



# **Anti-money laundering and counter-terrorist financing measures**

## **Republic of Niger**

**AUGUST 2021**

**Mutual Evaluation  
Report**





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

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## Executive Summary

1. This report summarizes the AML/CFT measures in place in the Republic of Niger as at the date of the on-site visit from 13 to 29 January 2020. It analyzes the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Niger's AML/CFT system and provides recommendations on how the system could be enhanced.

### Key Findings

- a) Niger initiated its first National Money Laundering/Terrorist Financing (ML/TF) Risk Assessment (NRA) process under the guidance of a working group led by the financial Intelligence Unit (FIU). The process was inclusive with the participation of the competent authorities as well as public and private stakeholders. The scope of the NRA covered, among others, the sectors of banking, insurance, securities, other financial institutions, Designated Non-Financial Businesses and Professions (DNFBPs) and Nonprofit Organizations (NPOs). The assessment also considered the financial inclusion strategy and products.
- b) The report was adopted and published on the websites of the Ministry of Finance and FIU. The sharing of the NRA findings was not accompanied by sensitization sessions to ensure better ownership, even if copies of the report were distributed to some stakeholders.
- c) Niger's authorities did not carry out a specific study of the NPO sector with a view to better characterizing the profiles of the categories of NPOs that are exposed to TF risk as well as the channels and forms of financing which they benefit from. However, they have taken important steps to reform the texts relating to the organization and supervision of the NPO sector, including Order n°00064 of November 26, 2019, on the modalities for monitoring the sources of funding for NGOs and Development Associations.
- d) Overall, the understanding of ML/TF risks in Niger is considered as satisfactory, although not at the same level for all sectors. The Law Enforcement Authorities (LEAs) and the National Intelligence Agency have a good understanding of ML/TF risks. In the financial sector, most supervisors have a good understanding of the ML/TF risks in their respective sectors, unlike the self-regulatory bodies (SRBs), which have a limited understanding of ML/TF risk, as well as the Gendarmerie. The customs and taxation departments have a limited understanding of ML/TF.

- e) The risk of TF, considered high by the Niger's authorities, is inherent in the geographical location and the country context marked by multiple attacks by armed groups operating in the eastern (lakebed of Lake Chad) and western (on the border with Mali and Burkina Faso) regions, which capitalize both on the porous borders and the challenges of territorial surveillance. In this regard, administrative measures are being taken, including the closure of artisanal gold mining sites and their surveillance by security forces to contain the massive influx of individuals whose presence is a security threat; the prohibition, in insecure areas, of certain activities that may be used to finance terrorism.
- f) Law Enforcement and Investigative Authorities use financial intelligence to investigate and prosecute ML/TF and related predicate offences. However, the low number of suspicious transaction reports, the predominance of cash transactions, weak parallel financial investigation, and poor institutional capacity mean that convictions, forfeitures, and other countermeasures taken do not fit the overall ML/TF risk profile in the country.
- g) Niger's authorities have obtained a few convictions for both ML and TF, demonstrating the priority they give to combating these two offences. Various forms of ML, including self-laundering, third-party laundering, and laundering of the proceeds of crime committed abroad have been detected, prosecuted, and convicted. Prosecutions for TF cases have made it possible to define the specific role of terrorist financiers. However, the complex forms of these ML and TF offences were not prosecuted. Alternative measures were implemented when convictions were not possible.
- h) Niger authorities recently took steps to ensure the effectiveness of confiscation measures, which are a priority element in the national legal and institutional framework for combating ML/TF. The operationalisation of the Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets is crucial for the recovery of confiscated assets. The failure to systematise confiscations of assets in all ML/TF cases negatively affects the effectiveness of this mechanism.
- i) TFS implementation and the monitoring of the activities of NPOs vulnerable to exploitation for TF purposes are virtually non-existent since the mechanisms put in place for this purpose are not functional. This situation contrasts with the high level of TF risks identified in the country.
- j) The availability of timely, comprehensive, reliable and up-to-date information on legal entities, legal arrangements and beneficial owners remains a challenge for Niger. Penalties for non-compliance with the obligations to provide information on legal entities are not sufficiently applied, which renders scarcely noticeable all efforts to introduce transparency in the operation of legal entities in order to prevent them from being used for ML/TF.
- k) Financial Institutions (FIs), especially banks and insurance companies that are subsidiaries of foreign groups and large Decentralized Financial Systems (DFSs), as well as their supervisors, understand their AML/CFT obligations and the risks they face, unlike DNFBNs and the other FIs, some of which have been assessed as high-risk in the NRA.

- l) All banks and almost all insurance companies, as well as some of the DFS belonging to large networks, have carried out risk assessments at the institutional level. Most of them have drawn up a risk map, even though they are not all related to ML/TF and do not seem to stem from a formalized framework for assessing specific ML/TF risks. DNFBPs have not assessed their ML/TF risks at the institutional level.
- m) FI supervisors have regulatory measures in place to prevent criminals or their accomplices from owning or controlling FIs. However, for all reporting entities, controls over beneficial owners remain a challenge.
- n) Despite the existence of a wide range of sanctions, those already imposed by the authorities in AML/CFT matters do not seem to be effective, proportionate, and deterrent.
- o) Niger recently expanded its international cooperation arrangements with the establishment of the National Unit for Mutual Assistance in Criminal Matters and Judicial Cooperation. This should make it possible to considerably improve the cooperation granted and requested by Niger, particularly in ML/TF cases, which is at a low level.

## Risks and General Situation

2. The Republic of Niger is a Sahelian country in the West African hinterland that shares its borders with seven (07) neighboring countries. It is a low-income country, characterized by an economy largely dominated by an informal sector that contributes more than 60% of GDP. Niger's economy is also marked by the predominance of cash transactions, in a context where the country has one of the lowest banking penetration rates in the WAEMU space with 6.8% (bank-account penetration) and which grows to 16.5% if one considers the accounts held in the microfinance sector (expanded account penetration rate). Niger's financial system is dominated by banking activity, with a balance sheet total equivalent to 25% of GDP and 58% of share capital in 2019 owned by foreign individuals or legal entities.
3. Niger is one of the four countries of the Joint Operational Army Staffs Committee (CEMOC), epicenter of terrorist attacks perpetrated by armed groups in the Sahelo-Saharan strip. Niger faces a high risk of TF. The authorities say this risk is inherent to terrorist activities located in the eastern (lakebed of Lake Chad) and western regions (on the border with Mali and Burkina Faso), which capitalizes on the porous borders and challenges related to territorial surveillance and the guarantee of the free movement of people and goods advocated by regional integration policies. The NRA concludes that this situation provides an opportunity for terrorist groups to move their funds in connection with various trafficking, including drugs, cigarettes, migrants and arms. In addition, other types of income-generating activities, including livestock trade, sale of market garden produce, contribute to fuel TF flows.
4. The NRA has established that the NPO sector presents a high risk of TF. This considers the large number of entities that make up the said sector combined with the poor oversight on the part of the authorities and the obsolescence of the texts that govern the activities of the sector. Niger's authorities claim that religious NPOs are more exposed to TF because they

receive more donations from abroad whose origin and destination are difficult to identify. They also noted that some NPOs do not forward their financial statements and activity reports to the supervisory authority, which reinforces the risk of TF in the country's context. The Ministry in charge of security has undertaken the reform of the texts that govern religious activities and charitable actions. However, Niger's authorities have not carried out a comprehensive study of the sector in order to better characterize at-risk NPOs, the forms of financing and the profiles of the categories of beneficiary NPOs.

5. In Niger, corruption and related offences are considered a first-degree offence. This is corroborated both by the deterioration of the Corruption Perception Index (CPI) and by statistics on cases handled by the High Authority to Combat Corruption and Related Offences (HALCIA), which point to a significant risk of ML in connection with this offence. Regarding the sectors of activity most exposed to the ML/TF risk, the NRA report listed, in order of importance, the sectors of real estate, gambling and hotels, precious stones and metals, antiques and works of art, the banking sector, the legal and accounting professions, as well as NGOs that present a high risk. It is important to note that Niger has not carried out a ML/TF analysis related to the cross-border movement of cash and bearer negotiable instruments that is also relevant in the context of a cash-based economy dominated by an informal sector.

### Overall Level of Compliance and Effectiveness

6. Following the adoption of its first MER in May 2009, Niger has gradually taken steps to improve its AML/CFT regime. At the legislative and regulatory level, Niger has transposed Directive N°02/2015/CM/UEMOA which incorporates the AML/CFT Uniform Law into its national legal system (Law 2016-33). This legislation has strengthened the legal framework for combating ML/TF/PF, particularly regarding preventive measures. The new legal framework also took into account certain changes made with the revised FATF standards, in particular, the obligation to assess risks and the development of procedures for the implementation of targeted financial sanctions in relation to the TF and PF. Niger has designated the Authority in charge of administrative freezing and created the Central Agency for Seizure, Confiscation, Freezing and Recovery of Assets (ACGSCGRA). Law No. 2016-33 established a broad definition of “property and other financial resources” and provides for corruption in the private sector and of foreign public officials. It also authorizes information sharing between the FIU and other agencies.
7. To be fully compliant with the TF definition established by FATF criteria, Niger has revised its Criminal Code to criminalize the financing of a terrorist organization or individual terrorist for all purposes (Article 399.1.21c). In addition, the country has established special jurisdictions in charge of ML/TF matters and specialized investigative services in this area.
8. In terms of supervision, the Financial Market Authority (CREPMF) issued a new AML/CFT Directive (No. 59/2019). Regarding the banking sector, the BCEAO issued a series of Directives to, among others, give directives for the practical application of Law n°2016-33, set thresholds for cash transactions and the physical cross-border transportation of cash. However, the application of this last Directive is not provided for within intra-Community borders. In addition, Niger has designated the authorities in charge of supervising and controlling the AML/CFT DNFBPs, but they have not yet conducted a mission in this regard. Niger has not carried out a comprehensive study of the NPO sector with a view to understanding the specific characteristics of entities exposed to TF risks.

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

9. Niger initiated its first National ML/TF Risk Assessment (NRA) under the aegis of the FIU, which heads a working group established by Order of the Minister in charge of Finance. The report was adopted by Decree No. 2019-401/PRN/MF of July 26, 2019 and its update is scheduled for a periodicity of three (3) years. The process was inclusive and the NRA scope covered the sectors of banking, insurance, securities, other financial institutions, DNFBPs and NPOs. In addition to these sectors, the assessment covered financial inclusion products. The final report was published on the website of the Ministry of Finance and some stakeholders had already received copies of the report during the on-site visit. However, the sharing of the findings of the NRA was not accompanied by sensitization sessions to ensure greater ownership.
10. Niger's authorities have a fairly good understanding of ML/TF risks, although it is non-unified in all sectors. The Law Enforcement and Investigative Authorities (LEAs) and the DGDSE have a good understanding of ML/TF risks, as do financial sector supervisors. To a lesser extent, the gendarmerie, financial authorities, and self-regulatory authorities have limited understanding of ML/TF risks. At the sectoral level, large banking institutions, insurance companies, and DFSs understand ML/TF risks, unlike other FIs and all DNFBPs.
11. Niger's authorities took early action to address certain threats in view of the worrying security situation. These include administrative acts such as the decision to close artisanal gold mining sites and their surveillance by the security forces, the prohibition of the exercise of certain economic activities, including the cultivation and sale of market garden produce in insecure areas, and the sale of fuel in containers. These measures were taken to disrupt the organization of criminal groups. In addition, strategic measures have been taken in application of certain actions identified in the NRA action plan, including the designation of AML/CFT supervisory authorities for all categories of DNFBPs, capacity building for the National Coordination Committee (CNCA-AML/CFT) and its expansion to include relevant new members. Niger has also established an ad hoc committee for coordination in criminal matters. Niger's authorities have also begun reforming legislation to prevent and address issues of violent extremism, terrorism and TF. Similarly, they took important steps to reorganize and supervise the NPO sector. In this regard, the authorities issued Order No. 00064 of November 26, 2019, on the monitoring of sources of funding for NGOs/Development Associations and Order No. 00059 of January 20, 2020, on the creation of the National Committee for the Fight against Terrorism. In addition, Niger published guidelines for financial sector reporting entities and DNFBPs in 2017.
12. However, it should be noted that the application of the enhanced or simplified CDD measures, provided for in Law 2016-33 AML/CFT, is not yet based on the findings of the NRA, even though the action plan is only at the beginning of its implementation. Also, the fact remains that Niger has not conducted a specific study or assessment of the NPO sector in order to rigorously determine those exposed to the risk of TF, given the country's security situation.

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

13. The legal and institutional framework for AML/CFT in Niger allows broad access and consultation of financial and other relevant information. Financial intelligence and other

relevant information are accessed and used to a certain extent in investigations to establish evidence and locate proceeds of crime related to money laundering, related predicate offences, and terrorist financing.

14. The number of Suspicious Transaction Reports received by the FIU has been low, even though it presents rising trends. Based on Suspicious Transaction Reports (STRs) and Cash Transaction Reports (CTRs) received from reporting entities, mainly from the banking sector (other financial institutions and the DNFBSs make virtually no STRs), the FIU processes, analyzes and disseminates financial intelligence to the competent authorities. The customs administration receives declarations of physical cross-border transportation of cash, the use of which is not effective.
15. The FIU's analyses, to a certain extent, meet the operational needs of the competent authorities who use them to initiate prosecutions. The use of the files transmitted by the FIU has resulted in three (3) ML convictions. The dissemination of financial intelligence by the FIU to other competent authorities led, for example, to a significant tax adjustment. The FIU produced a small amount of strategic analysis for the competent authorities. The FIU's analytical capabilities and those of the LEAs that are supposed to be using the information provided by the FIU are not sufficiently developed.
16. Within the framework of national cooperation, FIU relies on a network of institutional correspondents that enable it to exchange financial information and intelligence efficiently and securely. However, cooperation with supervisory authorities is limited. Similarly, the management of confidentiality in the context of financial intelligence exchanges should be improved.
17. Niger's legislation includes relevant provisions pertaining to money laundering offence. Specialized criminal investigation and prosecution authorities target money laundering in the investigation and prosecution of predicate offences through parallel financial investigations. However, this recent practice is not yet generalized across all investigative agencies. Investigation and prosecution authorities do not give the necessary priority to ML investigations in view of the high number of predicate offences.
18. Niger's courts have initiated several money laundering prosecutions and have handed down three (3) sentences. The decisions rendered concern different types of ML, namely, ML related to predicate offences committed abroad, third-party laundering or self-money laundering. The practice of investigating and prosecuting ML does not match the country's risk profile as reflected in the NRA.
19. Niger's law prescribes that any person found guilty of ML shall be punishable with imprisonment from three to seven years and a fine equal to the triple of the value of the assets or funds involved in the money laundering operations. The three convictions resulted in prison sentences of two (02) to five (05) years and fines. The small number of convictions does not allow a decisive trend to be identified in order to certify that sanctions are effectiveness, proportionate and dissuasive. In addition, where criminal convictions cannot be obtained, Niger implements certain alternative measures such as tax adjustments or customs confiscations.
20. Niger's authorities have reflected the priority they give to confiscation through the addition of an additional mandatory penalty and the creation of the Central Agency for the Management of Seizures, Confiscations, Freezes and Asset Recovery (ACGSCGRA). In accordance with national legislation, the Niger's authorities have issued a few confiscation



orders for ML-related offences. The judicial authorities have practiced the confiscation of property of equivalent value.

21. Niger's authorities seized funds from travellers who fail to declare foreign currency. However, no investigation has been conducted to determine whether the amounts seized are related to TF or ML. Also, confiscation in ML/TF cases has not yet been systematized, as several convictions have not resulted in confiscation. In the light of this, it appears that the results of the confiscation do not match the risk profile and national AML/CFT policies and priorities.

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

22. Fighting terrorism and its financing seems to be a priority for Niger, which has strengthened its legislative and institutional mechanism for combating terrorist financing. The various types of terrorist financing activities are prosecuted based on reports transmitted by the specialized investigation services. Thus, based on these reports, about ten convictions for terrorist financing, acts of support to terrorists, importation and transport of ammunition, and provision of safe havens for terrorists have been handed down. The various investigation and intelligence services have identified as sources of financing theft and resale of livestock, kidnapping of persons for ransom, withholding zakat under duress (extortion) in villages, the payment of protection tithes, vehicle theft, trafficking in arms, motorcycles, fuel and poaching. All these cases prosecuted and convicted are below the country's risk profile.
23. The detection of TF cases through STRs is very low. TF cases are mainly detected and investigated during investigation and prosecution of terrorism. Given the multiplicity of terrorist acts committed in the country and the large number of persons convicted of terrorism, the number of TF cases detected and investigated remains low. This is because the financial aspects of the investigation are not systematically addressed during terrorism investigation and prosecution. When these financial aspects are considered, the investigating authorities manage to identify the specific role of those who finance terrorism.
24. Niger has adopted the National Strategy for Homeland Security, giving priority to terrorism risks. Resources are allocated to investigating and prosecuting authorities to enable them to conduct investigation into terrorism and its financing, they still fall short. The practice of integrating TF investigations into terrorism investigations has recently been made systematic at the level of all specialized counter-terrorism services, but the outcomes of this decision could not be felt at the time of the on-site visit.
25. In terms of penalties, TF is punishable with imprisonment for at least 10 years and a fine of at least five times the value of the property or funds involved in TF operations. Actual convictions ranged from 7 to 10 years' imprisonment. Funds in the possession of the defendants were confiscated. However, it was noted that these convictions do not carry fines as required by law. The effectiveness, proportionality, and dissuasiveness of sentences therefore need to be improved. When a conviction is not possible, Niger resorts to administrative measures, such as the prohibition of certain activities that could be used to finance terrorism.
26. Niger has a sufficiently comprehensive legal and institutional framework for the implementation of targeted financial sanctions under UNSC Resolutions 1267 and 1373. Resolution 1267 lists and their updates are transmitted by the Ministry of Foreign Affairs,

but it does not reach all stakeholders in a timely manner to enable them to implement the sanctions without delay. The mechanism for designation and inclusion on national lists under Resolution 1373 is not operational.

27. Niger's legislative mechanism potentially allows to deprive terrorists of their property and resources. Confiscation measures are provided for by law and are effectively imposed upon conviction for TF, but the use of confiscation is not systematic in all TF cases. Measures taken in the implementation of targeted financial sanctions, in monitoring NPOs vulnerable to TF exploitation, and in deprivation of TF-related assets and instruments do not seem to match the overall risk profile for TF. Niger also has a legal and institutional framework that allows for the national implementation of targeted financial sanctions against the financing of the proliferation of weapons of mass destruction, but the very recent nature of this mechanism did not allow for its implementation at the time of the on-site visit. No measure aimed at identifying the funds of individuals linked to proliferation financing has been taken in Niger.
28. Unlike other financial institutions and the DNFBBs, banking institutions have some understanding of their obligations in the area of counter-proliferation financing and are taking certain steps to meet them. Some banks have filtering software whose use has not allowed, to date, to uncover and freeze proliferation financing funds. BCEAO and the WAMU Banking Commission are exercising controls to ensure that banks comply with their targeted financial sanctions obligations.

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

29. Financial Institutions, particularly Banks and Insurance Companies that are subsidiaries of foreign groups, seem to have a satisfactory understanding of their AML/CFT obligations and their ML/TF risks. Other FIs, particularly MVTs and currency exchange offices for which ML/TF risks are deemed high, and DNFBBs have very limited understanding of their obligations and their ML/TF risks. Niger should provide more guidelines, awareness, information, and indicators on typologies to improve understanding of these entities.
30. FIs, particularly subsidiaries of foreign groups, are implementing simplified and enhanced customer due diligence measures and are complying with information retention, record keeping, and risk-based monitoring requirements, unlike other FIs and DNFBBs. However, FIs and DNFBBs do not seem to have ML/TF risk maps developed based on a formalized ML/TF risk assessment framework in order to implement appropriate risk mitigation measures. Similarly, the findings of the NRA are not yet being taken into account by these entities. For all reporting entities, obtaining information on beneficial owners remains a challenge. Also, Niger has not been able to demonstrate whether the establishment or continuation of a business relationship can be refused in cases where CDD measures have not been implemented or have been insufficiently implemented. Niger should ensure that FIs and DNFBBs implement vigilance measures relating to beneficial owner identification, including enhanced vigilance measures for PEP customers and those in high-risk sectors identified in the NRA.
31. FIs, including Banks, DFSs and Insurance Companies understand their STR requirements. The declarative activity of the DNFBBs remains in its infancy. However, the number of STRs transmitted to the FIU remains low, or even non-existent for certain sectors, even though they are identified as high-risk in the NRA, which is a major concern. Niger, through the supervisory authorities, should strengthen the awareness of FIs and DNFBBs on their AML/CFT obligations in general and STRs.



32. FIs that are subsidiaries of foreign groups and large DFSs have put in place internal control policies and procedures. However, these policies and procedures need to be regularly updated to accommodate all the provisions of the current legal framework.

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

33. FI supervisory authorities have regulatory measures in place to prevent criminals or their accomplices from owning or controlling FIs. As for some DNFBPs, these measures were strengthened in 2017 and 2018, particularly for the mining sector, notaries, judicial agents and business agents. However, for all reporting entities, controls for beneficial owners are not carried out. Also, certain foreign exchange offices, money transfer companies, chartered accountants and certified public accountants, dealers and operators of precious stones and metals, and slot machine operators are not subject to regular controls and sanctions by the authorities.
34. The understanding of ML/TF risks of reporting entities by supervisory authorities for banks, insurance and DFSs is satisfactory, while that of the authorities of other FIs and DNFBPs remains limited. For FI supervisors, the risk-based approach to the supervision of these FIs is implemented, unlike those of the other FIs and DNFBPs. However, for all supervisory authorities, the classification of reporting entities according to their risk profiles is not carried out. As a result, on-site controls of the FIs in terms of AML/CFT remain weak, given the high level of risk in this sector, and are non-existent at the level of the other FIs and DNFBPs. Supervisory authorities should increase their on-site controls and improve their risk-based monitoring systems and tools in order to be able to rank their reporting entities according to their risk profiles.
35. Despite the existence of a wide range of administrative and criminal penalties, the AML/CFT sanctions imposed by the authorities do not seem to be effective, proportionate, or dissuasive. However, the training, information and awareness raising activities of the supervisory authorities and FIU have enabled FIs to enhance their AML/CFT compliance level. The same effect is felt as the result of on-the-spot checks carried out and the actions to disseminate the NRA findings.

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

36. Information on the types of legal entities and their creation is available to the public. The Uniform Act on Commercial Companies and Economic Interest Groups of January 30, 2014 defines the different forms of legal entities that can be created in Niger. Niger does not have a centralized database of legal entities created in the country.
37. Niger has not assessed vulnerabilities and the extent to which legal entities created in the country can be or are being diverted for ML/TF purposes. However, the country does have mechanisms to investigate managers and capital contributors to the legal entity prior to creation to prevent their misuse for ML/TF purposes.
38. In Niger, the competent authorities can obtain basic information on the types of legal entities created in the country from the RCCM. However, Niger does not have a mechanism for collecting accurate and up-to-date information on beneficial owners of legal entities. The information contained in the RCCM does not specifically include information on the beneficial owners.
39. The creation of legal arrangements is not planned in Niger. However, legal and accounting professionals subject to AML/CFT, when managing assets owned by trusts or other similar

instruments, are required to identify the beneficial owners and the parties to the constitution of the said legal arrangements.

40. Niger's criminal code contains provisions that allow effective, proportionate and dissuasive sanctions to be imposed on those who fail to comply with reporting obligations. The country reported cases of financial penalties against legal entities that failed to update their information in the RCCM.

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

41. The Republic of Niger has a satisfactory legal and institutional framework for international cooperation. The competent authorities, including the FIU, the police, the judiciary and other law enforcement agencies, do exchange information with their foreign counterparts. Niger's authorities have set up a National Unit for Mutual Legal Assistance and Judicial Cooperation within the Ministry of Justice to better respond to international cooperation needs.
42. Niger responded to most of the requests made to it Extradition requests are investigated and executed in accordance with domestic and international law, without being subject to the prior existence of an agreement with the requesting country. However, there is no comprehensive internal priority-setting or case management system in place to track the processing of mutual legal assistance or extradition requests. In practice, Niger processes requests for cooperation based on the expressed by the requesting Authority.
43. Authorities involved in AML/CFT seek other forms of international cooperation to exchange financial, enforcement, criminal prosecution and other information with their foreign counterparts in an appropriate and timely manner. Within this framework, the country is a party to agreements and initiatives that support international cooperation and as such uses dedicated. Also, the National Central Bureau-Interpol (NCB-Niger) plays a crucial role in police cooperation. Niger's Customs Authorities also cooperates with its foreign counterparts through several channels, including the World Customs Organization (WCO). As a member of the Egmont Group, Niger's FIU collaborates with its counterparts via the "Egmont Secure Web" platform to request and obtain information from this information exchange network. It also exchanges information with other FIUs based on Memoranda of Understanding and reciprocity. However, in terms of TF, Niger's request for international cooperation is low, when compared to the high risk level the country is exposed to.
44. The supervisory authorities for Banks and Insurance Companies (Banking Commission and CRCA) collaborate with their foreign counterparts, particularly in their accreditation and monitoring activities. However, no statistics relating to such cooperation have been provided.

**Priority Actions**

- a) The FIU should continue to disseminate the NRA report to stakeholders, punctuated by awareness-raising activities for better ownership;

- b) Niger's competent authorities should conduct a comprehensive study of the NPO sector to determine the profile and characteristics of NPOs that are exposed to TF risk and identify the mechanisms for channeling financial flows;
- c) FIs and DNFBPs and their supervisors should take the findings of the NRA into account in their sectoral risk assessment and ensure that they integrate them into their risk-based approaches.
- d) Niger should update its financial inclusion strategy and take on board all the ML/TF risks identified in the NRA.
- e) Niger should improve the quality of financial intelligence and build the technical capacity and resources of the investigating and prosecuting authorities to use it systematically in parallel financial investigations.
- f) The customs administration should systematically transmit to the FIU information on declarations of cross-border physical transportation of cash and bearer negotiable instruments, as well as information on reporting incidents and seizures of undeclared funds.
- g) Niger should increase the number of prosecutions for ML/TF incidents in order to respond effectively to the risks facing the country.
- h) Niger should ensure that targeted financial sanctions are implemented effectively and that high-risk NPOs are better monitored to disrupt terrorists and deprive them of their means of financing.
- i) Niger should complete its legislation on the creation and transparency of legal entities, by instituting beneficial owner identification. The country should enforce disclosure requirements for legal entities and apply effective and dissuasive sanctions to prevent the use of legal entities for ML/TF purposes.
- j) Niger should ensure that FIs and DNFBPs implement vigilance measures relating to beneficial owner identification, including enhanced vigilance measures for PEP customers and those in high-risk sectors identified in the NRA.
- k) Niger should ensure that FIs and DNFBPs have ML/TF risk maps developed based on a formalized ML/TF risk assessment framework in order to implement appropriate ML/TF risk mitigation measures.
- l) Supervisory authorities should enhance on-site monitoring and improve their risk-based monitoring systems and tools to enable them to rank their reporting entities according to their risk profiles.
- m) Supervisory authorities should take effective, proportionate and dissuasive administrative and monetary AML/CFT sanctions against FIs and DNFBPs that fail to fulfil their AML/CFT obligations.
- n) Niger's judicial authorities should request more cooperation in handling ML/TF cases and consider developing a procedures manual that will provide guidance on prioritizing and appropriateness of processing requests for judicial cooperation addressed to them.

## Effectiveness & Technical Compliance Ratings

**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
<b>ME</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>	<b>LE</b>

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
<b>LC</b>	<b>C</b>	<b>C</b>	<b>LC</b>	<b>C</b>	<b>LC</b>	<b>LC</b>	<b>NC</b>	<b>C</b>	<b>PC</b>
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
<b>LC</b>	<b>PC</b>	<b>LC</b>	<b>PC</b>	<b>NC</b>	<b>PC</b>	<b>LC</b>	<b>LC</b>	<b>NC</b>	<b>PC</b>
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
<b>C</b>	<b>PC</b>	<b>PC</b>	<b>PC</b>	<b>PC</b>	<b>PC</b>	<b>C</b>	<b>PC</b>	<b>LC</b>	<b>C</b>
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
<b>C</b>	<b>LC</b>	<b>LC</b>	<b>C</b>	<b>LC</b>	<b>C</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>

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

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## MUTUAL EVALUATION REPORT

### Preface

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

This evaluation is based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology<sup>1</sup>. The evaluation was based on the information provided by the country and the one obtained by the assessment team during their on-site visit from 13<sup>th</sup> to 29<sup>th</sup> January, 2020.

The evaluation was conducted by a team comprising:

- Mr. Cyprien DABIRE, Magistrate, Head of Department of Legal and Institutional Affairs at the Burkina Faso-FIU (Legal expert);
- Mr. Modibo SACKO, Magistrate, Technical Advisor at the Ministry of Justice of Mali (Legal Expert);
- Mr. Laythe Abdou AZALI, Head of On-site Inspection Division, Central Bank of The Comoros (Financial Expert);
- Mrs. Amivi HOUNKANLI, Secretary General of Togo-FIU (Financial Expert);
- Mr. Koffi GOUA, Chief Police Commissioner, Director of Investigations at the High Authority for Good Governance of Côte d'Ivoire (Operational Expert).

With the support of a Coordinating Team comprising:

- Mr. Madické NIANG, Monitoring and Evaluation Officer, GIABA Secretariat
- Mr. Karnon LOFIGUE, Program Officer, GIABA Secretariat
- Mr. Mohamed Lamine CONTE, Director of Banking Supervision, Central Bank of the Republic of Guinea
- Mr. Jean ANADE, Senior Police Commissioner, Director of Investigations at the Togo-FIU

The report was reviewed by Ms. Astou SENGHOR, Economist at the Ministry of Finance and Budget of Senegal, Mr. Fidegnon Geoffrey Serge HOUEDANOU, Secretary General of Benin-FIU and the FATF Secretariat.

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<sup>1</sup> 2013 Methodology, updated in October 2019.

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Niger had previously been evaluated by the World Bank in 2008, using the FATF 2004 Methodology. The 2008 Mutual Evaluation Report as well as the various subsequent follow-up reports, have been published and can be accessed on the GIABA Website: <http://www.giaba.org>

Niger was rated Compliant (C) on 2 Recommendations, Largely Compliant (LC) on 5 Recommendations, Partially Compliant (PC) on 15 Recommendations, Non-Compliant (NC) on 26 Recommendations and Not Applicable (NA) on 1 Recommendation. Niger was rated Compliant or Largely Compliant on 2 out of the 16 Core and Key Recommendations.

Following the adoption of Niger's MER in May 2009, the country was placed on the Expedited regular follow-up process, in line with the GIABA Mutual Evaluation Process and Procedures. After a year of follow-up, the country was placed on the enhanced follow-up regime in November 2011 for failing to make any significant progress. In November 2013, Niger was re-placed on the expedited regular follow-up regime, following the remarkable progress made. Finally, Niger exited the follow-up process in November 2018, in preparation for the Second Round Mutual Evaluation of its AML/CFT regime scheduled for January 2020.

## Chapter 1. ML/TF RISKS AND CONTEXT

45. Niger is a Sahelian country located in the West African hinterland. It shares borders with seven (7) countries: Nigeria, Chad, Algeria, Mali, Burkina Faso, Benin, and Libya. The country gained independence as sovereign nation as a Republic on 3rd August 1960 with Niamey as its capital city. The country is subdivided into eight administrative regions and 66 departments. Niger has an estimated population of 19.8 million inhabitants with a surface area of 1,267,000 km<sup>2</sup>, making it the 22nd largest country in the world and the 6th on the African Continent. On the political front, Niger is currently under the governance of the 7th Republic as provided for by the current constitution which was adopted by referendum and enacted on 25th November, 2010. The country has an executive power vested on a President who is the Head of State with the administrative governance led by a Prime Minister appointed by the President; a legislative power made up of a uni-cameral Parliament represented by the National Assembly ; a judiciary made up of a High Court, an Appeal Court, a State Council, a Commercial Court, a constitutional Court and three Courts of Appeal (Niamey, Tahoua and Zinder), as well as the higher and lower tribunals and the Niger High Court hosting specialized jurisdictions (Specialized Legal division in charge of economic and financial offences and the special Legal Division in charge of Counter Terrorism and Transnational Organized Crime).
46. Niger is a member of the Economic Community of West African States (ECOWAS), whose objective is to achieve economic integration in West Africa, with 15 Member States.<sup>2</sup>
47. Also, Niger is a member of the West African Economic and Monetary Union (UEMOA)<sup>3</sup> with eight (8) Member States sharing a common currency called the Franc. The Niger is the sixth economy in the UEMOA region with a real GDP of CFAF 7,121.4 billion (2018)<sup>4</sup> or 10.863 billion euros.

### 1.1. ML/TF Risks and Scoping of Higher Risk Issues

#### 1.1.1. Overview of ML/TF Risks

48. Niger has a vast land mass and territory with several unmanned (porous) borders, which pose a security challenge for the country. This vulnerability exposes Niger to repeated terrorist attacks on its territory since 2013. According to the NRA report these attacks are perpetrated by terrorist groups such as Boko Haram, AQIM, MUJAO, GSIM, among others, based mainly in Nigeria and Mali and who carry out incursions into State territory, particularly in the Eastern part (Lake Chad basin) and Western part bordered with Mali and Burkina Faso. An OECD study advances an assumption that the activities of terrorist groups raging around could be supported by some funding inflows, particularly from gold

<sup>2</sup>The membership of ECOWAS are Benin, Burkina Faso, Cabo Verde, Cote D'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

<sup>3</sup>The UEMOA is a sub-regional organization in West Africa established on 10<sup>th</sup> January 1994 with a mandate to achieve monetary integration of Member States. The organization comprises eight (8) Member States, Namely: Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo.

<sup>4</sup> RSM, December 2019

mining sites. However, the said study clearly states that this assumption can only be confirmed by supplementary investigations

49. According to the authorities met, the mining sites in question were never operated or controlled by criminal groups. However, the authorities have been closing them for several years and deploying security forces to monitor them because they were a focal point for many foreign gold miners who were difficult to control. The terrorist groups operating in the three-border area engage in all kinds of trafficking and smuggling, the most prominent of which are: drug trafficking, illicit arms trafficking, migrants' smuggling and illegal cigarettes trafficking<sup>5</sup>, which could fuel TF flows. Niger is one of the transit countries for drugs transported to the Maghreb and Europe and is also a corridor for the illegal migration to Europe via Libya and Algeria. The competent authorities are establishing a close relationship between these offences and TF. Indeed, they recognize that the rights of way paid by the drug conveyor cartels through the Sahara to be escorted by terrorist groups on one hand, and the funds generated through the drug trafficking operations by terrorist groups, on the other, are used to finance the purchase of arms, ammunition and related warfare equipment.<sup>6</sup>
50. The NRA rated the terrorism and TF threat as high. However, the NRA report did not indicate the country's overall TF risk level. The assessment team had an in-depth discussion with the authorities and it was agreed that the TF risk is high level. The context of the country, its geographical location, the occurrence of multiple attacks and the medium/low capacity to combat TF, as established in the NRA (which is equivalent to medium-high vulnerability, see page 29) were the main reasons, for arriving at the high-level TF risk, though the authorities informed the Assessment Team that major initiatives have been taken to mitigate the risk. According to the NRA, Niger has 3,584 NPOs. The weak monitoring and supervision of these organisations, coupled with the fact that they carry out financial transactions involving amounts whose origins and destinations are not always known to the authorities, makes the sector vulnerable and exposes the country to the risk of TF.
51. The NRA also identifies corruption, tax fraud and abuse of corporate assets as most common ML predicate offences. ML through corruption and embezzlement of public funds also poses a very serious threat and has become a major concern for authorities. This perception is further corroborated by the Niger's decline in the ranking on the Transparency International CPI.<sup>7</sup> Indeed, between 2017 and 2018, the country ranked 112<sup>th</sup> and 114<sup>th</sup> respectively, unlike in 2016 where the country occupied the 101<sup>st</sup> position. In concrete terms, the extent of ML risk through corruption and other related offences is more evident in the light of the cases handled by the High Authority against Corruption and Related Offences (HALCIA). Indeed, in 2017 alone, the cumulative criminal funds relating to corruption amounted to more than twenty-one billion (21.258 billion) CFAF or about 34.4 million euros. There is also a moderately high ML risk of cross border movement of currency and bearer negotiable instruments based on the threat of the amounts derived from customs offences between 2013 and 2017 with an accumulated 9.350 billion (more than 14.2 million Euros) and, on one hand, there is the risk of ML

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<sup>5</sup> NRA Page 51

<sup>6</sup> Source: <http://lesahel.org/> of 29<sup>th</sup> June 2018.

<sup>7</sup> CPI: Corruption Perception Index (2018)



arising from tax evasion which has been targeted in 60% of the investigation reports sent to the prosecution by the FIU, on the other.

52. According to the NRA report the sectors of activity most exposed to ML/TF risk in order of importance, the real estate, gambling and hotel sectors, dealers in precious metals and stones, antiquities and works of art, the banking sector, the accounting and legal professions as well as the NGOs, as presenting a high risk. Also, the NRA report indicates that money or value transfer services (MVTs) and transport companies are exposed to a medium high ML/TF risk.

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

53. Niger concluded its National Risk Assessment (NRA) in 2018 and adopted the NRA report at the end of a workshop held on 22<sup>nd</sup> May 2018, in compliance with a legal provision (Article 10) of the AML/CFT law n° 2016-33. This was the first ML/TF risk assessment in the country. Niger received technical support from the World Bank whose analytical tool was used. The process was coordinated by a Working Group established by Order No. 0343 of 5<sup>th</sup> August 2016 establishing the composition and mandate of the working group for the national ML/TF risk assessment. The process was all-inclusive with the participation of representatives of different competent authorities - judicial investigative agencies, the FIU, supervisory authorities and self-regulating bodies, financial sector reporting entities, DNFBPs and NPOs as well as representatives of the central government. These actors and stakeholders from the public and private sectors, were divided into nine (9) sectoral working groups, including a group dealing with financial inclusion. The information analyzed using the analytical tool was provided by members of the sectoral groups, following interviews or direct collection, from sources such as the law enforcement authorities, supervisors and other competent authorities as well as from reliable open sources. The groups carried out sectoral readjustments which were consolidated to produce the NRA report, which was submitted for comments from the World Bank and other partners. A workshop was organized to validate the draft NRA report and the Report was adopted by Decree N° 2019-401/PRN/MF of 26<sup>th</sup> July 2019.

54. In the light of the foregoing and based on the information analyzed, the assessment team considered that the NRA has impact on Niger AML/CFT regime, and the team paid special attention on the NRA during the evaluation.

#### ***a) Predominantly informal and cashed-based economy***

55. According to the NRA, the informal sector accounts for more than 60% of Niger's GDP. This very dynamic sector plays a leading role in employment and wealth creation. However, it is characterized by financial intermediation based mainly on cash transactions. This situation constitutes a facilitator for the development of financial flows of all kinds, operating outside the formal financial system. Niger has a low banking rate of 6.8%, thus resulting in ML/TF risks as most transactions are conducted through other channels such as foreign exchange bureaus, money transfer companies, DFIs, in the context of the country's financial inclusion policy.

#### ***b) Terrorism and its financing***

56. The assessment team assessed the potential financing of terrorist activities through the control of gold mining mines by criminal groups. Also due to repeated terrorist attacks, the issue of funds to support such acts arises was considered by the team. The assessment team also examined the nature and frequency of the cross-border movement of cash and bearer negotiable instruments, through currency smuggling given the porosity of borders,

formal and informal money transfers, cash couriers and how the authorities were mitigating such risks. The team also analyzed how the authorities were conducting investigation, prosecution and confiscation activities, in order to combat such TF activities.

c) **Money Laundering**

57. The NRA identified major resource-generating offences, such as drug trafficking, smuggling, tax fraud and corruption. The assessment team investigated the extent to which parallel investigations were conducted in tandem with investigations into money laundering acts, and how the proceeds generated by the original offences were traced. The team also analyzed how the prosecution and judicial authorities deal with predicate offences involving elements of money laundering.

d) **Financial sector**

58. In the financial sector, the presence of banks is most significant; they also pose a high risk according to the NRA. The assessment team examined the extent to which financial institutions identify, assess, understand and mitigate ML/TF risks, including those related to customers, countries or geographical areas, products, services and transactions as well as distribution channels. The assessment team also analyzed the FIs' compliance with the customer due diligence obligation, including the implementation of requirements related to beneficial ownership and politically exposed persons as well as the treatment of sanction lists. The earnings of foreign exchange dealers account for 0.7% and 0.6% of the Net Banking Income of LCIs in 2018 and 2019 respectively. The assessment team however attributed moderate importance to the foreign exchange and MVTS sector on account of its proximity to the informal economy that is highly cash-based.

e) **DNFBP sector**

59. Considering the high TF risk in Niger, the assessors particularly focused on the categories of DNFBPs mostly exposed to TF risks, including the mining sector.

f) **Supervision of FIs and DNFBPs**

60. The supervision activities of financial institutions (FIs) for the purpose of combating ML/TF seems to be limited to the banking sector while those of DNFBPs were non-existent during the on-site visit. The NRA identified the inadequacy of supervision and sanctions on reporting entities. From 2016 to 2019, only three AML/TF examinations were carried out in three small and medium banks. The bigger banks were not monitored over the period. In this regard, the assessment team examined to what extent the financial sector is supervised and established the level of understanding of the sector's exposure to ML/TF by the supervisory authorities, as well as FI profiles and their classification according to their risk profiles. The assessment team verified the supervisory approach used by competent authorities and the scope of their AML/CFT supervision and monitoring. Finally, the assessment team focused on the types of sanctions applied and their effectiveness.

g) **Nonprofit Organizations (NPOs)**

61. Niger has many NGOs and Associations. The NPO sector is assessed as high risk by the NRA, considering that the terrorist threat in Niger is high and the misuse of NPOs for terrorist purposes in West Africa has been highlighted in a typology study carried out by GIABA in 2013. In addition, the State authorities affirm that associations originating from the Middle East constitute the category presenting risks of money laundering and terrorist financing. The assessors verified whether Niger had carried out a

comprehensive assessment of the sector in order to identify the categories of NPOs vulnerable to TF abuse and analyzed the extent to which the State authorities understand the risks of TF linked to NPOs at risk, as well as the measures in place to mitigate the risk of TF associated with the sector.

#### h) **Transparency of Legal Persons**

62. The NRA has not addressed the ML/TF risks associated to legal persons and legal arrangements. Furthermore, corruption is one of the most prominent common offences in Niger. The assessment team therefore focused on the transparency of legal persons.

#### i) **International cooperation**

63. The NRA noted some deficiencies in the conduct of international cooperation, particularly in terms of coordination and collaboration among the stakeholders/competent authorities involved and the lack of knowledge of the mechanisms of such cooperation by certain actors in the criminal chain<sup>8</sup>. The team investigated the mechanism for mutual legal assistance and how Niger seeks and provides support through international cooperation in terms of investigation, information exchanges and possibly the identification and freezing/seizure of funds and other assets.

## 1.2. Materiality

64. Based on the World Bank criteria, Niger is described as a low income country.<sup>9</sup> In 2018, its GDP stood at US\$ 9.3 billion. According to the UEMOA Multilateral Surveillance Report (RSM June 2020), the country recorded a high growth rate of its GDP of around 7.0% and 5.1% in 2018 and 2019 respectively. In 2019, the shares to GDP growth of the primary, secondary and tertiary sectors stood at 1.8 points, 1.8 points and 2.7 points respectively. The tertiary sector was particularly driven by growth in trade, hotel-catering and telecommunication activities.<sup>10</sup> Niger is a country with a large informal sector which contributes more than 60% to GDP.<sup>11</sup> The State economy is also predominantly cash-based, at a time when the country has one of the lowest banking rates in the UEMOA zone with 6.8%. Considering the accounts held in the microfinance sector, the extended bank rate in Niger stands at 16.3%.

65. In Niger, the activities of the eighteen (18) licensed credit institutions (14 banks and 4 financial institutions), of which sixteen (16) are in operations, are of major importance in the financial sector. At the end of 2019, the total amount of capital of these LCIs was CFAF137 billion (208.8 million Euros), 55% of which are owned by foreign nationals and legal entities that are subsidiaries of regional and/or international groups. For the same year, LCIs in operation had a total balance sheet of CFAF1.842 trillion (EUR 2.8 billion), with deposits and borrowings amounting to CFAF1.086 trillion (EUR 1.65 billion), and net applications stood at CFAF1.549 trillion (EUR 2.36 billion). According to available data, the financial sector assets amounts to 3.27 billion euros (see Table 1.2).

66. In 2019, there were about 38 licensed Decentralised Financial Systems (DFIs), 37 of which were in operations, including 5 DFIs that fall under Article 44 of the law on DFIs. In 2019,

<sup>8</sup> NRA page 57

<sup>9</sup> <https://donnees.banquemondiale.org/pays/niger/viewchart>

<sup>10</sup> UEMOA, RSM, December 2019

<sup>11</sup> NRA, p.59

the outstanding loans of the DFS sub-sector amounted to CFAF35 billion [EUR 53.357 million]. DFIs continue to grow, although they are of moderate importance in Niger's financial system. Activity has been declining over the past 4 years. Outstanding deposits and loans have fallen by 7% and 9% respectively between 2018 and 2019.

67. The electronic money business is growing and is of moderate importance. There are 3 banks in Niger carrying out this activity in partnership with 3 telecommunication operators; the number of accounts opened under this category reached around 3 million in 2018. The value of transactions carried out was 196.4 billion [299.41 million Euros] for the same year. In addition, there are three money transfer companies and four sub-agents carrying out money transfers in partnership with licensed intermediaries and/or DFIs. In addition, no virtual asset service providers (VASPs) and/or cryptocurrency operations have been listed in Niger. The 78 foreign exchange bureaus in the country are of moderate importance despite their low weighting in the financial sector.
68. The insurance sector in Niger is generally less developed and less important, with a penetration rate below 1%. There are 8 insurance companies and 107 insurance intermediaries (general agents and insurance brokers), with a total of 385,904 life and non-life insurance policies.
69. In the capital market, Niger has only one (1) intermediary authorised, namely the Société de Gestion et d'Intermediation du Niger (SGI Niger) to participate in the regional stock exchange (Bourse Régionale des Valeurs Mobilières), The sector is of low importance.
70. The DNFBP sector is important in Niger in terms of number and activities. It is dominated by the Legal and Accounting Professionals sub-sectors, Dealers in Precious Metals and Stones and Real Estate Companies, Agents and Promoters, which are more exposed to ML/TF risks. Also, Niger has only two (2) casinos.

### 1.3. Structural Elements

71. Despite the security threats prevalent in the East and West regions of the country, Niger is a politically stable country where the rule of law prevails. The country has the requisite institutions to guarantee transparent democracy and accountability. The essential elements needed to build an effective AML/CFT regime do exist in the country. The judiciary has the necessary bodies in charge of prosecuting and convicting ML/TF offences under its law, including specialized courts dedicated to handling ML/TF-related cases. Niger was the first UEMOA country to domesticate the Uniform AML/CFT law, which reflects the country's political commitment. Niger is also one of three UEMOA countries to have designated AML/CFT supervisory authorities for DNFBPs (this was during the on-site period).

### 1.4. Background and Other Contextual Factors

72. Niger's context is also marked by an economy largely dominated by an informal sector, with prevalence of cash transactions. This situation, coupled with the porous borders and underdeveloped financial infrastructure (low banking rate at 6.8%, the number of bank outlets stands at 1121; Automated Teller Machines at 199), poses a challenge for the monitoring of financial transactions that often develop through channels that are difficult to trace. Corruption remains a very critical factor, as evidenced by the worsening Corruption Perception Index (CPI). This factor was highlighted everywhere during the interviews with the stakeholders met. The fight against corruption is not yet at an effective

level. This situation is an obstacle to transparency and accountability and can, in the long run, undermine democracy. The absence of AML/CFT supervisory authorities for entities in the DNFBP sector is a major contextual factor that has negatively influenced the performance of the AML/CFT regime. This gap was addressed by the government towards the end of the on-site visit, by issuing a Decree (N°2020-113 du 27 janvier 2020) designating the supervisory and monitoring authorities for the DNFBPs. However, the new authorities are yet to conduct any AML/CFT inspection mission.

73. Niger has initiated policies to not only improve the banking population but also on how to combat corruption. These measures include, among other things, financial inclusion policies, taking some administrative measures and establishing specialized institutions (see below (section.1.4.1), as well as the creation of a specialized anti-corruption authority.

#### *1.4.1. AML/CFT strategy*

74. Niger has taken initiatives to combat money laundering, terrorism and its financing, which is a major concern for the Government. Niger has in place the following strategy documents -the National AML/CFT Strategy (2013-2015) and the National Internal Security Strategy adopted in September 2017 with a five-year (2017-2021) plan which prioritize the threats and vulnerabilities linked to terrorism in Niger. The implementation of this strategy required the mobilization of financial resources acquisition of necessary equipment and materials as well as the strengthen capacity of security personnel. This has improved the surveillance and securing of borders. At the operational level, the Central Service against Terrorism and Transnational Organized Crime (SCLCTO), which was set up in 2011 following the assessment of terrorist threat in the sub-region, has taken an active part in judicial investigations into the 2013 attacks and continues to carry out such missions. The service is also involved in the prevention of attacks by providing operational intelligence to defence and security forces; its actions have significantly assisted to reduce terrorist attacks. In addition, specialized courts (Legal divisions specialized in the fight against Terrorism and Transnational Organized Crime) have been established. The country has also embarked on an active operational phase by participating in the joint G5 Sahel military force.<sup>12</sup> A force inspired by the Niger model, with military and police components that are organised into special investigation units and a platform for security cooperation between the five States
75. To deal with the limited access to financial services, Niger developed a *financial inclusion strategy*- adopted in December 2018<sup>13</sup>. The strategy, which covers a 4-year period (2019 – 2023), is one of the key mechanisms to address socio-economic development, poverty reduction and inequality. It is part of a sub-regional policy in this area led by the BCEAO. Indeed, financial inclusion is a political objective of the UEMOA authorities, also demonstrated by the promotion of microfinance and mobile banking services. These major initiatives have increased the country's banking rate.
76. To better fight against corruption, Niger has strengthened the powers of the High Authority against Corruption and Related Offences (HALCIA). The agency, which was first established by Decree N° 2011-219/PRN/MJ in July 2011, has evolved to the status of an Authority set up with the passage of law N° 2016-44. It has the power to refer corruption and related offences directly to the public prosecutor's office. Moreover, following various

<sup>12</sup> The G5 Sahel is a joint military force established by 5 countries in the Sahel, namely: Mauritania, Mali, Burkina Faso, Niger and Chad.

<sup>13</sup> Decree No. 2018-907/PRN/MF

trainings and informal discussions with investigative authorities, HALCIA has systematically incorporated the ML aspect in its investigations

#### 1.4.2. Legal & institutional framework

77. Niger's institutional AML/CFT legal framework is composed of community instruments and national texts. Niger is a member of UEMOA – the West African Economic and Monetary Union, which can issue supranational AML/CFT standards in AML/CFT (through its technical institutions) that are applicable to its member countries. It is important to note that UEMOA's Directives, Regulations and Uniform Laws, BCEAOs Directives and the Circulars of the Banking Commission are all binding and are expected to meet the applicable criteria as defined by the FATF. In terms of hierarchy, Community texts are at a higher level than domestic ones.

78. UEMOA's AML/CFT institutional framework is composed as follows:

INSTITUTIONS	SUMMARY OF AML/CFT MISSIONS
UEMOA Council of Ministers	Enacts Community standards, particularly Regulations directly applicable in Member States and Directives which are supposed to be domesticated into the national laws of each Member State, through a parliamentary process, before entering into force.
Central Bank of West African States (BCEAO)	Develops sub-national Community standards (banking law, uniform AML/CFT law) and issues applicable Directives and circulars, particularly to banks and financial institutions, operating within the Union and DFS. It supervises the above-mentioned institutions as well as electronic money issuers and authorized foreign exchange dealers.
UMOA Banking Commission (CB-UMOA)	Ensures that banks comply with the standards laid down by the UEMOA Council of Ministers and the BCEAO. It is empowered by law to mete out appropriate sanctions
Regional Council for Public Savings and Capital Markets (CREPMF)	Issues Directives applicable to capital market stakeholders. It is empowered by law to mete out appropriate sanctions.
Inter-African Conference of Insurance Markets (CIMA)	Issues Community standards (Code, Regulations and Circulars) applicable to insurance companies, reinsurance companies and insurance brokers.
Regional Insurance Supervisory Commission (CRCA)	It is the regulatory body of CIMA. It is responsible for the supervision of insurance and reinsurance companies operating within the Union. It has power to sanction.

79. At domestic level, the relevant AML/CFT institutions and agencies are presented in Table 1.1 below.

**Table 1.1 Authorities responsible for the Development and Implementation of AML/CFT Policy**

Competent Authorities	Summary of AML/CFT Responsibilities
Ministry of Foreign Affairs, Cooperation, African Integration and States Abroad	<ul style="list-style-type: none"> <li>International cooperation</li> <li>Monitor the ratification of international instruments</li> </ul>
Ministry of Finance	<ul style="list-style-type: none"> <li>Ensure, through its technical services, the supervision of DFS (ARSM) ; Insurance companies and insurance brokers (National Insurance Department in support of the CRCA) ; Foreign Exchange Bureaus (DMCE)</li> </ul>
Attorney General and Ministry of Justice	<ul style="list-style-type: none"> <li>Through its State Prosecutors, it supervises some DNFBPs, including lawyers, Notaries, registrars and authorized auctioneers</li> </ul>
National Committee for the Coordination of	<ul style="list-style-type: none"> <li>Mechanism for cooperation and coordination between policy development</li> </ul>

<b>AML/CFT LBC/FT/FPADM )</b>	<b>Activities (CNCA-</b>	<p>authorities, the FIU, law enforcement authorities, supervisory authorities and other competent authorities;</p> <ul style="list-style-type: none"> <li>• General framework for reciprocal exchange of information;</li> <li>• Ensure compatibility of AML/CFT measures and compliance with personal and private life data protection measures;</li> <li>• Assist State authorities in the design and conduct of the national AML/CFT policy;</li> <li>• Make proposals to enhance national and international cooperation in ML/TF issues;</li> <li>• Identify national legislative and regulatory provisions that do not comply with internationally accepted principles and practices and develop action plans to resolve the deficiencies and anomalies noted;</li> <li>• Supervise and coordinate evaluation, self-evaluation and mutual evaluation exercises in AML/CFT issues;</li> <li>• Maintain working relationships with AML/CFT structures.</li> </ul>
	<b>National Coordination Committee against Terrorism, Terrorism Financing, Financing of Violent Extremism and Transnational Organized Crimes (CNC/LT/FT/FEV/CTO)</b>	<ul style="list-style-type: none"> <li>• Cooperation and coordination among departments dealing with issues on terrorism, terrorism financing, the financing of violent extremism and transnational organized crime.</li> </ul>
	<b>FIU</b>	<ul style="list-style-type: none"> <li>• Processing and dissemination of information and intelligence on money laundering and terrorist financing and predicate offences to the competent authorities.</li> </ul>
	<b>Legal division specialized in the fight against terrorism and transnational organized crime (Tribunal)</b>	<ul style="list-style-type: none"> <li>• Prosecution and investigation of offences on terrorism and transnational organized crime (money laundering and terrorist financing, trafficking in drugs, weapons and ammunition, human trafficking and similar practices) at national level</li> </ul>
	<b>Central Agency against Terrorism and Transnational Organized Crime (SCLCTO)</b>	<ul style="list-style-type: none"> <li>• Inquiries and investigations of cases of terrorism, terrorist financing and organized crime</li> </ul>
	<b>Economic and Financial Division (Tribunal)</b>	<ul style="list-style-type: none"> <li>• Prosecution and investigation of economic offences provided for by the penal code and those defined by the business code, tax code, customs code, public procurement code, finance and accounting law.</li> </ul>
	<b>High Authority against Corruption and Related Offences (HALCIA)</b>	<ul style="list-style-type: none"> <li>• Establish the prevention, control and fight against corruption and illicit Enrichment at national, sub regional, regional and international level</li> </ul>
	<b>Central Office against Illicit Drug Trafficking (OC RTI S)</b>	<ul style="list-style-type: none"> <li>• Empowered to investigate illicit drug trafficking cases. In this capacity, it is responsible for implementing all the prevention, control and repression measures envisaged at the national, sub-regional, regional and international levels for an effective and coordinated fight against illicit trafficking in narcotic drugs.</li> </ul>
	<b>National Advisory Committee in charge of Administrative Freezing</b>	<ul style="list-style-type: none"> <li>• Capacity building to develop the national list of persons and entities or bodies subject to freezing measures or to be withdrawn from this list;</li> <li>• Review requests for administrative freezing and release of funds and other financial resources as well as requests for review made by third countries;</li> <li>• Revise the national list annually and correct any errors detected or reported;</li> <li>• Establish a national database;</li> <li>• Prepare half-yearly reports and an annual report.</li> </ul>
	<b>Ministry of Foreign Affairs and International Cooperation</b>	<ul style="list-style-type: none"> <li>• Coordination of international cooperation, including on issues of mutual legal assistance</li> </ul>

<b>National Coordination Committee against Human Trafficking and Related Practices</b>	<ul style="list-style-type: none"> <li>• Develop and implement the national action plan to combat human trafficking and similar practices;</li> <li>• Contribute to the mobilization of resources necessary for the implementation of actions to combat human trafficking and similar practices;</li> <li>• Established a data collection and processing system;</li> <li>• Develop annual activities to combat human trafficking;</li> <li>• Prepare national reports on the implementation of sub-regional action plans to combat human trafficking;</li> <li>• Promote partnership among the various stakeholders in human trafficking.</li> </ul>
<b>Customs Department</b>	<ul style="list-style-type: none"> <li>• Trace, observation and suppression of customs offences</li> </ul>

### 1.4.3. Financial sector, DNFBPs and VASPs

#### Financial Institutions

80. The financial sector is composed of credit institutions, banks, insurance companies and brokers, microfinance institutions, management and intermediation company (SGI), foreign exchange bureaus, money transfer companies and electronic money issuers.

**Table 1-1: Structure of financial institutions, DNFBPs and VASPs in 2019**

Type of Institutions		Number		Total Balance (in billions of XOF)
		S/Total	Total	
<b>Financial Institutions</b>				
<b>Credit institutions</b>	Local banks	4	14	1, 818
	Sub-regional banks	10		
	Financial institutions	4	23.6	
<b>Stock Exchange</b>	Brokers, traders and portfolio managers	1		
<b>Insurance</b>	Life insurance	2	8	77.537
	Non-life insurance companies/other insurance companies	6		
	Insurance and reinsurance brokers General agents	50	50	
<b>Microfinance institutions</b>			37	35
<b>Foreign exchange bureaus</b>			78	0.661
<b>Rapid money transfer companies</b>			4	n. d
<b>Electronic Money Institutions</b>			3	196.4
<b>Virtual Asset Service Providers</b>			0	
<b>DNFBPs</b>				
<b>Casinos and gaming companies</b>	Casinos	2		n. d
	Lottery and other games of chance	49		
<b>Legal professionals</b>	Notaries	45		n. d
	Lawyers	6 (130) 6 firms 130 lawyers at the bar		
<b>Auditors/Chartered and Certified Accountants</b>		57		
<b>Asset developers and agents</b>	Real estate agents	17		
	Real estate agents	30		
<b>Mining sector/Dealers in precious metals</b>	Industrial gold mining	1		
	Licensed alluvial gold mining	59		
	Gold purchasing counters (traders)	n. a		
<b>Other reporting entities</b>				
<b>Court registrars</b>		110		



<b>Transport</b>	Carriers	1	
<b>Hotels and restaurants</b>		54	
<b>NPOs</b>	Associations and NGOs	3,584	124,988

81. As at end December 2019, the financial system in Niger comprises **14 banks and 4 financial** institutions including ten sub-regional banks as well as four national banks (see materiality). The total share capital of credit institutions stands at CFAF 132 billion, of which about 69% is held by individuals of foreign nationalities and legal person subsidiaries of regional and/or international groups.
82. The financial sector is of great importance in view of its weight and the multiple products and services it provides, as well as its international connection. According to the findings of the NRA, the banking sector is exposed to high ML/TF risk, even though it is one of the most regulated sectors.
83. Foreign exchange and money transfer activities are of average importance given their low weighting in the financial sector and their risk levels rated medium and medium-high, respectively.
84. The capital market is poorly developed in Niger. Stakeholders in this sector carry out account and securities management transactions on behalf of third parties under private and/or collective mandates, advise and guide customers in the purchase and sales of securities. There is only one (1) authorized intermediary, namely the Niger Management and Intermediation Company (SGI-Niger) which operates on the Regional Stock Exchange. Most of its customers are institutional, in particular FIs. It is a low risk sector and the team considers it to be of low importance.
85. The insurance sector in Niger is generally less developed with a penetration rate of less than 1%. There are eight insurance companies, with two operating in the life insurance policies which is much less developed than the claims policies. The insurance sector is also considered less significant.
86. There are 37 microfinance institutions (DFIs). They have a total credit volume of CFAF 35 billion (2019)<sup>14</sup> or 53.357 million Euros (2019)<sup>15</sup>. It is a less significant sector as the customer base is fairly well known (community finance) and the institutions do not carry out any international transfers, coupled with the simplicity of the products which are limited to the collection of deposits (fairly modest amounts). The DFS sub-sector is accredited with a low vulnerability according to the NRA and its outstanding deposits are barely 5% of that of the banking sector. The sector has a national supervisor.
87. There are three electronic money issuers operating in the country with about 3 million customer accounts and carry out transactions to the tune of CFAF 196.4 billion or 299.41 million Euros in 2018. Like the DFS, the electronic money sub-sector contributes significantly to the promotion of financial inclusion. Electronic money institutions strictly monitor account holders and apply low thresholds for the aggregation of transactions. The threshold can be extended on request and after verification. However, it is considered to be of average importance because of its growth and novelty as a product in Niger as

<sup>14</sup> ARSM Statistics

<sup>15</sup> ARSM Statistics

well as the high turnover, coupled with its high vulnerability rate as indicated by the NRA.<sup>16</sup>

### **DNFBPs**

88. The sector includes casinos and gaming establishments, real estate agents and real estate brokers, dealers in precious metals and stones, antiquities and works of art, lawyers, notaries and other independent legal professions, chartered accountants, auditors, trust and company service providers, not referred to elsewhere in the AML/CFT Law, who provide services to these entities. The lawyer provides various services to various customers, company incorporation, purchase or sale of real property. The Notary, within the framework of his activities, can formalize the purchase or transfer of real property, the creation or incorporation of a company and other socio-economic entities as well as the liquidation of succession or transfer of such entities.
89. In addition to the texts governing the profession, the National Chamber of Notaries, a self-regulatory body, has internal regulations governing the functioning of the profession, principles and obligations of its members, along with disciplinary procedures. The Chartered Accountants and Certified Accountants execute mandates as External Auditors, advisers and auditors. The real estate professional provides services to various customers in the area of land and housing. The DNFBP sector is of great importance as the NRA indicates that the level of ML risk is high in all the DNFBP sub-sectors, mainly due to the poor knowledge of the AML/CFT regime by actors, lack of the compliance function within them and the lack of supervision and monitoring of DNFBPs for AML/CFT purposes.

### **VASPs**

90. There are no Virtual Asset Service Providers (VASPs) in Niger.

#### ***1.4.4. Preventive measures***

91. Law No.2016-33 is the main legal AML/CFT instrument in Niger. It domesticates the UEMOA AML/CFT Directive No. 02/2015/CM/UEMOA of 2 July 2015. AML/CFT obligations in general, including preventive measures are covered by its provisions. This law applies to all FIs and DNFBPs. In addition to the 2016-33 AML/CFT law, sector-specific texts are issued by their supervisors, Central Bank BCEAO texts apply to financial institutions, including electronic money institutions; those by CIMA apply to insurance companies, while texts by CREPMF are applicable to the stock market.
92. In addition, law 2008-33 regulates banking, which lays down licensing requirements for FIs, their Directors and Managers. For certain sectors, the regulatory or supervisory authorities have taken more specific measures, including rules, Directives and circulars, aimed at providing a precise framework for AML/CFT activities within their powers. In this regard, FIs that are supervised by the BCEAO are governed by Regulation 14/2002/CM/UEMOA (on the freezing of funds and other financial resources in the fight against TF, particularly in the implementation of Resolution 1267). The limitation of this measure is that it does not apply to DNFBPs and makes no reference to Resolution 1373, nor relate to targeted financial sanctions in the area of proliferation financing. Niger has resolved this deficiency by adopting Decree No. 2020-114/PRN/MF of 27<sup>th</sup> January 2020) on the administrative freezing of funds, assets and other financial resources as part of AML/TF/PF.

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<sup>16</sup> NRA, P. 259

93. BCEAO issued a series of Directives in 2017 regarding FIs – directive on the modalities for implementation by financial institutions of the uniform AML/CFT law in all UEMOA Member States; directive setting the declaration threshold for the cross-border physical transportation of cash, at the entry and exit points of the country; threshold on payment of receivables in cash, and threshold amount for the declaration of cash transactions to the FIU.
94. Electronic money sector -requirements and procedures for operating as electronic money issuer are governed by Directive No. 008-05-2015. Capital market operators are governed by Directive 59/2019/CREPMF of 30 September 2019, while those of the insurance industry are subject to Regulation No. 0004/CIMA/PCMA/PCE/SG/08 of 4th October, 2008.
95. In Niger, no sector or activity is exempt from the implementation of the preventive measures required by the FATF Recommendations. Furthermore, given the ML/TF risk they present, Niger has decided to apply preventive measures to actors who do not fall within the scope of the FATF Recommendations (see Materiality).

#### *1.4.5. Legal persons and arrangements*

96. The categories of legal persons and legal arrangements that can be established in Niger are those provided for in the OHADA Uniform Act, on business companies and the Economic Interest Group, of 30<sup>th</sup> January, 2014. Legal persons who may be incorporated based on this Uniform Act are either Business Companies or Economic Interest Groups (GIE). For the first category, these include, general partnerships (SNC) and simple limited partnerships (SCS). These two types of companies are not required to have statutory auditors except those that are of a certain size, namely: public limited companies (SA) whose share capital is fixed at a minimum of CFA Francs 10,000,000, simplified joint stock companies (SAS) whose capital is free and variable, limited liability companies (SARL) whose capital is at least CFA Francs 1,000,000, even though the State parties have the power to decide otherwise.
97. It should be noted that these last three categories of companies can be incorporated by a single partner. The creation of legal arrangements is not provided for in Niger. However, these entities may be created in other jurisdictions and hold assets in Niger. In this case, legal and accounting professionals subject to AML/CFT measures are required to identify the beneficial owners and the parties to the incorporation of the said legal arrangements, when they are managing such assets. The categories of legal persons registered in Niger are shown in Table 1.3 below.

**Table 1-2: Categories of Legal Persons provided for in the OHADA Uniform Act and operating in Niger**

Legal Person	2015	2016	2017	2018	2019
Other Legal Form			00	00	00
Representative office			00	00	00
Cooperative			06	045	01
Public enterprise of an administrative nature			00	00	00
Economic Interest Grouping (GIE)			07	09	16
Limited Liability Company (SARL)			428	542	756
Unipersonal Limited Liability Company (SARLU)			331	389	396
Anonymous Company			28	42	33
Unipersonal Anonymous Company			04	03	17
Real Estate Company			00	00	00
Professional Civil Society			00	04	01

Simple Limited Partnership (SCS)			00	00	00
Simplified Joint Stock Company			03	09	06
Unipersonal Simplified Stock Company			00	00	04
Foreign Company Branch			00	00	00
Unipersonal Simplified Joint Stock Company Branch			00	00	00
Simplified Joint Stock Company Branch			01	03	01
SA Branch			08	04	04
SARL Branch			04	06	27
Civil Society Real Estate Branch			00	00	00
<b>Annual Total</b>			<b>820</b>	<b>1015</b>	<b>1262</b>

98. Legal persons established in Niger are registered at the Business and Property Registry (RCCM). The RCCM is a database maintained by the Chief Registrars, who register and store information on legal persons in the country. However, actors responsible for the incorporation of legal persons and the maintenance of business registers, particularly court staff, notaries and lawyers, have a limited understanding of the risk of money laundering resulting from the misuse of legal persons.
99. The OHADA Uniform Act requires stakeholders to keep records, register companies and update the information contained in the RCCM and monitor changes that may occur in the life of the legal entity. However, there are no sanctions provided for and applicable in the event of non-compliance with these obligations by legal persons. Also, it should be noted that there is no obligation to gather and store information on the beneficial ownership of legal persons registered with the RCCM.

#### *1.4.6. Supervisory arrangements*

##### **FIs**

100. Niger has several Supervisory Authorities of Financial Institutions. They are the Ministry of Finance (MEF), the BCEAO and of the UMOA Banking Commission for banks and certain non-bank financial institutions, CIMA and CRCA for Insurance companies and CREPMF for capital market operators. Specifically:
- The BCEAO, Banking Commission and Ministry of Finance supervise banks, financial institutions, EMIs, authorized foreign exchange dealers and large-scale decentralized financial systems (DFS). Under the provisions of Article 44 of the Law on regulation of microfinance institutions (DFIs) and Directive No. 007-06-2010 issued by the Central Bank, "the Central Bank and Banking Commission, after informing the Minister, shall inspect any decentralized financial system with a level of transactions in terms of volume of deposits or loans at the end of two consecutive years, reaching a threshold of two (2) billion CFAF".;
  - The MEF and Microfinance Sector Regulatory Authority (ARSM) generally supervises DFIs and particularly small-scale ones;
  - CREPMF supervises capital market operators;
  - CIMA, through the CRCA and the Insurance Department within the Ministry of Finance, supervises insurance companies and brokers.

**Table 1-3: Licensing, regulatory and supervisory authorities of FIs and VASPs in Niger**

Type of Institutions	Licensing Authorities	Supervisory Authority
<b>Banks</b>	Minister of Finances - BCEAO and Banking Commission ( <i>CB-UMOA</i> )	Minister of Finance BCEAO CB-UMOA
<b>Securities (brokers, traders and portfolio managers)</b>	Minister of Finances CREPMF	Minister of Finances CREPMF
<b>Insurance</b>	Minister of Finances DA - CRCA	Minister of Finances DA - CRCA
<b>Other Financial Institutions</b>		
<b>Microfinance Institutions</b>	Minister of Finance ARSM - BCEAO	Minister of Finance ARSM BCEAO CB-UMOA
<b>Foreign Exchange Bureaus</b>	Minister of Finance - BCEAO	Minister of Finance - BCEAO
<b>Rapid Money Transfer Companies</b>	Banks (Mandate)	Banks -BCEAO Minister of Finance
<b>Electronic money companies</b>	BCEAO	BCEAO
<b>Pension and social security fund (not subject to AML/CFT)</b>	Minister of Finance	Minister of Finance
<b>Postal financial services</b>	Minister of Finances	Minister of Finance
<b>State Consolidated Fund</b>	Minister of Finance	Minister of Finance
<b>Virtual Asset Service Providers</b>	N/A	N/A

## DNFBPs

101. In AML/CFT, the entities the DNFBP sector are supervised by various bodies appointed by the Decree No. 2020-113/PRN/MF of 27<sup>th</sup> January 2020 pursuant to Article 86 of the AML/CFT Law. In this regard, the DNFBPs, as defined by FATF, are regulated and supervised by the bodies listed below.

**Table 1-4: Licensing, regulatory and supervisory authorities of DNFBPs in Niger**

Type of Institutions	Licensing Authorities	Supervisory Authority	Supervisory Authority
Real estate companies, real estate agencies and rental agents	Ministry of Urban Development and Housing	Ministry of Urban Development and Housing	Ministry of Urban Development and Housing
Gaming Establishments and Casinos	Ministry of Finance	Ministry of Finance	Ministry of Finance
Dealers in precious stones and metals	Ministry of Mines	Ministry of Urban Development and Housing	Ministry of Urban Development and Housing
Chartered accountants, Certified Accountants, tax advisers	Ministry of Finance	Ministry of Finance	Ministry of Finance
Notaries, Lawyers	Ministry of Justice	State Prosecutor at the Court of Appeal	State Prosecutor at the Court of Appeal

102. It should be noted that the other reporting entities (hotels, travel agencies, promoters of sporting events, providers of gambling services, etc.) are also regulated and supervised by the bodies designated as such in the above-mentioned Decree.

#### *1.4.7. International cooperation*

103. Externally, Niger is grappling with the ML/TF risks and threats relating to terrorist activities especially those arising from immediate contiguous neighbours thus accentuating TF. The financial resources used to support terrorist activities may have cross border implications and dimensions. Also, the activities of transnational organized crime, particularly drug trafficking, migrants smuggling and smuggling of assets may exploit the vulnerabilities in the State system for ML/TF purposes. Finally, corruption and related offences generate resources that may be laundered internationally. In this context, international cooperation is very vital for Niger.
104. Niger has both legal and institutional framework for international cooperation, thereby enabling it to implement the provision of information exchange, financial intelligence and adequate evidence in order to facilitate actions against criminals and their assets. The State authorities provide mutual legal assistance on the basis of multilateral and bilateral conventions related to ML, TF and predicate offences to which the State is a party. Within the framework of mutual legal assistance, the Ministry of Justice is the main central authority in Niger (Art. 649.29 CCP). Niger has strengthened the legal framework for cooperation by creating a national unit for mutual legal assistance and judicial cooperation (CNEPCJ) which takes over from the Criminal Affairs and Grace Department which was in charge of cooperation.
105. Other channels of cooperation on AML/CFT issues and predicate offences are used by the competent authorities such as the FIU, BCEAO, Banking Commission, specialized agencies such as HALCIA and law enforcement agencies (police, customs) who are also empowered to exchange information with their foreign counterparts; including the informal channels which are also used by the authorities for the exchange of information, as evidenced by the interviews conducted during the on-site visit.

## Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. Key Findings and Recommended Actions

#### Key findings

- a) Niger's understanding of ML/TF risks is mainly based on its first NRA report adopted in July 2019. Niger has identified and assessed ML and TF threats and vulnerabilities both by sector and overall. The main ML predicate offences identified as threats include drug trafficking, corruption and tax evasion, migrant smuggling and trafficking in persons. Niger assesses as high-risk sectors including real estate, precious metals and stones, legal and accounting professions (lawyers, notaries, and chartered accountants), banking, MVTS and NPO risk. The NRA has enabled the authorities to establish a fairly good understanding of ML / FT risks. The DGDSE and LEAs, to the exception of the Gendamerie have a proper understanding of risks. Among customs and taxation services, the understanding of risks is limited. In the private sector, supervisors of general principle financial institutions and DFIs have a proper understanding of risks unlike those responsible for DNFBNs, which have just been designated. Banking institutions and large DFIs understand ML/TF risks, unlike reporting entities in the DNFBN sector. However, some stakeholders met, including dealers in precious metals, do not seem to be concerned with the findings of the NRA regarding their sector.
- b) Niger has a high TF risk inherent in the country's context, geographical location, multiple attacks, high TF risk of NPOs, and the country's medium/low capacity to combat TF, as established by the NRA (which equates to a medium-high vulnerability- see page 29). The NRA identified vulnerability factors as well as financing methods, particularly for Boko Haram, one of the terrorist groups operating in the eastern and western regions of Niger. The TF risk is well understood by the investigation and intelligence agencies (SCLTCO, ANR). It is less understood in the NPO sector where there has been no specific study devoted to the TF risk, despite the exposure of faith-based NPOs to uncontrolled financing.
- c) To mitigate its ML/TF risks, Niger developed an action plan, the activities of which have no financial implications, such as its dissemination, issuance of regulatory texts, as well as the setting up of new AML/CFT structures, have started to be implemented. Furthermore, some AML/CFT structures have seen their powers and resources strengthened –e.g. the Central Agency against terrorism and transnational organized crime and the National Coordination Committee against human trafficking (CNCLTP).

- d) The NRA findings have not yet been used to justify exemption measures or the implementation of enhanced or simplified measures.
- e) Given the recent adoption of the NRA, certain sectoral supervisory authorities and self-regulatory bodies are yet to adapt their objectives and activities to developments in national AML/CFT policies and the ML/TF risks identified. Also, the financial inclusion strategy developed does not take into account the ML/TF risks identified in the NRA.
- f) The National AML/CFT Coordination Committee, established in Niger since 2014, is a cooperation framework bringing together competent authorities and regulatory and self-regulatory authorities for the development and implementation of policies and activities to combat ML/TF. Its membership has been extended to other AML/CFT entities. The scope of the CNCA-LBC/FT extends to the fight against the financing of the proliferation of weapons of mass destruction. It is operational and has contributed to the drafting of the texts which were adopted on 27th January, 2020. It has also started developing a new strategy for combating ML/TF/PWMD. Other consultation frameworks do exist in the fight against certain predicate offences (CNCCP, CNCLTP and CNC/LT/FT/FEV/CTO...). These various consultation frameworks promote and facilitate the exchange of national and international information. They also contribute to joint or parallel AML/CFT investigations. However, the level of effectiveness of the coordination and cooperation between the supervisory authorities and the FIU is medium.
- g) The NRA report, while disseminated to most of the AML/CFT actors, was not backed by awareness-raising and training activities, which would have enabled them to better understand and take ownership of their ML/TF risks and provide appropriate responses.

## Recommended Actions

Competent authorities should:

- a) Fast-track the implementation of the Action Plan by maintaining the approach that prioritizes the highest risks and an allocation of national resources
- b) Carry out a specific assessment of NPOs, which can be incorporated into the next NRA, with a view to determining the categories of NPOs that pose TF risk and identify TF mechanisms and channels in the sector. Niger should ensure that the outcomes of this study are widely disseminated.
- c) Niger should update its financial inclusion strategy; (inclusion criteria, mitigation measures...) considering the ML/TF risks. As part of this strategy, the supervisory and monitoring authorities (Ministry of Finance and BCEAO) should integrate the ML/TF risks identified by the NRA into the policies for the application of strengthened or simplified CDD measures. These authorities



should also strengthen collaboration and coordination in the areas most exposed to risk.

- d) Continue with sensitization programmes on the NRA findings and issue guidelines to the private sector and relevant authorities to enable them contribute to their own risk assessment and policy development.
- e) Ensure that the next NRA update is comprehensive, with detailed information and assessments from all relevant authorities and the private sector that have not been able to provide sufficient information/analysis (e.g. Gendarmerie, Tax Departments, Customs and Excise etc).

106. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The relevant Recommendations for the evaluation of effectiveness in this section are R.1, 2, 33 and 34, and some elements of R.15.

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

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

107. Generally, Niger has a good understanding of most of the ML/TF risks to which it is exposed. This understanding of its risks is largely based on the findings of its first ML/TF National Risk Assessment (NRA), the report of which was adopted in July 2019. The NRA process was conducted by a Working Group coordinated by the FIU, using the risk assessment tool developed by the World Bank. The scope of the NRA covered the banking, insurance, securities, other financial institutions, DNFBP and NPO sectors. In addition to these sectors, the assessment covered all financial inclusion products.

108. Niger set up nine thematic groups which analyzed the threats and vulnerabilities at both national and sectoral levels. The data used for analysis was collected from all relevant actors, particularly Criminal Investigation Agencies (CIAs) for data on identified offences, seizures made on weapons, ammunition, drugs, cash and other goods, as well as amounts relating to cases of tax fraud, corruption and related offences. Law Enforcement authorities (LEAs) provided statistics on prosecutions and convictions, the FIU provided statistics on STRs and related offences, and other departments of the public and private administration also provided some inputs. Also, some other information was gathered from open sources including typology studies to which Niger has contributed, both regionally and internationally (GIABA and UNODC). The Working Groups carried both quantitative and qualitative analyses, leading to the identification of various levels of ML/TF threat and vulnerability at both national and sectoral levels. Apart from the ARSM (the DFS supervisor), the Assessment Team did not see any contribution made by the other supervisors of the financial sector, particularly on the outcomes of the examinations carried out and the risks identified during the said examinations.

109. Regarding ML, Niger authorities have, as part of the NRA, analysed the threats and vulnerabilities of the various sectors and established a synthetic map of the resulting risk levels. Niger assessed its ML threat as high (NRA P.29). The ranking of sectors according to ML risk is based on a five-level scale that indicates a high risk for most of the DNFBP categories (real estate, gambling, precious stones/metals, hotels, legal and accounting professions, etc.) as well as the banking sector and MVTs. For example, the ML risk in the legal and accounting professions, including Notaries, is linked to that of the real estate sector where money laundering is sometimes carried out through the former.

This risk is linked to the services the sector offers, particularly the difficulty in identifying the Beneficial Owner during company incorporation, in property transactions where PEPs are involved. The Nigerien authorities consider that the overall level of ML risk is high. This results from the fact that the key sectors (high weighting) are high risk (see NRA Map), coupled with a medium-low national capacity to fight. Overall, the level of understanding of ML/TF risks in Niger is quite good though not consistent across all sectors. LEAs and the DGSDE have a good understanding of ML/TF risk, unlike the Gendarmerie, who, during interviews with the assessment team, admitted having given priority to investigations of predicate offences, reflecting poor understanding of ML/TF risks. This situation could adversely affect the effectiveness of the AML/CFT mechanism. In the financial sector, most supervisors have a fairly good understanding of the ML and TF risks in their sector, contrary to the self-regulatory bodies (SRBs), in charge of certain categories of DNFBPs that have a limited or poor understanding of ML/TF risks such as the Ministry of Urbanization and Housing, which is in charge of the real estate sector. The Customs and Tax Departments also have a limited understanding of ML/TF risks. They contributed to the process by providing data on customs offences and subsequent seizures, thereby contributing to the threat assessment. However, the investigative agencies belonging to these financial authorities exclusively target offences provided for in their respective codes.

110. At sectoral level, banking institutions, large DFIs as well as their supervisory authorities understand ML/TF risks. Financial sector stakeholders, who have already conducted internal assessment of specific risks, provided some inputs to the NRA on the irrelative sector, by identifying products and business relationships exposed to ML/TF risks. All banks and almost all insurance companies, a portion of the DFS belonging to large networks, have conducted risk assessment at institutional level and to a large extent mapped out their risks. However, most local DFS (small) and insurance companies have not yet conducted any institutional risk assessments, although it is an obligation stemming from a BCEAO Directive. For this category of DFIs that does not operate in networks, the incidence of the risk is not considerable because of their small size and simple operations that do not include transfers. In addition, they are local financial institutions that are familiar with their customers. As for insurance companies, the overwhelming majority operate in the non-life sector which does not present any significant risk. DNFBPs have not conducted any assessment of their ML/TF risks at institutional level. The lawyers, notaries, stakeholders in the real estate sector and NPOs have a poor understanding of ML/TF risks and are still grappling with measures to address their full vulnerability to such risks. This situation is mainly attributed to the lack of AML/CFT supervision. Niger has started addressing this issue by recently designating supervisory authorities, most of which were the SRBs of the sectors to which the AML/CFT supervision function has been added. These authorities are now empowered to carry out AML/CFT compliance inspection missions.

111. Niger has a good understanding of the high level of TF risk (See Section 1.1.1). The NRA stakeholders have vetted the AML/CFT regime and reviewed the country's security aspects, to conclude that Niger's situation marked by weak border controls and regulations which guarantee the free movement of people and assets across the countries of the region, some of which are hosts to intensive terrorist activities, provide an opportunity for terrorist groups to move their funds associated with various trafficking activities, particularly drugs, cigarettes, migrants and weapons. They consider terrorism and TF threats as high. In addition to the contextual elements, the data extracted from the

typology studies (GIABA 2013) and the high TF risk level for NPOs concur with this assessment.

112. However, Niger's risk assessment exercise encountered some challenges, particularly regarding the unavailability of certain information as well as the unreliability of certain available data. Also, the NRA has established that the NPO sector generally presents a high TF risk. Thus, considering the large number of entities that make up this sector, the State authorities should have carried out an in-depth assessment to identify and classify the only NPO components which, in view of their types and characteristics, are exposed to TF risks. In response to this concern raised by the assessment team, the authorities affirmed that faith-based NPOs are more exposed to TF risks because they receive more foreign donations, the origins and destinations of which are difficult to identify; which is emanating from a simple observation and not from any specific study. This situation does not allow for a clear identification of typical NPOs at risk and for appropriate supervision. The authorities also noted that some NPOs do not submit their financial statements and activity reports to the supervisory authority, thereby reinforcing the TF risk in the country's context. Tax fraud is considered to be a medium-high threat that could generate a ML risk, whereas the approach used to deal with it was not based on actual tax fraud data, but on cases characterized as such by the FIU on the basis of STR sit received. This option skews the level of assessment since the data from the FIU are only a part of the tax fraud cases in the tax department and are processed there without being transmitted to the FIU. Tax authorities, as stakeholders in the process, should provide the actual data, if any, that tracks all tax offences and the related sums in order to reduce the skew in estimates. Regarding corruption, the authorities stated in their discussions with the assessment team that the findings are only based on perception. Nevertheless, the statistics on cases handled by the HALCIA indicate a high risk of ML through corruption and related offences. Finally, a concern regarding the thorough understanding of the process was also raised<sup>17</sup> and which could justify Niger's difficulty to clearly establish the level of overall ML and TF risks in the country. In spite of these methodological limitations, the findings of the NRA are generally reasonable and reflect the major ML/TF risks the country is grappling with.

### *2.2.2. National policies to address identified ML/TF risks*

113. Following its NRA and in order to mitigate the ML/TF risks, Niger has developed an action plan with activities that involved no financial expenses, such as the dissemination of its findings, which is currently underway. The other actions requiring a substantial budget have not been implemented. We also note the creation of structures such as the National Unit for Mutual Criminal Assistance and Judicial Cooperation (CNEPCJ),<sup>18</sup> to facilitate mutual legal assistance and extraditions; the national coordinating committee of the criminal chain (CNCCP),<sup>19</sup> to facilitate parallel investigations and the exchange of information between investigative, law enforcement and prosecutorial authorities, whose work found that drug trafficking now fall under the remit of the anti-terrorist unit, given its transnational nature; and the National Coordination Committee against terrorism, terrorist

<sup>17</sup> NRA, P.4

<sup>18</sup> Order No.0036MJ/GS of 12/03/2019 establishing the responsibilities, organization and functioning of the CNEPCJ; Order No.0036MJ/GS of 24/06/2019, amending and complementing Order No.0036MJ/GS of 12/03/2019.

<sup>19</sup> Order No.0087 MJ/GS/SG/DGAJ/ DAP/G of 07/05/2019, establishing the organization, responsibilities and functioning of the CNCCP and its permanent secretariat;

financing, the financing of violent extremism and transnational organized crime (CNC/LT/FT/FEV/CTO),<sup>20</sup> to coordinate actions and facilitate the exchange of information on terrorism, TF, the financing of violent extremism and transnational organized crime. The Committee recommended the use of "credible witnesses" in the search for evidence on terrorism and TF; the need for the armed forces to collect, preserve and secure evidence gathered at the scene of operations for purposes of prosecution.

114. In a bid to resolve the deficiencies of supervision activities in the manual foreign exchange sector, the supervisory authorities (Ministry of Finance and BCEAO) conducted an inspection mission in the sector from 12<sup>th</sup> to 15<sup>th</sup> February, 2019. A second mission was conducted by the same authorities from 17<sup>th</sup> to 19<sup>th</sup> December 2019. These inspections helped to raise awareness among stakeholders, identify the challenges and deficiencies in the sector and take remedial measures (BCEAO report of 21<sup>st</sup> February, 2019). Also, grappling with the deficiency in the mechanism designed to monitor the physical cross border transportation of cash and negotiable bearer instruments, the customs administration has improved the mechanism with the effective implementation of a printed declaration form. Besides, training on the monitoring of funds in the external financial relations and fight against ML/TF was organized for customs officials at the borders. Posters and other signposts erected informed departing and arriving travellers of their obligations regarding the transportation. This has improved the quality of information provided to travellers about their obligations to declare funds and bearer negotiable instruments.

115. Furthermore, it should be noted that well before the NRA and in a bid to address its ML/TF risks, Niger established within its judicial system a Legal Division and Chambers specialized in economic and financial issues,<sup>21</sup> designed to provide specialized skills for those involved in the justice system and facilitate the processing of highly complex economic and financial case files; issued guidelines in 2017 for reporting entities in the financial and DNFBP sector to improve the level of understanding and implementation of AML/CFT obligations by reporting entities. This resulted in trainings provided by the FIU at the request of chartered accountants. In addition, some AML/CFT structures such as the Central Agency against terrorism and transnational organized crime (SCLCTO),<sup>22</sup> the National Agency against Human Trafficking (ANTP)<sup>23</sup> and the National Coordination Committee Against Human Trafficking (CNCLTP),<sup>24</sup> received skills training and robust resources to enable them more effectively deal with this offence which is one of the threats.

116. In the same vein, Niger implemented the National AML/CFT Strategy for the 2013-2015 period adopted in June, 2013. The assessment of this Strategy at the end of the round and the development of a new Strategy are in progress. In addition, several sectoral

<sup>20</sup> Order No.0246 MJ/GS/SG/DGAJ/DAP/G OF 08/09/2019, establishing the organization, responsibilities and functioning of the CNC/LT/FT/FEV/CTO

<sup>21</sup> Law No.2015-02 of 13/01/2015 establishing the composition, organization and powers of the Legal Division and Chambers specialized in economic and financial issues.

<sup>22</sup> Order No.0045/MI/S/D/AR/DGPN of 18/01/2011 establishing the responsibilities and organization of the SCLCT.

<sup>23</sup> Decree No. 2012-082/PRN/MJ of 21/03/2012, establishing the organization, composition and functioning of the ANLTP.

<sup>24</sup> Decree No. 2012-082/PRN/MJ of 21/03/2012, establishing the organization, composition and functioning of the CNCLTP

strategies and action plans have been adopted and implemented, such as: the National Anti-corruption Strategy; the Action Plan to Combat Human Trafficking; the National Internal Security Strategy and its Action Plan; the Sanitation Action Plan for the NGO and Development Association (NGO/DAs) Sector; and the 2018 Fuel fraud prevention plan developed by Customs. In terms of prospects, certain projects, including the Draft Mining Development Strategy and the Draft National Counter Terrorism Strategy are being developed.

117. In a bid to enhance the supervision of faith-based NPOs, considered as a TF risk, the Ministry of the Interior, Public security, Decentralization, Customary and Religious Affairs, indicates that since 2018, it has been reviewing all authorization Decrees and drafting bills for the supervision of faith-based activities on the construction of mosques, training of preachers, as well as the conduct of charitable and social actions. Thus, Law No.2019-28 of 1st July 2019, outlining the modalities for the establishment of faith-based activities in the Republic of Niger, has strengthened the auditing of the sources of funding of private places of worship and faith-based associations.
118. Thus, two Circulars, N° 0219/MDC/AT/MISP/DACR of 11<sup>th</sup> September 2017 and N° 0220/MDC/AT/MISP/DACR of 11<sup>th</sup> September 2017, issued by the supervisory authorities and intended to sanitize the NGO/DA sector, were addressed to the Decentralized Authorities and NGO/DA leaders. The obligations which include the communication and submission of the annual balance sheet to the Ministry of Community Development and Land Planning were reiterated. Radio and television slots have also been issued to this effect. These administrative acts have been enhanced by another instituting the monitoring of their sources of funding.<sup>25</sup>

### *2.2.3. Exemptions, enhanced and simplified measures*

119. In Niger, the AML/CFT legal framework does not provide for any exemption in the implementation of the FATF Recommendations. However, without being dictated by the findings of the NRA, the implementation by the reporting entities, of enhanced and simplified measures is provided for by law 2016-33 as part of the due diligence obligations. Indeed, in the lack of any suspicion of ML/TF, the reporting entities are empowered to mitigate the implementation of due diligence measures for customers and products which present a low ML/TF risk and whose list is established and kept by them. This suggests that reporting entities must first assess and determine which low-risk products and customers are eligible. In this regard, some FIs met assessed their specific risks and mapped them out. In addition, Law 2016-33 has outlined several customers and transactions to be considered in the context of this implementation (Section V, AML/CFT). For example, the law allows for the application of simplified due diligence for low-risk customers and products determined by the reporting entity; where a customer has a beneficial owner that is a financial institution established in the country or a publicly traded company. Under the same conditions, the scope of enhanced due diligence measures is provided for and defined (Section VI). However, in practice, the implementation of simplified and enhanced due diligence measures some of the reporting entities has been varied. Some reporting entities implement it satisfactorily while others are unaware of it (see I.O.4). In any event, the basis for the implementation of such enhanced or simplified due diligence measures was not demonstrated to the assessment team.

<sup>25</sup> Order No.0064 MD/AT/SGDGRL/DONGAD of 26/11/2019, mapping out modalities for the monitoring of NGO/DA sources of funding.

120. The NRA in Niger is yet to create any impact on the legal and regulatory provisions on enhanced or simplified due diligence measures, to be implemented by financial institutions and DNFBPs due to the fact that the assessment process and the implementation of the action plan are recent. The findings of the NRA have not been disseminated to some financial institutions and DNFBPs met, in order to allow these entities to take these specific risks into account in their AML/CFT obligations. Also, the competent authorities and supervisors should now incorporate the findings of the NRA to improve the consistency of these measures in the light of the new risks identified.

#### *2.2.4. Objectives and activities of competent authorities*

121. Niger has implemented several reforms of the legal and institutional framework such as : the criminalization of the financing of an individual terrorist, terrorist organization and a group of terrorists for any purpose; the criminalization of corruption in the private sector and foreign public officials; the criminalization of new predicate offences (OHADA law); the broadening of the powers of HALCIA; the creation of the Asset Management and Recovery Agency and the creation of the National Unit for Mutual Assistance in Criminal Issues and Judicial Cooperation.

122. The NRA revealed that the passenger transport sector also carries out related remittance activities with a moderately high level of vulnerability. The Recommendation was for this sector to be formalized. In this regard, the transport authorities adopted the following texts: Decree No. 2019-270 / PRN/MT of 24<sup>th</sup> May 2019, establishing the requirements for access to road transport activities and professions as well as the operating requirements; Law No. 2019-16 of 24<sup>th</sup> May 2019, establishing the organization and functioning of the transport sector regulatory authority (ARST). These texts now regulate the road transport sector by separating it from the money transfer component. Companies wishing to carry out money transfer activities are required to apply for authorization pursuant to BCEAO Directives N° 008-05-2015 and N° 013-11-2015 on the transfer of funds and thus carry out the activity autonomously. In this regard, the Deputy Minister of Budget, by Letter N° 1145/MF/DGER/DMCE of 8<sup>th</sup> September 2016, issued a formal notice to all General Managers of transport companies to comply with the BCEAO Directive No. 13-11-2015. Since the adoption of these two measures, 2 companies have been licensed while the applications of 14 others have been rejected.

123. Other State Authorities, to mitigate their risks, have taken the following measures:

- Better organization of the real estate sector, by designation the AML/CFT supervisory authority and establishing its powers (See. Decree No. 2020-113/PRN/MF). Before this date, the real estate sector hardly cared about complying with AML/CFT measures.
- A more effective consideration of the rights of terrorist detainees, through the presence of lawyers and better monitoring by the Bar Association of the financial flows mobilized through lawyers' activities, by proposing the establishment of CARPA.
- The adoption of new provisions aimed at ensuring transparency in the Notary profession (prevention and fight against forgery).
- The exclusive designation of Chartered accountants as judicial representatives and the creation of a national chamber for the supervision of judicial representatives (Law N° 2018-24 of 27<sup>th</sup> April 2018, on the status of judicial representatives). However, this law does not consider the provisions of Article 3 of UEMOA

Regulation 5, according to which: "Lawyers may be voluntary or judicial liquidators, provisional administrators and receivers".

124. For security reasons, the competent authorities, particularly the Minister of Mines, have taken protective measures by shutting down the gold mining sites at Djado and those in the Tilabéri region, pursuant to the decision of the Security Council.<sup>26</sup> Also, the authority contacted its defense counterpart with a request for the eviction of all foreigners who invaded the Tabarkaten gold mining sites.<sup>27</sup> A general Order has also been issued to amend the mining law.<sup>28</sup> These specific security measures may, to some extent, help to mitigate the TF risk which is supposed to be linked to the transactions at the gold mining sites. They have helped to better organise operators in this sector and have enabled the State to collect additional revenues following the introduction of compulsory licensing and identification of the license holders authorised to operate. Also, administrative authorities have banned the sale of petroleum products (fuel) in containers in the threeborder region (Liptako-Gourma). This measure was adopted to disrupt the supply of means of transportation (motorcycles) of terrorists as well as the production of pepper and fishing activity in the Lake Chad region, suspected of contributing to TF.

### *2.2.5. National coordination and cooperation*

125. Since 2014, the State authorities have established the AML/CFT Activities Coordination Committee (CNCA-LBC/FT/), which is a framework for cooperation bringing together the competent authorities and the regulatory and self-regulatory authorities for the development and implementation of policies and activities designed to combat ML/TF. The Committee was reviewed through Decree N° 2020-110/PRN/MF of 27<sup>th</sup> January 2020, reorganizing the National Committee for the Coordination of Activities on the fight against money laundering, the terrorist financing and the financing of proliferation weapons of mass destruction; its composition has been extended to other AML/CFT entities and structures and its powers have been extended to the fight against the financing of the proliferation of weapons of mass destruction. It is an inclusive framework that brings together public and private sector entities and has a strong membership as the Executive comprises, among others, the Ministers of Finance, Justice and Security. It serves as a platform for information exchange and mutual support among the sitting authorities. The CNCA-AML/CFT assists the government in the conduct of national AML/CFT policy, particularly by developing and proposing a strategy as well as making Recommendations to improve the AML/CFT regime. The committee is responsible for implementing the findings of the NRA. The committee meets once every quarter and in extraordinary session as and when necessary; its activities are financed from the FIU budget (Art.7 & 9, Decree 2020-111). The CNCA-LBC/FT is operational and has contributed to the drafting of the texts re adopted on 27<sup>th</sup> January 2020. It has also embarked on developing a new strategy to combat ML/TF/PADM. Furthermore, it would be recalled that Niger has taken into account the need to protect personal data by passing Law n° 2017-28 of 3<sup>rd</sup> May 2017 and one of the functions of the CNCA-LBC/FT is to ensure that all AML/CFT actions are compatible with data protection measures and respect for privacy (See: Decree 2020-111).

<sup>26</sup> Order No.0234/MM/DGMG/DEPEC, Nov, 2016.

<sup>27</sup> Letter Ref No.34/MM/DGMG/DEPEC, of 31<sup>st</sup> January 2018

<sup>28</sup> Order 2017-03 of 30<sup>th</sup> June, 2017

126. In the fight against certain predicate offences, other consultation frameworks have emerged, such as: The Criminal Chain Coordination Committee (CNCCP), the National Coordination Committee against Human Trafficking (CNCLTP) and the National Coordination Committee against Terrorism, the Terrorist financing, the Financing of Violent Extremism and Transnational Organized Crime (CNC/LT/FT/FEV/CTO). These various consultation frameworks promote and facilitate the exchange of national and international information. They also contribute to joint or parallel AML/CFT investigations.
127. At the operational level, the FIU, its institutional correspondents and the various actors exchange information periodically and submit proposals to the State authorities aimed at strengthening the AML/CFT regime. The FIU has also concluded some Memoranda of understanding on AML/CFT issues with certain Departments such as the DGI, DONGAD, HALCIA, PJSEF, OCTRIS and the National Chamber of Court Registrars.

### Box 2.1. Example of effective cooperation between competent authorities that led to tax recovery and legal proceedings of a suspected ML case

One FIU report mentioned huge amounts of money that had transited into the bank account of one I.M.A., opened with two banks in Niamey. The credit balances of the said accounts amounted to CFAF 5 961 089 768 (9 087 623 Euros) for the period spanning 2014 to 2016.

The report establishes the assumption that I.M.A., based in AGADEZ, was involved in migrants' smuggling to Libya, thereby violating the financial regulation with foreign countries and involving in tax fraud.

An exchange of information between the FIU and the Tax administration helped the latter to discover that I.M.A. was not paying any tax, had never made any tax declaration and had not paid his taxes over the specified period. Consequently, the tax administration calculated the amount of outstanding tax to be settled by I.M.A., based on the amounts that had transited into his accounts. The assessed tax fraud amounted to CFAF 1 452 000 561 (2 213 561 Euros) as taxes evaded and late payment penalties were imposed, amounting to CFAF 1 016 400 393 (1 549 492 Euros). Mr. I.M.A. raised objections against the measure taken, arguing that he was up to date with his tax payment, but could not produce any document to corroborate his claims.

The Judiciary, on its part, through the Legal division in charge of economic and financial matters, quickly took hold of Mr. I.M.A.'s case file and indicted the suspect for the offences of breach of trust, tax fraud and money laundering.

#### 2.2.6. Private sector's awareness of risks

128. The private sector, through the representatives of Supervisors, SRBs and various FIs, DNFBBs and other sectors involved in the implementation of the FATF Recommendations, participated in the NRA exercise by making an important contribution in data collection and analysis of threats and vulnerabilities. The others were informed of the findings of the national ML/TF risk assessment concerning them through the publication of the NRA report in the official Gazette of the Republic of Niger. A session to share the findings of the NRA report was organized by the CNCA-LBC/FT on 27<sup>th</sup> August, 2019. Also, the meeting of the Forum of Compliance Officers, extended to the financial



sector regulatory authorities on 20<sup>th</sup> August 2019, served as a framework for sharing the findings of the NRA report. This assessment process also served as a framework for raising the awareness of most of the actors involved in AML/CFT to ensure they have a better understanding of their AML/CFT obligations and ML/TF risks. The report has also been published on the FIU and Ministry of Finance websites. According to the State authorities, copies of the said report have been sent to the various AML/CFT stakeholders. However, while some received them at the time of the onsite visit, others are still waiting.

129. Furthermore, it should be noted that the NRA report, which was sent to most AML/CFT actors, was not backed by awareness-raising and training activities, to enable them have a better understanding and take ownership of their ML/TF risks in order to provide appropriate responses. In the private sector, banks and insurance companies, subsidiaries of foreign groups, as well as some DFIs, have a better understanding of the ML/TF risks they are exposed to than some local banks. However, the other FIs and DNFBPs have a limited understanding of the ML/TF risks they face.

## Overall Conclusion on IO.1

130. Niger has identified and assessed its ML/TF risks which are generally consistent with the country's context. The NRA report and its action plan were validated at the end of a workshop which brought together most of the stakeholders before being approved by the competent authority. The assessment team noted that ML/TF risks are better understood by LEAs, Banks, EMIs, insurance companies and large DFIs and their supervisors, unlike MVTs, foreign exchange bureaus and all categories of DNFBPs who have a limited understanding of it. During the on-site visit, the NRA report was being widely disseminated to stakeholders, including on the website of the Ministry of Finance. However, sharing the findings of the NRA has not been backed by sensitization or even training for stakeholders, especially those most exposed to ML/TF risks, for them to be better informed.

131. The NRA findings are yet to be incorporated into the provisions advocating for the implementation of enhanced or simplified due diligence measures. However, they have generated strategic responses, particularly in terms of supervision with the designation of supervisory authorities for all categories of DNFBPs; in terms of coordination with the expansion of the CNCA-LBC/FT and capacity building, as well as the establishment of Ad hoc Committees in the criminal chain, the handling of issues of violent extremism, (law on faith-based cults) Terrorism and TF, among others. Significant measures have been taken for the reorganization and supervision of the NPO sector with, in particular, an order on the submission of their financial statements. However, the lack of a specific study or assessment of the said sector, to determine the NPOs at risk of being misused for TF purposes, is a deficiency to be resolved, considering the country's security situation.

132. **The level of effectiveness achieved by Niger on Immediate Outcome 1 is Moderate.**

## Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

### 3.1. Key Findings and Recommended Actions

#### Key Findings

##### Immediate Outcome 6

- a) In Niger, financial intelligence and other relevant information are consulted and used, to some extent in investigations, in order to establish evidence and locate proceeds of crime related to money laundering, associated predicate offences and terrorism financing. However, the HALCIA, SCLCT/CTO, OCRTIS, Customs & Excise Department as well as the supervisory authorities do not make sufficient use of financial intelligence to establish evidence and locate proceeds of crime related to money laundering, associated predicate offences and terrorism financing.
- b) The FIU processes and analyses STRs (mostly received from the banking sector) and disseminates financial intelligence for onward transmission to enforcement authorities. It also receives other reports, particularly cash transaction reports and reports on the physical transportation of cash, most of which contain relevant and accurate information it uses to enrich its work. However, the low number of STRs received by the FIUs was noted as well as the poor quality of some of them. In addition, all banks and the other reporting entities do not submit cash transaction reports (CTRs) and the FIU does not receive files on foreign currency seizures made by Customs.
- c) FIU's analysis and dissemination reports adequately respond to the operational needs of investigative and prosecutorial authorities. Financial intelligence contributes to both the initiation of new criminal investigations and the handling of pending cases. FIU's disseminations led to three ML convictions and to significant tax adjustment by the Tax Department. However, we note the weakness of the supervisory authorities, and Customs in the dissemination of financial intelligence, as well as of the non-dissemination of the said financial intelligence to other competent authorities, including HALCIA.
- d) FIU also produces a small amount of strategic analyses for the competent authorities. These include two memos for the Minister of Finance, which were made available to the assessors. These memos deal with certain infringements of the regulations on external financial relations and highlight the deficiencies or irregularities observed, together with recommendations. While the first memo prepared by the country does not contain sufficient information that could significantly influence the direction of AML/CFT policy in the country, the quality of the second memo has been improved and contains qualitative and

quantitative data and information that have enabled the country's competent authorities to take measures to resolve the deficiencies identified.

- e) To enable national cooperation, the FIU established a network of institutional correspondents within the key State Departments involved in AML/CFT and focal points with reporting entities (FIs and DNFBPs). This enables the efficient and secure exchange of financial intelligence and intelligence, as part of operational and strategic analysis. However, apart from a few exchanges with BCEAO and DONGAD, cooperation with the supervisory authorities is still limited.

#### **Immediate Outcome 7**

- a) Potential money laundering cases are identified through the processing of suspicious transaction reports by the FIU and through investigations by criminal investigative and prosecutorial authorities. Parallel financial investigations were not linked to traditional criminal investigations of the predicate offences until recently. Prosecutorial authorities recently took steps to make these parallel investigations systematic.
- b) The predicate offences identified by the NRA are the main offences investigated and prosecuted. However, since the practice of ML investigations are relatively recent and not yet widespread, the ML cases known by certain criminal investigative and prosecutorial agencies do not seem to be consistent with the country's risk profile in this area.
- c) Niger has initiated several money laundering prosecution cases. Legal proceedings have led to three convictions for self-laundering and laundering by third parties.
- d) Niger has handed down three convictions for money laundering, with sentences ranging from two to five years' imprisonment. Although most sentences handed down are within the range provided for by law, the small number of convictions does not allow for the identification of a decisive trend in assessing their effectiveness, proportionality and dissuasiveness.

#### **Immediate Outcome 8**

- a) The authorities in Niger have adopted legislative measures making confiscation a complementary measure to convictions. The country has set up the central agency for the management of seizures, confiscations, freezes and recoveries of assets (ACGSCGRA), which effectively manages court-ordered seizures and confiscations. This shows that confiscation is a priority in Niger
- b) Niger authorities have issued several confiscation orders for ML-related and predicate offences. The country has confiscated property of equivalent value and confiscated the instruments of crime. No foreign-related confiscation cases were identified. Niger has not received any case of repatriation, sharing or return of confiscated property abroad.
- c) Niger authorities have made seizures at the airport from passengers for failing to declare foreign currency. However, no investigation has been conducted to establish whether the amounts seized are related to TF or ML. Disputes relating to

seizures are usually resolved by customs transactions resulting in penalties. No confiscation has been ordered.

- d) The number of confiscations ordered is low compared with the large number of convictions for predicate offences in Niger. The confiscations do not reflect the country's AML/CFT risk profile as defined by the NRA. The national AML/CFT policy aimed at strengthening the confiscation, embodied in the operationalisation of ACGSCGRA, is recent and had not had a significant impact at the time of the on-site visit.

## Recommended Actions

Niger should:

### Immediate Outcome 6

- a) Develop training and sensitization programmes for all the competent authorities, in particular the HALCIA, SCLCT/CTO, OCRTIS, the Customs and Excise Department as well as the supervisory authorities, in order to encourage them to make more use of financial intelligence in the quest for evidence and location of proceeds of crime related to predicate offences and TF. Similarly, within the framework of cooperation between the FIU and other competent authorities, it would be judicious to establish an information exchange platform that would provide an opportunity for them to directly access the desired information and reduce response timelines.
- b) The Nigerien authorities should sensitize the Customs Department in order to enhance the implementation of their obligation to report to the FIU all seizures made during checks of cross-border transportation of cash and bearer negotiable instruments. In addition, they should sensitize the Customs and Excise on the need to share with the FIU, information relating to Customs and Excise offences they observe and that constitute predicate offences to ML/TF.
- c) The FIU and supervisory authorities should intensify their efforts to raise awareness among all those under their supervision to get them to file STRs, especially those relating to TF, as well as improve the quality of the said reports. These awareness-raising actions should also be designed to systematically file cash transaction reports. In this regard, the supervisory authorities should also carry out inspection missions aimed at identifying cases of non-declaration and applying administrative sanctions, especially financial sanctions for failure to report or late reporting or poor quality of STRs.
- d) The FIU should strengthen their capacities in order to improve the cross-checking of information and processing of STRs - for example by developing or purchasing a report management software or system.
- e) The FIU should strengthen its cooperation with the supervisory and monitoring authorities of FIs, as well the newly designated DNFBP authorities, for the exchange of relevant information: (i) by transmitting financial information

concerning, among other things, the quality of STRs, deficiencies identified in the reporting activities, as well as information from the processing of STRs and CTRs, particularly ML/TF trends, methods and typology studies; (ii) to enable the supervisory authorities receive information on identified ML/TF risks, especially from their AML/ -CFT inspection missions

#### **Immediate Outcome 7**

- a) Generalize and conduct systematic ML investigations within all LEAs, particularly the gendarmerie investigative agencies when they are investigating predicate offences.
- b) Prioritize ML investigations within the criminal investigation and prosecution agencies.
- c) Continue and fast-track action on capacity building of all CID and LEA officials on AML in order to increase conviction cases in line with the country's ML risk profile, conduct parallel investigations with a view to increasing convictions and ensure they are commensurate with the country's ML risk profile.

#### **Immediate Outcome 8**

- a) Organize sensitization and training sessions on financial investigations and asset tracing for investigative units to increase attachments and consequently confiscations; Sensitize law enforcement and investigative authorities on the need to use international judicial cooperation, as and when necessary, for the confiscation and repatriation of assets located abroad.
- b) Operationalize the financial brigade of the Economic and Financial Divisions to increase the effectiveness of asset investigations and boost the number confiscations.
- c) Update comprehensive statistics on the number and volume of seizures and confiscations for ML and predicate offences as well as TF.
- d) Equip the ACGSCGRA with forensic accountants to enhance the effectiveness of recovery proceedings.
- e) Put in place measures to effectively monitor the cross-border physical transportation of cash and BNIs at land borders.
- f) Customs officers should take reasonable steps, including on boarding other competent authorities, to ensure the cash and BNIs transported are not linked to ML/TF.
- g) Develop relevant confiscation policies and strategies, based on the NRA and ML risk, and establish a mechanism to monitor this policy implementation.

133. The **relevant** Immediate Outcomes discussed and assessed in this chapter are IOs 6 to 8. The relevant Recommendations for the evaluation of effectiveness under this section are R.3, R.4 and R.29 to 32.

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

### 3.2.1. Use of financial intelligence and other information

134. In Niger, financial intelligence and other relevant information are consulted and used in investigations by the FIU and other competent authorities, including the law enforcement authorities, in order to establish evidence and locate the proceeds of crime related to money laundering, related predicate offences and terrorist financing.
135. As part of their investigations, the FIU and other competent authorities request for and collect financial and other relevant information from various sources. The first source of information is the financial institutions that keep all the information on their customers. The supervisory authorities of financial institutions and the DNFBPs, including legal professionals, also keep relevant information that can be used in investigations. The database of the Centre de formalités des entreprises of the Niger Chamber of Commerce, Industry and Handicrafts contains relevant information on legal persons and their officers and beneficial owners. The customer databases of the major utility providers (NIGELEC, MOOV, Orange, Airtel, etc.) and those of certain government services are also accessible and consulted within the framework of the surveys, as shown in the following tables 3/1.
136. Niger's legal and institutional framework of places the FIU at the center of the national AML/CFT regime. The FIU receives statements, most of which contain relevant and accurate information it uses to enrich its work. It uses Suspicious Transaction Reports (STRs), filed mainly by banks, which it analyses to establish evidence of money laundering, related predicate offences and terrorist financing, and transmitting, where appropriate, file reports to the State Prosecutor. Analyses made by the FIU also allow it to disseminate information to the competent authorities, particularly government and investigative authorities, namely the Tax Department, the General Directorate of Documentation and External Security (DGDSE), the Directorate for Territorial Surveillance (DST), DRNP, Ministry of Public Service and Administrative Reform (MFPRA), the Ministry of Mines and the judicial police (DPJ) (see table 3.2).
137. The FIU has its own database which it systematically consults in order to establish possible links between new case files and existing previous case files. This database is at the same time Enriched with information contained in the new STRs as well as any additional information the Unit receives, particularly following its requisitions sent to reporting entities, the government and other institutions (see next table and table 3.1).

**Table 3-1: Type and origin of intelligence gathered by the FIU**

Year	Structures sent requests	Types of intelligence	Number of requests
2018 - 2020	Bank requisitions	Information on transactions, account balances, financial relationships, attachments.	47
	Notary offices	Identity of owners and/or changes, if any	03
	Bailiff offices	Identity of owners and/or changes, if any, relating to vehicles	08
	Court registries	Identity of owners and/or changes, if any, authentication of civil status documents	125
	Electricity utilities	Owner of connection for purposes of identifying the owner of a building	15
	Water utilities	Owner of connection for purposes of identifying the owner of a building or occupant	18
	Land services of local authorities	Identity of owners and/or changes, if any	58



Vehicle registration department	Identity of vehicle owners	33
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138. At the end of its processing, the FIU has been providing financial intelligence and other relevant information to the competent authorities for necessary action. From 2013 to 2019, the FIU has concluded 28 investigation reports, which have been filed to the State Prosecutor, after thorough processing, relating to 51STRs. During the same period, 48 STRs were classified provisionally by the FIU, which succeeded in establishing the justification for the transactions that were the subject of reports. Between 2016 and 2019, it sent 88 STRs to investigative and prosecutorial authorities as well as to the government as presented in the following table. The STRs that generated the reports filed to the State Prosecutor and those classified represent 23.7% and 22.3% of STRs received by the Unit, respectively. The high proportion of STRs closed could be attributed mainly to the poor quality of the reports filed by reporting entities. However, the FIU reassured the assessors of the quality of the STRs, adding that the reporting entities are always ready to provide additional information, where necessary. It also added that the closing of STRs is due mainly to lack of a ML or TF index. The Unit reiterated that the STRs are only suspicions which could be confirmed or denied at the end of the processing and that the classified STRs are used to enrich the Unit's database.

139. Following discussions with the FIU and based on some copies of reports on the closing of STRs, assessors are of the opinion that the poor quality of the reports is also one of the main reasons why they are closed without further action. Indeed, some of the reports received by the FIU are triggered by the receipt of unusually large amounts of funds by customers into their accounts. The investigations carried out by the FIU enabled it to find out the economic reason for these transactions, which the banks themselves could have done. In some cases, for example, it was income from the sale of a property or payment of a service invoice.

**Table 3-2: STRs disseminated by the FIU from 2016 to 2019**

To :	2016	2017	2018	2019	Total
DGI	9	3	5	17	34
DRNP				6	6
DGDSE		3			3
DST				36	36
MFPRA			1		1
Ministry of Mines			2		2
DPJ			2	3	5
Prosecutor	-	-	1	-	1
<b>Total</b>	<b>9</b>	<b>6</b>	<b>11</b>	<b>62</b>	<b>88</b>

140. Following the FIU's investigation reports filed to the State Prosecutor, some prosecutions were initiated and proceedings opened by the Legal Divisions specialized in economic and financial issues and certain case files led to convictions. Thus, the twenty-eight (28) case files submitted by the FIU to the State Prosecutor allowed the Legal Division to initiate criminal investigations; 17 cases were investigated, three (3) of which resulted in convictions for money laundering. The details of these convictions are as follows:

- Division specialized in economic issues for money laundering, forgery and use of forgery, tax fraud.
- Conviction judgment n° 02/19 of January 16, 2019, at the correctional court of the Division specialized in economic issues for violation of trust and money laundering.

- Conviction judgment n ° 47/19 of 28th August 2019, at the correctional court of the Division specialized in economic issues for money laundering, tax fraud and association with a view to money laundering

141. In Niger, apart from the FIU, the law enforcement authorities, particularly the State Prosecutor, the Legal Divisions specialized in terrorism and financial issues and the specialized courts as well as other competent authorities, including the High Authority against Corruption and Related Offences (HALCIA), the Central Service against Terrorism and Transnational Organized Crime (SCLCT / CTO), the Central Office against Illicit Drug Trafficking (OCRTIS), and Department of Documentation and External Security (DGDSE) access and use financial intelligence and other relevant information in the course of their investigations. These different structures receive from time-to-time specific training on the use of financial intelligence in the prosecution of ML/TF offences and predicate offences.

**Table 3-3. Training courses for Law Enforcement Authorities.**

Year	Number of Training courses	Summary of Training courses organized
2016	03	
2017	02	<ul style="list-style-type: none"> <li>i. Organization by The FIU organized of a training course for fifteen (15) Magistrates and ten (10) Officers of the Commercial Bank of Niger (BCN) on ML/TF Methods and Financial Investigative Techniques in AML/CFT, with UNODC interactive training software;</li> <li>ii. Capacity building Workshop for stakeholders involved in Combating Cybercrime in Niger, from October 19 to 21, 2017 in Tahoua, Niger.</li> </ul>
2018	01	<ul style="list-style-type: none"> <li>i. Training Workshop on Combating corruption, organized by the National Police Training School and Permanent Training (ENP/FP), from 03 to 07 December 2018 in Niamey;</li> <li>ii. Exchange Workshop on the Penal Chain for Combating Corruption and Similar Offences, organized by the High Authority for Combating Corruption and Similar Infractions (HALCIA), from 9 to 11 October 2018, in Niamey.</li> </ul>
2019	01	
Total	04	

**Source: FIU**

142. The Legal divisions specialized in the fight against terrorism as well as specialized courts use financial intelligence in the investigation and prosecution of terrorism and terrorism financing. During the last five years, from 2015 to 2019, following financial intelligence filed by the police and gendarmerie forces, the Legal Division specialized in the fight against terrorism and transnational organized crime recorded eleven (11) terrorism cases which have been prosecuted, five (5) of which were tried and the rest under investigation. The said Division recorded three (3) convictions for terrorist financing, including two in 2018 and one in 2019.

143. The tables below present details of statistics on the cases handled by the Anti-Terrorist Division from 2015 to 2019.

**Table 3-4: Statistics of Anti-Terrorist Division from 2015-2019**

Years	Case entries	Classified	No. of Prosecutions	ONL	Cases under investigation	Cases tried	Acquittals
2015	0	0	0	0	0	0	0
2016	3	0	3	0	0	3	0
2017	0	0	0	0	0	0	0
2018	6	0	6	0	4	02	0
2019	02	0	02	0	02	0	0



<b>Total</b>	<b>11</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>06</b>	<b>05</b>	<b>0</b>
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**Source: Niger-FIU**

144. The High Authority against Corruption and Related Offences (HALCIA) uses financial intelligence for investigations into corruption and Related Offences. The HALCIA report filed to the Judiciary in 2017 highlighted nine (9) cases, with offences discovered by HALCIA relating particularly to dud cheques, swindling, forgery and use of forgery, embezzlement of public funds and false customs declarations. In addition, between 2017 and 2018, HALCIA highlighted losses for the State Treasury of around 25.5 billion CFA francs<sup>29</sup> due to tax and customs fraud (14.5 billion CFA francs) and oil fraud (11 billion CFA francs). However, the country has not demonstrated the use of such information to establish evidence and trace the proceeds of crime related to money laundering and terrorist financing.

145. Following tip-offs or upon self-referral, the HALCIA conducts financial investigations with a view to establishing evidence and locating the proceeds of crime linked to money laundering (see box on the summary of the M case). From 2019, it started opening investigations specifically targeting money laundering and made available to assessors the summary of four ongoing cases dealing with oil fraud, embezzlement and money laundering. In addition, following cases submitted by HALCIA to the Public Prosecutor in 2013, 2016 and 2019, the latter referred to money laundering in the opening statements of these cases, demonstrating not only that HALCIA cases lead to ML prosecutions, but also that prosecutorial authorities use financial intelligence to establish evidence and locate the proceeds of crime related to money laundering.

146. The summary of HALCIA activities in 2017 is presented as follows in the table below.

**Table 3-5: Summary of HALCIA Activities in 2017**

N°	Nature of offence	Amount at Stake	Pers. Indicted	Pers. Convicted
1	Dud cheques	175 683 813	03	LP
2	Forgery and use of forgery, scam (MAKURI)	3 871 448 500	5	Judgement
3	Embezzlement of public funds (CAIMA Case)	1 107 540 516	1	LP
4	False customs declaration (vehicles)	202 720 363	/	MF
5	False customs declaration (poultry case)	13 091 550 690	9	Prosecution
6	NATHIVA (PPP, construction of amphis, scam)	2 461 835 000	1	Judgement
7	Embezzlement of public funds (CFEB case)	50 000 000	1	/
8	Forgery and use of forgery (fiscal stamp case)	155 553 600	2	0
9	Embezzlement of public funds (SORAZ case)	141 923 480	5	LP
	<b>Total</b>	<b>21 258 255 962</b>		

**Source: HALCIA report submitted to the Judiciary in 2017**

<sup>29</sup> Le Sahel of 19<sup>th</sup> August 2019

### Box 3.1. The M case handled by HALCIA

Based on writ of attachment No.01/P/HALCIA of 20 March 2017, HALCIA launched investigations into alleged irregularities in the award and performance of a public-private partnership agreement (PPA) No.01 of 1st July 2013 between the State of Niger and a MA, a company, for the design, supply, building, commissioning, operation and servicing/maintenance of equipment for monitoring the quality of service and billing of the telephone traffic of telecommunications operators licensed to operate in Niger.

The attachment was carried out in accordance with article 23 (2) of Law No.2016-44 of 06 December 2016 on setting up, mission, powers, membership, organisation and functioning of the High Authority on Anti-Corruption and Related Offences. The offences of fraud and forgery were identified.

Given the scope of the charges, investigators looked into the possibility of money laundering. They found that several companies (03) had been created by the accused; all the accounts of these companies were blocked, the car fleet of all the companies was seized, bank transactions were analysed. The case was referred to the courts.

147. The Central Agency against Terrorism and Transnational Organized Crime (SCLCT/CTO) uses financial intelligence and other relevant information, which it gathers during its investigations and those conducted by the police and gendarmerie (See the following table and table 6 DPJ) to establish evidence of terrorist and terrorist financing offences. Since its inception in 2011, the SCLCT / CTO has conducted several investigations resulting in the arrest, indictment and conviction of several terrorists. Between 2013 and 2019, 3,756 suspects were arrested and 3,490 were charged. However, no investigation into terrorist financing has been conducted to date by this agency. In 2016 and 2019, it also conducted investigations into terrorist financing as presented in the following table.

**Table 3-6: Statistics on investigations into the financing of terrorist groups**

		2016	2019	Total
Proceedings	Ongoing		9	9
	Closed	1	2	3
Arrested		1	3	4
Indicted		1	3	4
Imprisoned		1	3	4
Financial evaluation (CFAF)		22,900,000 [34,910 Euros]	334,810,000 [510,406 Euros]	357,710,000 [54,531.7 Euros]
NB of requisitions and requests for banking information			8	8

**Source: SCLTCO**

**Table 3-7: Type and origin of intelligence gathered by the DPJ**

		2015	2016	2017	2018	2019	Total
<b>Mobile phone operators</b>	Detailed billing, Geolocation and Full identity	37	87	93	82	183	482
<b>Institutions financières</b>	Bank account status and possible blocking in case of infringement	6	428	590	26 1	252	1537
<b>DGI/Land registry</b>	Searches and identification of suspects' land Caps	1	9	3	3	2	18
<b>Urban development and</b>	Searches for property belonging to	1	16	9	17	19	62

<b>Niamey City</b>	suspects with a view to its seizure							
<b>Private real estate companies</b>	Status of property Caps belonging to suspects with a view to their seizure	0	1	1	1	0	3	
<b>BCEAO</b>	Authentication of banknotes (CFA and foreign currency) seized from suspects	1	3	8	4	11	27	

Source: DPJ

148. The DGDSE participates together with other defence and security forces in the daily production and sharing of intelligence on terrorism and its financing.

149. The Central Office against Illicit Drug Trafficking (OCRTIS) 'seeks to establish evidence of illicit drug trafficking and to contribute to AML/CFT, by seizing the proceeds and arresting those involved. Between 2012 and 2018, OCRTIS made seizures of narcotic drugs, summarized in the table below, with record seizures of cannabis resin and counterfeit pharmaceutical products in 2018.

**Table 3-8: Seizures of Narcotic drugs by OCRTIS between 2012 and 2018**

Drug/Narcotics	2012	2013	2014	2015	2016	2017	2018	Total
<b>Cannabis (kg)</b>	841,432	71,004	479,345	3584,139	2395,226	2726	2.762	7371,146
<b>Resin cannabis (kg)</b>	875	0	0,153	1575,005	0	541,905	2 535	2450,158
<b>Diazepam (tabs)</b>	2 209 795	14 819	4 120 222	14261 65	2 773 215	163393 1	4 701 807	10 544 216
<b>Ephedrine (tabs.)</b>	677	3221 40	64	456	248	0	0	1569
<b>Cocaine (kg)</b>	13	5,684	18,807	1,541	0,106	4,418	5.786	33,22
<b>Crack</b>	0	0	0	0	0	0	182	
<b>Methamphetamine (kg)</b>	0	0,11	0	0	0	2,964	2 286	
<b>Amphetamine (tabs)</b>	7 000	185	82	12757	0	34017	8 167	19839
<b>Tramadol (tabs)</b>	0	1584 799	1226 814	82189 3	8 157 732	733716 0	16 76 4 956	10 206 439
<b>Counterfeit pharmaceuticals (tabs)</b>	0	0	0	0	331,65	13T	29 tons	331,65

Source: OCRTIS

150. In the course of its investigations, OCRTIS collects financial and other relevant information from various sources in order to establish evidence and trace the proceeds of crime related to money laundering and terrorist financing, as shown in the table below.

**Table 3-9: Type and origin of intelligence gathered by OCRTIS**

Year	Structures sent requests	Type of intelligence	Number
<b>2015</b>	ROYAL AIR MAROC	Lists Moroccan passengers being investigated for high-risk international drug trafficking	1
	LANSPEX	Confirmation test for the presence of drug particles	2
	ANAC	Transmission of an amateur video	1
	DPTS		2
	AIRTEL, ORANGE, MOOV	Subscriber identification, detailed billing	45

	INTERPOL	Investigation and arrest of individuals suspected of belonging to an international drug trafficking network	7
	VEHICLE REGISTRATION DEPARTMENT	Identity of the owner of a wanted vehicle	1
	CHR, HNN	Abdominal scan of a person suspected of carrying drugs	3
	CAMP BANO, INFIRMERIE ENP/FP	Care for persons in police custody	2
	FINANCIAL INSTITUTIONS	Financial transactions	2
	DPTS		1
	CSP AEROPORT	Copies of passports of suspect passengers	2
<b>2018</b>	ROYAL AIR MAROC	Passenger list for targeting	1
	LANSPEX	Confirmation of the presence of drug particles	1
	ANAC	Transmission of video	1
	DST	Passenger passports	1
	DPTS	Drug analysis	15
	BANKS	Disclosure of information on the account(s) of suspects	1
	AIRTEL, ORANGE, MOOV	Subscriber identification, detailed billing	10
	SONUCI	Information on suspects' real estate	1
	FINANCIAL INSTITUTIONS	Financial transactions of suspects	4
	NIGELEC	Identification of homes	1
	SONILOGA	Vehicle registration numbers and/or identities of the owners of wanted vehicles	1
	PHARMACY DIRECTORATE	Disclosure of branches of a Senegalese company under investigation for money laundering in Senegal	1
<b>2019</b>	ROYAL AIR MAROC	Disclosure of the passenger list	1
	ANAC	Transmission of a video	2
	DST	Copy	1
	DPTS	Drug analysis	17
	BANKS	Disclosure of financial information	12
	AIRTEL, ORANGE, MOOV, SAHELCOM	Subscriber identification, detailed billing	83
	CENTRE DE FORMALITE OF THE CHAMBER OF COMMERCE	Identification of the headquarters of companies suspected of being owned by defendants	3
	SONUCI	Identification of real property	2
	NIGER POSTE, STM	Searches for parcels belonging to persons suspected of belonging to drug trafficking networks	5
	CHU, HNN	Care for persons in police custody	3
	FINANCIAL INSTITUTIONS	Financial transactions	3
	RIMBO TRANSPORT, 3STV	Movements of suspects	3
	MARADI TAXATION	Identification of unknown persons belonging to an international	1

	DIRECTORATE	drug trafficking network	
	RADISON HOTEL	Disclosure of list of persons staying at the hotel	1
	SONILOGA	Vehicle registration numbers for the identification of suspects	3
	NIGELEC	Identification of the homes of uncooperative suspects	3
	TRANSLATION DIRECTORATE OF THE MINISTRY OF FOREIGN AFFAIRS	Translation of an extradition document	1
	DGI	Search for information on suspicious companies or individuals	5
	GARDNET	Confirmation of a suspect's status	1
	CUSTOMS	Searches of trucks suspected of carrying drugs	6
	SEEN	Searches of home(s) of the suspects.	1
	CMA CGM	Searches of suspicious containers	1
<b>Jan-20</b>	NIGELEC	Identification of the residence of a suspect.	1
	AIRTEL, ORANGE, MOOV	Subscriber identification, detailed billing	6

Source: OCRTIS

151. The Customs Department gathers financial information from cases of violation of the regulation on financial relations with the outside world it records, including offences relating to the physical cross-border transportation of cash, business fraud and smuggling. However, the Customs department does not provide the FIU with files on cash seizures made in the context of checks on the cross-border physical transport of cash and bearer negotiable instruments. Furthermore, the NRA underscored the inadequacy or absence of control mechanisms for cross-border transportation of cash and bearer negotiable instruments (pages 9, 26, 254 of the NRA report), which limits the consultation and use of financial intelligence by the customs. The Customs department only discloses to the FIU information on offences related to certain sensitive goods (pharmaceuticals, narcotics, etc). Although there is no requirement to systematically transmit all offences dealt with by Customs to the FIU, disclosing cases of business fraud and smuggling, which are predicate offences to ML, would be useful to the FIU in the performance of its functions.

152. The Tax Department also has investigation services which have the power to gather financial intelligence and other information in order to detect tax offences. It also collects information from the FIU, following voluntary sharing or in response to requests, and from other investigative authorities, in this case OCRTIS and HALCIA (see table below). The tax services do not conduct any investigation for the purposes of ML/TF but are active in gathering evidence that may establish violations of the Tax Code and impose administrative fines and other tax adjustments (recovery of duties and penalties). The tax authorities do not share any information on tax fraud recorded, on its own initiative, with the FIU which need such information for the performance of its functions, as provided for under Article 75 of the Uniform AML/CFT law. However, the DGI reacts to every request filed by the FIU by providing every information requested for by the latter.

**Table 3-10: Summary of requests for information made by investigative authorities and processed by the DGI from 2015 to 2020**

YEAR	STRUCTURE SENT REQUEST	TYPE OF INTELLIGENCE	NBER	TAX IMPLICATIONS	OBSERVATIONS
2015	FIU	Dissemination	1	11,042,582,206 [16,834,051 Euros]	
2018	FIU	Information Requests	18		
2019	FIU	Requests for information	16		
	FIU	Dissemination	1	16,720,232,634 [25,489,442 Euros]	
	OCRIS	Requests for information	2		
	HALCIA	Information Requests	1		
2020	FIU	Information Requests	10		10 cases are being processed for dissemination, 1 of which has been finalised
	FIU	Dissemination	1	185,031,161 [282,074 Euros]	
	HALCIA	Information Requests	1		
	Judicial Police	Information Requests	1		

Source: DGI

153. The country has not clearly mentioned any possible use of financial intelligence by the supervisory authorities.

### 3.2.2. STRs received and requested by competent authorities

154. Under the provisions of Article 79 of the AML/CFT Law, reporting entities prepare suspicious transaction reports on “sums entered in their books or transactions on sums of which they suspect or have good reasons to suspect that they originate from a ML, TF or predicate offence including tax evasion”. The STRs can also relate to cases where the identity of the originator or the beneficiary of the transaction is doubtful.

155. Pursuant to these provisions, the FIU received two hundred and fifteen (215) STRs from 2013 to 2019 (see details in chapter 5: preventive measures), including two hundred and ten (210) on suspected money laundering and five (5) on terrorist financing. Regarding the origins of the reports, it is on record that all these STRs were filed by financial institutions. On average, 31 STRs filed by reporting entities per year, with a minimum of 12 STRs in 2013 and a maximum of 63 STRs in 2019. According to the FIU, the reasons for the STRs received and the description of the nature of the suspicious transactions have always been satisfactory and the reporting entities, including the financial institutions, are available for any necessary clarification of information. Out of the 215 STRs received, the FIU analyzed one hundred and seventy (170), representing 79%. It should be noted that the FIU has no computerized report processing system to facilitate consultations, cross-checking and data extraction. The FIU assured the assessors that it was in the process of procuring the GoAML software which is expected to be operational soon and will improve its capacity to process all STRs received.

156. No case of disclosure of the fact that any STR has been prepared was underscored by reporting entities. This suggests that STRs are sent to the FIU in accordance with the principle of confidentiality. Out of the total of 215 reports received by the FIU from 2013 to 2019, banks are the main reporting entities with 208 reports, followed by DFIs (5), insurance companies (1) and the public treasury (1). However, it should be noted that only a few financial institutions, have filed suspicious transactions to the FIU to date. The NRA report highlighted the reluctance of certain financial institutions to file STRs as well as the lack of or inadequate reports from banks, impacting negatively on the overall level of the STR reporting activity in Niger. However, the limited reporting noted by the NRA in 2016 has seen improvement that should be enhanced. Out of the STRs received by the FIU from 2013 to 2019, only 5 were related to terrorist financing. The number of reports on terrorist financing is apparently low in relation to the country's risk profile but could be justified, according to the state authorities by the fact that the classic financial circuit is being rarely used for terrorist financing purposes. However, assessors think it could also be attributed to the low level of implementation of the AML/CFT regime by the reporting entities, particularly the banking sector, which has a high ML/TF risk. In addition, the illegal exercise of the foreign exchange activity and transportation of funds by transport companies as well as the weakness of checks on the cross-border transport of cash and bearer negotiable instruments are said to foster terrorist financing and explain the low number of STRs on terrorist financing. In addition, there is limited follow-up of the financing and monitoring of NPOs vulnerable to TF.
157. Pursuant to the provisions of Directive N° 010-09-2017 of September 25, 2017 setting the threshold for cash transaction reports, the FIU also receives from reporting entities cash transaction reports including the amount of single transactions or transactions that are apparently related, equal to or higher than fifteen million (15,000,000) CFA francs. This information is used in the reports, to enrich investigations, establish evidence of ML/TF and track people who make frequent cash transactions. From 2018 to 20th August 2019, the Niger-FIU received reports involving 45,003 cash transactions, from 7 local banks against fourteen banks operating in Niger. No other FI or DNFBP has filed such reports to the FIU, even though the country's economy is predominantly cash-based.
158. The Niger-FIU also receives from the Customs Administration reports on the cross-border physical transportation of cash and bearer negotiable instruments made by travellers at the airport. These reports from Customs started following the NRA that highlighted the fact that the related provisions were not being implemented by customs and no statistics on cash declarations were being kept. In 2019, the Unit received four (4) reports and one (1) report in January 2020 recorded by the Niamey Airport Customs Office. The small number of reports does not sufficiently reflect the efforts made by the Customs to check the physical cross-border transportation of cash and bearer negotiable instruments as provided for by the AML/CFT law. Also, the FIU equally receives from Customs information (statistics) on cash seizures made in violation of the regulation on financial relations with the outside world, as highlighted by the Unit in the country's follow-up reports it produces. However, Customs does not forward the files on these seizures to the FIU as required by the AML/CFT law. The table below shows the status of cash seizures made by Customs and indicates the amount of the funds seized. Sharing these files with the FIU would have enabled it to investigate these seizures for AML/CFT purposes.

**Table 3-11: Border Cash Seizures**

Year	Number	Amount	
		USD	EURO
2015	6	627,488	
2016	8		514,320
		270,000	
2017	7	110,000	
2018	3		23,782
		31,100	
2019	1	29,800	

Source: Customs

159. In order to access additional financial intelligence and other relevant information that could enrich its work, the FIU uses its prerogatives conferred on it under Articles 67 and 70 of the AML/CFT law by sending requests to reporting entities to forward all records kept, whatever the means used to preserve them and within its stipulated deadlines. The exchange of information between the FIU and State Departments, at its request or on their initiative, also enables it to enrich its database and its work. Thus, from 2013 to 2019, the FIU issued 2810 requests to reporting entities, Government and law enforcement authorities. The details of such requests are presented below.

**Table 3-12: Requests issued by the FIU for Additional Information**

	2013	2014	2015	2016	2017	2018	2019	Total
<b>Banks</b>	82	218	243	269	313	366	445	<b>1936</b>
<b>Insurance</b>	0	0	0	0	0	04	01	<b>5</b>
<b>DFS</b>	4	16	18	27	26	28	26	<b>145</b>
<b>Other FIs (specify)</b>	0	0	0	0	3	0	03	<b>6</b>
<b>BCEAO</b>	1	0	3	1	0	0	01	<b>6</b>
<b>DNFBPs : Lawyers, notaries, notaries</b>	2	2	0	0	0	03	01	<b>8</b>
<b>NPOs</b>	1	1	0	0	0	06	04	<b>12</b>
<b>Departments MF: DGI, DGD, DMCE, DCIC, post</b>	22	52	32	29	13	32	50	<b>230</b>
<b>Law enforcement authorities: Prosecution, TGHCNY registrar</b>	9	14	8	06	18	10	05	<b>70</b>
<b>Investigative authorities: PN, GN, DGDSE, GNN</b>	11	60	30	36	30	67	67	<b>301</b>
<b>Other departments: ANAC, rural engineering, marine, mines</b>	5	4	11	33	10	13	15	<b>91</b>
<b>TOTAL</b>	<b>137</b>	<b>367</b>	<b>345</b>	<b>401</b>	<b>413</b>	<b>529</b>	<b>618</b>	<b>2810</b>

Source: Niger-FIU

160. In addition, under the provisions of Articles 43 of the Uniform AML/CFT law, the FIU is supposed to receive reports on cash donations made to NPOs and the amount of which is higher than or equal to one million CFA francs, respectively. However, such reports are not filed to the FIU, because there is no supervisory authority charged with maintaining the NPO register. DONGAD, the NPO supervisory authority for AML/CFT matters, was only designated in January 2020. This situation prevents the FIU from



initiating investigations into potential TF flows considering the risk profile of NPOs as established by the NRA.

161. The suspicious transaction reports from reporting entities, particularly financial institutions and any other additional information gathered, are used by the FIU to produce financial intelligence. The assessment team noted an increase in STRs received by the FIU, although DNFBPs and other non-bank financial institutions do not meet their suspicious transaction reporting obligations. The FIU, in cooperation with supervisory authorities, has published guidelines to help other non-banking institutions improve their level of compliance with their customer due diligence and suspicious transaction reporting obligations. It has also organised a series of training sessions for reporting entities on their AML/CFT obligations (see Table No. on the training sessions organised by the FIU over the last five years). In addition, the FIU and reporting entities regularly exchange views on AML/CFT issues, including STRs, within the framework of the Financial Sector Compliance Officers' Forum.

**Table 3-13. Training Courses organized by the FIU for Reporting Entities**

Year	Number of training courses	Summary of Training courses organized
2016	00	
2017	03	Capacity Building Workshop for stakeholders involved in Combating Cybercrime in Niger, from October 19 to 21, 2017 in Tahoua, Niger; The FIU, in collaboration with the company "TD CONSULTING", organized several working and training sessions with representatives of reporting entities, as well as those of their supervisory and regulatory bodies, for the development of guidelines for reporting entities, from September 2 to 15, 2017; Pre-Assessment Training Workshop for stakeholders in Combating Money Laundering and Terrorist Financing, held from May 27 to 30, 2019 in Niamey, Niger;
2018	02	Joint Regional Meeting of Compliance Officers of Financial Institutions/Designated Non-Financial Companies and Professions (DNFBPs) and Competent Authorities on Emerging ML/TF issues; The FIU organized an Interactive Training Session, for Officers of the "Orange-Niger" mobile telephone company on ML/TF Methods and Financial Investigation Techniques on AML/CFT;
2019	03	
Total	08	

Source: FIU

162. Apart from the FIU, the Customs department receives declarations from travellers at the airport on the physical cross-border transportation of cash and bearer negotiable instruments, which it forwards to the FIU. As part of the fulfilment of its obligations, Customs also makes cash seizures, the statistics of which are reported to the FIU. However, since the NRA highlighted the inadequacy or absence of mechanisms to control the cross-border transportation of cash and bearer negotiable instruments and the lack of statistics on cash declarations, the country has taken steps to address these vulnerabilities by training customs officers on their AML/CFT obligations and by raising awareness among the actors involved, notably the Chamber of Commerce and customs brokers. Similarly, a form has been introduced by Decree for the purpose of making the said declaration by travellers. In addition, posters have been displayed at the airport to raise travellers' awareness.

### 3.2.3. Operational needs supported by FIU analysis and dissemination

163. The analysis and disseminations made by the FIU, to a certain extent, do meet the operational needs of the competent authorities.
164. After analyzing the suspicious transaction reports filed by the reporting entities, the FIU, where appropriate, disseminate same to the competent authorities, including law enforcement. Thus, the FIU disseminated sixty-five (65) case files to the various competent authorities between 2013 and 2019. Among the case files disseminated, twenty-eight (28) reports relating to 51 STRs were filed by the FIU to the State Prosecutor and were all prosecuted and resulted in three (3) convictions for money laundering, 17 are still under investigation. In addition to the reports sent to the Prosecutor, the FIU disseminated information, including voluntary information on some STRs (see table n°3.12) to other national competent authorities, including the Tax Department.
165. 166. Indeed, following the dissemination of financial intelligence by the FIU to the Tax Department in 2015 and 2019 (see bow 3.2 - on the types of STRs processed by the FIU), the latter effected significant tax adjustments, leading to the payment of more than seven billion CFA francs in duties and penalties worth over five billion CFA francs. Other competent authorities and departments have also benefited from these spontaneous disseminations. The details of the Unit's disseminations, from 2016 to 2019, are presented in the table below showing the number of letters sent to the structures indicated as part of spontaneous dissemination of information and in response to requests for information.

**Table 3-14: Spontaneous Disseminations by the FIU to other Authorities from 2016 to 2019**

Recipients	2016	2017	2018	2019	Total
DGI	5	1	2	6	14
DGDSE		3		1	4
MSP			3	1	4
SCLT				2	2
DST				14	14
DRNP and DST				5	5
MPFRA			1		1
Ministry of Mines			1		1
DPJ			2		2
<b>Total</b>	<b>5</b>	<b>4</b>	<b>9</b>	<b>29</b>	<b>47</b>

**Source: CENTIF**

166. The law enforcement authorities appreciated the quality of the STR analysis reports that the FIU filed to them, which they considered to be fairly detailed and documented and deemed such financial intelligence useful in the prosecution of the suspects. However, the small number of convictions for ML raises the issue of the competent authorities' capacity to deal effectively with the financial intelligence filed by the FIU. According to the said authorities, the low number of convictions for ML/TF has mainly been due to the complexity of the case files and their transnational nature. The authorities clarified that the delays observed in the processing of case files were linked to the reluctance of banks to respond to their requests, warranting several reminders, the time taken to respond to international requests, the length of proceedings and movements of respondents as well as the appeal cases filed by the latter.

167. There was no record of any weakness in the dissemination of financial intelligence to the supervisory authorities and Customs, as well as failure to disseminate such information to other competent authorities, including HALCIA. To justify this situation, the Unit clearly stated that dissemination of financial intelligence is carried out according to the nature of the predicate offences identified. Concerning Customs, FIU specified that after concluding its analyses, it had not yet detected any predicate offence linked to Customs fraud or smuggling. However, the NRA report indicates on page 19 that goods fraud, which is a Customs offence, is one of the predicate offences of money laundering more frequently identified during the processing of the STRs received. Such case files were supposed to be disseminated to Customs. In addition, the NRA (p.15), indicates that the FIU prosecuted two cases highlighting facts of corruption in 2012. Also, the case files transmitted to the Courts ended up in an indictment of two (2) people for corruption among other accused persons (NRA, p.19). However, the FIU did not disseminate this information to HALCIA and stated that at that time, HALCIA's legal framework did not allow it to receive financial intelligence from other investigative authorities. We note, however, that the Unit has submitted two (2) strategic analysis on violations of the regulatory provisions on external financial relations, to the Minister of Finance, who is the supervisory authority for banks and Customs administration. The two memos deal with infringements of the regulations governing the external financial relations of UEMOA Member States observed by the FIU and stress the importance of complying with these provisions, pointing out that they constitute the first AML/CFT prevention measures provided for in the uniform law on AML/CFT and make it possible to combat illicit financial flows. The two memoranda noted deficiencies or irregularities and made recommendations relating to operations in the banking sector, which the NRA considers to be at high risk of ML/TF, and including Customs and Excise administration.
168. However, while the second technical memo, dating from January 2020, on the violation of the rules of procedures for the domiciliation of import operations for goods, details the findings as well as their extent, with quantitative data, the first Technical Memo, dating from September 2015, is not detailed. Indeed, Technical memo 1, which deals with deficiencies in provisions as concerns (i) the domiciliation of import and simple export operations, (ii) the issuance of foreign currency allowances and customs control of means of payment carried by travellers, (iii) BCEAO Directive No. 11/07/2011/RFE on reporting obligations, (iv) rules relating to the threshold of cash settlements by government services, (v) foreign exchange dealers, and (vi) the transfer of money, contains little information. It lists general findings from the processing of the STRs without supporting them with actual quantitative data. Following the second technical memo, the DMCE of the Ministry of Finance, BCEAO and Customs jointly organised, at the end of 2020, awareness-raising sessions for economic operators on compliance with the provisions of the Regulation on External Financial Relations relating to import and export “domiciliation”. The country stated that it was aware of the weaknesses of the first technical report and took them into account to improve the quality of the second report. The Nigerien authorities also affirm that they are doing a lot of training for FIU staff in order to enable them to improve the quality of their operational and strategic analyzes. It would be recalled that in October 2018, the FIU disseminated financial intelligence to the Ministry of Mines, which is the supervisory authority for the mining sector. Following this, the Ministry took steps to strengthen its supervision to prevent unauthorized people from mining.

**Table 3-15. Training courses in which the FIU participated**

Year	Number of training courses	Summary of Training courses organized
2016	08	<ul style="list-style-type: none"> <li>i. International Meeting of Go-AML Software Users, March 23-24, 2016 in Vienna, Austria;</li> <li>ii. Workshop on Terrorist Financing Typologies, May 7-12, 2016 in Vienna, Austria;</li> <li>iii. Workshop on the Designation of Terrorists and the Freezing of Assets, from May 9 to 10, 2016, in Praia, Cabo Verde;</li> <li>iv. Regional Capacity Building Workshop for FIU Investigators and Analysts on Financial Investigation in CFT matters, from August 16 to 19, 2016 in Lomé, Togo;</li> <li>v. Typologies Workshop on Money Laundering Resulting from Counterfeit Pharmaceutical Products, July 25-29, 2016, in Saly, Senegal;</li> </ul>
2017	14	<ul style="list-style-type: none"> <li>i. Workshop on Using Beneficial Ownership Information and Asset Recovery in Africa, April 26-28, 2017 in Abuja, Nigeria;</li> <li>ii. Training Workshop on Combating Terrorism Financing [FINTRAC, TRACFIN, ISS from May 22 to 25, 2017 in Dakar, Senegal];</li> <li>iii. Training Seminar on Combating Money Laundering and Terrorism Financing of from August 10 to 24 in Kunming, China;</li> <li>iv. Regional Typology Workshop on the Extractive Industry/Mining Sector and ML/TF in West Africa, September 18-20, 2017 in Saly, Senegal;</li> <li>v. Training on Cross-border Financial Investigations from September 25 to 29, 2017 in Casablanca, Morocco;</li> <li>vi. Training in Financial Investigations and Asset Recovery from November 28 to 30, 2017 in Niamey, Niger;</li> <li>vii. Regional Capacity Building Workshop for FIU-UEMOA Analysts and Investigators on Trends and Risk Analysis of Terrorist Financing in West Africa, from October 31 to November 3, 2017 in Niamey, Niger.</li> </ul>
2018	26	<ul style="list-style-type: none"> <li>i. Joint GIABA/Egmont Group Regional Training course on Strategic Analysis, held in Saly, Senegal from January 15 to 19, 2018;</li> <li>ii. Workshop on Typologies and Skills Development, held in Rabat, Morocco from January 22 to 25, 2018</li> <li>iii. Training Workshop on Financial Disruption in TF, from March 19 to 23, 2018 in Niamey, Niger;</li> <li>iv. Training Workshop on Simulation of TF case trials, from March 26 to 28, 2018 in Niamey, Niger;</li> <li>v. Conference on Terrorism Financing in Paris, from 25 to 26 April, 2018;</li> <li>vi. Training Workshop on AML/CFT Financial Investigations, held in Saly from June 18 to 22, 2018;</li> <li>vii. Regional Training Workshop on Cryptocurrency Surveys, from October 9 to 11, 2018, in Dakar;</li> <li>iii. Regional Conference on Combating Money Laundering and Terrorism Financing in the Maritime sector, from 24 to 26 October 2018, in Freetown in Sierra Leone;</li> <li>ix. Training Workshop on the use of the "INTERPOL" network, from November 29 to December 1, 2018 in Niamey;</li> <li>x. Training of Trainers Workshop on the Practical Modalities of Securing a FIU, from December 3 to 7, 2018 in Taipei, Taiwan;</li> </ul>
2019	17	<ul style="list-style-type: none"> <li>i. Anti-Money Laundering Capacity Building Workshop in West Africa, held from January 14 to 18, 2019 in Niamey;</li> <li>ii. Sub-Regional Capacity Building Workshop for Combating Money Laundering and the proceeds of illicit drug trafficking, held from 11 to 15 March 2019 in Dakar, Senegal;</li> <li>iii. Sub-Regional Workshop on the Sources of Financing of Terrorism in Countries of the Sahel, held from April 16 to 17, 2019 in Dakar, Senegal;</li> <li>iv. Regional Meeting between the Public and Private Sectors on Emerging ML/TF issues, held by GIABA, from June 10 to 12, 2019 in Dakar;</li> <li>v. Forum on Digital Banking Issues facing the challenges of cybercrime, held from September 25 to 26, 2019 in Abidjan, Côte d'Ivoire;</li> <li>vi. Regional Workshop on Implementing Beneficial Ownership Requirements, held from 3-5 December, 2019, in Abuja, Nigeria;</li> <li>vii. Continental Workshop on Strengthening the Effective Targeting of Illicit Financial Flows Resulting from ML, TF and Human Trafficking, held from 09 to 14 December 2019 in Tunis, Tunisia;</li> </ul>

		viii. Training Workshop on United Nations Security Council sanctions against North Korea, July 15-16, 2019, in Saly Portudal, Senegal;
Total	65	

Source: FIU

169. The information provided by the FIU was well appreciated by the law enforcement authorities, the key beneficiaries of the Niger-FIU's analyses.

### 3.2.4. Cooperation and exchange of information/financial intelligence

170. FIU and other competent authorities cooperate and exchange information. These exchanges are carried out both spontaneously and on request in both directions. To achieve its objectives and within the framework of national cooperation, the FIU has established a network of institutional correspondents within the key State Departments dealing with AML/CFT and focal points within reporting entities (financial institutions and DNFBPs), which enables it to efficiently and securely exchange information and financial intelligence, as part of operational and strategic analysis.

171. From 2013 to 2019, as part of the STR analytical process, the FIU issued 692 information requests to the law enforcement authorities and Government, which responded accordingly. Conversely, the FIU received twenty-five (25) requests from State departments to which they responded accordingly after processing. Cooperation with the supervisory authorities also includes information exchanged within the framework of the CNCA-LBC/FT which meets once every quarter.

172. Information is exchanged with the FIU respecting confidentiality, pursuant to Article 78 of the Uniform AML/CFT law. The table below presents the FIU's information exchanges within the framework of national cooperation.

**Table 3-16: Information requests issued by the FIU to Government and Law Enforcement**

	2013	2014	2015	2016	2017	2018	2019	Total
Departments MF: DGI, DGD, DMCE, DCIC, post office	22	52	32	29	13	32	50	230
Law enforcement, prosecution, TGHCNY registrar	9	14	8	06	18	10	05	70
Investigative authorities: PN, GN, DGDSE, GNN	11	60	30	36	30	67	67	301
Other Departments: ANAC, rural engineering, maritime, mines	5	4	11	33	10	13	15	91
<b>TOTAL</b>	<b>47</b>	<b>130</b>	<b>81</b>	<b>104</b>	<b>71</b>	<b>122</b>	<b>137</b>	<b>692</b>

Source : FIU

**Table 3-17: Information requests from Government and Law Enforcement received by the FIU**

Ministry of Justice	2	0	1	0	0	0	0	3
State Prosecutor	4	4	0	0	0	0	0	8
Ministry of Finance	0	3	0	0	0	0	0	3
Ministry of Foreign Affairs	0	2	0	0	0	0	0	2
DGDSE	0	0	0	1	0	0	0	1
OCRTIS	0	0	0	0	2	2	0	4
Presiding Magistrate	0	0	0	0	3	0	0	3
Dean of Bench	0	0	0	0	1	0	0	1
<b>Total</b>	<b>6</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>25</b>

Source : FIU

173. Niger also has several coordination and information exchange structures, established and implemented within the AML/CFT framework in which the FIU participates, including:

- The national AML/CFT coordination Committee (Decree N° 2020-111/ PRN / MF of 27th January 2020 on the reorganization of the CNCA-LBC/FT/FPADM) to amend Decree No. 2010-541/PCRS/ME/F of 08 July 2010 on the creation, organisation and operation of the national AML/CFT coordination committee, as amended by Decree No. 2014-448/PRN/MF of 04 July 2014). The CNCA-AML/CFT, set up in 2014, is a framework for cooperation, coordination and information exchange, bringing together the competent authorities and the regulatory and self-regulatory authorities, which meets four (4) times a year;
- The National Coordinating Committee against Terrorism, the Terrorism Financing, the Financing of Violent Extremism and Transnational Organized Crime (Order No. 00246 / MJ / GS / SG / DGAJ / DAP / G of 8th September 2017) which meets as and when necessary, in the State Prosecutor's office at the Niamey High Court. The committee met for the first time on 12 June 2019.
- The National Counter Terrorism Committee (Order n ° 000059/MAE/C/IA/NE/DGAJ/C/DAJ of 20th January 2020, establishing the national Counter Terrorism Committee repealing Order No.003/MAEC/IA/NE/DIRCAB of 21st February 2012). Chaired by the Doctor of the Ministry of Foreign Affairs, this Committee is responsible for drafting reports.

174. Furthermore, the FIU has signed a collaboration agreement with HALCIA in 2018 with a view to strengthening the internal cooperation framework. However, Niger did not specify using statistical data, the type and information exchanged between the FIU and HALCIA as well as the intelligence the law enforcement and other competent authorities receive or obtain via other designated authorities, financial institutions and non-financial businesses and professions.

175. In order to maintain the confidentiality of such exchanges, all members, correspondents as well as staff of the FIU, are required to comply with the confidentiality of the information gathered, which should not be used for any purpose other than the ones provided for by law. The members of the FIU and correspondents within the departments and agencies take an oath before the competent court prior to their assumption of office. The FIU staff are subject to confidentiality and professional secrecy obligations. The FIU indicated that to avoid leaks and the misuse of the information

exchanged, it has instituted the signing of Memoranda of understanding with State departments. This prompted the signing of an agreement with HALCIA in order to preserve the confidentiality of any information exchanged.

### Box 3.2. Typology of STRs processed by the FIU

#### Case N° 1

##### a) The facts

Bank X suddenly noted several transactions made to the credit of its customer, Mr A, for a total amount of more than CFAF1,500,000,000 in only seven months. The customer's main partner is Mr B.

The reason given by the customer, foreign exchange activities, to the bank does not correspond to his profile at the time of account opening, which motivated the bank to transmit a suspicious transaction report to the FIU.

##### b) Leads

The investigations conducted by the FIU, resulted in the following leads:

- Mr A and his partner Mr B are not authorised to carry out the activity of foreign exchange dealing, in accordance with the regulations in force;
- the Directorate General of Customs has not recorded any import or export operations carried out by Mr A;
- Mr. A has never paid his taxes, despite a turnover estimated at more than three billion (3,000,000,000) CFA francs, recorded on his account;
- Investigations revealed that Mr A is involved in illicit cigarette trafficking.

##### c) Conclusion

A report prepared by the FIU was forwarded to the judicial authorities for prosecution of the following predicate offences to money laundering: foreign exchange offences, tax fraud and cigarette smuggling.

#### Case N° 2

##### a) The facts

Bank X suspects company A (a limited liability company), a real estate consulting firm and a consultant to project managers, of money laundering practices.

The case concerns several transfers of funds amounting to nearly CFAF300 million received by company A from its parent company B, located in Europe.

The transferred funds were withdrawn in cash on the following days by Mr K, the only signatory to the account of company A.

Bank X spoke to its customer about the use of the withdrawn funds. The customer claims that the funds are intended to pay consultants of company Q located in the capital of an African country.

The institution then offered him several banking services (transfer to the consultants' accounts, remittance of cheques to the various consultants) that would meet his needs, but the customer persisted in getting only cash.

As a result, the institution placed a ban on the account. Not being satisfied, the customer opened another account at another bank Y in the area and ordered Bank X to transfer his balance to his new account.

Following the customer's behaviour, Bank X filed a suspicious transaction report to the FIU.

##### b) Clues



- The transfers received by company A in the amount of CFAF300 million are ordered by its parent company B, located in Europe, but executed by its subsidiary C in **ASIA** through a bank also located in **Asia**. This technique (passing through intermediary accounts) makes it possible to blur the origin of the transferred funds.
- The transferred funds were withdrawn in cash the following days by Mr K, the only signatory on the account. The invoices submitted as supporting documents on file do not show any actual service provided in Niger. Hence the lack of economic justification for the use of the funds received and withdrawn.
- Company A does not appear on the company and trade register of Niger nor is it known to local tax authorities.
- The address of company Q (located in an African country) on the supporting invoice, for which Mr K claims to pay for services provided by his consultants, is false. On the other hand, there is a company Q, regularly registered in this country, whose accounts have not revealed any payment of services by company A. Worse still, no relationship between these two companies has been detected.
- Mr K, as well as Mr L, CEO of company B, both of French nationality, are not known in France as managers of any company.
- It was also noted that Mr K had opened a second account in his new bank in Niger, in the name of another company, called D, whose head office is in Asia and which has the same address as C.

**c) Conclusion**

The FIU prepared a report and filed it to the Public Prosecutor for prosecution for money laundering with the predicate offences of forgery, tax fraud and illegal real estate consultancy in Niger.

**Case N° 3**

**a) The facts**

In March 2015, the FIU was informed by a local bank of suspicious transactions concerning the “établissements P” owned by Mr P, whose corporate purpose is 'introduction to computers and welding education'. In less than a year, Mr. P received from a Gulf emirate, fund transfers of nearly 250,000,000 CFAF francs, or about 380,000 euros. All these transfers have no economic justification, hence the reason for the report. Established in 2009, the "établissements P" had as their corporate purpose "introduction to computers and welding education" until 2015 when the corporate purpose became "general trade". However, they have no physical address and no authorisation according to the Ministry in charge of vocational and technical education.

In 2016, another bank sent a suspicious transaction report to the FIU concerning a local NGO that received large transfers from three countries in the Gulf emirates. These transfers have reached amounts of around CFAF 1,900,000,000 in less than 3 years, i.e. approximately 2,896,000 Euros. This NGO has the same post office box as “établissements P” and an individual company Z. This last element accounted for the merging of the two STRs in order to deepen the investigations.

**b) Money laundering clues**

Investigations helped identify the following clues

- Links between the NGO, “établissements P” and individual company Z: the president of the NGO is none other than the father of Mr P, the owner of “établissements P”. As for the owner of individual company Z, he is also a member of the NGO’s management board. Other members of the NGO’s board of directors had to make withdrawals from and payments to the account of the P.
- The account of « établissements P” does not function like that of a normal company: there are no orders for payment of bills or wages.
- The NGO has two school complexes and a medical centre: these three structures do not have bank accounts although they generate significant resources. Even in the NGO’s accounts, there is no trace of payments apart from transfers from abroad. According to the activity reports produced by this NGO in recent years, the cost of the work carried out as part of its activities to help vulnerable populations is much lower than the funds received from abroad.



- - At the level of the tax authorities: since its creation in 2008, the NGO has neither filed nor paid any taxes, even though its accounts show transactions amounting to more than CFAF 2 billion. As for “établissements P”, they have underestimated their turnover in order to evade part of their tax burden.

c) **Conclusion**

This case was captured in a detailed report transmitted to the judicial authorities. The opening of a judicial investigation led to the detention of certain officials of the NGO and the owner of “établissements P”.

## Overall conclusion on IO.6

176. In Niger, the FIU and criminal authorities strive to some extent, to establish evidence and trace the proceeds of crime related to money laundering, associated predicate offences and terrorist financing, during their investigations. The FIU receives reports and exchanges relevant information with other competent entities, some of which have appreciated the quality of the information communicated. However, HALCIA, SCLCT/CTO, OCRTIS, Customs and Tax Departments and supervisory authorities do not use financial intelligence sufficiently to establish evidence and trace the proceeds of crime related to money laundering, associated predicate offences and terrorist financing. Likewise, cooperation among the various competent authorities in information sharing is limited.

177. In addition, despite the country's high exposure to ML/TF risks, particularly to terrorist financing, reporting entities and other structures do not submit to the FIU all the legal reports required to enable it to accomplish its mandate, particularly suspicious transaction reports on terrorist financing, cash transaction reports, and reports on cash seizures. Similarly, it does not receive reports on cash donations to NPOs which are higher than or equal to one million CFA francs. The number of STRs filed to the Unit is also very low and these reports mainly come from a few financial institutions. In addition, the FIU's capacities do not allow it to carry out automated processing of the declarations it receives, such as extracts and cross-checks, with a view to their diligent and efficient processing.

178. **The level of effectiveness achieved by Niger on Immediate Outcome 6 is Low.**

### 3.3. Immediate Outcome 7 (ML investigation and prosecution)

#### 3.3.1. ML identification and investigation

179. Niger has adopted several legislative and regulatory texts designed to facilitate the investigation and prosecution of ML-related cases. To achieve this, the police, gendarmerie, the body fighting against **corruption** and Related Offences, Customs department and presiding Magistrates have their own powers to identify ML cases during investigations initiated in relation to predicate offences. From 2015 to 2019, the specialised legal division initiated proceedings for ML linked to 23 predicate offences that had been investigated and had been submitted by the investigative authorities. For its part, the FIU filed 28 financial intelligence reports to the prosecutor relating to ML. As to the action taken as a result of

these investigations, generally, when the prosecutor receives a case of an economic or financial nature, herefers the matter to the investigating judge by means of an introductory statement systematically referring to the offence of ML. Moreover, the Public Prosecutor at the High Court of Niamey had instructed his deputies, during periodic meetings, to systematically prosecute for ML whenever there is a prosecution for a predicate offence that has generated significant income. But in practice, only certain specialized agencies such as the Economic and Financial Investigation Division of the Criminal Investigation Department, the Central Agency against Terrorism and Transnational Organized Crime and the Central Office against Illicit Drug Trafficking, use such powers to conduct parallel financial investigations of ML.

**Table 3-18: ML investigations opened**

Années	Autorités d'enquêtes	Infractions sous-jacentes	Nombre d'enquêtes
2015	CID (Economic and Financial Investigation Division)	02	01
2016	CID (Economic and Financial Investigation Division)	05	03
2017	CID (Economic and Financial Investigation Division)	04	04
2018	CID (Economic and Financial Investigation Division)	02	02
2019	CID (Economic and Financial Investigation Division)	08	06

**Source: Legal Division Specialized in Economic and Financial Issues**

**Table 3-19: ML prosecutions and convictions**

Years	Predicate offences	Nb. of prosecutions	Nb. of ML convictions
2015	01	01	00
2016	07	07	00
2017	08	08	00
2018	03	03	01
2019	04	04	02
Total	23	23	03

**Source: Legal Division Specialized in Economic and Financial Issues**

180. Similarly, based on the information provided by the FIU, the Niamey Prosecutor's Office requires presiding Magistrates to initiate proceedings for ML. However, the assessment team noted at the end of the interviews that the Gendarmerie investigation agencies and other police services do not systematically incorporate ML during their investigations of predicate offences.

181. The Gendarmerie has indicated that the new reform of the services has introduced, in initial training and in-service training, training modules on ML to gradually strengthen the capacities of the personnel, particularly the criminal investigation officers (CID). According to officials of this institution, one of the objectives of this reform is to make ML investigations systematic. The same obtains for the customs department, which is limited to establishing the predicate offences and gathering the evaded subsequent taxes.

182. The specialized services have already submitted casefiles to the Niamey Prosecutor to initiate proceedings for ML. For instance, in the table below, the Criminal Investigation Department filed six (6) investigation reports targeting ML to the prosecution, between 2016 and 2019.

**Table 3-20: Six (6) ML-related casefiles submitted to the Prosecutor's Office by the CID**

Year	Case	Offences	Amount at stake
2016	Case/c IOM	Embezzlement of public funds, money laundering and criminal association.	
2018	Case/ c RB and others	Fraud, ML, criminal association	
	CR n° 01/2018 / 2CAB / PEF, case/c SF, AL and others	ML, ML collusion, tax evasion and criminal association	
	Case: c IHD says HS and others	Fraud, complicity to fraud, ML and criminal association	
2019	CR : Case/c ATF	Complicity in forgery and use of forgery and money laundering	
	Case/ c AN and others	Forgery and use of forgery, scam, money laundering	

Source: DPJ

183. In addition to the example provided in the box below, characteristic evidence of money laundering was highlighted by the investigators.

### Box 3.3. Example of a Case handled by Investigative Agencies

On 12th November 2018, the Niamey City Police Department (DPVN) recorded the complaints made by Messrs. X, Y and Z against the managers of the company called "Better Life in Solution". The agents of the said company advised several subscribers to place their funds in investments listed on the stock exchange in the USA and remunerated at an interest rate of 30% in one week. Convinced they would make profits in record time, the first three complainants invested 5 800 000FCFA [8 847 Euros], 14 000 000FCFA [21 355 Euros] and FCFA 340 000 [519 Euros] respectively. The payment of the interest of the first subscribers gave confidence to the newcomers and, by word of mouth, several people invested significant funds in this apparently "juicy" business. After two months of activity and while the subscribers were impatiently waiting to receive the profits from their investments, the agents disappeared into thin air.

The investigation was opened and the investigator gathered financial intelligence from financial institutions and the Tax Department. Their analysis revealed that the company was registered as an Import-Expert company and not as a "microfinance" as presented by the agents. The balance in the bank account was only CFAF 9,000 [14 Euros].

Before the arrest of the Managing Doctor and two other officers, the agents, one a State and the other a Guinean, had fled from Niger. Wanted notices were issued to Interpol. Three people suspected of fraud, complicity in fraud, receiving stolen assets, money laundering and criminal association were brought before the Niamey Prosecutor's Office, which initiated legal proceedings accordingly. The damages incurred by the 230 investors surveyed amounted to CFAF 392 121 500 [598 120 Euros]. These funds were taken out of Niger by the agents without going through the legal financial circuit. The case file is still under investigation at the Economic and Financial Division.

184. This case testifies to the increasing orientation of law enforcement agencies to conduct parallel investigations on ML. However, the recent nature of ML investigations and parallel financial investigations did not allow this practice, which is not widespread, to have a decisive impact on prosecutions and convictions in Niger. Due to the recent nature

of the generalization of parallel surveys, the LEA officers seem to be confronted with the challenges of qualification, training and adequate technical and financial resources. However, it is the fear of being detected, convicted and punished that could deter potential criminals from committing lucrative offences that could lead to a money laundering process. Likewise, due to the systematic use of cash by criminals outside the conventional financial circuits, the tracing and localization of the illicit proceeds generated seem difficult to carry out, despite the capacity building of the specialized LEA staff. The statistics provided by the FIU over the period 2013 to 2019 also indicate that the (28) cases filed to the State Prosecutor's Office resulted in charges for ML and that only three (03) were convicted of ML. However, the authorities have not indicated the types of ML offences that have been identified. The assessment had no idea whether the investigations of some of the ML-related cases were conducted independently. Besides, it is not clear whether any of these cases had to do with third party ML. Niger has not provided any breakdown of the types of ML offences being prosecuted. However, the country has secured one hundred and sixty-one (161) convictions for predicate offences to ML from 2015 to 2019.

185. Collaboration among the various relevant authorities, with clear mandates, is a determining factor in the success of ML investigations and prosecutions in Niger. In a bid to exchange financial intelligence and any other relevant information, there is cooperation between the judicial authorities, the investigative authorities and FIU as indicated by the analysis under IO.1 and IO.6. In addition to this cooperation, the State Prosecutor coordinates ML investigations throughout the ML case cycle. Niger reported that the prosecution recently instituted a practice of training investigative authorities to conduct ML investigations and parallel financial investigations whenever a conventional criminal investigation is opened for a predicate offence having generated significant income. However, this new practice is not yet widespread and cooperation for the exchange of information is still weak to positively impact the outcome of ML investigations. It was thus noted that apart from the information that it spontaneously disseminates, the FIU is not often required by the investigating authorities to request for information during of ML investigations. Lack of qualified human, financial and technical resources of the LEAsP is another factor that limits identification of ML cases. "

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

186. At the end of the NRA, several predicate offences have been identified. The most common are trafficking in drugs and psychotropic substances, illicit trafficking and possession of firearms and ammunition, tax fraud, corruption, embezzlement, migrants' smuggling and human trafficking, scam, smuggling and violation of exchange control regulations.
187. The country has provided the assessment team with statistics that confirm the recurrence of these crimes under investigation and prosecution. They are also the ones that generate the most illegal proceeds. Tables 3.20 and 3.21, provide a breakdown of cases brought to the attention of the Prosecutor's office. We therefore put on record that the Criminal Investigation Department has brought six (06) cases before the prosecution, for criminal association, drug trafficking, scam, fraud and embezzlement of public funds. The statistics provided by the FIU reveal that it has filed twenty-eight (28) financial intelligence reports to the Niamey Prosecutor for which no breakdown by type of suspected predicate offence has been done.

188. . Regarding prosecutions, from 2015 to 2019, the courts delivered two (2) convictions for drug trafficking, three (3) convictions, for arms trafficking, five (5) for theft and two for human trafficking. These offences are coupled with tax fraud, which generates higher volumes of illicit proceeds. As an illustration, the customs services of Niamey Airport conducted over the period spanning 2016 to 2019, seventeen (17) cash seizure amounting to 567 902 Euros (CFAF 374 129 464) and 681 100 US Dollars (CFA 412 404 802) and a cumulative fine of CFAF 65 367 525 (99 223 Euro).

189. The same obtains for the Tax Department where the highest volumes of revenue generated through tax fraud are processed administratively. Nevertheless, the anti-money laundering law provides them with an opportunity to initiate proceedings targeting the tax fraud laundering offence.

**Table 3-21: Convictions for Predicate offences toML**

ML Threats	Predicate Offences	
	Number of convictions (cases)	Number of people convicted
Trafficking in drugs, medicines, cigarettes	01	01
Tax fraud	03	02
Customs fraud	02	03
Damage to public assets	42	36
Theft	06	07
Violation of trust	59	71
Scam	33	41
Forgery and use of forgery	07	09
Counterfeiting	02	02
Cybercrime	01	02
Illegal transactions and profit-generating environmental crime	01	01
Misuse of corporate assets	01	01
Smuggling	02	01
Competition fraud	01	04

190. The predicate offences that have been generating illicit proceeds are the same that have been identified in the NRA. However, it should be noted that the number of investigations for ML is significantly lower than that for predicate offences. This seems to be justified by the fact that the practice of investigations for ML is recent and not widespread within the LEAs on one hand, and by the fact that priority is not given to this offence, on the other. However, although there are several prosecutions for ML, only three (3) prosecutions have resulted in criminal convictions for ML. In addition to the twenty-eight (28) money laundering investigations opened following the submission of financial intelligence, eighteen (18) other prosecutions were opened from 2015-2020 according to the prosecutor's office. The 28 ML files from the FIU and 18 ML cases from investigative authorities were classified into type of predicate offence. All Money Laundering cases and/or serious predicate offences filed to the criminal prosecutorial authorities by the FIU and the other specialized investigation services put together, the conviction rate for ML has been apparently low.

191. Furthermore, Niger has developed and adopted the National 2018-2021 Strategic Plan to address the security challenges the country is facing. This plan gives priority to the fight against certain serious crimes such as drug trafficking, arms trafficking, terrorism, and confiscation of illicit proceeds. The creation or reorganization of the specialized criminal investigation and prosecution services (SCLCT/CTO, OCRTIS, Criminal Investigation

Department and Legal Division) is part of this orientation. Similarly, the reform of the Gendarmerie services to consider the aspects of investigations linked to ML are part of this strategy. Over the period spanning 2016 to 2019, the staff of specialized LEAs received a little over fifteen training sessions on themes related to financial crime, particularly money laundering and investigative techniques. These training courses, held within Africa and Europe, were organized by certain organizations such as UNODC, Interpol, American RTC Center, CSS G5 Sahel and AGRASC). Finally, the members of the specialized Legal Division maintained that they adequate resources to accomplish their mandate. On the other hand, the investigative authorities mentioned situations of unavailable funds when needed from the allocated financial resources.

192. Overall, it should be noted that the country has launched prosecutions for ML without specifying the predicate offences. Three prosecutions have already resulted in convictions for ML, the predicate offences of which are forgery, tax fraud and swindling. No prosecutions or convictions have been recorded in relation to corruption, drug trafficking or migrant smuggling, although these are considered to be the most recurrent predicate offences according to the NRA. Thus, despite all the measures implemented as part of the strategy, investigations and prosecutions on ML activities in Niger are slightly inconsistent with the country's risk profile.

### *3.3.3. Types of ML cases pursued*

193. Money laundering cases are prosecuted by the Prosecutor's office based on the FIU's reports or case files obtained from all the other specialized investigation agencies dealing with ML offences or predicate offences to ML (SCLCT/CTO, OCRTIS and Criminal Investigation Dept.). However, Niger has only recorded three (3) trials for ML resulting in three criminal convictions. Several other charges, both for ML and predicate offences, are pending. It is also noted that some of these predicate offences prosecuted are transnational in nature, including drug and arms trafficking, fraud and customs fraud. Two convictions related to self-laundering offence while the third had to do with both self-laundering and third-party laundering.

194. It is also noted that for the latter case, the predicate offence was first committed abroad, and then the criminal activity continued in Niger. The analysis of the statistical data provided by the country distinguishes the ML cases, but the predicate offences constitute most cases prosecuted. For example, the Legal Division specialized in economic and financial issues has delivered fifty-nine (59) convictions for violation of trust, thirty-three (33) for fraud, seven (7) for forgery and use of forgery and three (03) for tax fraud. The Anti-corruption agency (HALCIA) has referred nineteen (19) case files which are being prosecuted. All of these offences involve, for the most part, natural persons, with a particularity for tax fraud and fraud, where there is a predominance of legal persons. In any case, no complex cases involving sophisticated ML networks were presented to the assessment team.

### *3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions*

195. According to the anti-money laundering law, natural persons guilty of a money laundering offence shall serve a three to seven-year imprisonment sentence and pay a fine equal to three times the value of the assets or funds involved in the money laundering transactions. For legal persons, the fine shall be equal to five times the value of the funds involved in the relevant offence. The three convictions handed down by the courts have imposed sentences ranging from two (02) to five (05) years' imprisonment and fines. For

two rulings, the terms of imprisonment are three and five years and for the third, two years. The penalties for the three convictions were aligned with the prescriptions of the AML law. While most sentences handed down are within the range provided for by law, the small number of sentences handed down does not allow us to identify a decisive trend in order to assess their effective, proportionate and dissuasive nature.

### 3.3.5. *Use of alternative measures*

196. Following requests from customs and other tax authorities, Niger took four non-conviction based confiscation measures. Three of these confiscation measures resulted from the use by the Tax Department of financial intelligence provided by the FIU in 2016, following a STR of tax fraud filed by a financial reporting entity. Indeed, while the entity in question declared to the tax authorities that it had not achieved any turnover for the years 2014 and 2015, its bank account recorded turnover transactions of more than six (06) billion CFA francs. The 4<sup>th</sup> confiscation measure initiated by customs was linked to one (1) case of cross-border transportation of cash resulting from proceeds of smuggling activities converted into foreign currency. The foreign currency was seized and confiscated following the procedure conducted by the customs services.

## Overall conclusion on IO.7

197. Overall, the State authorities give priority to ML investigations and prosecutions, but only limited specialized LEAs. The other police and gendarmerie investigation agencies do not take the ML aspect into account when dealing with predicate offence case files, due to their weak financial investigation capacities. However, the new measures designed to strengthen the capacities of investigators and the introduction of the ML modules in training programmes are expected to address this gap. Prosecutions and convictions for ML do not appear to be commensurate with Niger's threat and risk profile. The convictions handed down by the Niger authorities only cover certain types of ML. Moreover, given the low number of convictions obtained, the effectiveness, proportionality and dissuasiveness of the sentences cannot be objectively assessed.

198. **The level of effectiveness achieved by Niger on Immediate Outcome 7 is Low**

## 3.4. Immediate Outcome 8 (Confiscation)

199. Niger has a satisfactory legal framework for the seizure and confiscation of illicit proceeds as well as ML used in the commission of predicate offences. The country can confiscate assets of equivalent value and apply provisional measures. Niger uses a number of legal instruments in this regard, including seizure, confiscation, fines and tax sanctions.

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

200. The State authorities have adopted legislative measures making confiscation a complementary measure to convictions. The Code of Criminal Procedure and AML/CFT Law of Niger explicitly identify confiscation as a priority and it can even be ordered by the

Presiding Magistrates as evidenced in some of the Orders issued on AML/CFT. Where the presiding magistrates are dealing with ML following reports filed to the prosecution by the FIU or the reports resulting from certain parallel investigations filed by criminal investigation officers, they immediately provide for the implementation of provisional measures to seize the assets in question, in order to preserve the possibility of future confiscation. In addition, requests are sent to banks and affiliated financial institutions to trace the assets of the suspects and order provisional measures. In certain cases, the investigating judge may, during the court investigation, may order the investigators to trace the assets intended for subsequent seizure.

201. Based on the STRs received, the Niger-FIU has, in some cases, requested the administrative freezing of suspicious accounts for a period of 48 hours. This timeline is apparently too short to make for significant investigations to be conducted. However, the FIU may, pursuant to the domestic law, where necessary, request for an extension from the investigating judge. In the lack of such an extension, this freezing measure which aims to guarantee the non-dissipation of assets will be lifted. The judge may also issue a provisional order for the assets to be seized pending a warrant from the prosecutor for the suspect to be prosecuted.
202. Niger's court authorities have secured convictions for money laundering and terrorist financing followed by confiscation measures in accordance with the code of criminal procedure.
203. In order to ensure a more effective confiscation of assets, the Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets (ACGSCGRA)<sup>30</sup> has been established. It is a public institution of an administrative nature with financial autonomy and legal personality, under the tutelage of the Ministry of Justice. The ACGSCGRA is the specialized and competent authority in charge of managing all assets seized and confiscated by the courts.
204. ACGSCGRA, in carrying out its activities, visits the courts to identify all seized or confiscated assets that are supposed to be sold. The cost is determined by an assessment made in before a Court Bailiff. The value of the assets seized, confiscated or frozen is paid either into the Treasury or into the State Consolidated Fund (CDC), while proceedings are ongoing, to be eventually returned, where the proceedings end in acquittal or discharge. However, this new structure does not currently have statistics on the recovery of assets confiscated in connection with ML/TF.
205. Given all these normative and institutional elements put in place in Niger, confiscation appears to be a priority in AML policies and strategies.

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

206. Niger indeed enforces its legal framework allowing for the confiscation of proceeds of crime, assets and instrumentalities of crime as well as assets of equivalent value from domestic and foreign sources. The same obtains for AML/CFT Law No. 2016-33 largely which covers cases where Niger seeks assistance in confiscating proceeds derived from predicate offences committed abroad or from those residing abroad.

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<sup>30</sup> The ACGSCAGRA was established by Decree No.2017-599/PRN/MJ of 13<sup>th</sup> July 2017



207. In order to keep the proceeds of predicate offences committed at national level in the hands of the Judiciary, the State authorities have several tools that it applies to a certain extent. These include freezing, confiscation and seizure measures (to prevent the dissipation of assets) in accordance with domestic law.

208. Non-conviction-based confiscation is legitimate in Niger and the country realized 4 cases (See para. 196). The reported unconditional confiscations were carried out by the Customs and Excise Department in accordance with the prerogatives given to it by the Customs Code. The small number of this form of confiscation is certainly due to this restrictive legal framework, in force before January 2020.

209. In 2019, the value of seized and confiscated assets is presented in the following table:

**Table 3-22: Asset disposal table<sup>31</sup>**

Year	Seizures and confiscations	Seizures and confiscations executed
2019	Assets seized	CFAF49,232,500
	Assets confiscated	CFAF144,971,000 + 137,000 euros or CFA89,866,109
	<b>TOTAL</b>	<b>CFAF284,069,609</b>

Source: Asset recovery agency (ACGSCGRA)

210. In accordance with Niger's legal framework, the State authorities have issued several confiscation orders for ML/TF-related offences, including:

- By Decisions N° 69-2018 of May 29, 2018, the Legal Division specialized in the fight against terrorism and transnational organized crime ordered the confiscation of Euros 5,000 and CFAF 29,000 in the State Prosecutor's case against the accused persons convicted for illegal possession of ammunition and terrorist financing.
- By judgment No. 06-2016 of 10th December 2016, the Legal Division specialized in the fight against terrorism and transnational organized crime ordered the confiscation of the sum of Euros 132,000 in the State Prosecutor's case against the accused persons convicted for the illegal importation, transportation and possession of firearms.
- By Conviction Judgment No. 02/19 of January 16, 2019, the correctional court of the Division specialized in economic issues ordered the confiscation of a warrant of disposal of an undeveloped building, located at block 923, plot B, misrate subdivision 2, located at Agadez and an ECOBANK cheque for CFAF36,500,000 belonging to the accused.

211. For the execution of requests for seizure, confiscation and freezing, ACGSCG receives from the National Unit for Judicial Cooperation of the Ministry of Justice all requests and/or applications from abroad. As at the date of the meeting with the ACGSCGRA, no request for the confiscation of proceeds and instrumentalities of crime, as well as assets of equivalent value, associated with ML/TF committed in the country and abroad and proceeds transferred to other countries, had either been issued or received by the State authorities. This situation clearly reveals that Niger has made no request for

<sup>31</sup>Niger authorities

mutual legal assistance with a view to confiscating or repatriating the proceeds of crime located abroad.

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

212. The State authorities carry out seizures of cash and bearer negotiable instruments which have not been declared or have been falsely declared pursuant to Law No. 2017-21 of 21<sup>st</sup> April 2017 criminalizing all violations of the external financial relations regulation of UEMOA Member States (R09/2010/CM/UEMOA) and Law n° 2018-19 of 27<sup>th</sup> April 2018, establishing the National Customs Code.
213. All Travelers are required to report all amounts exceeding the prescribed threshold when leaving or entering Niger. This obligation only concerns travellers coming from or going to countries outside the UEMOA. Within the eight UEMOA countries, the circulation of CFA francs is free but that of foreign currency remains subject to declaration.
214. The Customs authorities have indicated that a monitoring mechanism has been installed at the airport to detect the movement of cash and negotiable bearer instruments. However, this kind of monitoring is implemented at the Niamey Airport as well as land borders.
215. In addition to the provisions of Regulation No.09, Article 12 of the AML/CFT Act provides that travelers entering or leaving Niger from or to any non-UEMOA countries are required to complete a cash and BNI declaration form where the amount transported is higher than or equal to the threshold of 5 million CFA francs or seven thousand six hundred twenty-three euros forty-seven cents (Euros 7623.47) set by the BCEAO. The data provided reveal that the State authorities (customs services) have seized cash and other payment instruments at the borders with the following details, without specifying what has been done with the seized funds:
- In 2015: six seizures amounting to UD\$ 627,488;
  - In 2016: eight seizures amounting to US\$ 270,000 and Euros 514,320;
  - In 2017: seven seizures amounting to US\$110,000.
  - A total of 21 seizures amounting to US\$1,007,488 and Euros 514,320.
216. The following table also shows cases of seizures<sup>32</sup> of undeclared currencies for the years 2018 and 2019 with details by case. A comparison with data from 2015 to 2017, summarised above, shows that seizures have dropped considerably. Niger explains this decrease by the fact that the first seizures had a dissuasive effect and raised awareness of declaration among travellers.

**Table 3-23: Seizures of undeclared currencies for 2018 and 2019**

Year	Case N°	Case Date	Amount Seized	Currencies
2018	012/2018	19.04.2018	23 782	Euros
	007/2018	09.08.2018	31 100	Dollars
2019	005/019	29.05.2019	29 800	Euros

Source: Customs

<sup>32</sup> Source: Customs Department

217. The Customs agencies noted that they do not usually focus on the probability of ML/TF when carriers fail to report their currencies/BNIs. According to them, such situations are due to ignorance of the regulation, for most of the cases.
218. Although the AML/CFT Law allow the State Customs authorities to block or seize cash and bearer negotiable instruments for a period of 72 hours where the information provided on the origin and destination of the cash and bearer negotiable instruments indicate potential ML/TF risks, they indicated that they have never applied this provision. They added that generally, customs are not used to seeking information or conducting investigations to determine whether cash and negotiable bearer instruments are intended to be used for ML/TF, in cases where this person fails to report. They however indicated that the FIU has always been kept informed.

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

219. The NRA noted that the illicit trafficking of drugs, cigarettes, tax and customs fraud, human trafficking and similar practices, theft, arms trafficking, are some of the high risks of ML/TF offences in Niger.
220. There is apparently no confiscation linked to criminal proceedings ML threats such as human trafficking. In addition, the amounts seized for illicit trafficking in drugs, medicines and cigarettes, which are among the most recurrent offences, are considerably small. The seizures and confiscations carried out by the State authorities do not seem to be in line with the level of ML/TF risk and the national AML/CFT policies and priorities observed. In addition, apart from the NRA where the issue of the physical transportation of cash has not been consistently addressed, Niger has not carried out any specific assessment of the ML/TF risks associated with cross-border transportation of cash and negotiable bearer instruments. In the absence of this assessment, Niger could not put in place any adequate strategy to control these flows in a predominantly cash-based economy.

## Overall conclusion on IO.8

221. Niger's investigating judges have applied protective measures in ML/TF cases pursuant to the extant law. Convictions have also been handed down for ML/TF. Seizures and confiscations of assets and instrumentalities of crime is a priority for the State authorities considering the texts and institutional measures taken. The seizures of cash and BNIs are applied only at State air borders. However, the results obtained through this approach do not seem to be generally consistent with the ML/TF risks identified.
222. **The level of effectiveness achieved by Niger on Immediate Outcome 8 is Low.**

## Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### 4.1. Key Findings and Recommended Actions

#### Key Findings

##### Immediate Outcome 9

- a) The various types of terrorist financing activities are being prosecuted and convicted in Niger. The judicial authorities have issued three conviction sentences for terrorist financing. The types of terrorist financing activities convicted include cash couriers, supplies of computer equipment, recruitment of fighters, supplies of weapons and ammunition. However, it is noted that several convictions for the offences of supporting terrorists, importing and transporting ammunition, harbouring terrorists, and aiding the commission of terrorist acts by the judicial authorities are based on other provisions of the Penal Code. However, the provisions of the Terrorist Financing Law 2016-33 seem more appropriate because they include the offences of all acts of support for terrorists, importation and transportation of ammunition, receiving terrorist, contribution to the commission of terrorist acts provided for in other texts. Nevertheless, taking into consideration all prosecutions and convictions, it has been observed that the various types of TF activities that have led to convictions do not seem to be consistent with the country's risk profile which is rated as high.
- b) Specialized investigative and prosecutorial agencies as well as intelligence agencies do identify terrorist financing cases during the investigations they conduct. Investigations into terrorist activities seem to identify and designate terrorists or terrorist organizations.
- c) TF investigations are incorporated into recently adopted national counter-terrorism strategies and investigations. However, twenty-one (21) ongoing proceedings and four (04) cases, for which investigations have been closed, and which are related to terrorism and its financing, are still pending before the courts.
- d) In addition to the three (3) conviction verdicts for TF, the judicial authorities have delivered fourteen (14) conviction verdicts for assimilated offences to terrorist financing. The sentences delivered against the natural persons guilty of TF do not seem to be effective, proportionate and dissuasive.
- e) Niger has been using administrative measures, such as banning certain activities that can be used to finance terrorism.

##### Immediate Outcome 10

- a) Niger has a legal and institutional framework to implement targeted financial sanctions based on Resolutions 1267 and 1373. The mechanism is not functional regarding 1373. For 1267, the Ministry of Foreign Affairs receives the summary list and its updates and forwards them to the Ministry of Finance, which in turn is responsible for forwarding them to the various national stakeholders. However, the lists are not received by the DNFBPs, and this has a negative impact on the effectiveness of the TFSs. The information provided by the country is not enough for the assessors to state that the sanctions are implemented without delay as required by international standards.
- b) The NRA and interviews with the various stakeholders reveal that faith-based NPOs are those most exposed to TF, although this assertion is not based on a sector-specific study to determine the categories at risk. In the implementation of supervision and monitoring, a single inspection mission on an NPO sample from Arrondissement 5 in Niamey was conducted in December 2019. Besides, no targeted measures based on the risk-based approach has been taken. The Ministry of the Interior claims to have developed a strategy for monitoring faith-based NGOs, but the effectiveness of such a measure has not been demonstrated due to lack of sanctions.
- c) Faced with the high TF risk, the judicial authorities delivered three (3) conviction verdicts and seized funds used to finance terrorism. This is not consistent with the country's risk profile. In addition, Niger has taken administrative measures, such as the prohibition of certain business activities which may be used to finance terrorism, particularly the sale of petroleum products in the three-border region (Liptako-Gourma), as well as the ban on pepper production and fishing activity in the Lake Chad region.
- d) These above-mentioned actions do not seem to be consistent with the high risk of terrorism and its financing. Besides, there is no national list of terrorists and terrorist financiers, as provided for under Resolution 1373 and communicated to reporting entities and third countries.

### **Immediate Outcome 11**

- a) The fight against proliferation financing in Niger is based on the provisions of Article 100 of AML/CFT Law NO. 2016-033 of 31 October 2016, which prescribe the immediate freezing of funds linked to proliferation financing. In addition, the adoption of Decree No. 2020-114/PRN/M/F of 27th January 2020, will facilitate effective implementation of targeted financial sanctions related to proliferation financing.
- b) The State authorities have not reported any measures to implement targeted financial sanctions linked to the financing of the proliferation of weapons of mass destruction.
- c) FIs and DNFBPs have a poor understanding of the requirements for applying TFSs for PF. As a result, a Financial Institution closed the accounts of some Iranian nationals who were not on the sanctions list.
- d) No strategy has been put in place by the competent authorities to monitor and ensure compliance by FIs and DNFBPs with their TFS obligations related to PF.

## Recommended Actions

Niger should:

### Immediate Outcome 9

- a) Strengthen the fight against terrorism financing by: (i) systematically initiating investigations for the financing of terrorism in conjunction with investigations for terrorism; (ii) integrating terrorism financing into national counter terrorism strategies; (iii) assessing the effectiveness of administrative prohibition measures taken in certain regions of the country to combat terrorist financing.
- b) Issue and mete out effective, dissuasive and proportionate sanctions consistent with the provisions of the AML/CFT Law No. 2016-033.
- c) Give priority to the processing of case files related to terrorism and its financing.
- d) Take further advantage of the existing operational frameworks to improve information exchanges relating to activities specifically related to terrorist financing.
- e) Enhance training for defence and security forces operating in theatres of operation in order to better collect and preserve evidence of the commission of terrorist financing offences to be presented to the courts during prosecutions.

### Immediate Outcome 10

- a) Improve its national implementation of TFS by ensuring the timely distribution of sanctions lists to all reporting entities with a view to an immediate freezing of targeted assets.
- b) Operationalize the National Consultative Technical Committee for the Administrative freezing of funds and other financial resources of terrorists and equip it with sufficient human and financial resources to implement all freezing measures. The Committee should also take steps to implement the TFS where reasonable grounds for designation have been established.
- c) Operationalize the overall monitoring or supervision of DNFBPs, following the designation of the authorities, in order to guarantee compliance with the requirements for the implementation of targeted financial sanctions. Furthermore, ensure compliance and impose proportionate and dissuasive sanctions for failure to implement sanctions without delay.
- d) Encourage reporting entities to enhance implementation of their TFS obligations and improve compliance and effectiveness in this area. Also, provide adequate sensitization and training for the private sector, particularly non-bank financial institutions and DNFBPs, in this area.
- e) Improve the fight against TF through NPOs by: (i) Carrying out a comprehensive assessment of the NPO sector in order to identify the characteristics and types (or sub-groups) of NPOs which, due to their activities or their characteristics, are likely to be exposed to a risk of terrorist financing abuse, including how terrorist stakeholders abuse these NPOs and the latter; (ii) adopting a risk-based approach to address the identified risk; (iii) strengthening the capacities of the supervisory

authorities of NPOs (technical and financial resources, powers, training, etc.) to enable them carry out effective inspections.

#### **Immediate Outcome 11**

- a) Implement an operational and effective mechanism for distributing sanction lists, as provided for under Article 5 of Decree No.2020-114/PRN/MF. The country could consider creating an official website to publish and update the sanctions list in a timely manner and immediately send this updated list to reporting entities to facilitate the immediate freezing of funds and other assets of entities and individuals involved in PF.
- b) Organize training and awareness-raising programs and provide guidance on TFS on PF to reporting entities, all private sector actors and relevant authorities.
- c) Monitor all reporting entities, stakeholders in the private sector and the relevant authorities and ensure they meet their obligation to apply PF-related targeted financial sanctions.
- d) Apply dissuasive and proportionate sanctions for non-compliance with regard to the implementation of PF-related TFS.

223. **The** Immediate Outcomes relevant to this chapter are I.Os. 9 to11. The Recommendations relevant to the evaluation of effectiveness of this section are R.1, 5-8.

## **4.2. Immediate Outcome 9 (TF investigation and prosecution)**

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

224. Niger is one of the region's countries characterised by high levels of terrorist activity by armed groups scattered across the Sahel. The country is repeatedly attacked by jihadist groups based in neighbouring countries, notably AQIM in Mali, Boko Haram in Nigeria and other satellite groups, which carry out numerous attacks and bombings. The terrorist group Islamic State in the Greater Sahara has claimed responsibility for several attacks in the Tera/Tillabéri region, where most active gold mining sites are located. The assessment team discussed the potential financing of terrorist activities through the control of gold mining by criminal groups. Terrorist groups present in the tri-border area are also involved in trafficking and smuggling of all kinds, the most prominent of which are: drug trafficking, illicit arms trafficking, migrants' smuggling and illicit cigarette trafficking, which can fuel TF flows. Niger is a transit country for drugs to the Maghreb and Europe and is also a corridor for waves of illegal migrants to Europe via Libya and Algeria. The competent authorities establish a close relationship between these offences and TF. Indeed, they have acknowledged that the passage fees paid by cartels that transport drugs through the Sahara to enjoy the escort of terrorist groups on the one hand, and the funds generated by drug trafficking operated by the terrorist groups on the other, are used to finance the purchase of arms, ammunition and other related war equipment.

225. In the national risk assessment, Niger authorities noted that terrorism was financed in various ways, namely: contributions from members and sympathisers, coercion and intimidation, charitable donations, donations from other terrorist organisations, commercial activities, smuggling of arms and ammunition and external financing... The various investigative and intelligence services have also identified other sources of financing.



These include the theft and resale of livestock, kidnapping in exchange for ransom, forced collection of zakat (extortion) in villages, payment of protection tithes, vehicle theft, trafficking in arms, motorbikes, fuel and poaching. These terrorist financing activities flourish in the tri-border area (Liptako-Gourma), in the northern Tillaberi area, and are carried out by terrorist groups such as Boko Haram, the Islamic State in the Great Sahara and Hamadou Koufa's group, taking advantage of the porous borders.

226. Niger's prosecutorial authorities have stated that they are prosecuting these various terrorist financing activities by applying the legal texts in force in the country, namely the Uniform Law N°2016-033 on anti-money laundering and combating the financing of terrorism and the Penal Code, which incriminate terrorist financing under several offences. In Niger, the prosecution of TF began in 2016 and has led to several convictions. Numerous prosecutions are ongoing before the Niger courts as shown in the following table.

**Table 4-1: Summary of prosecutions and convictions for tf (specialised anti-terrorism and transnational organised crime judicial unit).**

YEAR	NUMBER OF CASES	NUMBER OF PROSECUTIONS	NUMBER OF CONVICTIONS
2015		00	00
2016	05	04	04
2017	10	08	05
2018	07	06	05
2019	12	12	03
<b>Total</b>	<b>34</b>	<b>30</b>	<b>17</b>

Source: Specialised judicial Unit

227. Based on statistics presented in the table above, Niger authorities say that the various types of terrorist financing activities are prosecuted based on the reports filed by the specialized investigative agencies. Thus, three (3) conviction orders for terrorist financing delivered in 2018, one of which was related to the flow of funds for the terrorist financing and another to terrorist financing.

228. Furthermore, the assessment team noted that four (04) other verdicts rendered the same year by the courts dealt with offences of acts of support to terrorists, importation and transportation of ammunition, disguise of terrorist, contribution to the commission of terrorist acts which are in line with the terrorist financing offence as defined by Niger's anti-money laundering and counterterrorist financing law and FATF recommendations. Accordingly, between 2016 and 2019, fourteen (14) other convictions were delivered for terrorism support acts. The seventeen (17) convictions listed in the table above are the sum of the three convictions that explicitly targeted terrorism financing and the fourteen (14) others that targeted terrorism support acts.

229. The following concrete cases, which summarise some of the convictions, demonstrate that Niger prosecutes different types of TF including the collection, movement and use of money and other assets.



#### Box 4.1. Cases of tax collection for the benefit of the ISGS (collection, conversion, routing and use of funds and other assets for terrorist purposes)

After receiving military training from ISGS officials, BB moved to a locality in Niger where he was given the task of collecting taxes (the 'Zakat') on behalf of the ISGS. In this mission, he essentially collected cattle from the local herders, which he had sold by an accomplice called IW. The funds from the sale of the cattle were either used to prepare and carry out attacks in which BB personally participated, or were channelled to the ISGS leaders through DC, who works directly under the command of Abu Walid.

On 12 August 2017, BB and IW, who had been wanted for a long time, were arrested and brought to justice. On 10 April 2019, the counter-terrorism division of the Niamey Court sentenced them to 9 and 8 years respectively for criminal association in connection with a terrorist venture and financing of terrorism.

#### Box 4.2. Possessing and managing funds on behalf of an individual terrorist that is a member ISGS.

In September 2015, A.D. was arrested in possession of 5,000 euros in an area where several terrorist groups such as the EIGS are active, while riding a motorbike with an individual on whom ammunition was found. Various investigations found that Mr A.D. had close ties to an ISGS leader nicknamed "Petit Chapori", whose clothing, electronic devices and identity documents he kept. The investigations also established that Mr. A.D. was working for this terrorist to buy motorbikes and to exchange euros into CFA francs, the local currency. Evidence was established that Mr A.D had received the 5,000 euros from "Petit Chapori" with the mission of changing them into local currency in order to support the terrorist group.

On 5th November 2018, the counter-terrorism division of the Niamey Court sentenced him to 7 years for criminal association in connection with a terrorist undertaking and financing of terrorism.

230. Niger's prosecutorial authorities indicated at the time of the on-site visit that several other prosecutions for **terrorist** financing were ongoing. They gave the example of four proceedings in which individuals were being prosecuted for storing and transporting equipment for use by BOKO HARAM elements, supplying BOKO HARAM elements with food and fuel, transporting ammunition and money to a BOKO HARAM base, collecting ransoms from relatives of kidnapped persons, and the transportation funds by a BOKO HARAM element.

231. In light of the seventeen convictions and four prosecutions for terrorist financing in progress at the time of our on-site visit, prosecutions and convictions appear to be consistent with the country's TF risk profile, as described above. Also, considering the level of TF risk, which is rated high, the number of convictions seem very moderate.

#### 4.2.2. TF identification and investigation

232. Since Niger is constantly exposed to terrorist risk and its funding, the on-site visit provided an opportunity for the assessment team to observe the political will displayed to combat this multifaceted threat by taking operational measures. Strategically, a system for sharing information and exchanging information with national intelligence stakeholders has been put in place, while fostering international cooperation with neighboring countries. Like the other G5 Sahel countries, Niger faces the threat of terrorism and its financing. Therefore the government authorities seem to have made the fight against these two threats a priority. To this end, Niger has strengthened its legislative and institutional framework for combating the financing of terrorism.
233. Specialised units have been set up within the national police and the national gendarmerie. These include the Counter-terrorism and Transnational Organised Crime Central Service (SCLCTO). This service participates generally in the fight against the financing of terrorism by systematically opening investigations into terrorist financing for all investigations into terrorism. Then there is the Division specialised in counter-terrorism and organised transnational crime within the Niamey High Court. This service is responsible for the prosecution and trial of persons involved in terrorist financing cases.
234. It should also be noted that the Department of Documentation and External Security (DGDSE) is also involved in the production and daily sharing of intelligence on terrorism and its financing. There is close interaction between these specialised services in terms of information sharing. According to the Nigerien authorities, the creation of these units was made necessary by the complexity of the matter and the need for specialisation in the fight against terrorist financing. These different investigative authorities have identified the supply of arms and ammunition, computer equipment, collection and transport of funds, and recruitment of fighters as types of terrorist financing activities that are prosecuted and punished.
235. The Directorate General for Documentation and External Security (DGDSE) participates with other defence and security services in the production and daily sharing of intelligence on terrorism and its financing. Together, these specialised services seem to have a better understanding of the terrorist risk and its financing. Supported by coordination mechanisms at national level, which could be refined, this system allows for some exchange of information between the competent authorities involved in the fight against terrorism and its financing. Indeed, it was noted that the information collected by the army during repression operations and later transmitted to the DGDSE and other specialised services often did not allow for the attribution of clues to the accused person. The collection of evidence should involve the specialised services, through a mechanism yet to be defined. The defence and security services, including the FIU, exchange sensitive information through Daily Intelligence Bulletins (BRQ).
236. In practice, the FIU, the specialized investigative and prosecutorial units and the intelligence agencies identify terrorist financing cases during their investigations. The interaction between these various investigation agencies and the DGDSE has made it possible to resolve cases of terrorism financing. Having benefited from several training courses, the staff of DGDSE and SCLCTO conducted several investigations related to terrorist financing activities. Thus, the investigations helped to identify the specific role played by the persons implicated in the three (3) conviction verdicts.
237. The DGDSE mentioned the existence of a list of terrorist fighters made up of foreigners and nationals. This list is updated and consulted during the processing of new

cases. The various investigation and intelligence agencies have also identified other sources of funding. These include theft and resale of livestock, kidnapping of people against payment of ransoms, coercion of zakat under duress (extortion) in villages, payment of protection tithes, theft of vehicles and arms, motorcycles, fuel and poaching. These terrorist financing activities thrive in the three-border area (Liptako-Gourma), in the northern Tillaberi area and are carried out by terrorist groups such as Boko Haram, the Islamic State in the Grand Sahara and the group of Hamadou Koufa, taking advantage of the porosity of the borders. These areas are especially monitored by the DGDSE to gather information in synergy with other intelligence agencies in the other neighbouring countries to Niger.

238. However, in view of the multiplicity of terrorist acts committed in the country and the large number of those arrested, the number of convictions secured is still low. In fact, from 2015 to 2019, the country recorded three hundred and ninety-six (396) cases of terrorism investigations and initiated two hundred and sixty-two prosecutions (262). At the end of the proceedings, the judicial authorities delivered one hundred and seventy-eight (178) convictions for terrorism and four hundred and four (404) convicted persons. The law enforcement agencies explained to the assessment team that the collection of evidence and its preservation resulting from the military transactions which led to the arrests do not guarantee their integrity. To resolve this, Niger's authorities stated that the Specialised Criminal Division has developed training modules for operational military personnel to respect human rights, protect sources and collect evidence in the relevant operations. Participants in these training sessions are the military, the provost squads of the Gendarmerie and the specialised investigation units which are branches of the SLTCTO.

239. Furthermore, the assessment team consulted several conviction verdicts for logistical support of various kinds to terrorist groups, despite the existence of the law on terrorism financing which could have been targeted. However, there is need to take the said conviction into account, which positively impact on the findings of investigations and prosecutions conducted to secure conviction for terrorist financing.

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

240. Niger has adopted the National Internal Security Strategy by prioritizing threats and vulnerabilities linked to terrorism in Niger. The action plan of the said strategy allocated resources to the specialized investigative and prosecutorial agencies in order to face the identified challenges. Investigations into terrorist activities seem to identify and designate individual terrorists or terrorist organizations through:

- Their proven participation in terrorist acts following arrests, interrogations and hearings;
- Their membership of an established terrorist organization;
- The claim by any organization of carrying out terrorist acts such as bomb attacks, armed attacks, hostage taking.

241. The Assessors noted that the TF aspect is not explicitly mentioned in the strategy. However, Niger's authorities pointed out that TF is incorporated in the fight against terrorism and organised transnational crime (Strategic objective 4). The impact of the implementation of this strategy is yet to be assessed.

242. Furthermore, the investigations thus conducted by the specialized units and the prosecutions launched against terrorism also aim at its financing. But regarding the cases prosecuted (262) and convicted (178) for terrorism, the funding component is still minimal.

This practice has recently been made systematic in the case of an investigation for terrorism. However, it is not yet possible to perceive any result. In the past, the courts have referred to “terrorist support”, proven cases of terrorist financing, in fourteen (14) court verdicts.

243. Investigative authorities also explained that the traditional circuit for financing terrorism through the financial sector is very weak in Niger. Therefore the emphasis was placed on the identification of other aforementioned sources of financing operating outside the legal financial system. But at this juncture, the LEAs explained that it was difficult for them to prevent terrorist groups from raising funds by harassing the inhabitants of the areas concerned. To resolve this problem, the investigation authorities targeted, for example, the areas concerned by identifying and arresting the intermediaries involved in the sale of cattle taken as dime (zakat). The 2018-2021 strategic plan adopted by Niger considers the endogenous aspects of terrorist financing.

244. The DGDSE reported the existence of a list of terrorist fighters consisting of foreigners and nationals. This list is updated and consulted during the processing of terrorism and TF cases. However, the assessors were not able to consult the list to check whether it includes a TF component.

#### ***4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions***

245. Niger punishes individuals guilty of any terrorist financing offence, with a prison sentence of at least 10 years and a fine equal to at least five times the value of the assets or funds involved in the TF transactions. Additional sanctions are also provided for in the event of aggravating circumstances. Convictions against natural persons guilty of terrorist financing range from 7 to 10 years' imprisonment, whereas Article 119 of the 2016-33 ML law prescribes a minimum of 10 years. In addition, only a fine was imposed in one of the three (03) convictions without applying the rate of five times the value of the seized funds. In the convictions consulted by the assessors, the funds in the possession of the accused persons are confiscated.

246. However, it is noted that two of the three convictions were not accompanied by fines as prescribed by the ML law, whereas in both cases, money amounting to 5,000 to 75,000 Euros and from CFAF29,000 to CFAF490,000 was confiscated. For both cases, fines equal to five times the value of the money related to the TF operations should have been imposed. Similarly, the 7-year sentence imposed in one of the cases prosecuted is below the legal threshold incurred. The Assessors are of the opinion that the sentences delivered against the natural persons guilty of TF do not seem to be effective, proportionate and dissuasive.

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

247. Niger has been using administrative measures, such as the prohibition of certain activities, which may serve to finance terrorism. In 2013, the country banned pepper production and fishing in the Lake Chad region where BOKO HARAM is rampant. It also closed the Jado/Agadez gold sites for nationals and foreigners and opened the Tchibarkatan/Agadez site exclusively for State gold miners.

## Overall conclusions on IO.9

248. **Niger** investigates and prosecutes terrorism and its financing. Prosecutions and convictions for FT appear to be in line with the country's risk profile. However, the recent consideration of the funding component reveals that it is a weak practice considering the high number of convictions delivered for terrorism. Moreover, practice shows that the fight against TF is poorly integrated into national counter-terrorism strategies.
249. **The level of effectiveness achieved by Niger on Immediate Outcome 9 is Moderate.**

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

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

250. At the regional level, the implementation of TF-related TFS is embodied by Regulation 14/2002 which requires the UEMOA Council of Ministers to establish half-yearly lists of people, entities and organizations whose funds and assets are supposed to be frozen. The BCEAO is required to forward this list to banks and financial institutions. Between the two sessions of the Council of Ministers, the regulations authorize the Chairman of the Council of Ministers, on a move by the Governor of the Central Bank, to amend or supplement the list of persons, entities or bodies whose funds are to be frozen, based on the Sanctions Committee's decisions. The proposal made by the Governor will be approved at the next meeting of the Council of Ministers. This procedure does not implement the TFS within hours. Also, the supervisory authorities do not seem to ensure full monitoring of non-compliance with this obligation and there are no examples of sanctions in the event of non-compliance with the TFS. Furthermore, it should be noted that this legal instrument is not applicable outside the banking sector.
251. At national level, Niger has a legal basis under Law No. 2016-0 33 of 31st October 2016, to implement targeted financial sanctions pursuant to Resolutions 1267, 1373 and subsequent ones of the UN Security Council. Decree No. 2020-114/PRN/M/L of 27th January 2020 on administrative freezing of funds, other financial assets and economic or financial resources in the fight against money laundering, terrorist financing and financing the proliferation of weapons of mass destruction, designates the Minister of Finance as the competent authority responsible for the administrative freezing of funds and other financial resources of designated persons and entities. The competent authority is also responsible, on the advice of the Technical Advisory Committee on Administrative Freezing (CTCGA), for proposing to the United Nations Security Council Committees names to be included on the list of sanctions against Al-Qaida and Taliban, pursuant to United Nations Security Council Resolution 1267.
252. The UNSC Resolutions on TFS are directly applicable in Niger with no need for a domestication Act. Sanction lists and their updates are transmitted through diplomatic channels to Niger. The Ministry of Foreign Affairs, Cooperation African Integration and States in the Diaspora receives the list of new designations or modifications to previous designations sent to the country by the Permanent Representative of Niger to the United Nations. The list is sent by physical administrative mail to the relevant ministries,

particularly the Ministries of Finance, Justice and Security. Departments are required to forward the list of sanctions to the competent authorities, who in turn forward them to the reporting entities. However, the list is not distributed to DNFbps, certain financial institutions, NPOs and some other departments. The lists and their updates are not sent to some financial institutions. Consequently, the implementation of TFS is limited. The use of physical mails for the transmission of sanction lists and their updates results in protracted delays in the processing of such mails and hinders the immediate implementation of TFS.

253. Most DNFbps do not seem to understand their obligation to implement TFS. The competent authorities do not seem to monitor non-compliance with this obligation and there are no instances of sanctions meted out for non-compliance with the obligation to implement TFS.
254. . Certain financial institutions, particularly banks and insurance companies, which are subsidiaries of international groups, and certain large decentralized financial systems (DFS) have taken measures to ensure their compliance with the obligation to apply TFS. They receive the lists of designated persons from the groups to which they belong or consult them directly on the United Nations website or acquired software which integrates and updates all these lists of targeted persons and has automated screening mechanisms to identify the individuals targeted by these sanctions.
255. In practice, the mechanisms used to implement the UN Security Council Resolution 1267 are ineffective. TF-related TFS are not implemented without delay because the competent authorities do not inform all FIs and DNFbps when the sanctions list is updated and it is not forwarded to the reporting entities without delay, as required. However, financial institutions that have the sanctions list tracking software can immediately freeze targeted funds and report to the FIU pursuant to Article 100 of Law No. 2016-0 33 of 31stOctober 2016. The assessment team was not informed of any case of freezing of assets belonging to persons or entities under sanction.
256. The Technical Advisory Committee on Administrative Freezing (CTCGA), created by Decree n° 2017-97/PRN/MF of 17thFebruary 2017 establishing the administrative freezing, had its powers, its composition and operational mechanism, enhanced by the Decree No. 2020-114/PRN/M/F of 27thJanuary 2020. Its mandate is: to prepare a list of persons or entities to be subjected to administrative freezing measures pursuant to the United Nations Security Council Resolution 1373; to review the requests for administrative freezing and release of funds and other financial resources as well as the request for administrative freezing of any third country.
257. The Committee was not yet operational as the members of the Commission were yet to be appointed at the time of the on-site visit. Consequently, notwithstanding the recurrent terrorist attacks in the country and the presence of State terrorists in other operational corridors, the country has not established any national list of persons and entities whose assets are to be frozen based on United Nations Security Council Resolution 1373.
258. The State authorities state that they have not received any foreign requests for inclusion of any targeted person on its national list under the UN Security Council Resolution 1373. Given the fact that the Administrative Freezing Advisory Committee, which has jurisdiction over the matter, is still not operational, the authorities may not be able to respond effectively to any future request from any foreign country.
259. . Law No. 2016-0 33 of 31stOctober 2016 and Decree No. 2020-114/PRN/M/F of 27th January 2020, have introduced mechanisms for de-listing, release of frozen funds and

access to them. However, the recent adoption of Decree No. 2020-114/PRN/M/F of 27<sup>th</sup> January 2020 did not in any way help the assessment team to assess its effective implementation.

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

260. The NRA revealed that the NPO sector presents a moderately high TF threat level and a very high vulnerability level. This conclusion is mainly based on the deficiencies found in the supervision of NPOs and the overall level of risk of TF in Niger. It gives an inaccurate overview of the NPO sector. To date, the country has not conducted any comprehensive assessment of the sector to identify NPOs vulnerable to abuse for TF purposes in Niger, which would have allowed the implementation of a risk-based approach in supervision and monitoring. Similarly, no sectoral study on NPOs has been carried out to identify their sources of funding, the possible links between these NPOs and terrorist groups and the possibility that they may be misused for TF purposes.
261. . NPOs are made up of associations, NGOs and foundations. Regarding their incorporation and the licensing to operate, the Public Liberties Department (DLP) and Department of Religious Affairs (DAR) of the Ministry of the Interior, Public Security, Decentralization, Customary and Religious Affairs, are the bodies in charge supervising the sector. The Directorate of Non-Governmental Organizations and Development Associations (DONGAD) of the Ministry of Community Development and Regional Planning, ensures the monitoring-evaluation and coordination of NGO/DAs. For now, there is nonational NPO directory. However, for NGOs, which represent only a minute portion of the mass of NPOs, a national directory does exist.
262. Since 2017, Niger has developed guidelines for the non-financial sector including NPOs. However, its dissemination has not been strongly supported with training sessions. Also, the authorities have not implemented any awareness-raising strategy for NPOs. Niger has only organized a few training sessions, including the sensitization workshop for leaders of faith-based organizations (18-19 July 2020) and the pre-assessment of Niger's AML/CFT regime (27-30 May 2019) in which a limited number of NPOs have participated. Such limited training has not helped most of the NPOs to understand their obligations or even realize the TF risk which they are exposed.
263. The implementation of supervision and monitoring, in practice, has been rare or even nonexistent. Thus, the DLP and DAR, since their inception and learning from their participation in the NRA exercise, have conducted only one inspection mission with a sampling of NPOs at Arrondissement 5 in Niamey, in December 2019. Similarly, out of two thousand eight hundred and ninety-five (2,895) NGOs and DAs registered on 31st December 2019, DONGAD only inspected seven (7) in 2018 and fifteen (15) in 2019. According to the supervisory bodies met, this low number is mainly due to the inadequacy of resources and capacities to supervise and monitor NPOs in general and those identified as vulnerable to misuse for TF purposes, in particular. This inadequacy of resources also affects the irresponsibility to carry out awareness-raising and investigations.
264. . In order to ensure the transparency of activities, NPOs that have signed an agreement with the Government, in securing external financing of their activities, must request and obtain from the DLP and the DAR: a fundraising approval which authorizes the said fundraising operation for a period of six (6) months, renewable once or twice (2) with a report on the use of those funds; and an authorization not to suspend transactions.

The obligation to submit a report on the utilization of funds is generally not complied with by some NPOs.

265. According to State authorities, faith-based NPOs are more exposed to TF because they receive more foreign donations, the origins and destinations of which are difficult to track down. Thus, in order to strengthen the supervision of these NPOs and in addition to the above-mentioned obligations, the Ministry of the Interior, public security, decentralization, customary and religious affairs, indicates that since 2018, it has reviewed the licensing process and developed a bill for the supervision of faith-based activities, in issues regarding the construction of mosques, training of evangelists, as well as the conduct of charitable and social activities. The assessors stress that this perception of the vulnerability of NPOs to TF by the authorities is not based on any specific assessment or study. Consequently, the above measures are not based on the risks identified
266. . The authorities have not developed any awareness-raising strategy for NPOs, the risks of being taken advantage of and used to finance terrorism. NGOs and associations acknowledged that they could not identify the actual source of funds made available to them by donors and potential donors to fund their activities. However, DONGAD informed the FIU of three (3) cases involving suspected TF. The FIU officials affirmed that these cases have been classified after processing.

#### ***4.3.3. Deprivation of TF assets and instrumentalities***

267. Niger has a specialized Legal Division against terrorism and transnational organized crime, assisted by the Central Office against terrorism and transnational organized crime (SCLTCTO) responsible for TF investigations and the Documentation and external surveillance Department (DGDSE), in charge of intelligence. In 2018, two court TF-related verdicts (Order No.04/18 of 26th November 2018) ordered the confiscation of eighty thousand (80,000) Euros and five hundred and nineteen thousand (519,000) CFA francs and other assets (ammunitions and pots).
268. . In addition, administrative measures have been taken to ban the sale of fuel, the cultivation of pepper, fishing activities and motorbike operations in the border regions where the terrorists are raging, have been taken by authorities. However, no study on the effectiveness of these administrative measures has been conducted.
269. Since the Technical Advisory Committee on Administrative Freezing (CTCGA) is yet to be operational, no administrative freezing has been implemented under the United Nations Security Council Resolutions 1267 (1999) and 1373 (2001) and successive Resolutions.
270. . These findings contrast strongly with the high risk of terrorism and terrorist financing to which the country is exposed and may lead to the conclusion that the terrorist financing disruption mechanism is not as effective as it should be. This ineffectiveness of the mechanism is partly due to the lack of adequate resources and the weak capacity of the LEAs to conduct investigations related to the terrorism financing.

#### ***4.3.4. Consistency of measures with overall TF risk profile***

271. According to the conclusions of the NRA, it is established that the risk of terrorist financing in Niger is high. The instability of the security environment throughout the Sahelian sub-region and the porosity of Niger's borders and repeated attacks on its territory show that the TF risk is higher than it appears.



272. Niger has some tools that could help in the fight against terrorist financing, including a targeted financial sanctions framework. However, the country could not use the latter to freeze the assets of entities, organizations or persons directly or indirectly involved in the deadly attacks perpetrated on its territory. Competent authorities have not been distributing the sanctions list to reporting entities. The Technical Advisory Commission on Administrative Freezing (CTCGA) is not operational and has been of no assistance for the competent authority to order administrative freezing.
273. Besides, there is no national list of designated persons. NPOs are not adequately sensitized on AML/CFT issues, including their vulnerability to terrorist financing. In addition, the competent authorities in charge of the sector do not have sufficient resources to ensure effective and regular targeted monitoring and supervision. These authorities have not implemented any risk-based approach policy and an awareness-raising mechanism within the NPO sector.
274. Generally, there is a large disparity between the overall level of TF risk and the remedial measures taken by the country.

## Overall conclusions on IO.10

275. **The Niger has not sufficiently utilized the tools at its disposal to identify individual terrorists, terrorist organizations, including their support networks with a view to depriving them of their funds, assets and other resources, or prevent the abuse of the NPO sector for TF purposes. The actions taken by Niger in this regard are not consistent with the overall high terrorist financing risk profile the country is exposed to.**
276. **The level of effectiveness achieved by Niger on Immediate Outcome 10 is Low.**

### 4.4. Immediate Outcome 11 (PF financial sanctions)

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

277. Niger reports that it has no trade relations with IRAN and the Democratic People's Republic of Korea. The country has no sea front and is not a producer of dual-use goods or chemical and biological weapons.
278. Niger has a legal framework that provides for the implementation of targeted financial sanctions pursuant to the UN Security Council Resolutions on non-proliferation of weapons of mass destruction. The framework is the same as the one applicable to TFS linked to TF. The provisions under Article 100 of the AML/CFT Law No. 2016-033 of 31st October 2016 prescribe the freezing of funds linked to proliferation financing without delay. The adoption of Decree No. 2020-114/PRN/M/F of 27th January 2020, will facilitate the effective implementation of targeted financial sanctions linked to proliferation financing.
279. The mechanism as described in Essential Question 10.1 is the same that applies here. The recent implementation of the mechanism with the adoption of Decree No. 2020-114/PRN/M/F of 27 January 2020, the non-operational capacity of the CTCGA, the lack of

effective supervision and monitoring measures of reporting entities taken by their respective supervisory and monitoring authorities, constitute obstacles in assessing the swift implementation of such measures. The deficiencies identified under essential question 10.1 also apply here. The assessment team therefore concluded that the implementation of targeted financial sanctions for proliferation financing as recommended by Resolutions 1718 and 1737 is not being done without delay as defined by the United Nations Security Council.

280. . Almost all the local banks belong to large banking groups. They have screening software used to check whether the customer or the country of destination is not in any of the various lists. Banks directly use international lists, particularly the sanctions list of the United Nations Security Council, OFAC, the European Union, to immediately freeze the funds of designated persons and entities.

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

281. As at the date of the end of the on-site visit, the implementation of screening obligations linked to PF by banks with screening tools revealed no positive case. Those that do not have them have no system for detection. Beyond the banks that have their own screening tools, the gaps in the communication mechanism between the government services and the reporting entities do not allow the detection of sanctioned persons, if any.
282. Besides, Niger has not taken regulatory measures to ban any product coming from North Korea; the same obtains for exports. As for Iran, no measure has so far been taken on the importation of products from this country.

#### ***4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations***

283. In the financial sector, banks have a good understanding of their obligations in terms of targeted financial sanctions related to PF. Similarly, financial institutions that are subsidiaries of international groups, have mechanisms and tools to enable them to comply with this obligation; the others are at various levels of understanding.
284. The vast majority of DNFBPs have limited knowledge of TFS linked to proliferation financing and DNFBPs are not implementing TFS. This is obviously due to a deficiency linked to poor utilization of the mechanism designed for the effective implementation of the TFS related to proliferation financing. Most of the DNFBPs do not receive the UN sanctions list from their supervisors or other competent authorities.
285. All the AML/CFT stakeholders argued that proliferation financing is a relatively new domain, which requires training for them.

#### ***4.4.4. Competent authorities ensuring and monitoring compliance***

286. Certain financial institutions such as banks and certain large decentralized financial systems (DFS) have established screening mechanisms and tools which integrate preventive measures and sanctions lists on both proliferation financing and terrorist financing. Thus, some supervisory bodies do verify the existence of such mechanisms integrated in the framework. Foreign exchange bureaus, insurance companies, small and medium-scale DFIs, which are numerous, have not focused on the measures in place to identify the persons and entities subject to TFS linked to proliferation financing. Supervisory bodies do not very effectively comply with this obligation. For DNFBPs, there is no monitoring

and supervision of compliance with TFS. Assessors found that none of these supervisory bodies applied sanctions to FIs and DNFBPs for lack of control mechanisms for TFS in connection with PF.

287. . Generally, outside the BCEAO, the supervisory authorities have not demonstrated that they have a global understanding of the obligations related to TFS and the failure to implement targeted financial sanctions linked to the financing of the proliferation of WMD is attributable to the lack of expertise among both the competent authorities and reporting entities.

## Overall conclusion on IO.11

288. Niger has a legal basis for the implementation of TFS related to PF. However, the limited understanding and lack of expertise within certain supervisory bodies and reporting entities on this issue, needs to be improved.

289. **The level of effectiveness achieved by Niger on Immediate Outcome 11 is Low.**

## Chapter 5. PREVENTIVE MEASURES

### 5.1. Key Findings and Recommended Actions

#### Key Findings

- a) Financial institutions, particularly banks and insurance companies, whose sector is of significance importance and presents a high ML/TF risk, small insurance companies that present a medium ML/TF risk, particularly those that are subsidiaries of foreign groups, and some DFIs, whose sector is of moderate importance and present a medium-low ML/TF risk, seem to have a more developed understanding of their ML/TF risks and their AML/TF obligations than the local ones.
- b) The understanding of ML/TF risks and AML/CFT obligations is low for the other FIs and DNFBPs, including money transfer companies and licensed foreign exchange dealers considered to be of moderate importance and respectively presenting medium-high and medium ML/TF risks. The same applies to all DNFBPs, especially legal and accounting professionals, trust and company service providers, dealers in precious stones and metals, works of art and antiques, the real estate sector and gambling and hotel sector, for which the NRA found that there was a high ML/TF risk
- c) The FIs and DNFBPs have not demonstrated that they have mapped out ML/TF risks resulting from a formalized ML/TF risk assessment framework, in order to implement the appropriate risk mitigating measures. Moreover, the banking commission finds that “the ML/TF risk management system is overall unsatisfactory” as concerns the three banks inspected in 2018.
- d) Financial institutions, especially banks and insurance companies that are subsidiaries of foreign groups and some DFIs implement customer due diligence measures (including the implementation of enhanced and simplified CDD) and comply with record keeping requirements, unlike other FIs and DNFBPs. However, the establishment or continuation of a business relationship is not always refused where such obligations are inadequately implemented. At all levels, beneficial ownership identification is a major challenge to all FIs.
- e) Overall, banking institutions are implementing screening measures for specific high-risk situations that require enhanced measures, particularly regarding Politically Exposed Persons (PEPs) and high-risk countries. Banks have incorporated PEPs, high-risk countries and targeted financial sanctions lists into their database and are monitoring them more closely, although improvements are needed. DNFBPs do not implement specific measures regarding PEPs.

- f) Banks, DFS and Insurance Companies file STRs. However, the level of reporting by banks is very low in relation to their high ML/TF risk. Money transfer companies, despite their medium-high risk level, do not report, nor do DNFBPs, whose risk is high. Measures are being taken, particularly by banks, to prevent the disclosure that a suspicious transaction report has been made ("tipping-off").
- g) Financial institutions, particularly banks, insurance companies and some DFIs have appointed compliance officers and put in place internal control systems and procedures. However, for all FIs, particularly Insurance Companies and other non-bank FIs, these systems and procedures are not updated to take into account all the provisions of the legal framework in force.
- h) The training, information and awareness-raising activities organized by the regulatory authorities, the FIU and financial institutions (banks, DFIs, oreign insurance groups) have helped to improve their understanding and enhanced their level of compliance with AML/CFT requirements.

## Recommended Actions

- a) Financial institutions, especially high-risk ones, i.e., banks, foreign exchange dealers and money transfer companies, as well as DNFBPs, especially the real estate sector, gambling service providers, dealers in precious stones and metals, and legal and accounting professionals with a high sectoral risk of ML/TF, should systematically assess their ML/TF risks, and accordingly develop risk mappings and measures to effectively mitigate them.
- b) Niger's authorities should do more to raise the awareness of FIs and DNFBPs as well as the competent authorities of the findings of the NRA by disseminating the document, giving priority to sectors with a high ML/TF risk to ensure proper ownership.
- c) FIs and DNFBPs should consider the risks identified in the NRA in the assessment and handling of their risks.
- d) Internal control services should carry out controls to ensure that there are internal AML/CFT policies and procedures and that FIs and DNFBPs fulfill their AML/CFT obligations. Priority should be given to sectors at high risk of ML/TF.
- e) Financial institutions and DNFBPs should develop clear procedures to allow them to effectively identify beneficial owners.
- f) FIs and DNFBPs should implement enhanced CDD measures in respect of PEPs and customers from high-risk sectors as mentioned in the NRA.
- g) Officers of FIs and DNFBPs (Senior Management) ought to raise the awareness of their employees on the importance to be attached to the suspicious transaction reporting obligation to improve their reporting.

- h) Managers of reporting entities should come up with specific training in AML/CFT, particularly for high ML/TF risk sectors, namely banks, independent FOREX operators and money transfer companies, as well as the DNFBPs, the real estate sector, providers of gambling, Gaming and Casinos, including legal and financial professionals. In addition, they should increase awareness of these high risk sectors.
- i) Managers of reporting entities should step up their actions to improve on the suspicious transaction detection mechanism, especially for high risk scenarios, ensuring that all FIs and DNFBPs are aware of their obligations to report suspicious activities.
- j) Managers should ensure that all non-bank FIs deliver specific AML/CFT training for the benefit of their sub-sectors.

290. The Immediate Outcome relevant to this chapter is IO.4. The relevant Recommendations for the evaluation of the effectiveness in this section are R.9 to 23 and some elements of R1, 6, 15 and 29.

## 5.2. Immediate Outcome 4 (Preventive Measures)

291. The Assessors' findings on Immediate Outcome 4 are based on interviews with a range of private sector representatives, as well as the experience of supervisors and other relevant authorities as well as the relative importance and risks of each sector. Other sources were also taken into account, including internal procedures and documents, data and information from monitoring activities, data on the implementation of AML/CFT obligations, including STRs, as well as discussions with the FIU. The assessment team grouped the accountable sectors into categories based on their importance to determine the overall degree of compliance (see section on Financial Institutions, DNFBPs and VASPs) Banks were given a high weighting due to their importance and high ML/TF risk, as well as money transfer companies, which, although of moderate importance, have a medium-high ML/TF risk. Similarly, the the foreign exchange sector was given a medium weighting in relation to the country context and the average ML/TF risk level of this sector. The DNFBP sector, which presents a high ML/TF risk, was given a high weighting.

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

292. Financial institutions, particularly banks, the sector of which is of significant importance and presents a high ML/TF risk level, insurance companies and subsidiaries of foreign groups, which operate in a sector of low importance with a medium ML/TF risk, and some DFIs, the sector of which is of low importance and has a medium level of ML/TF risk, and some DFIs, the sector of which is of low importance and has a medium-low level of ML/TF risk seem to have a more developed understanding of their ML/TF risk and AML/CFT obligations.

#### Financial Institutions

##### Banks

293. According to the last annual report of the UMOA Banking Commission, 14 banks were operating in Niger in 2019, including 4 local banks and 10 banks which are subsidiaries of regional groups. Niger's NRA identified a high level of risk for its banking

sector, which has a good knowledge of the risks it faces. The banks met demonstrated an adequate understanding of their obligations as provided for by the Uniform Anti-money Laundering and Counter Financing of Terrorist (AML/CFT) Law No. 2016-33 and its enforcement directives. They also showed a proper understanding of the risks related to their customers, the services provided and distribution channels as well as the geographical zones. However, the risk mappings provided to the assessment team do not present any of the above-mentioned factors based on their risk profile.

### **Insurance companies and brokers**

294. Eight insurance companies are currently operating in Niger, including 6 in the IARD branch and 2 in the life branch. The meeting of the assessment team with the insurance companies revealed that those belonging to international groups seem to have a better understanding of their ML/TF risks, consistent with the NRA findings which indicated a medium risk for this sector. However, these companies have not demonstrated their understanding of risks through documentation of the risk assessment of their institutions both at sectoral and national level.
295. Other insurance companies' understanding of their obligations as provided for by the Uniform AML/CFT Law N° 2016-33, as well as its enforcement directives seems limited. These institutions are more focused on enforcing Regulation No. 004/CIMA/PCMA/PCE/SG/08 of 4<sup>th</sup> October 2008 outlining the AML/CFT procedures applicable by insurance organizations in Member States of the Inter-African Insurance Market Conference (CIMA). However, it should be noted that the above regulation needs to be updated in relation to the AML/CFT Uniform Law. The NRA report confirms the assessment team's view by underscoring that a good number of insurance company staff are not aware of the AML/CFT regulatory framework.
296. Insurance brokers, fifty in number, were not considered during the risk assessment of the insurance sector the NRA exercise whereas one STR filed by an insurance company implicated a Broker who had failed to meet these professional obligations prohibiting him from gathering more than one million CFA francs in cash. The meeting of the assessment team with two brokers revealed that overall, they do not understand their ML/TF risks and their AML/TF obligations. One of the brokers, a subsidiary of a foreign group, revealed that he had some knowledge of the AML/CFT regime, since he stated that in 2019, like the rest of the staff, he participated in online training made compulsory by the parent company. However, the representative of this company said that in case of suspicion, the relationship with the customer must be terminated.

### **DFS**

297. Large DFIs (Article 44), numbering 4 as at the end of 2019, as well as and some medium-size DFIs have a better understanding of their risks and their AML/CFT obligations. However, not all DFSs have a mapping of their ML/TF risks. The understanding of the ML/TF risk level by the DFS is consistent with the findings of the national risk assessment which indicated a medium-low low risk level for this sector. However, the NRA report underscored that the DFS staff are poorly trained on AML obligations and responsibilities and added that the only training exclusively dedicated to these issues was the one organized by the FIU and attended by compliance officers. However, since the adoption of the NRA and its dissemination, DFIs have been providing AML/CFT training to their staff (See training report).

### **Other Financial Institutions**

298. The other financial institutions, namely, authorized foreign exchange dealers, stock companies (SGI), and value transport companies, have little or no knowledge of their ML/TF risks as well as their obligations. They have not assessed their ML/TF risks and do not implement the AML/CFT regime within their institutions.

#### **Authorized foreign exchange dealers**

299. More specifically, for authorized foreign exchange dealers, totaling 78 as at the end of 2019, the NRA findings indicated that they do not understand their AML/CFT obligations, and that the risk level for that sector is medium, an assessment shared by the assessors considering the sector's weakness compared with the size of financial institutions. However, the authorized foreign exchange dealers met indicated during the on-site visit that the ML/TF risk in their sector is high due to the magnitude of the illegal exercise of this activity by unauthorized dealers. It also emerged from the discussions that the implementation of the AML/CFT regime by authorized foreign exchange dealers is limited to that of the provisions of the Regulations on external financial relations applicable to them. This reflects patchy understanding of AML/CFT obligations.

#### **Capital market**

300. The Niger capital market sector, made up of a single securities company, has not assessed and is not aware of its ML/TF risks as well as its AML/TF obligations. However, the NRA exercise indicated that the risk level in this sector is low and staff have a basic knowledge of AML/CFT.

#### **Money Transfer Companies**

301. Money transfer companies in Niger have not assessed their institutional ML/TF risks, whereas their sectoral risk is in the medium-high range according to the NRA, due particularly to the fact that the national companies engaged in these transactions have little knowledge of such risks as well as their AML/CFT obligations. The NRA noted these actors, in particular, are ignorant of AML/CFT legislations. The team suggests that these companies increase the training of sub-agents responsible for the distribution of transfer services.

#### **DNFBPs**

302. Overall, the designated non-financial businesses and professions in Niger which the NRA has identified as a high ML/TF risk, have little knowledge of their risks and of their AML/CFT obligations. Real estate sector, gambling service providers, dealers in precious stones and metals, legal and accounting professionals have high ML/TF sectoral risks. These reporting entities have not assessed their ML/TF risks and do not implement any AML/CFT regime through risk-based AML/CFT programs, policies and procedures. The NRA report notes, among other things, the low level of awareness of AML/CFT obligations and the lack of knowledge of the related law as well as of the risks related to money laundering and terrorist financing. In addition, there is no education on AML/CFT texts within the sector and no training of actors on the AML/CFT issue.

#### **Real estate agents**

303. Real estate players include 17 real estate developers, 30 real estate agents as well as rental agents and real estate brokers (canvassers). The NRA stresses that these actors are registered, notably as traders, but canvassers are not and do not depend on anyone. As for real estate promoters, it was only from 2018 that the law required first obtaining this



approval from the ministerial department in charge of construction and housing in order to be able to operate. However, the requirements to be fulfilled to get this approval have not yet in place. The authorities we met said that a draft order was being prepared. The NRA also indicates that this sector presents a high ML/TF risk and sector actors are not aware of their AML/CFT obligations. Although unaware of their AML/CFT obligations, they still showed during the site visit that they have some knowledge of high risks they present, pointing to the predominance of cash transactions in their sector, the illegal exercise of surveyor activities, and lack of regulation for certain sub-categories such as real estate promoters, and the lack of monitoring by the authorities.

### **Gaming sector**

304. . The gaming sector includes 2 casinos and 54 gaming rooms (slot machines) by the end of 2019. The gambling sector in Niger also includes some unlicensed players (Chinese mobile machines). The assessment team met with the two casinos in Niger whose representatives, the manager for one and a cashier for the other, said they knew nothing about the AML/CFT. The representatives of LONANI showed some knowledge of their AML/CFT risks and obligations. As vulnerabilities, they pointed to a practice of winners who sometimes use speculators to cash in, thereby obscuring the identity of the beneficial owner. Regarding awareness of their obligations, the gaming halls were made aware in 2018 by LONANI of AML/CFT. The NRA has assessed this sector as high risk but sector players do not have a good understanding of the risks they present nor of their obligations.

### **Dealers in gems and precious metals**

305. Niger is a mining country whose operations have been dominated by uranium since 1970 and gold since 2004. In the case of uranium, there are four (4) mining companies, one of which has been shut down since 2014 and a second whose construction started in 2009 but was stopped in 2014. As for gold, Niger has only one small, industrially operated gold mine. In addition to industrial gold, Niger also produces artisanal gold. As for precious stones, these are mainly varieties of quartz and garnets. The precious stones and metals sector, characterised in particular by artisanal gold mining in Liptako, South Maradi, Djado, Tafassass and Air, presents a high level of ML/TF risk according to the NRA, due to artisanal mining, particularly gold mining, which is the area most conducive to ML/TF due to the existence of informal mining. About 100 formal companies, whose creation is provided for by the new 2017 law, are operational. However, regarding traditional gold mining, the number of licensed individuals and structures and the number of unlicensed structures are not under control. The team confirms the conclusions of the NRA and notes certain vulnerabilities in this sector, in particular the lack of knowledge of AML/CFT risks and the texts governing AML/CFT on the part of the actors. It emerged from the meeting with representatives of marketing counters and artisanal and semi-mechanised producers that they are not aware of their AML/CFT risks and obligations.
306. Legal and accounting professionals and trust service providers were assessed overall in the NRA as having a high risk. However, these actors are not fully aware of risks they present nor or their obligations.

### **Lawyers**

307. There are 130 lawyers registered at the Bar, 24 articling students and 6 professional civil law partnerships in Niger. The legal profession, identified as high risk for ML/TF, is mostly judicial and lawyers exceptionally provide services to companies, rarely manage funds or other assets for others and do not do a lot of work internationally. In Niger, lawyers can provide services to companies and trusts. The NRA stresses that lawyers are informed

and aware of the AML/CFT. Lawyers in Niger have a limited understanding of the risks they present, same for their obligations. These findings were noted in meetings with representatives of these reporting entities.

### **Notaries**

308. The notary profession has 45 professionals. In Niger, the notary is involved in the creation of companies and the sale of real estate. They can also provide services to companies and trusts. The NRA identified as vulnerabilities, among others, the receipt of a lot of funds for customers and the recording of several movements of funds. It also emphasises the need to implement for them to fulfil their AML/CFT obligations. The self-regulatory authority has carried out awareness activities for their benefit. Through letters dated July 2017 and January 2018 respectively, the said regulatory authority reminded its members of their due diligence obligations and their AML/CFT reporting obligations in response to the citing of professional secrecy. In addition, AML/CFT has since 2017 been included in the training curricula of notaries, as part of the course on criminal business law. During the exchanges with this sector, the actors stated that they are not exposed to AML/CFT risks, whereas the NRA highlights for all DNFBPs, a high risk of AML/CFT. They also stated that they identify their customers and limit the payment of real estate transactions to 5 million in cash. Also, they mentioned the difficulty they face in identifying the beneficial owners of transactions, which the team considers a potential risk. They also pointed out that their activity related to business incorporation is limited to joint stock companies, which are required by law. Other forms of companies can be registered directly through the Centre de formalité des Entreprises. Niger's notaries have not shown a satisfactory understanding of the AML/CFT risks they present nor of their obligations.

### **Bailiffs**

309. One hundred and ten (110) judicial officers are active in Niger and perform the function of auctioneer. This profession is accused of illegally drawing up bills of sale. The NRA has not identified any preventive measures implemented by these actors, whose ML/TF risk is high. Niger's bailiffs do not have a proper understanding of the AML/CFT risks they present nor of their obligations.

### **Accountants and chartered accountants**

310. In 2018, 18 chartered accountants, 5 accounting firms, 25 chartered accountants and 9 trainee accountants were registered with the Order. Chartered accountants can carry out the activities of company service providers and trusts. The NRA did not identify any preventive measures put in place by these actors with a high ML/TF risk. The assessment team met with members of Niger's Ordre National des Experts Comptables et Comptables Agréés (ONECCA), who indicated that the AML/CFT system is not formally implemented in the profession, but that they carry out their activities in compliance with the profession's code of ethics, and deplored the illegal practice of public accounting by professionals not registered with the Order. They also indicated that their customers include PEPs. Accountants and bookkeepers in Niger have a limited understanding of the AML/CFT risks they present and their obligations.

### **Legal agents**

311. 313. The legal agent is a professional a natural person registered on a national list to act in collective proceedings, in his own name and under his own responsibility, as an expert in preventive settlement or as a trustee in receivership or liquidation of property. The NRA's work emphasises that in the area of AML/CFT, the sector regularly participates

in the training sessions organised by the FIU and the players have a moderate understanding of the risk they present. The NRA also states that none of the firms has put in place an internal AML/CFT system that complies with the regulations in force. Legal agents neither sufficiently understand the AML/CFT risks they present nor their obligations.

#### **Tax advisors**

312. For tax advisors, the NRA has observed a lack of implementation of AML/CFT obligations as well as the illegal practice of this profession by unlicensed persons. They neither understand the AML/CFT risks they present nor their obligations.

#### **Other reporting entities**

##### **Hotel sector**

313. The hotel sector, which is also assessed as high risk in the NRA, is neither fully aware of the AML/CFT risks it presents nor of its obligations. According to the NRA, the customer monitoring system consists in registering customers using police information sheets, which are in principle available in each establishment. However, this system is unreliable because it is purely manual and therefore unable to provide complete and rapid information. The actors we met showed a certain knowledge of the risks they present and their obligations in the context of national security. Regarding the due diligence and reporting obligations they implement. They stated that the sector is exposed to a high ML/TF risk due to the illegal exercise of the activity by unauthorised competitors.

##### **Antiques and works of art**

314. The works of art and antiques sector in Niger was also assessed as being at high risk for AML/CFT, but the players, consisting of ten (10) galleries and individuals who sell informally, do neither have a proper knowledge of the risks they present nor of their obligations. The NRA notes the low level of knowledge of AML, the absence of staff training on AML/CFT, compliance programmes and internal/external audits on AML, information system on the monitoring of customer transactions, data and records.

##### **Money transfer companies**

315. Transport companies were also assessed as part of the NRA, which indicated that cash transfer operations are allegedly carried out illegally by physical passenger transport companies, without respecting the regulatory framework for entry into the profession. The cash-in-transit activity carried out by these companies was identified as a medium-high risk. Two of these transport companies obtained their authorisation since 2017 to carry out this secondary activity, but the NRA stresses that this activity is still carried out illegally by some transport companies. The actors we met denied that transport companies carry out CIT activities. They indicated that the companies that were engaged in this activity have received approval to carry out money transfers and that no other company carries out this activity illegally. Of the fifteen or so companies identified in the NRA as carrying out this activity, only two have applied for and received their licence to carry out money transfer activities, following questioning by the competent authorities. In addition, to regulate the sector, Law No. 2019-16 of 24 May 2019, on the creation, organisation and operation of the transport sector regulatory authority (ARST) was adopted and the Minister of Transport issued Decree No. 2019-270/PRN/MT of 24 May 2019, setting the conditions for access to road transport professions and activities and the conditions for their exercise. These texts now regulate the road transport sector by excluding the fund transfer component. However, this action is not sufficient to prevent the illegal exercise of this activity. Cash-in-transit

companies continue to represent a medium-high risk of ML/TF in Niger given the country's context.

316. Niger also assessed the AML/CFT risks of the only cash-in-transit company (cash-in-transit company) as low. This actor is not aware of the said risks or of its AML/CFT obligations. The NRA's work revealed, in particular, its total lack of knowledge of AML/CFT legislation.

### *5.2.2. Application of risk mitigating measures*

317. Generally, financial institutions and DNFBPs in Niger have not demonstrated that they have carried out any risk classification based on their products, services, distribution channels and geographical areas in order to put in place appropriate mitigating measures. Regarding banks, this finding is corroborated by the reports of the Banking Commission missions, conducted with three (3) banks in 2018, which indicate that most banks have not done any risk mapping. In addition, no FIs or DNFBPs were able to provide the assessors with documentation of their AML/CFT risk assessment and proportionate mitigating measures.
318. . However, the assessment team noted that banks and insurance companies as well as DFIs, which have some knowledge of their ML/TF risks, have put in place measures and tools for identifying customers and monitoring transactions adapted to the level of customer risk as well as record keeping measures, with a view to mitigating the said risks.
319. This process enabled certain FIs, particularly banks and DFIs, to identify certain types of customers, products and high-risk geographical areas, and to implement proportionate measures aimed at mitigating such risks. Thus, for instance, the banks interviewed stated that individual customers are subjected to special monitoring when they carry out money transfer transactions. Similarly, SMEs and SMIs as well as sole proprietorships have been identified by banks as presenting a high ML/TF risk because of the quantum of cash transactions they carry out and are subjected to enhanced due diligence. Money transfer transactions, electronic banking and international trade transactions are also subjected to specific monitoring by banks.
320. . Similarly, increased attention is paid to transactions carried out in risky areas where bank branches are located, namely, Agadez and Tillabéri. Bank staff are regularly trained and sensitized on AML/CFT, while training and awareness-raising programs also consider the level of the risks identified. For instance, the staff in charge of rapid money transfer transactions receives regular training on AML/CFT. Banks are also equipped with various profiling tools which they use to monitor accounts and detect all suspicious transactions, and have a compliance function.
321. . The other financial institutions (Insurance companies, DFIs and other non-bank FIs) have not demonstrated that they have classified their customers, products, distribution channels and geographical areas according to the risks with a view to introducing mitigating measures.
322. Authorized foreign exchange dealers have not assessed their ML/TF risks and do not implement the appropriate mitigating measures for such risks. It emerged from the discussions with these institutions that their implementation of the AML/CFT regime is limited to that of the provisions of the Regulations on external financial relations only applicable to them. These regulations particularly provide for the prior identification of the customer, the presentation of a ticket by the customer as well as the currency limitation to be allocated to him/her, equivalent of two million CFA francs for residents and 500,000

CFA francs for non-residents. They are also required to report quarterly on their activities to the BCEAO and Minister of Finance. However, according to BCEAO, none of the authorised foreign exchange dealers files any report.

323. . Money transfer companies operate in compliance with the provisions applicable to their activities but have not assessed the institutional ML/TF risks presented by their activities and are not implementing proportionate mitigating measures.
324. The securities companies have not assessed their institutional ML/TF risks and do not implement appropriate mitigating measures for such risks.
325. Most of the DNFBPs in Niger have not assessed the risks they are exposed to and so not implement proportionate mitigating measures. Most of them do not implement programs, policies and procedures to mitigate their ML/TF risks.
326. . Regarding the real estate sector in particular, the lack of regulation and awareness of their AML/CFT risks and obligations do not allow these actors to implement proportionate risk mitigating measures.
327. In the case of the gaming sector, they do not implement proportionate risk mitigating measures. However, it is noted that they keep a record of customers and their transactions and monitor their transactions in order to respond to police requests, if any.
328. For the precious stones and metals sector, no risk mitigating measures have been identified for this sector where entities have not assessed the risks they present due to lack of awareness of their obligations.
329. Although they do not apply specific AML/CFT mitigating measures, legal and accounting professionals carry out their activities in accordance with the rules of ethics and professional conduct governing their respective professions.
330. . The hotel sector, which is rated high risk for ML/TF, does not implement proportionate mitigating measures. They said that they identify their customers by asking them to produce an official document and keep a register of their transactions. They do not ask for documents in support of the reasons for their stay. They also added that where funds are deposited, they return the funds to the customer exactly as they were delivered and that they report suspects to the police.
331. According to the NRA, the Transport sector is one of the sectors vulnerable to ML/TF because of the informal remittance activities that it carries out. However, the representatives of this sector met by the assessment team denied these findings, stating that the companies carrying out this activity had obtained their licenses to regularize their business and that currently no transport company carries out these transactions. The sector does not implement effective mitigating measures.
332. . Overall, the implementation of NRA Recommendations by all stakeholders should enable financial institutions and DNFBPs to further strengthen their AML/CFT regimes by mitigating the risks associated with their sectors.

### ***5.2.3. Application of CDD and record-keeping requirements***

333. Financial institutions, especially banks, insurance companies and some large DFIs implement customer due diligence and record keeping measures. In spite of their efforts to identify beneficial owners, access to available relevant information is a real concern for all sectors.

334. It emerged from discussions with the banks that they have CDD policies and procedures and systems for monitoring and screening transactions with a view to raising a red flag, where necessary. Most banks have installed transaction profiling, screening and tracking software, which enables them track customer transactions and establish a link between those involved in the transactions and those on the integrated sanctions lists in their information systems.
335. However, it should be noted that after the inspection of certain banking institutions by the Banking Commission, the authority noted some key deficiencies, including a generally unsatisfactory ML/TF risk management system, AML/CFT procedures that are not being systematically applied by certain institutions, particularly regarding establishing relationships, and incomplete know your customer (KYC) profiles in some of the institutions visited due to lack of specific information and references on customer level of income, particularly for non-salary earners and small and medium-scale enterprises still operating in the informal sector.
336. Based on audit findings, the team noted that this deficiency could constitute a bottleneck to the economic justification of the transactions and that for long-standing relationships, the "Know Your Customer " (KYC) forms are not regularly updated. The findings referred to above noted that the CDD obligation for all business relationships is not always applied. It also deplored the lack of a list of accounts under surveillance, grouping together customers who have been targeted in STRs, PEPs and those presenting high ML/TF risks.
337. In the light of these observations made by the supervisory authority, the Assessors are of the opinion that establishing a business relationship or carrying out a transaction is not always turned down when customer due diligence measures cannot be fully implemented. This conclusion also emerged from discussions with the FIU, which stated that banks sometimes open bank accounts for customers while waiting for them to regularise their account opening files with the required supporting documents. However, the FIU also told the Assessors that it had received two STRs following the refusal to establish a business relationship or to carry out a transaction where the customer due diligence measures could not be fully implemented.
338. During the on-site visit, the representatives of the insurance companies indicated that the implementation of the CIMA AML/CFT Regulations, which constitutes their AML/CFT procedure, enables them to implement due diligence measures to customers as well as their transactions and keeping the related records. However, it should be emphasised that these CIMA Regulations do not incorporate the revised FATF Recommendations, the pillar of which is risk assessment and the implementation of a risk-based approach. In the insurance sector, it should also be noted that brokers, who are business introducers to insurance companies, are bound by customer due diligence obligations just like insurance companies. However, brokers erroneously think customer due diligence measures should only be implemented by insurance companies, which also stated that they do not particularly monitor customers brought by brokers. This therefore constitutes a vulnerability in the sector, especially as the brokers were not analyzed during the NRA and that, generally, they have no idea of the AML/CFT regime. The team considers that the implementation of customer due diligence measures by the insurance sector is not effective in view of the above findings, coupled with the deficiency of their reporting.

339. For the financial market, there is no profiling information system to facilitate the monitoring of customer transactions against their profile, to perform effective checks on PEPs or to identify and record large, complex and unusual transactions.
340. Regarding foreign exchange dealers, they identify their customers in advance, on presentation of an official identity document, and ensure that the customer presents a transport document. However, as required by the AML/CFT Law, they do not have a computerised system that allows them to identify suspicious transactions and to record the transactions carried out by the same customer, whether occasional or regular. The actors met did not provide for any measures to be applied for the detection and handling of PEPs.
341. DNFBBs, particularly the legal and accounting professions, limit themselves to the implementation of basic common law measures in customer identification and record keeping. They do not implement CDD measures, particularly customer and beneficial ownership identification as well as due diligence measures as provided for by the AML/CFT regime in force. The NRA also highlights the absence of, inter alia, customer information, an information system for monitoring customer transactions and profiling customers, a database, effective controls on politically exposed persons and difficulties in identifying suspicious transactions. Most of the DNFBBs met have not conducted any risk assessment and have not put in place due diligence measures on customer identification, with a view to knowing the beneficial owner, natural or legal person as required by the AML/CFT law, as well as those on the customer's transactions in order to ensure the adequacy of those transactions with his/her activities. The preventive measures in force in the various sub-sectors as well as some of their characteristics are indicated below
342. In Niger, lawyers carry out their activities in accordance with the rules of ethics and professional conduct governing their profession. These rules do not provide for the implementation of the required AML/CFT CDD measures. The measures they apply are limited to basic customer identification only and are not extended to beneficial ownership identification.
343. The NRA underscores that lawyers face the challenge of identifying customers, especially when dealing with nominees and foreign customers and have a serious difficulty in detecting the origin of funds from their mainly foreign customers.
344. Notaries: The notary profession comprises 45 professionals. Regarding notaries, given the nature of their main activities, these professionals admitted during the NRA process that there are basic issues that they absolutely must address, customer identification, including knowledge of the customer, his environment and his assets, a system for monitoring operations that is integrated into the internal organisation, data retention, the recording of unusual transactions and reporting to the supervisory body. The key vulnerabilities identified by the NRA are receiving huge amounts of funds on behalf of customers and record keeping lots of funds movements. It also emphasizes the need to implement their AML/CFT obligations. However, some sensitization activities are being organized by the self-regulatory authority for Notaries. Indeed, through correspondences dating as far back as July 2017 and January 2018 respectively, the said regulatory authority has been reminding its members of their due diligence obligations and their reporting obligation even though they keep referring to professional secrecy. During discussions with these professionals sector, the actors stated that they were not exposed to any ML/TF risks whilst the NRA considers all DNFBBs as exposed to high ML/TF risk. They also stated that they identify their customers and limit the cash payment in real estate transactions to 5 million and mentioned their difficulty in identifying the beneficial owners of transactions.

However, they have not sufficiently demonstrated the implementation of the required CDD measures, in the treatment of PEPs. Notaries keep records for at least 100 years.

345. As to bailiffs, The NRA has not identified any preventive measures put in place by these actors. They do not implement CDD and the evidence preservation measures required in the exercise of their profession.
346. Regarding Chartered and Certified Accountants, the NRA did not identify any preventive measures put in place by these actors. The assessment team met with members of the National Association of Chartered and Certified Accountants (ONECCA) of Niger that indicated that the AML/CFT regime was not formally implemented in the profession but that they carry out their activities in compliance with the code of ethics and professional conduct. They also indicated that their customers include PEPs. The evaluators did not note any specific treatment of PEPs. These reporting entities do not implement any CDD measures provided for by the AML/CFT requirements in the course of their business. The measures they apply are limited only to basic customer identification and are not extended to beneficial owner identification. However, they keep their records for at least ten years.
347. For legal agents, The NRA exercise underscored that no firm has put in place an internal AML/CFT system that complies with the regulation in force. They do not implement CDD and the evidence preservation measures required in the exercise of their profession.
348. Tax Advisers: The NRA states that these reporting entities have never implemented their AML/CFT obligations. They do not implement CDD and the evidence preservation measures required in the exercise of their profession.
349. Real estate sector does not implement CDD and evidence preservation measures as indicated in the NRA report.
350. Regarding dealers in gems and precious metals, the NRA underscores as vulnerabilities of this sector, the lack of an information system for monitoring customer transactions and records. It points out that only license holders are known to the regulator, and little information is available on their activities. It emerged from the meeting with representatives of marketing outlets and alluvial and semi-mechanized producers that they knew nothing about AML/CFT, that pre-finance production and always check the gold mining card before buying from alluvial miners. They do not implement CDD and the evidence preservation measures required in the exercise of their profession.
351. For dealers in Works of Art and Antiques, the NRA notes the lack of an information system for monitoring customer transactions, data and records. They do not implement CDD and the evidence preservation measures required in the exercise of their profession.
352. The representatives of two casinos in Niger stated that they do not ask customers for ID cards because they are regular, and they know them well. They added that the winnings are paid in cash, that they keep a register of customers and their transactions and monitor their transactions in order to avoid having problems with the police in case the origin of the funds prove to be doubtful. They reported having PEPs among their customers but did not indicate any the existence of any specific measures applicable to them
353. The meeting with the National Lottery of Niger (LONANI) revealed the difficulty in identifying customer, and some are even reluctant. Representatives of this national company stated among other things that the stakes are low and that they identify the



customer from a winning of one (1) million CFA francs. Gaming and casino operators in Niger do not implement the CDD measures required in the course of their business.

354. According to the NRA, in the hotel sector, the system for monitoring customers is based on their registration through police information sheets, which are in principle available in each establishment. However, this system is unreliable because it is purely manual and therefore unable to provide comprehensive information without delay. It was noted during the discussions that these actors identify their customers by asking them to produce an official document and keep a register of their operations. This sector does not implement the CDD and record keeping measures required in the exercise of its profession.

#### ***5.2.4. Application of EDD measures***

355. The banks apply enhanced or specific measures, particularly regarding (a) Politically exposed persons; (b) correspondent banking; (c) new technology; (d) rules on wire transfers, (e) targeted financial sanctions on terrorism financing; and (f) higher risk countries identified by the FATF. For the other FIs and DNFBPs, the implementation of enhanced or specific due diligence measures remains weak because they do not have specific procedures applicable to high ML/TF risk customers, products and services. Banks have put in place internal procedures and controls to monitor and perform enhanced due diligence Regarding their high-risk customers, products and services as well as high risk geographical areas in order to mitigate high ML/TF risks. Banks are profiling their customers using a risk-based approach.

#### **Politically Exposed Persons.**

356. . Banks have put in place procedures for identifying PEPs and require the approval of Management before entering any business relationship with them. They have a list of national or regional Peps incorporated into their database, developed internally or at group level, and updated regularly, which staff consults each time they enter a relationship. In addition, banks are implementing specific measures to monitor PEPs' transactions. Some banks also have an international PEP list incorporated into their specific AML/CFT software. However, one bank pointed out a key deficiency, which is the lack of updates of the PEP lists. Besides, following inspections of certain banking institutions by the Banking Commission, the authority noted some of the key deficiencies, including the need for the management of PEP lists in some of the institutions to be improved. The insurance sector does not implement specific measures on PEPs. The NRA stresses that the DFS have no PEP control systems. The FIU reported having received 7 STRs from banks concerning PEPs, there by attesting to the effectiveness in the implementation of enhanced due diligence measures for PEPs. Nevertheless, the implementation of such measures should be improved.

#### **Correspondent Banking.**

357. Almost all the banking institutions in Niger belong to large groups, operate between subsidiaries of the same group and meet their correspondent banking obligations. Apart from correspondent banking relationships among subsidiaries of the same group, banks establish relationships with other correspondent banks by applying the due diligence measures provided for by article 38 of the Uniform AML/CFT Law and article 5 of Directive No. 007- 09-2017 establishing the procedures for the implementation by financial institutions of the Uniform AML/CFT law. Prior to entering a relationship, banks collect and verify information on the identity of the customer institution, the nature of its activities, its AML/CFT arrangements and their implementation, based on a questionnaire. They

assess the reputation of the customer institution and the degree of supervision to which it is subject, based on publicly available information. The questionnaire also provides information on and assesses the controls that the customer institution has in place to combat money laundering and terrorist financing. Finally, the establishment of correspondent banking relationships is subject to approval by Management. Assessors were provided with a copy of a due diligence implementation form when entering into such relationships. Nevertheless, the implementation of such measures could be improved, particularly for the long-standing relationships.

### **Targeted Financial Sanctions**

358. The banks said they receive the sanction lists from the Ministry of Finance and BCEAO, including those on the United Nations Security Council Resolutions and process them. The team was able to consult some copies of the lists sent by BCEAO to credit institutions and DFIs, dated 05 April 2013, 15 and 30 July 2014 and 18 February 2015 respectively. The country has not supported these statements with recent decisions sent by BCEAO and with evidence of the sending of the decisions by MINIFI. The country has not been able to convince the team that the lists are regularly sent in a timely manner following their update by the Sanctions Committee. In addition, the team notes a restriction on the implementation of the TFS by FIs only. Some banks stated that they have software that supports this list. They also refer to other lists, such as those of OFAC, the European Union and national lists of certain countries, which in practice enable them to implement targeted financial sanctions without delay. As proof, one bank sent assessors the extensions of their operating software relating to the monitoring of homonyms from these various lists, based on concrete cases. The country did not report any positive cases, but there were some false positives that led to the application of enhanced vigilance measures. Regarding the extractions made available to the assessors, the software enables the banks to identify the persons/entities subject to a sanction at the time of entering or during the course of the business relationship and to further investigate positive results and distinguish the false positives. The implementation of a national list under Resolution 1373 is not effective in Niger. Apart from banks, some DFIs and credit institutions, other FIs do not implement targeted financial sanctions. Some DFIs also have AML/CFT software that incorporates the TFS lists. The team notes a lack of enforcement of the TFS lists by the DNFBPs. The country indicated that monitoring is in practice carried out at the level of the financial institutions that manage their accounts, as each DNFBP is required to deposit the funds it receives in an account opened in the books of an approved credit institution or decentralised financial system. This approach is not in line with the obligations of the DNFBP as a reporting entity. The implementation of these measures should be markedly improved, as suggested by the findings of the BCEAO, following its 2018 on-site audit, on the lack of a list of persons targeted by the freezing of funds.

### **New Technologies.**

359. The gave the example of electronic money which was assessed before it was launched and, due to the high risks identified, the quantum of transactions has been capped and varies according to the banks. The issuing institution may make available to an unidentified customer, a total monthly amount in electronic money which not exceeding 200,000 CFA francs as provided by the applicable regulations. A bank also cited the case of SMS banking, which was subject to a risk assessment before it was launched and said that an audit report is always prepared on these assessments. Banks sent four STRs as part of the implementation of specific due diligence measures related to new technologies. These STRs concern magnetic cards. It should be noted that there are no virtual assets or

transactions related to virtual assets in Niger. Given the weakness of STRs on new technologies, the implementation of specific measures should be improved.

### **Wire Transfers**

360. . Regarding wire transfers, financial institutions have put in place measures to identify principals and beneficiaries by requesting the originator, his/her full identity, account number and information on the beneficiary of the transaction, including the justification for the transaction. In the event of failure to satisfy these aspects, FIs state that they can suspend the transaction for further information, cancel the transaction and report suspicious transactions, if necessary. The implementation of enhanced due diligence measures by FIs in relation to the execution of wire transfers enabled them to submit 95 STRs to the FIU from 2013 to 2019 relating to international and three to domestic funds transfers. The statistics show that 18 of the 51 STRs reported to the Public Prosecutor concerned wire transfers.

### **Higher risk countries identified by the FATF:**

361. . Almost all banks in Niger belong to major banking groups and have screening software from the group, the algorithms of which flag transactions from or to such countries. In such situations, compliance officers conduct verification and analysis before indicating the appropriate course of action. It should be noted that supervisory authorities do not communicate such risk lists to reporting entities. Niger's banks have not demonstrated that they are aware of and use the FATF list. Niger's FIs have not used the information on public statements made by FATF on high-risk countries to develop risk assessment models.

362. . The other non-bank FIs and DNFBPs, especially those at high risk, have not demonstrated that they are implementing enhanced or specific measures regarding PEPs, correspondent banking, new technologies, wire transfers, targeted financial sanctions on TF and higher risk countries identified by the FATF

### **5.2.5. Reporting obligations and tipping off**

363. Reporting entities prepare STRs on sums recorded in their books or transactions involving sums which they suspect or have good reason to suspect are derived from ML, TF or a predicate offence including tax evasion. The STRs also relate to cases where the identity of the originator or beneficiary of the transaction is doubtful. Certain financial institutions, particularly banks, have adopted policies and procedures as well as AML/CFT software designed to detect suspicious transactions.

364. The designated financial institutions filed 215 STRs to the FIU from 2013 to 2019 and generally received feedback from the FIU.

365. . Banks, insurance companies and some DFIs have put in place procedures for detecting and reporting suspicious transactions. These procedures relate particularly to monitoring cash and PEP transactions, monitoring transactions in connection with the sectors identified as high risk by the NRA, particularly that of gold mining as well as monitoring transaction on high-risk banking products, including current accounts, money transfer and electronic banking. From 2013 to 2019, FIs filed 215 STRs to the FIU, with an annual average of 30 STRs with a minimum of 12 STRs in 2013 and a maximum of 63 STRs in 2019. The statistics of said STRs by year and by reporting entity are presented in Table 5.1.

**Table 5.1 TRs filed by reporting entities to the FIU from 2013 to 2019**

Reporting entities	2013	2014	2015	2016	2017	2018	2019	Total
Banks	12	25	27	21	21	40	62	208
Insurance	0	0	0	0	0	1	0	1
DFS	0	3	0	0	1	0	1	5
Other FIs (State Treasury)	0	01	00	0	0	0	0	1
DONGAD	0	0	0	0	0	0	6	6
<b>Total STRs received</b>	<b>12</b>	<b>28</b>	<b>28</b>	<b>21</b>	<b>22</b>	<b>41</b>	<b>69</b>	<b>221</b>

Source: FIU

366. Considering the increase in the number of STRs over the period under review, we note that the reporting activity of financial institutions has been very weak, with two (2) STRs per year on average, filed by banks over the period and almost nil from other FIs. The NRA report stresses that the lack of software for profiling and screening transactions in certain banks does not make for effective monitoring of complex and unusual transactions. It emerged from discussions with a bank that the weakness of the suspicious transaction report was due to the lack of feedback by staff and the weakness in monitoring customer transactions. Following the inspection of certain banking institutions by the Banking Commission, the authority noted some key deficiencies, including the fact in monitoring transactions, some reporting entities use some applications with AML/CFT modules that need to be improved, as much as the comprehensiveness of reports filed to the FIU. The authority also underscored that regarding the information system, the transactions processing mechanism of an unusual nature has some deficiencies mainly related to the lack of financial data on customers and the lack of profiling of customers and accounts.
367. Regarding Insurance Companies which filed only one STR over the period, the NRA notes as weakness, among others, the limited powers of the compliance officer in spite of the reliable information systems. Similarly, it emerged from the interview with these companies that the suspicious transaction reporting system is based solely on monitoring cash transactions limited to five million CFA francs by these companies. According to the NRA, the DFS, which filed only 5 STRs from 2013 to 2019, lacks robust information systems, PEP control systems, demonstrate poor knowledge of AML/CFT by staff despite the more or less acceptable record keeping system.
368. From 2013 to 2019, apart from the reports filed by banks (208 STRs), DFS (5 STRs), Insurance companies (1 STR) and the state Treasury (1 STR), the other categories of financial institutions have never reported suspicious transactions. The lack of suspicious transaction reports by these financial institutions has been due to the ignorance of their reporting obligation as well as the non-implementation of an AML/CFT regime within their structure. The NRA also confirms that for the financial market there is no information system to identify and report suspicious transactions.
369. . The weakness or lack of STRs from some financial institutions could also be attributable to the weakness or lack of control over the proper implementation of the AML/CFT regime by the internal audit of these structures as well as by the supervisory authorities and non-implementation of administrative sanctions, particularly financial, for violations of applicable AML/CFT provisions.
370. No DNFBP filed any suspicious transaction report during the period spanning 2013 to 2019. The DNFBPs' failure to file suspicious transaction reports could be attributable to

the poor knowledge of their AML/CFT obligations as well as the non-implementation of their internal compliance system.

371. The low level of suspicious transaction reporting can also be explained by refusal, as stated by lawyers in particular. The lawyers met by the evaluators stated that because of professional secrecy, they are not prepared to make suspicious transaction reports. However, this position is not supported by the Niger Bar Association, which advocates the application of AML/CFT regulations while respecting professional secrecy, and, if necessary, reporting suspicious transactions through the filter of the President of the Bar Association. The authorities also added that Decree No. 2015-582/PRN/MJ of 10 November 2015, relating to the CARPA, as well as UEMOA Regulation No. 05 of 2014, reaffirm the same obligation to make STRs..
372. . In the hotel sector, suspicious activities are not identified, followed up and reported to FIU, but suspected cases are instead reported to the police.
373. Generally, banks, insurance companies and large DFIs implement measures to prevent any disclosure that an STR has been filed. In this regard, they implement management and confidentiality procedures regarding the disclosure of information on STRs. This information is only accessible to staff in the compliance departments, Management and Internal Auditors and filed to the FIU only. STR records are kept within the compliance department under conditions that guarantee their confidentiality.

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

374. Financial institutions, particularly banks, insurance companies and some DFIs seem to have developed internal policies, procedures and controls that consider their risks, particularly in the area of ML/TF. Each banking institution has a compliance function that continuously monitors the implementation of AML/CFT procedures and internal controls as well as an internal audit function that conducts audit at least once a year for the proper implementation of AML/CFT programs and procedures. Also, the external auditors, during their exercise, assess the implementation of AML/CFT obligations. However, the relevance of these policies, procedures and internal controls is weakened by the lack of a formal assessment of their ML/TF risks according to their customers, products and services, distribution means channels as well as their geographical areas.
375. Furthermore, after the inspection of banking institutions conducted by the Banking Commission, the authority noted some key deficiencies, including the fact that the inspections conducted by banks on AML/CFT are irregular and inadequate and do not provide any assurance that the AML/CFT regime is implemented pursuant to the provisions of Article 10 of Directive n ° 007-09-2017 establishing the methods of implementation by financial institutions of the uniform AML/TF law. The supervisory authority also underscored that AML/CFT procedures are not systematically implemented by certain institutions, particularly regarding entering into relationships. The supervisor's finding raises another deficiency relating to the intensity of enforcement, despite the existence of a compliance function and a compliance officer, and the existence of internal procedures and controls that are to some extent risk-based. The internal controls and procedures implemented within the banks are inadequate and need to be intensified and updated to reflect their actual ML/TF risks.
376. . Insurance companies do implement internal procedures and controls provided for by the CIMA AML/CFT Regulation. However, this Regulation does not take the revised

FATF Recommendations, in particular risk assessment and the implementation of due diligence measures based on these risks. All the insurance companies have a compliance function as well as a compliance officer. However, they do not implement proportionate risk mitigating measures as underscored in the NRA report (page 146), which indicates that companies are only limited to the appointment of a compliance officer pursuant to the provisions of the CIMA Regulation N° 004/CIMA/PCMA/PCE/SG/08 of 4th October 2008, and that the latter, in most cases, is not active due to the lack of precise guidelines from the company as well as the resources needed to properly achieve its mandate. The above-mentioned Regulation should be updated and adapted to the new FATF standards.

377. . Regarding insurance brokers, apart from a single one identified as belonging to an international group, the others do not implement internal AML/CFT procedures and controls. No bank or insurance company has raised barriers to sharing information within an international group.
378. . Regarding DFS, internal compliance officers are appointed in certain institutions, including large-scale and medium-scale DFIs. The latter ensure the implementation of AML/CFT procedures and internal controls within these institutions.
379. Although large-scale and medium-scale DFI have not formally assessed their ML/TF risks, they have put in place procedures and internal controls to mitigate their identified risks Small-scale DFIs do not implement internal procedures and controls to appropriately mitigate their ML/TF risks. Besides, the Banking Commission, the DFS supervisory authority under Article 44, also noted some of the key findings and lessons learned from on-site inspections of DFS, including the low rate of implementation of Recommendations from inspection missions by DFS, the non-compliance by certain DFS with Directive N° 017-12-2010 establishing an internal control system within the DFS. In the view of the assessment team, the internal controls and procedures implemented within DFIs are not sufficiently appropriate and need to be updated to reflect actual ML/TF risks.
380. The securities market does not have appropriate AML/CFT procedures and internal controls. The NRA report indicates solely for securities companies operating in the country that the function of adequately resourced and independent compliance officer as provided for by the AML/CFT law, does not exist within this sector.
381. Although banks, insurance companies and some DFIs have AML/CFT procedures and internal controls in place, in general, the FIs' procedures and internal controls are inadequate or non-existent in some FIs to ensure compliance with all AML/CFT requirements, leaving them vulnerable to ML/TF.
382. Overall, DNFBPs do not have internal compliance programs, nor dedicated AML/CFT officers, to implement the obligations defined by the extant legislations. They do not have internal AML/CFT procedures and controls to ensure their compliance with AML/CFT requirements.
383. Most of the financial institutions and designated non-financial businesses and professions do not have adequate resources to implement AML/CFT policies and controls commensurate with their size, complexity, business activities and risk profile.

## Overall conclusions on IO.4

384. Financial institutions, including banks and large-scale DFIs have sufficient knowledge of their AML/CFT obligations and of the risks associated with their customers and products. However, the mapping done by most of them does not embrace all their inherent ML/TF risks and is not consistent with those of the NRA. Other FIs, including foreign exchange bureaus, MVTS, insurance companies and other DFIs, are not aware of their obligations and have not assessed the risks they present. Insurance companies are implementing the AML/CFT requirements contained in CIMA Regulation No. 004/CIMA/PCMA/PCE/SG/08, which dates from 2008 and is not up to date with the revised FATF standards mitigating measures. We note the weakness or even the non-implementation of due diligence measures by other FIs as well as DNFBPs, which do not have procedures and internal controls commensurate with their size, although the sector is considered high risk. In general, reporting activity is very low among FIs and absent among DNFBPs, where lawyers have expressed a refusal to engage in what they consider to be customer tattling even though the self-regulatory authority does not support this attitude.

385. **The level of effectiveness achieved by Niger on Immediate Outcome 4 is Low..**

## Chapter 6. SUPERVISION

### 6.1. Key Findings and Recommended Actions

#### Key Findings

- a) FIs supervisors implement due diligence measures to prevent criminals and their accomplices from becoming beneficial owners or controlling these institutions. Entry market controls are appropriately carried out (on the origin of funds, reputation of owners, directors and managers) both for licensing and throughout the life span of these institutions. However, controls on beneficial owners, including financial institutions that are subsidiaries of international groups, are not carried out.
- b) Fit-and-proper tests on local shareholders, directors and managers are carried out. A semi-annual update of the list of shareholders, directors and officers is regularly made with the supervisory authorities and in the commercial register (RCCM). However, the reports of these investigations are not systematically prepared and attached to the licensing application. For subsidiaries of banks in international groups and insurance companies with predominantly foreign capital, investigations into the character of their shareholders, directors and managers are conducted based on agreements signed with the supervisory authority's counterparts.
- c) In spite of the updating of licensing and authorization requirements for DNFBPs, particularly in the sub-sectors of Mining, Notary, Judicial Representatives and Business Agents, unlicensed structures continue to operate as Chartered and Certified Accountants, , dealers and operators in gems and precious metals and slot machines sub-sectors.
- d) The supervisory authorities of the DNFBP categories have not yet started their AML/CFT supervisory activities, due to their recent designations for this purpose.
- e) The supervisors of the banking, microfinance and insurance sectors have a satisfactory and continuous understanding of the ML/TF risks of their sectors, unlike the supervisors of foreign exchange dealers (DMCE) which have a limited understanding of the risks foreign exchange dealers face. The credit institution rating system (SNEC-UEMOA), which includes a AML/CFT component, allows BCEAO and the UMOA Banking Commission to have a a satisfactory and ongoing understanding of overall risks. The findings of SNEC and from the AML/CFT questionnaire administered in 2019 showed an average score of (2) on a scale of (1 to 4) for credit institutions in Niger corresponding to "Medium Risk". However, supervisory authorities of banks, DFS and



insurance companies have not demonstrated that FIs in Niger, particularly banking institutions, are classified individually according to their ML/TF risk profiles.

- f) The ARSM has not developed any ML/TF risk mapping of all DFIs. However, an assessment of large-scale and medium-scale DFIs (under Article 44) using the CAMELI tool, has classified certain DFIs based on the risks linked to the geographical areas. The DCAN thinks insurance companies with foreign capital seem to be more exposed to ML/TF risks than those with domestic capital. However, such categorization is not based on any formal risk assessment framework.
- g) The implementation of a risk-based approach to the supervision of credit institutions and DFIs is weak, and nonexistent in other FIs and DNFBPs. The overall number of on-site AML/CFT inspections conducted by the BCEAO and UMOA Banking Commission is very low, given the high threat posed by the (banking?) sector. ARSM and DMCE general and/or thematic inspections sometimes include an AML/CFT component, while other supervisory authorities (CRCA/DCA) and those of the newly designated DNFBPs did not conduct any AML/CFT-based inspection.
- h) There is a wide range of administrative, civil, disciplinary and criminal sanctions for violations of the regulations. However, these sanctions do not appear as effective and dissuasive. There has been no sanction for any of the violations noted in the AML/CFT inspections conducted in 2018.
- i) The activities conducted by supervisors and the implementation of the recommendations made following inspections led some FIs to increase their level of compliance with AML/CFT regime (example?). According to BCEAO, of the three credit institutions inspected in 2018, one has corrected all the deficiencies noted; for the other two, the deficiencies noted in (i) the information system, (ii) the PEP identification, (iii) the strengthening of staffing levels and staff training have not yet been corrected.
- j) BCEAO Directives with the aim of supporting and/or clarifying certain provisions of the legal framework, in particular the uniform AML/CFT law, contribute to the good understanding by reporting entities of their AML/CFT obligations. The same obtains for the quarterly meetings the BCEAO organizes with the MDs of the banks and compliance officers' forum. This kind of framework is however underdeveloped in the other FIs and DNFBPs.
- k) Actions to raise awareness and disseminate the NRA findings have been carried out, but not sufficient to allow wide dissemination to all reporting entities and proper ownership. Some reporting entities stated that they received the NRA report during the evaluation exercise. The guidelines prepared in December 2017 by the FIU to promote a good understanding of AML/CFT obligations by reporting entities, were adopted at the Workshop held from 11 to 15 December 2017 and published, but their dissemination to reporting entities has not been strongly backed up by training.
- l) The level of cooperation between the national supervisory authorities and the FIU is too low to promote best AML/CFT practices.

## Recommended Actions

- a) Niger should make the recently-designated<sup>33</sup> DNFBP supervisors operational by providing them with adequate resources to fully perform their AML/CFT supervisory functions. In particular, controls for entry into the sector should be tightened to prevent criminals or their accomplices from becoming the beneficial owners of these structures. The draft Decree setting requirements for licensing and entry into the real estate sector should be quickly adopted and implemented. For FIs, checks on beneficial owners should be strengthened, especially for FIs that are subsidiaries of foreign groups and the reports of Fit-and-proper tests carried out should be systematically prepared and included in the licensing and/or authorization file. Supervisory authorities should improve
- b) The risk-based supervision mechanism and tool to establish a sectoral and individual risk-based classification for reporting entities based on specific ML/TF risks. The exercise should take into account: Customers, products and services, distribution channels and geographical areas and the findings of the NRA, if possible;
- c) The supervisory authorities should require all reporting entities to develop a risk mapping. This mapping must be regularly assessed by the supervisory authorities following the NRA, during off-site and on-site inspections.
- d) The supervisory and regulatory authorities should (i) strengthen their resources (human and financial); (ii) intensify and adapt the specific AML/CFT inspection missions using the ML/TF risk-based approach, (iii) take binding measures to ensure the implementation of the Recommendations made and ensure they are implemented, where necessary.
- e) In order to reduce informal activities, the supervisory authorities of FIs and DNFBPs should enhance their monitoring measures; effective and dissuasive sanctions must be meted out on structures operating without licenses in the sectors of authorized foreign exchange dealers, chartered accountants and certified accountants, gambling establishments and dealers in gems and precious metals. Very serious violations and violations observed should be sanctioned and published anonymously to serve as deterrent for offenders.
- f) The supervisory and regulatory authorities should intensify awareness-raising, training and publicity activities on the AML/CFT legal and regulatory framework, particularly for the DNFBP sector, whose supervisory authorities have just been appointed, in order to help those reporting entities better understand the ML/TF risks inherent in their activities, as well as the cooperation between supervisory authorities and the FIU to ensure an acceptable level of compliance by reporting entities. The supervisory authorities should mete out dissuasive sanctions on reporting entities that fail to comply with their AML/CFT obligations.

<sup>33</sup>The designation decree was published at the time of our on-site visit

- g) Following their recent designation, the AML/CFT supervisors of DNFBPs should, without delay, develop a supervision/inspection handbook to guide them in the discharge of their duties.
- h) The supervisors should step up training sessions for reporting entities in support of the popularization of the guidelines already developed for proper ownership. The competent authorities (FIUs and/or supervisors) should also develop more guidance for FIs/DNFBPs, including redflag indicators to facilitate their submission of STRs.

386. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The relevant Recommendations for the evaluation of effectiveness in this section are R.14, 15, 26-28, 34-35 and some elements of R.1 and 40.

## 6.2. Immediate Outcome 3 (Supervision)

387. AML/CFT supervision, pursuant to regulation (see Recs 26 and 28) is carried out by:

- Microfinance Sector Regulatory Agency (ARSM), Money and Credit and savings Department (DMCE), BCEAO and UMOA Banking Commission: banks, Decentralized Financial Systems (DFS) and other financial institutions (foreign exchange dealers, money transfer companies, electronic money institutions);
- CIMA, the Regional Insurance Supervision Commission (CRCA) and the National Insurance Department (DNA): insurance, reinsurance companies and insurance brokers;
- CREPMF: capital market operators;

388. The supervisory Authorities designated by Decree N° 2020-113/PRN of 27th January, 2020 carry out the supervision of Designated Non-Financial Businesses and Professions (DNFBPs):.

389. . In Niger, the supervision of reporting entities for the implementation of their AML/CFT obligations is carried out by several authorities, both at national and community level. In this context, the basic legal instrument is the Uniform Law N°2016-33-LBC/FT. It should be noted that specific texts have been developed to facilitate or accompany its implementation in certain sectors. These include BCEAO Directives for banks, CIMA Regulation n°004 for insurance companies and AMF Directive n°59/2019 for the capital market. By virtue of the powers conferred on them, the supervisory authorities carry out inspections of reporting entities through on-site visits and documentary evidence, including the administration of questionnaires.

390. . In the financial sector, the AML/CFT supervision of banks is mainly the responsibility of the Banking Commission, which is a community body. The DFS sector has two supervisory regimes, one of which is conducted by the community authorities (BCEAO; Banking Commission) and concerns large DFIs, which fall under Article 44 of the DFS Act, while the other supervisory regime concerns medium and small DFIs and is carried out by the ARSM, which is a national directorate; Capital market players are exclusively supervised by the community authority AMF; insurance companies and brokers are under the joint supervision of the CRCA, a supra-regional body, and the

Directorate of Insurance, which is national; licensed foreign exchange bureaus are supervised by the Ministry of Finance through the DMCE in collaboration with BCEAO.

391. . For the DNFBP sector, the AML/CFT supervisory bodies were appointed recently and have not yet carried out any AML/CFT activities.
392. The team assessed the performance of the supervisory bodies with respect to the importance of the sectors, the risks they present and contexts, as set out in Chapter 1 of this MER. The assessors' analyses and findings are based on interviews with representatives of supervisors, regulatory authorities and the use of inspection reports, among others. Accordingly, the banking sector was considered important by the assessment team due to its high weighting in the financial sector and the high risk it presents; for similar reasons, the whole DNFBP sector is also considered important; the foreign exchange activity, due to the context, was also considered important by the assessment team although it has a medium risk and low weighting in the financial sector. The other sectors are also considered in line with the premise of Chapter 1.

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

#### **Financial Institutions**

393. Generally, the supervisory authorities of financial institutions in Niger are implementing due diligence measures to prevent criminals and their accomplices from becoming beneficial owners or from controlling these institutions. Controls are carried out on the lawful origin of funds, the decency and respectability of the owners, directors and leaders, during the licensing process and throughout the life span of these institutions. Indeed, transactions carried out by Credit Institutions<sup>34</sup> are subject to prior approval by the Minister of Finance, on the assent of the UMOA Banking Commission, after the BCEAO has reviewed the application. The requirements for the approval and updating of the various components of the applications as defined by the regulations in force<sup>35</sup> could make it possible to prevent criminals and their accomplices from becoming beneficial owners or controlling these institutions.
394. All the various components of the application for license (see: Appendices I and II of Directive<sup>o</sup> 17-04 / 2011) provide the supervisory authorities with a better knowledge of both legal and natural persons, including shareholders, directors, managers and management staff. Appropriate controls are carried out during the review of the application files, supporting documents on the origin of the funds are demanded and fit-and-proper tests carried out, all designed to ascertain the lawful origin of the funds. The criminal records and CVs of the directors and officers are required to certify their good character, integrity and sound reputation.
395. Also, the BCEAO and UMOA Banking Commission receive all documents deemed necessary for the review of the application, and at the end of each semester, the credit institutions forward to the Banking Commission the updated list of their managers and directors. When reviewing the applications of subsidiaries of international groups, the Central Bank and UEMOA Banking Commission rely on cooperation agreements signed with other supervisory authorities to carry out fit-and-proper tests on shareholders, directors

<sup>34</sup> Art 1 and following, law 2008-33

<sup>35</sup> Art 16, 25, 26, 29, 34 and 36 of Law 2008-33

and managers, and may also refer to the supervisory authorities of the country of origin for further information.

396. **Decentralized Financial Systems (DFS)**, on their part, are approved by the Minister of Finance pursuant to Articles 7 to 9 of law 2014-59, on the assent of the Central Bank. A first review of the application is carried out by the Microfinance Sector Regulatory Agency (ARSM) at the Ministry of Finance, based on the criteria and requirements set by law 2014-59 and the BCEAO Directive N° 005-06-2010 outlining the various components of the application for license for DFS in UEMOA Member States.<sup>36</sup> During the review of the application file, the ARSM ensures that information on the quality of the agents, their guarantors as well as the **integrity** and experience of the directors and managers is provided by the company applicant pursuant to Article 8 of Law No. 2014. The file is then forwarded to the BCEAO for verification and review, after which it issues an opinion and returns the file to the Ministry for approval or rejection.
397. **All authorized intermediaries of transfer operators and foreign exchange dealers** are approved by the Minister of Finance, pursuant to Regulation n ° 09-2010-CM/UEMOA and BCEAO Directive N° 13-11-2015. The Minister may delegate this power to the BCEAO provided they report on a monthly basis all the licenses it **has** issued. The licensing and authorization requirements into account the quality of the agents, the lawful origin of the funds, the sound reputation of the directors and managers.
398. The money transfer activity can be carried out by sub-agents through partnership agreements signed with authorized intermediaries and DFIs, or by specialized companies which can be national, regional or international. In Niger, three (3) companies under State law are authorized to carry out transfer activities. However, the assessment team noted the existence of informal conduct of foreign exchange and money transfer activities was beyond the control of the authorities.
399. In February and December 2019, two joint Ministry of Finance-BCEAO inspection missions were conducted with a sample of foreign exchange dealers to ensure compliance with regulation N0.09/CM/UEMOA on UEMOA Member States' financial relations with the outside world. At the end of these missions, it was observed that these entities were not complying with reporting obligations, that most of the operators had no fixed abode and that they were not complying with the regulations on external financial relationships. The Minister of Finance was advised to withdraw the licenses of fifty-six (56) foreign exchange dealers.<sup>37</sup> However, the mission was unable to obtain the ministerial order implementing this Recommendation. Furthermore, despite the importance of the informal sector in this sector, no checks are carried out unexpectedly with unauthorized structures, with a view to identifying them and taking action accordingly.
400. The electronic money issuers (**EMIs**) are licensed by the Banking Commission and BCEAO pursuant to Law 2008-33 and Directive N° 008-05-2015 outlining the requirements for electronic money issuance in UEMOA Member States. Like money transfer, EMIs carry out their activities through partnerships signed with banks and telecommunications operators.

<sup>36</sup> Chapter III, Law No.2014-59 and Appendices I and II of Directive No.005-06-2010

<sup>38</sup> Chapter III, Law N°2014-59 and Appendices I and II of Directive n°005-06-2010.

<sup>37</sup> Joint Minifi-BCEAO Inspection Mission Report, February 2019

401. **Capital market operators**,<sup>38</sup> are licensed by the Regional Council for Public Savings and Capital Markets (CREPMF) pursuant to Article 21 of the Appendix on the composition, functioning of CREPMF and under the conditions set by UEMOA Directive n ° 02/15 / CM / UEMOA, Directive n ° 4/1997 of 29/11/1997 on the licensing of Management and Intermediation companies (SGI). The conditions laid down under Article 2 of this Directive take into account the lawful origin of the funds, particularly the identity and activity of the shareholders (legal and natural persons) holding more than 10% of the capital, the morality and the integrity of the managers and directors and all persons designated to perform the duties of controllers. In addition, the Regional Council is empowered to request any other document deemed necessary for the processing of the application for license.
402. **Insurance companies** are licensed by the Minister of Finance, on the assent of the CRCA, after review by the Insurance Department (DCA) in line with the requirements established by the CIMA Code<sup>39</sup> and its enforcement texts. These requirements are applicable to shareholders, directors and managers who must fulfil the requirements of sound reputation and professional capacity. The insurance brokers are directly authorized by the Minister of Finance without seeking the opinion of the CRCA.
403. In Niger, as part of the licensing process for financial institutions, their supervisory authorities apply the necessary due diligence measures pursuant to the legal and regulatory framework for a better understanding of the lawful origin of funds, integrity and sound reputation of individual and corporate shareholders. Firstly, prior to approval by the competent regulatory authority, every legal person is subject to the obligations of Articles 44 to 47 of the OHADA Uniform Act (AUDCG), and must be registered at the Business and Property Registry (RCCM) located at the Niamey High Court. The Chief Clerk ensures that the application for registration is properly done, verifies the authenticity of the supporting documents produced on the shareholders, directors and managers, and issues a temporary receipt to allow the applicant company to complete its application formalities.
404. For credit institutions, in addition to the company registration receipt issued by the RCCM, the application should be accompanied by a list of all individual shareholders, indicating the level and type of shareholding (each), and a certified statement on the financial situation of each shareholder owning at least 5% of the share capital, justifying the origin and legitimacy of the funds regarding AML/CFT law. For shareholders who are legal persons, a certified statement on the assets of any authorized representative, justifying the origin and the legitimacy of the funds used to build up the capital, is also required. These same obligations are applicable to capital market operators and insurance companies, particularly for shareholders with at least 20% of the voting rights or shareholding pursuant to the provisions of Articles 329-7 and following, of the CIMA Code.
405. Regarding the licensing of local directors and managers, in addition to the extract of the police clearance, a fit-and-proper test is carried out with the support of the MI/SP/D/ACR Central Administrative **Investigation** Agency.<sup>40</sup> Regarding, directors and

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<sup>38</sup> Article 3, CREPMF Directive No.59/2019

<sup>39</sup> Articles 309, 315.1 & 2, 316, 329 and following.

<sup>40</sup> Ministry of the Interior, Public Security and Decentralization

managers of foreign nationality, the BCEAO and Banking Commission rely on cooperation agreements signed with counterpart supervisory authorities.<sup>41</sup>

406. The assessment team could not access the minutes and/or reports of the fit-and-proper tests carried out with the support of the MI/SP/D/ACR Central Administrative Investigation Agency during the last 5 years, or on the basis of agreements signed with counterpart supervisory authorities as part of the director and/or manager licensing procedure to ensure that such tests are carried out during the licensing application processing. Throughout the operation of the financial institution, the supervisory authorities verify compliance with these due diligence measures as part of the offsite and on-site inspections. Thus, during the last 5 years, the DFS supervisory authorities have suspended and/or dismissed three (3) managers for non-compliance with the legal and regulatory provisions of the AML/CFT Law 2016-33<sup>42</sup>. However, the assessment team did not have access to these suspension orders to verify the reasons for such suspensions. For credit institutions and insurance companies, no suspension and/or withdrawal order was issued by their respective supervisory authorities<sup>43</sup>.

407. The accreditation requirements prevent criminals and their accomplices from holding or becoming the beneficial owners of a significant share, managing, administering or controlling financial institutions. However, no case of refusal or withdrawal of license or authorization has been recorded in Niger.

**Table 6-1: Structure of the Financial System**

<b>FINANCIAL INSTITUTIONS</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Banks	12	12	14	14
Financial Institutions	1	3	4	4
TOTAL AMOUNT OF CAPITAL (Millions Of CFAF)	102,865	127,855	132,786	146,785
Including Foreign Capital	64%	71%	69%	58%
Number Of Dfs	40	40	37	38
Number Of Dfs Licenses	0	0	0	1
Number Of Dfs Applications Rejected	0	0	1	0
Number Ofdfs Licenses Withdrawn	2	0	5	1
Number Of Managers Suspended And/Or Dismissed	1	0	3	0
TOTAL BALANCE SHEET OF DFS Under Art 44 (In Millions Of CFAF)	42340	30467	29,700	34,000
Number Of Foreign Exchange Dealers	52	65	74	78
Number Of Licenses	9	13	9	0
Number Of Applications Rejected	0	0	0	0
Number Of Licenses Withdrawn	0	0	0	0
Number Of Managers Suspended And/Or Dismissed	0	0	0	0
Number Of Transfer Companies	0	0	3	3
NUMBER OF SUB-AGENTS <sup>44</sup> (Transfer Operators In Partnerships	4	4	4	4

<sup>41</sup> Cooperation Agreements signed with the Banque Al-Magreb (BAM), Central Bank of Nigeria (CBN), COBAC, Prudential and Regulatory Supervisory Authority (ACPR)

<sup>42</sup> See suspension and/or withdrawal order No.....( to be completed by Niger SVP)

<sup>43</sup> See suspension and/or withdrawal order No.....( to be completed by Niger SVP)

<sup>44</sup> The most important ones, carrying out regional and international transfers

With Approved Intermediaries &DFS)				
Number Of Insurance Companies	8	8	8	8
Number Of Licenses	0	0	0	0
Number Of Applications Rejected	0	0	0	0
Number Of Licenses Withdrawn	0	0	0	0
Number Of Managers Suspended And/Or Dismissed	0	0	0	0

Source : BC-WAMU report (2019)

### DNFBPs

408. Regarding the DNFBPs, the powers of their AML/CFT supervisory and regulatory authorities have just been strengthened by Decree N° 2020-113 / PRN / MF, Article 2 of 27<sup>th</sup> January 2020, pursuant to Article 86 of the AML/CFT Law 2016-33. Pursuant to Article 5 of the said Decree, the supervisory and regulatory authorities thus designated have powers to monitor, mete out administrative or disciplinary sanctions conferred on them by the legal and regulatory texts of their respective sectors, in case of violation by DNFBPs of their AML/CFT obligations.

409. **The legal and accounting professionals**<sup>45</sup>, are one of the categories of DNFBPs presenting a significant risk of money laundering according to NRA. The supervision and regulation of their activities are carried out by the authorities designated under Article 2 of the above-mentioned Decree.

410. Licenses to practice in certain professions are issued pursuant to the requirements and procedures established by the UEMOA zone Community texts, domesticated where necessary, into national law. Entry into other professions is governed by domestic texts. Generally, the requirements and procedures consider the educational background, degrees obtained, skills, experience, integrity, sound reputation and results of national exams taken. However, despite these entry requirements, discussions with professionals revealed that there are some unlicensed structures operating in this sector.

411. For **lawyers**, the requirements for entry into the profession are established by the profession and Regulation No. 05/CM/UEMOA (Caps III & IV) harmonizing the legal profession in the UEMOA Community zone. However, the Niger Bar Association recognizes the non-implementation of AML/CFT requirements at the sectoral level, and certain legal professionals say that they are unaware of the AML/CFT law, and that the operationalization of CARPA<sup>46</sup> is yet to be operational.

412. **Notaries** are appointed by Order of the Minister of Justice, upon the request and opinion of the National Chamber of Notaries of Niger, in line with the requirements outlined in Chapter II of Law No. 2018-35 of 24<sup>th</sup> May, 2018. In addition to the minimum requirements of Degrees and experience, the aspiring notary must prove that he/she has never been legally convicted for any act contrary to probity. Three (3) months after notification of his/her nomination, the notary must take an oath before the Court of Appeal and a professional card is issued to him/her by the Minister of Justice on the proposal of the National Chamber of Notaries.

<sup>45</sup> Chartered and Certified Accountants, Lawyers, Notaries, Court Clerks

<sup>46</sup> Lawyers' Autonomous Cash Settlement Fund



413. Regarding **Dealers<sup>47</sup> and Operators in gems and precious metals**, the operating licenses in these **sectors** are issued by Decree of the Minister of Mines based on the requirements established by Order N° 93-16 of 2<sup>nd</sup> March 1993 on the Mining Code, amended and supplemented by Order No. 99-48, Laws No. 2006-26 of 9<sup>th</sup> August 2006, Order No. 2017-03, Decree No. 2017-628 / PRN and Law No. 2018- 48 of 12<sup>th</sup> July 2018. In Niger, this sector mainly includes the alluvial, semi-mechanized mining sub-sectors and operators in dumps, spoil heaps and mines and quarry residues.
414. The requirements for the issuance of operating permits for the two (2) semi-mechanized and alluvial sub-sectors are different, as provided for Under Articles 39 and subsequent of Decree N° 2017-628/PRN/MM. For alluvial mining, the applicant must be a natural person, at least eighteen (18) years old, of State nationality, or a national of the countries granting reciprocity to States in this area. Once licensed, an alluvial mining card is issued and then entered in a register kept by the Ministry of Mines.
415. For semi-mechanized mining, the applicant must be a legal person under State law whose capital is wholly or partly owned by one or more State (s), an operating permit specifying the mining site and area is delivered to the applicant. For the marketing of mineral substances from alluvia or semi-mechanized mining, license may be issued to any legal person under State law and based on the requirements established by Decree n° 2017-628 / PRN/MM and Order n° 2017-03.
416. Legal persons under State law approved for the marketing of mineral substances from alluvial or semi-mechanized mining transactions can buy them from operators, sell to local consumers or export. They can mandate on sites, intermediaries to buy on their own account, mineral substances from alluvial, semi-mechanized mining transactions or from mining in dumps, scrap heaps and mining and quarry residues. The statistics provided to the assessment team show 41 permits for alluvial mining, 18 for mining of dumps, heaps and mining residue, and 137 for semi-mechanized mining. No case of rejection of permit for any reason whatsoever was reported to the team.
417. For all alluvial, semi-mechanized, dumpsite, residual and quarry miners, as well as authorized marketing legal persons, the above-mentioned licensing requirements do not take into account the integrity aspect of their shareholders and managers. It was also revealed during the interview the assessment team had with the professionals in the sector that despite the decisions taken by the Minister of Mines<sup>48</sup> in 2014, 2015, 2016, 2017 and February 2018, ordering the closure of gold mining sites in the TILABERI, DJAD Oregions, unauthorized structures owned by various cross-border crime networks, mainly comprising foreign nationals continued to operate in these regions overnight. Besides, other regions, particularly TABARKATEN and TABELOT, seem to be affected by this phenomenon, as shown in Memo n° 79/MM/DGMC/DEMPEC addressed by the Minister of Mines to the Minister of State, Minister of Interior in February 2018.
418. The **supervisory and regulatory authority for companies, real estate agents and developers** is the Ministry of Country Planning and Housing. The legal and regulatory framework governing the real estate profession is law 2018-25 of 27<sup>th</sup> April 2018, establishing the fundamental principles of construction and housing, its enforcement

<sup>47</sup> The usual dealers or sales organizers

<sup>48</sup> Orders N°00234/MM/DGMG/DEMPEC, Decisions n°098 - 044 - 032/MM/DGMG/DEMPEC and Eviction Order N°437/MM/DGMG/DEMPEC

Decree n° 2018-303/PRN 30<sup>th</sup> April 2018, Decree n° 2017-302 / PRN / MDH mapping out the modalities for the establishment and delivery of building permits, Decree n° 2018-225 / PRN / MDH amending certain provisions of Decree n° 2017-302 / PRN/MDH. Under Article 15 of law n° 2018-25, professional engagement as real estate developer is subject to prior licensing by the ministerial department in charge of construction and housing. However, the licensing requirements are yet to be determined. Officials say a draft order is underway.

419. Meanwhile, stakeholders, complying with the technical requirements established by the legal framework of the above-mentioned sector, operate without the prior approval of the ministerial department. The sectoral authorities met did not demonstrate the maintenance of a register of companies and real estate developers currently operating in Niger. Besides, several foreign real estate agents have signed partnership agreements with the State government as part of the program for the construction of 25,000 social housing units by 2021.
420. The assessment team was informed by ministerial officials that certain agreements have been terminated by the State either for lack of clarity on the real motivation of certain agents to invest in Niger, or because of the doubts hinging around the origin of the funds. On the other hand, it emerged from the team's interview with the Ministry that some of these agents intended to use the agreements signed with the State of Niger for other purposes.
421. The supervisory and regulatory authority for casinos, lotteries and gaming establishments is the Ministry of Finance. The operational and licensing requirements are established by Article 2 of Order 93-019 of 22<sup>nd</sup> March 1993, regulating lotteries and raffles, Decree n° 93-061/PM/PF/P of 26<sup>th</sup> March 1993, establishing the licensing requirements for lotteries and raffles. The application for license, followed by a gendarmerie or police investigation of the applicant, is submitted to the offices of the applicant's sub-prefecture or town council. According to the statistics provided to the assessment team, two (2) casinos and 54 game establishments have operational licenses countrywide.
422. However, an investigation conducted by a committee established by the national lottery (LONANI)<sup>49</sup>, for which a memo on the key findings of the final report was sent to the Minister of the Interior and Public Security, reveals an abusive use of operating permits, and operation of roaming slot machines without prior authorization.
423. For all DNFBPs, the authorities responsible for the issuance of permits and monitoring AML/CFT have just been designated by Decree no.2020-113 / PRN / MF of 27<sup>th</sup> January, 2020. The licensing and permit requirements applied refer to old sectoral legal and regulatory texts, not updated after the entry into force of the AML/CFT law, and do not consider all the AML/CFT requirements.

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

424. Banking, microfinance and insurance supervisors,<sup>50</sup> have a satisfactory and continuous understanding of ML/TF risks, unlike the supervisory authorities of other financial institutions. Indeed, the BCEAO and UMOA Banking Commission have a credit institution rating system (SNEC-UEMOA), which incorporates some indicators linked to

<sup>49</sup> Decision N°69/LONANI/DG/CI of 05/08/2019

<sup>50</sup> BCEAO, UEMOA Banking Commission, Ministry of Finance (ARSM), CRCA (DNA)

AML/CFT. The Credit Institution Rating System (SNEC - UEMOA) is a tool used to rate credit institutions in the UEMOA zone based on several criteria, some of which are fundamental and others complementary, and considers all risks, including ML/TF.

425. The findings of the SNEC provide the basis for mapping out a risk profile and classifying credit institutions according to their degree of exposure to overall risks. In a bid to fine-tune the assessment of inherent ML/TF risks, and better define the risk profile of credit institutions, the BCEAO and the Banking Commission SG administered an AML/CFT questionnaire in 2019 covering such issues as customer identification when entering a relationship, information on PEPs, the existence of internal AML/CFT procedures and their dissemination, information system and staff training. Of the 18 LCIs licensed in Niger, 11 participated in the survey, and the findings of the analysis based on the declarations of the 11 LCI, allows for the classification into three categories. Only one LCI is fully compliant with all AML/CFT provisions, two LCIs have implemented less than 50% of AML/CFT requirements, and the remaining eight have implemented more than half of the AML/CFT provisions. This results in an average score of (2) on a scale of (1 to 4) corresponding to "Medium Risk" for credit institutions in Niger. However, the LCIs are not individually rated by AML/CFT risk profile.
426. . During on-site inspection missions, the BCEAO and Banking Commission ensure the information gathered is comprehensive and reliable as part of the permanent examination exercise, particularly the report on the internal control system, including all the risks identified, filed to the BCEAO and Banking Commission at the end of each semester by the credit institution, used in fine-tuning the analysis of the inherent risks and consistent risks at each credit institution. They can also request the provision of other information on the AML/CFT regime established by credit institutions at any time.
427. The Microfinance Sector Regulatory Authority is finalising the mapping of the ML/TF risks inherent in the DFS sector. The computer tool acquired with support from the French Development Agency (AFD) is already in use at the ARSM. Some DFIs have been assessed and rated to be at high risk for ML. In the meantime, the findings from the assessment of the ML/TF risks of all DFIs using the tool, the findings of the documentary and on-the-spot inspections performed using the CAMELI & CAMECI tools allow the ARSM to map all risks, including the ML/TF risks presented by DFIs under article 44. These tools revealed that risks linked to size and to mining and urban areas are the highest. However, the ARSM does not yet have a comprehensive risk assessment of the microfinance sector through these tools, nor does it have a rating of DFIs based on their ML/TF risk profile.
428. . The assessment mission did not meet with CIMA/CRCA. The Insurance Supervision Department (DCA) in Niger indicated that insurance companies and insurance brokers, the share capital of which is mostly held by natural persons of foreign nationality, and/or legal persons under foreign law, seem to be more exposed to ML/TF risks. However, this analysis is not based on any formal framework.
429. The supervisory authorities of the other FIs (DMCE) and those recently designated for DNFBPs have a poor understanding of the ML/TF risks their reporting entities are facing. The NRA exercise provided an in-depth understanding of the risks and vulnerabilities faced by the sector and DNFBPs, and identified the sub-sectors considered as the most exposed to ML/TF risks, namely, the legal and accounting professionals, dealers and the operators in precious metals, real estate agents and companies, casinos and gaming establishments.

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

430. Generally, the implementation of a risk-based approach to the programming and supervision of financial institutions by the supervisory authorities of credit institutions and DFS is weak, if not non-existent in other financial institutions and DNFBPs.
431. The **NRA** report<sup>51</sup> confirms that inspection exercises are not conducted using a global a risk-based approach.
432. For the BCEAO and Banking Commission, the planning of the inspection of credit institutions and DFS under Article 44 is done based on (i) the findings of the off-site inspection, by reviewing and using the information contained in the AML/CFT annual reports, the statutory auditors' reports, the internal control report; (ii) by referring to how long the last inspection mission had been conducted; (iii) and the qualitative information provided by the State Departments. The findings of the AML/CFT questionnaire launched in 2019 will also serve as a basis for the programming of the next inspections. Also, for a more effective onboarding of ML/TF risks inherent in the new payment instruments and new technologies, the General Secretariat of the Banking Commission (SGCB) has made provisions for the improvement of the inspection tools and the acquisition of an IT application for off-site and on-site inspection missions.<sup>52</sup>
433. Regarding the ARSM, the programming and conduct of on-site inspection missions are also based on the findings of the off-site inspections,<sup>53</sup> the risk rating, and since when the inspections were conducted. The ARSM also targets the inspection each DFS at least once every three (3) years, and in April 2019 developed a methodological guide<sup>54</sup> for the implementation of risk-based supervision approved by the National Microfinance Regulatory Commission (CNRM).
434. **However**, since there is no classification of banks according to their risk profile, it has not been demonstrated that the choice of the institutions inspected by the BCEAO and Banking Commission during these last six years as well as the themes addressed, were based on the levels and degree of exposure to ML/TF risks. For DFIs, according to the ARSM (see Terms of Reference<sup>55</sup>) the on-site inspection missions conducted in 2019 and 2020 were based on the findings of the risk assessment carried out using the CAMELI tool, which is a more comprehensive rather than a specifically ML/TF tool.
435. The supervisory and monitoring authorities of other financial institutions, particularly the Ministry of Finance/DMCE, CRCA/DNA could not demonstrate to the assessment team that the level of ML/TF risk of financial institutions determines the nature, frequency and resources allocated for their inspections, let alone for the DNFBP supervisory and regulatory authorities who have just been designated.
436. The AML/CFT inspections conducted out by the BCEAO and UEMOABanking Commission during the last 6 years are apparently inadequate in view of the threat level

<sup>51</sup> Analysis of the Banking Sector's Vulnerability ( 1,2, variable 4)

<sup>52</sup> See: BCEAO's Memo to the Assessment Team, answers to pending issues

<sup>53</sup> Reminder: The ARSM uses the CAMELI rating tool for off-site inspections, which does not take the AML/CFT component on board. A new IT tool that will take the AML/CFT component on board is being procured with the support of the AFD.

<sup>54</sup> Documentation given to the Team by ARSM "RBS General Regulation"

<sup>55</sup> TORs 2017, 2018 and 2019 given to the team

considered as high in the sector. the general inspections conducted by the ARSM and DMCE sometimes include the AML/CFT component, while those conducted by the DNFBP supervisory authorities are not AML/CFT-based, which has just been added to their prerogatives.

437. . Indeed, from 2016 to 2019, the BCEAO and UEMOA Banking Commission conducted 8 general inspections in Niger with an AML/CFT component and only 3 AML/CFT thematic inspections in 2018 (see table below). The ARSM, on its part, regularly conducts general inspections which may include an AML/CFT component, and the DMCE conducts inspections with authorized foreign exchange dealers to ensure the implementation of the provisions of Regulation N° 09/2010/CM/UEMOA on external financial transactions. No on-site inspection specifically focusing on AML/CFT has been conducted by the ARSM, CRCA/DCA and DMCE.
438. Before the designation of DNFBP supervisory authorities for AML/CFT matters, certain DNFBP conduct inspections through their supervisory authority to ensure compliance with the legal and regulatory provisions governing their sectors and their licensing requirements, although such inspections did not cover AML/CFT and were not risk-based. In fact, from 2010 to 2018, the technical services of the Ministry of Mines and Industry, DEMPEC, the Regional Mines and Industry Department in Niamey conducted 6 inspection missions with alluvial, semi-mechanized miners and dealers in precious metals. The objective of such inspections was to ensure compliance with the legal and regulatory provisions<sup>56</sup>governing the sector, but do not include the AML/CFT component. In 2019, LONANI established a Committee to conduct an inspection and identify all the gaming establishments and slot machines operating in Niger.
439. Regarding capital markets, which are being supervised by CREPMF, the latter conducts periodic inspections of all market players, particularly in the area of AML/CFT based on the NRA findings. However, the assessment team did not have access to information on the number of AML/CFT inspections conducted by CREPMF with the Niger Management and Intermediation Company (SGI-Niger).
440. **The** low level of AML/CFT inspections in FIs does not allow the supervisory and monitoring authorities to ensure that the requirements are implemented by the reporting entities. As a result, the specialized human resources, capable of conducting AML/CFT inspections on these institutions, should necessarily be enhanced.<sup>57</sup> For DNFBPs, the AML/CFT supervisory authorities have just been designated by a Decree issued in January 2020. In this regard, the operationalization of its structures and their effectiveness are yet to be demonstrated.

**Table 6-2: Inspections conducted by supervisory authorities of FIs and DNFBPs**

INSTITUTIONS	2016		2017		2018		2019	
	IS	IAML/CFT	IS	IAML/CFT	IS	IAML/CFT	IS	IAML/CFT
<b>Financial Institutions</b>								
Banks	1	0	1	0	6	3	0	0
DFS	18	0	13	0	15	0	10	0
Insurance Companies	4	0	0	0	11	0	10	0
Foreign exchange and	0	0	0	0	0	0	18	0

<sup>56</sup> Decrees n°070/MME/MC/PSP du 24/07/2003 ; Orders n°216/MM/DGMC/DEMPEC du 07/12/2017 ; Orders n°2017-03 et 93-16 as well as Decree n°2006-265/PRN/MME

<sup>57</sup> See: NRA Report, para 5.1.2

transfer bureaus									
Market Operators		0	0	0	0	0	0	0	0
<b>DNFBPs</b>									
Dealers and Operators in Gems and Precious Metals,	1	0	0	0	1	0	0	0	0
Casinos, Lotteries, Gaming Establishments	0	0	0	0	0	0	1	0	0
Real Estate Companies, Agents and Developers	0	0	0	0	0	0	0	0	0
Legal and Accounting Professionals	0	0	0	0	0	0	0	0	0

Source : BC-WAMU report (2019)

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

441. The supervisory authorities of Financial Institutions have a wide range of administrative, civil, criminal and pecuniary sanctions provided for by specific legal provisions<sup>58</sup> in case of any violation by FIs of their legal and regulatory AML/CFT obligations. However, since most of the sanctions applied are low level (injunction, reprimand, warning), it is unclear whether they are effective, proportionate and dissuasive.

442. Indeed, **a few sanctions were meted out following the inspections conducted during the period spanning 2016 to 2019 and they were apparently no dissuasive.** In the banking sector, no sanction was meted out on some banks jointly inspected in 2018 by the Banking Commission and BCEAO in spite of the deficiencies identified (see above). Conversely, the supervisory authorities for the insurance market, the microfinance and foreign exchange sector, CRCA / DNA, ARSM and DMCE, imposed various disciplinary sanctions (license withdrawal, injunction, reprimand, dismissal and pecuniary) during the same period. These sanctions were meted out following some violations observed in the prudential regulations, rules and conditions specifically governing these sectors, but essentially had nothing to do with deficiencies identified in the AML/CFT regimes and violations of the AML/CFT law. The same obtains for the sanctions meted out on some authorized foreign exchange dealers for violating the provisions of Regulation n° 09/2010/CM/UEMOA on external financial transactions.<sup>59</sup>

443. At the end of the on-site inspections, the FI supervisory authorities, proffer Recommendations, take decisions, including an injunction to present within a reasonable time a plan for the implementation of the said Recommendations.

444. The inspections conducted by the FI supervisory authorities from 2016 to 2019 in some institutions revealed cases of unsatisfactory ML/TF risk management systems, non-implementation of all KYC measures, no regular update of KYC measures with respect to former customers, weakness of the IT systems which does not facilitate screening, failure to identify PEPs and lack of training and awareness-raising for staff.

445. Since the AML/CFT supervisory authorities for DNFBPs have just been designated, no AML/CFT-based inspection has been conducted and therefore no sanction has been meted out so far.

<sup>58</sup> Cap 7 of Law N°2008-33 & Cap III, Chap VI, VII and Cap IV of Law N°2014-59, Insurance Code Art 534 & 545 and subsequent

<sup>59</sup> Report on inspections conducted in February 2019 by DMCE and BCEAO with authorized foreign exchange dealers

446. Sanctions have been meted out on certain of chartered accounting and certified accounting professionals for non-compliance with the professional requirements, but no sanction for non-compliance with the provisions of the AML/CFT law has been meted out. Also, decisions to close (see table below) certain gold mining and alluvial mining sites have been taken by the Ministry of Mines following the conduct of some inspection exercises.
447. Because of the weak sanctions issued by the FI supervisory authorities (injunction, reprimand, warning), it is impossible to ascertain their effective and dissuasive nature to get reporting entities to comply with their AML/CFT obligations.

**Table 6 3: Sanctions meted out by Supervisory Authorities of FIs and DNFBS**

	2016	2017	2018	2019
<b>CREDIT INSTITUTIONS (CIs)</b>				
Injunctions	1	5	7	0
Reprimand for Cis	0	1	2	0
Reprimand for managers	0	0	0	0
Warnings	0	0	0	0
Resignation and ban	0	0	0	0
License withdrawal	0	0	0	0
<b>DFS</b>				
Caution	0	2	0	1
Injunctions	0	0	5	9
Interim administration	1	0	3	0
Warnings	0	0	6	0
Reprimand	1	0	8	0
License withdrawals	2	0	5	1
Financial sanctions	22	21	12	14
<b>INSURANCE</b>				
Reprimand	0	0	1	0
Warnings	0	0	0	3
Close surveillance	0	0	0	3
<b>Mining sector</b>				
Decisions to close alluvial mining and gold mining sites <sup>60</sup>	1	3	2	0

Source : BC-WAMU report (2019)

### **6.2.5. Impact of supervisory actions on compliance**

448. The inspections conducted by BCEAO in 2018 and dissemination of the findings of the report among FIs, enabled some FIs to resolve some of the deficiencies and improve their level of compliance of their AML/CFT regime. Also, the NRA findings have enabled some of them to come together and procure profiling software like the DFS. The BCEAO informed the assessment team that after the on-site inspection missions, the discussions on the deficiencies identified between the credit institutions inspected and other sister institutions enabled the latter to take corrective measures and improve their AML/CFT

<sup>60</sup> 2016 : Decree N°00234/MM/DGMG/DEMPEC, Closing of Djado region alluvial mining sites

regime. However, according to the SG of the UMOA Banking Commission, the state of implementation of the recommendations made to correct these deficiencies is mixed. Indeed, out of three LCIs inspected in 2018, only one has corrected almost all the deficiencies noted, and for the other two, several deficiencies noted have not been resolved. They concern the upgrading of the information system, the identification of customers "KYC", drawing up a list of PEPs and staff training.

449. As a result of the weak AML/CFT inspections conducted by the supervisory authorities of other FIs, particularly insurance, foreign exchange and money transfer operators, stakeholders on the capital markets, the few remedial measures recommended have not had any impact on these institutions' level of compliance with the AML/CFT regime. In this context, it is necessary for the authorities to strengthen enforcement and monitoring measures to intensify the implementation of the recommended corrective actions.

450. For DNFBPs, the powers of the AML/CFT supervisory and regulatory authorities have just been strengthened by Decree N°2020-113/PRN/MF of 27th January 2020 (see Article 2). As a result, no inspection has been conducted in this area or decisions taken, and therefore it is impossible to measure the impact on their level of AML/CFT compliance.

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

451. FI supervisory authorities of FIs use various media for the publication and dissemination of the legal and regulatory framework governing the financial sector in general, including the AML/CFT legal and regulatory framework. The BCEAO, Banking Commission, CIMA/CRCA/DNA and the Ministry of Finance use their sites for the publication of all legal and regulatory texts governing the financial sector. The Banking Commission's annual report<sup>61</sup> allocates an entire section to the dissemination of the institutional and regulatory framework of the financial sector. In December 2017, the FIU in cooperation with sectoral supervisory authorities and AML/CFT reporting entities, developed guidelines intended for the latter.

452. Nevertheless, some reporting entities such as authorized foreign exchange dealers, transfer companies and some stakeholders on the insurance market apparently know nothing about the AML/CFT law and ML/TF risks inherent in their activities.

453. The NRA exercise carried out in collaboration with the World Bank, and the participation of all reporting entities and sectors involved in AML/CFT in the technical working groups provided a good understanding of the threats and vulnerabilities in each sector.

454. Nevertheless, the NRA findings were not widely disseminated to all stakeholders in the various sectors, with some receiving the NRA report only during the evaluation exercise due to the time taken to post it on the Ministry of Finance website and to print it in sufficient quantity.

455. The quarterly and half-yearly meetings organized between the BCEAO, APBEF, ARSM and APDFS of Niger, foster a better understanding of ML/TF risks. The mission had access to a sample of the minutes of the seven meetings held over the last three years,

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<sup>61</sup> SGCB 2017 Report



the agenda of which focused on issues relating to: (i) the security of FIs' IT systems, (ii) the fight against cybercrime and (iii) counterfeit banknotes in circulation, among other topics. Furthermore, platforms for the exchange of information between bank compliance officers and the Niger-FIU facilitated regular exchanges on AML/TF regulation and enhanced the understanding of AML/CFT obligations and of ML/TF risks.

**Table 6-3: Statistics on Supervisory and Monitoring Authorities' meetings with Reporting Entities**

<b>With AML/CFT Agenda</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Nb. of Ministry - BCEAO - ARSM Meetings	4	4	4	4
Nb. of BCEAO - ARSM/APBEF - APDFS Meetings	2	2	2	2
Nb. BCEAO - APBEF Meetings	4	4	4	4
Nb. ARSM - APDFS Meetings	4	4	4	4
Nb. FIU-Compliance Officers Meetings	4	4	4	4

Source: APBEF

456. The powers of the supervisory, regulatory and self-regulatory authorities of DNFBBs have just been strengthened by Decree No. 2020-113 / PRN / MF of 27<sup>th</sup> January, 2020. It would be necessary to develop guidelines and AML/CFT awareness-raising and training activities for reporting entities, establish a platform to facilitate exchanges and a good understanding of the ML/TF regulation and risks in these sectors. Interviews with reporting entities in these sectors revealed that some of them have no good understanding of their AML/CFT obligations, despite their participation in the training and sensitization workshops organized for them, such as casinos and accountants. The other legal and accounting professionals, particularly lawyers, are apparently more informed, sensitized and acquired a good understanding of their AML/CFT obligations at the end of the training workshops organized for them<sup>62</sup>. are even ignorant of the 2016 AML/CFT law, like casinos and legal and accounting professionals, particularly lawyers and accountants.

457. Furthermore, the decisions taken, protocols signed and measures undertaken by the National Chamber of **Notaries** of Niger (CNNN)<sup>63</sup> contribute to a good understanding of ML/TF regulation and risks. In fact, the CNNN is a member of the African Affairs' Commission of the International Union of Notaries (CAAF/UINL), and a party to the agreement signed in 2016 with the General Council of Spanish Notaries (CGNE), which provides in its Article 1 (b) and art 6, for the promotion, active collaboration for the promotion and introduction in the notarial profession, of procedures for the prevention of ML/TF and specific relevant training sessions.

458. The training, sensitization and popularization workshops organized by the Banking Commission, BCEAO, ARSM are apparently inadequate and do not essentially focus on ML/TF regulation and risks.

459. From 2018 to 2019 the ARSM organized workshops, training seminars for DFS focusing on governance, reporting, operational risks, savings collection, granting of credit and internal control. Details of the training, awareness-raising and popularization

<sup>62</sup> See NRA Report, p 158

<sup>63</sup> Circular ref : 0072/CNNN/18 on STRs ; Memorandum of understanding between the Nigerien Govt and CAAF/UINL for the introduction of a Professional Masters Programme in Notary Law at the Abdou Moumouni University (UAM) in Niamey

workshops on AML/CFT and ML/TF risk identification organized by the Banking Commission, BCEAO and the Insurance market supervisory authorities were not communicated to the assessment team.

## Overall conclusion on IO.3

460. The supervisory authorities in the financial sector conduct appropriate inspections to prevent criminals or their associates from entering into the market. Similarly, the DNFBP regulatory and supervisory authorities require the production of records as fit-and-proper evidence for persons intending to go into the profession. However, in both FI and DNFBP sectors, there are rampant informal and unauthorised activities that are beyond the control of sectoral authorities.
461. The CB-UMOA, Ministry of Finance (ARSM, CRCA/DCA) and BCEAO, have a better understanding of the ML/TF risks of the financial institutions they are supervising, but could not establish the classification of institutions based on their individual ML/TF risk profiles. The ML/TF risk-based supervision needs to be improved. For the supervisory authorities of the other FIs and DNFBPs, the understanding of the ML/TF risks of their reporting entities is poor and needs to be enhanced.
462. The specific AML/CFT inspections conducted by the FIs supervisory authorities are inadequate when compared to the high risk this sector represents, whilst no AML/CFT inspection has been conducted by the insurance supervisory authorities. Also, the supervisory, regulatory and self-regulatory authorities of DNFBPs which, with their extended powers, have just been designated to carry out the AML/CFT supervision, are yet to conduct any inspection mission in that direction, whilst the entire DNFBP sector is rated as high risk by the NRA. Very few sanctions are meted out, when compared to the seriousness of the violations observed. Moreover, the monitoring of the implementation of the recommendations made should be enhanced. For instance, no sanction has been meted out by the CB-UMOA ON Credit Institutions for the violations observed at the end of the AML/CFT inspections conducted in 2019. Guidelines are being developed for reporting entities to promote AML/CFT obligations, but they are not yet widely disseminated.
463. The training, sensitization and reporting activities should be intensified while capacity building and resources should be boosted. Coordination among supervisory authorities on one hand, and between the supervisory authorities and the FIU, to improve the reporting entities understanding of ML/TF risks as well as information sharing, on the other, should be strengthened.
464. **The level of effectiveness achieved by Niger on Immediate Outcome 3 is Low.**

## Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1. Key Findings and Recommended Actions

#### Key Findings

- a) Information on the incorporation and types of legal persons are publicly available through publication in the Official Gazette of the relevant texts, such as the Uniform Act on the Law of Commercial Companies. This information is also available on the website of the Nyamey business registry and the website of the Maison de l'Entreprise (Business house). It can also be obtained at the counters of all the registries of the High Courts of Niamey and inland towns.
- b) The State Authorities have conducted a national risk assessment during which the vulnerabilities and the extent to which these legal persons established in the country can be misused for purposes of ML/TF, were not assessed.
- c) Niger has mechanisms to investigate managers and those providing capital to the legal person prior to its creation to prevent their misuse for ML/TF purposes although there is no system for verifying the authenticity of the information provided. Thus, measures aimed at preventing criminals and their associates from participating in the ownership, control or management of legal persons are taken through fit-and-proper tests and the issuance of certificates of decent character. This is also one of the reasons why the creation of legal persons is subjected to certain strict requirements pursuant to the OHADA Uniform Act on business companies and Economic Interest Groups, allowing access to identification data on them.
- d) In Niger, the competent authorities can obtain basic information on the types of legal persons created in the country from the chief clerk through the RCCM. Information on beneficial owners can to some extent be obtained from the FIs/DNFBPs with which the legal persons have business relations. However, Niger has no mechanism to gather accurate and current beneficial ownership information. The information contained in the RCCM does not specifically include on the beneficial ownership information
- e) The creation of legal arrangements is not provided for in Niger. However, legal and accounting professionals accountable to AML/CFT, when managing assets belonging to foreign trusts, are required to identify the beneficial owners and parties to the constitution of the said legal arrangements. However, the assessment team was not aware of this activity in Niger.
- f) The State Penal Code includes provisions for the meting out of effective, proportionate and dissuasive sanctions on people who fail to comply with the

disclosure requirements. These are administrative, disciplinary and criminal sanctions for non-compliance with the disclosure requirement. However, the assessment team was not aware of the implementation of such sanctions.

## Recommended Actions

- a) The State authorities should continue computerizing the trade tribunal and the ordinary court registers in order to improve the functioning of RCCM and facilitate the timely and in-depth access to available information.
- b) The State authorities should assess the ML/TF risks more specifically for legal persons established in the country and take measures to mitigate such risks.
- c) Niger should put in place an adequately resourced mechanism to ensure that the basic information held in the register is accurate and up-to-date.
- d) Niger authorities should examine the extent to which foreign trusts operate or are managed in Niger, and adopt appropriate mitigating measures, particularly with a view to enabling the identification of trusts by reporting entities and competent authorities.
- e) Niger authorities should put in place a mechanism to identify the beneficial owners of legal persons.

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

## 7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

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

466. Niger is a member of the Organisation for the Harmonisation of Business Law in Africa (OHADA), which issues uniform rules on commercial and corporate law for all of its 17 member countries (companies are the main legal entities in Niger). The creation of various types of legal persons is governed in Niger as in the other OHADA member countries, by the Uniform Act on business companies and the Economic Interest Group of 30th January 2014. Legal persons can be created on the basis of this Uniform Act are either Business Companies or Economic Interest Groups (GIE). As far as companies are concerned, these include multi-partner or single-person public limited companies, multi-partner or single-person limited liability companies, simplified joint stock companies, general partnerships (SNC) and simple limited partnerships (SCS). The Uniform Act relating to the law on Commercial Companies clearly defines the conditions to be met to create legal persons. The texts of the OHADA Uniform Act are available online and have been published in the Official Gazette of Niger. This information is contained in the OHADA Uniform Act.

467. The chief clerk of the Niamey Commercial Court and chief clerks of the Niger high courts in charge of the Business and Property Registry are responsible for the integration and keeping of records on legal persons in Niger and the process of establishing these entities. All formalities for the creation of legal persons are completed at the court registries. These registries provide the general public with all the information on the procedures for creating legal entities. This information is available not only at the court registries but also on the website of the Trade and Personal Property Registry (<https://rccm.ohada.org/>).
468. In order to promote investment and facilitate administrative process and procedures for the creation of legal persons, the State authorities have created, by Decree No. 2012-247 / PRN / MC / PSP / MM / DI of 30th May 2012, a structure referred to as the business house. Thanks to its one-stop shop, the business house offers a single-entry point for all business creation procedures. It aims both to enable project developers and entrepreneurs to access all structured services meant for them in one place, on one hand, and to ensure better synergy of actions encouraging various partners from the private sector, on the other. Information on the creation of legal persons is available on the website of the maison de l'entreprise (<https://www.mde.ne/>).
469. Apart from business companies and GIEs, other types of legal persons exist in Niger. Order No. 84-06 of 1st March 1984 governing associations in Niger, amended and supplemented by Law No. 91-006 of 20th May 1991 published in the Official Gazette covers the creation of associations and NGOs, including foreign associations (whose obligation to provide the report of previous activities to the State authorities is a prerequisite). In Niger, there is no law that specifically provides for the creation of foundations, but their creation is subjected to the same requirements as associations. The creation of an association is authorized by the Minister of the Interior. Where an application to create an association is made, it must first be sent to the town council of the municipality where the association's headquarters are located. This town council issues a declaration receipt. Then, the town council transmits the files to the Department of Non-Governmental Organizations and Development Associations (DONGAD) through the relevant Ministry. Regarding the records of the members of the association and the verification of their good character, an investigation is carried out by the State intelligence services. Information on associations is available at the DONGAD.
470. The texts in force in Niger have not provided for the creation of legal arrangements such as trusts and Niger has not ratified The Hague Convention on them either. However, it is not excluded that a person living on the State territory can manage assets on behalf of a third party living abroad or that assets located in Niger could be held in the form of a consortium or a trust. In such cases, the relevant beneficial ownership information is not available and therefore not available to the public.

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

471. As indicated above, the creation and types of legal persons are governed in Niger by the Uniform Act on business companies and Economic Interest Groups of January 30, 2014. Legal persons created based on this Uniform Act are either Business Companies or Economic Interest Groups (GIE).
472. Niger considers that it has conducted an ML risk assessment linked to legal persons within the framework of NRA. The information provided to support this claim rather focuses on five (5) areas of activity considered as the most vulnerable to the ML/TF risk.

Thus, the five sectors identified are : the legal and accounting professionals, company and trust service providers, gems and precious metals, works of art and antiquities, NGOs and Associations, real estate: real estate agencies, real estate developers, rental agents and gambling establishments and hotels. These elements therefore do not relate to the risks associated with the various types of legal persons created in the country.

473. When analyzing the information received, the above-mentioned sectors are confronted with ML risks and can be misused for ML/TF purposes because they do not have control mechanisms over the people with whom they collaborate.
474. From the analysis of NRA and discussions held with the competent authorities responsible for incorporating and keeping information on legal persons, it appears Niger has not identified and assessed the vulnerabilities and the extent to which legal persons created in the country may be or are being diverted for ML/TF purposes.

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

475. Measures to prevent the misuse of legal persons for ML purposes have been taken by Niger. The OHADA Uniform Act on Business Companies and Economic Interest Groups applicable in Niger provides for measures to prevent the use of companies for ML/TF purposes. Articles 25 to 28 of the Uniform Act on General Business Law prescribe the information to be provided to the RCCM before the creation of a legal person. These include the company name or business name, acronym or logo, description of the activity or activities to be carried out, the form of the legal person, the amount of share capital with an indication of the amount of contributions in kind, the address of the head office and, where applicable, the address of the parent institution and that of any other institution; surnames, first names and addresses of the partners indefinitely liable for the debts of the company, specifying their date and place of birth, their nationality, the date and place of marriage, the nature of the marriage certificate issued and any provision applicable against third parties limiting the free disposal of the spouses' assets or lack of such provisions, as well as any request for separation of assets, the surnames, first names, date and place of birth and address of the managers, directors or partners having the general power to commit the company or the legal person as well as the surnames, first names, date and place of birth and residence of the external auditors.
476. All the relevant information gathered during the creation is sent to the chief clerk of the commercial court who is responsible for its registration with the Business and Property Registry and ensuring it is maintained, for Niamey, and to the chief court clerks in other localities.
477. The Chief Registrar of the Commercial Court, the chief clerks of the Niger High Courts and the business house observe these requirements in the creation process and business registration and reject incomplete applications, contain inaccurate information or request applicants to provide the missing information.
478. The investigation of managers and capital providers to the corporation are well conducted prior to the creation in order to prevent them from being misused for ML/TF purposes.
479. These measures are essentially aimed at preventing criminals and their associates or other persons of questionable morality from participating in the ownership, control or management of legal persons through fit-and-proper tests and issuance of certificates of decent character.

480. This practice ensures that the basic information gathered can be used by investigative and prosecutorial authorities, where necessary. However, it appears the authorities responsible for incorporation do not take the necessary steps to guarantee the authenticity of the indications produced. Information on geographical addresses is not verified through field visits. The authenticity of foreign identity documents and other documents originating from abroad is not ascertained through verification with the countries of origin of the documents. Besides, there is no specific mechanism for determining the beneficial ownership of a legal person at the RCCM.
481. The failure to carry out the ML/TF risk assessment linked to all types of legal persons created in Niger impeded the adequate assessment of the effectiveness of the above-mentioned measures.
482. Trusts in Niger are not identified as such. Nor are they explicitly provided for by law. In practice, however, the trust can exist in Niger, and nothing prevents a trust established abroad from having its effects in Niger.
483. In the same vein, professional company and trust service providers, referring to independent professionals (consultancy, design offices) are not also well identified in Niger. However, these activities could be carried out by legal professionals and to a certain extent accounting professional, particularly chartered accountants. Indeed, when analyzing very closely the activities of certain professions (Lawyers, Notaries, Accountants), one realizes that they do play this role. For lawyers, there are some who operate internationally and may be required to give advice on incorporating companies or advising foreign companies. These are service deliveries. Regarding asset management on behalf of third parties, it has not been established that this activity is carried out by Lawyers in Niger.
484. For Notaries, it is accepted that these legal professionals keep and manage funds on behalf of others, they precisely manage contributions from companies and give advice. Their status as service providers is therefore recognized. Chartered Accountants and certified accountants are currently working on this issue in collaboration with the Notaries.
485. . Ultimately, while Niger is implementing mitigating measures to prevent the misuse of legal persons for ML/TF purposes, this is not the case with legal arrangements.

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

486. Niger has no mechanism designed to gather accurate and up-to-date beneficial ownership information. The information contained in the RCCM does not specifically include beneficial ownership information but rather information on legal persons in general. However, some information on beneficial owners is held by FIs/DNFBBPs in case the legal person has a business relationship with these entities. In this respect, the competent authorities can turn to FIs and DNFBBPs to obtain this information if necessary. This window of opportunity is limited by certain situations. First, not all legal persons have business relations with FIs/DNFBBPs. Secondly, the deficiencies demonstrated by FIs/DNFBBPs in the implementation of customer due diligence measures do not allow for the collection of information on beneficial owners (this concept being rather poorly understood by the FIs/DNFBBPs). Finally, it is burdensome for competent authorities to send requests to all FIs and DNFBBPs each time they need information on the beneficial owners of a legal person.
487. . In Niger, the competent authorities can obtain basic information on the types of legal persons created in the country from the chief clerk through the RCCM. Indeed,



information on legal persons is held by the Chief Clerk of the commercial court in Niamey and the chief clerks of the ordinary courts in other localities. The information gathered by the Business House during the creation of the companies is subsequently filed to the chief clerk of the Commercial Court in Niamey and there is a clerk seconded by the said court to the Business House to carry out registrations with delegated signature. All information on legal persons is publicly available from these chief court registrars. However, Niger does not have a centralised database of legal persons created in the country. Information on the creation and types of legal persons is only publicly available through publications in the official gazette and other legal notices. The public can also have access to information on these persons through the RCCM, which is accessible online at the Commercial Court of Niamey, as it is computerised. Regarding legal persons created outside Niamey, the information is only accessible to the public through the chief registrars of the courts of the said localities which do not yet have a computerised and centralised RCCM system. Basic information on the legal entities created is also accessible to the public on the website of the Maison de l'Entrepise (<https://www.mde.ne/>) for at least 15 days after their creation. The public can also submit requests for information to the said structure, which are processed and for which the processing time is not predefined in the texts creating the maison de l'entreprise.

488. The OHADA Uniform Act on General Business Law provides that this information should be accessible to the public. However, Niger does not have a central or national RCCM and the information is kept manually by the chief clerks with no automated system, apart from the registry of the Niamey Commercial Court which has a centralized information system. Consequently, the public does not have direct access to information on legal persons operating in the country. However, this information can be obtained at the request of any interested person from the chief clerk or from the Business House.

489. Regarding NPOs and other associations, information on their structures, directors, members, budgets and objectives are available at the Ministry of the Interior, which is responsible for the creation of these entities and the Ministry of Community and Territorial Development through the management of non-governmental organizations and development associations, which has a directory of NGOs/DAs.

490. The competent authorities, particularly the law enforcement authorities (police, gendarmerie and judiciary), lawyers, notaries and financial institutions, use the basic information held by the RCCM in performing their functions to obtain information on legal persons. Investigative authorities said they use the information received from the RCCM to conduct investigations into the predicate offences, ML and TF. These investigative authorities stated that the information received from the RCCM is useful to them in establishing evidence of offences and in asset investigations.

**Table 7.7-1: Statistics on requests filed to the RCCM**

Requesting Institutions	2015	2016	2017	2018	2019
FIU	//	02	12	09	04
Police	//	//	//	//	02
Gendarmerie	//	//	//	//	02
Judiciary	//	//	//	//	//
Financial Institutions	//	//	//	//	//
Notaries	//	//	//	//	03
Lawyers	//	//	01	02	06



491. Relevant information gathered, either directly by the chief clerks or filed by the Company House, is stored manually in archives in the Courts of First Instance, which does not guarantee the security of record keeping. These archives are maintained and managed manually without automated management tools. This reduces public access to information held by the chief clerks. Anyone wishing to access this information must physically go to the office of the chief clerk to submit such a request in any of the localities in Niger, except Niamey. Ultimately, the mechanism in place in Niger does not guarantee timely public access to information held by the authorities.

492. Furthermore, the information contained in the RCCM do not specifically include beneficial ownership information. The RCCM's ongoing computerization process will facilitate the digitalization of information held and stored and will improve public access to such information. In the absence of a computerized information management system at the RCCM, the search for any information by competent authorities and the public will be difficult. This current situation prolongs the time of research and could constitute an obstacle to speedy investigations. Updating information on legal persons is an obligation in Niger. The State authorities require legal persons to update their data. Failure to do so is punishable by law by law.

493. The authorities in charge of the RCCM say managers of legal persons effectively fulfil this obligation by making amending entries. In support of this assertion, they produced the following statistics on amending entries recorded at Niamey RCCM.

**Table 7-Statistics of amending entries RCCM recorded at Nyamey RCCM**

Statistics of amending entries RCCM recorded at Nyamey RCCM	
Year	Number of records
2015	209
2016	216
2017	310
2018	308
2019	268

**Source : RCCM**

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

494. The creation of legal arrangements is not provided for in Niger. Indeed, the law does not allow the creation of foreign trusts and fiducials in Niger. However, as indicated above, legal and accounting professionals accountable to AML/CFT carry out legal arrangement activities. Thus, when they manage assets belonging to trusts or fiducials, they are required to identify the beneficial owners and the parties to the incorporation of the said legal arrangements.

495. However, the assessment team was not aware of any cases in which assets belonging to foreign trusts were managed in Niger.

#### ***7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions***

496. Legal persons are required to submit to the Chief Registrar all documents on any changes in the life of the company, managers, stakeholders and beneficiaries, to update the records kept at the RCCM pursuant to the OHADA Uniform Act. Legal persons are required by law to update the information held by the RCCM.

497. Niger has adopted the required legislation to this effect since 2017 through its PenalCode. This Code includes criminal sanctions under Articles 377.3 and 377.4, which allow for effective, proportionate and dissuasive sanctions to be imposed on those who do not comply with the disclosure obligations. These include administrative, disciplinary and criminal sanctions for non-compliance with the disclosure obligation. The country reported statistics on sanctions against legal persons who failed to update their information in the RCCM.

## Overall conclusion on IO.5

498. Niger has the resources to investigate managers and other persons associated with the creation of legal persons. However, it does not have a mechanism for verifying the information provided by them. Niger has not assessed the vulnerabilities of legal persons and the extent to which such legal persons incorporated in the country can be or are being misused for the purposes of ML / TF. Niger has no mechanism to gather accurate and current beneficial ownership information. The information contained in the RCCM does not specifically include on the beneficial ownership information. Niger's legislation also provides for sanctions against persons who fail to comply with the disclosure obligation. It allows for effective, proportionate and dissuasive sanctions to be imposed on offenders. These include administrative, disciplinary and criminal sanctions for non-compliance with the duty to inform. The country reported statistics on sanctions against legal persons who failed to update their information in the RCCM.

499. **The level of effectiveness achieved by Niger on Immediate Outcome 5 is Low**

## Chapter 8. INTERNATIONAL COOPERATION

### 8.1. Key Findings and Recommended Actions

#### Key Findings

##### Immediate Outcome 2

- a) The Republic of Niger has a satisfactory legal framework for mutual legal assistance and extradition. Niger responded to most of the requests it received. However, it does not have a system for tracking and prioritising requests and providing timely responses. This has an impact on the number of responses provided. The authorities are not sufficiently aware of and trained on how to provide constructive cooperation.
- b) The Nigerien authorities issue very few mutual legal assistance and extradition requests, considering the country's ML/TF risk profile. The authorities involved in AML/CFT have submitted a few requests for mutual assistance and extradition to certain countries during the prosecution of predicate offences to ML. Regarding TF, Niger only issued (2) demands for Mutual Aid.
- c) The law enforcement and investigative authorities should to some extent, issue requests for cooperation for the purpose of AML/CFT, particularly within the G5 Sahel and Interpol. The country sometimes uses informal networks for this purpose. The cooperation provided by these competent authorities to their foreign counterparts appears to be satisfactory on ML issues despite a few delays observed in the handling of some complex requests.
- d) The FIU for its part, request financial intelligence on various issues related to the country's AML/CFT risks from its counterparts through the EGMONT network.
- e) Niger has no data on cooperation in identifying the beneficial owners of legal persons and legal arrangements.
- f) The Nigerien authorities do not have statistics or databases on informal international cooperation.
- g) A framework for cooperation and information exchange among supervisory authorities has been established through Conventions and the organization of college supervisors. However, this situation does not provide for statistics to be used to assess the level of effectiveness.

## Recommended Actions

- a) The State authorities should seek for more ML/TF-related mutual legal assistance and extradition
- b) The State authorities should seek for further international cooperation in ML/TF investigations. They should strengthen the capacities of investigators and magistrates in order to facilitate the use of mutual legal assistance, extradition and other forms of cooperation especially informal and more effective implementation of the various agreements and treaties signed and ratified. The State authorities should also strengthen the human resources of the Criminal Justice Assistance and Cooperation Unit.
- c) The judicial authorities in Niger should develop a Procedures Manual to be used by the Criminal Justice Assistance and Cooperation Unit which will provide guidance on prioritization, confidentiality and timeliness, as well as tracing in order to ensure that all requests are processed without delay.
- d) The State authorities should take measures to request for and provide international police cooperation capable of responding to major ML/TF risks and allocate sufficient material and human resources to the BCN/INTERPOL. The human resources allocated to this unit should not be redeployed frequently, in order to capitalize on experiences and guarantee an efficient and timely processing of requests.
- e) The country should ensure that beneficial ownership information on legal persons and legal arrangements is available and accessible to facilitate cooperation in the identification of beneficial owners.
- f) Niger should maintain comprehensive statistics on international cooperation that will include information on the nature of mutual legal assistance request, extradition or informal cooperation and whether they are outgoing or incoming requests, as well as the date, nature and status of requests.
- g) Niger should document all exchanges on cooperation among supervisory authorities by maintaining statistics that can be used to assess its effectiveness.

500. The Immediate Outcome relevant to this chapter is IO.2. The relevant Recommendations for the assessment of effectiveness in this section are R.36-40 and some elements of R.9, 15, 24, 25 and 32.

## 8.2. Immediate Outcome 2 (International Cooperation)

### 8.2.1. *Providing constructive and timely MLA and extradition*

501. Niger has a legal and institutional framework for international cooperation, which allows it to provide information, financial intelligence and adequate evidence to facilitate actions against criminals and their assets. To provide mutual legal assistance and extradition in light of all international cooperation requests, the country uses its specialised structures. These include the Judicial Division and Chambers specialised in economic and financial matters, which punish economic and financial offences (Law No. 2015-02 of 13

January, 2015) and the Judicial Division and Chamber Specialised in counter terrorism and organised transnational crime.

### **Mutual Assistance**

502. Niger authorities provide mutual legal assistance based on multilateral and bilateral agreements relating to ML, TF, and predicate offences to which the State is a party.
503. When requests for mutual assistance are addressed to Niger, it is the Legal Affairs Department of the Ministry of Foreign Affairs and Cooperation that receives them (Order No. 0035/MAE/C/IA/NE/DGAJ/C/DAJ of 10th October 2016 on the organization and functions of the structures of the Ministry of Foreign Affairs). They are then filed to the Ministry of Justice in its capacity as central authority (Art. 649.29 CCP). The Ministry of Justice, in order to better respond to the needs of international cooperation, has created a national unit for mutual legal assistance and judicial cooperation. This unit is headed by a magistrate and has a substantial budget. All due diligence is implemented to execute all requests received.
504. . Before the said unit was set up, the Directorate of Criminal Affairs and Pardons was in charge of cooperation. The unit is currently developing a procedures handbook to ensure better management of cooperation and prioritization of requests it receives.
505. In the process of executing requests, the Unit refers to the competent court according to the actions requested for made and where those actions would be executed. For instance, the Nigerian authorities contacted Niger concerning a request for mutual legal assistance. In this case, the file was sent to Maradi to organize a hearing. In practice, in order to avoid delays in the execution of relevant actions, third countries send advanced copies of the requests to the State authorities.
506. Furthermore, through Note Verbale N° 01737 / MAE / C / IA / NE / DGAJ / DAJ / BIL3 / HAI of 12th February, 2018, Niger authorities authorized access to Niamey detention centers as part of investigations into the terrorist attacks in TONGO TONGO and as part of a parallel investigation led by the USA. This international cooperation with aimed at facilitating the prosecution of the perpetrators of terrorist attacks, visits to detainees, the interrogation of whom allowed the Americans to gather evidence. This case indicates the reality of mutual legal assistance which, however, is not enough to demonstrate its effectiveness.
507. Niger authorities have granted requests for mutual assistance with support from investigating magistrates in several AML/CFT cases. Niger has therefore responded to most of the incoming requests. Requests for mutual assistance received, in practice, are processed based on the concerns (clearly inscribed) expressed by the requesting authority and not in any order of established priority. However, these requests are not processed within a given time frame, as the law does not define any time limit for processing requests. The speed with which mutual assistance requests are processed depends on the complexity of the case. There is also no specific order in which requests for mutual assistance are processed, allowing some to be prioritised over others. Niger authorities have not indicated the average time it takes to process mutual assistance requests. It is therefore not possible to say whether these requests are processed in a timely manner by the judicial authorities.
508. Any refusal to respond to a request for mutual legal assistance must be justified (art. 140 of law n° 2016-33). Also, Niger complies, within the framework of judicial cooperation, with the “principle of dual criminalization” for the simple fact that the act is

criminalized by law. The various investigative and prosecutorial authorities have the human and financial resources necessary to accomplish their missions.

509. . From its inception to date, the national mutual assistance unit has recorded the following mutual legal assistance requests:

**Table 8-1: Requests for Mutual Legal Assistance<sup>64</sup>**

Years	Nb. of requests issued	Nb. of requests received
2014	03	1
2015	4	2
2016	2	1
2017	3	2
2018	6	2
2019	11	7
<b>Total</b>	<b>29</b>	<b>15</b>

Source: National Mutual Legal Assistance Unit of Niger

510. The table below further summarizes mutual legal assistance requests received relating to ML/TF and predicate offences.

**Table 8-2: Status of Mutual legal assistance requests received per year for the period spanning 2015-2019**

	2015	2016	2017	2018	2019
Total number of requests received	02	00	00	01	08
Total number of requests received for ML-related offences	01	00	00	00	02
Total number of requests received for predicate offences	01	00	00	01	06
Total number of requests received for TF-related offences	00	00	00	00	00

Source: National Mutual Legal Assistance Unit of Niger

#### Extradition

511. Regarding extraditions, the State authorities have provided some assistance to other countries. Indeed, when Niger receives a request for extradition, it conducts some investigation and has it executed pursuant to the domestic laws and international law. It does not subject them to the existence of any agreement with the requesting country. The Ministry of Justice, in the process of executing extradition requests through the Unit, refers to the General Prosecutor at the Court of Appeal. Where necessary, the State Prosecutor makes the provisional arrest. The Court of Appeal deals with the extradition case file until all the appeal options have been exhausted. Extradition is authorized by Decree issued by the President and Head of State, after a positive opinion from the indictment chamber.

512. Under Niger law, nationals cannot be extradited.

513. Since its inception in 2015 to date, the national mutual assistance unit has received three extradition requests and no requests have been granted. This is illustrated in the table below:

<sup>64</sup> Source: MJ Statistics Department

**Table 8-3: Extradition requests received**

	2015	2016	2017	2018	2019
All extradition requests received	00	01	00	00	03
ML-related extradition requests received	00	00	00	00	00
ML-related extradition requests executed	00	00	00	00	00
TF-related extradition requests received	00	00	00	00	00
TF-related extradition requests executed	00	00	00	00	00

**Source: National Mutual Legal Assistance Unit of Niger**

514. Niger authorities received only one ML TF-related request. Furthermore, out of the four requests received on predicate offences, three were not granted and the Nigerien authorities gave no reason for such refusals.

515. In conclusion, the requests for mutual assistance and extradition received are not processed in order of priority and in a timely manner by the judicial authorities. Regarding extradition requests, because there are no requests received, it is not possible to assess whether Niger grants constructive extradition without delay.

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

516. The criminal prosecutorial authorities have the necessary resources to request mutual legal assistance and extradition through training. They have sent requests for mutual assistance and extradition to certain countries during the prosecution of predicate offences. A request is being processed with the requested Nigerian authorities. Several other requests relating to predicate offences have been sent to some Sahel countries, including in Mali and Burkina Faso. A request to the United Arab Emirates proved fruitless because the requested country considered that the documents produced for this purpose were incomplete. The requests for mutual legal assistance issued by Niger authorities concerned the following offences: terrorism, terrorist financing, money laundering and drug trafficking, which do not cover the full range of the most recurrent offences in Niger according to the NRA.

517. In view of the requests for mutual legal assistance mentioned in the NRA and by the authorities met on-site, Niger is not very active in terms of requests for mutual legal assistance. Statistical data provided by the State authorities reveal that the country has made a limited number of requests for mutual legal assistance, as shown in the table below. The judicial authorities of the Republic of Niger were unable to indicate to the assessment team the average time required to process outgoing mutual legal assistance requests. Statistics on mutual legal assistance also do not show the names of the countries that have sent requests, the number of requests processed and those are pending.

518. The statistics provided in the table below reveal that from 2015 to 2019, Niger authorities used mutual legal assistance only six (6) times in five (5) years and issued only two (2) requests for mutual aid. Regarding TF, Niger has issued one request for mutual legal assistance. Consequently, this low level of requests for mutual legal assistance is not consistent with the high TF risk level.

**Table 8-4: Request for Mutual Legal Assistance relating to money laundering, terrorist financing and predicate offences**

	2015	2016	2017	2018	2019
Total number of requests issued	00	02	01	00	01
Total number of ML-related requests issued	00	02	00	00	01

Total number of requests issued relating to predicate offences	00	00	00	00	00
Total number of TF-related requests issued	00	00	01	00	00

**Source: National Mutual Assistance Unit**

519. Overall, Niger authorities make little use of mutual legal assistance. This is inconsistent with the country's AML/CFT risk profile. ML and predicate offences, rated as high risk, trafficking in persons and smuggling of migrants, which are eminently transnational, are among the most recurrent offences, but a few requests for mutual legal assistance have been made in their prosecution. Furthermore, Niger noted that the risk of TF is high in the country and that most terrorist acts are committed by terrorist groups based in foreign countries. The number of requests for mutual legal assistance in TF cases (only one request in 5 years) contrasts, however, with this observation by Niger authorities.

520. This low recourse to mutual legal assistance is said to be due firstly to the fact that the judicial authorities are not sufficiently aware of and trained on the usefulness and procedures of mutual legal assistance. Secondly, the administrative process for the completion, transmission and follow-up of mutual legal assistance cases was not efficient before the creation of the National Mutual Legal Assistance Unit in December 2018. The recent operationalisation of this unit meant Niger could not resolve these deficiencies at the time of the on-site visit.

521. The State authorities, based on the information provided, made only one (1) extradition request from 2015 to 2019. The extradition request was TF-related. No ML request was made.

**Table 8-5 Extradition requests made by Niger**

	2015	2016	2017	2018	2019
All extradition requests issued	00	00	00	00	00
ML-related extradition requests	0	0	0	0	0
TF-related extradition requests	00	00	00	00	01

**Source: National Mutual Legal Assistance Unit**

522. In light of these elements, it appears that Niger does not use mutual legal assistance and extradition in a satisfactory and timely manner in ML, the related predicate offences and TF cases.

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

523. In Niger, the competent authorities involved in AML/CFT seek other forms of international cooperation to share financial intelligence, information on the supervision and criminal prosecution or other information with their foreign counterparts. To this end, Niger is a member of several international networks involved in AML/CFT and combating international crime. Niger has cited:

- Interpol;
- The West African Police Chiefs Committee (CCPAO), created in 2000, which is a high-level forum for cooperation between ECOWAS Directors General and Inspectors General of Police,
- Agreements within the framework of bilateral cross-border commissions signed by Niger with most neighbouring countries for a broad exchange of information on transnational organised crime, particularly regarding cross-border illicit trafficking



(drug trafficking, arms trafficking, migrant trafficking, etc.), which constitute predicate ML or terrorist financing offences. Among others, we can cite:

- The Nigeria-Niger Joint Commission for Cooperation;
- The large Niger-Algeria Joint Commission for Cooperation;
- The commissions for joint cooperation with Burkina Faso, Mali and Chad;
- The SAHEL G5 platform of which the Central Service Against Terrorism and Transnational Organised Crime (SCLCT/CTO) is a part. This platform disseminates operational information on terrorism and terrorist financing activities to the security services of the five (5) member countries.

524. The country is also a party to agreements and initiatives that support international cooperation. As such, it uses international platforms such as the Network of Central Authorities and Prosecutors of West Africa against Organized Crime (WACAP), established in May 2013 for mutual legal assistance among prosecutors in the fight against transnational organized crime and the Inter-Agency Network for Asset Recovery in West Africa (ARIN-WA) established in November 2014 for cooperation among recovery agencies. These networks and platforms are operated by the competent authorities within the framework of formal and informal cooperation.

525. Regarding investigative authorities: The investigative authorities cooperate with their foreign counterparts through several channels. Police, Gendarmerie, Customs and Tax authorities share information on predicate crimes, money laundering and terrorist financing through Interpol, the African Gendarmerie Organisation, the World Customs Organisation, the OECD, etc.

526. **The National Central Office-Interpol (BCN-Niger) plays a decisive role in police cooperation.** From 2018 to 2019, BCN-Niger sent out eight (8) research messages and received thirteen (13).<sup>65</sup> However the country did specify the types of offences about which intelligence was shared. Summarise some cases of successful sharing of intelligence on ML/TF cases, specifying the dates of receipt of requests and the dates of responses to the requests received, indicating whether the responses received have been effective in solving ML or TF cases.

527. Statistics on the co-operation requested through BCN-Interpol are presented in the following table.

**Table 8-6 Police cooperation request via Interpol National Central Bureau-Niamey**

	2018	2019
Request for police to police transfer	05	02
Request for intelligence	04	04
Request for cooperation	03	04
Request for collaboration	00	01
Simple police to police transfer	01	03
Request for assistance	01	00
<b>Total</b>	<b>14</b>	<b>14</b>

Source: BCN

<sup>65</sup>Source : BCN-Interpol-Niger

528. Investigative authorities also cooperate in the framework of the Sahel G5 in the fight against terrorism and its financing. The country provided information on a case of cooperation that it requested from another member State of the Sahel G5, during investigations into terrorism and the financing of terrorism.

529. The DGDSE, which, at the national level, coordinates intelligence in the fight against crime and terrorism and its financing, also cooperates with its foreign counterparts in the sharing of information on terrorist groups operating in the region. However, Niger has not provided any statistics to corroborate this situation.

***Supervisory authorities of the banking and insurance sectors (Banking Commission and CRCA) in Niger:***

530. These authorities also solicit their foreign counterparts in their licensing and supervision activities through cooperation and information exchange agreements as well as the college of supervisors organization.

**As concerns the FIU:**

531. The cooperation framework called “Lake Chad Units Network” was established by the FIUs of Niger, Nigeria, Chad, Cameroon and Benin to facilitate the sharing of information on the activities of the BOKO HARAM sect, particularly terrorist financing and money laundering circuits as information sharing channels. However, the assessment team has not received any statistics to assess the effectiveness of this cooperation framework.

532. In addition to being a member of the Egmont Group since June 2015, the Niger-FIU, which has signed 10 MoU with its counterparts as at the end of 2019, uses the “Egmont Secure Web” platform to solicit and obtain information from this informationexchangenetwork. It can also obtain information from its other counterparts which are not members of the Egmont Group based on assigned Memorandum of Understanding (MoU), while observing reciprocity. The FIU does not need an international agreement to cooperate with other UEMOA Member States. In this regard, the FIU addressed 255 requests to its foreign counterparts from 2013 to 2019. The information provided in response to requests enriched analyses to establish evidence of offences and locate the proceeds of crime related to money laundering, related predicate offences and terrorist financing.

533. Some examples of international cooperation reveal the existence of limited cooperation between the FIU and FinCEN. Indeed, between 2016 and 2019, the Niger-FIU sent 2 requests to FinCEN which the American FIU describes as of good quality. In return, FinCEN informed that it sent two (2) spontaneous strings of intelligence related to terrorism or TF. In this regard, the Belgian financial information unit carried out one (1) spontaneous dissemination for the benefit of Niger’s FIU.

**Table 8-7: Status of Information Requests issued by the Niger FIU by geographical area (2016 - 2019)**

Geographical Areas	2016	2017	2018	2019
West Africa	32	8	7	24
UEMOA Zone	25	7	4	20
Central, South and East Africa	2	1	3	6
North Africa	5	1	0	0
Europe	7	4	8	8
America	0	1	1	1
Asia	11	4	2	9

<b>TOTAL</b>	<b>82</b>	<b>26</b>	<b>25</b>	<b>68</b>
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Source: FIU

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

534. In Niger, the competent authorities provide other forms of international cooperation to their counterparts. They provide these other forms of cooperation through the networks and platforms referred to under essential question 2.3 above:

##### Investigative Authorities

535. The Nigerien police authorities also provide information to their counterparts through the Interpol secure network. Thus, the BCN-Niger has been contacted several times on transnational crime cases at the request of foreign investigative authorities.

**Table 8-8: Police Cooperation granted through the Niger Interpol National Central Office -Niamey**

Type of cooperation	2018		2019	
		Received		Received
Request for police to police transfer		02		02
Intelligence requests		00		00
Cooperation requests		00		01
Collaboration requests		00		00
Simple police to police transfers		00		01
Assistance requests		00		00
<b>Total</b>		<b>02</b>		<b>04</b>

Source : BCN-Interpol Activity Report

##### Cooperation granted by the FIU

536. The statistical data provided by the FIU did not reveal whether it responded in a timely manner to request from its foreign counterparts. The response time depends on the request and the nature of the information requested. When it cannot gather all the information at the same time, it sends partial responses. The FIU indicated that requests are processed in order of priority in accordance with the internal manual which provides guidelines for analysts on prioritization. Most of the information requests come from UEMOA member countries. The Niger-FIU provides its foreign counterparts with all the information it can obtain from its database. However, where this information is not in the database, the FIU searches for information from the national stakeholders concerned and forwards it to foreign authorities.

537. The FIU has produced the above table with the number of requests received, name of the issuing countries and processing dates of such requests.

**Table 8-9: Information Requests received by the FIU from 2016 to 2019<sup>66</sup>**

YEAR	ZONE	DATE	PROCESSING DATE
2016	UEMOA	09/21/16	10/04/2016
		10/07/16	12/07/2016
		11/07/16	12/02/2016
	AFRICA	10/27/16	04/23/2018
	ASIA	05/31/13	INFO

<sup>66</sup>Source: Niger-FIU

		06/28/16	12/07/2016
	OTHERS	02/09/16	INFO
2017	UEMOA	02/01/17	02/17/2017
		02/03/17	02/10/2017
		06/01/17	07/07/2017
	EUROPE	01/23/17	01/26/2017
	ASIA	03/03/17	06/27/2017
		03/14/17	05/09/2017
08/07/17		10/18/2017	
2018	UEMOA	01/29/18	01/15/2019
		02/22/18	04/04/2018
		04/04/18	11/02/2018
		11/22/18	02/24/2018
	AFRICA	02/23/18	08/21/2018
		06/06/18	IN PROGRESS
		06/06/18	IN PROGRESS
	EUROPE	07/25/18	11/12/2018
		11/05/18	01/25/2018
	AMERICA	07/25/18	01/23/2018
2019	UEMOA	01/25/19	03/08/2019
		01/25/19	02/28/2019
		2/14/19	03/11/2019
		05/06/19	02/09/2019
		6/20/19	08/20/2019
		09/30/19	01/09/2019
		10/01/19	10/10/2019
		10/28/19	IN PROGRESS
		11/26/19	IN PROGRESS
	ECOWAS	11/08/19	IN PROGRESS
	AFRICA	04/04/19	05/21/2019
	EUROPE	01/10/19	08/06/2019
		07/22/19	08/06/2019
		10/04/19	IN PROGRESS
	AMERICA	10/08/19	IN PROGRESS
	OCEANIA	3/19/19	04/10/2019

538. The table below sums up the requests received by the FIU through the Egmont group and bilateral or multilateral cooperation.<sup>67</sup>

**Table 8-10: Intelligence sharing between the FIU and its Counterparts**

Description	2013	2014	2015	2016	2017	2018	Sept-19
Number of information requests from foreign FIU processed	2	3	4	7	7	10	10
Number of requests for information from foreign FIU processed	2	1	1	10	8	5	10

<sup>67</sup>Source: Niger FIU

539. Several delegations from Member States gave their opinion on the quality of the cooperation they received from the Niger FIU. The FIU of the USA indicated that a request for information sent on 28 November 2017 was still awaiting a response. The Belgian CTIF-CFI revealed that it had sent two (2) requests for information to its Niger counterpart between 2015 and 2018 in connection with suspicious transactions and that it was still waiting for additional information as of February 2019.
540. The Niger FIU provided little information on the voluntary cooperation it allegedly granted to its counterparts through voluntary dissemination.
541. . Regarding the supervisory authorities of the banking and insurance sectors (Banking Commission and CRCA) in Niger:
542. They grant their foreign counterparts, as part of their licensing and supervisory activities, cooperation through the sharing of information and the organisation of colleges of supervisors. However, Niger did not provide information to this effect to allow the assessment team to deepen the analysis.

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

543. As indicated in IO.5, the registers of legal persons are kept at the Business and Property Registry (RCCM) of the Commercial Court and the High Courts of Niger. The information obtained through a search in these RCCMs may be communicated to the national authorities, which may also request for it on behalf of foreign authorities. This information is basic information with regards to legal persons and is not useful in identifying beneficial owners in Niger.
544. . Based on the mechanisms described in the first four core questions, the competent authorities can cooperate with their foreign counterparts on the issue of legal persons and legal arrangements. Authorities Niger have neither received nor made requests to any foreign authorities specifically for the purpose of identifying and exchanging basic information on the beneficial ownership of legal persons and legal arrangements.

## **Overall conclusions on IO.2**

545. The State authorities make very little use of mutual legal assistance and extradition considering the country's ML and TF risk profile. The judicial authorities do not deal with requests for mutual legal assistance and extradition in order of priority in a timely manner. Furthermore, apart from the FIU which provided little information on the exchanges with its counterparts, the request and granting of other forms of cooperation, including among law enforcement agencies and their counterparts, could not be easily assessed because the country provided no statistics. Niger does not have an international cooperation mechanism for identifying beneficial owners.

546. **The level of effectiveness achieved by Niger on Immediate Outcome 2 is Low**

## Annex A. TECHNICAL COMPLIANCE

1. This Appendix provides a detailed analysis of the Niger's compliance with the FATF 40 Recommendations. It does not describe the country's situation or the risks to which it is exposed but focuses on the analysis of the technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

2. Where the FATF obligations and national laws or regulations remain unchanged, this report refers to the analysis carried out in the previous mutual evaluation for that year and available at the following address: [www.giaba.org](http://www.giaba.org)

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

In the first MER in 2008, there was no requirement for a NRA or other risk-related requirements, pursuant to R.1.

#### Risk Assessments

##### Criterion 1.1

Article 10 of the AML/CFT Law requires the State authorities to take measures to identify, assess, understand and mitigate ML/TF risks. Niger conducted its NRA between 2016 and 2018, with technical assistance from the World Bank. The NRA report was approved by Decree of 26<sup>th</sup> July, 2019. The NRA provides an assessment of the national threat and vulnerability as well as of the specific vulnerability assessment of the relevant sectors. This exercise enabled the country to identify and assess the ML and TF risks to which sectors are exposed.

##### Criterion 1.2

Niger adopted Decree n° 0343 of 5<sup>th</sup> August 2016, establishing within the FIU, a working group responsible for the conduct of the NRA.

##### Criterion 1.3

The NRA is to be updated every three years (Article 1 of Decree of 27<sup>th</sup> January 2020).

##### Criterion 1.4

NRA findings are to be shared with the competent authorities and self-regulatory bodies as well as the FIs and DNFBCs, through the websites of the Ministry of Finance and the FIU (Article 3 of Decree of 27<sup>th</sup> January 2020)

#### Risk mitigation

##### Criterion 1.4

NRA findings are to be shared with the competent authorities and self-regulatory bodies as well as the FIs and DNFBPs, through the websites of the Ministry of Finance and the FIU (Article 3 of Decree of 27<sup>th</sup> January 2020)

### ***Risk mitigation***

#### **Criterion 1.5**

The NRA noted that the risk exposure of the various activity sectors is poorly understood and variable with a very large disparity between the financial and non-financial sectors. To address this gap, several Recommendations have been proffered, the implementation of which, through an action plan (2019-2021), supported with the allocation of substantial resources, would help improve the effective functioning of the AML/CFT regime. The main areas of the action plan are: strengthening the legal framework; capacity building of actors; strengthening cooperation. Furthermore, Article 4 of Decree n° 2020-110 / PRN / MF of 27<sup>th</sup> January 2020, designating the Competent Authority responsible for coordinating the national response to the risks of money laundering and terrorist financing, shows that Niger has adopted a risk-based approach to the allocation of resources. However, in the implementation of measures aimed at preventing or mitigating ML/TF, only the recommended actions which have no financial implications, are currently being implemented, even though the latter together with the enhancement of the legal framework, are considered as priorities. This approach does not reflect a prioritization based on risks. Also, the resources provided for in the action plan are apparently not being mobilized by the authorities, even though those planned for 2020 have already been included in the 2020 budget.

#### **Criterion 1.6**

Niger does not allow for any exemption from the provisions of the AML/CFT Law.

#### **Criterion 1.7.**

- a) FIs and DNFBPs are required to have policies, procedures, controls to effectively mitigate and manage ML / FT risks identified at Union level, country level and at their own level (Art.11-A1.3 of the AML / CFT Law). Measures taken to this end may include those strengthened.
- b) There is no legal requirement for FIs and DNFBPs to include NRA information when performing their risk assessments at institutional level.

#### **Criterion 1.8**

Niger can take simplified measures where the ML/TF risk is low, without any suspicion (Articles 46, 47 and 48 of the AML/CFT Law). The law does not explicitly state that this should be based on country's ML/TF risk assessment. But in practice, the simplified measures are in line with the assessment of institutional risks

#### **Criterion 1.9**

Supervisory and self-regulatory authorities are required to ensure that FIs and DNFBPs comply with their AML/CFT legal obligations (Articles 86 to 88 of the AML/CFT Law). Thus, the BCEAO, CIMA and CREPMF, require FIs to adopt a risk-based approach and for their assessments to be kept up to date and made available to the competent authorities and self-regulatory bodies (SRBs). The same requirements also apply to DNFBPs. However, there is no precise requirement to consider threats, vulnerabilities and consequences before determining appropriate risk mitigating measures.

## OBLIGATIONS AND DECISIONS FOR FINANCIAL INSTITUTIONS AND DNFBPs

### *Risk Assessment*

**Criterion 1.10 a -d** Pursuant to Article 11 of the AML/CFT Law, FIs and DNFBPs are required to:

- a) Take appropriate measures to identify and assess the ML/TF risks to which they are exposed and document their risk assessments. However, the provisions of the CIMA Regulation n° 0004 of 4<sup>th</sup> October 2008 are out of tune with the requirements of the AML/CFT Law n° 2016-33 of 31<sup>st</sup> October 2016, particularly those of criterion 1.10a;
- b) Take into account relevant risk factors, such as customers, countries, geographical areas, products, services, transactions and distribution channels. However, the law does not explicitly provide that all relevant risk factors are to be considered before determining the overall risk level and the type of appropriate measures to be applied in order to mitigate such risks;
- c) Update the risk assessments conducted; and
- d) Make them available to the competent authorities and SRBs. However, the mechanisms through which this information is supposed to be provided are not specified.

### *Risk mitigation*

Criterion 1.11-a –c: Pursuant to Article 11 of the AML/CFT Law:

- a) FIs and DNFBPs must obtain the approval of the senior management for the establishment of their control policies, procedures and strategies (Article 11, al. 5);
- b) The said control policies, procedures and strategies mentioned in point (a) above shall be monitored and strengthened as and when necessary (Article 11, paragraph 5);
- c) To manage the higher risks identified, FIs and DNFBPs must implement enhanced measures to manage and mitigate such risks.

### **Criterion 1.12**

The AML/CFT Law allows reporting entities to apply simplified measures to manage and mitigate risks where they are considered as low, and provides for low-risk scenarios. Simplified due diligence measures are not applicable where there is suspicion of ML/TF, and the reporting entities must gather sufficient information to determine whether the customer or the product meets the requirement (Article 46-49 ) to benefit from simplified due diligence.

### **Weighting and Conclusion**

Niger conducted its first NRA in 2019 and subsequently adopted an AML/CFT Action Plan in July 2019. The NRA update is on a 3 years basis; The results are disseminated through the websites of the Ministry of Finance and FIU which is designated to monitor the implementation of the action plan . There are however some methodological deficiencies in the conduct of the NRA (e.g. lack of some statistical data and some doubts on the reliability of the information used). Niger does not yet implement a risk-based approach in



line with the NRA findings in terms of supervision of FIs and DNFBPs as well as for the allocation of resources for the implementation of the NRA Action Plan.

**Recommendation 1 is rated Largely Compliant**

**Recommendation 2 - National Cooperation and Coordination**

In its 1st MER, Niger was rated Non-Compliant on the Recommendation relating to National Cooperation and Coordination due to the lack of coordination and cooperation mechanism among the competent authorities in the fight against money laundering and terrorist financing. Since the adoption of its MER in 2009, Niger has enacted various laws, including the AML/CFT Law No. 2016-33 of 10/31/2016.

**Criterion 2.1.**

The authorities have established an action plan based on the risks identified and assessed in the NRA, which will be reviewed on a regular basis. This led to the passing of the incomplete AML/CFT law on 27<sup>th</sup> January, 2020.

**Criterion 2.2**

The National Committee for the coordination of AML/CFT activities established by Decree N° 2014-448/PRN/MF of 4<sup>th</sup> July 2014, is the authority responsible for the implementation and coordination of national AML/CFT policies in Niger. The said Decree was amended by Decree N° 2017-681/PRN/MF of 10<sup>th</sup> August 2017 and by Decree N° 2020-110/PRN/MF of 27<sup>th</sup> January 2020, reorganizing the National Committee for the Coordination of Activities on the fight against money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction, to take into account the innovations of AML/CFT law N° 2016-33 of 31/10/2016, including the financing of the proliferation of weapons of mass destruction.

**Criterion 2.3**

Article 74 of the AML/CFT Law requires the FIU, supervisory authorities, professional associations and national representative bodies to establish effective mechanisms for cooperation and coordination of their activities at domestic level, in order to map out and implement policies and actions aimed at combating ML/TF. To achieve this, the national AML/CFT cooperation and coordination mechanism relies on the CNCA-AML/CFT, FIU correspondents, other operational or policy-making structures such as the Technical Advisory Committee on Administrative Freezing (CTCGA), the National Coordination Commission against Human Trafficking (CNCLTP), the National Coordination Committee for the Criminal Chain and its Permanent Secretariat (CNCCP), the National Coordination Committee against Terrorism, Terrorism Financing, the Financing of Violent Extremism and Transnational Organized Crime (CNCLTFTFEVCTO). Their governing texts as well as the AM/CFT Law N° 2016-33 of 10/31/2016, under Articles 60 (paragraphs 2 and 5), 66 (paragraphs 2 and 4), 70 and 74 and 75, allow them to cooperate, exchange information and coordinate their AML/CFT actions at domestic level.

**Criterion 2.4**

Decree No. 2020-110/PRN/MF of 27<sup>th</sup> January 2020, reorganizing the National Committee for the Coordination of Activities on the fight against money laundering, the terrorist financing and the financing of proliferation of weapons of mass destruction, provides a

coordination mechanism to fight against the financing of the proliferation of weapons of mass destruction.

### **Criterion 2.5**

Decree No. of 27<sup>th</sup> January 2020 provides for cooperation and coordination between the competent authorities and the FIU, ensuring that the AML/CFT requirements are compatible with measures designed to protect data and safeguard privacy, as well as other similar measures, including confidentiality and security of suspicious transaction reports.

### ***Weighting and Conclusion***

Niger has a global framework on national cooperation and coordination.

### **Recommendation 2 is rated Compliant**

## **Recommendation 3 - Money laundering offence**

In its first MER of 2008, Niger was rated partially compliant on this Recommendation. The key deficiencies identified were the demonstrated ineffectiveness in the criminalization of ML. The country has carried out reforms to criminalize the ML offence –now defined in AML/CFT Law N° 2016-33 of 31/10 / 2016 (referred to as AML/CFT Law).

Criterion 3.1. - Money laundering is criminalised under Article 7 of the AML/CFT law – in line with Article 3 (1) (b) and (c) of the Vienna Convention and Article 6 (1) of the Palermo Convention.

Criterion 3.2 - Niger determines the predicate offences to ML by referring to all the offences and a list of the major offences (Article 1.16).

Criterion 3.3 a-c - Niger has adopted a combination of approaches to determine the predicate offences to ML by referring to a list of predicate offences and a threshold related to serious offences (Articles 1.16 and 1.32).

Criterion 3.4 - ML offence applies to all types of tangible or intangible assets (Article 1.14). All funds and assets derived directly or indirectly from criminal activity are proceeds of crime (Article 1.45).

Criterion 3.5 - There is no legal requirement that a conviction should be secured for the predicate offence, in order to prove that the assets are the proceeds of crime (Articles 1.45 and 7).

Criterion 3.6 - The money laundering offence explicitly covers the predicate offences committed in the territory of another Member State or in that of a third State which has enabled the perpetrator to obtain assets or income. (Article 7 paragraphs 3 and 130).

Criterion 3.7- The ML offence applies to all persons, including those who commit the predicate offence (Article 7 paragraph 2 016).

Criterion 3.8 - Knowledge or intention, as elements of money laundering offences, may be inferred from objective factual circumstances (Article 7 paragraph 4).

Criterion 3.9 - The AML/CFT Law provides for sanctions for ML targeting natural persons (Articles 113 to 118). These range from three to seven years' imprisonment and a fine equal to three times the value of laundered assets or funds. The sanctions may be increased in the case of recidivism or where the offence involves the use of premises made available

through professional activities. Additional sanctions are provided for, and the benefit of suspended sentence is excluded. The sanctions are proportionate and dissuasive.

Criterion 3.10 - The Law provides proportionate and dissuasive criminal sanctions to be meted out on legal persons or their representatives who engage in money laundering activities (Article 124). These measures are taken without prejudice to the disciplinary sanctions (civil or administrative) to be meted out by the supervisory authority.

Criterion 3.11 - Article 7 provides for a range of ancillary offences applicable to ML, including participation in, association or conspiracy to commit the ML offence; facilitating; attempt; aiding or abetting or to compel, or to facilitate the execution of such an act). In addition, the law provides for the criminal sanctions applicable to collusion, association and aiding and abetting for the commission of ML (Article 114).

### ***Weighting and Conclusion***

Niger has a comprehensive framework on the criminalization of money laundering.

Recommendation 3 is rated Compliant.

## **Recommendation 4 - Confiscation and provisional measures**

In its first MER of 2009, Niger was rated partially compliant on this Recommendation. The key deficiencies identified were non-implementation of the freezing, seizure and confiscation mechanisms for money laundering offences and proceeds derived from predicate offences, as well as the lack of a provision for the confiscation of funds of equivalent value to the value of the proceeds and instrumentalities of crime and offence.

Criterion 4.1 - Articles 117-9, 128 and 129 of the AML/CFT Law allow the confiscation measures for the proceeds of ML and TF, including income or other benefits derived from such crimes; legislative measures which allow Niger to confiscate the assets listed in criterion 4.1

- a) Niger has legislative measures allowing for the confiscation of laundered assets. Article 128 of the AML/CFT Uniform Act provides for the confiscation of movable or immovable property into which the proceeds of the offence are transformed or converted.
- b) Niger has legislative measures allowing for the confiscation of the proceeds of crime, including income or other benefits derived from or instrumentalities used or intended to be used for money laundering or predicate offences. Article 128 of the AML/CFT Uniform Act provides for the confiscation of property that was used or intended to be used to commit the offence, proceeds of the offence up to their value, legitimately acquired property with which such proceeds have been commingled, as well as income and other benefits derived from such proceeds, assets into which they are transformed or invested or property with which they are mixed.
- c) Niger has legislative measures allowing for the confiscation of property constituting the proceeds of, or used for, or intended to be used for, the financing of terrorism, terrorist acts or terrorist organisations. Article 129 of the AML/CFT Uniform Act provides for the confiscation of funds and other financial resources related to the offence as well as of any movable or immovable property intended for or used in the commission of the said offence. Article 399.1.21 of the Penal

Code contains relevant provisions allowing for the confiscation of funds linked to the financing of terrorist organisations and individual terrorists for any purpose.

- d) Niger has legislative measures allowing for the confiscation of property of corresponding value. Articles 128 and 129(4) of the AML/CFT Uniform Act allow for the confiscation of property of equivalent value.

Criterion 4.2 a) b) c) d)

a) Criminal investigation officers, investigating judges, HALCIA and the Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets (ACGSCGRA), conduct research and investigations to identify, trace and assess assets based on the provisions of the Code of Criminal Procedure of Niger, of Law No. 2016-44 of 6<sup>th</sup> December 2016 establishing HALCIA and the Appendix to Decree N° 2017-705 of 14<sup>th</sup> August 2017, approving the statutes of ACGSCGRA.

b) Article 99 of the AMLCFT Law allows administrative and judicial authorities to prescribe provisional measures which, among other things and at the expense of the State, order the seizure or confiscation of all funds and assets associated with the money laundering or terrorist financing offence under investigation, and all elements likely to lead to their identification as well as the freezing of all sums and financial transactions on such assets. The competent authority submits the request for an interim measure to the person in possession of the goods without prior notification to the owner.

c) Niger says the courts are empowered by law to prevent measures being taken that would affect the ability to freeze or recover assets which are the subject of such decisions but provides no relevant provision to back this up. Niger has not specified whether its courts are able to reverse these measures.

d) Authorities may take other appropriate investigative measures through the powers defined in Recommendation 31.

Criterion 4.3 - Niger's legal system protects the rights of bona fide third parties. (Articles 101, 107, 128 and 129 of AML/CFT Law No. 2016-33 of 31/10/2016).

Criterion 4.4: - Niger has entrusted the implementation of mechanisms or procedures for the management and disposal of seized or confiscated assets to the Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets (ACGSCGRA). The Central Agency for the Management of Seizures, Confiscations, Freezes and Asset Recovery: is the national structure for the management of assets, whatever their nature, seized, confiscated, frozen and recovered, in the context of criminal proceedings (Art.1 of the Annex to Decree No. 2017-705 / PRN / MJ).

### ***Weighting and Conclusion***

Niger stated that its Courts are empowered by law to prevent measures taken to undermine the capacity to freeze or recover assets subjected to such orders, but did not provide any relevant provision to support the claim. Niger did not specify whether its Courts could reverse the said measures.

### **Recommendation 4 is rated Largely Compliant**

## Recommendation 5 - Terrorist financing offence

In its previous MER, Niger was rated Partially Compliant (PC) on this Recommendation due to the non-criminalization of the financing of an individual terrorist and a terrorist organization; the concept of "funds" was not broad enough; uncertainty about national jurisdiction and the lack of liability for legal persons. Niger has carried out reforms with a view to improving its Counter-TF system.

### Criterion 5.1

Criminalization of TF in Niger is consistent with Article 2 of the Terrorism Financing Convention. Article 8 of Law 2016-33 and Article 339.1.21 of the Criminal Code criminalize any act committed by a natural or legal person who, by any means whatsoever, directly or indirectly, has deliberately provided or collected assets, funds and other financial resources with the intention of using them or knowing that they will be used, in whole or in part, for the commission of: a) an act constituting an offence under Title VI (New) of the Criminal Code of Niger (the new Title VI of the Penal Code of Niger includes all offences provided for in the treaties annexed to the Convention against Terrorism. Under Article 1 of Law 2016-33, the Convention against Terrorism and its constituted annexes are interwoven and therefore an integral part of the uniform law); b) any other act intended to kill or seriously injure a civilian, or any other person not directly participating in hostilities in a situation of armed conflict, when, by its nature or context, such act is intended to intimidate a population or compel a Government or an international organization to carry out or refrain from carrying out any act. Paragraph 2 of Article 399.1.21 specifies that the offence is constituted even if the funds collected were not actually used in the commission of the offence.

**Criterion 5.2** - The provisions of Article 8 of the AML/CFT Law are supplemented by those of Article 399.1 .21 (new) (a), (b), (c) of the Penal Code which specify that the terrorist financing offence applies to any person who deliberately and by any means whatsoever, directly or indirectly, or raises funds with the illegal intention of having them used or knowing that they will be used, in whole or in part for the purpose of committing one or more terrorist acts ; either by a terrorist organization or by a terrorist individual (even if there is no link with any one or more specific terrorist acts), for any purpose.

**Criterion 5.2** The provisions of Article 8 of AML/CFT Law No. 2016-33 of 31/10/2016 are supplemented by those of Article 399.1.21 (new) (a) and (b) and 399.1. 23 (a), (b) and (c) of the Penal Code, which specify that terrorist financing offences include the financing of travel by persons who travel to a State other than their State of residence or nationality, with the intention of committing, organising or preparing terrorist acts, or in order to participate in them or to provide or receive terrorist training.

**Criterion 5.3** The terrorist financing offence in Niger is extended to all funds and financial resources, regardless of whether they are derived from a legitimate or illegitimate source. Article 1.14 of the AML/CFT Law and Article 399.1.21 (new), paragraph 3 of the Penal Code, cover assets of all kinds. There are no restrictions in the legislation that would prevent TF offences from covering funds derived from legitimate or illegitimate sources.

**Criterion 5.4** Paragraph 4 of Article 8 of the AML law N° 2016-33 of 31/10/2016, specifies that the TF offence is committed whether the act is committed, or whether or not the asset was used to commit the act. The above provisions are supplemented by those of Article 399.1.21 paragraph 2 (new) PC.

**Criterion 5.5** - Article 8 paragraph 5 of the AML/CFT Law, provides that the intentional element and knowledge of the facts required to establish proof of the offence, are deduced from objective factual circumstances.

**Criterion 5.6** - Article 119 of the AML/CFT Law provides for a minimum sentence of 10 years for the commission of TF offence and a fine equivalent to at least five times the value of the assets or funds used to carry out TF transactions. The following Article 120 provides for the doubling of the sentence where the offence is committed in the usual manner, or the perpetrator is a repeat offender or uses facilities provided by his/her professional activity and other specified circumstances. Article 122 of the said Law provides for optional additional criminal sanctions incurred by natural persons, while Article 123 excludes any conviction related to terrorist financing enjoying the benefit of suspended sentence. This range of sanctions is proportionate and dissuasive.

**Criterion 5.7** - The AML/CFT Law provides for dissuasive criminal sanctions for legal persons. Legal persons -other than the State- may be sentenced to penalties such as exclusion from public contracts, confiscation of any asset used or was intended to be used to commit the offence, placement under judicial supervision (Article 125). In addition to criminal sanctions, the supervisory authority with disciplinary powers may impose dissuasive disciplinary sanctions up to and including withdrawal of the operating license.

**Criterion 5.8.a) b) c) d)** - Pursuant<sup>8</sup> of the AML/CFT Law, are criminalised also:

- C.5.8 a - attempts to commit the TF offence (para. 3).
- C. 5.8 b -participation in a terrorist financing offence. It includes the attempt to commit the offence (para. 4).
- C. 5.8 c- organising or directing others to commit a TF or attempt to commit the offence (para. 4).
- C.5.8 d - contribution or the attempted contribution to the commission a TF offence under Article (para. 1).

Furthermore, Article 8 paragraph 3 of the AML/CFT Law No. 2016-33 of 10/31/2016, provides that the offence is also committed by any natural or legal person or a group of people participating as an accomplice(s), organizing or inciting others to commit the above acts.

**Criterion 5.9** - Article 1.16 of the AML/CFT Law No. 2016-33 of 10/31/2016, mentions the terrorist financing offence one of the predicate offences to ML.

**Criterion 5.10** - According to Articles 4 and 130 of the AML/CFT Law n° 2016-33 of 31/10/2016, as well as Articles 605.1, 605.1 of the Code of Criminal Procedure, the money laundering and terrorist financing offences may be applicable to any natural or legal person, and to any organization legally operating in Niger, without considering the perpetrator's place of residence or where the act was committed.

### ***Weighting and Conclusion***

Niger has a comprehensive framework for the criminalization of terrorist financing.

**Recommendation 5 is rated Compliant**

## Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

In its previous MER, Niger was rated on-compliant on this Special Recommendation III, because the regional system for the freezing funds under Res. 1267 is very inadequate and restrictive (restrictive scope, restrictive definition of "funds" etc.) and was not adequately implemented; there was no complementary national mechanism for the implementation of Resolution 1267 and no legal framework for the implementation of Resolution 1373.

### *Identifying and designating*

Criterion 6.1.a-e – [Mostly ]

The designations made pursuant to UN Security Council Resolutions No. 1267/1989 (Al Qaeda) and 1988 (hereinafter referred to as the "United Nations Sanctions Regimes"), by Niger operate as follows:

- a) Decree n° 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020, on the administrative freezing of funds, assets and other financial or economic resources in the fight against money laundering, terrorist financing and financing the proliferation of weapons of mass destruction, under Article 10 A1; 3, B) identified the Minister of Finance and the Minister of Foreign Affairs as the relevant authorities responsible for proposing the designation of persons or entities to the 1267/1989 and 1988 Committees.
- b) Decree No. 20 20 - 114 /PRN/M/F of 27<sup>th</sup> January 2020 has designation mechanisms that can identify designation targets. According to Article 10, the designation mechanisms are based on the criteria established by the UNSC Resolutions.
- c) Decree N° 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020 establishes the level of proof required for any proposed designation (information on the identification of designated persons and entities as well as specific information, including relevant documentation on the facts to support the request). The decision to designate is not subject to the existence of any criminal proceedings (Cf. Article 10, A1.3-D).
- d) The AML/CFT Law n° 2016-33 of 31/10/2016, covers the designation procedures falling under the United Nations sanctions regimes. Decree No. 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020 provides for comprehensive and detailed powers.
- e) The obligation to provide relevant and detailed information is provided for in Decree No. 20 20 - 114/PRN/M/F of 27<sup>th</sup> January, 2020.

Criterion 6.2.a - e -The designations made pursuant to the UN Security Council Resolution 1373 by Niger, operate as follows:

- a) The Technical Advisory Commission for Administrative Freezing (CTCGA) is responsible for proposing to the Minister of Finance (the competent authority) for designation, the names of persons and entities to be subject to freezing under United Nations Security Council Resolution 1373.
- b) Niger has a mechanism to identify all designation targets, as indicated in the United Nations Security Council Resolution 1373.
- c) Decree No. 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020 sets a timeline within which the CTCGA should consider and process a request for designation.
- d) Decree No. 20 20 - 114/PRN/M/L of 27<sup>th</sup> January 2020 sets standard of adequate evidence to determine whether a person or entity should be

designated. Designations are not subject to the existence of any criminal proceedings.

e) Decree n° 2020 - 114/PRN/M/F of 27<sup>th</sup> January 2020 provides for situations in which Niger may send a request to a foreign country to give effect to actions undertaken within the framework of freezing mechanisms.

### **Criterion 6.3**

(a) The procedures in place in Niger allow the Minister of Finance to rely on the CTCGA (Art.11 and seq. of Decree No. 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020) which gathers all necessary information for the proper identification of all natural and legal persons targeted by the freezing order (Art.17 of Decree No. 20 20 - 114/PRN/M/F of 27<sup>th</sup> January 2020).

(b) Pursuant to Resolution 1373, the administrative freezing decision must be taken without delay (Article 18 of Decree n° 20 20 - 114 / PRN/M/F of 27<sup>th</sup> January, 2020).

In both cases, the administrative freezing takes place without prior notification to the persons or entities targeted by the measure (Article 7 of the Decree)

#### *Freezing*

**Criterion 6.4** - Niger has put in place measures to implement TFS without delay, within a few hours (Articles 100 (4) of law n° 2016-33 of 31/10/2016 on the fight against money laundering capital and the terrorist financing, complemented by Article 5 paragraph 3 and 9 of Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January 20 20 ). The obligation to freeze without delay is triggered by decision of the competent Sanctions Committee, on the proposal of Niger or at the request of another country (Articles 100 (4) and 101 of law n° 2016-33 of 31/10 / 2016 on the fight against money laundering and the terrorist financing and Articles 10 and 18 of Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January 2020). The decisions taken in the form of Orders by the competent authorities, are published in the Official Gazette, according to the emergency procedure (Article 101 para 1 and 2 of the AML/CFT law and Article 10.3 of Decree No.2020-114/PRN/M/F of 27<sup>th</sup> January 2020) are legally binding as soon as it is published and notification is sent to the targeted FIs, DNFBPs and persons and entities.

### **Criterion 6.5.a-f**

The legal framework in Niger empowers the competent authorities to mete out targeted financial sanctions as follows:

- a) The competent authority has the power to order all natural and legal persons in the country to freeze, without delay and without prior notification, all funds and other assets (Article 100, paragraph 5 of Law No. 2016- 33 of 10/31/2016 in the fight against money laundering and terrorist financing.
- b) The freezing obligation is related to funds, assets and other proceeds of all assets owned or controlled by the designated person or entity (Article 1, paragraphs 30, 31 (b) and 100 of the AML/CFT Law No. 2016-33 of 10/31/2016). Decree No. 20 20 - 114 / PRN / M / L of 27<sup>th</sup> January 2020 complements the law by taking account of all economic resources and funds and other assets of persons and entities acting on behalf or on the directives of untargeted designated persons or entities.



- c) The law prohibits reporting entities from constituting funds and assets as well as economic resources subject to a freezing order, accessible directly or indirectly to natural and legal persons, to designated entities or bodies and for the benefit of the latter. (Articles 5, 6 and 100, paragraphs 7 and 8 of the AML/CFT Law No. 2016-33 of 10/31/). The Law also strictly prohibits reporting entities from providing or continuing to provide services to natural or legal persons, entities or bodies that are designated. However, the law does not explicitly prohibit nationals or other persons from making funds available to designated persons and entities.
- d) Article 101 of the AML/CFT Law No. 2016-33 of 10/31/2016, provides for a communication mechanism, AS specified by Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January 2020 (Articles 5 para 5, 10 para 3,19 and following). The delivery can be done through the Government or Ministry of Finance internet, through email, fax, letter, physically or by telephone, with written confirmation for the latter case. Article 24 of the same Decree and Article 7 para 2 and 3 of order No.00479 of 19 December 2019 outlining the operation modalities of the Advisory Technical Committee for Administrative Freezing (CTCGA), contains clear directives to FIs, other persons, entities or DNFBPs likely to hold funds, assets or other financial or economic resources belonging to designated persons or entities, regarding their obligations in the freezing mechanisms. The same Articles stipulate that once the freezing order has been received, the said entities immediately proceed with their freezing and remain the custodians of the funds, assets and other financial and other resources until it is decided otherwise. Thus, these various provisions determine the guidance and directives for FIs and DNFBPs on the appropriate actions to be taken regarding their freezing obligations.
- e) Article 100 of the AML/CFT Law No. 2016-33 of 10/31/2016, requires financial institutions and DNFBPs to report all assets frozen to the competent authorities or actions taken pursuant to the requirements set out in the applicable UNSCRs.
- f) [] Appeals are provided for to protect bona fide third parties (Article 105 of the AML/CFT Law No. 2016-33 of 10/31/2016). The criteria and procedures are provided for under Article 25 of Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January 2020.

*De-listing, unfreezing and providing access to frozen funds and other assets*

**Criterion 6.6.a-g** - The following procedures for delisting, unfreezing and access to funds or other assets frozen are published in the Official gazette, according to the emergency procedure (Article 101 para 1 and 2 of AML/CFT law No. 2016-33 of 31/10/2016 and Article 10.3 of Decree No. 2020-114/PRN/M/F/ of 27<sup>th</sup> January 2020) and are applicable in in Niger as follows:

- a) The provisions of Article 107 of the AML/CFT Law No. 2016-33 of 10/31/2016, provide that a natural or legal person may challenge any freezing order pursuant to the relevant procedures of these Resolutions. The specific procedures for submitting delisting requests to the UN Sanctions Committee are provided for in the Decree No. 20 20 - 114 / PRN / M / L of 27<sup>th</sup> January 2020.
- b) [] All request for delisting and unfreezing of funds are addressed to the Minister of Finance.

- c) The CTCGA is authorized, upon request, to review the designation decision, in line with the procedures provided for by Decree No. 20 20 - 114/PRN/M F of January 27<sup>th</sup> January 2020.
- d) Regarding designations based on United Nations Security Council Resolutions 1988 and 1989, Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January 2020 outlines for listed persons and entities, all the request and appeal procedures.
- e) The same applies to designations made on the basis of the sanctions imposed on Al-Qaeda. The persons or entities concerned may initiate procedures for delisting.
- f) A person inadvertently affected as a result of a freezing order may appeal to the competent authority which ordered the freezing. (Article 107 (1) of the AML/CFT Law 2016-33 of 10/31/).
- g) Article 101 of the AML/CFT Law No. 2016-33 of 10/31/2016, provides for a communication mechanism, supplemented by Decree No. 20 20 - 114 / PRN / M / F of 27<sup>th</sup> January, 2020, which extends to all reporting entities Articles 32, 36 and 37 of the said Decree, require the communication of the order for withdrawal of an individual or an entity from the TFS list and defreezing to the FIs, DNFBPs and other stakeholders implementing TFS; reinstating the beneficiary's rights and publication of the decision in the official gazette and according to the emergency procedure, in the other legal information bulletins at the expense of the State Treasury. This communication can be done through the Government or Ministry of Finance internet, by email, fax, letter, physically or by telephone, with written confirmation for the latter. Article 24 of the same Decree and Article 2 and 3 of order No.00479 of 19 December 2019 establishing the operation modalities of Advisory Technical Committee for Administrative Freezing (CTCGA), contains clear directives to FIs, other persons, entities or DNFBPs likely to hold funds, assets or other financial or economic resources belonging to designated persons or entities, regarding their obligations in the freezing mechanisms. The same Articles stipulate that once the freezing order has been received, the said entities immediately proceed with their freezing and remain the custodians of the funds, assets and other financial and other resources until it is decided otherwise. Thus, these various provisions determine the guidance and directives for FIs and DNFBPs on the appropriate actions to be taken regarding their freezing obligations. However, the FIs and DNFBPs did not specify the measures to be taken regarding unfreezing and de-listing.

**Criterion 6.7** - The provisions of the AML/CFT Law (Article 103 al.1à 5, Article 105 and 106), as well as those of Decree of 27<sup>th</sup> January, 2020 (Art. 33 to 35), allow access to funds and other frozen assets and outlines the authorization prerequisites. Thus, when an administrative freezing of funds or other assets is taken, the Minister of Finance may authorize, under the conditions he deems appropriate, the affected person or entity, on request, to have a sum of money on a monthly basis, determined by Ministerial Decree, intended to cover, subject to availability, for a natural person, current family expenditure or, for a legal person, expenses related to an activity compatible with the requirements of public order. The sum may also cover legal assistance fees or exceptional charges. All expenditure must be justified in advance.

### *Weighting and Conclusion*

Niger has put in place a legal and institutional framework which allows to a very large extent allows the country to implement SFCs linked to TF. However, minor shortcomings were identified. Indeed, it is not specified whether Niger's designating state status can be made public; also the reporting by FIs and DNFBPs of attempted transactions by persons and entities targeted by the TFS is not explicitly provided for, nor measures to be taken by the latter, in the event of a unfreezing and de-listing.

**Recommendation 6 is rated Largely Compliant (LC).**

### **Recommendation 7 – Targeted financial sanctions related to proliferation**

During the last evaluation of Niger, this Recommendation on targeted financial sanctions related to proliferation was not one of the Recommendations. It was added in 2012. The current AML/CFT regime addresses this issue.

Criterion 7.1: [] - Niger has a legal framework to implement targeted financial sanctions pursuant to UN Security Council Resolutions on the fight against the financing of proliferation of weapons of mass destruction (Article 100, paragraph 4 of the AML/CFT Law), Article 5 (1, 2, 4, 5) and articles 9 and 10 of Decree 2020-114/PRN/ of 27 January 2020 and Oder No.05/MAE/C/IA/NE/DGAJ/DAJ). Paragraph 4 of Article 100 provides that: "... the competent authority shall order, by decision, the immediate freezing of the property, funds and other financial resources of persons or entities designated by the United Nations Security Council, under the Resolutions relating to the fight against the financing of the proliferation of weapons of mass destruction."

#### **Criterion 7.2:**

The Minister of Finance is the authority vested with the power to freeze funds, assets and other financial resources. The law requires the competent authority to order, by decision, the immediate freezing of property, funds and other financial resources of persons or entities designated by the United Nations Security Council under resolutions relating to the financing of the proliferation of weapons of mass destruction. In addition, the law provides for the following measures:

- a) Natural and legal persons in the country are required to freeze, without delay and without prior notification, the funds and other assets of designated persons and entities. Under paragraph 5 of the AML/CFT Uniform Act, this obligation applies to financial institutions and any other person or entity holding assets, funds or other financial assets. These natural and legal persons are required to immediately, without prior notification to owners, freeze these assets, funds or other financial assets, upon notification of the decision to freeze; See in the same regard article 7 of Decree 2020-114/PRN of 27 January 2020..
- b) The freezing requirement provided for under Article 5 of Decree 2020-114/PRN of 27<sup>th</sup> January 2020, covers all the aspects described in indents (i), (ii), (iii) and (iv). See in the same regard the details under c.6.5 above.
- c) The law prohibits reporting entities from constituting funds and assets as well as economic resources subject to a freezing order, accessible directly or indirectly to natural and legal persons, to designated entities or bodies and for the benefit of these. (Articles 5, 6 and 100, paragraphs 7 and 8 of the AML/CFT Law n° 2016-33 of 31/10/). The Law also strictly prohibits reporting entities from providing or continuing to provide services to natural or legal persons, entities or bodies that are designated. Article 3 paragraph 3 of

Decree n° 2020-114/PRN/M/F of January 27, 2020, prohibits Nigerien nationals, any person or entity located on Nigerien territory, from making funds and other goods, economic resources or financial services and other related services, directly or indirectly, wholly or jointly, available for the benefit of designated persons or entities; owned or controlled, directly or indirectly, by the designated persons or entities; including persons and entities acting on behalf of or on the directives of designated persons or entities, unless licensed, authorized or notified otherwise, in accordance with applicable Security Council Resolutions.

d) Regarding communications on these sectors, see indentc.6.5 (d). However, there are no guidelines designed for FIs and DNFBPs on this issue.

(e) The legal framework requires financial institutions and DNFBPs to report any frozen assets or any measures taken to the competent authorities as stipulated in point c.6.5 (e) above. However, reporting of such attempted transactions is not explicitly provided for.

f) Niger has adopted measures to protect the rights of bona fide third parties in the implementation of obligations under Recommendation 7. In fact, remedial measures are provided to protect bona fide third parties (including FIs and DNFBPs), the detrimental effects of implementation of TFS related to PF (Article 105 of Law No. 2016-33). The criteria and procedures protecting their rights are provided for under Article 25 of Decree No. 2020-114/PR/M/F of January 27, 2020.

**Criterion 7.3:** – Failure by financial institutions and other reporting entities to comply with the provisions of Recommendation 7 shall have administrative and disciplinary sanctions meted out on them by the supervisory authority and by the courts (art.112, al.1 & 2, art 125 of AML/CFT Law No. 2016- 33 of 10/31/2016). Articles 2,4 and 5 of Decree 2020-113/PRN designate the supervisory and monitoring authorities to ensure with the implementation of obligations related to counter PF measures and provide for administrative and disciplinary sanctions.

**Criterion 7. 4:**

(a) The competent authority is required to publish procedures to be followed by all natural or legal persons included on the list of targeted persons, entities or bodies, to obtain the delisting and, where necessary, the release of funds belonging to them (Art 101, al2 of the AML/CFT Law ). For designations under the UN Sanctions Committees, any challenge to the freezing order must comply with the appropriate procedure provided for under the UN Security Council Resolutions.

(b) Any natural or legal person whose funds and other financial resources have been frozen in error, may appeal against this decision within one month, from the date of publication in the Official Gazette or Legal News Bulletin. The appeal is lodged with the competent authority which ordered the freezing, indicating all the elements to demonstrate the said error (art 107, par. 1, AML/CFT Law n° 2016-33 of 31/10/2016).

(c) Access to funds or other assets subject to a freezing measure under Article 100 is authorized when countries have determined that the conditions for exemption set by the international body have been (Articles 1103 and 105 of the AML/CFT Law No. 2016-33) . The analysis of criterion c.6.7 is applicable under the exemption requirements established by the UNSC Resolutions 1718 and 1737.

(d) Regarding the mechanisms for the communication of delisting and unfreezing orders to the financial sector and DNFBPs, pursuant to UNSCR 1718 and subsequent Resolutions,

the analysis in c.6.6 (g) applies. However, there are no guidelines for FIs and DNFBPs

**Criterion 7.5:**

The AML/CFT Law n° 2016-33 of 31/10/2016, provides for exceptions to honor existing contracts at the entry into force of the sanctions. In this regard:

(a) All proceeds derived from the aforementioned funds, instruments and resources as well as accrued interest shall be paid into the said accounts (art.102, AML/CFT Law n ° 2016-33 of 10/31/2016). The payment of these proceeds into frozen accounts automatically blocks them. They are therefore frozen just like the main funds.

(b) Funds or other financial resources due under contracts, agreements or obligations concluded or borne before the entry into force of the funds freezing order shall be deducted from the frozen accounts (art102, AML/CFT Law n ° 2016-33 dated 31/10/2016). However, the law is silent on the conditions of this exemption set by Resolution 2231. The applicable unfreezing conditions are those deemed appropriate by the Minister of Finance (Art. 26 of Decree n° 2017-097/PRN/MF of 17<sup>th</sup> February 2017, on administrative freezing).

***Weighting and Conclusion***

Niger has a broad legal framework to implement TFS PF related cases. There are no guidelines for FIs and DNFBPs in their obligations for the implementation of targeted financial sanctions. Reporting by FIs and DNFBPs of attempted transactions by persons and entities targeted by the TFS is not explicitly provided for. In addition, the law in force is silent on the exemption requirements set by Resolution 2231.

**Recommendation 7 is rated Largely Compliant**

**Recommendation 8 – Non-profit organisations**

Niger was previously rated partially compliant on Special Recommendation VIII due to the NPOs' ignorance of AML/CFT, the inadequacy of laws and regulations governing this category of actors and the lack of obligation to keep information on financial transactions relating to them. In order to resolve these deficiencies and comply with the new FATF Recommendations, Niger authorities have adopted legislative and regulatory texts with a view to strengthening the legal framework for NPOs) - particularly the uniform AML/CFT Law.

*Taking a Risk-based Approach*

**Criterion 8. 1**

- C.8.1.a - Pursuant to Article 1, para 41 of AML/CFT Law, Niger defines NPO as required by the FATF standards, namely "*any association, foundation, non-governmental organization incorporated under the laws and regulations in force, whose principal purpose is the collection or distribution of funds for charitable, faith-based, cultural, educational, social or fraternal, or for other types of good works*". Niger has nearly 3,584 national and foreign NPOs working in the areas of development, human rights and religion. NPOs are under the supervision of the Ministers of Community Development, the Interior and Foreign Affairs. The NRA identifies that NPOs originating from the Middle

East are presenting the higher ML/TF risks. However, this assessment is not based on any specific study resulting in the classification or ranking of NPOs based on their ML/TF risks, their statutes, their activities and their characteristics. Niger has therefore not identified and mapped the subsets of NPOs that would be particularly vulnerable to terrorist financing due to their activities and characteristics. Without this specific assessment, Niger would not be able to identify the nature of the threats posed by terrorist organisations to NPOs in the country.

- C. 8.1.b: - During its NRA process, Niger considered the ML/TF threats inherent in NPOs. The NRA report concluded that the TF threat level through NPOs is medium high and that the TF trends are increasing due to the predominant informal activities and the challenges in the supervision of NPOs. However, Niger has not identified all the specificities and types of NPOs which, as a result of their activities or characteristics, are likely to be misused for terrorist financing purposes and has not specifically identified and indicated the nature of the threats posed by terrorist entities to vulnerable NPOs.
- C. 8.1.c –In addition to the measures provided for under Articles 41, 42 and 43 of the Uniform law 2016-33 for NPOs, the country has adopted a host of legislations to better regulate NPO sector. In a bid to strengthen the monitoring of faith-based NPOs, considered as presenting TF risks, Niger has passed Law No. 2019-28 of 1<sup>st</sup> July 2019, mapping out the modalities for the establishment of places of worship in the Republic of Niger which faith-based activities, for the construction of mosques, training of preachers, as well as the conduct of charity and social activities. The key objective of this Law is to enhance the auditing of the sources of funding of private places of worship and faith-based associations. Similarly, the country has adopted Decree No. 2020-113/PRN/MF of 27<sup>th</sup> January 2020 designating the Supervisory, Regulatory and Self-regulatory authorities of DNFBPs on AML/CFT/PWMD and Order No.064/MDC/AT/SGDGD/RL/DONGAD of 26<sup>th</sup> November 2019, mapping out modalities for the auditing of the sources of funding of NGOs/DAs. Two Circulars, No. 0219/MDC/AT/MISP/DACR of 11<sup>th</sup> September 2017, issued by the supervisory authorities and designed to sanitize the NGO/DA sector, have been addressed to the decentralized authorities and NGO/DA managers. The obligations, including those related to the communication and submission of the annual balance sheet to the Ministry of Community and Territorial Development have been reiterated. Some radio-television press releases have also been broadcast in that direction. These measures have been strengthened by the auditing of their sources of funding. However, these measures have not been taken based on a specific study conducted for the classification or categorization of Non-Profit Organizations (NPOs) based on their risk profiles.
- C.8.1.d - The NRA exercise took into account the assessment of the NPO sector and is subject to regular updating under the provisions of Article 10 of the AML/CFT Law). The frequency of the update is set at 3 years (Article 1of Decree 2020/110 / PRN / MF). However, NPOs have not been subject to a specific ML/TF risk assessment based on their activities or characteristics and the country has not identified the threats posed by terrorist entities to NPOs at risk. No provision has been made by the country for updating specific FT risk assessments related to NPOs.

*Sustained outreach concerning terrorist financing issues*

**Criterion 8.2.a** - The restrictive measures provided for in Section III of the 2016-33 AML/CFT law aims to promote accountability and public confidence vis-à-vis the administration and management of NPOs as well as the provisions of the PAT 2016-2020 on the submission to the supervising and fiscal Administrations of all supporting funding documents and activity reports as well as those of the Decree N° 00359 / MISPD / ACR /

DGAPJ / DLP of June 12, 2017 authorizing the association called “ State platform of civil society organizations for the fight against money laundering and the terrorist financing (POLBFT)” relating to the red flags and objectives reporting by this association. However, considering that few NPOs submit their reports to DONGAD, contrary to their obligations, the assessors believe that there are no clear policies to promote accountability, integrity and public trust in the administration and management of NPOs. Similarly, the country has not demonstrated the role that the POLBFT actually plays in this area. Furthermore, as the country has not identified NPOs that may be misused for TF purposes, it may not have put in place adequate awareness and funding campaigns

**Criterion 8.2.b** - With no campaigns carried out for NPOs, the authorities, including the FIU and civil society, participated in training on NPOs organized at regional level by GIABA. Also, a national awareness-raising workshop for faith-based NPO leaders was organized in Niamey in 2018 by GIABA in collaboration with the FIU. The process of developing the Guidelines and NRA has served as a framework for the sensitization of stakeholders, particularly NPOs. However, considering the high level of ML/TF risks identified by the NRA for NPOs, Niger has not conducted any continuous sensitization and education campaigns to encourage and deepen the knowledge of NPOs and donor community of the potential vulnerabilities of NPOs of being misused for terrorist financing purposes and the risks of terrorist financing, as well as on the measures that NPOs can take to protect themselves from such misuse.

**Criterion 8.2.c** - The country affirmed that an update on best practices was one of the aspects developed during the sensitization seminar for Religious Leaders. However, it did not indicate the said best practices developed, by associating NPOs in order to respond to the risks linked to terrorist financing and vulnerabilities. The assessors therefore conclude that the country has not developed any best practices.

**Criterion 8.2.d** - Article 43 of the AML/CFT law requires NPOs to deposit into a bank account opened with a credit institution or an approved decentralized financial system, all sums of money given to them as donation or for transactions they have to carry out.

#### *Targeted risk-based supervision or monitoring of NPOs*

**Criterion 8.3** - Within the framework of the risk-based approach, Niger has passed Law No.2019-28 of 1st July 2019, mapping out the modalities for the liberal establishment of places of worship in the Republic of Niger, Decree No.2020-113/PRN/MF of 27<sup>th</sup> January 2020, 2020 designating the Supervisory, Regulatory and Self-regulatory authorities of DNFbps on AML/CFT/PWMD and Order No.064/MDC/AT/SGDGD/RL/DONGAD of 26<sup>th</sup> November 2019, mapping out modalities for the auditing of the sources of funding of NGOs/DAs. However, these measures have not been taken based on a specific study conducted to identify the categories of NPOs that can be misused to finance terrorism and the types of threats posed by terrorism to these NPOs.

## **Criterion 8.4**

### **Criterion 8.4.a**

Niger monitors NPOs' compliance by enforcing the texts and provisions referred to in 8.3. However, the DONGAD emphasised that very few NPOs submit their reports. Also, since there is no comprehensive and specific study of the sector that could have provided an opportunity to identify NPOs at risk of TF and the threats they face, the monitoring measures implemented are not based on any specific and comprehensive risks emanating from such a study.

**Criterion 8.4.b** - Sanctions do exist for violations by NPOs or persons acting on behalf of these organizations.

*Effective information gathering and investigations*

**Criterion 8.5a** - The consultation and coordination frameworks in place, including the National Coordinating Committee of activities related to AML/CFT (CNCA-LBCFT), the National Coordination Committee against terrorism, terrorist financing, financing of violent extremism and transnational organized crimes as well as the National Technical Committee for the monitoring of NGO and development association activities, ensure the effectiveness of cooperation, coordination and exchange of information among all appropriate authorities and organizations holding relevant information on NPOs. Information on NPOs is shared between the competent authorities at meetings of the various committees or through administrative channels. However, the low number of reports submitted by NPOs to DONGAD and the lack of specific assessment of the TF risks NPOs are exposed to weaken the information sharing system. Besides, as reporting entities, NPOs are required to respond to any request from the competent authorities, particularly concerning their activities.

**Criterion 8.5.b** - The powers of the law enforcement authorities to obtain information are discussed in R.31. It should be noted that the police and gendarmerie have investigative powers and the capacity to monitor NPOs suspected of being misused for terrorist financing purposes or by terrorist organizations or to actively support terrorist activities or organizations. They are empowered to obtain information directly or by court order or through the FIU. In Niger, the NPOs' supervisory authorities are the DLP, and DONGAD. The DLP is attached to the Ministry of the Interior and all the staff of this Department, with a predisposition to conduct investigations, are drawn from the Police Headquarters. The competent authorities in this sector should receive training to strengthen their investigative capacity in order to detect NPOs that have been hijacked for terrorist purposes.

**Criterion 8.5.c**

Investigative authorities are vested with adequate powers to have access to information on the administration and management of NPOs (See. R.31). Also, Article 42 of the uniform AML/CFT Law requires NPOs to produce, at all times, information on the purpose and ultimate objective of their activities and on the identity of all person (s) who own, manage and control their activities. They are also required to publish their financial statements annually, in the official gazette or in a legal gazette, with a breakdown of their income and expenditure. In addition, NPOs are required to keep all records of their transactions for a period of 10 years and make them available to the authorities.

**Criterion 8.5.d** - NPOs are required to be registered in a register established by the competent authority and to record there any donation received of an amount equal to or higher than five hundred thousand CFA francs. Cash donations of any amount equal to or higher than one million CFA francs must be declared to the FIU by the competent authority, as well as those likely to relate to a terrorist venture or terrorist financing, whatever the amount. However, these declarations are not made to the FIU. In case of suspicion o or misuse of any NPO for terrorist financing purposes, the FIU is empowered to expedite investigations and require the NPO to respond to any request for investigation. Nevertheless, DONGAD does not have the capacity to monitor and supervise NPOs (see criterion 8.5.b).

*Effective capacity to respond to international requests for information about an NPO of concern*



8.6 - Niger has not defined any appropriate procedures and designated a contact point empowered to respond to any international request in case an NPO is suspected of TF.

### ***Weighting and Conclusion***

During its NRA, Niger assessed the ML/TF vulnerabilities and threats within the NPO sector identified as high risk. The country claims that NPOs from the Middle East are the most exposed to ML/TF risks, without however carrying out any specific study to establish such a conclusion. In addition, the nature of the threats posed by terrorist entities to NPOs at risk is not clearly identified. The supervisory authority of the NPO sector has sanctioning powers in AML/CFT but does not conduct specifically assessed ML/TF risk-based inspections emanating from a study conducted on the NPO sector. Niger has not defined any appropriate procedures or designated any contact point empowered to respond to any international request in case an NPO is suspected of TF.

**Recommendation 8 is rated Non Compliant**

## **Recommendation 9 – Financial institution secrecy laws**

### Criterion 9.1

Article 96 provides that professional secrecy may not be invoked by persons subject to the provisions of Law 2016-33 referred to under Articles 5 and 6 to refuse to provide information to the supervisory authorities and to the FIU or to make the declarations provided for in the aforementioned law.

Under the same article and article 93, professional secrecy cannot be invoked in the context of an investigation into ML/TF offences, ordered by the investigating judge or carried out under his supervision by the State agents responsible for the detection and repression of such offences.

Regarding information sharing, Article 75 provides that the FIU shall share all information relevant to the performance of the tasks of the supervisory and regulatory authorities. Information sharing between national and foreign supervisory and regulatory authorities is provided for under Article 78 of the AML/CFT Law.

There is no legal provision that prohibits FIs from exchanging information as provided for in Recommendations 13, 16 and 17. Directive N° 07-09-2017, requires FIs to respond to regular or ad hoc requests by supervisory authorities, FIUs and FI partners (Article 7, Cap. 1).

### ***Weighting and Conclusion***

**Recommendation 9 is rated Compliant.**

## **Recommendation 10 – Customer due diligence**

In its first MER, Niger was rated partially compliant on this Recommendation due to the very limited beneficial ownership identification requirement, lack of obligation to provide information on the purpose and nature of the relationship, lack of constant due diligence, lack of obligations on existing customers and non-implementation by FIs. Progress made by Niger to strengthen its legal and regulatory system was monitored as part of the follow-

up process. But since then, the FATF Recommendations have also been strengthened to impose more detailed requirements, particularly regarding the identification of legal persons and legal arrangements. For the purposes of this Recommendation, relevant provisions are provided in the AML/CFT Law.

**Criterion 10.1:**

FIs are prohibited from opening anonymous accounts or accounts under fictitious names (Article 20 para. 2).

*When CDD is required*

**Criterion 10.2**

**Criterion 10.2 (a):** Article 18 requires FIs, before entering into any business relationship, to properly identify their customers, the beneficial owner of this business relationship by means of any written and reliable identification document. These same conditions also apply to occasional customers and the beneficial owner.

**Criterion 10.2 (b):** Article 18 para.2, stipulates that FIs must identify occasional customers as well as beneficial owners of transactions they carry out depending on the nature and when they exceed a certain amount.

Article 29 sets the due diligencethresholds, by type of financial institution, for transactions carried out with occasional customers including related transactions and in case of recurring separate transactions whose individual amount is below the following set thresholds: CFA 5 million for authorized foreign exchange dealer, 1 million for gambling operators, 10 million CFA for the other institutions, although this threshold is above the threshold fixed by the FATFRecommendations.

**Criterion 10.2 (c):**

The provisions of Article 33 require FIs to obtain and verify the full name, account number, address or National Identification Number (NIN), date and place of birth, and, if necessary, the name of the originator's financial institution in respect of wire transfers. These provisions cover all transfers, including occasional transfers.

**Criterion 10.2 (d):**

Article 20, paragraph 1 requires FIs to carry out constant due diligence on all customer transactions, regardless of any suspicion or thresholds set by regulation, in order to ensure that they are commensurate with the customer's profile, business activity and source of funds.

Article 18, paragraph 2, stipulates that FIs must carry out due diligence when they suspect that the transactions they are effecting with occasional customers could contribute to money laundering and terrorist financing. Article 51 therefore stipulates that when the BC/FT risk posed by a customer, product or transaction appears to them to be high, reporting entities, especially FIs, are required to step up the intensity of the due diligence measures provided for under Articles 19 and 20, regardless of any threshold.

**Criterion 10.2 (e):**

Article 26, paragraph 1 6<sup>th</sup> indent, provides that in case of suspicions as to the authenticity of the customer's identification data, the FI must make use of independent and reliable data and sources of information. This provision is supplemented by those of Article 31 and 40 which provide that where the FI has doubts about the identification details previously

obtained from the customer, it shall re-identify the customer. In such cases the FI is required to take additional due diligence measures.

*Required CDD measures for all customers*

### **Criterion 10.3**

FIs are required to identify their customers before entering into any relationship, using any reliable written document (see: Article 18, paragraph 1). The term "customer" includes natural and legal persons who are customers of FIs. In accordance with paragraph 2, FIs shall identify their occasional customers and the beneficial owner in the same way.

Natural persons are identified by means of an original, valid official document, bearing a photograph, specifying the full name, date and place of birth and the address of their main residence (CF Article 27). For natural persons who are traders, proof of registration in the Trade and Personal Property Credit Register (RCCM).

The identification of occasional customers and their beneficial owners is carried out by means of the address of their main residence on presentation of an original valid official document, bearing a photograph in the case of natural persons, and any other authentic document enabling them to prove their main residence (cf. art. 27);

And for legal persons, branches or representative offices, FIs must comply with the provisions of Article 28.

As regards the identification of insurance companies, insurance agents and brokers, the identification of their customers is done in accordance with the provisions of Articles 27 and 39 of Law 2016-33 and Article 4.3 of CIMA Regulation N°00004-2008.

However, the law does not consider the identification and verification by FIs, where the customer is a legal arrangement.

**Criterion 10.4** - Article 26 of the AML/CFT Law 2016-008 provides that financial institutions are required to identify their customers and, where applicable, the powers of persons acting on their behalf, using independent, reliable documents, sources, data or information. Under Article 28 (1), the identification of a legal person, branch or representative office involves obtaining and verifying information on the company name, the address of the registered office, the identity and powers of the partners and corporate officers mentioned in the relevant Uniform Act or their equivalents in international law, proof of its legal incorporation, including the original, or even the certified true copy of any deed or extract from the RCCM dated less than 3 (three) months, specifically attesting to its legal status.

Regarding insurance companies, insurance agents and brokers, Article 8, 8.1 1<sup>st</sup> and 2<sup>nd</sup> indents of the CIMA Regulation N ° 00004-2008 provides that the identity (surname, first names, date and place of birth, nationality) of all contractors must be noted. The constituent (s) is (are) considered as contractor (s) at the end of the provisions in the 2<sup>nd</sup> indent of Article 8.1.

### **Criterion 10.5**

Under Articles 18, 27, 28, 29, FIs are required to take due diligence measures to identify their customers (natural persons, trading natural persons, legal persons and branches), their occasional customers and their beneficial owners.

The AML/CFT law provides that before entering into a business relationship with a customer or assisting him/her in the preparation or execution of a transaction, the FIs must

carry out due diligence of knowing the identity of the Customer and, where applicable, the beneficial owner, by all appropriate means and should verify these identification information on presentation of any reliable written document (Article 18, paragraph 1). They should identify their occasional Customers under the same conditions and, where applicable, the BO of the business relationship, when they suspect ML or when the transactions are of questionable nature or exceed a certain amount. However, it should be clarified that the obligation to identify the BO, "where applicable", does not comply with the FATF standards.

Article 30<sup>68</sup> provides that where it is not certain that the customer is acting on its own behalf, the FI shall obtain information by any means on the identity of the true originator or beneficial owner who is equivalent to the beneficial owner (see Article 1 AML/CFT). By "any means" is meant all possible sources of identification, and if doubt persists, the transaction is terminated. It should be recalled that identification of the BO under Article 30 does not cover all types of BOs, but only those acting on behalf of the customer.

This provision applies to all FIs, including insurance companies and brokers, which are also required to identify all their customers and principals (Art. 8 of CIMA Regulation N°00004-2008). In case of suspicion regarding the document presented, insurance companies, agents and brokers are required to verify it from other data sources such as: directories, receipts and others.

**Criterion 10. 6 -** Pursuant to Article 19 (1), reporting entities are required to gather and analyze information, form the one on the list prepared for this purpose by the supervisory authority, necessary to know their customer as well as the purpose and nature of the business relationship. Also, the analysis of Article 20 of the AML/CFT law suggests that the due diligence measures concerning the identification of customers by FIs also relate to the business relationship.

FIs are also required to carry out constant due diligence in all transactions with customers.

Article 8 (8.7) of the CIMA regulation N° 000004 stipulates that the due diligence measures for customer identification must also relate to the customer's business, the sector of activity and the companies the customer is dealing with.

**Criterion 10. 7 (a and b)**

Article 20 of the AML/CFT Law No. 2016-33 provides that reporting entities must be vigilant in any business relationship and carefully examine the transactions carried out to ensure they are in compliance with the knowledge of their customers, their business activities, their risk profile and, where necessary, the source of their funds. Article 19 paragraph 2 provides that, throughout the duration of the business relationship, the reporting entities should gather, update and analyze the information that promotes perfect knowledge of their customer.

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<sup>68</sup>Law 2016-33 has made provision in Article 30 for the economic beneficiary. The term economic beneficiary is defined in Article 1 of Law 2016-33 as equivalent to the beneficial owner. Article 1(12) defines the beneficial owner as the natural person(s) who ultimately own(s) or control(s) a client and/or the natural person on whose behalf a transaction is carried out. This definition also includes persons who ultimately exercise effective control over a legal person or legal arrangement as defined in point 21 of that Article. The definition of beneficial ownership, as applicable under the law, is in line with the FATF definition

At the end of the provisions of Article 31, where the FI has doubts about the identification information on its customers previously obtained, such information should be updated using fresh identification.

*Specific CDD measures required for legal persons and legal arrangements*

**Criterion 10. 8**

Before entering into a business relationship with a customer, FIs are required to collect and analyse the information necessary to know their customer and the purpose and nature of the business relationship (Art.19-L2016-33). Under Article 28(1), they are required to collect and verify information on the identity and powers of partners and corporate officers. However, no legal provision explicitly requires FIs to understand the nature of the customer's activities as well as its ownership and control structure where the said customer is a legal person or a legal arrangement.

**Criterion 10. 9 (a, b and c)**

For the identification of their corporate customers, branches or representative office and pursuant to Article 28 of the AML/CFT Law, Financial Institutions must obtain information on the corporate name, the address of the registered office, the original extract from the RCCM registration issued 3 (three) months ago or a certified true copy, the identity and powers of the partners and corporate officers. Other relevant people in managerial positions are not targeted.

However, no due diligence measure is provided for by the AML/CFT law for the identification and verification of customers and the type of legal arrangement.

**Criterion 10. 10 (a, b and c)**

- a) Articles 18 and 30 of Law No. 2016-33-LBC/FT require the FI to inquire by any means as to the identity of the beneficial owner and carry out the verification. The beneficial owner is defined as the natural person(s) who ultimately owns or controls a customer (Art.1 (12)).

Based on Articles 18 and 30 of Law No.2016-33-AML/TF the FI is required to inquire and verify the identity of the beneficial owner by any means;

- b) Person or persons holding, directly or indirectly, either more than 25% of the capital or voting rights;

Legal arrangement: The BO is the person holding the rights to more than 25% of the assets of the legal entity or the comparable body under foreign law;

- c) Legal person: The BO is the person or persons who exercise by any other means a power of control over the management, administrative or executive bodies of the legal person;

Legal arrangement: The BO is the person designated by legal act to become the owner of the rights to at least 25% of the property transferred to a trust or other comparable legal arrangement under foreign law;

In case no natural person is identified after the implementation of points (a) or (b) above, the law does not provide for considering as Beneficial Owner, the identity of the relevant natural person who occupies the position of senior manager.

The step-by-step approach of moving from steps 10.a to 10.c is not provided for by law.

**Criterion 10. 11 (a and b)**

The AML/CFT Law defines the beneficial owner of legal entities (Article 1.12), namely express trusts and similar legal entities (Article 1.21). However, no legal provision explicitly requires FIs to identify the BOs of these entities and to verify their identity using the means provided for in criteria 10.11 (a) and (b).

However, Article 79 paragraph 4 on AML/CFT indirectly provides for an obligation to verify the identity of the constituent of a trust fund or any other instrument for managing assigned assets.

*CDD for Beneficiaries of Life Insurance Policies*

**Criterion 10.12-**

Insurance companies as FIs are required to implement CDD measures to customers and their beneficial owners (Art.18-AML/CFT). Article 39 of AML/CFT requires Insurance companies, insurance agents and brokers to identify their customers and verify their identity in accordance with the provisions of Article 27 of the same law. Also, under Articles 4.3, 8.1 and 8.2.

Regulation 004/CIMA requires insurance companies, before entering into a contractual relationship or assisting their customer in the preparation or execution of a transaction, to systematically record the identities of the contracting parties – policy holder, insured, principal, accepting beneficiary.

If the customer is a legal person, the insurance company must record the names of the officers, the persons who own or control the legal person (Art.8.2).

a) & b - If the transaction is carried out on behalf of a third party, the insurance company is required to find out the true identity of this third party. As provided for in Article 8.4 of Directive 004/CIMA, the third party is the person or entity on whose behalf the transaction is implemented. In case of capitalisation bonds, the insurer is under obligation to verify, in addition to the policyholder, the identity of the person to whom the bond is reimbursed, namely the beneficiary (Art. 12);

c) [] Verification of the beneficiary identity shall be done prior to delivery of the service (Art.8.4; 9; 12 of Regulation 04/CIMA; Art.68 paragraph 2 of the CIMA Code).

Criterion 10.13 - [Not ]. Law No. 2016- 33 does not explicitly require financial institutions to include the beneficiary of a life insurance as a relevant risk factor for determining whether enhanced CDD measures are applicable or not.

*Timing of verification*

**Criterion 10.14 (a, b and c) -** Under Article 18 of law 2016-33, financial institutions are required to identify and verify the identity of the customer and the beneficial owner before or during the entry into a business relationship with a customer or when executing transactions on behalf of such customers. This provision is applicable to occasional customers Under Article 29.

However, paragraph 3 of this Article stipulates that where the risk of ML/TF seems low (under the conditions provided for by the relevant regulations), the verification of the customer's identity and, where applicable, that of the beneficial owner, should only be carried out during the establishment of the business relationship.

**Criterion 10.15 -**

In cases where the ML/TF risk seems low, article 18(3) allows FIs to differ the verification of the identity of the customer and, where applicable, that of the beneficial owner when entering into the business relationship.

However, Law 2016-33 does not provide for specific measures to be applied by FIs to manage risks during this period.

#### **Criterion 10.16**

Article 31 of Law No 2016-33 allows FIs to re-identify existing customers if they have good reason to believe that the identity of the customer and the identification information previously obtained are no longer accurate or relevant. According to Niger, the fact that the information is no longer satisfactory or relevant may be due to several factors, including the current risks they represent. The case of customers who become PEPs in the course of the relationship was mentioned. This change in status leads to the systematic application of new due diligence measures.

#### *Risk-Based Approach*

**Criterion 10.17-** The provisions of Articles 32, 40, 50, 51, 52 and following of the AML/CFT Law No. 2016- 33 require financial institutions to implement enhanced customer due diligence under articles 9 and 10 of the CIMA Regulation No. 0004 where risks are higher.

**Criterion 10.18 -** Where there is no suspicion of ML / TF, Article 46 of the AML/CFT Law No. 2016- 33 allows FIs to reduce the intensity of CDD measures provided for under Article 19 when the ML/TF risk is low. Accordingly, the law has also set out types of customers for which CDD measures can be simplified, notably, if the customer is a listed company, if the customer or the beneficial owner is an FI established in the country or in a third country that applies equivalent AML/CFT measures, the list of which is drawn up by the Minister in charge of finance.

#### *Failure to satisfactorily complete CDD*

**Criterion 10.19 -** Where a financial institution cannot comply with the CDD measure on beneficial ownership identification, the financial institution is required to terminate the business relationship.

Thus, Article 30, paragraph 2, of Law No. 2016- 33 states that "if after verification, there are still doubts about the identity of the beneficial owner, the transaction shall be terminated without prejudice to the obligation provided for under Article 79 to file suspicious transaction report to the FIU under the conditions stipulated under Article 81 of the Law.

These requirements are only applicable in a situation where the reporting entity has doubts about the identification of the beneficial owner

#### *CDD and tipping-off*

#### **Criterion 10.20**

There is no legal requirement for FIs not to proceed with the CDD process and to file a STR instead, where they suspect a ML/TF and believe that proceeding with the CDD process will attract the customer's attention.

### *Weighting and Conclusion*

Niger has met several criteria which are critical to the requirements of Recommendation 10. However, the country should strengthen its beneficial ownership identification mechanism, which should be systematized for all customers, including legal arrangements. Also, the law does not impose a strict obligation on the insurer to identify the insured in cases where the insured is different from the policyholder. Therefore, the law does not require insurers to consider the life insurance contract as a relevant risk factor for considering the application of enhanced due diligence. Also, identifying the BO where appropriate is not in line with the FATF standards requiring that this be done systematically. Moreover, there is no provision requiring FIs to file an STR when they suspect ML/TF and think that by conducting CDD measures, they could alert the customer. Finally, the law does not provide for risk management procedures that FIs must implement where a customer can benefit from the business relationship before any verification.

**Recommendation 10 is rated Partially Compliant.**

### **Recommendation 11 – Record-keeping**

During the mutual evaluation conducted in 2008, Niger was rated Partially Compliant (PC) on this Recommendation due to:

1. The lack of adequate details on the nature and availability of records to be kept;
2. The lack of supervision for compliance with AML obligations, the contents of which are most often unknown;

And in November 2016, at during the review of the 8<sup>th</sup> follow-up report, it was observed that Niger had made efforts in keeping AML/CFT-related records, and that the gaps (1 and 2) deficiencies had been resolved. However, the rating on this Recommendation remained Partially Compliant (PC);

**Criterion 11. 1** - Under Article 35(2) of the AML/CFT law, the institutions are required to keep for a period of ten years all records and documents relating to all transactions they have carried out with their usual and occasional customers after carrying out the transactions.

Also, under Article 36 of the AML/CFT law, Financial Institutions are required to disclose on their request all records and documents referred to under Article 35 above, to the judicial, supervisory and FIU authorities and officers in charge of detecting ML/TF offences.

In addition, it is stated under Article 35 of the AML/CFT law that the measures taken in this Article are without prejudice to the other provisions prescribing more binding obligations.

**Criterion 11. 2** - The provisions under Article 35 of the AML/CFT law require financial institutions to keep, for a period of ten years, after closing their accounts or terminating their relationships with their usual or unusual customers, all records on the identity of their customers. These include all information obtained during the CDD process. They should also keep documents and records relating to all transactions they have carried out, including accounting ledgers and business correspondences, for a period of ten years after the execution of the transaction. However, the law does not require the keeping of results of analysis carried out.



**Criterion 11.3**

Article 36 of the AML/CFT law requires financial institutions to disclose to the judicial, supervisory authorities and FIU officers in charge of detected ML/TF offences, on their request, the records and documents referred to under Article 35. However, no mention is explicitly made of the requirement that the records relating to the transactions should be adequate for reconstruction to provide evidence, during prosecution of any criminal activity.

Regarding insurance companies, insurance agents and brokers, Article 36 of the AML/CFT law prescribes the requirement for all the reporting entities referred to under Articles 5 and 6 of the same law to disclose all records and documents to the judicial, supervisory, and FIU as well as officers in charge of detecting ML/TF offences.

**Criterion 11.4**

Article 36 of the AML/CFT Law requires reporting entities to provide such records, upon request, to the judicial authorities, State officials in charge of detecting ML/TF offences, in the execution of their judicial mandate, supervisory authorities as well as the FIU. All these authorities constitute the competent authorities in AML/CFT issues. Insurance companies, insurance agents and brokers are part of the reporting entities, and are equally required to make this disclosure pursuant to the provisions of Appendix II to the CIMA Treaty. No legal measure requires FIs to make available without delay, information resulting from CDD measures and operations to the relevant national authorities, where the latter have such powers.

***Weighting and Conclusion***

No mention is explicitly made of the requirement that the records relating to the transactions should be adequate for reconstruction to provide evidence, in the prosecution of any criminal activity. Similarly, there is no explicit requirement for FIs to provide the information to the relevant national authorities without delay.

**Recommendation 11 is rated Largely Compliant.**

**Recommendation 12 – Politically exposed persons**

In 2009, Niger was rated Non-compliant on the Recommendation relating to politically exposed persons (PEPs), due to the lack of the relevant obligations. But since the enactment of the AML/CFT Law of 2016, these gaps have essentially been addressed.

**Criterion 12.1****Criterion 12.1 a -**

PEPs have been taken into account in the new AML/CFT law. It requires reporting entities to have risk management systems capable of determining whether the customer is a politically exposed person and, where necessary, implement the specific measures provided for by the said law (Art. 54). Financial institutions must ensure that the customer or beneficial owner of the customer is a PEP, by adopting suitable and adequate procedures for this purpose. However, the definition of foreign PEP enshrined in Article 1-44 does not comply with the standards of the FATF which would like the list of PEPs to be indicative and not exhaustive. Indeed, the word "to know" introduces an exhaustive quotation of the characteristics of the persons considered as PEP. This limits the list to those listed. It should also be noted that this insufficiency has an impact on the other sub-criteria of C.12.1

**Criterion 12.1 b**

The AML Law provides that financial institutions must take certain specific measures when entering into business relationships or carrying out transactions with or on behalf of politically exposed foreigners. Specific measures require FIs to obtain authorization from the appropriate level of management before entering into a business relationship with PEP customers (Article 54 of Law 2016-33). However, this provision does not explicitly say that the same authorization is required to continue the relationship with an already existing customer who becomes a PEP.

**Criterion 12.1 c)**

Paragraph 3 of Article 54 provides that financial institutions must take all appropriate measures, based on risk assessment, to establish the source of wealth and source of funds involved in the business relationship or transaction. While subjecting the compliance with this requirement to risk, Niger's law does not make it systematic as required by Criterion 12.1c.

**Criterion 12.1 d** - Para 1, indent 4 of Article 54 also requires financial institutions to ensure enhanced continuous monitoring of the business relationship with PEPs.

**Criterion 12.2****Criterion 12.2.a**

In accordance with Article 54 (4) of the AML/CFT Law, FIs are also required to implement adequate and appropriate procedures, depending on the risk, in order to determine whether the customer or the beneficial owner is a PEP, domestic or international organization. However, the deficiencies identified in Criterion 12.1 have an impact on the implementation of this requirement.

**Criterion 12.2.b**

Article 54 of Law 2016-33 requires FIs to apply the measures provided for in Criteria 12.1 (b) to (d) when business relationships with such persons present a higher risk. However, deficiencies identified in criterion 12.1 have an impact on the implementation of this requirement.

**Criterion 12.3**

Under Article 54 of Law 2016-33, financial institutions are required to apply the relevant requirements of criteria 12.1 and 12.2 to family members of foreign PEPs and persons closely associated with them, but this requirement does not extend to family members of domestic PEPs or PEPs of international organizations and persons closely associated with them (Article 1 (paragraph 44) of Law 2016-33).

**Criterion 12.4** - As FIs, insurance companies are required to implement adequate and appropriate procedures, depending on the risk, in order to be able to determine whether the customer or a beneficial owner of the customer is a PEP (Art.54). However, it is not explicitly stated that this procedure must be carried out at the time of payout. In addition, article 54, requires FIs to contact the upper hierarchy prior to the establishment of the business relationship as well as to carry out continuous and enhanced monitoring of the business relationship. Insurance companies are required to send a STR in the event of a persistence of doubt, despite the diligence carried out, in accordance with the provisions of Chapter III of Cap II of the AML / CFT Law (Article 79).

### ***Weighting and Conclusion***

There is no legal provision in Niger which requires FIs to apply the above criteria 12.1 and 12.2 to family members of PEPs. No provision requires insurance companies to determine, at the time of delivering the services, whether the contract beneficiary and/or beneficial owner are PEPs.

**Recommendation 12 is rated Partially Compliant.**

### **Recommendation 13 – Correspondent banking**

During the mutual evaluation conducted in 2008, Niger was rated Partially Compliant (PC) on this Recommendation due to:

- 1) The failure to place a ban on establishing or pursuing correspondent banking relationships with shell banks;
- 2) Lack of obligations to ensure that FIs which are part of their customer abroad does not authorize shell banks to use their accounts;

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger had made progress and those two deficiencies have been resolved.

Criterion 13. 1 (a, b, c)

a.) Within the framework of cross-border correspondent banking relationships, provisions of Article 38 AML/CFT require FIs to: (1) identify and verify the identity of FIs with which they have correspondent relationships; (2) collect information on the nature and activities of the customer institution; (3) assess the reputation of the customer institution and level of supervision based on publicly available information. Also, the applicable questionnaire provided for this purpose (Art.5 and Annex Directive N° 07-09-2017) allows for detailed information to be collected on the FI's customer.

However, it is not explicitly stipulated that FIs are required to find out whether the correspondent bank has ever been investigated or had measures levied on it by any supervisory authority in connection with ML/TF. Apparently, there is need for FIs to have such information before entering into any relationship with the correspondent bank.

b.) [Article 38 (4) states that FIs must assess the controls put in place by the customer FI to combat ML/TF.

c.) Authorized officials of FIs must have previously authorized conclusion of a correspondent banking relationship (Art. 38, para. 2).

d) There must be an obligation on the FI and its cross-border banking correspondents, each with its own obligation, to clearly understand its AML/CFT responsibilities. However, no such provision is provided for in Article 38 of the AML/CFT Law or by any other text.

#### **Criterion 13. 2 (a and b)**

a.) As part of correspondent banking services, Article 53 (5) requires FIs to ensure that when they host correspondent accounts used directly by independent third parties, for the execution of transaction for their own account, that the co-contracting credit institution must have verified the identity of customers having direct access to its correspondent accounts and has implemented the CDD measures provided for in Articles 18 & 19 as expected.

b) When entering into an agreement to offer a correspondent banking service, FIs are required to provide modalities for the terms of transmission of information upon request. Art.53 (5).

### **Criterion 13. 3**

Under Article 52, paragraph 1, FIs are prohibited from establishing or maintaining a correspondent banking relationship with "a credit institution or a company engaged in equivalent activities that has no effective physical presence to carry out leadership and management activities, if it is not attached to any institution or regulated group '.

### ***Weighting and Conclusion***

There is no provision explicitly requiring the requesting and correspondent bank to clearly understand each institution's respective AML/CFT responsibilities, and the law does not explicitly require financial institutions to gather information on the issue of whether the financial institution has ever been subjected to any ML/TF investigation or regulatory measures.

**Recommendation 13 is rated Largely Compliant.**

## **Recommendation 14 – Money or value transfer services**

During the mutual evaluation conducted in 2008, Niger was rated Non-compliant (NC) on this Recommendation for failing to institute correspondent banking obligations.

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger was making progress. Indeed, specific AML/CFT-related obligations have been taken on correspondents banking, including the administration of a questionnaire to the correspondent before entering into the relationship, and the signing of a commitment letter by credit institutions holding accounts with the BCEAO on AML/CFT.

However, the National Risk Assessment (NRA) report reveals that at the global level, the country is vulnerable to ML/TF due to the weak compliance with exchange control regulations and the difficulties in identifying people involved in money transfer.

Within the banking institutions sector, the country is also vulnerable to ML/TF issues due to the inadequate monitoring of money transfer transactions.

Also, during the processing of suspicious transaction reports (STRs) on predicate offences to ML/TF by the FIU, the most frequent one has been "the violation of exchange control regulations".

**Criterion 14.1** - Article 16 of the Law AML/CFT has referred the issue of licensing requirements for money or value transfer services to the regulations on external financial relations of UEMOA Member States. Consequently, Article 2 of Regulation N° 09/2010/CM/UEMOA provides that foreign exchange transactions, movements of capital (issues of transfers and/or receipt of funds) and regulations of any kind between a resident and a non-resident can only be carried out through the BCEAO, government, post office, or an "authorized" intermediary;

Article 87 paragraph 1 of the Law AML/CFT requires money or value transfer services or values to obtain licenses from the competent authority before engaging in transactions.

Regarding Directive N° 013, natural or legal persons providing money transfer services are required to sign contracts with approved intermediaries or decentralized financial

systems (DFS) which give them the mandate to engage in the rapid money transfer activity, on their behalf and under their sole responsibility. Therefore, the aforementioned transfer service providers have no operating license but are authorized as soon as the provident company concludes a contractual agreement with an approved intermediary.

#### **Criterion 14. 2**

Article 11, paragraph 2 of Directive N° 13-11-2015, provides that natural and legal persons exercising activity of rapid money transfer without being able to justify the status of authorized sub-agent, have a period of six (6) months, from the date of entry into force of this directive, to comply with the legal and regulatory provisions governing the said activity. Any breach of the provisions of this paragraph is punishable by criminal penalties provided for in the regulations referred to in Article 10, above. In Niger, the DMCE at the Ministry of Finance and the National Agency of the BCEAO ensure compliance with this measure and carry out on-site inspection missions.

Furthermore, the supervisory authorities have at their disposal in the AML/CFT Law 2016-33 and the Specific Laws a wide range of proportionate and dissuasive criminal, civil and administrative sanctions for breaches of AML/CFT obligations.

**Criterion 14. 3** - The money or value transfer services are accountable to the provisions of the AML/CFT Law pursuant to Article 5, paragraph 12.

Also at the end of paragraph 2 of Article 87 of the AML/CFT Law, the competent authority is required to determine the minimum operating requirements, the regular inspection of the money and value transfer services as well as sanctions to be meted out for non-compliance with the extant provisions. Thus, Article 14 of the BCEAO Directive No. 006-07-2011-RFE establishes the requirements of operators as foreign exchange dealers and Article 37 of Directive No. 008 -05-2015 outlines the requirements and procedures for operators as electronic money issuers in the UEMOA. Articles 9 and 10 of Directive No. 013-11-2015 determine the requirements to operate as rapid money transfer sub-agent in the UMOA zone.

It should be recalled that the competent AML/CFT authorities in Niger, particularly HALCIA, BCEAO and its supervisory bodies, CNCA-LBC/FT, CNCLTP, the FIU and judicial authorities are the agents authorized to fight against ML/TF offences.

Indeed, since they are accountable to the provisions of the AML/CFT law, money or value transfer services are subject to controls by these bodies.

Furthermore, pursuant to Article 17 of Regulation N° 09/2010 / CM / UEMOA, money or value transfer services are required to comply with the provisions of the AML/CFT Law

#### **Criterion 14. 4**

Unlike authorized intermediaries and DFIs who are authorized to supply VASPs, agents of VASP suppliers, referred to as sub-agents, are not approved or registered by the relevant authority (BCEAO). Sub-agents sign VASP service contracts with authorized intermediaries and DFIs, under the responsibility of the latter (Article 3 of Directive 013-11-2015).

Provisions of Articles 7 and 8 of Directive No. 13-11-2015 meet this requirements. In fact, funds transfer or securities professionals are required to notify the Ministry of Finance, the CB\_UMOA and BCEAO at the end of each year, of the list of natural and legal persons mandated to operate as sub-agent of VASP.

### Criterion 14.5

Money transfer service providers (authorized intermediaries and DFIs) are FIs, subject to AML/ CFT. Under Article 24 paragraph 3, they are required to integrate sub-agents into their AML/CFT programs. However, the law does not explicitly require authorized service providers to monitor the AML/CFT programs of their sub-agents, although Article 9 of Directive n° 013-13-2015, requires them to ensure strict compliance by sub-agents with the provisions of the said Directive

Also, provisions of Article 5 of Directive No. 13-11-2015 provide that sub-agents for money and value transfer activities are subjected to the regulations governing financial relationships outside UEMOA and the AML/CFT law. In this regard, they may be subject to supervision by the relevant authority.

### *Weighting and Conclusion*

Sub-agents of money transfer services are not authorized or registered by the relevant authority but they provide VASPs on the basis of a contract signed with the authorized intermediaries and DFIs, under their responsibility. The law does not explicitly require authorized intermediaries and DFIs to monitor the AML/CFT programs of their sub-agents, but the latter themselves being subject to regulations in combating money laundering and financing of terrorism, are also monitored by the relevant authority. The high level of risk attributed to VASP activities in Niger is considered.

**Recommendation 14 is rated as (PC). Partially Compliant**

## Recommendation 15 – New technologies

During the mutual evaluation conducted in 2008, Niger was rated Non-compliant (NC) on this Recommendation because of inadequate and vague obligations, as well as non-implementation.

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger had resolved its deficiencies (see BCEAO Directive No. 1/2007 / RB Art 9, Directive No. 35/2008/CREPMF, Art 9 and Directive N° 01/2007 / RB, Art 17).

However, the national risk assessment reveals that one of the factors that could favor ML/TF violations in Niger is the rapid development of new payment systems using ICTs.

However, the provisions of Regulation No. 008-05-2015 on electronic money issuers seem to largely cover the requirements concerning new technologies.

### *New technologies*

#### **Criterion 15. 1**

Under Article 10, paragraph 1 of Law 2016-33, the State of Niger is required to take appropriate measures to identify, assess, understand and mitigate the money laundering and terrorist financing risks to which it is exposed. Niger has assessed the ML/TF risks it faces. This assessment has taken into account the risks that may result from the use of new financial inclusion products such as mobile money and prepaid cards.

Pursuant to Article 11 of Law No. 2016-33, reporting persons shall take measures to identify and assess the BC/FT risks to which they are exposed, taking into account factors

such as customers, countries or geographical areas, products, services, transactions or distribution channels. And under Article 37 of the AML/CFT Law, FIs are required to identify and assess the risks that may result from the launch of new products, new business practices or the use of any new technology.

*Virtual assets and virtual asset service providers*

**Criterion 15. 2 (a and b)** - Under Article 37 a and b, FIs are required to identify and assess the risks that may result from the development of new products and new business practices, including new distribution systems, the use of any new technology, the launch a new product or new business practice. Under the last paragraph of the same article, this assessment must be carried out before the launch of new products, new business practices or before the use of new technology. Once the FIs have identified and assessed these risks, they must take appropriate measures to manage and mitigate. These requirements are reiterated under Article 5 indent 12 of Directive No.007-09-2017.

**Criterion 15. 3 (a and b)**

a) Article 10 of the AML/CFT Law N° 2016-33 of October 31, 2016, requires Niger to identify, assess and understand the risks of money laundering (ML) and terrorist financing (TF) to which it is exposed and to update this assessment. At the end of indent 14 flowing from Article 1, the risk assessment concerns also the virtual assets since the definition of the word “assets ” includes all tangible or intangible assets. Similarly, the definition of the term »funds or other financial resources »provided for in indent 30 of the same Article includes all financial assets and benefits of whatever nature. This means that the AML/CFT law n° 2016-33 in Niger applies to all assets including virtual assets although this is not explicitly stated in the law. However, the country has not identified and assessed ML/TF risks associated with virtual assets and VASP activities.

b) Once the ML/TF risks have been identified, assessed and understood, Niger is required to take measures to mitigate them pursuant to Article 10 of Law N° 2016-33. However, Niger has not developed any policy based on ML/TF risks approach arising from virtual assets and VASP activities.

It would be recalled that in Niger, the activities of virtual assets service providers (VASPs) are not carried out; they therefore do not present any ML/TF risks at this time, although Niger's national risk assessment did not identify and assess the ML/TF risks that may result from activities related to virtual service providers.

**Criterion 15. 3 (c)**

All financial institutions, including electronic money institutions, are accountable to the AML/CFT law pursuant to Article 5.

Besides, under Article 11 of Law N° 2016-33 the reporting entities<sup>69</sup> shall take steps to identify and assess the ML/TF risks to which they are exposed, taking into account factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. They must have policies, procedures and controls in place to effectively mitigate and manage the identified ML and TF risks. These policies, procedures and controls must be proportionate to the nature and size of their business and the volume of their activities.

<sup>69</sup> Articles 1 and 5 of the AML/CFT Law

However, virtual asset service providers (VASPs) are natural or legal persons specialised in virtual money who carry out exchanges, transfers, custody and/or administration of virtual assets or any other form of virtual assets and participate in financial services related to an issuer's offer/sale of virtual assets and related transactions and services. To this end, it is not clearly stated in the law that the above-mentioned provisions concern VASPs.

#### **Criterion 15. 4 (a)**

The virtual assets service providers (VASPs) are specialists in virtual currency transactions and relevant services. These activities can be assimilated to those carried out by EMIs. And certain licensing and authorization requirements applicable to EMIs are applicable to all of them. Directive n° 008-05-2015 determines the requirements and modalities for engaging in EMI transactions in UEMOA Member States but does not specify that these requirements are applicable to VASPs. Especially as these provisions do not specifically include the origin and jurisdiction in which the virtual asset service provider (VASP) was created as a legal person, and exclude the establishment that has links with the virtual asset service provider (natural person) from their scope of application.

#### **Criterion 15. 4 (b)**

Article 17 of the Appendix provides for the processing of licensing applications by the Central Bank. Furthermore, where the licensing application emanates from a foreign entity subject to the supervision of a Supervisory Authority in its country of origin, the Banking Commission is required to request for a non-objection from the said Authority. In the same vein, Article 29 empowers the Banking Commission to take provisional measures against any reporting institution, including opposition to the appointment of a person to the deliberative and executive bodies, the request for a special audit by an external auditor, close monitoring of the institution and all other administrative measures deemed necessary where the safety and soundness of any reporting institution are at stake.

Furthermore, the licensing and/or authorization requirements to engage in the electronic money business are defined in Caps II and following of Directive No. 008-05-2015. These requirements can equally be applicable to of virtual asset service providers (VASPs) although it is not specifically mentioned, but do not appear to be adequate to prevent criminals or their associates from holding or being the beneficial owner of, a significant share or control, or from hold a management position in a VASP. It should be noted that no virtual asset service provider (VASP s) is licensed in Niger and no application has been filed to the supervisory authorities.

#### **Criterion 15. 5**

The Appendix to the Convention governing the UMOA Banking Commission as amended by Decision No. 010 of 09/29/2017 / CM / UMOA provides for the taking of measures to identify VASPs, particularly EMIs, which are unlicensed and unregistered. Article 31 of this Appendix provides for disciplinary and pecuniary sanctions. In case of a violation of any other legislation applicable to electronic money institutions by the Banking Commission, the latter shall inform the Minister of Finance, and without prejudice to the criminal or other sanctions incurred, mete out one or more of the following disciplinary sanctions: warning, reprimand, suspension or banning of all or part of the transactions, all other limitations in the practice of the profession, suspension or automatic resignation of managers, prohibition of officials from managing, administering or governing any institution under its supervision or any of its agencies, withdrawal of license or settlement permit.



Other sanctions, including pecuniary, are provided for under Articles 36 and following of Directive n° 008-05-2015, may be meted out in addition to disciplinary sanctions. Article 86 of the AML/CFT Law, paragraph 2, indent 9 empowers the supervisory authorities of FIs (applicable to VASPs) and DNFBPs to mete out sanctions on reporting entities which are under their supervision. These powers relate to the commission of ML/TF offences, associated predicate offences (such as failure to license and failure to register).

There are no VASPs operating in Niger. However, Niger authorities have not been able to demonstrate the measures taken to determine whether there are natural or legal persons carrying out VASP activities without being licensed.

**Criterion 15. 6 (a and b)**

a) In Niger, there are no specific regulations governing VASPs and their activity or subjecting them to control, including compliance with AML/CFT measures.

b) The supervisory authorities do not have supervisory powers over VASPs to ensure that they comply with their AML/CFT obligations, and to impose sanctions for non-compliance with these obligations.

**Criterion 15. 7**

Article 86, paragraph 3 of the AML/CFT Law requires the supervisory and monitoring authorities to issue Directives, guidelines or Recommendations to help FIs and DNFBPs comply with the obligations on the prevention and detection of ML and TF. This also applies to VASPs that operate similar activities as EMIs although it is not explicitly mentioned by the law.

The Directives, guidelines and/or Recommendations issued by the UEMOA Banking Commission, BCEAO and the Ministry of Finance are published and disseminated to all FIs, including EMIs. They are also available on the BCEAO website. Other guidelines are also issued by the FIU pursuant to indents 5 and following of this same Article. However, there are no specific guidelines for VASPs in Niger

**Criterion 15. 8 (a and b)**

Section 86 of the AML/CFT Law empowers the supervisory authorities of FIs, including EMIs and related institutions, including VASPs and DNFBPs to mete out a range of proportionate and dissuasive sanctions on reporting entities. These sanctions may be criminal, civil, administrative, disciplinary and even pecuniary<sup>70</sup> which are under their supervision, including EMIs: license withdrawal, suspension of license and registration...

Articles 113 and following provide for criminal sanctions for committing ML and TF offences, complicity, conspiracy, participation ... The main sanctions range from imprisonment to fines, additional sanctions (final closure, dissolution of the institution), to the confiscation of the proceeds of crime and even assets of lawful origin of the convicted person. These provisions also apply to EMIs VASP.

Sections 116 and 121 of the AML/CFT Law criminalize and metes out criminal sanction on persons and managers or employees of natural persons or corporate reporting entities found guilty of committing offences related to ML/TF. These provisions also apply to EMIs and related institutions, including VASPs.

<sup>70</sup> See Directive No.008-05-2015, Cap VI

In addition, Articles 29 to 31 of the Appendix to the Convention governing the UMOA Banking Commission as amended by Decision No. 010 of 09/29/2017/CM/UMOA also provide for a range of varied sanctions and other measures that the Banking Commission may mete out on accountable institutions. However, the texts do not provide for any sanctions applicable to VASPs in the event of a breach of their AML/CFT obligations.

#### **Criterion 15. 9 (a and b)**

Article 29 of the AML/CFT Law establishes a threshold for occasional transactions (CFAF10, 000, 000) above which the persons other than authorized foreign exchange dealers or authorized legal representatives and managers of gaming establishments, are required to identify their occasional customers and the beneficial owners, where applicable. This also applies to EMIs and related institutions, including VASP.

Under Article 33 of the AML/CFT Law, FIs, including EMIs with VASP, are required to obtain and verify through official documents the full surnames and names of the originator and beneficiary of wire transfers.

Paragraph 3 of the Article 33 states that information gathered referred to above on the originator and beneficiary should be included in the message or payment form accompanying the transfer. Where there is no account number, a unique reference number must accompany the transfer. This measure is introduced for the purpose of keeping such records and making them available to the appropriate authorities.

Furthermore, Article 34 provides for the assumption that wire transfers received by any FI contain incomplete information on the originator and measures to be taken. In this case, the FI, including EMIs, must obtain the missing information from the issuing institution or the beneficiary for completion and verification. Where such information is not provided, it should refrain from executing the transfer and inform the FIU. These provisions also apply to VASPs or EMIs.

Decree No. 2020-114 / PRN / MF of 27<sup>th</sup> January, 2020<sup>71</sup> on the Administrative Freezing of funds, assets and other financial or economic resources within the framework of AML/CFT and the financing of the proliferation of weapons of mass destruction complies with the requirements of Recommendation 16 on monitoring the availability of information, freezing measures and the ban on carrying out transactions with designated persons and entities. However, the threshold of CFAF10,000,000 is much higher than USD1,000 / EUR1,000, which is the threshold for occasional transactions above which VASPs are required to take vigilance measures.

#### **Criterion 15. 10**

The provisions under Articles 100 and following of the AML/CFT Law and the provisions of Decree n° 2020-114/PRN/MF of 27<sup>th</sup> January 2020 on the Administrative Freezing of funds, assets and other financial resources or economic resources in AML/CFT and financing the proliferation of weapons of mass destruction apply to virtual assets. Indeed, the concepts of «assets » and «funds and other financial resources or economic resources" appearing in these texts are understood very broadly and include virtual assets.

Also, Articles 2 and 3 which refer to any other natural or legal person holding funds, assets and other financial resources or economic resources owned by or belonging to designated

<sup>71</sup> Articles 2,3,4,5,10,19,24,32

persons or entities apply to the activities of VASPs, and the latter must refrain from making funds, assets and other financial or economic resources, subject to a freezing procedure or measure, available to these persons or entities.

Articles 3 and 24 requires FIs particularly to inform the FIU without delay of the existence of funds, assets and other financial resources or economic resources held by designated persons or entities. The Technical Advisory Committee on Administrative Freezing is also informed of the comprehensive situation of funds and current transactions. Also, they immediately inform the Minister in charge of Finance, an authority invested with the power of administrative freezing, of the existence of such funds, assets and other financial or economic resources with a view to deciding on their immediate freezing (Article 5), after the report of the Technical Advisory Committee on Administrative Freezing. Moreover, Article 19 provides that the freezing order shall be notified immediately to FI, which is the EMI, holding such funds, assets and other financial resources or economic resources. Finally, Article 5 paragraphs 4, 5 and 6 and Article 10 provide the mechanisms for the dissemination of designation decisions and lists 1267 and 1373 to reporting entities, either directly or indirectly through the supervisory and monitoring authorities, through the website of the Government or the Ministry of Finance, by email, fax, letter, physical presence or by phone. Article 32 of the above-mentioned Decree provides that delisting decisions are immediately communicated to the FIs, DNFBPs and NPOs. The same mechanism is provided for in the case of unfreezing. These mechanisms used to communicate designation as well as the reporting and monitoring obligations provided for by the Decree also apply to VASP.

However, mechanisms for communicating the designations, reporting and monitoring obligations provided for are weakened by the lack of an authority with supervisory powers for VASPs as well as the lack of guidelines designed to facilitate the appropriate implementation of Targeted Financial Sanctions.

### **Criterion 15. 11**

Niger has ratified several International regional and sub-regional Conventions on Transnational Organized Crime, FT, judicial cooperation and anti-corruption, etc...

Furthermore, Niger is a member of several global networks facilitating international cooperation and information exchange: ARINWA, WACAP, INTERPOL, etc. It has a National Unit for Criminal Assistance and Judicial Cooperation which facilitates the work of judicialactors. Besides, the AML/CFT Law (Articles 130 to 161) and Code of Criminal Procedure provide legal frameworks for formal and informal cooperation. All these frameworks facilitate the most expensive international cooperation possible in ML, associated predicateoffences, FT and the financing of proliferation. Consequently, the supervisory authorities of VASPs undoubtedly have a legal basis which is as follows,<sup>72</sup> that enables them to effectively exchange information with their counterparts:

### ***Weighting and Conclusion***

The State of Niger is required to take appropriate measures to identify, assess, understand and mitigate the money laundering and terrorist financing risks to which it is exposed. Niger has assessed the ML/TF risks it faces, considering the risks that may result from the use of new financial inclusion products such as the mobile money and prepaid cards.

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<sup>72</sup> See Appendices to all the Conventions and Agreements signed

However, the risks that may result from the use of a new technology or business practice and those that may result from activities related to VASPs have not been assessed.

The FI supervisory authorities, notably the Banking Commission, the BCEAO and the Ministry of Finance, have powers of control and sanction. However, it is not explicitly mentioned in the regulations that they have the same powers to ensure that VASPs comply with their AML/CFT obligations, and to sanction breaches. Therefore, the texts do not provide for specific sanctions applicable to AML/CFT violations by VASPs. Finally, mechanisms for communicating designations, reporting and monitoring obligations provided for by Niger are weakened by the absence of guidelines for VASPs to facilitate proper implementation of Targeted Financial Sanctions.

Recommendation 15 is rated Not Compliant (NC)

## Recommendation 16 – Wire transfers

During the mutual evaluation conducted in 2008, Niger was rated Non-compliant (NC) on this Recommendation (Special Recommendation SR VI) due to the lack of obligations on wire transfers.

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger had addressed this gap (see: Article 12 of the CFT Law 2010-05 and BCEAO Directive No. 008 -05-2015).

In order to strengthen its AML/CFT regime, Niger has enhanced due diligence measures and reduced ML/TF offences linked to the execution of wire transfers by FIs with the entry into force of AML/CFT law 2016-33. The latter has repealed the AML Law N° 2004-41 and the CFT Law 05-2010.

### *Ordering financial institutions*

#### **Criterion 16.1 (a and b)**

a) The provisions under Article 33 of the AML/CFT Law requires FIs to obtain and verify in respect of the originator (i) the full name; (ii) account number, address or National identification number (NIN) or date and place of birth, and where necessary, the name of the financial institution of the originator of the wire transfer. (iii) If there is no account number, Article 33(3) provides that a unique reference number must accompany the transfer, without however specifying that it must allow the transaction to be traced.

b) Regarding the beneficiary of the wire transfer, FIs are required to obtain (i) the name and (ii) account number. Under Article 33(3), a unique reference number is required, and must accompany the wire transfer where the beneficiary's account number is not available.

Furthermore, the AML/CFT law has not set any threshold for the implementation of the provisions of Article 33 mentioned above, which implies that for all wire transfers regardless of the amount, these provisions must be applied by FIs. This would imply that the provisions of the AML/CFT law are more restrictive than what is required by the criterion.

**Criterion 16.2:** Article 33 of the Law AML/CFT provides for measures to be taken in case of processing personal wire transfer transactions. This provision is applied to wire transfers for all amounts involved and regardless of the number of beneficiaries (individual or batch). In this context, Niger applies more restrictive measures than those provided for by the FATF.

**Criterion 16.3 (a and b):**

Article 33 of the AML/CFT law does not set a threshold, which implies that for all wire transfers regardless of the amount, the provisions of Article 33 are applicable. Niger applies more stringent provisions than the FATF criterion.

Criterion 16.4: Under Article 33 of the AML/CFT Law, FIs are required to obtain and verify information on the originator and beneficiary of all wire transfers regardless of the amount and regardless of whether there is a suspicion of ML/TF.

**Criterion 16.5**

The requirements under Article 33 of the AML/CFT law applicable for cross-border wire transfers, are also applicable to domestic transfers.

Those not concerned by the provisions of paragraphs 1,2 and 3 of Article 33 are transfers of funds carried out using a credit or debit card or a mobile phone.

They also do not apply to wire transfers made on order and for the benefit of financial institutions and public authorities for the payment of taxes, fines or other direct debits.

**Criterion 16.6:** At the end of paragraph 3 of Article 33, FIs are required to accompany the information gathered on the originator and the beneficiary pursuant to paragraphs 1 and 2 in the message or on the payment form accompanying the transfer. Where there is no account number, the unique reference number must accompany the transfer and without delay. It follows from this provision that no derogation is granted to FIs to collect only the account number or the reference number of the transaction in the case of domestic transfers; the only option to collect the reference number is allowed only in the absence of an account number. Niger's measure is more restrictive than the criterion.

However, the law does not require that the unique reference number must allow the transaction to be traced back to the originator or beneficiary.

However, the originator's financial institution is not required to transmit on request, any information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities within 3 working days upon receipt of the request either from the beneficiary's financial institution or from the appropriate competent authorities. Law enforcement authorities have the power to access information without delay (Art. 36 of AML/ CFT Law)

**Criterion 16.7**

Article 35 stipulates that: without prejudice to provisions laying down more stringent requirements, financial institutions shall, for a period of ten years following the closure of their accounts or the termination of their relationships with their regular or occasional customers, keep records of their identity. They shall also keep records of the transactions they have carried out, including accounting records and business correspondence, for a period of ten years after the transaction has been carried out. However, there is no obligation on FIs to place all the outcomes of analysis and information, without delay, at the disposal of the relevant national authorities upon request, in accordance with R.11.

**Criterion 16.8:** The provisions under Article 34 of the AML/CFT Law concerns the financial institution receiving wire transfers in case of incomplete information and not the originator's institution. The latter is required to take steps to obtain the missing information from the issuing financial institution or the beneficiary of the wire transfer. In case it cannot

obtain the missing information, it is required to cancel the execution of the transfer and inform the FIU accordingly.

No provision to this effect is made by AML/CFT law regarding the issuing Financial Institution.

#### *Intermediary financial institutions*

**Criterion 16.9:** Since intermediary FIs are de facto FIs that receive credit transfers for transmission, the provisions of Article 34 apply to them. As such, intermediary FIs serve as a dissemination channel for wire transfers and therefore receive and send wire transfers. Consequently, they are subject to the provisions of Article 30, last paragraph of Directive n° 008-05-2015 stipulating that all transactions carried out by the customer must be confirmed by an electronic receipt particularly specifying:

- The transaction reference number;
- The nature of the service;
- The name of the electronic money issuer;
- The distributor or sub-distributor's registration number, where applicable;
- The identity of the sender or recipient of the transaction as the case may be;
- The time, amount and charges of the transaction.

**Criterion 16.10** The provisions under Article 35 concerning the record keeping measures relating to the identity of their regular and casual customers as well as all the transactions they have carried out, Article 26 of Directive n° 008-05-2015 on electronic money, as well as Article 5 of Directive n° 007-09-2017 establishing the modalities for implementation of the ML/TF Law by FIs, have to do with all transactions of all financial institutions, including intermediary institutions, records of which must be kept for ten years.

**Criterion 16.11:** The provisions under Article 34 of the AML/CFT Law apply to all FIs receiving wire transfers including intermediary FIs which serve as dissemination channels of wire transfers. Intermediary FIs that serve as transmission channels for wire transfers are also covered by this provision.

In the event of incomplete information on the originator, they are required to take all steps to complete the information or to refrain from carrying out the operation and to inform the FIU. The provision does not cover the case where the incomplete information concerns the beneficiary.

#### **Criterion 16.12**

FIs are required to:

- a) obtain and verify the name, account number and address (or national identification number) of the originator and the name and account number (or unique reference number accompanying the transfer) of the beneficiary, before executing the transaction (Article 33(1-2)(3));
- b) In case of incomplete information on the originator, they are required to take all steps to complete it or else to refrain from executing the transaction and to inform the FIU. The provision does not cover the case where the incomplete information concerns the beneficiary (Article 34).

#### *Beneficiary financial institutions*

**Criterion 16.13**

Under Article 34, FIs that receive wire transfers that do not contain complete information on the originator must take the necessary steps to complete the missing information. This provision does not apply in cases where the wire transfer does not contain the required information on the beneficiary. Other possible measures in this regard are provided for under Article 6.6 of Directive 07-09-2017 of BCEAO, which stipulates that financial institutions must have a computerised system for identifying transactions of a suspicious or unusual nature under the Article

**Criterion 16.14** –There is no specific provision that requires a beneficiary FI, in the case of a cross-border transfer of an amount higher than or equal to 1,000 dollars/euros, to verify the identity of the beneficiary who has not been previously identified and to keep such information as prescribed in Recommendation 11.

**Criterion 16.15**

Under Article 34: a) FIs that receive wire transfers that do not contain complete information on the originator must take the necessary steps to complete the missing information; b) Where the required information, they shall refrain from executing the transfer and inform the FIU accordingly. The provision does not cover the case where the missing information concerns the beneficiary.

*Money or value transfer service operators*

**Criterion 16.16**

In Niger, money and value transfer services are carried out by authorised intermediaries (FIs) or by MVTs providers and their sub-agents authorised by the licensed FIs via a duly established service contract. Like FIs, MVTs providers and their sub-agents are subject to the provisions of the laws on external financial relationships and AML/CFT Law 2016-33. MVTs providers and their sub-agents are therefore required to comply with Recommendation 16, as stipulated under Article 5 of BCEAO Directive n°013-11-2015

**Criterion 16.17**

a) FIs and sub-agents authorized to carry out MVTs are required to identify and verify the information relating to the originators and beneficiaries of the transactions in accordance with Articles 26, 33, 34 of the AML/CFT law and Article 5 of Directive No. 013-11-2015 on the conditions for carrying out the activity of fast money transfer as sub-agents in the UMOA.

b) In case of suspicion on the rapid money transfer transaction, FIs are required, under Article 79, to file a STR to the FIU. Sub-agents carrying out the MVTs activity, under the responsibility of licensed FIs or a DFS, are not clearly targeted by the measure. In practice, STRs are submitted to the FIU the licensed FIs or the ordering DFIs. There, therefore, is no provision that requires the MVTs providers (FIs, licensed DFIs as sub-agents) to submit the STR to the FIUs of all countries involved in the transaction.

The final rating for C.16.17 considers the high level of VASP risk activities in Niger.

*Implementation of Targeted Financial Sanctions*

**Criterion 16.18** Article 100, paragraph 1 of the AML/CFT Law provides that the decision to freeze assets, funds and other financial resources of persons or entities responsible for terrorist financing, must be ordered by a competent authority.

As the competent authority for administrative freezing, the Minister of Finances has established the Technical Advisory Committee for Administrative Freezing (CTCGA) pursuant to Articles 4 and 5 of Decree N° 2017-97, issued in enforcement of the AML/CFT law and establishing the modalities for the administrative freezing of funds, assets and other financial resources.

Under Article 1 of the above-mentioned Decree, financial institutions are prohibited from carrying out transactions with persons, entities or bodies whose assets and/or financial resources are affected by freezing (see : Article 5, paragraph 2), either under United Nations Security Council Resolutions or on the basis of the list prepared by the UEMOA Council of Ministers.

Article 8 of the same Decree provides that the administrative freezing measure applies to the movements or transfers of funds in favor of all persons referred to under Articles 1, 5 and 8 of Decree N° 2017-97.

### ***Weighting and Conclusion***

The regulations do not require the originator's FI to send the information accompanying the transfer to the beneficiary's FI or to the prosecutorial authorities within 03 working days of receipt, at their request. The AML/CFT Law does not cover the originator's FI under c.16.8. and cases of incomplete information from the beneficiary under c.16.11 and c.16.12. and c.16.13. Finally, there is no provision that requires MVTs providers (FIs, DFIs authorised as sub-agents) to submit the STR to the FIUs of all countries involved in the transaction. There is no requirement for FIs to establish risk-based policies and procedures, to determine when to implement, reject, or suspend a wire transfer, in the absence of the required originator or beneficiary's information and appropriate follow-up actions.

Recommendation 16 is rated Partially Compliant.

## **Recommendation 17 – Reliance on third parties**

### **Criterion 17.1 (a, b and c)**

- a)** Under Article 56 of the AML/CFT law FIs are authorized to use third parties to fulfil due diligence obligations (identification of their customers, occasional customers and beneficial owners, before and throughout the life span of the business relationship). This is without prejudice to their ultimate responsibility for compliance with such obligations. Article 58 of the AML/CFT law requires third parties to make available to FIs, without delay, information relating to CDD and nature of the business relationship.
- b)** According to Article 58(1) and (2), the Third Party that applies the due diligence requirements shall make the information relating to the due diligence requirements available as stipulated in a) above to the FI that has lodged an appeal without delay. The measures to be taken to ensure that the Third Party is able to provide the information consist in signing an agreement to specify the procedures for submitting the information collected and verifying the due diligence carried out (Article 58(3)).
- c)** Article 57 of the AML/CFT law, on its part, establishes strict criteria for the third party who must be an FI or a person among those referred to under Article 6, therefore a reporting entity under the AML/CFT law. Also, the third party FI must be located or have its headquarters located in Niger, in any UEMOA Member State



or in another State imposing equivalent AML/CFT obligations as in Niger. Thus, the Third Party is subject to regulation and inspection.

**Criterion 17.2** - It is simply stated under Article 57, paragraph 1 (1), that FIs using third parties located in another country other than the UEMOA Community zone shall ensure that this State imposes equivalent obligations on AML/CFT issues for FIs and appears on the list provided for in paragraph 2 of Article 46 of the AML/CFT law (low-risk categories).

The law does not explicitly state that Niger, which uses third parties based in another State outside the community area, must take into account all information available on the risk level associated with the country.

**Criterion 17.3 (a, b and c)** [Not Applicable]

The use of a Third Party FI within the same group is not provided for in Niger. Criterion 17.3 is not applicable in Niger.

### ***Weighting and Conclusion***

The measures taken by Niger under Law No. 2016- 33 allow financial institutions to rely on third parties to carry out customer due diligence pursuant to Article 56 of the said Act. However, the law does not explicitly state that countries using third parties must take into account the information available on the country risk level.

**Recommendation 17 is rated Largely Compliant**

## **Recommendation 18 – Internal controls and foreign branches and subsidiaries**

During the mutual evaluation conducted in 2008, Niger was rated Partially Compliant (PC) on this Recommendation due to the conspicuous lack of regulatory framework for the banking sector, the lack of sectoral system outside the banking system, particularly the DFS sector, and the lack of effective implementation of internal AML/CFT control obligations.

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger had resolved these 3 deficiencies (see: Directive No. 1 of the BCEAO Directive No. 01/2007/RB, N) 17-12-2010, N° 35/2008 and CIMA Regulation N° 0004).

With the entry into force of the AML/CFT law, Niger has taken other due diligence measures to strengthen its AML/CFT regime, reducing ML/TF offences that may result from deficiencies in the internal control system, particularly in foreign branches and subsidiaries.

**Criterion 18.1 (a, b, c, d)**

- a) Pursuant to Article 24(1), of the AML/CFT law, FIs are required to develop and implement harmonized preventive programs against ML/TF offences notably including:

(2<sup>nd</sup> indent) the appointment of a compliance officer at management level, responsible for the implementation of the AML/CFT system.

- b) Article 25, indent 5, provides that FIs are required to take into account, when recruiting their staff, according to the level of official responsibilities to be executed, all risks relating to anti-money laundering and counter financing of terrorism.

- c) And under Articles 23, 24 paragraph 1, 3<sup>rd</sup> indent of the AML/CFT law, Article 9 of BCEAO Regulation N° 07/09/2017, FIs are required to provide regular training and information for their staff with a view to enhancing compliance with the obligations provided for in Chapter II and III of Cap II of the AML/CFT Law.
- d) Article 10, paragraph 2 of the BCEAO Regulation No. 07/09/2017 of, provides that the control system referred to in paragraph shall be audited at given intervals taking into account the nature, volume and complexity of FI transaction. The internal control system must be audited at least once a year.

For all these provisions, Article 90 of the AML/CFT provides that FIs shall take measures, proportionate to the risks they face, their nature and size, to ensure the employees concerned are aware of the provisions adopted pursuant to the AML/CFT Act.

**Criterion 18.2 (a, b, c)**

- a) Under Articles 89 and 91 of the AML/CFT Law, FIs that are part of a group shall implement the group's policies and procedures, particularly regarding information sharing for AML/CFT purposes within the group and data protection. These policies and procedures are effectively implemented at the branch and subsidiary levels.
- b) Under Articles 89 and 91, FIs are required to share information for AML/CFT purposes with the Group's compliance, audit and AML/CFT functions, but the reverse is not explicitly provided for under the above articles.
- c) Article 89 (1) refers to data protection policies and policies and procedures for data sharing within the group. Article 89 (1) specifies that such protection policies and procedures must be effectively implemented at branch and subsidiary levels. In that case, the data protection policy may suggest measures to ensure confidentiality and prevent information disclosure.

**Criterion 18.3** Article 89, paragraph 2 provides that where an FI has representative offices, branches or subsidiaries in third States in which the minimum AML/CFT obligations are less stringent than in the country in which it is established, the said representative offices, branches and subsidiaries shall apply the obligations in force in its country, including regarding data protection, depending on the extent to which the laws and regulations of the third States in question so permit.

Also, in its last paragraph, Article 89 of the AML/CFT Law provides that where the legislation of the third State does not allow for the implementation of the measures required under paragraph 1 of this Article, the FIs shall take additional measures to effectively address the ML/TF risk and inform the supervisory authorities of their home country.

Article 91 paragraph 3, stipulates that where FIs communicate appropriate minimum AML/CFT measures to their foreign branches and subsidiaries.

***Weighting and Conclusion***

Niger has met most of the criteria under this Recommendation.

However, there is no obligation for the Group's compliance, audit and AML/CFT functions to share in return information on due diligence and AML/CFT data with financial institutions even if in practice, some groups do so. The provisions of the AML/CFT law do not specify the details that are required in the protective measures provided for.

**Recommendation 18 is rated Largely Compliant.**

### Recommendation 19 – Higher-risk countries

During the mutual evaluation conducted in 2008, Niger was rated Non-compliant (NC) on this Recommendation due to the lack of provisions on countries which do not implement or inadequately implement the FATF Recommendations.

And in November 2016, during the consideration of the 8<sup>th</sup> follow-up report, it was observed that Niger had addressed this gap (see: Article 10 of the BCEAO Directive No. 1/2007/RB issued in enforcement of Articles 6, 7, 16, 21, 42, 43, 97, 98 and 103 of the UEMOA treaty as well as the letter of commitment signed by the Credit Institutions holding accounts with the BCEAO on prevention and AML/CFT).

With the entry into force of the AML/CFT law, Niger has taken other due diligence measures to strengthen its AML/CFT regime and reduce the ML/TF offences likely to result from business relationships associated with " other FIs, legal and/or natural persons established in countries representing a high ML/TF risks.

**Criterion 19.1** There is no available law requiring FIs to apply enhanced due diligence measures proportionate to the risks in their business relationships (including with FIs) and transactions with natural and legal persons in countries where the FATF so advises. Article 5, point 15 of Directive N°007-09-2017, only invites FIs to have procedures for monitoring operations with countries and territories declared non-cooperative by the FATF.

#### Criterion 19.2

a) None of the provisions of the AML/CFT law introduced under Articles 11, 15, 50 requires countries to apply counter-measures proportionate to the risks where the FATF so requests, and besides, no other relevant provision has been introduced by the AML/CFT law

b) However, the end of paragraph 1 of Article 51, requires persons referred to under Articles 5 and 6 of the Law AML/CFT to enhance the intensity of the due diligence measures under Articles 19 and 20 where the ML/TF risk presented by a customer, product or transaction appears high, in spite of all FATF's advice.

**Criterion 19.3** - A Compliance Officers 'Forum has been established, which is a framework for consultation between the Financial Sector Compliance officers and the FIU. Among other things, this framework enables the FIU to present to FIs the concerns raised by the deficiencies identified in the AML/CFT regimes of other countries. From 2016 to 2018, various meetings (see Table 6.4), working and sensitization sessions on AML/CFT were held for supervisory, regulatory and self-regulatory authorities of FIs. However, the discussions in this forum do not necessarily address concerns about the deficiencies of other countries' AML/CFT systems. Therefore, the deliberations of this forum do not constitute any Directive to FIs.

#### *Weighting and Conclusion*

There is no specific provision which requires the country to apply counter-measures proportionate to the risks, on the FATF's advice. There is no provision explicitly providing for the obligation to provide measures to advise FIs on the deficiencies of other AML/CFT regimes.

**Recommendation 19 is rated Non-Compliant.**

### **Recommendation 20 – Reporting of suspicious transaction**

Niger was rated partially compliant (PC) on this Recommendation due to the lack of obligation for reporting entities to report transactions linked to terrorist financing, the existence of two reporting mechanisms that were concurrent and inconsistent with each other and the fact that this obligation was largely ignored by the reporting entities.

Criterion 20.1 - Pursuant to the provisions of paragraph 1 of Article 79 of the AML/CFT law, FIs are required to report to the FIU all sums recorded in their books or transactions on sums which they suspect or have good reason to suspect that they are derived from ML/TF offences or tax evasion. Article 86.7 of the AML/CFT Law require supervisors to disclose without delay to the FIU, any information on suspicious transactions. However, the AML/CFT Law does not require reporting entities, including FIs, to file such reports without delay. In order to resolve this deficiency, Niger has adopted Decree No.2020-113/PRN/MF of 27<sup>th</sup> January 2020, which provides for reporting without delay, of all suspicious and attempted transactions to the FIU (Article 4, A1.2&3). However, because FATF requires in Recommendation 20 that all the requirements should necessarily be captured in a law or similar instrument, this measure has still not been resolved.

Criterion 20.2 - Attempted suspicious transaction reporting obligation is provided for under Order No.2020-01 of 27<sup>th</sup> January 2020, amending and complementing law No.61-27 of 15<sup>th</sup> July 1961, instituting the Penal Code, which under Article 133Terprovides for sanctions for cases where persons or managers or supposed natural or legal persons deliberately or unintentionally fail to report any attempted suspicious transactions. This order provides for a fine of 50,000 to 75,000 in the case of attempted ML and imprisonment of 12 months to 4 years and a fine of 200,000 to 6,000,000 in the case of attempted TF. It is up to the judge to determine the amount of the fine.

#### ***Weighting and Conclusion***

The obligation for FIs to report without delay, all suspicious transactions, can only be remedied through a Decree. Indeed, according the FATF, the requirements under Recommendation 20 should be provided for in the laws or other similar instruments (see: Note on the Legal Basis for the obligations on FIs, DNFBPs and VASPs in the FATF Methodology).

**Recommendation 20 is rated Partially Compliant.**

### **Recommendation 21 – Tipping-off and confidentiality**

During the first evaluation in 2008, Niger was rated Partially Compliant (PC) on this Recommendation due to the very limited protection of the confidentiality of information disclosed to the FIU. Since the adoption of this MER, Niger has enacted the AML/CFT Law 2016-33 of 31<sup>st</sup> October 2016 in order to strengthen its legal framework.

**Criterion 21.1** - Articles 83 and 97 of the AML/CFT Law protect FIs, their officers and employees from any criminal or civil liability for violation of any rule governing the disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, when they file their suspicions transaction reports to the FIU in good faith. The legal obligations cover the directors of FIs who have, inter alia, the obligation to validate the AML/CFT prevention programme and the AML/CFT procedures

and internal controls (see Directive No. 007-09-2017). This protection is available even if FIs and their directors, officers and employees did not know precisely what the predicate criminal activity was, and regardless of whether any illegal activity actually occurred.

Criterion 21.2 - Article 82 of the AML/CFT Law prohibits FIs, their officers and employees from disclosing the fact that an STR or related information has been filed to the FIU. The legal obligations cover the directors of FIs who have, inter alia, the obligation to validate the AML/CFT prevention programme as well as the AML/CFT procedures and internal controls (see Directive No.007-09-2017. These provisions are not intended to prevent the sharing of information under R.18

### ***Weighting and Conclusion***

Niger has met all the criteria under Recommendation 21.

**Recommendation 21 is rated Compliant.**

## **Recommendation 22 – DNFBPs: Customer due diligence**

Niger was rated Non-Compliant (NC) on this Recommendation during the first evaluation in 2008 due to (i) lack of basic due diligence for DNFBPs; (ii) lack of chartered accountants and certified accountants on the list of reporting entities; (iii) lack of due diligence mechanism for politically exposed persons and (iv) the non-implementation of the mechanism by the DNFBPs.

**Criterion 22.1a** - *Casinos* Articles 18, 29 and 44 (c) of the AML/CFT Law require casinos to comply with CDD obligations when customers carry out financial transactions higher than or equal to 1 000 000 FCFA (1 524 euros). However, some of the deficiencies identified in Recommendation 10 also apply to casinos.

**Criterion 22.1b** - *Real estate agents* Article 45 of the AML/CFT Law requires real estate agents to identify the parties (buyers and sellers) by implementing CDD requirement's when they are involved in the purchase or sale of real property. BCEAO Directive No. 009-09-17 of 25 September 2017 setting the threshold for payment of claims in cash or by negotiable instrument and Article 14 of Law 2016-33 also meet this criterion. However, the deficiencies noted for recommendation 10 are also valid for real estate agents.

**Criterion 22.1c** - Under the provisions of Article 1.4.c. of the AML/CFT Law, persons usually engaged in trading or organizing the sale of gems, precious metals, antiquities and works of art fall into the category of designated non-financial businesses and professions. They are therefore accountable to the AML/CFT Law (Article 6) and subject to constant due diligence obligations for customers and their transactions as provided for under Articles 19 to 22 of the said law. They are also required to execute due diligence measures on all their customers, particularly their occasional customers, where the amount of the transaction or related transactions exceeds ten million CFA francs, or 15,245 Euros. However, the deficiencies noted for recommendation 10 are also valid here.

**Criterion 22.1d** - Article 1.24 of the AML/CFT Law includes lawyers, notaries, other independent legal professions and accountants among the designated non-financial businesses and professions when they prepare or carry out transactions for their customers regarding the above activities. They are therefore accountable to the AML/CFT law (Article 6) and subject to constant due diligence obligations for customers and their transactions as provided for by the AML/CFT Law. However, the deficiencies noted for recommendation 10 are also valid for independent legal professions in Niger.

**Criterion 22.1 e – Company and trust service providers** - Article 1, indent 24-f, of the AML/CFT Law, integrates trust and company service providers among designated non-financial businesses and professions, when they prepare or carry out transactions for a customer in connection with the activities specified under this sub-criterion. They are accountable to the AML/CFT law (Article 6) and are bound by the same due diligence obligations imposed on DNFBPs under Articles 19 to 22 of the AML/CFT Law. However, the deficiencies identified for recommendation 10 are also valid for trust and company service providers in Niger.

**Criterion 22.2 - [Record keeping]** - The AML/CFT law requires casinos to comply with the requirement to keep records for a period of at least five years. The record keeping obligation is provided for in the law establishing the Status of Notaries which sets it at one century. Besides, Article 36 of the AML/CFT law requires all DNFBPs to disclose to the competent authorities (supervisory authorities, judicial authorities, FIU, etc.) all records and documents on identification of customers and their transactions, which are supposed to be kept for minimum period of ten years, is provided for under Article 35. However, Article 35 only designates financial institutions and does not specifically target DNFBPs. Furthermore, the deficiencies noted in recommendation 11 also apply here.

**Criterion 22.3 - [PEPs]**

Article 22 of the AML/CFT Law requires designated non-financial businesses and professions to comply with the obligations on PEPs by implementing the provisions under Article 54 of the said law, pursuant to Recommendation 12. However, Article 54 directly refers to FIs and does not mention DNFBPs. Furthermore, the deficiencies noted in recommendation 12 also apply here.

Article 22 of the AML / CFT Law requires designated non-financial businesses and professions to comply with obligations relating to PEPs, including having an adequate risk management system in place to determine whether the customer is a PEP, where applicable, to implement the provisions of article 54 of the said law, in conformity with Recommendation 12. This involves, among other things, obtaining authorization of Senior Management before entering the business relationship; taking appropriate measures to establish the origin of the assets and that of the funds involved in the business or transaction; ensuring continuous monitoring of the relationship. Furthermore, the deficiencies identified in Recommendation 12 also apply here.

**Criterion 22.4 - [New technologies]** - Article 11 of the AML/CFT law requires all reporting entities (IF and DNFBP) to identify, assess and understand the ML/TF risks to which they are exposed and to update these assessments. However, pursuant to the provisions of Article 37 of the AML/CFT law, the obligation to identify and assess the risks linked to new technologies, as provided for in Recommendation 15, is specifically made only financial institutions. Furthermore, the deficiencies noted in recommendation 15.1/15.2 are also valid for Niger's DNFBPs.

**Criterion 22.5 - [Third parties]** - As reporting entities, the provisions of Caps II and III of the AML/CFT Law apply to DNFBPs (Article 6 of the AML/CFT Law). However, Articles 56 and 57 of Cap II of the said law, on the use of third parties, do not specifically mention that DNFBPs are required to comply with the obligations to rely on third parties as provided for in Recommendation 17. Furthermore, the deficiencies noted in Recommendation 17 also apply here.

### *Weighting and Conclusion*

Although the AML/CFT law in Niger provides that all DNFBPs are required to perform due diligence measures, it only mentions FIs for specific obligations on record keeping, PEPs, new technologies and the use of third parties. This clarification is necessary in the existing legal framework.

**Recommendation 22 is rated Partially Compliant (PC).**

### **Recommendation 23 – DNFBPs: Other measures**

Niger was rated Non-Compliant on this Recommendation during the previous evaluation due to (i) lack of internal controls intended to prevent ML, (ii) lack of particular attention to countries that do not sufficiently implement the FATF Recommendations, (iii) non-implementation of the AML law and (iv) lack of anti-money laundering programs and suspicious transaction reports from DNFBPs as well the failure to include chartered accountants and certified accountants on the list of reporting entities. Since the adoption of this mutual evaluation report, Niger has strengthened its AML/CFT regime by enacting the AML/CFT Law 2016 - 33 of 31<sup>st</sup> October, 2016.

**Criterion 23.1.a)** Under the provisions of paragraph 1 of Article 79, DNFBPs are required to report to the FIU, all sums of money which they suspect or have good reason to suspect that they are derived from a money laundering or terrorist financing offence. As DNFBP, all lawyers, notaries, other independent legal professions and accountants, when carrying out any financial transaction on behalf of a customer related to the activities described in criterion 22.1 (d), are required to comply with this obligation (Article 6 of AML/CFT Law). Besides, Article 133<sup>Ter</sup> provides for sanctions against persons who fail to report any attempted suspicious transactions. Furthermore, Article 4 para 3 of Decree No.2020-113/PRN/MF of 27<sup>th</sup> January 2020, provides for the reporting obligation without delay, but is inadequate in relation to the FATF requirements (see argument in R.20).

**Criterion 23.1. b -** Article 79 of the AML/CFT law requires DNFBPs, including dealers in gems and precious metals (Art. 6 AML/CFT law), to report any suspicious transaction to the FIU. In addition, DNFBPs are required to report to the FIU all cash transactions of an amount equal to or higher than fifteen million CFA francs, whether it is a single transaction or several transactions that appear to be linked. (Article 15 of AML/CFT Law and Directive N° 010-09-2017). Furthermore, Article 4 para 3 of Decree No.2020-113/PRN/MF of 27<sup>th</sup> January 2020, provides for the reporting obligation without delay, but is inadequate in relation to the FATF requirements (see argument in R.20).

**Criterion 23.1.c** As DNFBP, members of the legal professions, particularly trusts and service providers, are required to report suspicious transactions provided as for under Article 79 of the AML/CFT Law. Besides, Article 133<sup>Ter</sup> provides for sanctions against persons who fail to report any attempted suspicious transactions. Furthermore, Article 4 para 3 of Decree No.2020-113/PRN/MF of 27<sup>th</sup> January 2020, provides for the reporting obligation without delay, but is inadequate in relation to the FATF requirements (see argument in R.20).

**Criterion 23.2 [Internal Controls]** - Generally, Article 11 of the AML/CFT law requires all reporting entities, including DNFBPs, to have policies, procedures and controls to mitigate and manage ML/TF risks. Specifically, Article 42 of the said law requires non-profit organizations to establish their own control mechanisms aimed at ensuring that all



funds are duly accounted for and used pursuant to the object and purpose of their declared activities. In addition, under Article 112 of the AML/CFT law, a reporting entity which has violated its due diligence and reporting obligations due to a deficiency in the organization of its internal control procedures, is liable to disciplinary sanctions. However, the provisions of Article 25 of the AML/CFT law on procedures and internal controls do not specifically refer to DNFBPs. Furthermore, the deficiencies identified in R.17 also apply to DNFBPs.

**Criterion 23.3 - [High risk countries]** - Articles 11 and 51 of the AML/CFT Law require DNFBPs to comply with the obligations on higher risk countries. However, there is no provision obliging the country to apply risk-proportional countermeasures at the request of the FATF, as provided for in Recommendation 19. The deficiencies identified in R.19 also apply to DNFBPs.

**Criterion 23.4 - [Disclosure and Confidentiality]** Article 82 of the AML/CFT law prohibits reporting entities (including DNFBPs) from informing the owner of the sums or the customer carrying out the transactions for which a suspicious transaction report has been made, or to third parties other than supervisory authorities, professional associations and national representative bodies, of the existence and contents of a suspicious transaction report filed to the FIU and to provide information on any action that has been taken on this report. The provisions of Articles 83 and 84 of the said law protect any person filing a suspicious transaction report in good faith.

### ***Weighting and Conclusion***

Niger has met some of the criteria of this Recommendation 23. However, DNFBPs are not required to comply with the obligations on internal control as stipulated in R. 18 and there is no requirement to apply counter-measures proportional to the risks at the request of the FATF, as provided for in Recommendation 19. Also, the AML/CFT law does not require DNFBPs to report suspicious transactions without delay and also to report attempted transactions.

**Recommendation 23 is rated Partially Compliant**

## **Recommendation 24 – Transparency and beneficial ownership of legal persons**

In its previous MER, Niger was rated Partially Compliant (PC) on this Recommendation (former Rec.33) due to the lack of on foreign beneficial ownership information; the possibility of issuing bearer shares; the predominant informal activity which made it impossible to obtain adequate, relevant and up-to-date information on all economic operators.

**Criterion 24.1.-**The mechanisms that identify and describe the various types of legal persons created in Niger are indicated in the OHADA Uniform Law on Business Companies and Economic Interest Groups (OHADA Uniform Acts).

a) The various types of legal persons (public limited companies, limited liability companies, limited and single partnerships, GIEs), as well as their forms and characteristics, are described by the OHADA Uniform Laws.

b) The procedures for incorporating companies are also described in the text. Basic information is obtained at the time of incorporation and kept by the chief clerks of the



Commercial Courts or in the clerks' offices in the district courts where there is no Commercial Court. Business creation is also facilitated by the establishment of the company house at the Chamber of Commerce where all the formalities are centralized. For this purpose, there is an interconnection between the Commercial Court and the company house. The information is made available to the public pursuant to the provisions of the Uniform Law. However, information on the beneficial owners of legal persons is not always available in the registration offices and there is no mechanism defining the process for gathering this type of information.

**Criterion 24.2** - Niger has not assessed the ML/TF risks associated with all types of legal persons created in the country.

*Basic information*

**Criterion 24.3** - The provisions of the revised OHADA Uniform Act on General Business Law (Articles 34 to 100) established and organized the Business Trade and Credit Register (RCCM) which is kept by the registrars heading the Business or district courts in regions where there are no Commercial Courts. The RCCM contains basic information on legal persons. It essentially contains information on the company name, legal form, address, registered office, capital, list of corporate officers and members of the board of directors, etc. This information is accessible to the public.

**Criterion 24.4** - Pursuant to Article 11 of the revised OHADA Uniform Act on Business Companies and economic interest group law, companies are required to keep all this information with them, including keeping a register of shareholders or members. However, they are under no obligation to indicate to the structure hosting the RCCM, the exact location where this information is kept within the company.

**Criterion 24.5** Articles 45 to 52 and 66 of the Uniform Act describe the mechanisms for the timely updating of the information contained in the RCCM in case there is a change in the existence of a company, specifying its own obligations. They require the Chief Registrar to check the accuracy of the information provided, as well as its updating. Order No. 2020-01 of 27<sup>th</sup> January 2020, amending and supplementing Law No. 61-27 of July 15, 1961, establishing the Penal Code, provides for sanctions in the event of false declarations by companies, regarding basic information on legal persons. According to Article 52, updates must be made within 30 days of any change in the situation. However, there is no mechanism or criminal sanctions for dialling to update the said basic information.

*Beneficial Ownership Information*

**Criterion 24.6 a-c** - The records in the RCCM relate to basic information. Article 18 of the AML/CFT Law No. 2016-33 of 10/31/2016, requires financial institutions and reporting entities to gather beneficial ownership information in the conducting CDD. However, the current system of the RCCM does not meet the beneficial ownership, record keeping and beneficial ownership information updating requirements. However, this obligation is subject to the FI risk assessment presented by the customer as well as the FI's knowledge of changes in the customer's situation. Similarly, FIs and some DNFBS may obtain information on their partners' BOs in the course of their business relationships.

**Criterion 24.7**

Article 19 of the AML/CFT Law No. 2016-33 of 10/31/2016, requires reporting entities, particularly FIs to ensure all the information gathered, including beneficial ownership information, are up to date. However, this obligation is subject to the FI's risk assessment presented by the customer, as well as the FI's knowledge of changes in the customer's

situation. Similarly, considering the comments above (C24.6), the mechanism for determining and timely updating beneficial ownership FIs, and especially DNFBPs, needs to be improved.

**Criterion 24.8 a) b) and c)** - Article 29 of the AML/CFT Law No. 2016-33 of 31/10/2016, requires all reporting entities to identify their occasional customers as well as, where applicable, the beneficial owners of transactions and verify their identification information. However, there is no defined mechanism in place to ensure that companies cooperate with the relevant authorities to determine the beneficial owners.

**Criterion 24.9** - Article 35 of the AML/CFT Law N° 2016-33 of 31/10/2016, requires financial institutions and DNFBPs to keep for ten (10) years the identification documents and documents of their customers as well as those on the transactions carried out by them. Article 24 of the OHADA Uniform Act on accounting law and financial reporting requires companies to keep their accounting documents for a period of ten (10) years. Article 28 of the OHADA Uniform Act on Business Company law, requires all information entered in the Business and Property Register (RCCM) to be kept by the Court Registry and centralized in a National Register, which is usually a permanent file. However, the text on these companies does not require to mention the beneficial owners.

*Other requirements*

**Criterion 24.10**

Articles 30, 36 and 93 of the AML/CFT Law No. 2016-33 of 10/31/2016, outline requirements for the competent authorities, and particularly the criminal prosecutorial authorities, to have all the powers necessary to have timely access to basic and beneficial ownership information held by the parties concerned. The powers conferred on judicial authorities in the Code of Criminal Procedure allow them to have access to basic information held by the parties concerned (Art 605.1, and Annexes). The same applies to the staff in the Ministry of Water and Forestry under the provisions of Article 8 of Law 2006-25 of June 16, 2016 on the Autonomous Status of Water and Forest Division staff. Furthermore, the tax authorities have extensive powers to obtain information on companies, even through banks (Article 2 of Decree n° 0346 of 06 August, 2018 on the organization of central and decentralized agencies of the DGI and the responsibilities of persons in charge, empowers tax personnel to investigate and identify all offences relating to tax, real estate and land issues (See R 30.4).

**Criterion 24.11** - Articles 744-1 and 745 of the OHADA Uniform Act on Business Companies Law and the GIE provides that securities, in whatever form, must be registered in a securities account in the name of their owner. Each company is required to have a registered or bearer securities register. Where the bearer security has an issue on the capital market, the owner must convert it into registered security pursuant to the provisions of Article 746 of the aforementioned Act. These articles, therefore, fulfil the conditions set out in C 24.11.b.

**Criterion 24.12 a-c**

a) There are no legal or regulatory provision in force in Niger, which requires shareholders or directors acting on behalf of another person to reveal to the company and to any relevant register, the identity of the person who has designated them and include this information in the relevant register.

b) There is no legal or regulatory provision in force in Niger which require shareholders or directors acting on behalf of another person to demand that their status as agents be entered in the company registers and require them to keep information identifying the person who designated them and to make such information available to the competent authorities on request.

c) The two aforementioned mechanisms, as well as others, are not implemented in Niger.

Criterion 24.13 - Order No. 2020-01 of 27<sup>th</sup> January 2020, amending and supplementing Law No. 61-27 of July 15, 1961, establishing the Penal Code, provides for sanctions in case of false declarations by businesses, regarding beneficial ownership. However, there are no criminal sanctions for the inability to provide basic information and beneficial ownership information. Similarly, there is no criminal sanction for failure to update basic information and beneficial ownership information.

**Criterion 24.14 a-c**

a) and b) Article 138 of the AML/CFT Law No. 2016-33 of 10/31/2016, particularly in indent 7, facilitates access by foreign competent authorities to basic information from company registers and the exchange of information on shareholders (by providing originals or certified copies of relevant files and documents, including bank statements, accounting documents and records on the transactions or activities of a corporate entity).

c) The provisions of Articles 76 and 78 of the AML/CFT Law N° 2016-33 of 31/10/2016, and those provided for under Article 21 of Decree 2018- 347 of 25<sup>th</sup> July 2018 establishing the responsibilities, organization and functioning of the FIU allow the investigative and prosecutorial authorities to obtain beneficial ownership information on behalf of foreign counterparts.

**Criterion 24.15:** No State legal or regulatory provision requires the monitoring of the quality of assistance that Niger receives from other countries in response to requests for basic information and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad. Niger has not demonstrated that it monitors the quality of the assistance received in this regard.

***Weighting and Conclusion***

Niger has not assessed the ML/TF risks associated with all types of legal person. The OHADA texts on these companies do not require that the beneficial owners be mentioned in the RCCM. There is no defined mechanism in place to ensure that companies cooperate with the competent authorities to determine beneficial ownership. There are no provisions to monitor the assistance provided on basic information; there is no collection and sanctions mechanism to address the failure to provide basic up-to-date information on legal persons, in respect of nominee shareholders and directors. In addition, there are no criminal sanctions to deal with the failure to provide basic and beneficial ownership information. Similarly, there are no criminal sanctions for failure to update basic and beneficial ownership information.

**Recommendation 24 is rated Partially Compliant.**

## Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In the previous MER, these requirements were considered as not applicable within the framework of Niger's AML/CFT regime. OHADA has not legislated on legal arrangements. However, nothing prevents foreign legal arrangements from operating or being administered in Niger.

### Criterion 25.1.a - c

(a) - Not applicable

(b) - Not Applicable

(c) Certain DNFBPs, including lawyers and other members of independent legal professions administering assets under the same conditions as a trust, as well as trustees and service providers, are required to identify and verify the identity of some of the parties to the trusts, namely the customer (who may or may not be the settlor) and the beneficial owner of the business relationship (who may or may not be the beneficiary) and keep these records up to date for ten years. It is not necessary to keep information on the trustee, the protector, the beneficiary or category of beneficiary and other agents providing services to the trust (Articles 5, 6, 19 and 36 of AML/CFT Law No. 2016-33 of 31/10/2016).

**Criterion 25.2** - Articles 1.1, 5, 19 and 20 of the AML/CFT Law No. 2016-33 of 10/31/2016, require reporting entities, particularly professional trustees, to update and in a timely manner the information gathered from their customers.

**Criterion 25.3** - No legal or regulatory provision explicitly requires trustees to declare their status to financial institutions and DNFBPs when establishing a business relationship or carrying out an occasional transaction above the threshold. Even though reporting entities are required to identify any person acting on behalf of a customer, pursuant to the CDD requirements.

**Criterion 25.4** - No State legal or regulatory provision prevents legal arrangements from providing the competent authorities with any information or from providing FIs or DNFBPs on request, with information on the beneficial owners and their assets held or managed as part of the business relationship.

**Criterion 25.5** - The investigating judge and other criminal law enforcement bodies have the necessary powers to access information held by legal persons, FIs and DNFBPs (Articles 36 and 93 of the AML/CFT Law No. 2016-33 dated 31/10/2016).

### Criterion 25.6. a-c:

- a) Article 138 of the AML/CFT Law No. 2016-33 of 10/31/2016, particularly indent 7, facilitates access by foreign competent authorities to information from company registers and the exchange of information on shareholders (by providing originals or certified copies of relevant files and documents, including bank statements, accounting documents and records on the transactions or activities of a corporate entity).
- b) No mechanism has been put in place to share information available at national level on trusts or other legal arrangements.
- c) The provisions under Articles 76 and 78 of the AML/CFT Law N° 2016-33 of 31/10/2016, and those provided for under Article 21 of Decree 2018- 347 of 25<sup>th</sup> July

2018 establishing the responsibilities, organization and functioning of the FIU allow the investigative and prosecutorial authorities to obtain beneficial ownership information on behalf of foreign counterparts.

**Criterion 25.7** - Regulated entities acting as professional trustees are required to comply with the customer due diligence requirements and the sanctions for non-compliance are fully applicable. However, there are no legal obligations or sanctions against non-professional trustees for failure to comply.

**Criterion 25.8** - There is no legal or regulatory provision in Niger to ensure the implementation of proportionate and dissuasive sanctions, whether criminal, civil or administrative, for non-compliance with the obligation to provide available information on trusts to the competent authorities, without delay.

### ***Weighting and Conclusion***

Professional trust services are not required to obtain and keep information on the settlor, the beneficiaries and any other person exercising effective control over a trust, which means there is no obligation to keep this information up to date and accurate. Moreover, they are not required to declare their status to FIs/DNFBS.

**Recommendation 25 is rated Partially Compliant.**

## **Recommendation 26 – Regulation and supervision of financial institutions**

In its first MER adopted in May 2009, Niger was rated Non-Compliant on the Recommendation relating to the regulation and supervision of financial institutions. The deficiencies identified had to do with the fact that the rules on the monitoring of the fit-and-proper criteria of DFS managers were not clearly established, that there were no specific procedures for the verification of the lawful origin of the capital contributed during the creation of a bank or any other financial body, such as DFS, a wealth management company or a management and intermediation or insurance company and that there were no procedures for beneficial ownership verification.

Since the adoption of this MER, Niger has enacted the AML/CFT Law No. 2016-33, adopted Regulation No. 0004/CIMA/PCMA/PMA/PCE/SG/08 of 4<sup>th</sup> October 2008, defining the applicable procedures by insurance organizations in CIMA Member States as part of their AML/CFT efforts. The country has enforced Directive No. 02/2015/CM/UEMOA of 2 July 2015 on AML/CFT in UEMOA Member States;

Established a procedure outlining the conditions for opening a bank in accordance with law 200-33, of which point III sets out the criteria and requirements for shareholders, both natural and legal persons;

Implemented BCEAO Directives (i) No.005-06-2010 outlining the contents of the application file for the licensing of DFIs in UMOA member states, including criteria of aptitude, morality and experience of the management bodies and officers of DFIs, as well as the proof and origin of the resources provided by the promoters are set out in annexes I and II; (ii) No. 008-05-2015 of 21 May 2015 governing the conditions and how to exercise the activities of electronic money issuers in UMOA Member States; (iii) No. 013-11-2015 relating to how to exercise the activity of rapid money transfer as sub-agent within UA; N° 01-2017/CB/C establishing the requirements for the employment of directors and managers of credit institutions and financial companies,

It should be noted that the new Recommendation 26 reinforces the principle of using a risk-based approach in supervision and monitoring.

**Criterion 26.1** - To ensure compliance with AML/CFT requirements by Financial Institutions, the legal and regulatory system in Niger has established several supervisory authorities.

Niger has legislative and regulatory texts designating Supervisory Authorities responsible for the regulation and supervision of financial institutions defined by the FATF Recommendations. Indeed, the provisions under Article 5 of the AML/CFT Law No. 2016-033 define the Financial Institutions subject to the AML/CFT requirements. Also, the specific texts establish, for each of the Financial Institutions, the competent Authority or Authorities in charge of regulation and/or supervision. Thus, Law N° 2008-33 of 3<sup>rd</sup> July 2008, establishing banking regulation known as the Banking Act, particularly under Article 59, and the Appendix to the Convention governing the UMOA Banking Commission, particularly under Article 17, define the distribution of powers between the regulatory and supervisory bodies for banking activity as well as the conditions for their intervention. The regulation and supervision of banks and financial institutions of a banking nature are therefore divided among the BCEAO, the UMOA Banking Commission and the Ministry of Finance (Monetary and Credit Department).

The CIMA treaty under Article 16 (18) confers on the Regional Insurance Supervision Commission (CRCA) and the Ministry of Finance (DA Insurance Department) the power to regulate and supervise Insurance and Reinsurance Companies, Insurance and Reinsurance Brokers.

The Microfinance Sector Regulatory Authority (ARSM) of the Ministry of Finance, BCEAO and UMOA Banking Commission supervise the DFS, under Article 26 of the Appendix to the Convention governing the UMOA Banking Commission, Articles 43 and 44 of Law No. 2014-59 on the Regulation of DFS.

The State Consolidated Fund (CDC), it is under the supervisory authority of a Commission appointed by the Minister of Finance, pursuant to Chapter III, Article 7 of the statutes governing the CDC, approved by Decree N° 2016-605/PRN/MF.

All natural persons and/or entities authorized as intermediates to carry out financial transactions with foreign countries governed by the provisions of Regulation No. 09/2010/CM/UEMOA, are under the supervision of the Bank Central.

The Regional Council for Public Savings and Capital Markets (CREPMF) is supervising regional capital market operators.

The Ministry of Finance (DMC) and BCEAO supervise Authorized Foreign Exchange Dealers. The general and AML/CFT supervision or monitoring of these institutions is done through off-site and on-site inspections.

Finally, Article 86 of the AML/CFT Law defines the responsibilities of each supervisory authority to ensure compliance by FIs with their AML/CFT requirements.

#### *Market Entry*

**Criterion 26.2** - The Banking Law, under Article 13, the Law on DFS in its Articles 7, 8 and following, and the CIMA Code under Articles 20.1 and 315.2 respectively stipulate that financial institutions targeted<sup>73</sup> by these texts and subject to the core principles must

<sup>73</sup> Banks and Financial Institutions, DFS and Insurance Companies

obtain a license or authorization before carrying out their activities. The minimum requirements provided for by Directive n° 008-05-2015 of 21<sup>st</sup> May 2015 on the requirements for issuing electronic money, Directive n° 005-06-2010 of 4<sup>th</sup> June 2010 on DFS, and Directives No. 05 and 06 of Regulation No. 09/2010 / CM / UEMOA of 1<sup>st</sup> October 2010 on the requirements to operate as foreign exchange dealer and Directive No. 13-11-2015 of 10<sup>th</sup> November 2015 on requirements to operate in the rapid money transfer business, define the licensing or authorization requirements for financial institutions. It should also be noted that since 1<sup>st</sup> January 1999, all credit institutions headquartered in any UMOA Member State may provide free banking or financial services throughout the Union and operate freely in accordance with the terms defined by a Directive issued by the Governor of BCEAO. Furthermore, pursuant to the provisions of Article 87 of the AML/CFT Law, natural or legal persons other than banks, who wish to provide any money or value transfer services as a main or ancillary activity, for themselves or on behalf of a representative, must first obtain an operating license from the competent authority (Minister of Finance), under the conditions provided for by the specific regulations in force. Generally, the licensing or authorization requirements as stipulated do not allow the establishment or continuation of shell bank activities. Besides, the provisions of Article 52 of the AML/CFT Law prohibit financial institutions from establishing or maintaining any correspondent banking relationship with shell banks. However, no legislative text explicitly prohibits the establishment of a shell bank.

**Criterion 26.3** - Pursuant to the provisions of indent 1 of Article 86 of the AML/CFT Law, each supervisory authority of financial institutions shall take the necessary steps to define the appropriate criteria for direct possession, control or indirect participation in management or functioning of any financial institution.

For banks and financial institutions: These are requirements relating to information on shareholders and officers of these institutions, including those provided for by the provisions of the banking law (Article 26), under which a person who, inter alia, is convicted of a predicate ML offence may not: i) direct, administer or manage a credit institution or any of its branches; ii) engage in banking activities; iii) propose to the public the creation of a credit institution; or iv) take an equity stake in the share capital of any credit institution. For managers and directors, the issuance of a licence to operate is subject to the production of criminal records or certificates of good repute, following character investigations. Directive No. 017-04-2011 sets out the list of documents and information that make up the file for licensing as a credit institution, in particular, documents and information on the principal shareholders, directors, managers and directors and their beneficial owners.

For DFIs: the measures provided for under articles 29, 30 and 31 of Law No. 2018-17 of 12<sup>th</sup> April 2018 on the amendment of Law 2014-059 relating to the regulation of DFS exclude any person who has been convicted of asset-related offences or common crimes. Also, Article 8(2), provides that the ministerial structure for monitoring licensing applications from DFIs shall obtain all information on the status of the promoters and, where applicable, that of their guarantors, as well as the good character and experience of the persons called upon to direct, administer or manage the SFDs and its agencies. Directive N° 005-06-2010 of 14<sup>th</sup> June 2010 determine the relevant information to be provided for the licensing of DFS in UMOA Member States. The conditions applicable to electronic money institutions, their shareholders, directors, managers and/or managing directors are established by Article 11, 12, 21 et seq. of Directive N° 008-05-2015. This legal and regulatory system enables the supervisory authorities to ensure that the capital providers, directors, managers and managing directors are not criminals or their accomplices.

For the Stock Market and in accordance with the provisions of Article 27 of the General Regulations, the commercial participants (Management and Intermediation Company and Asset Management Company) must present sufficient guarantees, particularly regarding the composition and amount of their capital, as well as the good repute of their directors. Furthermore, Article 32 prohibits natural persons convicted one or more times of forgery, fraud, embezzlement of public funds, offences against banking and foreign exchange legislation, or crime, from being a shareholder, manager or director of a Management and Intermediation Company (MIS).

Regarding approved foreign exchange dealers, Article 2 of Directive No.06/07/2011/RFE relating to the conditions for licensing as foreign exchange dealer requires the Central Bank to consider the sound reputation of applicants for foreign exchange dealership licenses through criminal records.

However, the identification of beneficial owners is a challenge, as there is no procedure for FIs to apply for this purpose.

*Risk-based approach to supervision and monitoring*

**Criterion 26.4**

a) Under the provisions of the Appendix to the Convention governing the Banking Commission, the treaties of the CIMA Code, FIs are subject to regulation and supervision by these authorities, including on a consolidated basis, pursuant to the provisions of Decision No. 014/24/06/CB/UMOA dated 24<sup>th</sup> June 2016, for credit institutions. Also, by Cabinet Decision No.010-09-2017/CM/UMOA of 29<sup>th</sup> September 2017, which entered into force on 1<sup>st</sup> January 2018, the Agreement governing the UMOA Banking Commission establishing the supervision of credit institutions, has been amended to take on board the latest international standards, particularly those of Basle II and Basle III. However, there is no evidence of the implementation of consolidated supervision for AML/CFT purposes.

b) Based on the above Regulations, other FIs are subject to AML/CFT regulation and supervision. More specifically, paragraph 2 of Article 87 provides that for money or value transfer services, the competent authority shall set the minimum operating requirements. Authorized foreign exchange dealers are subject to regulation and supervision by the BCEAO and Ministry of Finance, pursuant to article 14 of Directive No.06/07/2011/RFE. However, the regulatory framework in Niger does not explicitly mention that the supervision of these structures shall be risk-based.

**Criterion 26.5**

- a) Under Article 21 of the Appendix to the convention governing the CB-UMOA, amended by Cabinet Decision No.010-09-2017/CM/UMOA of 29<sup>th</sup> September 2017, which entered into force on 1<sup>st</sup> January 2018, the CB-UMOA conducts or instructs the Central Bank to conduct off-site and on-site inspections, on a social basis or consolidated with the reporting institutions in order to ensure compliance with the provisions applicable to them. It defines the frequency and scope of the inspection and assessment of every reporting institution based on its size, structure, risk profile, nature and complexity of its activities as well as its systemic importance. In practice, UMOA-BC assesses the ML/TF risks of FIs based on a questionnaire administered periodically and on information contained in the SNEC. However, the UMOA-BC has not demonstrated the existence of a ranking of FIs according to their ML/TF risk profile.



- b) The regulations in Niger do not provide that the frequency and scope of AML/CFT on-site and off-site inspections conducted on financial institutions and financial groups shall be based on the AML/CFT risks identified in the country.
- c) The frequency and scope of AML/CFT monitoring/supervision of FIs is at the discretion of the UMOA-BC and based on the results of the questionnaires. However, this approach is not clearly formalised in procedures.

Criterion 26.6 - There is no regulatory requirement for the supervisor to review the ML/TF risk profile assessment of a financial institution or financial group on a regular basis and when significant events or developments emerge in the management and transactions of the financial institution or financial group.

### ***Weighting and Conclusion***

The regulation and supervision of financial institutions are enshrined in the general AML/CFT texts and specific texts of financial institutions. Each financial institution or group of institutions is accountable to a specific authority. While the regulations and supervision in terms of licensing or authorization are better developed for banks and financial institutions as well as insurance companies, the same does not obtain for other financial institutions. The review of the Agreement governing the UMOP Banking Commission by Cabinet Decision No.010-09-2017/CM/UMOA of 29<sup>th</sup> September 2017, which entered into force on 1<sup>st</sup> January 2018, made the regulation and supervision of FIs in Niger consistent with the Basel Core Principles. Finally, although the reforms of the regulatory system underway incorporate the risk-based approach in general and ML/TF in particular, the regulatory texts in Niger do not provide that inspections shall be conducted on the basis of existing risks in the country.

**Recommendation 26 is rated Partly Compliant**

### **Recommendation 27 – Powers of supervisors**

During the mutual evaluation conducted in 2008, Niger was rated Non-compliant (NC) on this Recommendation due to the lack of specialization in ML/TF by the supervisory authorities, inactivity and lack of initiative to acquire hands-on expertise, the fact that the investigations conducted were not focused on the financial aspect as well as the inefficiency in the detection and investigation of assets.

Since the publication of this report, Niger has taken steps to resolve these deficiencies. Thus, the AML/CFT Law was enacted and, during the consideration of the 8<sup>th</sup> follow-up report in November 2016, it was noted that Niger had established an economic and financial investigation division of the Criminal Investigation Department, established HALCIA, the court of auditors and other bodies in charge ML/TF offences.

**Criterion 27.1** - The BCEAO, UMOA Banking Commission, Ministry of Finance, the Regional Insurance Supervision Commission (CRCA) and the Regional Council for Public Savings and Capital Markets (CREPMF) have powers under the provisions of Article 86 of the AML/CFT Law and specific Laws and Directives<sup>74</sup> governing them, to inspect and

<sup>74</sup> Directive n°008-05-2015 of 21st May 2015 on the requirements for the issuance of electronic money, Directive n°005-06-2010 of 14th June 2010 for DFS, Directives n°05 and 06 of Regulation n°09/2010/CM/UMOA on requirements to operate as foreign exchange dealer, Directive n°13-11-2015 of 10th November 2015 on engagement in the rapid money transfer business.

ensure reporting entities under their supervision comply with AML/CFT requirements. Off-site inspections are conducted through reports defined by Directive that reporting entities file to their regulatory authorities.

**Criterion 27.2** - The legal and regulatory framework referred to in the above criterion has assigned the most extensive powers to the above-mentioned supervisory authorities to conduct inspections on financial institutions under its supervision. Such inspections may be conducted on the basis of reports submitted by reporting entities, or on-site during general or thematic inspection missions according to a schedule previously established by the supervisory authorities or unexpectedly.

**Criterion 27.3** The supervisory authorities have the powers defined by the specific Laws and Directives that give them access to information held by financial institutions, and to require the production of documents for investigations ( see Article 96 of AML/CFT Law ) and off-site inspections of the accounts and activities of reporting entities.<sup>75</sup>

**Criterion 27.4** - The supervisory authorities have the power to sanction FIs for non-compliance with AML/CFT obligations (see art.112 of AML/CFT Law 2016-33). Within this framework, they use the provisions of their regulations and specific Laws with a wide range of civil and administrative sanctions, including the power to revoke, limit or suspend the registration of any financial institution. Thus, following the provisions under Article 66 of the Banking Act, disciplinary sanctions for violation of banking regulations or any other legislation applicable to credit institutions, including those on AML/CFT, are issued by the Banking Commission, pursuant to the provisions under Articles 29 and following of the Appendix to the Convention governing the said Commission. The Banking Commission may also impose financial sanctions under the provisions of Article 77 of the Banking Law. Similar provisions are provided for by the CIMA Code (Articles 534, 534-2, Cap 4) and DFS Act (Article 71).

### ***Weighting and Conclusion***

**Recommendation 27 is rated Compliant**

## **Recommendation 28 – Regulation and supervision of DNFBPs**

Niger was rated Non-Compliant (NC) on the Recommendation relating to the regulation and supervision of DNFBPs, due to the non-implementation of the regulation by casinos and lack of monitoring by the authorities to ensure casinos and other DNFBPs comply with AML/CFT obligations. Since the last evaluation, in addition to the AML/CFT law passed by Niger, the country has adopted Decree No. 2020-113/PRN/MF of 27<sup>th</sup> January 2020 designating the authorities in charge of supervising, regulating and self-regulating DNFBPs. in the fight against money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction and determining their powers, in line with the provisions of Article 86 of the said Law.

### *Casinos*

#### **Criterion 28.1**

a) Article 88 of the AML/CFT Law provides that: “No one shall operate as a Designated and Non-Financial Business and Profession without prior registration by the competent

<sup>75</sup>See : Article 58 of DFS Act, Article 53 of Banking Act

regulatory or supervisory authority, in line with the requirement established by the regulations in force. Furthermore, Articles 2 to 8 of Decree No. 93-061/PM/MF/P of 26<sup>th</sup> March 1993 establishing the licensing requirements for the operation of lotteries and raffles subject the conduct of this activity to prior the approval of the Minister of Finance.

b) The provisions of Articles 2 and 3 of Decree No. 93-061/PM/MF/P of 26<sup>th</sup> March 1993 provide for the production of a police clearance dated less than three (3) months by the applicant and the conduct of a fit-and proper test by the gendarmerie or police on the applicant, respectively. However, no legislative or regulatory provision explicitly specifies the measures to be taken to prevent criminals or their accomplices from owning or becoming beneficial owners of a significant shareholding or control of a casino.

c) Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January 2020 designates the Ministry of Finance as the authority in charge of supervising casinos for AML/CFT. However, this authority does not have the powers and resources to monitor casinos for AML/CFT

*Designated Non-financial Businesses and Professions other than Casinos*

Criterion 28.2 Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January 2020 designates the AML/CFT supervisory, regulatory and self-regulatory authorities of DNFBPs and their powers. However, these supervisory authorities have only recently been appointed and are not yet operational in AML/CFT issues. They include:

For real estate companies, real estate agents and rental agencies: the ministry in charge of urban planning and housing;

- For providers of gambling services, in particular owners, directors and managers of casinos and gaming establishments, including the national lottery: the ministry in charge of finance;
- For regular traders or organisers of the sale of precious stones and metals: the ministry in charge of mines;
- For regular traders or organisers of the sale of antiques and works of art: the ministry responsible for culture;
- For hotels: the ministry in charge of tourism;
- For non-profit organisations: the ministry in charge of community development and regional planning, the ministry in charge of the interior and the ministry in charge of foreign affairs;
- For sports agents and promoters of sporting events: Ministry of Sports;
- For security companies: Ministry of Public Security;
- For travel agencies: Ministry of tourism; and
- For tax advisors: Ministry of Finance;
- For receivers: Ministry of Justice;
- For chartered and certified accountants: Ministry of Finance
- For lawyers: Ministry of Justice and the State Prosecutors at Courts of Appeal;
- For bailiffs, auctioneers, operators of voluntary sales of furniture by public auction: the ministry of justice, the State prosecutors at the high courts and the deputy State prosecutors at the courts of first instance;

- For legal agents: the Ministry of Justice and the national disciplinary chamber.

**Criterion 28.3**-Articles 41, 86 and 88 of the AML/CFT Law provide, among other things, that the supervisory authority shall ensure Designated Non-financial Businesses and Professions comply with their AML/CFT obligations. Besides, Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January, 2020 designates the AML/CFT supervisory, regulatory and self-regulatory authorities of DNFBBs and their powers. One of their powers is to ensure compliance by DNFBBs with their AML/CFT obligations. However, these supervisory authorities have only recently been appointed and are not yet operational in AML/CFT issues.

**Criterion 28.4**

a) The provisions under Article 86 .2 of the AML/CFT Law empower the supervisory authorities to ensure DNFBBs comply with their AML/CFT obligations. Pursuant to this Article, Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January 2020 designates the AML/CFT supervisory, regulatory and self-regulatory authorities of DNFBBs and their powers. However, these supervisory authorities have only recently been appointed and are not yet operational in AML/CFT matters.

b) - The provisions of Article 86.1 of the Law on AML/CFT provide that supervisory authorities of DNFBBs shall take the required steps to define appropriate criteria for the possession, control or direct or indirect participation in the administration, management or functioning of any DNFBB. Pursuant to this Article, Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January 2020 designates the AML/CFT supervisory, regulatory and self-regulatory authorities of DNFBBs and their powers. However, the real estate sector is not fully regulated.

c) - The provisions under Article 112 of the AML/CFT Law provide for the meting out of sanctions on DNFBBs by the supervisory authority, which has disciplinary powers as provided for by the specific legislation and regulations in force. Decree No. 2020- 113/PRN/MF of 27<sup>th</sup> January 2020 designates the AML/CFT supervisory, regulatory and self-regulatory authorities of DNFBBs and their powers. However, sanctions have not been provided for in the specific texts applicable to these professions.

*All Designated Non-financial Businesses and Professions*

**Criterion 28.5a -**

a) - The AML/CFT law does not explicitly spell out the obligation for supervisory and self-regulatory authorities to conduct risk-based supervision. Besides, no legislative or regulatory text of Niger provides for such an obligation. Furthermore, the DNFBB AML/CFT Supervisory authorities have been designated by Decree No. 2020-113/PRN/MF of 27<sup>th</sup> January 2020 designating the Supervisory, Regulatory and self-regulatory authorities of DNFBBs in charge of AML/CFT/FPWMD, although they are yet to demonstrate the implementation of any risk – based supervision.

b) - The AML/CFT law does not explicitly spell out the obligation for supervisory and self-regulatory authorities to conduct risk-based supervision. Besides, no other Niger text provides for such an obligation. Furthermore, the DNFBB AML/CFT Supervisory authorities have been designated by Decree No. 2020-113/PRN/MF of 27<sup>th</sup> January, 2020 designating the Supervisory, Regulatory and self-regulatory authorities of DNFBBs in charge of AML/CFT/FPWMD, although they are yet to demonstrate the implementation of any risk-based supervision.

### *Weighting and Conclusion*

The DNFBP supervisory, regulatory and self-regulatory authorities have been designated in Niger. However, no provision explicitly specifies the measures to be taken to prevent criminals or their accomplices from owning or becoming beneficial owners of a significant shareholding or control of a casino. Although the texts provide for the licensing requirements and authorities for casinos and other DNFBPs as well as their AML/CFT supervisory authority, there is no provision for the risk-based supervision of DNFBPs, which is fundamental to appropriate AML/CFT supervision.

**Recommendation 28 is rated Partially Compliant.**

### **Recommendation 29 - Financial intelligence units**

Niger was previously rated Partially Compliant. The main deficiencies related to issues of effectiveness and the lack of awareness-raising and training, TF component not part of the FIU's mandate and data confidentiality issues. Niger has made several legal, institutional and operational changes in order to strengthen the FIU system.

**Criterion 29.1.-** Article 59 of the AML/CFT Law establishes the "National Financial Intelligence Unit or "FIU" as an administrative authority with financial autonomy and autonomous decision-making power over issues within its jurisdiction. Section 60 of the said Act confers on it the mandate, among other things, to receive and analyze suspicious transaction reports and other information on money laundering, related predicate offences and terrorist financing, and disseminate the results of such analyses.

**Criterion 29.2.a** – The FIU is responsible for receiving suspicious transaction reports (DOS) from financial institutions, DNFBPs and the Customs Administration pursuant to the obligations of Recommendations 20 and 23 (art 79 and 81 law AML/CFT).

**Criterion 29.2.b** – The FIU receives from financial institutions and DNFBPs, cash transaction reports on any amount higher than or equal to 15,000,000 CFA francs, whether it is a single transaction or several transactions that appear linked (Art 15 of the AML/CFT law and Directive n° 010-09-2017) It receives from supervisory and self-regulatory authorities as well as criminal investigation officers, all information likely to be linked to money laundering or terrorist financing, which it process and, where appropriate, issues a suspicious transaction report (Articles 60, 75 and 86 of the AML/CFT Law). It also receives information from the authority in charge of maintaining the NPO register, on any cash donation for the benefit of a non-profit organization, of any amount equal to or higher than one million CFA Francs (Art. 75 al. 2).

**Criterion 29.3 (a)** The FIU may request for the disclosure, by reporting entities and any natural or legal person, of any information held by them and likely to Enrich the suspicious transaction reports (Art 60, para. 2& 3), particularly the records on customer identification and transactions (Art 70 of AML/CFT Law).

**Criterion 29.3.b** - The FIU may request for the disclosure, by reporting entities and any natural or legal person, of any information held by them and likely to enrich the suspicious transaction reports (Article 60 of AML/CFT Law). Where necessary, it may also requests for additional information from the reporter, other reporting entities, foreign financial intelligence units as well as any public and/or supervisory authority (Art 67.1 of AML Law). It receives, on the initiative of the State departments or at its request, all useful

information necessary for the accomplishment of its mission, as well as from the judicial authority, financial jurisdictions and Criminal Investigation Officers (Article 70 of AML/CFT Law).

**Criterion 29.4.a** - According to, paragraph 2 indent 1, of Article 60 which provides that the FIU is responsible for gathering, analyzing, enriching and using any information suitable for establishing the origin or destination of funds or the nature of the transactions that have been reported as suspicious or any information received, the FIU carries out an operational analysis uses the information available and likely to be obtained, to identify specific targets, track specific activities or transactions and establish the links between those targets and possible proceeds of crime, money laundering, predicate offences and TF.

**Criterion 29.4.b** - The law does not explicitly require the FIU to carry out strategic analyses. However, its role is particularly to "conduct or outsource periodic studies on the development of techniques used for the purpose of money laundering and terrorist financing at national level" and to "participate in the study of measures to be implemented in order to disrupt clandestine financial circuits, money laundering and terrorist financing" (Art. 60, paragraph 2, indents 5 and 6). The Unit conducted two strategic analyses for the Minister of Finance.

**Criterion 29.5** - FIU can disclose information it holds to the Customs Department, Revenue Authority, State Treasury, Criminal Investigation Department, specialized intelligence agencies, State agencies in charge of developing and implementing measures to freeze or prohibit the movement or transfer of funds, financial instruments and economic resources (Paras. 2, 3, 4 and 5 of Article 66 of the on AML/CFT Law). However, the law does not explicitly specify that such information should be transmitted through specific, secure and protected channels. Despite the silence of the law, the Niger-FIU has formally written procedures for the processing, storage, dissemination, protection and consultation of financial information. These procedures provide for the transmission of such information via dedicated, secure and protected channels.

**Criterion 29.6. -**

- C.29.6.a - The AML/CFT law provides for the security and confidentiality of information filed to the FIU (Articles 65, 66, 72, 81 and 82). The Niger-FIU follows formally-written procedures for its processing, storage, dissemination, protection and consultation.
- C. 29.6.b -] The FIU has a procedures manual covering the processing of financial information and its dissemination. The manual specifies the responsibilities of the parties involved, including the FIU staff. The staff have access authorisations to information according to their level of responsibility. Its staff, subject to the obligation of confidentiality, also understand their responsibilities regarding the processing and dissemination of sensitive and confidential information.
- C. 29.6.c. - The extant administrative procedures at the FIU allow the latter to limit access to its facilities and information, including its computer systems.

**Criterion 29.7.a)** - The FIU has financial autonomy and an autonomous decision-making power on issues within its jurisdiction (Art 59 of AML/CFT Law).

**Criterion 29.7** - Articles 74, 75 and 78 of the AML/CFT Law allow the FIU to independently decide to collaborate with the competent national authorities and foreign counterparts. However, Article 78, in its last paragraph, provides that the signing of agreements between the FIU and its foreign counterpart requires the prior information of the Minister of Finance. Article 14 of Decree 2020/112/PRN clearly states that "The FIU

shall collaborate in all independence with other national authorities or with foreign counterparts". It turns out that the information from the minister as provided for under Article 78 is only an administrative formality requiring neither the prior opinion nor prior approval of the Minister could be an obstacle. The agreements concluded to date by the FIU have been concluded completely independently and have not been subject to any interference from the Minister of Finance. Moreover, there is no legal provision for the FIU to obtain the opinion or prior authorisation of national authorities in the performance of its task.

**Criterion 29.7.c** Not Applicable in Niger.

**Criterion 29.7.d** - Article 73 of the AML/CFT Law provides that the FIU's revenue shall be sourced from the State budget as well as contributions made by UEMOA institutions and development partners. These resources are mainly provided by the State and may therefore be subject to undue influence or interference that could compromise its operational independence. However, the FIU is also able to obtain and mobilise the resources necessary to carry out its functions from development partners on a case-by-case basis, free from any undue influence or interference that could compromise its operational independence.

Criterion 29.8 – The Niger-FIU became a full member of the Egmont Group during the Egmont Group Plenary Session held on 10<sup>th</sup> June 2015, in Barbados.

### ***Weighting and Conclusion***

The Niger-FIU is an administrative authority with financial autonomy and autonomous decision - making powers. Its functions include receiving and analyzing suspicious transaction reports and can request information at both domestic and international level. The FIU has written procedures for the processing, storage, dissemination, protection and consultation of its information. However, some deficiencies have been identified, including the fact that the law does not explicitly state whether the information from the Unit should be disseminated specific, secure and protected channels; Besides, although it is sourced from the national budget, the FIU has no autonomous management of its budget and may encounter some challenges in mobilizing the funds as and when due to implement its activities.

**Recommendation 29 is rated Largely Compliant.**

### **Recommendation 30 – Responsibilities of law enforcement and investigative authorities**

In its first MER, Niger was rated on-compliant on this Recommendation related to the responsibilities of Law Enforcement Authorities because of four main reasons:

- Investigations and prosecutions were not adequately focused on the financial aspect;
- Lack of specialization in money laundering and terrorist financing;
- Passive attitude and lack of initiative to acquire expertise the relevant expertise.

Niger has specialized bodies to suppress economic and financial crimes and fight against terrorism and organized crime. The police and gendarmerie are empowered to initiate investigations into financial crimes. In 2015 and 2016, the country also created two divisions specialized in economic and financial crimes as well as terrorism. The provisions of the Code of Criminal Procedure (Art. 605.1, and following) provide for investigators to

conduct investigations into such offences. The findings of their investigations are forwarded to the criminal prosecutorial authorities, who take on from there according to the jurisdiction of the courts. Investigative and prosecutorial officers may appropriately investigate money laundering, predicate and terrorist financing offences.

**Criterion 30.2** - The Police, Gendarmerie and Customs investigators; Judges and Prosecutors investigating predicate offences are required to continue the investigation conducted into any offence related to money laundering or terrorism financing during a parallel financial investigation (Article 605.1 and the Code of Criminal Procedure). In accordance with Article 25 of Law n° 2015-02 of 01/13/2015, they can relinquish jurisdiction and entrust the case to a judicial division specializing in economic and financial matters and to the special investigation unit in the matter, which monitor such investigations, regardless of the location of the predicate offence. The same applies to TF offences linked to terrorism cases (Law No. 2016-19 of 16/06/2016 on Creation of the Judicial Division specialized in terrorism cases). Niger's laws have established all these services, providing them with adequate financial, human and technical resources.

**Criterion 30.3** - The identification, tracing and initiation of procedures without delay for the seizure of assets subject to or likely to be subject to confiscation are the responsibilities of the Criminal Investigation Department (OPJ). Similarly, the presiding Magistrates, Financial Intelligence Unit and Anti-corruption agency are responsible for initiating freezing or seizure measures of all assets subject to or liable to be subject to confiscation or suspected of being the proceeds of crime. Similarly, Niger's regime takes on board environmental offences in delivering orders to confiscate all assets derived from fraudulent activities observed by officials with criminal investigative powers.

**Criterion 30.4** - The following authorities: FIU, Customs and Excise, Water and Forestry Services although they are not criminal prosecutorial authorities per se, they are responsible for and have the powers to conduct investigations into predicate offences.

Thus, in accordance with the provisions of Articles 60, 68 and 70 of the AML/CFT Law, the FIU

has the prerogatives to establish a database on financial intelligence received from reporting entities and information from the criminal prosecutorial authorities. It can order the seizure or freezing of all suspected proceeds of crime with the possibility of having the investigating judge extend the said measure. Similarly, under the provisions of the penal or customs code, certain officers are sworn in to gather evidence in order to prosecute certain predicate offences. This is also the case for employees of the Water and Forestry Service under the provisions of Article 8 of Law 2006-25 of 16 June 2016 on the Autonomous Statute of the Water and Forestry Service.

Regarding tax officials, Article 2 of Order No. 0346 of 06 August 2018 on the organisation of the central and decentralised services of the Directorate of Taxation and outlining the powers of officials, gives tax staff the power to investigate and record offences in tax, property, land and cadastral matters.

**Criterion 30.5** - The anti-corruption agency is invested with broad powers to use the prerogatives of criminal investigation officers to undertake searches, identify, seize or freeze assets. These prerogatives cover both prevention and repression in both the public and private sectors where relevant information may be gathered, with a view to initiating proceedings against the perpetrators of corruption or Related Offences.



### *Weighting and Conclusion*

**Recommendation 30 is rated Compliant.**

### **Recommendation 31 - Powers of law enforcement and investigative authorities**

**Criterion 31.1.** - In criminal prosecutorial, the competent authorities in Niger are empowered to access all documents and essential information. Articles 93-96 of the AML/CFT Uniform Law authorise the competent authorities to take enforcement action to gain access to all documents and information necessary for use in the investigation and prosecution of ML, predicate offences and TF.

Similarly, in an investigation conducted by the Police or Gendarmerie under the direction of the State Prosecutor, any information and documents may be gathered in accordance with the provisions of the Code of Criminal Procedure (article 89-92). The judicial authority has the same prerogatives (Article 92-95 of the CCP). The anti-corruption agency has similar powers, enabling it to gather information and documents from all public or private institutions, particularly financial institutions (article 25(2), article 26(1), Law 2016-44 of 06 December creating HALCIA).

**Criterion 31.1b** Articles 108 to 110 of the AML/CFT Uniform Act specifically authorise the customs authorities to conduct searches of persons and premises.

Generally, the following texts authorise the various competent authorities to use coercive measures to search persons and premises: Art. 89 to 91 of the Code of Criminal Procedure; Art. 34 of Order No.2010-86 of 16 December, 2010; Art. 119 of Order No.99-42 of 23 September 1999; Art. 59 and 214-5 of Law No. 2018-19 of 27 April 2018 laying down the National Customs Code; Art. 346 to 351 of Law No. 2012-37 of 20 June 2012 laying down the General Tax Code

#### **Criterion 31.1c**

In accordance with Article 95 of the AML/CFT Uniform Law, prosecutorial authorities may resort to evidence gathering. The provisions of the Code of Criminal Procedure (Article 57) also allow for the use of coercive measures in evidence gathering.

#### **Criterion 31.1d**

Investigative authorities have the power to seize and gather evidence during AML/CFT investigations. (Articles 93 and 108 of the AML/CFT Uniform Law; Article 605.6 of the Code of Criminal Procedure; Art.254-2 of the Law No. 2018-19 of 27<sup>th</sup>April 2018 establishing the National Customs Code).

**Criterion 31.2. (a, b, c, d, e)** - The AML/CFT Law in Niger has provided for specific prerogatives in the prosecution of money laundering, terrorist financing, or even predicate offence cases.

The judge can make use of special investigative techniques, by ordering underground operations, surveillance, communication tapping, controlled delivery, access to communication networks and infiltration. He can have access to computer systems, networks and servers used or likely to be used by persons suspected of being the perpetrators of the above offences. He is not bound by professional secrecy for the communication of all instruments, documents or records. Certain provisions of the Penal Code and Customs Code also provide for specific measures (Art. 93 and 99).

Specifically,

- (a) Undercover operations are provided for under Articles 93, 94, 95 of the AML/CFT Uniform Act; Article 605.4 of the Code of Criminal Procedure; Articles 46 and 48 of Order No.2010-86 of 16 December 2010; Article 65 of Law No.2018-19 of 27 April 2018 laying down the National Customs Code.
- (b) The interception of communications is provided for under Article 93 of the AML/CFT Uniform Act; Article 605.4 of the Code of Criminal Procedure.
- (c) Access to computer systems is provided for under Article 93 of the AML/CFT Uniform Act; Article 605.4 of the Code of Criminal Procedure and Article 8 of Law 2015-36 of 26 May 2015.
- (d) Monitored delivery is provided for under Article 94 of the AML/CFT Uniform Act, Article 65 of Law No.2018-19 of 27 April 2018 laying down the National Customs Code and Article 649-78 of the Code of Criminal Procedure.

### **Criterion 31.3.**

Niger has mechanisms in place to determine in a timely manner whether natural or legal persons hold or control accounts. The competent authorities have the power to request information from FIs on the accounts of natural and legal persons, without the possibility for bank secrecy being invoked to deny the request (Articles 36 and 93 of the AML/CFT Uniform Act). Requests are made by requisition in accordance with Article 55 of the Code of Criminal Procedure.

### **Criterion 31.3b**

In Niger, the competent authorities have a mechanism for identifying property without prior notification to the owner. According to Article 93 of the AML/CFT Uniform Act, all procedures for the identification of property are carried out without prior notification. Natural and legal persons seized by the competent authorities cannot even invoke professional secrecy to refuse to provide the requested information.

Criterion 31.4 – The FIU has a database regularly uploaded with financial intelligence from various sources, particularly those provided by financial institutions and other departments. During their investigative activities, investigators may use this database to obtain the information sought by filing requests to the FIU (Art. 66). However, it is prohibited from disclosing such information which should only be used for specific purposes. The FIU is also authorized to disclose any information it holds to technical administrations such as the Customs, Treasury, Revenue Authority or specialized Police agencies.

### ***Weighting and Conclusion***

**Recommendation 31 is rated Compliant.**

## **Recommendation 32 – Cash Couriers**

In its first MER, Niger was rated Non-compliant on this Recommendation due to lack of declaration or disclosure system on the cross-border transportation of cash within the AML/CFT framework.

**Criterion 32. -1** Article 12 of the AML/CFT Law provides that any person entering or leaving Nigerien customs territory shall be subject to formalities for the declaration of cash

and negotiable bearer instruments (BNIs) of any amount equal to or above the threshold of 5,000,000 CFAF.

However, natural persons moving from one country to another within the UEMOA zone shall not be affected by this requirement.

Furthermore, traveller's cheques, bank cheques, foreign banknotes, as well as local or foreign securities shall be subject to authorization when they are exported abroad, by post or by any other means, pursuant to Regulation n° 09/2010/CM/UEMOA. Also, Regulation 09 prohibits the sending and receipt of banknotes issued by the BCEAO between resident natural or legal persons, other than the BCEAO or its correspondent bankers located outside the UEMOA Member States (Art.29 R09/2010).

**Criterion 32.2.a-c** - In Niger, any person involved in a physical cross-border transportation of cash or BNI is required to submit a written declaration to the designated competent authorities, where the cash or BNI is equal to or more than 5,000,000 CFAF.

Criterion 32.3 - (Not Applicable). It is the written declaration regime that is applicable in Niger.

**Criterion 32.4** - Further information on the origin and destination of cash or bearer instruments whose threshold is equal to or higher than 5.000.000 CFAF or in case of suspicion related to money laundering or terrorist financing, may be requested from travellers (Art. 12). The same Article 12 requires that suspicion may be based on non-declaration or false declaration.

**Criterion 32. 5** - The AML/CFT law prohibits false declarations and under declarations. Where this prohibition is violated, cash and bearer instruments likely to be linked to ML or terrorist financing shall be seized or blocked for a period not exceeding 72 hours. The suspect shall face sanctions of up to ten (10) years in prison, with fines equal to five times the value of the assets or funds involved. These sanctions are enhanced by the power of the customs to seize the full amounts of undeclared cash (Art. 12, 5-6). All these sanctions seem to be proportionate and dissuasive.

**Criterion 32.6 : a, b** - The AML/CFT law provides that all cash discovered shall be seized a report prepared in case of non-declaration, false declaration or under declaration or even where there is suspicion of AML/CFT. In this case, the customs administration transmits a copy and the seized cash to the Treasury, State Consolidate Fund or the body acting in its place. The customs agencies are required to disclose all this information to the FIU through suspicious transaction report within eight days (Art. 111 of AML/CFT Law)

**Criterion 32.7:** - Article 74 of the AML/CFT Uniform Act provides for a national coordination mechanism on all AML/CFT-related matters. Generally, the various agencies of the Immigration Police, Customs and other administrations exchange information on the cross-border transportation of cash and bearer instruments. However, there is no formal mechanism for information sharing between these services that is specifically dedicated to the issue of physical transportation of cash and bearer negotiable instruments.

**Criterion 32.8 \_ a, b** - The AML/CFT Law allows the customs agencies to block or hold, for a period not exceeding 72 hours, any cash or bearer instruments suspected of being linked to money laundering and terrorist financing (Article 12 paragraph 5).

The customs agencies may also seize the total amount of undeclared cash in case of false declaration or non-declaration.

**Criterion 32.9 \_: a, b, c** - Niger has signed several international instruments which provide for international cooperation and assistance. All cases of execution, mutual legal assistance, extraction, freezing and confiscation as well as all other forms of cooperation, are organized under Articles 138 to 155 of the AML/CFT Law.

Thus, to facilitate this operation, the various customs and FIU databases are required to keep information on declarations of amounts above the prescribed ceiling or in cases of non-declaration, false declarations or under declarations or even in suspected AML/CFT cases. This information shall be kept for a period of ten (10) years.

**Criterion 32.10** -The sharing of information on cash declarations and BNI between the FIU and customs administrations is only intended for the purposes of investigations (Article 111 of the AML/CFT Uniform Act). Data security and confidentiality are guaranteed by the customs computer system, which provides for levels of access. The information collected by Customs is covered by confidentiality. The same confidentiality is observed by the FIU when it receives this information from Customs. It is forbidden to publish the information collected in the context of these declarations (Article 65 of the AML/CFT Uniform Act). The principle is the free movement of capital. However, the BCEAO Directive 08 requires the declaration or disclosure of any cash and BNIs equal to or higher than 5,000,000 CFA francs for traceability purposes. Non-resident travellers are free to import franc zone banknotes or payment instruments denominated in foreign currencies.

**Criterion 32.11 \_a, b** - At the end of Art. 12 of the AML Law, where cash or bearer instruments are seized for a period of 72 hours, in cases of non-declaration or false declarations or suspected of being linked to money laundering or terrorist financing, the suspect may also be sentenced to 10 years' imprisonment and pay a fine equal to five times the value of the assets or funds involved (article 113 and 119 of the AML/CFT Uniform Act). Seized cash and bearer instruments may be confiscated for the benefit of the Treasury following legal proceedings (Articles 128 and 129 of the AML/CFT Uniform Act).

### ***Weighting and Conclusion***

Niger has put in place a system for declaring the physical cross-border transportation of cash and BNIs, however, declarations are only required when entering and leaving UEMOA territory. The circulation of cash and BNIs in CFAF is completely free for travellers between the countries of the Union. The coordination mechanism between customs, immigration police and other government services on issues of physical transportation of cash and BNIs is not specifically established.

Recommendation 32 is rated Largely Compliant.

## **Recommendation 33 – Statistics**

During the previous evaluation, Niger was rated Non-compliant, based on non-collection of relevant information and the lack of statistics on the number of sanctions imposed or violations of AML standards and on extradition. The current system has been improved in recent years.

**Criterion 33.1.a** Under Articles 67, 71 and 74 of the BC Act, the FIU is required to disseminate information on the cases received and processed. This information is disseminated to national investigative and prosecutorial authorities and to its foreign counterparts. To this end, the FIU keeps comprehensive statistics on received and

disseminated STRs. In accordance with the last paragraph of Article 60 of the AML/CFT Law, the FIU is required to prepare periodic reports, at least once per quarter, analysing developments in activities to combat ML TF at domestic and international level and assess the reports received. All reports produced by the FIU do indeed include statistics on STRs received and disseminated.

**Criterion 33.1.b** - Criminal investigation and prosecution authorities keep statistics on investigations, prosecutions and convictions of ML and other criminal offences. These statistics are usually contained in the annual activity reports of these authorities. The Ministry of Justice regularly publishes a Yearbook of Judicial Statistics which compiles statistics on investigations, prosecutions and convictions relating to ML and other criminal offences. These statistics are updated periodically. They include prosecutions and convictions on criminal offences, including the ML. However, the TF offence is not yet being tracked.

**Criterion 33.1.c** - Investigative and criminal investigation authorities keep comprehensive statistics on frozen, seized or confiscated assets. These data are available from these entities. Niger has set up a Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets (ACGSCGRA). The structure is empowered to keep and centralise these statistics. Since it was set up, ACGSCGRA collects and manages the statistics referred to above.

**Criterion 33.1.d** - All relevant authorities involved in international judicial cooperation keep statistics on mutual legal assistance or other international requests for cooperation made and received. The Mutual Legal Assistance and Judicial Cooperation Unit keeps statistics on mutual legal assistance and extradition requests. The FIU also keeps statistics on its cooperation with its counterparts. The statistics kept by the FIU also cover the cooperation it has with its counterparts.

### ***Weighting and Conclusion***

There is a system for gathering statistics on STRs, prosecutions and convictions, freezing, seizures, confiscations, mutual legal assistance or other information related to AML/. These statistics are indeed kept, but they are not sufficiently consolidated.

**Recommendation 33 is rated Largely Compliant.**

## **Recommendation 34 – Guidance and feedback**

In the previous MER, Niger was rated Non-Compliant on the Recommendation relating to guidance and feedback. Some of the deficiencies related to the lack of guidelines, with the exception of a little detailed Directive from the BCEAO; lack of an AML guideline for the insurance sector and capital markets; failure to disseminate the BCEAO Directive; inadequate information for FIs to implement and comply with their AML obligations; failure of the authorities to implement training and awareness-raising programs for DNFBPs. Since the adoption of the MER, Niger has adopted numerous regulatory texts to address these gaps.

**Criterion 34.1-** Competent authorities are required to issue directives, guidelines or recommendations for FIs and DNFBP to comply with their AML/CFT obligations (Article 86.3 and following). The law also requires the provision of feedback to assist FIs and DNFBPs in the implementation of AML/CFT measures at national level and to detect and report suspicious transactions. Financial sector supervisors adopted specific

regulations to combat ML/TF in their respective sectors. These include Regulation N° 007-09-2017 on modalities for the implementation of the Uniform AML/CFT Law in FIs; Directive N° 59/2019 / CREPMF of 09/30/2019 on the fight against ML/TF among licensed stakeholders on the UMOA Regional Capital Market; Regulation No. 0004/CIMA/PCMA/PCE/SG/08 for the insurance sector. These guidelines provide stakeholders in the Niger financial sector with detailed information on how to comply with the AML/CFT Law.

Niger has drawn up Guidelines for the benefit of DNFBPs since 2017 and issued Decree No.2020-113/PRN/MF of January 27 designating the Supervisory, Regulatory and Self-Regulatory Authorities of DNFBPs within the framework of the AML/TF/FPADM.

Since 2017, Niger also developed the Guidelines for DNFBPs (such as...).

The supervisory authorities of existing DNFBPs and those that have been recently designated are working with the FIU to develop guidelines for DNFBPs.

Feedback mainly takes place in two settings. The supervisory authorities provide feedback through and following on-site or off-site inspections carried out on FIs and DNFBPs. The FIU is required to communicate the information at its disposal on money laundering and terrorism financing mechanisms to FIs, DNFBPs and their supervisory authorities. This information is transmitted through the processing of suspicious transaction reports (Article 92 of Law 2016-33).

### ***Weighting and Conclusion***

Niger has a global guidelines and feedback framework.

**Recommendation 34 is rated Compliant.**

### **Recommendation 35 – Sanctions**

In its first MER, Niger was rated Non-compliant (NC) on the Recommendation relating to sanctions. The deficiencies identified were linked to the fact that : (i) the sanctions provided for by the Banking Act and texts applicable to the capital markets were not dissuasive enough as they did not provide for financial sanctions; (ii) the nature and extent of sanctions applicable to DFS were not clearly defined (iii) there was a conflict of interest within the CB-UMOA due to the presence of BCEAO and States representatives in its midst, while they were, at the same time, shareholders in various banks. Since the adoption of its MER, Niger has enacted some legislations designed to resolve some of the deficiencies identified.

**Criterion 35.1** -The AML/CFT Law in Niger provides that administrative, disciplinary and criminal sanctions be applicable to natural and legal persons who do not comply with the AML/CFT obligations referred to in Recommendations 6 and 8 to 23 (Articles 112 to 117).

Details: Administrative and disciplinary sanctions.

They are provided for in Article 112 of the Uniform Law which refers to specific legislative and regulatory texts. Thus, the BCEAO, the CREPMF, the CIMA, provide for the financial sanctions to be applied in the event of a breach of the provisions of AML / CFT.

The provisions of Articles 66 et seq. Of the Banking Law provide for the application of penalties for breach of banking regulations or any other legislation applicable to credit institutions, in particular the AML / CFT law. The same applies to those of article 14 of the

BCEAO Directive n ° 007-09-2017, on the modalities of application by the FIs of the Law on AML / CFT.

For FIs under the supervision of CB-UMOA, in particular credit institutions, financial companies, Decentralized Financial Systems, Electronic Money Issuers, article 31 of the Annex to the Convention governing CB-UMOA, such as amended by decision n ° 010 of 29/09/2017 / CM / UMOA, provides for the following gradual disciplinary sanctions depending on the seriousness of the breach: (i) warning, (ii) reprimand, (iii) suspension or prohibition of all or part of the operations, (iv) any other limitations in the exercise of the profession, (v) the suspension or the automatic resignation of the responsible officers, (vi) the prohibition for persons responsible, directing, administering or managing an establishment subject to its control or one of its agencies on a permanent or limited basis, (vii) withdrawal of approval or installation authorization.

The aforementioned Article 31 also provides for financial penalties, the amounts of which are set according to the seriousness of the breaches. The terms of application of said financial penalties are specified by Directives No. 006-05-2018 for FTEs and No. 007-05-2018 for SFDs.

For foreign exchange bureaus, the sanctions are provided for in: (i) Article 16 of Regulation No. 09/2010 / CM UEMOA and its Annex No. 1; (ii) the Uniform Law No. 2017-21 of April 21, 2017 on litigation for breaches of the regulations on external financial relations of WAEMU member states; (iii) Article 5 of Directive No. 06/07/2011 / RFE of July 13, 2011 relating to the conditions for exercising the activity of a manual foreign exchange licensee

For the financial market, the sanctions are provided for by decision No. CM / SJ / 001/03/2016 relating to the implementation of the financial sanctions system applicable on the regional financial market of the UMOA.

In general, the disciplinary sanctions foreseen range from warning to withdrawal of approval. Those of a pecuniary nature vary from 5 million to a maximum of 300 million CFA Francs. This suggests that the disciplinary and pecuniary sanctions are proportionate and dissuasive.

Administrative and disciplinary sanctions similar to those mentioned above are provided for certain categories of DNFBP, in particular, lawyers, notaries, chartered accountants and accountants, bailiffs. Unlike the sectors of Estate Agents, Stone and precious metals dealers which are not regulated in this sense.

### **Criminal sanctions**

The Uniform AML/CFT Law, under Articles 113 to 117, 121, 122, 124 and 125, provides for penal sanctions for certain breaches of the obligations provided for in recommendations 6 and 8 to 23 as they have been included in Caps II and III of the law. Simple breaches are punishable by penalties ranging from 6 months to 4 years in prison.

Where the breaches are characteristic of ML or TF, the minimum sentence is 3 years, the maximum being life imprisonment. Legal persons can be fined up to five times the amounts subject to ML or TF. Its criminal sanctions appear to be sufficiently proportionate and dissuasive.

**Criterion 35.2** - Articles 112, 116 point 7, 121 to 125 of the AML/CFT Law provides for sanctions applicable not only to FIs and DNFBPs but also to members of their administrative bodies and to Senior Management. Also, the specific texts on banking



regulations<sup>76</sup> and the CIMA Code provide for sanctions applicable to managers and directors. The DNFBP supervisory authorities also have sanctioning powers for non-compliance with AML/CFT obligations.

### ***Weighting and Conclusion***

The AML/CFT Law and the specific texts relating particularly to FIs provides for the application of sanctions both to FIs and DNFBPs as well as their officers and directors. The supervisory authorities of FIs have provided for the applicable sanctions. However, specific texts regulating some DNFBPs do not provide for AML/CFT sanctions to be applied by their supervisory authorities, which, moreover, have just been appointed.

**Recommendation 35 is rated Largely Compliant.**

## **Recommendation 36 – International instruments**

In its first MER, Niger was rated partially compliant with the requirements due to the inadequate implementation of the provisions of the Vienna and Palermo Conventions as well as the International Convention for the Suppression of Terrorist Financing

### **Criterion 36.1:**

Niger has ratified the United Nations Conventions at the dates indicated below:

- United Nations Conventions against the illicit trafficking of narcotics and psychotropic substances (Vienna 1988) : Acceded on 10th November 1992 ;
- United Nations Conventions against Transnational Organized Crime (Palermo 2000) : Ratified 30th September 2004 ;
- United Nations Convention against Corruption (Merida 2005) : Acceded on 11th August 2008 ;
- Convention for the suppression of Terrorism Financing (New York 1999): Acceded September 2004.

### **Criterion 36.2<sup>77</sup>:**

Niger = domesticated the relevant provisions of the above-mentioned UN Conventions, in the following legal texts:

- AML/CFT Law 2016-33 of 31 October, 2016;
- Law No. 2017-10 of 31 March 2017 amending and supplementing Law No. 61-27 of 15<sup>th</sup> July 1961 establishing the Penal Code
- Law No. 2018-37 of 1 June 2018 establishing the organization and jurisdiction of the courts in the Republic of Niger;
- Law No. 2017-07 of 31 March 2017 amending and supplementing Law No. 61-33 of 4<sup>th</sup> August 1961 establishing the Code of Criminal Procedure;

<sup>78</sup> Article 26 of the Banking Regulation Law

<sup>77</sup>

[https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018\\_01\\_19\\_Niger\\_Final\\_Country\\_Report\\_French.pdf](https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018_01_19_Niger_Final_Country_Report_French.pdf)



- Law No. 2016-21 of 16<sup>th</sup> June 2016 amending and supplementing Law No. 61-33 of 14<sup>th</sup> August 1961 establishing the Code of Criminal Procedure;
- Law No. 2016-22 of 16<sup>th</sup> June 2016 amending and supplementing Law No. 61-27 of 15<sup>th</sup> July 1961 establishing the Penal Code;
- Law N° 2015-36 of 26<sup>th</sup> May 2015, on migrants ‘smuggling: it defines the national coordination and international cooperation bodies; criminalizes migrants ‘smuggling, regulates the process of returning migrants, provides for investigative techniques and protective and assistance measures;
- Law No. 2012-37 of 20<sup>th</sup> June 2012 on the General Tax Code;
- Order 2010-86 of 16<sup>th</sup> December 2010 against human trafficking;
- Order 99-42 of 23<sup>rd</sup> September 1999 against drugs in Niger;
- Law No. 2016-44 of 6<sup>th</sup> December 2016 establishing the mandate, responsibilities, composition, organization and functioning of the High Authority against Corruption and Similar Offences;
- Law 2018-19 of 27<sup>th</sup> April 2018 establishing the National Customs Code;
- Law 2019-33 of 3<sup>rd</sup> July 2019 on the repression of cybercrime in Niger;
- Order 022/MAEC/DAAF/DP of 25<sup>th</sup> October 2007 establishing the National Counter Terrorism Committee. As indicated in Recommendations 3 and 5, Niger has a comprehensive legal framework for the implementation of the above-mentioned conventions through the full criminalisation of ML and TF offences and through the establishment of all the recommended mechanisms and institutions. (In this case, see the analysis under Recommendations 30 and 31). Furthermore, Niger’s review of the implementation of the United Nations Convention against Corruption Mechanism in 2011, enabled it to fill the gaps identified in the implementation of the said Convention.

### ***Weighting and Conclusion***

Niger has ratified the above-mentioned United Nations Conventions and implemented their relevant provisions through the above-mentioned legislative texts.

**Recommendation 36 is rated Compliant.**

### **Recommendation 37 - Mutual legal assistance**

In its first 2009 MER, Niger was rated largely compliant with the requirements of this Recommendation. However, the authorities are yet to consider any mechanism to determine the arbitration venue in case of conflicts of jurisdiction. Similarly, the statistics provided are inadequate, which makes it difficult to assess the effectiveness of the system.

**Criterion 37.1** - Niger can provide mutual legal assistance in issues related to ML/TF and predicate offences under Articles 138 to 155 of the AML/CFT Law n ° 2016-33 of 31/10/2016). Articles 605.1 and 649.48 to 649.77 of the Code of Criminal Procedure contain relevant provisions on the granting of mutual legal assistance. Mutual legal assistance is also provided under bilateral and multilateral agreements. Niger is a party to several multilateral conventions, which also serve as the basis for providing mutual legal assistance. This legal framework enables Niger to provide promptly the widest possible

range of mutual legal assistance for investigations, prosecutions and related proceedings concerning money laundering, predicate offences and financing of terrorism. Articles 649.52 and 649.58 of the Code of Criminal Procedure stipulate the emergency procedure within the framework of Mutual Legal Assistance. Under Article 649.70 of the same code, the request for mutual legal assistance is implemented as promptly as possible and considers, as far as possible, any time limits suggested and motivated by the requesting State

**Criterion 37.2** - Niger has an institutionalized central authority dealing with the dissemination of requests for execution within the Ministry of Justice, called the National Unit for Mutual Legal Assistance and Judicial Cooperation. (Art.649.48 of the Code of Criminal Procedure, Art.19 of Decree No. 2018-908/PR/MJ of December 8, 2018, Directive No. 0087/MJ/GS of June 24, 2019).

Articles 649.48 to 649.77 of the Code of Criminal Procedure and Articles 139 to 155 of Law No. 2016-33 of 10/31/2016 stipulate the procedures for implementing requests for Mutual Legal Assistance. The emergency procedure indicated in Articles 649.52 and 649.58 of the Code of Criminal Procedure involve a form of prioritization. The execution period indicated by the requesting State is another form of prioritization (Article 649.70 of the Code of Criminal Procedure and Article 139.8 of Law n° 2016-33 of 10/31/2016).

The provisions of Directive No. 0087/MJ/GS of June 24, 2019 amending the supplementary Directive No. 0036/MJ/GS of March 12, 2019 on the powers, organization and functioning of the national unit for assistance and judicial cooperation on criminal cases indicate the establishment of a management system for mutual legal assistance cases. However, as at the time of the on-site visit, no system was in place.

**Criterion 37.3** - Article 140 of the AML/CFT Law N° 2016-33 of 31/10/2016, establishes the grounds for refusing to execute a request for mutual legal assistance. There are no unreasonable restrictive conditions governing the said refusal. It provides that even professional secrecy cannot be invoked to refuse to execute such a request.

**Criterion 37.4.a-b-**

a) Article 140 of the Uniform Law outlines the legal conditions for refusing to execute a request for mutual legal assistance. The fact that a request concerns tax is one of the grounds for refusal mentioned in the AML/CFT Law N° 2016-33 of 31/10/2016. Article 649.65 of the Code of Criminal Procedure makes it clear that no mutual legal assistance may be refused on the sole ground that the offence for which such assistance is sought is considered to be related to tax matters.

(b) A request for mutual legal assistance cannot be refused for reasons of professional secrecy or confidentiality (Article 140 above). No mutual legal assistance may be refused on the grounds of banking secrecy (Article 649.65 of the Code of Criminal Procedure).

**Criterion 37.5** - Section 141 of the AML/CFT Law No. 2016-33 of 31/10/2016 requires the competent authority to comply with the secrecy of the request for mutual legal assistance, including the secrecy of legal proceedings, the contents of the request, the documents produced and even the very fact of mutual legal assistance. "Where it is impossible to execute the request without disclosing it to the other parties, the competent authority shall inform the requesting State which will in this case decide whether it maintains the request."

**Criterion 37.6:**– Niger's AML/CFT legislation does not require dual criminality as a precondition for mutual legal assistance. It is sufficient, in accordance with Article 138,

which the request relates to an offence connected with ML/TF. The Nigerien Code of Criminal Procedure, under Article 649.66, explicitly deals with the principle of dual criminality regarding mutual legal assistance and stipulates that "In criminal matters, the competent judicial authorities may invoke the absence of dual criminality as a reason for refusing a request for mutual legal assistance. However, they may decide, in particular, to focus on the criminal conduct predicate the offence and not on the name of the offence under domestic law." These provisions do not exclude the dual criminality requirement.

**Criterion 37.7** - Article 649.66 of Niger's Code of Criminal Procedure explicitly deals with the principle of dual criminality regarding mutual legal assistance and states: "In criminal matters, the competent judicial authorities may invoke the absence of dual criminality to refuse to comply with a request for mutual legal assistance. However, they may in particular decide to focus on the criminal conduct predicate the offence and not on the name of the offence under domestic law."

**Criterion 37.8.a:**

(a) The investigative and prosecutorial authorities are empowered to order the production of documents, to conduct searches and seizure of all evidence and gather evidence pursuant to the Nigerien legislation (Articles 142 to 157 of the AML/CFT Law No. 2016-33 of 10/31/2016 and Articles 649.77 and 649.78 of the Code of Criminal Procedure).

(b) Articles 99 and 142 of the AML/CFT Law No. 2016-33 of 10/31/2016, as well as the Code of Criminal Procedure provide for the possibility for the Presiding Magistrate to use special investigative techniques in response to a request for mutual legal assistance. It may substitute the existing measures with those requested for in order to obtain the same result.

***Weighting and Conclusion***

The extant legislations in Niger indicate the establishment of a management system for Mutual Legal Assistance cases, but this system is not yet operational. Nigerien texts do not exclude dual criminality as a condition for granting mutual legal assistance where the request does not involve coercive action. Citing this as a reason remains optional and the Magistrates explain that they hardly ever use it. Even where they do, they claim to make a very broad interpretation of the principle of dual criminalization which makes for the broadest analogies to take into account all the requests.

**Recommendation 37 is rated Largely Compliant.**

**Recommendation 38 – Mutual legal assistance: freezing and confiscation**

In its first 2009 MER, Niger was rated Partially Compliant on this Recommendation. The main deficiencies identified were: the persistent principle of dual criminality which could hinder the execution of coercive measures where money laundering is considered together with the original offences (terrorist financing); lack of coordination mechanism on issues of seizure and confiscation; lack of legal basis to execute letters rogatory on seizures and equivalent confiscations; and lack of plans to share confiscated assets with other countries.

Criterion 38.1.a-d: - Pursuant to Articles 99, 128 and 129 of the AML/CFT Law N° 2016-33 of 31/10/2016, Articles 649.132 and 649.133 of the Code of Criminal Procedure and Article 83.C of Ord. 2010-86 of 16<sup>th</sup> December 2010, on mutual legal assistance in searches, seizure and freezing, Niger is empowered to take diligent measures to respond to requests from foreign countries to identify, freeze, seize or confiscate (a) laundered assets

(b) proceeds of crime (c) means used in ML/TF cases, (d) means intended to be used in ML/TF related issues, (e) valuable assets correspond to that of these elements.

**Criterion 38.2-** On customs issues, the Nigerien law provides for the possibility of non-conviction based confiscation (Article 15 of Law 2017-21 of 21<sup>st</sup> April 2017, litigating all violations of the regulation of external financial relations of UEMOA Member States: confiscation in case of death or disappearance of the criminal; and Article 308 of Law No. 2018-19 of 27<sup>th</sup> April 2018 establishing the National Customs Code). Also, Article 133bis, A1.3 of Order No.2020-01, amending and supplementing the Penal Code, provides that “the confiscation of illicit funds and assets shall be ordered even without criminal conviction, due to lack of public action or any other cause for the blockage of public action”. Criterion 38.3: [Partly Met]

(a) There is no measure explicitly relating to the provisions on the coordination of seizure and confiscation actions carried out jointly with other countries, even though in this regard, Article 649-80 of the CCP requires officers responsible for the execution of conviction orders involving the special confiscation of assets located outside Niger, to notify the Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Assets (ACGSCGRA). However, almost similar mechanisms do exist, for instance, the judicial cooperation platforms of the Sahel countries (June 2010) and the Joint African and Malagasy Organization (OCAM).

(b) Seized, frozen or confiscated assets are currently administered by the ACGSCGRA.

**Criterion 38.4 -** The Requesting States are authorized to benefit from the assets confiscated in Niger where an agreement has been concluded with the requesting State (Articles 151 of the AML/CFT Law No. 2016-33 of 31/10/2016 and 649.136 paragraph 2 of the Code of Criminal Procedure).

### ***Weighting and Conclusion***

The deficiencies identified are linked to the lack of mechanism designed for the coordination of seizure and confiscation measures carried out in concert with other countries.

**Recommendation 38 is rated Largely Compliant.**

## **Recommendation 39 – Extradition**

In its first 2009 MER, Niger was rated Largely Compliant on this Recommendation. The main deficiency identified was the lack of detailed statistics.

### **Criterion 39.1:**

(a) Niger is in a position to execute extradition requests on an ad hoc basis. The law explicitly states that ML/TF is an offence liable to extradition (Article 156 of AML/CFT Law No. 2016-33 of 31/10/2016). The following Article 157 provides that extradition requests must be sent directly to the competent Prosecutor of the requested State, with copies to to the Minister of Justice for information. Niger has also signed bilateral and multilateral extradition treaties: Niger-Algeria, Niger-France, Niger-Mali and Niger-Chad, Niger-Burkina Faso, Niger-Libya and Niger-Sudan. It has also signed the CENSAD Agreement, 1974 ECOWAS Agreement, OCAM Agreement, Rabat agreement against Terrorism, the Convention on Transnational Organized Crime, sixteen Conventions against

Terrorism ratified by Niger, the Convention against Corruption and the UNSC Resolutions 1373 and 1267.

(b) However, the law does not explain the prioritization, management and monitoring of extradition requests and does not establish timelines for the processing of such requests.

(c) Niger does not impose unreasonable or unduly restrictive conditions on the execution of extradition requests.

**Criterion 39.2.a-b** - Niger does not extradite its nationals (Article 75 of the Ord.2010-86 of 16<sup>th</sup>December 2010). Niger has adopted the “extradite or judge” principle. Where extradition is refused, the case is referred to the competent national courts so that proceedings can be initiated against the accused as soon as possible for the offence that prompted the request (Articles 161 of AML/CFT Law no. 2016-33 of 10/31/2016).

**Criterion 39.3** - Dual criminality is required in Niger for extradition. Article 156 of the AML/CFT Law No. 2016-33 of 10/31/2016, provides that there shall be no exemption from the ordinary law on extradition, particularly the one relating to extradition. In addition to Article 156 of the AML/CFT Law, Articles 649.7 and 649.11 of the Code of Criminal Procedure explicitly establish the principle of dual criminality where there are no extradition treaties and agreements. This principle is based on the criminalization of behavior, regardless of the terminology used by both parties. Thus, once the facts are punished with a criminal penalty by the requesting State, the principle of dual criminality is not required. For extradition, dual criminality is only required where the facts are punishable by correctional sanctions ranging from two years to more by the law of the requesting State. In conclusion, under no circumstance may extradition be granted by the State of Niger if the fact by the law of the requesting State, is not liable to a criminal or correctional penalty, as is apparent from the Article 649 paragraph 11 of the CCP.

**Criterion 39.4:** - Although the law outlines simplified procedures under Article 157 of the AML/CFT Law No. 2016-33 of 10/31/2016, there is apparently nothing to show that these procedures differ from normal or conventional extradition procedures. However, Niger's domestic law authorizes the extradition of any person who so consents. There is a common framework governing pre-trial detention among the competent authorities in ECOWAS as well as the surrender of persons on the basis warrants of arrest or trials.

### ***Weighting and Conclusion***

The law does not specifically provide for the prioritization, management and monitoring of extradition requests, and there are no clear processes in place.

**Niger Recommendation 39 is rated Largely Compliant.**

## **Recommendation 40 – Other forms of international cooperation**

In its first MER, Niger was rated Largely Compliant on Recommendation 40. The report noted the lack of information needed to assess the effectiveness of information exchange with foreign counterparts, doubts on the possibility for the FIU to conduct investigations on behalf of its counterparts and the lack of exchanges on money laundering and terrorist financing issues.

### ***General Principles***

**Criterion 40.1** In terms of ML, terrorist financing or related predicate offences, the competent authorities, including the Police, Customs and supervisory authorities are legally

grounded to provide international cooperation.<sup>78</sup> Furthermore, Niger is a signatory to several other agreements<sup>79</sup> with other countries in the area of security and justice and also in the area of financial relations. In all cases, information or intelligence is shared either on request or spontaneously.

**Criterion 40.2.a:** - The competent authorities of Niger carry out, through bilateral and multilateral agreements, a cooperation based, for the most part, on a legal basis resulting from the domestication of certain conventions, notably the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna 1988): Accession on 10<sup>th</sup> November 1992, the UN Convention against Transnational Organized Crime (Palermo 2000): Ratified on 30<sup>th</sup> September 2004, the UN Convention against Corruption (Merida 2005): Accession on 11<sup>th</sup> August 2008 and the Convention for the Suppression of the Financing of Terrorism (New York 1999): Accession in September 2004. Similarly, the provisions of Article 130 et seq. of the AML/CFT Uniform Act and Articles 1, 2, 3 and 4 of the Security and Intelligence Framework Agreement UEMOA Member States allow for broad cooperation.

The FIU provides cooperation on a voluntary basis or upon request to its counterparts on the basis of Article 78 of the Uniform AML/CFT m Act.

The criminal investigation and prosecution authorities cooperate with their counterparts on the basis of the provisions of Articles 649-75 et seq. of the Code of Criminal Procedure and Articles 132 et seq. of the AML/CFT Uniform Act.

The police cooperate with their counterparts on the basis of the INTERPOL conventions that organise the NCBs.

**Criterion 40.2.b:** Niger's legal framework allows the country's competent authorities to use the most effective means to facilitate cooperation. (Art. 78, 131 et seq., 138 et seq. ML law, art 647 et seq. CCP). As Niger's FIU is also a member of the Egmont Group, the Egmont Secure Web platform offers effective means for cooperation. Similarly, through the Interpol NCB, the Niger authorities cooperate with Interpol's Central Bureaus. Finally, a number of official channels are used to cooperate, including diplomatic, judicial and informal.

**Criterion 40.2.c** – Several clear and secure channels, circuits or mechanisms exist to facilitate or enable the transmission and execution of requests through diplomatic, judicial or administrative channels. These include channels such as IOPC-Interpol, Interpol's I-24/7 and Afripol for police and other investigative services, AIRCOP for police and customs at airports, CEN COM for customs, the G5 Sahel Platform for Security Cooperation for all services involved in the fight against terrorism and its financing, Egmont Secure Web for the FIU. Prosecuting authorities use the diplomatic channel and the informal channels of WACAP and ARNWA to cooperate. All other competent authorities not mentioned by name use diplomatic channels and secure administrative channels to share intelligence with their counterparts.

**Criterion 40.2.d** – Regarding clear procedures for prioritization and execution of requests without delay, apparently Niger has no established prioritization rules/procedures, but rather takes into account the concerns expressed by the Requesting Authority to prioritize the processing of requests received. Article 649.52 of the Code of Criminal Procedure

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<sup>78</sup> Mention the forms of such cooperation

<sup>79</sup> Mention such agreements

incorporates the notion of urgency as an element of priority in the receipt and processing of cooperation requests. Under Article 649.70 of the Code of Criminal Procedure, the request for mutual assistance must be executed as promptly as possible and must take into account, to the extent possible, any time limits suggested and substantiated by the requesting State.

The FIU has a procedures manual that enables it to define the priority for processing the requests received.

**Criterion 40.2.e-** At the level of the FIU, there are clear procedures to protect the information received. The same applies to channels such as OICP-interpol, AIRCOP, CEN COM, Afripol, G5 Sahel Platform for Security Cooperation, WACAP, WCO system.

**Criterion 40.3:** The FIU has the power to negotiate and sign bilateral or multilateral agreements or arrangements with as many foreign counterparts as possible in a timely manner. (Article 78 AML/CFT Uniform Act). On the basis of these provisions, the FIU has joined the EGMONT group and concluded multiple agreements with its counterparts. For investigative authorities such as the police and the Gendarmerie, membership of Interpol is sufficient, and no agreement is necessary. The same is true for the customs department, which is a member of the World Customs Organisation (WCO), and the Tax Department, which is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.)

**Criterion 40.4:** Article 135 of the AML/CFT Uniform Act requires requesting competent authorities to provide timely feedback to the competent authorities from whom they have received mutual assistance by forwarding a copy of any decision taken.

In general, feedback on mutual assistance is provided for under Article 649.70 of the Code of Criminal Procedure.

In accordance with the 19th Egmont Principle, and when the requested country so requests, the FIU of Niger provides feedback on the use and usefulness of the information obtained.

Feedback is effective in Niger when the requested State requests it.

**Criterion 40.5 a** -The legal conditions for refusing to execute a request for mutual legal assistance under Article 140 of the AML/CFT Uniform Act do not provide a ground for refusing to execute a request for mutual assistance for tax offences. According to Article 649.65 of the Code of Criminal Procedure, no mutual assistance may be refused on the sole ground that the offence for which assistance is sought is considered to also involve tax matters.

**Criterion 40.5 b**

Article 140(2) of the AML/CFT Uniform Act provides that no request for mutual assistance may be refused on the grounds of professional secrecy. Under Article 649.65 of the Code of Criminal Procedure, no assistance may be refused on the grounds of bank secrecy.

**Criterion 40.5 c**

Article 140(1)(3) of the AML/CFT Law states that mutual legal assistance may only be refused if "the facts to which it relates are the subject of criminal proceedings or have already been the subject of a final court decision in the national territory". Mutual assistance may be deferred or refused by the competent authority on the grounds that it would impede an ongoing investigation, prosecution or judicial proceedings (Art. 649.68 and 649.69 of the Code of Criminal Procedure).

**Criterion 40.5 d**

Regardless of its nature or status (civil, administrative, judicial, etc.), a request for mutual assistance from a foreign authority will be refused, only if that authority lacks jurisdiction (Article 140 of the AML/CFT Uniform Act).

**Criterion 40.6** – As provided for under Article 78 of the AML/CFT Law, the competent authorities, including the FIU, put in place control and protective measures that are supposed to ensure the information exchanged is utilized for the purposes for which it was intended, sought or provided, unless prior authorization has been granted by the requested authority. The processing of such information takes on board the respect and protection of privacy and fundamental freedoms of people, in accordance with the extant rules. Under Article 649.63 of the Code of Criminal Procedure, the requesting State will not communicate or use information or evidence provided by the State of Niger for investigations, prosecutions or judicial proceedings other than those referred to in the request for assistance without its prior consent. Articles 65, 66 and 141 of the AML/CFT Uniform Act require all competent authorities to put in place controls and safeguards to ensure that information shared is used only for the purposes and by the authorities for which the information was requested or provided, unless prior authorisation has been granted by the requested competent authority.

**Criterion 40.7:** -Generally, sensitive and protected information regularly exchanged among the competent authorities is protected at several levels: firstly, it is filed through diplomatic, judicial and/or administrative channels in full compliance with the principle of confidentiality. Then, it is exchanged through secure systems of Interpol, Customs and channels belonging to other organizations. Article 649.54 provides that the judicial authority may notify the applicant that information concerning the application and its execution may not be disclosed. Articles 65, 66, 82 and 141 provide for the protection of information with the necessary confidentiality. For financial intelligence agencies including the FIU, information is exchanged through the Egmont Secure Web system. Art. 78 of the AML law provides that information shall be exchanged where it is subject to equivalent confidentiality obligations. Besides, the Banking Act strictly regulates the exchange of information among the supervisory authorities. It is obvious that the competent authority should be in a position to refuse to provide information if the requesting competent authority cannot protect that information effectively.

**Criterion 40.8:**

*Exchange of Information between FIUs* - The competent authorities in Niger are capable of conducting investigations on behalf of foreign counterparts and sharing the findings of their investigations provided requests are channelled domestically. The provisions of articles 76 and 78 of the AML/CFT law, the Anti-corruption laws and the Code of Criminal Procedure provide for due diligence measures and sharing of information gathered. The Security and intelligence cooperation framework agreement between UEMOA Member States (Articles 1, 2, 3, 4) can also serve as a basis for information and intelligence sharing.

**Criterion 40.9**

The AML/CFT law allows the Niger FIU to share information with foreign FIUs (Art. 78). Pursuant to the principles of the Egmont Group, the FIU may also share information on the basis of the rules outlined in the Memoranda of Understanding, regardless of the nature of the requesting FIU.

**Criterion 40.10:**



Pursuant to Article 76 and 78 of the AML/CFT Law, the FIU provides feedback to its counterparts, spontaneously or on request, on the use of the information previously provided and the findings of the analyses carried out based on this information. This feedback is provided through the Egmont Secure Web system. The FIU presented evidence of this practice of actually providing feedback.

**Criterion 40.11.a, b**

a) The FIU may exchange all information accessed or obtained directly or indirectly by the Unit under Recommendation 29 (articles 76 and 78 of the Uniform AML/CFT Act).

b) Similarly, the FIU may exchange all the information it is empowered to access or deliver, directly or indirectly, at domestic level, subject to compliance with the principle of reciprocity. (Articles 76 and 78 of the AML/CFT Uniform Act).

*Exchange of information between financial supervisors<sup>80</sup>*

**Criterion 40.12:** Articles 86(2) (point 8) and 89(3) of the AML/CFT Uniform Act provide for and organise the cooperation among financial sector supervisory authorities and their foreign counterparts in accordance with applicable international supervisory standards, particularly regarding the sharing of supervisory information for AML/CFT purposes.

Pursuant to the Basel Committee Core Principles and under the provisions of Article 42 of the Appendix to the Convention Governing the Banking Commission, the Banking Commission may transmit information on credit institutions, subject to UMOA banking regulations, to the supervisory authorities of similar institutions in other countries, subject to reciprocity and provided these authorities are themselves bound by professional secrecy. These exchanges relate particularly to information on supervision for AML/CFT or related purposes. In this regard, the Commission may conclude any cooperation agreement with other supervisory authorities of credit institutions, insurance companies, social security institutions and capital markets. Similar provisions do exist for the insurance supervisory authorities (Article 17, Functions of the CRCA).

**Criterion 40.13** Under the provisions of Article 86.8 of the AML/CFT Law, the supervisory authorities of the financial sector, particularly the banking, insurance and securities sector may exchange with their foreign counterparts, any information they hold at domestic level, particularly the one held by financial institutions, to meet their respective needs.

**Criterion 40.14:**

Pursuant to above-mentioned provisions and the Recommendations of the Basel Committee for the Organization of Colleges of Supervisors, the supervisory authorities of the banking and insurance sector do exchange, within the framework of AML/CFT, particularly with other supervisors concerned sharing a common responsibility vis-à-vis the financial institutions operating within the same group:

a) Regulatory information, such as information on national regulations and general information on the financial sectors (Articles 86(2) (point 8) and 89(3) of the AML/CFT Uniform Act.

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<sup>80</sup> Refers to the financial sector supervisory authorities who are competent authorities and does not include financial sector supervisory authorities who are self-regulatory bodies.

b) Prudential information, particularly on the activities of financial institutions, their beneficial owners, their management and their powers and reputation; Article 86(2) (point 8) of the AML/CFT Uniform Act.

c) Information on AML/CFT, such as information on financial institutions' internal AML/CFT procedures and policies, customer due diligence, customer records, samples of accounts and transactions. Article 86(2)(8) of the AML/CFT Uniform Act.

**Criterion 40.15** - Articles 86 (6) and (8) 89 of the AML/CFT Uniform Act allow supervisory authorities to provide prompt and effective cooperation, including through information sharing, to their foreign counterparts.

In accordance with the provisions of Article 61 of the Annex to the Convention governing the UMOA Banking Commission, the latter may conclude cooperation agreements with any competent authority in matters of supervision and resolution. The Banking Commission may constitute, with other supervisory authorities, a college of supervisors for each financial holding company and parent credit institution with significant international activity. The Banking Commission may also participate, as host supervisor, in the college of supervisors of foreign groups, upon invitation by the home supervisor. Pursuant to the provisions of Article 42 of the Convention governing the UMOA Banking Commission, the provisions of the Memoranda of Understanding for the exchange of information and organization of joint inspection missions, the UMOA Banking Commission may seek information on behalf of their foreign counterparts and those counterparts may do the same in their country.

It should be noted that the above provisions do not explicitly provide for the possibility for other financial sector supervisory authorities to seek information on behalf of their foreign counterparts and, where appropriate, to authorise them to visit the country to seek information themselves.

#### **Criterion 40.16**

Under the provisions of Article 42 of the Convention governing the UMOA Banking Commission and the provisions of the Memoranda of Understanding for the exchange of information, the UMOA Banking Commission and its counterparts shall ensure that they have reciprocal prior approval for any dissemination of the information exchanged or any use of such information for supervision or other purposes, unless the supervisory authority of the requesting financial sector is legally required by law to disclose or disseminate such information. In this case, the requesting supervisory authority shall promptly inform the requested authority of this obligation. However, Niger has not demonstrated that similar provisions are being implemented by the other supervisory authorities.

#### ***Exchange of Informations among Law Enforcement Authorities***

**Criterion 40.17:** Law enforcement authorities are authorized to exchange information on money laundering, terrorist financing and even predicate offences with their foreign counterparts during investigations or for information purposes (Article 142, AML/CFT Law)

**Criterion 40.18:** Pursuant to Article 142 of the above-mentioned law, the law enforcement authorities with general and/or specific powers, do conduct investigations in order to obtain information on behalf of their foreign counterparts.

#### **Criterion 40.19:**

Article 142(3) of the AML/CFT Uniform Act grants competent authorities the power to form joint investigation teams to conduct investigations in a cooperative manner and, where necessary, to establish bilateral or multilateral agreements to authorise such joint investigations.

Under Article 649.77 of the Code of Criminal Procedure, the State of Niger may enter into bilateral or multilateral agreements or undertakings to conduct joint investigations. In the absence of such agreements or undertakings, the possibility of conducting joint investigations may be decided on a case-by-case basis.

***Exchange of information between non-counterparts***

The law enforcement authorities are authorized to establish joint investigation teams to conduct investigations into all types of criminal offences (Art. 142). Apparently, the AML/CFT Law does not require any prior approval.

**Criterion 40.20**

Articles 75 and 78 of Niger's AML/CFT Law jointly provide for information to be exchanged indirectly with non-counterpart competent authorities. To achieve this, the FIU plays the role of intermediary to ensure the confidentiality and security of the said information at the time of dissemination.

***Weighting and Conclusion***

Niger's system has a few minor outstanding gaps. Not all competent authorities have a procedures manual for prioritising the processing of incoming requests for cooperation. Those that do not have one simply apply the provisions of Article 649.70 of the Code of Criminal Procedure, which enable the relevant authorities to prioritize. Niger's legal provisions on the procedures for information exchange and the organization of joint inspection missions do not concern supervisory authorities other than the Banking Commission. In essence this gap is addressed through de facto collaboration.

**Recommendation 40 is rated Largely Compliant (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	LC	<ul style="list-style-type: none"> <li>• Data and information used are not comprehensive.</li> <li>• Low reliability of some data and information.</li> <li>○ Non-implementation of the requirements related to the implementation of an approach based on the risks identified in the NRA, in terms of the supervision of FIs and DNFBPs as well as the allocation of resources for the implementation of the NRA Action Plan.</li> <li>• The provisions contained in the CIMA Regulation n ° 0004 of 4<sup>th</sup> October 2008 do not cover the requirements of criterion 1.10a</li> </ul>
2. National cooperation and coordination	C	<ul style="list-style-type: none"> <li>•</li> </ul>
3. Money laundering offences	C	<ul style="list-style-type: none"> <li>•</li> </ul>
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>• Niger's legal framework only provides for the confiscation of instrumentalities used or intended to be used in the commission of certain predicate offences.</li> </ul>
5. Terrorist financing offence	C	<ul style="list-style-type: none"> <li>•</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	LC	<ul style="list-style-type: none"> <li>• It is not specified whether Niger's designating State status can be made public;</li> <li>• Reporting by FIs and DNFBPs of attempted operations by persons and entities targeted by the TFS is not explicitly provided for,</li> <li>• The measures to be taken by the reporting entities, in the event of a thawed-freeze and forfeiture, are not specified.</li> <li>•</li> </ul>
7. Targeted financial sanctions related to proliferation	LC	<ul style="list-style-type: none"> <li>• Lack of guidelines designed for FIs and DNFBPs to guide them in the implementation of their targeted financial sanctions obligations.</li> <li>• The extant Law 2016-33 is silent on the requirements for exemption set by Resolution 2231.</li> </ul>
8. Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• Niger has not conducted any specific study of the NPO sector to better understand the categories of NPOs that pose TF risks.</li> <li>• The nature of the threats posed by terrorist entities on NPOs at-risk is not clearly identified.</li> <li>• The supervisory authority of the NPO sector has jurisdictions and powers of sanctions in the area of AML/CFT but does not carry out any inspection based on the specific assessment of the ML/TF risks resulting from any study of the NPO sector.</li> <li>• Lack of appropriate procedures and a designated focal point empowered to respond to any international request in the event any NPO is suspected of TF.</li> </ul>
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> <li>•</li> </ul>
10. Customer due diligence	PC	<ul style="list-style-type: none"> <li>• Law 2016-33 does not impose any strict obligation on the insurer to identify the insured where he/she is different from the subscriber.</li> <li>• Law 2016-33 does not require insurers to consider the life insurance policy as a relevant risk factor to be taken on board when carrying out enhanced due diligence.</li> <li>• Lack of provision that requires FIs to file an STR where they suspect a ML/TF case and believe that by carrying out CDD measures, the customer might be informed.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>Lack of risk management procedures that FIs must implement under the conditions where a customer benefits from the business relationship before any verification is done.</li> </ul>
11. Record keeping	LC	<ul style="list-style-type: none"> <li>Law 2016-33 does not explicitly mention the requirement that all records relating to transactions should be sufficient to allow reconstitution in order to establish evidence, during prosecutions relating to any criminal activity.</li> </ul>
12. Politically exposed persons	PC	<ul style="list-style-type: none"> <li>There is no legal provision in Niger that requires FIs to apply criteria 12.1 and 12.2 to family members of domestic PEPs and those of international organizations.</li> <li>No provision requires insurance companies to determine, at the time of payment of benefits, whether the beneficiary of the contract and/or the beneficial owner is a PEP</li> </ul>
13. Correspondent banking	LC	<ul style="list-style-type: none"> <li>No legal provision explicitly requires that the FI and correspondent bank should clearly understand the respective responsibilities of each institution in relation to AML/CFT.</li> <li>There is no explicit requirement for FIs to gather information on whether the relevant FI has been subjected to any AML/CFT investigation or regulatory action</li> </ul>
14. Money or value transfer services	PC	<ul style="list-style-type: none"> <li>Sub-agents of money transfer services are neither licensed nor registered by the competent authority. They supply the VASPs on the basis of a contract signed with approved intermediaries and DFS, under their supervision;</li> <li>The Law does not explicitly require authorized intermediaries and MFIs to monitor the AML/CFT programs of their sub-agents, but the latter themselves being subject to anti-money laundering and counter financing of terrorism regulations, are being supervised accordingly by the competent authorities.</li> </ul>
15. New technologies	NC	<ul style="list-style-type: none"> <li>The risks that may result from the use of a new technology, or a new business practice and those that may result from activities related to VASPs have not been assessed.</li> <li>Supervisory authorities are not empowered to carry out/mete out AML/CFT-related inspections and sanctions on VASPs</li> <li>The texts do not provide for specific sanctions applicable to VASPs for non-compliance with their AML/CFT obligations.</li> </ul>
16. Wire transfers	PC	<ul style="list-style-type: none"> <li>The regulations do not require the FI of the originator to convey the information accompanying the transfer to the FI of the beneficiary or to the prosecutorial authorities within 3 working days upon receipt, on their request.</li> <li>The AML/CFT law does not cover the requirements of c.16.8 (Principal FI) and those of criteria c.16.11 ; c.16.12 and c.16.13 (Case of incomplete information from the beneficiary)</li> <li>MVTS service providers (FIs, DFS authorized as sub-agents) are not required to file any STR to the FIUs of all the countries involved in the transaction.</li> </ul>
17. Reliance on third parties	LC	<ul style="list-style-type: none"> <li>The law does not explicitly state that countries which use third parties must take into account the information available on the country's risk level.</li> </ul>
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> <li>No obligation for the compliance, audit and AML/CFT functions of the Group to share information on due diligence and AML/CFT data with the group's financial institutions, although the reverse is expected (FIs to the headquarters of the Group)</li> <li>The AML/CFT law does not specify the details that are required in the protective measures provided for.</li> </ul>
19. Higher-risk countries	NC	<ul style="list-style-type: none"> <li>Lack of specific provision obliging the country to apply countermeasures proportionate to the risks, when requested by the FATF.</li> <li>Lack of texts establishing the obligation to provide measures to advise FIs on the deficiencies of other AML/CFT regimes.</li> </ul>
20. Reporting of suspicious transaction	PC	<ul style="list-style-type: none"> <li>Niger has provided for the obligation for FIs to report suspicious transactions without delay, but the legal instrument used (a Decree) is inadequate, according to the provisions provided for by the FATF (Cf. Note on the legal basis obligations of FIs, DNFBPs and VASPs in the Methodology)</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
21. Tipping-off and confidentiality	C	•
22. DNFBBPs: Customer due diligence	PC	• Although Niger's AML/CFT law provides that all due diligence obligations are incumbent on DNFBBPs, it only mentions FIs for specific obligations relating to record keeping, PEPs, new technologies and the use of third parties.
23. DNFBBPs: Other measures	PC	• DNFBBPs are not required to comply with the obligations relating to internal control as stipulated in R. 18 and there is no obligation to apply countermeasures proportional to the risks at the request of the FATF, as provided for in Recommendation 19. Besides, the AML/CFT does not require DNFBBPs to file suspicious transactions without delay, even though the obligation to report attempted of suspicious transactions is further provided for in the Order No. 2020-01 of 27 <sup>th</sup> January, 2020.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> <li>• Niger has not assessed the ML/TF risks associated with all types of legal person. The OHADA texts on such companies do not require the mention beneficial ownership in the RCCM.</li> <li>• No defined mechanism is in place to ensure that the companies cooperate with the competent authorities to determine beneficial ownership.</li> <li>• There are no provisions to monitor the assistance provided on basic information.</li> <li>• The collection and sanction mechanism designed to address the failure to provide up-to-date basic information on legal persons, in terms of nominee shareholders and directors, does not exist.</li> <li>• There are no criminal sanctions for failure to provide basic and beneficial ownership information.</li> <li>• Similarly, no provision has been made for criminal sanction for failure to update basic and beneficial ownership information.</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	PC	• Professional trust services are not required to obtain and maintain information on the settlor, beneficiaries and any other person exercising effective control over a trust, so there is no obligation to keep this information up to date and accurate. Besides, they are not required to declare their status to FIs/DNFBBPs.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> <li>• Regulation and supervision in terms of licensing or approval are better developed for banks and financial institutions and insurance, but the same is not the case for other financial institutions.</li> <li>• Although the reforms of the current regulatory system do incorporate the risk-based approach in general and ML/TF in particular, the extant regulatory texts in Niger do not provide that controls should be carried out on the basis of the existing risks in the country.</li> </ul>
27. Powers of supervisors	C	•
28. Regulation and supervision of DNFBBPs	PC	<ul style="list-style-type: none"> <li>• No provision explicitly specifies the measures to be taken to prevent criminals or their accomplices from owning or becoming beneficial owners of a significant stake in or control of a casino.</li> <li>• Although the texts provide for the requirements and licensing authorities for casinos and other DNFBBPs as well as their AML/CFT supervisory authorities, there is no provision for risk-based supervision of DNFBBPs, which is fundamental for appropriate supervision in AML/CFT.</li> </ul>
29. Financial intelligence units	LC	<ul style="list-style-type: none"> <li>• The law does not explicitly specify that the dissemination of the Unit's information should be done through dedicated, secure and protected channels.</li> <li>• Although it is part of the national budget, the FIU does not have an autonomous management of its budget and may encounter constraints in mobilizing funds in time, in order to carry out its activities.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	C	•
31. Powers of law enforcement and investigative authorities	C	•
32. Cash couriers	LC	• Declarations are only required when entering and leaving the UEMOA territory. The circulation of cash and BNIs in CFA is completely free for travellers between member countries of the Union.

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>The coordination mechanism between customs, immigration police and other administrations on issues relating to the physical transportation of cash and BNIs has not been specifically established.</li> </ul>
33. Statistics	LC	<ul style="list-style-type: none"> <li>The statistics are not sufficiently consolidated</li> </ul>
34. Guidance and feedback	C	<ul style="list-style-type: none"> <li></li> </ul>
35. Sanctions	LC	<ul style="list-style-type: none"> <li>The specific texts regulating certain DNFBBPs do not provide for sanctions applicable in the area of AML/CFT by their newly designated supervisory authorities.</li> </ul>
36. International instruments	C	<ul style="list-style-type: none"> <li></li> </ul>
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> <li>Niger has not established any process for the prioritization and rapid execution of mutual legal assistance requests to ensure effective management of requests.</li> <li>There is also no explicit provision preventing Niger from making dual criminality a requirement for the provision of assistance, where the request does not involve any coercive action.</li> </ul>
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> <li>Lack of a mechanism for coordinating seizure and confiscation actions carried out in concert with other countries.</li> </ul>
39. Extradition	LC	<ul style="list-style-type: none"> <li>The law does not specifically indicate the prioritization, management and follow-up of extradition requests, and there are no clear processes in place.</li> </ul>
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> <li>Not all the competent authorities have a manual of procedures that make for prioritization in the processing of cooperation requests received. Those that do not have any simply apply the provisions of Article 649.70 of the Code of Criminal Procedure.</li> <li>Niger's legal provisions on the modalities for the exchange of information and organization of joint inspection missions are yet to be incorporated for the supervisory authorities, other than the Banking Commission.</li> </ul>

## *Glossary of Acronyms*

	DEFINITION
AEPP	LEAs
ANLTP	National Agency against Human Trafficking
APBEF	Professional Association of Bankers and Financial Institutions
ML	Money Laundering
ML/TF	Money Laundering and Terrorist Financing
BCEAO	Central Bank of West African States
BCN	National Central Office
BIS	Specialized Investigation Brigade
BRVM	Regional Stock Exchange
C	Compliant
CARPA	Lawyers Financial Settlement Fund
CB	Bank Commission
CCS/DFS	Decentralized Financial Systems Supervision and Monitoring Unit
CDD	Customer Due Diligence
FIU	Financial Intelligence Unit
CIMA	Inter-African Conference on Insurance Markets
CNCA-LBC/FT	National Committee Coordinating Anti-money Laundering and Counter Terrorist Financing Activities
CNCCP	National Criminal Chain Coordinating Committee
CNC/LT/FT/FEV/CTO	National Coordinating Committee against Terrorism, Terrorism Financing, the Financing of Violent Extremism and Transnational Organized Crime
CNCLTP	National Coordinating Committee against Human Trafficking
CNEPCJ	National Unit for Mutual Legal Assistance and Judicial Cooperation
CCP	Code of Criminal Procedure
CRCA	Regional Insurance Supervisory Commission
CREPMF	Regional Council for Public Savings and Capital Markets
CRF	Financial Intelligence Unit
CTCGA	Technical Advisory Committee on Administrative Freezing
DAR	Religious Affairs Department
DCA	Insurance Supervision Department
DGAT	Territorial Administration Department
DGD	Customs Department
DGDSE	Documentation and External Supervision Department
DLP	Public Liberties Department
DNAJS	Law Officers' Department
CTR	Cash Transaction Report
DONGAD	Department of Non-Governmental Organizations and Development Associations
STR	Suspicious Transaction Report
EMI	Electronic Money Issuer
NRA	National Risk Assessment
DNFBP	Designated Non-Financial Businesses and Professions
EUR	Euro



CFAF	African Franc Financial Community
FICOB	Centralized Bank Accounting System
TF	Terrorism Financing
PF	Proliferation Financing
FATF	Financial Action Task Force
IEG	Economic Interest Group
HALCIA	High Authority against Corruption and Related Offences
FI	Financial Institution
BNI	Bearer Negotiable Instrument
KYC	Know Your Customer
AML/CFT	Anti-money Laundering and Counter financing of Terrorism
LC	Largely Compliant
MAECI	Ministry of Foreign Affairs, International Cooperation, African Integration and States in the Diaspora
MoU	Memorandum of Understanding
MJ	Ministry of Justice
N / A	Not Applicable
NC	Non-Compliant
SRBs	Self-regulatory Bodies
NPO	Nonprofit Organization
OECD	Organization for Economic Cooperation and Development
OCTRIS	Central Office Against Illicit Drug Trafficking
OHADA	Organization for the Harmonization of African Business Law in Africa
MDG	World Customs Organization
NGO	Non-Governmental Organization
UN	United Nations
OPJ	CID
PC	Partially Compliant
PEP	Politically Exposed Person
PJS	Specialized Legal Division
PJSEF	Legal Division Specialized in Economic and Financial Issues
PJSTCTO	Legal Division Specialized in Terrorism and Transnational Organized Crime
MEQ	Mutual Evaluation Questionnaire
R.	Recommendation
RCCM	Business and Property Registry
UNSCR	United Nations Security Council Resolution
MER	Mutual Evaluation Report
IO	Immediate Outcome
SA	Public Liability Company
SARL	Limited Liability Company
SCLTCTO	Central Service Against Terrorism and Transnational Organized Crime
SCS	Limited Partnership
TFS	Targeted Financial Sanctions
DFS	Decentralized Financial System
SGI	Management and Intermediation Company
SIJ/GN	National Gendarmerie Judicial Investigation Agency
SNEC-UMOA	UMOA Credit Institutions Rating System
MVTS	Money and Value Transfer System
UMOA	West African Monetary Union
UEMOA	West African Economic and Monetary Union
USD	United States Dollar
WMD	Weapons of Mass of Mass Destruction

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