that this should be based on the call by the FATF • There is no existing legal basis which requires the application of countermeasures within the framework of element (b) of c19.2. • There are insufficient measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT system of other countries
20. Reporting of suspicious transaction	C	<ul style="list-style-type: none"> • The Recommendation is fully met.
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> • The Recommendation is fully met.
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> • The deficiencies identified in R10, R12, R15 and R17 also apply here
23. DNFBPs: Other measures	LC	<ul style="list-style-type: none"> • The deficiencies identified in R19 also apply here
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> • The Gambia has not assessed the ML/TF risk associated with all the different types of legal persons in the country • The Gambia limits the disclosure of information on nominee shareholder to public companies. • There are no explicit measures in place to ensure that companies update the beneficial ownership information • There are no explicit provisions or measures in place to ensure that companies co-operate with competent authorities • There are no sanctions to deal with failure to provide beneficial ownership information. • As regards nominee shareholding and directors, there are no mechanisms to ensure that criminals do not abuse private companies for ML/TF
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • The Guidelines regulating activities related to professional trustees is not enforceable. • Trustees of an express trust are not obliged to hold adequate, accurate and current information on the trustee, settlor, protector, and beneficial owner of trusts.
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> • The supervision of non-bank financial institutions is not risk-based

Recommendations	Rating	Factor(s) underlying the rating
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • There is no legal basis to supervise FIs for compliance with TF-related TFS.
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> • Regulatory measures are not robust enough to prevent criminals or their associates from owning and or managing casinos and other DNFBPs in the Gambia. • The FIU (Supervisor of DNFBPs) does not have powers to directly impose administrative sanctions in line with R.35 to deal with violations of AML/CFT requirements. • There is no requirement for supervisory authorities to review the ML/TF risk profiles and internal risk assessments prepared by DNFBPs • No AML/CFT supervision has been undertaken in the DNFBP sectors
29. Financial intelligence units	LC	<ul style="list-style-type: none"> • The FIU has not conducted any strategic intelligence • There is no express requirement for the FIU to disseminate information upon request.
30. Responsibilities of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • The ACC exists in law only and is not in operation.
31. Powers of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • There are no provisions relating to undercover operation when investigating other criminal conduct, including ML, predicate offences except drug crime, and TF
32. Cash couriers	LC	<ul style="list-style-type: none"> • The Gambia's disclosure system does not explicitly require travellers to give a truthful answer • There is no provision that meets the requirements for c32.4
33. Statistics	LC	<ul style="list-style-type: none"> • Some of the statistics are not sufficiently maintained in a comprehensive manner
34. Guidance and feedback	PC	<ul style="list-style-type: none"> • There is limited feedback to the FIU on use of financial intelligence and other reports by LEAs, and from the FIU and CBG to reporting entities • The Guidelines have not been published in the Gazette and thus are not enforceable
35. Sanctions	PC	<ul style="list-style-type: none"> • The FIU is required under the AML/CFT Act to apply to the court for an order to enforce compliance which may pose some practical difficulties. • The administrative sanctions in place appear limited in scope.

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • Administrative sanctions provided in the Guidelines/Regulations are not enforceable as they have not been published in the Gazette • There are no sanctions applicable to the NGOs.
36. International instruments	LC	<ul style="list-style-type: none"> • The Gambia does not have measures in place to confiscate property of corresponding value consistent with Article 12(a) of the Palermo Convention
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> • There is no process to priorities and execute MLA requests, or a case management system to monitor incoming and outgoing requests • Regarding dual criminality, the AML/CFT law does not address situations where offences are not categorised or denominated by the same terminology.
38. Mutual legal assistance: freezing and confiscation	PC	<ul style="list-style-type: none"> • The Gambia does not have a robust mechanism for managing assets; • The Gambia lacks the legal basis to provide assistance on requests for cooperation made on the basis of non-conviction-based confiscation proceedings
39. Extradition	LC	<ul style="list-style-type: none"> • The Gambia has not implemented a case management system for timely execution and prioritisation of extradition requests • There is no requirement that dual criminality be satisfied where both countries have criminalised the conduct underlying the offence even where the offence is not placed within the same category by the countries
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> • There is no explicit provision requiring financial supervisors to conduct inquiries on behalf of foreign counterparts or facilitate the ability of foreign counterparts to conduct inquiries themselves in the country or to facilitate effective group supervision • Absence of specific provisions to have prior authorisation or consent of the requested financial supervisors to disclose information exchanged.

Glossary of Acronyms

	DEFINITION
ACA	Anti-Corruption Act
ACC	Anti-Corruption Commission
A-FSU	Anti-Fraud Squad Unit
AML/CFT	Anti-money laundering/combating the financing of terrorism
AML/CFT Act	Anti-money laundering/Combating the Financing of Terrorism Act, 2012
ARINWA	Asset Recovery Inter-Agency Network for West Africa
BDC	Bureau de Change
BNI	Bearer Negotiable Instrument
BO	Beneficial Ownership
C	Compliant
CBG	Central Bank of The Gambia
CBN	Central Bank of Nigeria
CBR	Correspondent Banking Relationship
CDD	Customer Due Diligence
CFT	Combating the Financing of Terrorism
CR	Company Registry
CRO	Company Registry Office
CSO	Civil Society Organization
CTRs	Currency Transaction Reports
DCA	Drugs Control Act
DLEAG	Drug Law Enforcement Agency of The Gambia
DNFBPs	Designated Non-Financial Businesses and Professions
DPMS	Dealers in Precious Metals and Stones
DPP	Director of Public Prosecutions
ECOWAS	Economic Community of West African States
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FIs	Financial Institutions
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
FTR	Foreign Transaction Reports
GD	Geological Department
GDP	Gross Domestic Product
GIABA	Inter-Governmental Action Group against ML in West Africa
GICA	Gambia Institute of Chartered Accountants
GID	Gambia Immigration Department
GLC	General Legal Council
GMD	Gambian Dalasi
GPF	The Gambia Police Force
GRA	The Gambia Revenue Authority
GTB	Gambia Tourism Board
IMC	Inter-Ministerial Committee
IMF	International Monetary Fund
IO	Immediate Outcome
INTERPOL	International Criminal Police Organization

ITFR	Regulation to Combat the International Financing of Terrorism (Tracing, Freezing, Seizure and Confiscation) and Other Related Measures, 2014
JAITF	Joint Airport Interdiction Task Force
JOC	Joint Operations Centre
KYC	Know your customer
LC	Largely Compliant
LEAs	Law Enforcement Agencies
LTD	Limited Liability Companies
LTG	/Company Limited by Guarantee
MER	Mutual Evaluation Report
MFIs	Microfinance Institutions
ML	Money Laundering
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
MOFA	Ministry of Foreign Affairs
MOF	Ministry of Finance
MOJ	Ministry of Justice
MoU	Memorandum of Understanding
MVTS	Money or Value Transfer Service
NAATIP	National Agency against Trafficking in Persons
NBFIs	Non-Bank Financial Institutions
NC	Non-Compliant
NCC	National Coordination Committee
NDP	National Development Plan
NGO	Non-Governmental Organization
NGOAA	NGO Affairs Agency
NIA	National Intelligence Agency
NPO	Non-Profit Organization
NRA	National Risk Assessment / National Revenue Authority
NRA-AP	National ML/TF Risk Assessment Action Plan
OFIs	Other Financial Institutions
PC	Partially Compliant
PEP	Politically Exposed Person
PF	Proliferation Financing
R	Recommendation
RBA	Risk- Based Approach
RBS	Risk- Based Supervision
SCDD	Simplified Customer Due Diligence
SIS	State Intelligence Services
SIU	Sensitive Investigation Unit of the DLEAG
SRA	Sectoral Risk Assessment
SRB	Self-Regulatory Body
STR	Suspicious Transaction Report
TANGO	The Association of Non-Governmental Organisations
TFS	Targeted Financial Sanctions
TIPA	Trafficking in Persons Act
UBO	Ultimate Beneficiary Owner
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crimes
UNSC	United Nations Security Council

UNSCRs	United Nations Security Council Resolutions
USD	United States Dollars
VISACAs	Village Savings and Credit Association
WACAP	West African Network of Central Authorities and Prosecutors
WTR	Wire Transfer Report



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