



MUTUAL EVALUATION
REPORT OF THE
REPUBLIC OF
NICARAGUA

October 2017





MUTUAL EVALUATION REPORT OF THE REPUBLIC OF NICARAGUA

CONTENTS

EXECUTIVE SUMMARY6
Key findings.....6
Risk and general situation.....7
General effectiveness and technical compliance level.....7
Priority actions.....9
Effectiveness and technical compliance ratings.....11
MUTUAL EVALUATION REPORT.....13
Introduction.....13
CHAPTER 1. ML/TF RISK AND CONTEXT14
ML/TF Risks and scope of higher-risk problems14
Materiality.....17
Structural elements.....19
Background and other contextual factors.....20
CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION.....29
Key findings and recommended actions29
Immediate Outcome 1 (risk, policy and coordination)29
CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES39
Key findings and recommended actions39
Immediate Outcome 6 (ML/TF financial intelligence).....45
Immediate Outcome 7 (ML investigation and prosecution)57
Immediate Outcome 8 (confiscation).....65
CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION.....71
Key findings and recommended actions71
Immediate Outcome 9 (TF investigation and prosecution).....72
Immediate Outcome 10 (TF preventive measures and financial sanctions)74
Immediate Outcome 11 (FP financial sanctions).....77
CHAPTER 5. PREVENTIVE MEASURES78
Key findings and recommended actions78
Immediate Outcome 4 (preventive measures)78
CHAPTER 6. SUPERVISION86
Key findings and recommended actions86
Immediate Outcome 3 (monitoring)86
CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS93
Key findings and recommended actions93
Immediate Outcome 5 (legal persons and arrangements).....93
CHAPTER 8. INTERNATIONAL COOPERATION.....96

Key findings and recommended actions	96
Immediate Outcome 2 (international cooperation)	96
TECHNICAL COMPLIANCE ANNEX.....	103
Recommendation 1 – Assessing risks and applying a risk-based approach	103
Recommendation 2 - National Cooperation and Coordination.....	105
Recommendation 3 - Money laundering offense	106
Recommendation 4 - Confiscation and provisional measures	109
Recommendation 5 - Terrorist financing offense	110
Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing	112
Recommendation 7 - Targeted financial sanctions related to proliferation	115
Recommendation 8 - Non-profit organizations	115
PREVENTIVE MEASURES.....	117
Recommendation 9 - Financial institution secrecy laws.....	117
Recommendation 10 - Customer due diligence	118
Recommendation 11 - Record-keeping.....	123
Recommendation 12 - Politically exposed persons	124
Recommendation 13 - Correspondent banking.....	126
Recommendation 14 - Money or value transfer services.....	126
Recommendation 15 – New technologies.....	127
Recommendation 16 – Wire transfers.....	128
Recommendation 17 – Reliance on third parties	130
Recommendation 18 - Internal controls and foreign branches and subsidiaries.....	131
Recommendation 19 - Higher-risk countries	133
Recommendation 20 - Reporting of suspicious transaction.....	134
Recommendation 21 - Tipping-off and confidentiality	134
Recommendation 22 - DNFBPs: Customer due diligence.....	134
Recommendation 23 - DNFBPs: Other measures.....	136
Recommendation 24 - Transparency and beneficial ownership of legal persons.....	155
Recommendation 25 - Transparency and beneficial ownership of legal arrangements.....	159
Recommendation 26 – Regulation and supervision of financial institutions.....	161
Recommendation 27 - Powers of supervisors.....	165
Recommendation 28 – Regulation and supervision of DNFBPs.....	166
Recommendation 29 - Financial intelligence units.....	145
Recommendation 30 - Responsibilities of law enforcement and investigative authorities.....	148
Recommendation 31 - Powers of law enforcement and investigative authorities	149
Recommendation 32 – Cash couriers.....	150
Recommendation 33 – Statistics	152
Recommendation 34 – Guidance and feedback.....	153
Recommendation 35 – Sanctions	153
Recommendation 36 – International instruments	154
Recommendation 37 – Mutual legal assistance	155
Recommendation 38 - Mutual legal assistance: freezing and confiscation	156
Recommendation 39 – Extradition	157
Recommendation 40 -Other forms of international cooperation	158
Summary of Technical Compliance – Key Deficiencies	163

ACRONYMS AND ABBREVIATIONS

AGO	Attorney General's Office
AML/CTF	Anti-Money Laundering/Combating Terrorism Financing
ASOMIF	Nicaraguan Association of Microfinance Institutions
CAUCA	Central American Uniform Custom Code
CBN	Central Bank of Nicaragua
CCPN	Nicaraguan Public Accountants' Association
CDD	Customer Due Diligence
CFP	Combating the Financing of Proliferation
CIP	Customer Integral Profile
CNCCO	National Council Against Organized Crime
CONAMI	National Microfinance Commission
CTR	Cash Transactions Report(s)
DAJ	Division of Assistance in Judicial matters
DEI	Division of Economic Investigations
DGA	General Customs Directorate
DGSA	General Customs Service Directorate
DNFBPs	Designated Non-Financial Businesses and Professions
FIs	Financial Institutions
FPWMD	Financing the Proliferation of Weapons of Mass Destruction
FTR	Final Technical Report(s)
IDB	Inter-American Development Bank
IFIMFs	Intermediary Financial Institutions of Microfinance
INC	Nicaraguan Culture Institute
INSS	Nicaraguan Social Security Institute
IRMPS	Integral Risk Management and Prevention System
MEFFCA	Ministry of Family, Cooperative, Community and Associative Economy
MER	Mutual Evaluation Report
MFI	Microfinance Institutions
MHCP	Ministry of Finance and Public Credit
MIGOB	Ministry of Government
MINREX	Ministry of Foreign Relations
ML	Money Laundering
ML/TF NRA	National Risk Assessment ML/TF
MLA	Mutual Legal Assistance
MSTS	Money and Securities Transfer Services
NDSS	National Democratic Security System
NPHD	National Plan on Human Development
NPOs	Non-profit organizations
NSSS	National Sovereign Security System
OIS	Operational Intelligence System
ORS	Online Reporting System
OSR	Other Source Report(s)
PEPs	Politically Exposed Person(s)
NAP	AML/CFT National Action Plan
PML/CFT	Prevention of Money Laundering/Combating Financing of Terrorism
PPO	Public Prosecutor's Office
RAII	Report(s) on Absence of Information of Interest



RBA	Risk-based approach
RDD	Reinforced Due Diligence
RECAUCA	Regulations of the Central American Uniform Custom Code
RO	Sales Report(s)
RS	Reporting Subject
SCJ	Supreme Court of Justice
SIBOIF	Superintendency of Banks and Other Financial Institutions
SR	Sales Report
STR	Suspicious Transactions Report(s)
SUAOCO	Specialized Unit Against Organized Crime Offenses
TC	Technical Compliance
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UABIDA	Administration of Seized, Forfeited and Abandoned Assets
UAF	Financial Analysis Unit
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolutions
WR	Winners Report(s)

EXECUTIVE SUMMARY

1. This report summarizes the measures of Anti-Money Laundering and Combating Financing of Terrorism (AML/CFT) existing in the Republic of Nicaragua, hereinafter Nicaragua, as of the on-site visit made from 9th to 20th January 2017. It analyzes the compliance level with the FATF 40 Recommendations, as well as the effectiveness level of the Nicaraguan AML/CFT system, and it offers recommendations on how the system can be strengthened.

Key findings

Nicaragua has legal and regulatory provisions, as well as an institutional framework allowing combating, at a certain level, Money Laundering (ML) and Terrorist Financing (TF). The current legal framework in force has some deficiencies that limit the general system effectiveness.

Nicaragua has made important efforts to understand its risks and has completed the ML/TF National Risk Assessment (ML/TF NRA), and on that basis, it has developed a National Strategy and a AML/CTF National Action Plan (NAP). The level of awareness and understanding of risks is unequal among the different authorities and reporting subjects (RSs). Within the circumstances that have contributed to the variation in the understanding levels of ML/TF risks, it is found the limited participation of some competent authorities on AML/CFT matters, and of the private sector (RSs and other relevant stakeholders), as well.

The intelligence generated by the Financial Analysis Unit (UAF) is disclosed through Final Technical Reports (FTRs), which have enabled law enforcement authorities to identify unjustified property, assets and resources, and also, initiate investigations on ML. The obligation of submitting Suspicious Transactions Reports (STRs) is not expressly set forth by means of law, as required by FATF Standard; however, regulators have issued secondary regulations allowing RSs to submit STRs.

Authorities have conducted efforts for combating ML related to its main threats: drug-trafficking and organized crime. However, cases related to other threats are not addressed in the same manner. There is no evidence that parallel financial investigations are being conducted. Although personal or real property has been confiscated, among others, it is required to improve the statistics collection process on confiscations of products arising from national and international predicate offenses, and on products located abroad, in order to obtain thorough statistics.

Nicaragua has no background on investigations or processes on TF matters. Deficiencies in the criminalization of this offense affect the effectiveness since, despite having an institutional and operational system, Nicaragua would not be capable of adequately identifying, pursuing and prosecuting conducts which are not set as criminal offenses.

Nicaragua has a legal framework that enables compliance with the targeted financial sanctions (TFS) derived from the United Nations Security Council Resolutions (UNSCR) 1267 and 1373. Although Nicaragua has made efforts in assessing the risks related to NPOs, and has taken some approaching actions towards those falling under the FATF definition, the legal framework applicable to non-profit organizations (NPOs) limits the extent of possible AML/CFT measures. There is no legal framework to give compliance with the UNSCR on financing of proliferation of weapons of mass destruction (FPWMD).

Higher-risk industries from the financial sector fall under the scope of AML/CFT regulations; however, financial leasing companies, factoring companies and some intermediary financial institutions of microfinance (IFIMFs) are still out of the regime. In the case of Designated Non-Financial Businesses and Professions

(DNFBPs), only casinos and gaming venues are RSs pursuant to the Law. Supervisors still do not apply an adequate risk-based approach (RBA) in the monitoring work of Financial Institutions (FIs).

The beneficial ownership information of legal persons and arrangements is not available, in due time and manner, for competent authorities, and there is no warranty that the information is updated and accurate. In this respect, there are no proportional, deterrent and effective sanctions available to apply in infringement cases.

Nicaragua has a legal framework that allows providing mutual legal assistance (MLA), and in fact, it has offered assistance and cooperation to several countries in ML matters and other offenses.

Risk and general situation

2. In accordance with the ML/TF NRA, the main highlighted threats of ML were drug-trafficking and organized crime, unlawful enrichment and bribery, human trafficking, smuggling, tax and customs fraud, and illicit money trafficking. It is necessary to consider the geographical location of Nicaragua in the drug transit route between producer and consumer countries, in the drug transportation to final destination, and in the flow of illicit money resulting from profits. Within the identified vulnerabilities, it is included the conditions to access the formal economy, the intensive use of cash, the use of new methods of payment, and the shortage of human, economic and material resources of RSs, used for ML/TF and FPWMD prevention matters. Among such means that may be used for ML, it is identified gold trading, sale of new and used vehicles, real estate sale (including construction), and electronic money transfer. The proliferation of activities from remittances and currency exchangers, out of the scope of the AML/CFT regime, is a particular worrisome situation.

3. About TF, the ML/TF NRA sets forth that in Nicaragua no person has been identified as supporting terrorism with funds from legal or illegal origin, voluntarily or involuntarily, whether national or foreigner. The Nicaraguan authorities have established that, until the end of 2015, terrorism, TF and FPWMD remained as exogenous threats of global extent; however, prevention and combating policies, as well as supporting policies to international efforts made on the matter, must continue being implemented.

4. Regardless of the identified vulnerabilities, the ML/TF NRA indicates that Nicaragua has strengths that place it as one of the region's safest countries, for example, through the Containing Wall strategy, it has brought improvements in the prevention, combat and criminal prosecution of drug-trafficking and organized crime. Another strength is the effective cohesion between institutions and the society at large.

General effectiveness and technical compliance level

5. The technical compliance with the FATF Recommendations deserves improvements in some significant aspects. Within the main deficiencies, it can be found the following: The TF criminalization is not in line with the requirements of the FATF Standard; there are FIs and DNFBPs outside the AML/CFT regime; there is no legal provision of direct compulsory obligation compelling RSs to submit STRs, and there are no obligations allowing access to the beneficial ownership information of legal persons and legal arrangements. On the other hand, Nicaragua has made considerable efforts to reach acceptable effectiveness levels in the

AML/CFT regime. Despite this, greater adjustments are still necessary in the legislation which directly impact on the system capacity to prevent, identify and combat ML/TF, and prevent the FPWMD.

Risk assessment, coordination and application of policies (Chapter 2 – IO) 1; R. 1, R. 2, R. 33)

6. Nicaragua has made efforts in the identification and assessment of ML/TF risks, as from the ML/TF NRA and the TF assessment. The level of awareness and understanding of ML risks is different than that of TF risks, and these differences extend to the awareness and understanding of risks between authorities and RSs, in part due to the lack of participation of some sectors, which limited the extent of the ML/TF NRA. In the specific matter on ML/TF prevention, as a result of the ML/TF NRA, Nicaragua has outlined the AML/CFT National Strategy, and as an expression thereof, it has drafted the AML/CFT NAP, in which strategic lines were set out, aimed at addressing the identified ML/TF risks.

Financial intelligence, money laundering and confiscation (Chapter 3 - IO. 6-8; R. 3, R. 4, R. 29-32)

7. The financial intelligence generated by the UAF is disclosed through FTRs to law enforcement authorities, which has enabled them to identify property, assets and resources from illegal origin, and also, initiate investigations by the National Police (NP), aimed at producing reports for the Public Prosecutor's Office (PPO). However, it is not common practice to make requirements for investigations not related to a FTR.

8. The Nicaraguan legal system establishes legal and inter-institutional coordination tools that enable law enforcement authorities, within the scope of their jurisdictions, to initiate investigations on ML.

9. The Nicaraguan legal system has provisions allowing the PPO and the NP to identify and trace property or assets subject to confiscation. The authorities from Nicaragua have confiscated personal and real property, such as houses, hotels, properties in coastal zones, rural properties, lands and farms, as well as vehicles, buses, among others.

Terrorist financing and financing of proliferation (Chapter 4- IO. 9-11; R. 5-8)

10. Nicaragua has not prosecuted any TF case. The criminalization of the TF offense has deficiencies affecting the capability of authorities to identify, investigate, prosecute and punish this offense, and also affecting the adequate understanding of risks.

11. Nicaragua has a legal framework allowing compliance with the UNSCR 1267 and 1373, and successive provisions. The Nicaraguan authorities and the RSs demonstrate an adequate understanding of the obligations relating to the implementation of TFS. Nicaragua has conducted an assessment of the NPO's sector, identifying those falling under the FATF definition; however, the applicable legal framework must provide AML/CFT obligations. There is no regulation on TFS matters applicable to FPWMD.

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

12. The RSs from the financial sector, in general, are aware of the nature and risk level of ML/TF specific of each of their sectors; therefore, they have policies and procedures for their mitigation. Notwithstanding the foregoing, there are differences between RSs in the development of ML/TF preventive measures, due to the awareness and understanding differentiated from the AML/CFT regulations and risks. Hence, banks and FIs are more advanced in these efforts. It is necessary that the law expressly and directly establishes the requirement of the STRs submission. The large size of the country's informal sector makes it difficult the CDD made by FIs and DNFBPs.

13. Not all DNFBPs' categories form part of the AML/CFT Nicaraguan system. In fact, only casinos and gaming venues are RSs, as prescribed by law. The abovementioned results in the lack of application of AML/CFT obligations and in the lack of the risk awareness by these activities and professions.

14. In TF matters, it can be noted that the RSs do not understand the risks they are exposed to, since because there are no terrorist events, they do not consider there is exposition to TF in the country.

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

15. Financial supervisors have focused in overseeing formal compliance with the ML/TF preventive measures; however, it is necessary to apply an RBA. The UAF oversees financial sectors and DNFBPs (casinos), but some FIs and DNFBPs are outside the AML/CFT system. It is not possible to adequately oversee compliance with the STRs submission, since this obligation is not expressly and directly prescribed by law. The abovementioned prevents the eventual application of fines in proportion to the seriousness of the infringement, and this weakens the system effectiveness.

16. Supervisors do not use monetary sanctions or fines as a mechanism to achieve an adequate compliance level of the obligations set forth in the AML/CFT regulations; this weakens the authorities' position against a low compliance level, under the scope of detection and reporting of suspicious transactions. Monitoring authorities on AML/CFT matters have scarce resources to achieve an efficient oversight.

Transparency of legal persons and arrangements (Chapter 7 - IO. 5; R. 24-25)

17. In Nicaragua, there is an important advancement towards the creation of legal persons and arrangements for the development of economic activities. Even when the authorities from Nicaragua understand that legal persons and arrangements may be misused for ML/TF purposes, the risks from the different types of companies have not been assessed, with the aim of enabling authorities to direct their resources and set out policies with an RBA, so that it may be possible to establish measures for preventing and avoiding that legal persons and trusts (*fideicomisos*) are misused for ML/TF purposes. Basic information on some types of companies is not available to the public and it is not guaranteed that this is accurate and updated; in this manner, there is not warranty that the information is timely available for competent authorities.

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

18. Nicaragua provides international cooperation based on international treaties and bilateral agreements it has signed, and based on the reciprocity principle. The AGO is the central authority to process the MLA requests. Likewise, it provides assistance and cooperation through the UAF and the NP. There are deficiencies in the criminalization of the TF offense and in obtaining beneficial ownership information, although no questions have arisen to provide MLA or cooperate in extradition matters. Nicaragua could be more proactive in ML complex investigations with transnational character, and with the objective of identifying and tracing assets with confiscation and repatriation purposes.

Priority actions

- 1.- In the ML/TF NRA follow-up and updating process, Nicaragua must incorporate: a) all involved sectors (public and private) on AML/CFT matters; b) use of quantitative information, and in particular, information from regulators and supervisors on RSs; c) vulnerability analysis to specific ML/TF of

- relevant sectors, and d) analysis on how informality and financial exclusion levels affect in the global ML/TF risk assessment.
- 2.- Nicaragua needs to: a) communicate the outcomes of the ML/TF NRA and the AML/CFT National Strategy to competent authorities and to the relevant private sector, and b) coordinate among competent authorities, in order to implement the actions and objectives established in the National Strategy and AML/CFT NAP, as well as in the specific Strategy of CFT, derived from identified ML/TF risks.
 - 3.- Include, by means of law, as RSs, the industries from the financial sector which are excluded. Likewise, all DNFBPs must be included, by means of law, to the AML/CFT regime.
 - 4.- Nicaragua requires a legal and institutional framework for the regulation, monitoring, oversight and sanction of the DNFBPs and NPOs.
 - 5.- Remedy deficiencies in the criminalization of the TF offense.
 - 6.- Prescribe by law, the express and direct obligation for RSs to submit STRs.
 - 7.- The ML/TF NRA outcomes must be reflected in the policies adopted on AML/CFT matters. They must also be reflected in the application of an RBA by monitoring authorities.
 - 8.- The UAF should have the necessary human and material resources to develop its functions and strengthen its analysis capabilities, including the production of strategic studies, alerts identification and updated typologies from new sectors.
 - 9.- Nicaragua must adapt its regulations towards securing that law enforcement authorities do not have limitations to access the financial information they need to properly develop their functions in combating ML and TF.
 - 10.- Law enforcement authorities should not limit to the reception of FTRs, but they should make the requests for financial intelligence information to the UAF in a proactive manner, aimed at extending its investigation framework, outlining new strategies and identifying illegal property, assets and resources.
 - 11.- Working groups, or mechanisms to provide feedback to members of the NP, the Judicial Branch, the AGO, the UAF and the PPO, must be implemented for making ML prosecution and investigation more effective, so that they can be more proactive in the development of parallel financial investigations.
 - 12.- ML derived from other predicate offenses identified as threats in the ML/TF NRA, must be investigated.
 - 13.- Training must be offered to the NP and the PPO to increase the use of special methods of investigation, and parallel economic and financial investigations.
 - 14.- Make the necessary legislative amendments to confer the UAF oversight and sanction application powers, regarding such RSs with no natural supervisor.
 - 15.- With respect to the current RSs, supervisors must conduct their oversight duties directed by risk criteria, specifically aimed at improving the country's effectiveness and compliance level of the internal analysis process, and the decision-taking on STRs submission by FIs and DNFBPs.
 - 16.- Provide monitoring authorities with greater resources for oversight duties on MLA/CFT matters.
 - 17.- Monitoring authorities must secure, through effective oversight and use of sanctions, when applicable, compliance with the obligation of reporting suspicious ML/TF transactions.
 - 18.- Mechanisms to secure that the basic beneficial ownership information of legal persons and arrangements is kept updated, must be established. Likewise, if possible, such information should be obtained regardless the complexity of the corporate structure.
 - 19.- Train authorities for the identification and investigation of TF, so that they have the necessary tools to prosecute, when applicable, and ultimately, to punish this offense effectively.
 - 20.- The legal framework applicable to NPOs must state clear AML/CFT provisions. NPOs must be assessed more accurately in order to apply a RBA.
 - 21.- Deepening the training given to RSs about ML/TF risks to those being exposed. Add training courses for the identification of threats and vulnerabilities of different sectors, and for the importance of applying a RBA in their proceedings.

- 22.-Improve the disclosing of local and international typologies, as well as other alerts and risk indicators of transactions, for example geographical zones/services/customers/products that may result in a ML/TF risk, so that it translates into a better identification of suspicious or unusual transactions.
- 23.-Incorporate in monitoring programs such actions that help to identify if the RSs could properly understand the ML/TF risk, and that such understanding has been translated into policies, procedures and controls. And take actions in the event of regulation infringements by the RSs.

Effectiveness and technical compliance ratings

Effectiveness ratings

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

Technical compliance ratings

AML/CFT Policies and Coordination

R. 1	R. 2
PC	LC

Money laundering and confiscation

R. 3	R. 4
LC	LC

Terrorist financing and financing of proliferation

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

Preventive measures

R. 9	R. 10	R. 11	R. 12	R. 13	R. 14
LC	PC	PC	PC	C	PC
R. 15	R. 16	R. 17	R. 18	R. 19	R. 20
PC	LC	LC	LC	LC	PC
R. 21	R. 22	R. 23			
PC	NC	NC			

Transparency and beneficial ownership of legal persons and arrangements

R. 24	R. 25
NC	NC

Powers and responsibilities of competent authorities and other institutional measures

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

International Cooperation

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

MUTUAL EVALUATION REPORT

Introduction

19. This report summarizes the AML/CFT measures existing in Nicaragua as of the date of the on-site visit. It analyzes the compliance level with the FATF 40 Recommendations, and the effectiveness level of the Nicaraguan AML/CFT system, and it offers recommendations on how the system can be strengthened.

20. This evaluation was conducted pursuant to the FATF Recommendations of 2012, and using the Methodology to assess the technical compliance of the FATF Recommendations, and the effectiveness of the AML/CFT systems for the Fourth Round of AML/CFT Mutual Evaluations 2013. This evaluation was based on the information provided by Nicaragua and on the information obtained by the evaluation team during the on-site visit to the country made from 9th to 20th January 2017.

21. The evaluation was conducted by an evaluation team comprised by: Jorge Juan de Dios Tapia Fernández, from the Financial Investigations Unit of Bolivia (Legal-Operational Expert); Tomás Koch Shultz from the Financial Analysis Unit of Chile (Financial Expert); Francis Noé González Méndez from the Verification Intendency of Guatemala (Legal Expert); Wendy Carolina Acosta Guifarro from the Financial Intelligence Unit of Honduras (Operational Expert); Helmut Ahmed Flores Calamari from the Financial Analysis Unit of Panama (Operational Expert); Ada Liz Rolón Flecha from the Central Bank of Paraguay (Financial Expert) and with the support of Mileidy Bernal Campos (Technical Expert) and Alejandra Quevedo Q. (Deputy Executive Secretary) from the Executive Secretariat of GAFILAT. The report was reviewed by Carlos Díaz from the Anti-Money Laundering Secretariat of Uruguay¹, Cindy Guadalupe Mendoza Pérez from the Financial Intelligence Unit of Mexico, and by Diana Firth from the Secretariat of FATF.

22. Nicaragua was previously subject to a mutual evaluation of the Caribbean Financial Action Task Force (CFATF) in 2009, conducted pursuant to the FATF Methodology 2004. The MER from Nicaragua was approved in 2009 and is available at www.gafilat.org.

23. The mutual evaluation 2009 concluded that Nicaragua was compliant with four (4) Recommendations; was largely compliant with seven (7); was partially compliant with twenty-eight (28); was non-compliant with nine (9), and one (1) Recommendation was not applicable. Nicaragua received a compliant or largely compliant rating in six (6) of the sixteen (16) Principal and Fundamental Recommendations.

24. In 2013, when Nicaragua acquired the status of GAFILAT member, it was placed in the intensified follow-up process, and in the XXIX GAFILAT Plenary of Representatives held in Cartagena, Colombia, between 10th and 11th July 2014, it was approved the Nicaragua's exit from the intensified follow-up, and was turned into a regular follow-up.

¹ Mr Diaz participated in the process up to the scoping note.

CHAPTER 1. ML/TF RISKS AND CONTEXT

ML/TF Risks and scope of higher-risk issues

Overview

25. Nicaragua is the largest country in the Central American Isthmus, with a territorial extension of 130,373.4 km², and bordered by the Pacific Ocean, Caribbean Sea, Honduras, Jamaica, Colombia, Panama and Costa Rica.

26. Nicaragua is a participative and representative democracy, and is politically and administratively divided in 15 departments and 2 autonomous regions. The Legislative Branch is exercised by the National Assembly by delegation and mandate of the people. The National Assembly is comprised by 90 deputies with their respective alternate members, elected by universal, equal, direct, free and secret vote, through the proportional representation system. The former President of the Republic and the former Vice-President, elected by the direct popular vote in the immediately preceding period, form part of the National Assembly as Acting and Alternate Deputies, respectively; and, candidates to President and Vice-President of the Republic, who had participated in the respective election and had obtained the second place, also form part as Acting and Alternate Deputies. The Executive Branch is exercised by the President of the Republic, who is the Head of State, of Government and of the Army of Nicaragua. The Judicial Branch is comprised by the Courts of Justice, as prescribed by law. The Courts of Justice form a unitary system whose superior body is the Supreme Court of Justice (SCJ).

27. Nicaragua is a middle-low income country and is within the three poorest countries of Latin America. In 2015, it reached a GDP per capita of USD 2,026.7 (Central Bank of Nicaragua - CBN 2015), and showed an annual economic growth of 4.9%. The greatest contributions to the economic growth came from services and commercial activities, followed by the construction activity, and agricultural, livestock and forestry activities. As to prices' dynamics, the accumulated inflation registered the lowest level in the last six years, at a 3.05%, as of December 2015 (6.48% as of December 2014). Remittances represent an important source of currency income in Nicaragua. In 2015, the total remittances increased to 1,193.4 million dollars, placing Nicaragua as the fifth country recording the highest region's growth. Nicaragua is ranked in the 125th position of 189 countries, under the concept of opening of business. (Doing Business Report 2016).

28. Nicaragua has a total of 6.2 million of inhabitants (CBN 2015). Based on the censuses conducted, it is estimated that around 10% of Nicaragua's population has left the country, but migration can reach up to 800,000 Nicaraguan people, if temporary and border migrations are considered (IOM, 2013). Temporary migration is mainly directed to Costa Rica, Honduras, El Salvador, Panama and Jamaica. Regarding immigration, the World Bank estimated that 40,000 people resided in Nicaragua in 2010, mainly coming from Costa Rica, Honduras and El Salvador.

Overview of ML/TF Risks:

29. Nicaragua developed the ML/TF NRA with the technical assistance of the Inter-American Development Bank (IDB). As part of the reference process, five (5) general threats, fourteen (14) vulnerabilities and twenty-eight (28) risks were identified.

30. According to the ML/TF NRA, activities related to drug-trafficking and organized crime were identified as main ML threats. Nicaragua has a geographical location in the drug transit route between producer and consumer countries, in the drug transportation to final destination, and in the flow of illicit money resulting from profits. In accordance with the statistical yearbook of the NP from Nicaragua, for 2015, with respect to

crimes related to narcotics, psychotropic drugs and other substances, the amount of reports registered has increased in the last five years; in 2010, 2,542 reports were registered, and in 2015, 4,014 were registered.

31. According to the ML/TF NRA, human trafficking is a transnational crime and is considered as the second source of income from organized crime. Central America is a region of origin and transit of human trafficking with purposes of slavery, sexual exploitation and labor exploitation (ML/TF NRA, 2015). Nicaragua is mainly a transit zone for sexual trafficking and forced labor of men, women and children. Women and children from Nicaragua are subject to traffic for sexual exploitation purposes, in Nicaragua, in other Central American countries, in Mexico and United States of America, as well (U.S. Department of State, 2016).

32. Conducts such as smuggling, customs and tax fraud, from import and export of goods of illegal origin, and from illegal goods transportation and from cattle sale, among others, according to the ML/TF NRA, constitute the relevant ML threats for the country (ML/TF NRA, 2015).

33. Other relevant aspects in Nicaragua when ML threats are considered, are the volume of illicit money trafficking, the intensive use of cash, and few controls that may facilitate the integration of the illicit money into the economy. Nicaragua has extensive borders which not only has official border crossings, but also several illegal border crossings, used for money trafficking. Controls at border crossings are frequently evaded for the introduction, circulation and exit of cash (ML/TF NRA, 2015).

34. Considering the importance of Nicaragua within the Central American region, it must be taken into account that drug-trafficking, corruption and bribery, human trafficking and migrant smuggling, alteration and piracy of products, and participation in a crime group, have been identified as ML threats in the Central American region (GAFILAT Report on Threats, 2015). The abovementioned is relevant when considering money income to Nicaragua from illicit sources, as previously indicated.

35. According to the ML/TF NRA, among such means that may be used for ML, it is identified gold trading, sale of new and used vehicles, real property sale (including construction), and electronic money transfer. Additionally, sectors exposed to informality are a significant vulnerability, in the Nicaraguan context at all levels. In particular, it is considered a matter of concern, the proliferation of activities from remittances and currency exchangers out of the scope of the AML/CFT regime, since remittance issuers are migrants from rural zones where there are low bancarization levels, and remittances are the most-used means for transfer of funds. The intensive use and the few controls may facilitate the integration of illegal money into the economy of Nicaragua.

36. Other weakness is the lack of incorporation of FIs vulnerable to ML/TF, as RSs. Additionally, DNFBPs' sectors, in particular attorneys and notaries public, who are not within the preventive system, are a relevant weakness in the context of the possible creation of façades enterprises and companies, as well as the use of front men, for the placing, stratification and incorporation of illicit profits.

37. When analyzing the TF, as to the people, or group of people, with a potential for abuse of institutions and services to finance terrorist acts, the ML/TF NRA sets forth that in Nicaragua, no person has been identified supporting terrorism with funds from legal or illegal origin, voluntarily or involuntarily, whether national or foreigner. However, some sectors which may be potentially abused with TF purposes, have been identified: Providers of remittances services, NPOs, new payment methods. The Nicaraguan authorities have established that, until the end of 2015, terrorism, TF and FPWMD remain as exogenous threats of global extent; however, prevention and combating policies, as well as supporting policies to international efforts made on the matter, must continue being implemented. At the same time, in accordance with the U.S. Department of State, in the Latin America region, the transnational organized crime is a threat of higher significance than terrorism, and most of the countries have made efforts to investigate the possible connections with terrorist organizations (U.S. Department

of State, 2015). The ML/TF NRA determined that TF represents a threat level as an unlikely probability and of moderate impact.

Risk assessment and scope of the country's higher-risk issues

38. Nicaragua developed the ML/TF NRA with the technical assistance of the IDB, which provided a methodology for the identification and analysis of threats and vulnerabilities, based on FATF Standards: "ML/TF National Risk Assessment". In the reference process, three working groups were formed: System of Regulation and Prevention, Detection and Criminal Prosecution, in which expert personnel participated in AML/CFT matters of eleven (11) entities, public and private, contributing qualitative and quantitative information.

39. For the ML/TF NRA, a risk matrix was drafted, from which 5 threats and 14 vulnerabilities arose, and 28 risks were generated, resulting in 88 recommendations for their mitigation.

40. According to the risk matrix, and based on its prioritizing and its impact and occurrence likelihood, such risks rated with severe and higher impact are listed:

- Severe Impact: Criminal organizations belonging to international drug-trafficking, place, stratify and incorporate their profits into the national financial system.
- Higher Impact: National and foreign criminal organizations acquire or use companies or front men for laundering funds, by opening current accounts in the financial system, and make touristic, real estate, hardware and pharmaceutical investments; and investments in commercial, financial, and microfinancial companies, cooperatives and private free zones, among others.
- Higher Impact: Economic operators, and legal and natural persons, use commerce, manipulate and undervalue their merchandise prices to commit customs and tax fraud, presenting profits that allow them to operate under a fixed quota regime.
- Higher Impact: Criminal organizations engaged in human trafficking, place, stratify and integrate into the financial system the proceeds from such crime.
- Higher Impact: Individuals that are controlled by national and foreign criminal organizations, acquire, in farms and/or auctions, beef cattle, horses, and derived products, with money of illegal origin, which, in some occasions, is sent in cash or by wire transfer.
- Higher Impact: Foreigners or national people purchase properties in border zones with the aim of facilitating the traffic of drugs, money and weapons, human trafficking, migrant smuggling, cattle smuggling, among others.
- Higher Impact: Crime organizations and natural persons, in their ML process, trade gold, including the purchase of metal to *güiriseros*.
- Higher Impact: New means of payment, together with the use of virtual coins, without due regulation and control, are used by crime organizations as means to legitimate money; they can also be used for TF and PWMD.

41. Additionally, the UAF coordinated the processes of the ML/TF NRA, the National Strategy and the AML/CFT NAP, as well as the Strategy and Plan against TF.

Scope of the country's higher-risk issues

42. During the on-site visit, and in the MER development, it was given special attention to the following matters considered of higher risk:

- Drug-trafficking (illicit traffic of narcotic drugs and psychotropic substances) and organized crime. According to the ML/TF NRA, drug-trafficking constitutes the main ML threat and is of high priority

for authorities. An analysis was made on the effective response to the combat of criminal groups engaged in drug-trafficking and ML activities, including such tools used by law enforcement authorities, and the effective prosecution of cases.

- Authorities acknowledged the possible use of the financial system by international drug-trafficking, in special through the creation of façades enterprises and companies, as well as the use of front men, for the placing, stratification and incorporation of illegal profits. Hence, during the on-site visit, an analysis was made, on the financial system's measures on AML/CFT preventive measures, and a control of the legal persons and arrangements, and their incorporation systems, was conducted.
- Cross-border transportation of money arising from possible illicit activities, and tax and customs fraud activities, is other of the main ML threats registered. So during the on-site visit, the authorities' task was analyzed, including law enforcement authorities, in particular, customs offices.
- Money transfer services are susceptible of ML risk; therefore, they are a sector of higher importance for authorities. For the reasons stated above, such measures adopted by the authorities, and specific sectors, in matters of customer awareness, transactions identification and other AML/CFT measures, were verified in the on-site visit.
- Regarding the DNFBPs and other sectors, given the limited incorporation as RSs, it must be addressed how authorities and RSs are implementing measures, and performing concrete actions to reduce the identified vulnerabilities.
- The on-site visit also made emphasis on matters such as: human trafficking, corruption, and the informality impact which seem to be relevant in Nicaragua's context. This last structural vulnerability amounts to 75.2%, which facilitates the intensive use of cash, plus the scarce AML/CFT controls that facilitate the money integration into the country's economy, in addition to the growing activity from remittances and currency exchangers out of the scope of the AML/CFT regime.

Materiality

43. Nicaragua is a middle-low income country and is within the three poorest countries of Latin America. In 2015, it reached a GDP per capita of USD 2,026.7 (CBN 2015), and showed an annual economic growth of 4.9%. The greatest contributions to the economic growth came from services and commercial activities, followed by the construction activity, and agricultural, livestock and forestry activities. As to prices' dynamics, the accumulated inflation registered the lowest level in the last six years, at a 3.05% as of December 2015 (6.48% as of December 2014). Remittances represent an important source of currency income in Nicaragua. In 2015, the total remittances increased to 1,193.4 million dollars, placing Nicaragua as the fifth country recording the highest region's growth.

44. As of the end of 2015, the Nicaraguan banking system was comprised by seven commercial banks, one development bank and three non-banking financial institutions. Furthermore, four offices of foreign bank entities, of the five being authorized, were operating. The financial system had a total of 9,774 employees, of which 44 were temporary; 408 branches and offices, of which 174 offices (42.6%) were located in Managua. The total assets of the Nicaraguan financial system amounted to NIO 186,015.7 million, equivalent to USD 6,667.2 million, increasing in NIO 27,132.5, equivalent to USD 972.49 million, with respect to the assets existing as of December 2014.

45. Investments in securities of the National Financial System as of the end of 2015 amount to NIO 17,986.0 million, equivalent to USD 644.5 million, and represent the 9.7% of the total assets as of the same date. Regarding investments held as of December 2014, these have increased in NIO 498.8 million, equivalent to USD 17.9 million.
46. The country's remittances system works primarily receiving funds from abroad through three international-based remittances agencies. The main issuer countries of family remittances were: USA (55.8%), followed by Costa Rica (21.7%), Spain (7.5%), Panama (4.5%), Mexico (1.4%), El Salvador (0.9%) and Canada (0.6%). In 2015, the total remittances increased to 1,193.4 million dollars, representing this figure as GDP percentage, a nine point four per cent (9.4%).
47. Through formal channels, USD 1,074.9 million were received, 4.2 per cent higher than the observed in 2014 (USD 1,031.4 million). The average transfer amount was 210.5 dollars, and the total of transactions increased 3.3 per cent, compared to 2014. On its part, the family remittances flow which entered the country through informal channels (pocket remittances) was estimated in USD 118.5 million, 13.5 per cent higher than the observed in 2014 (USD 104.4 million).
48. Institutions authorized to operate in the securities market are: one Stock Exchange, one Securities Depository, three international rating agencies, one company managing investment funds, and five exchange posts. In 2015, the stock exchange market presented a total traded volume of NIO 32,961.3 million, equivalent to USD 1,181.4 million.
49. The Ministry of Family, Community, Cooperative and Associative Economy (MEFFCA) has registered in 2015, a total of 5,143 active Cooperatives, among which those engaged in financial intermediation activities are included. The transactions volume estimated of the 34 Savings and Credit Cooperatives registered in the UAF, for 2015, represents NIO 16,466.00 million, equivalent to USD 590.00 million.
50. As of December 2015, the industry of warehouses stores was composed by four warehouses authorized to operate, which managed total merchandise inventories for NIO 4,908.6 million, equivalent to USD 175.9 million, of which NIO 2,521.8 million (USD 90.4 million) corresponded to warehouse receipts, with or without pledge bonds, that supported credit transactions. On its part, the insurance sector, as of 31st December 2015, was composed by five authorized insurer companies; one state-owned and four private companies. Of these latter, two are linked to financial sectors. The five insurer companies operate with 21 agencies and branches distributed in the main country's departments. The industry, in total, has 1,246 permanent employees. During 2015, the insurance industry registered a premium production equivalent to USD 186.3 million.
51. Currently, there are two money exchange houses established for rendering currency exchange services. Financial institutions from the bank industry offer currency exchange service as an additional service to account holders. The volume of currencies purchased by money exchange houses from the public increased to USD 278.1 million in 2015, and currency sales to the public amounted to USD 124.1 million. Currency purchases of banks and financial institutions from the public, totalized USD 5,402.6 million, and currency sales to the public were for USD 5,648.9 million.
52. The National Registry of Intermediary Financial Institutions of Microfinance (IFIMFs) presented at the end of 2015, the amount of 33 registered institutions, of which twenty-three (23) are microfinance institutions (MFIs), and 10 correspond to IFIMFs voluntarily registered. The total assets of the 33 MFIs regulated amount to USD 425.34 million, and the credit portfolio is the most representative asset, with the 82%. Total liabilities are equivalent to USD 342.24 million. The total shareholders' equity of the institutions is of NIO 2,318 million, equivalent to USD 83 million.

53. Within the functional vulnerabilities, the ML/TF NRA identified the intensive use of cash. Furthermore, as above mentioned, the informality is a significant vulnerability in Nicaragua's context at all levels; the proliferation of activities from remittances and currency exchangers, out of the scope of the AML/CFT regime, is a particular worrisome situation. The ML/TF NRA established that in the current legal framework, commercial transactions in cash are not duly regulated, according to a RBA, as a threshold determination, and this is used for the benefit of organized crime. Monitoring processes have identified that some RSs, in their relationships with customers stigmatized as of high risk, prefer not to open accounts at their names, to avoid the application of CDD, which results in the use of cash, and/or the use of accounts at the name of third parties and front men, thereby increasing the risk level, in addition to the country's low bankarization level. The CBN has indicated that the 89.6% of the remittances are given through formal channels, and the rest through informal channels, by using pocket remittances and holding family meetings; likewise, the CBN stated that the 75.2% of the labor force performing some kind of work is in the informal sector.

54. In November 2016, the CBN made the "Survey of Cash to Natural Persons and Facilities with Economic Activity", in which it was determined that cash is the most used means of payment, compared to the use of credit cards, debit cards and electronic transfers, and, additionally, they present the following results:

Table 1: Natural persons

Expenses according to the means of payment	Percentage
Cash	95.8%
Debit Cards	2.9%
Credit Cards	1.2%
Others	0.1%
Total	100.0%

Table 2: Facilities with economic activity- Income percentage distribution according to the means of payment by type of facility

Means of payment	Small and medium facilities	Large facilities
Cash	93.4%	55.8%
Debit Cards	2.2%	7.0%
Credit Cards	2.6%	10.5%
Check	1.4%	12.8%
Transfer	0.3%	10.1%
Others	0.1%	3.8%
Total	100.0%	100.0%

Table 3: Facilities with economic activity- Expense percentage distribution according to the means of payment by type of facility

Means of payment	Small and medium facilities	Large facilities
Cash	91.4%	30.9%
Debit Cards	1.5%	2.4%
Credit Cards	1.9%	4.1%
Check	4.4%	44.7%
Transfer	0.4%	11.4%
Others	0.4%	6.5%
Total	100.0%	100.0

Structural elements

55. Nicaragua has been developing a sustained ML/TF combat, strengthening institutions specialized in combating threats, improving inter-institutional cooperation, adjusting legal regulations to the evolution of criminal actions, establishing preventive measures and early alerts, integrating to specialized organisms, such as GAFILAT, and cooperating in the international field, with other organisms and forces aimed at combating the threat's criminal action. As of February 2015, Nicaragua complied with the Action Plan agreed in 2010 with the FATF International Cooperation and Revision Group, (ICRG). Hence, at the Third Round of Mutual Evaluations, Nicaragua was left officially out of the countries subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. The exit of Nicaragua and the advancements in its AML/CFT regime prove the willingness and political commitment at the highest country level.

56. Law No. 177, "Law on Narcotic Drugs, Psychotropic Substances and Other Controlled Substances, Laundering of Money or Assets Arising from Illicit Activities", was the first law in criminalizing ML, limiting it to have as predicate offenses, only those related to drug-trafficking. Subsequently, Law No. 285, "Law on Amendments and Additions to Law No. 177, Law on Narcotic Drugs, Psychotropic Substances and Other Controlled Substances", extended the base of ML predicate offenses, and created the Financial Analysis Commission (FAC), a technical commission committed to the study of those banking-financial transactions facilitating ML. Through Law No. 793, "Law Creating the Financial Analysis Unit", the UAF is a successor without interruption of such institution.

57. Through Decree No. 09-2013, the Inter-institutional Commission to Create Legal Instruments aimed at Preventing and Counteracting Terrorist-Related Activities, was created. As from the task performed, Decree No. 17-2014 was approved, to give compliance with UNSC Resolutions. The acknowledgment of the FPWMD crime is subject to discussion at the National Assembly, under initiative of the amendments to the criminal code submitted by the SCJ in 2015.

58. Nicaragua has three administrative authorities related to ML/TF regulation and prevention. These entities are the Superintendency of Banks and Other Financial Institutions (SIBOIF), created by Law No. 316, "Law on the Superintendency of Banks and Other Financial Institutions", the National Microfinance Commission (CONAMI), established by Law No. 769, "Law on the Advancement and Regulation of Microfinance" and, the UAF, whose creating instrument is Law No. 793.

Background and other contextual factors

59. The level of access to banking services in Nicaragua is relatively low compared to developed countries, this, in turn, is reduced even more in rural areas; therefore, there is a greater use of cash in economic and commercial transactions, whether by using national or foreign currency. According to the financial inclusion global database (Global Findex) of the World Bank, only 19% of adults (older than 15 years old) had access to financial services in 2014².

60. According to CBN measurements, in 2014, the labor force amounted to 3,191,100 people. The participation of the labor force equals to 74.2%, and the unemployment rate is 6.8%.

² The percentage of population older than 15 years old holding a bank account at formal institutions in the last year is: 18.9%, and the percentage of population older than 15 years old which has deposited their savings at a formal institution in the last year is: 8.1% (World Bank 2014).

61. The 75.2% of the labor force performs some type of work within the informal sector, which may be used for the benefit of criminal organizations to place, stratify and integrate illicit money, taking advantage of the scarce regulation and control they are object of; the remaining 24.8% is within the formal sector.
62. In government matters, World Bank's indicators place Nicaragua below the average of other Latin American and Caribbean countries, in particular, concerning political stability, rule of law, governmental effectiveness, and corruption control.
63. According to the Global Peace Index, as of 2016, Nicaragua is ranked in the 69th position of the 163 analyzed countries, improving its level compared to 2015 (74th position). In addition, there had been a constant decrease of offenses reports, such as murders (2010: 259 to 2015: 162), murders (2010: 526 to 2015: 362), bodily injuries (2010: 11,425 to 2015: 5,405), robberies with intimidation (2010: 10,134 to 2015: 3,794), among others (Statistical Yearbook of the National Police, 2015).
64. Nicaragua is ranked in the 125th position of 189 countries, under the concept of opening of business. (Doing Business Report 2016).
65. Within the ML/TF NRA, it is indicated that, regardless of the identified vulnerabilities, Nicaragua has a series of strengths that place it as one of the region's safest countries; it has implemented a national security strategy named as "Containing Wall", which has brought improvements in the prevention, combat and prosecution of drug-trafficking and organized crime. Likewise, it is identified as strength, the effective cohesion between institutions and the society at large.

AML/CFT strategy

66. Nicaragua has drafted for the 2012-2016 period, the National Plan on Human Development (NPHD), which covers the national policy aimed at securing public safety; two of the objectives of such policy are focused on the fight against drug-trafficking, human-trafficking and transnational organized crime, and border national security, as well.
67. In the specific matter on ML/TF prevention, as previously mentioned, the UAF, in its leading condition on AML/CFT matters, has channeled the technical assistance with the IDB to conduct the ML/TF NRA, and from the outcomes thereof, the National Strategy and AML/CFT NAP were drafted; within the National Strategy, six pillars for combating ML/TF/FP were established:
1. Applying a single AML/CFT state policy.
 2. Constituting the AML/CFT National System as the particular institutional regime in charge of combating ML/TF.
 3. Adjusting the AML/CFT combat to the changing manners and operational modalities of threats, aimed at securing a sustained combat.
 4. Improving inter-institutional cooperation.
 5. Securing international collaboration.
 6. Maximizing the capabilities of each state institution involved in the ML/TF combat, specializing such bodies and human resources directly in charge of combating threats.
68. Likewise, four strategic lines were performed:
1. Decreasing vulnerabilities.
 2. Strengthening the AML/CFT/CFP National System.
 3. Developing the National Strategy.

4. Adjusting the Legal System.

69. Within the AML/CFT NAP, it was established as transversal objectives: 1) combating in an efficient manner the main threat of drug-trafficking; and 2) including the participation of DNFBPs in the AML/CFT National System. In addition, the AML/CFT NAP has a total of 33 objectives, aimed at preventing ML/TF for non-regulated sectors; strengthening the protection of land, sea and air borders; improving the registration regime at Public Registries of Real Property and Commercial Property; creating a national policy of financial inclusion, allowing increasing the country's bankarization levels; creating statistics centralization mechanisms on AML/CFT matters; specializing the bodies and the personnel of each institution in charge of combating ML/TF, and allocating the necessary resources; updating such criminal typologies corresponding to the new manners of ML/TF acting; among others.

Legal and institutional framework

70. The institutions participating in the ML/TF combat in Nicaragua are:

71. **The Supreme Court of Justice (SCJ):** It organizes and directs the administration of justice. It acknowledges and decides on such legal remedies filed against the resolutions issued by the Courts of Justice of the Republic. It acknowledges and decides on constitutional remedies. It decides on the extradition requests of foreign citizens, and refuses those of national citizens. It organizes and directs authorization procedures for the exercise of the Attorney and Notary's professions, and procedures for their suspension and rehabilitation. It grants authorization for the enforcement of judgments rendered by foreign courts.

72. **The Central Bank of Nicaragua (CBN):** It creates and performs the State's monetary and currency exchange policy. It promotes the proper operation and stability of the country's financial system. It regulates and monitors the country's payment system. It issues the country's currency and is responsible for its circulation, and for the withdrawal of notes and coins of legal tender. It acts as advisor of the Government economic policy. It renders non-credit banking services to the government, and acts as its financial agent. It acts as banker of banks and of other FIs. It directs and performs the policy of administration of international reserves. It undertakes the State's representation on financial matters.

73. **The Attorney General's Office (AGO):** It plays the role of State's attorney and legal representative before the courts of justice, and renders reports and opinions on legal matters, as requested by public bodies. It is the central authority for providing information to competent authorities from other countries, in the context of mutual legal assistance, as prescribed in Section 18.1 and 18.3 of the United Nations Convention against Transnational Organized Crime. It is the central authority in the case of "mutual assistance on criminal matters" (including investigations, trials and proceedings in criminal matters), pursuant to Sections 2 and 10 of the Inter-American Convention on Mutual Assistance in Criminal Matters. It monitors that the proceedings of public officers are in compliance with the law, and collaborates in the revision of procurement processes in which the State is a party.

74. **The Ministry of Finance and Public Credit (MHCP):** It administers public finance. It defines, monitors and controls the tax policy. It defines and plans the local and foreign public debt. It administers and monitors the application of the customs duty system. It makes the Preliminary Draft of the Republic's General Budget Bill. It is the application authority of Law No. 766, "Special Law for the Control and Regulation of Casinos and Venues for Games of Chance", through the Office of Casinos and Gaming Venues, in charge of performing, complying and enforcing said Law, the regulations thereof, and all such rules, provisions and

regulations rendered by the Application Authority and the Council of Control and Regulation of Casinos and Gaming Venues. It is the assigned authority of the Administration Unit of Seized, Forfeited and Abandoned Assets (UABIDA), in charge of the reception, administration, storage, custody, investment, auction, donation, return or destruction of assets, objects, products and instruments from organized criminal activities.

75. **The Ministry of Government (MIGOB):** It presides and represents the National Council Against Organized Crime (NCAOC). It registers the Bylaws of Non-Profit Organizations, administers its registry and monitors its operation. It coordinates the General Directorate of Foreigners and Migration. It coordinates, directs and administers the National Penitentiary System.

76. **The Ministry of Family, Cooperative, Community and Associative Economy (MEFFCA):** It outlines, coordinates and performs policies, plans, programs and projects for the strengthening of the family, cooperative, community and associative economy. It outlines and strengthens policies for the protection, promotion, and associative and cooperative development. It coordinates the administration and operation of the Registry of cooperatives. It coordinates the execution of technical cooperation agreements with other countries, allowing the information exchange, the transfer of technologies and the mutual technical assistance, concerning family, cooperative, community and associative economy.

77. **The Prosecutor's Office (PPO):** It exercises the criminal prosecution of crimes requiring public prosecution, and acts in such cases prescribed by law, coordinating and providing legal guidance for criminal investigations, and promoting prosecutorial actions on behalf of society and the victims of crime, to guarantee the right to a correct, prompt and efficient administration of justice.

78. **The National Police (NP):** It is in charge of the total police activity aimed at guaranteeing the internal public order, the safety of people and their property, the prevention, prosecution and investigation of crimes, and providing aid to legal authorities, and other law enforcement authorities, in accordance with the current legislation.

79. **The Superintendency of Banks and Other Financial Institutions (SIBOIF):** It authorizes, regulates and supervises the creation and operation of all banks, branches, and bank agencies operating within the country, whether state-owned or private, national or foreign. It has equal functions with respect to stock exchange brokers, insurance companies and general warehouses stores.

80. **The National Microfinance Commission (CONAMI):** It promotes, regulates and monitors the creation and operation of microfinance institutions.

81. **The Financial Analysis Unit (UAF):** It conducts strategic and operational intelligence, as from the information of economic transactions which may be ML/TF-related, disclosing its technical conclusions to competent authorities for the criminal prosecution of the persons involved. It regulates the obligations on prevention, detection and reporting of ML/TF-related activities, applicable to FIs which are out of the scope of the SIBOIF and CONAMI regulations, and to non-financial professions and activities established in Law No. 793, and other laws. It is in charge of coordinating the development of public policies' proposals for the ML/TF prevention, and of outlining, performing and following-up the Strategy and the AML/CFT NAP.

82. **The General Customs Directorate (DGA):** It defines polices, guidelines and provisions governing the customs system. It sets out provisions for the control, collection and oversight of taxes imposed on foreign commerce and other income. It provides assistance at certain instances, in the reciprocity framework of the Multilateral Agreement on Cooperation and Mutual Assistance among the National Directorates of Customs of

Latin America, Spain and Portugal, and other Agreements on the matter. It plans, directs, controls and monitors the customs service, as well as the flow of incoming and outgoing merchandise. It submits to public auction, such abandoned merchandise, and merchandise confiscated due to customs fraud and smuggling.

Financial sector and DNFBPs

83. Financial sector composition:

Table 4: Financial institutions per sector

Sector	Number	Registered	Subject to AML/CFT measures	Subject to monitoring
Banks	8	8	Yes (SIBOIF)	Yes (SIBOIF)
Finance companies	4	4	Yes (SIBOIF)	Yes (SIBOIF)
Foreign bank representative offices	3	3	Yes (SIBOIF)	Yes (SIBOIF)
Insurances	5	5	Yes (SIBOIF)	Yes (SIBOIF)
Securities institutions	8	8	Yes (SIBOIF)	Yes (SIBOIF)
Warehouses	4	4	Yes (SIBOIF)	Yes (SIBOIF)
Electronic money	1	1	Yes (SIBOIF)	Yes (SIBOIF)
Insurance brokers	87	87	Yes (SIBOIF)	Yes (SIBOIF)
MFIs and IFIMFs	64	37 MFIs (CONAMI) 22 IFIMFs (UAF)* 5 (registration-pending)	Yes (CONAMI) No (UAF)*	Yes (CONAMI) No (UAF)**
Financial leasing and factoring	7	7 *	No (UAF)*	No (UAF)**
Savings and credit cooperatives	280	36 (registration-pending) 244	Yes (UAF)	Yes (UAF)
Pawnshops and loan venues	25	20 5 (registration-pending)	Yes (UAF)	Yes (UAF)
Remittance and parcel companies	17	13 4 (registration-pending)	Yes (UAF)	Yes (UAF)
Money exchange houses	2	2	Yes (UAF)	Yes (UAF)
Merchants engaged in negotiation on the future of commodities	0	0	No (UAF)*	No (UAF)**

*The UAF has no power to include other RSs out of Law No. 793; however, they were registered with the UAF as RSs.

**The UAF has no power to monitor other RSs out of Law No. 793; however, this is done in practice.

84. According to data obtained from the ML/TF NRA, the assets of the financial system regulated by the SIBOIF, amounted to USD 6,660 thousand 472 million dollar, as per publications made in December 2015, with banks leading this category. The portfolio distribution per economic sectors was concentrated in the commercial sector (35.6% of the total) and in consumption (26.0%). The highest growth was presented in livestock's, industrial and commercial portfolios.

85. The bank concentration in Nicaragua is significant, and is segmented in 7 private banks and 1 state-owned bank. The movements of bank transfers sent to, and received from abroad during the last quarter of 2016, are exhibited below:

Table 5: Bank concentration

Financial institutions	Currency	Received		Sent	
		Number	Amount	Number	Amount
Banks	EUR	1,302	44,619,693.35	1,169	29,428,584.48
	USD	32,585	2,854,396,468.28	31,465	1,456,510,331.54

86. The composition of the total assets of institutions under the SIBOIF's monitoring as of 30th of June 2016, was distributed as follows:

Table 6: Total assets composition

Sector	Assets	%	Number
Banks	198,613.9	92.35%	8
Representative offices	1,620.9	0.75%	3
Finance companies	5,589.3	2.60%	4
Insurances	8,526.4	3.96%	5
Securities institutions	219.0	0.10%	8
Warehouses	489.8	0.23%	4
Electronic money	7.1	0.00%	1

87. Among such sectors regulated by the SIBOIF, it is the securities sector, which is composed of 5 exchange posts, 1 Nicaraguan Securities Depository, 1 Nicaraguan Stock Exchange, and 1 Company Managing Investment Funds. Insurance companies, of which 4 are private, 2 are members of local financial groups, and 1 is a state-owned company. Warehouses are all private, of which 3 are members of local financial groups. And, other regulated sectors include 3 issuers and managers of means of payment, 1 financial leasing company, and 87 insurance brokers.

88. Savings and credit cooperatives are institutions operating through their members' contributions, and raising funds through their members' savings. The cooperative system was composed of 280 savings and credit cooperatives, according to the MEFCCA report.

89. Pursuant to ML/TF NRA data, the CBN reported that 89.6 % of the remittances entry the country through formal channels: remittances agencies and commercial banks, and to a lesser extent, through informal channels: pocket remittances and family meetings. Remittances in Nicaragua are conducted through banking institutions which offer the service in alliance with other FIs specialized in the financial activity, or through companies exclusively engaged in such activity. It is mentioned that in both cases, service providers have authorities, the SIBOIF, for the former, and the UAF for the latter, which establish obligations on AML/CFT prevention and detection.

90. The report of money remittances sent to, and received from abroad, in the last quarter of 2016 is the following:

Table 7: Remittances sent and received

Currency	Received	Sent
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Financial institutions		Number	Amount	%	Number	Amount	%
Banks	USD	483,939	114,724,761.42	46%	4,101	2,612,218.32	18%
Remittance agency	USD	838,916	133,336,936.31	54%	47,384	12,252,680.24	82%
Totals	USD	1,322,855	248,061,697.73	100%	51,485	14,864,898.56	100%

91. The IFIMFs regulated by the CONAMI and by the UAF, has as main product, the granting of credits to their customers. As of 31st December 2015, those regulated by CONAMI had total assets for USD 424.90 million dollar, representing 5.54% of the total assets of the financial system (in the reference total assets, FIs regulated by the UAF are not included; they had total assets for USD 50.43 million dollar).

92. Institutions present a cross-border exposition, and offer a wide range of products and services.

93. DNFBPs' composition:

Table 8: DNFBPs per sector

Sector	Number	Registered	Subject to AML/CFT measures	Subject to monitoring
Transfer service of securities, property and assets	4	4*	No (UAF)*	No (UAF)**
Merchants of precious metals and/or stones	25	10* 15 (registration-pending)	No (UAF)*	No (UAF)**
Merchants of new and/or used vehicles	94	18 * 76 (registration-pending)	No (UAF)*	No (UAF)**
Real estate brokers	22	9 * 13 (registration-pending)	No (UAF)*	No (UAF)**
Casinos and gaming venues	67	67	Yes (UAF)	Yes (UAF)
Fiduciary services and trusts	5	5*	No (UAF)*	No (UAF)**
Attorneys, notaries public, other legal professionals	26,763 15,999	0	No	No
Independent CPAs	1,355	0	No	No
Assistants to merchants acting as auctioneers	3	0	No (UAF)*	No (UAF)**

*The UAF has no power to include other RSs out of Law No. 793. However, they were registered with the UAF as RSs.

**The UAF has no power to monitor DNFBPs out of Law No. 793; however, this is done in practice.

Preventive measures

94. Nicaragua has three administrative authorities related to ML/TF regulation and prevention. These entities are the SIBOIF, created by Law No. 316-1999, the CONAMI, established by Law No. 769; and, the UAF, whose creating instrument is Law No. 793-2012.

95. Furthermore, there exist legal instruments resulting in ML/TF prevention obligations for specific sectors: trustee service providers, casinos, financial postal services, according to Decree N° 69-2011, Law N° 766-2014, and the Administrative Agreement N° 009-2013.

96. Current laws empower the SIBOIF, the CONAMI and the UAF to regulate, oversee and sanction ML/TF prevention obligations to those FIs falling under the scope of Law No. 793.

Legal persons and arrangements

97. In Nicaragua, the following types of legal persons and arrangements can be created:

98. *Commercial legal persons.* Regulated in the Commercial Code. They may be: general partnerships, limited partnerships, corporations, and limited partnerships with issued shares. The creation of a commercial company is made by Notary Public. Then, it is registered with the Public Registry of Commerce to gain legal status. For the 2012-2015 period, the Public Registries of Commerce have registered the following commercial legal persons:

Table 9: Legal persons

Department	Corporation		Limited partnership with issued shares		Limited partnership		Limited liability company	
	Nat. ¹	For. ²	Nat.	For.	Nat.	For.	Nat.	For.
Managua	2,580	0	0	0	0	0	170	0
Masaya	476	0	0	0	0	0	59	0
Carazo	309	0	1	0	0	0	13	0
Nueva Segovia	244	0	79	0	1	0	0	0
Estelí	211	0	8	0	1	0	10	0
León	168	55	2	0	1	0	23	0
Granada	155	0	0	0	0	0	21	0
Chinandega	136	0	0	0	0	0	24	3
Matagalpa	133	0	0	0	0	0	30	0
Boaco	71	0	0	0	3	0	4	0
Chontales	37	0	0	0	0	0	4	0
Bluefields	36	0	0	0	0	0	16	0
Somoto	19	0	3	0	8	0	13	0
Río San Juan	0	0	16	0	0	0	0	0
Puerto Cabezas	0	0		0	2	0	5	0
Total	4,575	104	109	0	16	0	392	0
General Total	5,199							

¹Owned by, or controlled by, Nicaraguan people.

²Owned by, or controlled by, foreigners.

99. *Non-profit organizations.* Regulated by the General Law on Non-Profit Organizations, and by the Civil Code (Sections 76-78); they are divided in associations and foundations. This type of legal persons must be created by public deed executed by a Notary Public, and then, legal status must be requested at the National Assembly. According to data from the Directorate of Registry and Control of Legal Associations, from the MIGOB, in the country, as of April 2016, there are 6,643 NGOs registered; 623 of which, that is 9.38%, are foreign associations.

Table 10: NPOs

Type	Number	%
National associations	6,020	91%

Foreign associations	623	9%
Total	6,643	100%

100. *Cooperatives.* They have a legal regime different than that of associations, since their regulation, suspension, monitoring and control is exercised by the General Directorate of Cooperative Promotion and Association from MEFCCA, pursuant to Law No. 906, Law on Amendments and Additions to the Law No. 290, Law on the Organization, Jurisdiction and Procedures of the Executive Branch.

101. *Trusts.* These legal arrangements are regulated by Law No. 741, "Law on Trust Agreements", according to which "a trustee may be any natural or legal person with legal capacity to engage and bind himself, and in particular, to give property in trust. In the case of legal persons, other than those authorized and supervised by the Superintendency of Banks and other Financial Institutions, they must be incorporated as Corporations with exclusive object." (Section 24). In Decree No. 69-2011, Regulating Law No. 741, the property in trust shall be subject to the oversight of the Office of Comptroller General of the Republic, when in the respective agreement, the State, or its institutions, participate in their capacity as trustor or remainderman. When, under any trust agreement an entity monitored by the SIBOIF or the CONAMI is named as trustee, these institutions shall exclusively conduct the oversight, surveillance and monitoring of the transactions performed by trustee. For the 2012-2015 period, FIs created 140 trusts, while microfinance institutions created thirteen (13) trusts, and other suppliers of trustee services created another three (3) trusts.

Overview of supervisory arrangements

102. The authorities in charge of verifying compliance with the AML/CFT obligations by FIs are the SIBOIF, the CONAMI and the UAF. They shall do so in accordance with the regulating laws, which empower them to sanction upon any law violation.

103. At the national level, the SIBOIF and the CONAMI form part of a commission which, jointly with the UAF, is gathered ad hoc, to revise the monitoring systems, and the UAF's feedback in STRs matters. At the international level, the SIBOIF forms part of the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions. In the case of the CONAMI and the UAF, there are no monitoring agreements, at the international level.

104. In the case of DNFBPs, except for casinos and gaming venues, there is no appointed supervisor for the oversight of the AML/CFT obligations.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key findings and recommended actions

Key findings

- Nicaraguan authorities have made important efforts to understand ML/TF risks, mainly from the development and processing of the first ML/TF NRA. However, the understanding of the ML/TF risks for Nicaragua is limited, at a certain level, by the lack of participation of some institutions comprising the AML/CFT system, and by the lack of statistics and information of some sectors, such as DNFBPs and some FIs.
- Nicaragua has outlined a National Strategy and the AML/CFT NAP, as well as a risk assessment, and a specific TF strategy. Notwithstanding this, coordinating among the authorities, and then involving the private sector to the development of actions, to perform both strategies, is still pending.
- Despite the efforts made by Nicaragua in considering and assessing the risks related to the FPWMD; yet, there are no mechanisms and a legal framework that allows coordinating and cooperating in order to prevent the FPWMD.

Recommended actions

- In the ML/TF NRA processes, Nicaragua must incorporate: a) all involved sectors (public and private) on AML/CFT matters; b) the use of quantitative information, and in particular, information from regulators and supervisors on RSs; c) the vulnerability analysis to specific ML/TF of relevant sectors, and d) the analysis on how the informality and the financial exclusion levels affect in the global ML/TF risk assessment.
- Nicaragua needs to: a) communicate the outcomes of the AML/CFT NRA and of the National Strategy to competent authorities and to the relevant private sector, and b) coordinate among competent authorities, in order to implement the actions and objectives established in the National Strategy and the AML/CFT NAP, as well as in the specific Strategy of CFT, derived from identified ML/TF risks.
- Nicaragua requires a legal and institutional framework for the regulation, monitoring, oversight and sanction of DNFBPs (except for casinos and gaming venues) and NPOs.
- Nicaragua must develop a legal framework, and appropriate mechanisms so that competent authorities may adequately coordinate and cooperate in the prevention of FPWMD.

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

Immediate Outcome 1 (risk, policy and coordination)

Understanding of the country's ML/TF risks

105. The Nicaraguan authorities channeled through the UAF, a technical assistance with the IDB in order to develop the ML/TF NRA, which commenced at the end of 2013, and ended with the presentation of its Final Report in December 2015.

106. For the development of the ML/TF NRA, three (3) working groups have been organized:
- Working Group 1 - Regulation and Prevention System: MIGOB, SIBOIF, DGA, CONAMI and UAF;
 - Working Group 2 - Detection System: Banking institutions; microfinance institutions and UAF;
 - Working Group 3 - Criminal Prosecution System: Judicial Branch, AGO, PPO, NP and UAF.

107. As a result of the process, 5 general threats, 14 vulnerabilities, 28 risks and 88 Recommendations were found. The ML/TF NRA outcomes are based on experts' criteria who participated in the three technical working groups. To a lesser degree, the outcomes analyze quantitative data, identified as vulnerability in the NRA itself.

108. Notwithstanding the foregoing, the UAF conducted the analysis of 91 ML judgments prior the ML/TF NRA, in which typologies, prevailing crimes, risk regions, economic and affected sectors, means used and warning signs, were identified. The outcomes were officially reported to the RSs regulated by the SIBOIF and the UAF. The UAF, through disclosing sessions, provided said outcomes to those regulated by the CONAMI; however, there was no communication by the CONAMI to its RSs.

109. In the ML/TF NRA, it was determined that the main identified threat derives from the criminality level of serious offenses such as drug-trafficking, organized crime and related crimes, whose growing profits and cross-border movement may affect the economy, in general, and the financial system, in particular. From the ML/TF NRA, the main highlighted threats were drug-trafficking and organized crime, unlawful enrichment and bribery, smuggling (including tax and customs fraud), human trafficking and sexual exploitation.

110. The analysis process for threats and vulnerabilities was based on the qualitative and quantitative information obtained from experts of several public and private institutions who participated in three (3) working groups, and on the information from STRs, FTRs, criminal investigations, ML judgments, operational intelligence, and strategic analysis of ML/TF typologies outlined by the UAF. However, the use of statistical information provided by regulators and supervisors, and by the private sector known by the relevant sectors, was not observed; and that is reflected hereinbelow in the lack of a specific analysis per sector.

111. During the on-site visit, it could be verified that the understanding of the ML/TF risks varies among the different institutions from public and private sectors, and in some cases, it does not match with the ML/TF NRA outcomes.

112. For example, the CONAMI knows the ML/TF NRA outcomes; however, although the ML/TF NRA identifies the microfinancing sector as an important risk sector, the CONAMI considers that the sector is low risk. The ASOMIF, on its part, considers that the ML/TF NRA outcomes reflect the existing risks; however, they have indicated that the current regulation in force is too rigorous. The General Directorate of the Attorneys' Registry from the SCJ, informed that they did not know the NRA and, in general, they do not understand the risks implied for attorneys and notaries public in relation to ML/TF. The DGA does not understand its role from a ML/TF prevention perspective.

113. On the other hand, the representatives of the judicial branch, the AGO and the PPO expressed that the aspects identified in the ML/TF NRA, despite the recent approval thereof, at a certain level, are the same as those worked under the NPHD. Likewise with the ML/TF NRA outcomes, the understanding of ML/TF risks by the AGO, the PPO and the judicial branch is limited, with respect to the understanding of the threat, to the organized crime mainly related to drug-trafficking.

114. The NP and the Information Directorate for Defense of the Nicaraguan Army considered that the ML/TF NRA adds value to the drafting of operational plans. Members of the Information Directorate for Defense, expressed to know the ML/TF NRA, and; hence, they are generating lines of action to remedy the identified weaknesses.

115. The UAF has coordinated and participated in the whole ML/TF NRA process, and they expressed they agreed with the outcome thereof, which will be gradually incorporated in the different areas of the UAF.

116. The limitations in the analysis process of threats and vulnerabilities of the ML/TF NRA is due, in part, to the lack of participation of some institutions from the public sector, and some representatives from the private sector (DNFBPs). The lack of dissemination by the own ML/TF NRA to some relevant stakeholders limits the general understanding of ML/TF risks.

117. In addition, it is worth mentioning that in the ML/TF vulnerabilities analysis, it is not seen that there is a specific vulnerability analysis for each sector in which the vulnerability level is assessed against ML, with the aim of adopting risk-based measures for each sector, which ultimately, may have mitigating effects. On the other hand, although informality was identified as a ML vulnerability, a further analysis is required to verify how informality and financial exclusion levels may affect the global ML/TF risk assessment.

118. Even when national authorities have shown important efforts in the development of the ML/TF NRA, it is important to indicate that said national approach did not consider the direct participation of sectors such as the General Directorate of the Attorneys' Registry from the SCJ, the Tax Collection Registry of the General Revenue Office, and the General Directorate of Information for Defense. The lack of participation of some sectors limited the scope of the ML/TF NRA.

119. In the ML/TF NRA, the TF threats, vulnerabilities and risks are, in general, considered as exogenous threats of global extent. In addition, the UAF, with the support of the NP, the MIGOB (through the Directorate of Foreigners and Migration, and the Directorate of Registry and Control of Legal Associations) and the RSs, made a specific TF assessment. In this assessment, demographic elements, migratory components, remittances' characteristics and other services, and NPOs' characteristics (within the sources used: Global Terrorism Index and Global Peace Index), were considered. Based on the weighting of the above mentioned elements, it was concluded that Nicaragua's risk profile on TF is moderate. The rating is comprised by a level-2 probability of occurrence, that is, "unlikely", and a level-3 impact, that is "moderate".

120. Within vulnerabilities, limitations in the legal framework are identified, specially deficiencies in the TF criminal typology which may imply difficulties for the identification, investigation and adequate prosecution of TF conducts. Therefore, within the strategic lines, the objective of strengthening the CFT legal framework was established. However, within the strategic lines, it is not seen that measures addressed to all the authorities of the AML/CFT system, are being considered.

121. Notwithstanding this, the outcomes of the risk assessment recently mentioned have not been disclosed to all the different stakeholders, from the public and private sector comprising the national AML/CFT system.

National policies to address the identified ML/TF risks

122. Nicaragua has the NPHD (2012-2016); under which the national policy aimed at securing the Public Safety has been defined; two of the strategic objectives of such policy are focused on the *fight against drug-trafficking, human-trafficking and transnational organized crime, and border national security*.

123. In the specific matter on ML/TF prevention, as a result of the ML/TF NRA, Nicaragua has outlined the AML/CFT National Strategy, and as an expression thereof, it has drafted the AML/CFT NAP, in which strategic lines were set out, aimed at addressing the identified ML/TF risks. The country has adopted some measures towards achieving the proposed objective, among them, the creation, modernization and equipping of the Border Security Directorate; it has conducted a joint work with policemen and military officials, allowing the dismantling of logistic and operating structures of illicit traffic of narcotic drugs, and the consolidation of drug-trafficking-related groups has been prevented; the PPO has brought effective criminal actions, as well. In addition, it is important to remark that the UAF has led the mentioned process and has taken actions to incorporate new RSs (FIs, DNFBPs and other relevant sectors); however, these are limited by the lack of legal powers to incorporate RSs.

124. As it has been previously mentioned, as a result of the ML/TF NRA, the Strategy and AML/CFT NAP were drafted, and a risk matrix was outlined, according to its impact level and occurrence likelihood, allowing prioritizing such actions to be performed within the AML/CFT NAP, for the mitigation of the risks detailed below.

Table 11: Prioritizing of AML/CFT NAP actions

Severe Impact indicator	Objective	Action to perform	Responsible
Criminal organizations belonging to international drug-trafficking, place, stratify and incorporate their profits in the National financial system.	Update the criminal typologies corresponding to the new manners of threats' acting.	<ul style="list-style-type: none"> - Revise the criminal typologies related to ML/TF/CFP incorporated in the current criminal legislation in force. - Make a preliminary draft to amend the respective criminal legislation. - Submit for approval, such amendments in the current criminal legislation incorporating new criminal typologies. - Authorize the publication of the respective amendments. 	<p>SCJ, AGO, PPO, NP, UAF, SIBOIF, CONAMI</p> <p>NC</p> <p>The President of the Republic</p>
Risk sectors			
Financial	<p>Improve the scope of ML/TF/FP prevention, concerning the circulation of bearer securities.</p> <p>Create a National Policy of Financial Inclusion, allowing increasing the country's bankarization levels.</p> <p>Strengthen the ML/TF/FP preventive regime concerning transactions of Politically Exposed Persons.</p> <p>Intensify compliance with regulations on customer awareness and due diligence by NFS institutions and microfinance institutions.</p>	<ul style="list-style-type: none"> - Conduct a study on the national legal framework for the issuance and circulation of bearer securities. - Make a preliminary draft of a bill to amend the Commercial Code and the General Securities Law. - Subject to approval, the preliminary draft of a bill to amend the Commercial Code and the General Securities Law. - Propose the conduction of a diagnosis of the current situation on financial inclusion in the country. - Make a proposal document of National Policy of Financial Inclusion. - Disclose to stakeholders, the final document of National Policy of Financial Inclusion. - Revise the current regulations in force. - Adjust regulations and formats to the Recommendations. - Approve the relevant amendments. - Conduct on-site visits to verify effective compliance. - Make particular recommendations to the institutions visited for them to improve application and compliance with the current regulations on CDD. - Render an Opinion of the situation of currency exchange transactions, money exchange houses companies and individual currency exchangers. 	<p>SCJ, SIBOIF</p> <p>SIBOIF, MIFIC</p> <p>NC</p> <p>CBN, SIBOIF, CONAMI, MEFCCA and DIPRODEC</p> <p>SIBOIF/UAF</p> <p>SIBOIF/UAF CONAMI SIBOIF, CBN, UAF, NP SIBOIF, CBN</p>

	Create a specific legal regime for foreign currency exchange transactions, money exchange houses and individual currency exchangers.	<ul style="list-style-type: none"> - Outline a legal framework proposal including the variable of administrative regulation, and the variable of the creation of a specific law. - Perform the approved proposal. 	Appointed entity according to the approved variable.
NPOs	Develop the scope of ML/TF/FP prevention concerning NPOs not engaged in the microfinance activity.	<ul style="list-style-type: none"> - Coordinate the drafting of the AML/CFT/CFP Regulation for NPOs not engaged in the microfinance activity. - Regulate the notaries' public obligation of including in the arts. of incorporation and bylaws of NPOs not engaged in the microfinance activity which are incorporated, the AML/CFT/CFP policies to be developed by NPOs. - Train NPOs incorporated before 2016 on AML/CFT/CFP matters. 	<p>MIGOB, UAF, CONAMI</p> <p>SCJ, UAF</p> <p>MIGOB</p>
Commercial Transactions of metals, precious stones, and objects of archaeological value.	Create a specific legal regime for commercial transactions of metals, precious stones, and objects of archaeological value.	<ul style="list-style-type: none"> - Render an Expert Opinion on the current legal regulations and administrative provisions on commercial transactions of metals, precious stones, and objects of archaeological value. - Propose a legal framework. - Draft and approve an administrative legal framework. 	<p>UAF, NCI</p> <p>UAF, NCI</p> <p>UAF</p>
Merchants of vehicles	Strengthen the scope of the ML/TF/FP prevention and detection in merchants of vehicles.	<ul style="list-style-type: none"> - Draft a relevant legal framework including merchants of vehicles as RSs, that must comply with ML/FT/FP preventive measures. - Outline and approve the necessary administrative regulations for the ML/FT/FP prevention and detection, addressed to merchants of vehicles. 	UAF
Real estate	Strengthen the scope of the ML/TF/FP prevention and detection in Real Estate transactions.	<ul style="list-style-type: none"> - Draft a relevant legal framework including real estate activities as RSs that must comply with ML/FT/FP preventive measures. - Outline and approve the necessary administrative regulations for the ML/FT/FP prevention and detection addressed to real estate activities. 	UAF
Remittances	Improve the legal regime regulating remittances companies.	<ul style="list-style-type: none"> - Render an Opinion about the size of the remittances sector and their transactions, the importance in the economic context, as well as the situation and effectiveness of the AML/CFT regulation concerning suppliers of remittances services. 	<p>UAF, CBN, SIBOIF</p> <p>CBN, SIBOIF, UAF</p>

		<ul style="list-style-type: none"> - Draft a legal framework proposal. - Make the preliminary draft of a bill to create a specific regulation. - Approve the preliminary draft of a bill for a specific regulation. 	NC or applicable authority
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125. Authorities acknowledge the need that public policies must incorporate an integral and transversal effort for the effective administration and management of the threats, vulnerabilities and risks identified for public and private sectors in the ML/TF NRA. Therefore, the Strategy and the AML/CFT NAP are drafted from the understanding of the findings identified in the ML/TF NRA, for the outlining of strategic lines, objectives, actions to take, and the appointment of persons responsible for them.

126. However, during the on-site visit, it has been noted that some of the authorities, despite participating in the ML/TF NRA process and knowing the outcomes, have not established lines of action or work plans inside their institutions to address the relevant ML/TF risks, as the case of the MEFCCA and the General Directorate of Registries from the SCJ, who do not have a clear understanding of the actions that should be taken, considering the Recommendations and findings of the ML/TF NRA.

127. In addition, as of the date of the on-site visit, the level of awareness and responsibility of some authorities and RSs concerning the provisions established in the National Strategy and the AML/CFT NAP, has still to be developed, mainly because this document had not been socialized or delivered to regulators and regulated subjects.

Exemptions, enhanced and simplified measures

128. As from the identification of risks, Nicaragua has not applied exemptions to any of the activities that must be regulated on AML/CFT matters. On the contrary, as from the ML/TF NRA, its has been identified risks sectors additional to the FIs and DNFBBs defined by FATF (merchants of new and/or used vehicles, assistants to merchants acting as auctioneers, and the transfer service of securities, property and assets). In the National Strategy and the AML/CFT NAP, it was defined within the "Strategic Line I: Decreasing Vulnerabilities", the updating of the RSs' list. Following this line of action, the UAF has made efforts to connect and raise awareness among these sectors on ML/TF prevention matters.

Operational objectives and activities of competent authorities

129. The UAF is the lead agency that coordinates, together with the institutions that make up the CNACCO, namely, the MIGOB in presiding and representation capacities; the General Prosecutor of the Republic, as the Vice-president, and in the President's absence, with presiding capacity; a deputy member of the Commission of Justice and Legal Matters of the National Assembly; the Director General of the NP; the President of the SCJ, the Commander in Chief of the Nicaragua's Army; the Attorney General of the Republic; the attorney for the Defense of Human Rights; the Minister of Foreign Relations; the Minister of Health; the Minister of Education; the Minister of Family, Adolescence and Childhood; the Minister of Defense; the Director of the Nicaraguan Institute of Youth, and the General Superintendent of the SIBOIF, drafted public policy proposals for the prevention of the ML arising from illicit activities, TF and FPWMD.

130. Likewise, the UAF must outline the National Strategy and the AML/CFT NAP, and against the FPWMD with a RBA. The abovementioned was made through the ML/TF NRA process, which has enabled a better understanding of the ML/TF identified risks. Furthermore, the UAF has conducted trainings for the SIBOIF, the CONAMI and RSs in specific matters, for the strengthening of the AML/CFT System; it has

analyzed typologies based on 91 ML judgments analyzed, and has guided the training given to DNFBPs and FIs, under its regulation and monitoring. It has also developed a rating and classification matrix for STRs.

131. The SIBOIF has incorporated within its tasks, the matter of ML/TF prevention, and within its strategic plan and annual operational plans, it has established the updating and/or reinforcement of the sector's legal framework; the monitoring activities to verify and promote the strengthening of PML/TF programs, and in an official manner, by means of circular letters, it has informed to their RSs about the outcomes of the ML/TF NRA.

132. The CONAMI has incorporated within its regulation and oversight activity, the ML/TF prevention, and for the identification, understanding and mitigation of these risks by the MFIs, it has created the AML/CFT Coordination, which has the responsibility of enforcing compliance with the AML/CFT regulation by the RSs, through the on-site and off-site oversight and monitoring. In addition, with the support of the IDB, it has identified the risks of each of the monitored entities, enabling monitoring prioritizing.

133. The PPO, in its Strategic Plan, has as key activity "Proceed with the prosecution of the most serious offenses, prioritizing organized crime, gender violence and human trafficking, with the support of student trainees and the appointment of Prosecutors." Jointly with the Judicial Branch, it has offered seminars and workshops referring to processes, sanctions, concepts, characteristics and effects of ML/TF crimes, addressed to administrators of justice.

134. The NP, within the NPHD framework, maintains two operational objectives: 1) Strengthening the combat against drug-trafficking and organized crime, whether national and international; 2) Strengthening the combat against drug-activity cases. Furthermore, the NP has outlined and performed plans for the mitigation of risks, namely: Impact Plan I, Sovereignty Plan, Dignity Plan II and Diamond Plan, through which border structures have been strengthened, aimed at mitigating ML, organized crime, human trafficking, smuggling and drug-trafficking, which are the main threats identified in the ML/TF NRA.

135. The several government entities have made efforts, in exercise of their functions, to prevent, punish and prosecute ML/TF crimes. However, these activities should be directed and coordinated with the performance and implementation of the National Strategy and the AML/CFT NAP, recently formalized. On the other hand, the lack of regulation and monitoring of DNFBPs, limits the execution of the objectives proposed in the National Strategy and the AML/CFT NAP, oriented towards the efficient administration and mitigation of the risks identified in the ML/TF NRA.

National coordination and cooperation

136. Nicaragua has the NPHD (2012-2016) under which the National Unit and Reconciliation Government (NURG), has set out several coordination mechanisms pursuant to the Policies and Strategic Programs of the National Plan on Human Development 2012-2016. Within this Plan, the Public Safety and the Fight Against Drug-Trafficking and Organized Crime, are contemplated.

137. As previously mentioned, and as a result of the ML/TF NRA process, in which the main authorities comprising the AML/FT systems participated, the National Strategy and the AML/CFT NAP were drafted, where the different entities have specific tasks to comply within the framework of the Sovereign Security System, aimed at combating drug-trafficking, transnational organized crime and other related crimes, as a State policy on National Security matters. Likewise, within the CNACCO, it is contemplated the prevention, investigation and prosecution of organized crime, and the administration of seized, confiscated and abandoned property, related to ML, terrorism and TF crimes. Both the Sovereign Security System and the CNACCO facilitate the coordination and complementarity of State institutions in policies and programs for the fight against organized crime, aimed at securing the sovereign security.

138. In national coordination and cooperation AML/CFT matters, the lead agency is the UAF, that coordinates, together with the CNACCO, public policy proposals for the prevention of laundering of money, arising from illicit activities, and TF. In addition, the UAF, the CONAMI and the SIBOIF maintain a coordination group to address the issues concerning MLA/CFT prevention, within the legal framework of their jurisdiction; and likewise, the UAF coordinates work groups with the PPO and the AGO.

139. Furthermore, the UAF has implemented additional cooperation and coordination agreements for the information exchange with the NP, CONAMI, SCJ, NPAA, PPO, DGA, SIBOIF, and the Nicaraguan Culture Institute.

140. The UAF, through the agreement signed with the SIBOIF, has transmitted to it statistical reports of accepted and rejected STRs from RSs, allowing the SIBOIF to issue guidelines and provide feedback regarding the risks and deficiencies identified. Also, the SIBOIF maintains a permanent coordination and a joint work within the current legal framework with the PPO, the AGO and the NP, in order to channel information from RSs through the SIBOIF, who answer directly to the relevant authorities.

141. The UAF has outlined a computing platform, and through an electronic address, it maintains a direct communication with RSs; in coordination with the DGA, they implemented the registration system for people carrying cash, securities, objects, precious metals and goods, for the information exchange, and for the reception of traveler's declarations. Also, the UAF follows up FTRs sent to the NP.

142. Likewise, the NP, at the operational level, maintains coordination with the PPO, the AGO and the UAF. The coordinations among the justice sector include the NP, the PPO, the Nicaraguan Army, the AGO, the SCJ, and the UAF. The PPO directs the investigation and defines the legal strategy for the criminal prosecution, before justice authorities. The Specialized Unit Against Organized Crime Offenses (SUAOCO), in a particular manner, with the assistance of the previously mentioned institutions, conducted in 2015, 4,441 coordinations, thereby improving the quality of investigations and criminal prosecution. The SCJ composes the "National Commission of Inter-Institutional Coordination of the Criminal Justice", which promotes, jointly with the State, the policy against drug-trafficking and organized crime, supporting the enactment of laws such as those concerning investigation and prosecution of organized crime, and the administration of seized, forfeited and abandoned property.

143. Institutions such as the UAF, the PPO, the SIBOIF, the AGO, the NP and the SCJ forming part of the Nicaraguan AML/CFT prevention system, have proved to have the capacity of coordination and cooperation for activities and specific cases, with more emphasis on organized crime and drug-trafficking related to ML. The UAF has maintained the leadership and has promoted the national coordination and cooperation.

144. On the other hand, despite the efforts made by authorities in assessing such FPWMD-related risks, it could not be verified that authorities had the capacity and the mechanisms necessary to coordinate and cooperate on FPWMD matters.

Private sector's awareness of risk

145. Within the ML/TF NRA process, the private sector participated in group 2 (Detection System), with representatives from FIs (banking and microfinance institutions) which collaborated, according to its sector and experience, in the identification of ML/TF risks.

146. Upon conclusion of the ML/TF process, the UAF conducted disclosing sessions of the ML/TF NRA outcomes: general managers, presidents of the MLP/CFT Committee, MPL/CFT acting administrators, and their alternates, and internal auditors from banks, financial institutions, and insurance companies; MFIs, securities companies, general warehouses stores, electronic money companies, casinos, gaming venues, savings and credit cooperatives, money exchange houses, pawnshops, remittances and factoring companies, trust suppliers, securities transfer and IFIMFs.

147. In addition, the SIBOIF and the UAF issued external circular letters for FIs and DNFBPs (casinos and gaming venues), reporting the outcomes of said process, and the instruction of incorporating the relevant outcomes in their work plans.

148. During the on-site visit, representatives from the banking sector expressed agreement with the findings of the ML/TF NRA, and with the necessary adjustments in their risk programs, in accordance to such outcomes.

149. On the CONAMI's part, it did not exist the same communication level for the MFIs, who indicated during the on-site visit to be expecting the ratification of the ML/TF NRA by the Presidency, and the official communication of the CONAMI, in order to include the referred outcomes in their work plans.

150. The following sectors and institutions did not participate in the reference process: financial institutions, money exchange houses, ASOMIF (Association for microfinance's strengthening and developing), the Nicaraguan Public Accountants' Association, the General Directorate of the Attorneys' Registry from the SCJ, the Tax Collection Registry of the General Revenue Office, and the Information Directorate for the Defense. Sectors such as casinos and remittances contributed statistical information, and savings and credit cooperatives sent information through surveys. The lack of an integral participation from the private sector limits, on the one hand, the extent of the ML/TF NRA itself, which is the main element for the understanding of ML/TF risks, and on the other hand, the adequate understanding of ML/TF risks from the private sector.

151. Furthermore, despite the disclosing of ML/TF NRA outcomes provided by the UAF in trainings, the adoption of ML/TF NRA outcomes by FIs and DNFBPs (casinos and gaming venues) has been limited to some sectors (casinos, remittances and money exchange houses).

152. The UAF, aimed at strengthening the AML/CFT system, considering that some FIs and DNFBPs were not covered by the AML/CFT regime, issued some resolutions (UAF-DIR-001/2013 and UAF-N-009-2016), with the purpose of incorporating to: the IFIMFs (out of the CONAMI regulation scope), financial leasing, factoring and trustee services companies, and also include real estate brokers, merchants of metal, precious stones, works of art, new or used vehicles, among others, as RSs. However, it was not verified that there is a legal framework supporting such incorporations.

153. Notwithstanding the foregoing, the UAF has conducted an important task in raising awareness among the above mentioned sectors, and these have been receptive to the knowledge of the obligations that they may have on ML/TF risk prevention matters, which resulted in their registration with the UAF, and in the implementation of certain controls to the inside of the respective institutions.

154. On the other part, within DNFBPs, despite the efforts made by the UAF with the accountants', attorneys' and notaries' public associations, they are not yet related as RSs, and they do not have an adequate understanding of ML/TF risks. The lack of incorporation of RSs, limits the comprehension of ML/TF risks of these sectors in particular.

General Conclusions of Immediate Outcome 1



155. In accordance with the abovementioned, Nicaragua presents a **moderate level** of effectiveness **in the Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key findings and recommended actions

Key findings

Immediate Outcome 6

- The UAF generates financial intelligence information, which is then disclosed through FTRs to law enforcement authorities, and this has enabled them to identify unjustified property, assets and resources, and initiate investigations by the NP, generating reports for the PPO. However, the low percentage of requests for financial intelligence information made by law enforcement authorities to the UAF, reflects that they do not have as a common practice making requests for investigations not related to a FTR.
- The intelligence information produced by the UAF mostly arises from the reports made by FIs, in particular, the banking sector. Reports from the DNFBPs sector are scarce, since only casinos are incorporated as RSs by the Nicaragua's legislation. In this respect, the production capacity of financial intelligence is affected by the lack of inclusion of DNFBPs as RSs.
- The UAF from Nicaragua requests, receives and shares information with RSs, and with law enforcement authorities, through a safe electronic platform which facilitates the timely coordination and cooperation in the fight against ML/TF. In addition, it has procedures manuals as a guidance tool that indicates the different processes to follow for receiving, analyzing, processing and adding value to the information received from RSs. Such systematic procedures contribute to give more efficiency to the financial analysis process.
- According to the statistics shared by the country, it is evidenced that a high percentage (71%) of the STRs received during the evaluated period, were rated as low, according to the reception weighing matrix; this situation suggests the need of increasing trainings given to RSs, aimed at improving their quality.

Immediate Outcome 7

- Within the Nicaraguan legal system, there exist legal and inter-institutional coordination tools that enable the PPO, the NP and the AGO, within the scope of their jurisdictions, to initiate investigations on ML.
- Authorities have conducted efforts for combating ML related to drug-trafficking and organized crime. However, upon other ML threats, there is no evidence that authorities prioritize and make parallel financial investigations.
- Human and technological resources from the PPO and the NP are scarce, and the referred authorities are not present in all the territory, in special, in those areas of higher criminal incidence, as from the NRA outcomes.

Immediate Outcome 8

- Within the Nicaraguan legal system, there exist legal tools that enable the PPO and the NP, within the scope of their jurisdictions, to identify and trace property or assets subject to confiscation. In this respect, personal and real property, such as houses, hotels, properties in coastal zones, rural properties, lands and farms, as well as vehicles, buses, among others, have been confiscated.
- There are failures in the statistics collection on confiscations of products arising from national and international predicate offenses, and on products located abroad; this prevents determining which type of predicate offense they belong to, the preventive measures imposed and the confiscation, and in this respect, it prevents evaluating their effectiveness.

Recommended actions

Immediate Outcome 6

- Law enforcement authorities should, apart from using the intelligence they receive through FTRs, make requests for financial intelligence information to the UAF, in order to extend their investigation framework, trace new strategies and prosecute illicit property, assets and resources, that is, that it not only limits to the access of information through FTRs.
- Nicaragua must incorporate DNFBPs as RSs, allowing the UAF to make requests for information and clearly establishing the obligation of submitting STRs.
- It is necessary that enough resources are allocated to the UAF so that it may increase its human resources, to strengthen the analysis capabilities, including the production of strategic reports, alerts identification and updated typologies from new sectors.
- The high percentage of STRs rated as low, imposes the need to increase the capabilities aimed at providing feedback to RSs, on the quality of reports and the information expected to be received by the UAF.

Immediate Outcome 7

- Working groups, or mechanisms to provide feedback to members of the NP, the Judicial Branch, the AGO, the UAF and the PPO, must be implemented for making ML prosecution and investigation more effective, and so that they can be more proactive in the development of parallel investigations.
- ML derived from other predicate offenses identified as threats in NRA, must be investigated.
- Training must be offered to the NP and the PPO to increase the use of special methods of investigation and parallel economic and financial investigations.
- More human and technological resources must be allocated so that the PPO and the NP may properly prosecute and investigate ML and their predicate offenses.

Immediate Outcome 8

- Work groups or mechanisms to provide feedback to the NP, the PPO, the AGO, and the UAF must be implemented, so that the identification and tracing of property and assets subject to confiscation may be more effective.
- The respective legal modifications must be made to implement such provisions concerning the confiscation of equivalent property, as well as for the assessment of property subject to confiscation.
- Implement mechanisms allowing collecting, concentrating and providing statistical information on provisional measures, and confiscation in a systematic manner.

The relevant Immediate Outcomes considered and assessed in this chapter are the IOs 6-8. The relevant Recommendations for the effectiveness evaluation under this section are the R. 3, R. 4 and R. 29-32.

Immediate Outcome 6 (ML/TF financial intelligence)

Use of financial intelligence and other information

156. The UAF from Nicaragua was created through Law No. 793, and was established at the end of 2012. Within its legal powers, the UAF is allowed to make the analysis of the information collected from RSs, and any other information from public and private institutions, generating financial intelligence information that is placed at the disposition of law enforcement authorities.

157. The UAF receives several reports from RSs through the Online Reporting System (ORS). The UAF from Nicaragua implemented the technological platform named as ORS, which allows requesting and receiving from all RSs, FTRs, CTRs, and all the information requested in furtherance of its duties. In addition, this system is used as a center of information exchange between the UAF and some national entities, allowing access to information in a safe and timely manner.

158. Reports received by the UAF are STRs, Cash Transactions Report (CTR), Report on Absence of Information of Interest (RAII), Sales Report (SR), Transactions Report (TR), Electronic Transfers Report and Winners Report (WR), and also Traveler's Entry and Exit Declarations. Through CTRs, it is allowed to know the existence of bank accounts, and the commercial relationship with the several sectors used, and also be able to provide useful information to prosecutors, so that they may identify such entities where the requested party made a transaction equal or greater than USD \$10,000, and in this manner, be able to prosecute and identify resources, property and assets arising from crime.

159. There follows a statistical table of other reports of information received by the UAF for the period 2013-2016:

Table 12: Other reports and information received by the UAF

Types of reports and information	2013	2014	2015	2016	Total
Traveler's declarations		10	61	71	142
Export report	155,391	171,905	170,957	150,706	648,959
Winners report (Casinos)	2	3,586	3,760	3,207	10,555
Import report	1,073,117	1,142,729	1,208,106	732,423	4,156,375
Transactions report (Casinos)		1,012	1,676	1,827	4,515
CTR (including electronic transfers)	10,002,716	9,406,321	11,136,630	10,214,040	40,759,707
Sales report (pawnshops and loan venues)	1	62	127	270	460
Other source report (OSR)			6	4	10

The OSR: It is a report generated from the analysis of information managed by the UAF, or information sent by public institutions.

160. As to traveler's declarations, the UAF receives directly these reports on entry and exit cross-border movements of cash, bearer negotiable instruments and precious metals. The DGA informs the NP about such traveler's declarations above threshold or false declarations. From then on, the NP initiates the investigation process of people declaring money or securities above threshold, and of people who did not declare, or made a false declaration, when such anomaly is identified in the revision process.

161. Export and import reports include any payment in cash, or by any other means, made in one single transaction or in multiple transactions, in a thirty (30)-day term, equal or higher than USD\$ 10,000.00, or its equivalent amount in national or foreign currency.

162. Winner reports are those submitted by the casinos sector, where it is reported any person winning in one day, whether in individual or fractionated manner, an amount equal or higher than USD\$ 1,000.00, or its equivalent amount in national or foreign currency.

163. Transactions reports, also submitted by the casinos sector, where the linkage is made between cash and any other securities, which in one month reach, whether in individual, multiple or fractionated manner, an amount equal or higher than USD\$ 3,000.00, or its equivalent amount in national or foreign currency.

164. Those CTRs generated by RSs related to transactions in cash, from which it is understood such transactions of civil, commercial or financial nature, that regardless of the fact they are suspicious or not, reach in one day, whether in individual or fractionated manner, an amount equal or higher than USD\$ 10,000.00, or its equivalent amount in national or foreign currency.



165. Sales report are submitted by several sectors, and according to the sector, different requirements are registered, namely:

166. Real estate: Real property sales paid in cash, or by any other means, made in one single transaction, or in multiple transactions, in a thirty (30) day term, and whose amount is equal or higher than USD\$ 100,000.00, or its equivalent amount in national or foreign currency.

167. Merchants of metal, precious stones, works of art: they must report on local sales paid in cash, in a 30 (thirty)-day term, equal or higher than USD\$ 5,000.00, or its equivalent amount in national or foreign currency, and also sales abroad, or exports equal or higher than USD\$ 10,000.00, or its equivalent amount in national or foreign currency.

168. Fiduciary services: they must report such property in trust reaching an amount equal or higher than USD\$ 10,000.00, or its equivalent amount in national or foreign currency.

169. Merchants of new and/or used vehicles: They must report on used vehicles paid in cash, for an amount equal or higher than USD\$ 5,000.00, or its equivalent amount in national or foreign currency. In the case of sales of new vehicles, they must report those paid in cash, for an amount equal or higher than USD\$ 10,000.00, or its equivalent amount in national or foreign currency.

170. The above reports allow the UAF to extend its framework of analysis at the moment of generating financial intelligence information, and giving added value to STRs received from RSs. It is worth mentioning, that this information generates objective reports related to certain thresholds; however, it is important to note that, as previously mentioned, some sectors are not defined as RSs by the Nicaraguan legislation, or by any authority empowered for their appointment, and this may explain in part, the low number of reports registered in some cases, such as sales reports.

171. The UAF has a Manual to Receive, Analyze and Process Reports and Information from RSs; said manual is a guidance tool that indicates the different processes to follow for receiving, analyzing, processing and adding value to the information received from RSs; such systematic procedures contribute more efficiently to financial analysis processes.

172. The Directorate of Financial Intelligence is the area which receives and conducts the operational analysis of STRs, and for such purposes, it has the Operational Intelligence System (SITOP), which allows managing the analysis process through the creation of a virtual file, to control and keep in order all the information being analyzed by the analyst. This tool provides the Financial Intelligence Director, and the UAF's Director, the possibility of making a follow-up on the Intelligence Reports being prepared, and of evaluating the quality of the analysis conducted, and the time invested.

173. The analysis process to generate financial intelligence begins when the STR is assigned to the analyst, based on specialization criteria, and according to the number of reports assigned. The analyst will enter the SITOP to read the STR. From the beginning of the analysis, it is provided that the analyst uses the tool I2 to make the scheme that allows him to establish possible relationships of the people included in the STR, and all such information obtained from different sources. Such scheme will form part of the virtual file.

174. Then, he will proceed to identify the several ML/TF indicating alerts that were pointed out by the compliance officer, and some other alert that may be deduced from the STR reading, with the aim of identifying the possible ML predicate offense. This will allow the analyst to draw his unproved hypothesis, and his measures plan which defines the time and the mechanisms to prove such hypothesis.

175. The scheme made, the identified alerts, the unproved hypothesis and the measures plan are subject to the approval of the Financial Intelligence Commission, which may suggest their extension, amendment, etc. However, upon approval, the analyst must perform his measures plan. To do so, he will proceed by inquiring internal and external databases, making requests for information, performing searches in open sources, and considering the request for information to homologous UAFs.

176. All the information gathered is included in the digital file, and analytical comparisons are made to determine if the hypothesis raised is proved. If the hypothesis is proved on possible ML/TF indicators, the FTR is prepared; if the hypothesis is not proved, a Concluding Report is made.

177. The procedure for the reception, analysis and processing of reports sent by RSs to the UAF, indicates a high security and quality standard, allowing the Directorate of Financial Intelligence to prioritize the analysis made, and follow-up the analysts' task, as to their performance and work load, aimed at producing better-quality financial information for the FTRs' disclosing to law enforcement authorities.

178. With the purpose of giving added value to the STR, the UAF is empowered to request and receive, from public or private institutions, or from any RSs, financial, legal or accounting information with a possible relation to ML/TF, and for this, it has access to a wide range of databases, some of them in a direct manner, and other by a formal request. Statistics shared show that the UAF makes requests for information to such sources, adding value to STRs, and this impacts on the quality of FTRs disclosed to law enforcement authorities, which is the final product of the operational analysis conducted by the UAF.

179. The sources open to the public inquired by the UAF are following detailed:

Table 13: Open sources inquired by the UAF

ENTITY	TYPE OF INFORMATION
Interpol	International alerts
OFAC	Persons and Companies related to money arising from Drug-trafficking
DEA	Most wanted criminals.
Public Registry of Panama	Properties, Companies and Legal Arrangements
Export Transactions Center	Export information.
DGA	Customs Carriers and Registered Taxpayers
General Revenue Office	Taxpayer Registry
Public Accountants' Association	Public Accountants and Authorized PAs.

180. The UAF sets out that it has access to open sources, which are inquired to extend its framework of financial intelligence production, placed at the disposition of law enforcement authorities, giving added value to the several reports received by the UAF from RSs.

181. In addition to the reports received by the UAF through the ORS, such direct access sources, which the UAF inquires by means of a username and safe password, are following listed:

Table 14: direct access sources inquired by the UAF

ENTITY	TYPE OF INFORMATION
DGA	Import and Export Declaration of Goods,
Public Registry	Real Property, Commercial Property, Vessels and Aircrafts.

Supreme Electoral Council	Names, Surnames, Residential address and Parents' Registry.
Nicaraguan Social Security Institute (INSS)	Members, Employers and wages.
Judicial Branch	Processes and follow-up of legal cases and judgments, statistics of legal processes, notaries' public and attorney's registry, property sale and creation of companies.
Dynamic Operational Inquiry	Police Records, Vehicle Property Registry, Driving Licenses, Licenses to Carry Weapons, Operational Registries for people and personal property circulation.

182. Furthermore, the UAF has access to information from several public institutions, which obtains through a formal request, namely:

Table 15: sources inquired by the UAF by request

ENTITY	TYPE OF INFORMATION
DGA	Tax Returns, Withholdings and Refunds; Tax Registry.
General Revenue Office	Taxpayer Registry, Value Added Tax (VAT) and Income Tax (IT) Returns, Tax Withholdings, Tax Refunds and Tax Registry.
General Directorate of Foreigners and Migration.	Migration movements, Nationalized Citizens, Deported Citizens, issued Employment Authorizations, temporary residence and permanent residence cards.
AGO	Indemnified List, Registry of Legalized Real Property.
SIBOIF	Central of Risk and Registry of Assets.
Municipal City Hall	Taxpayer Registry, Tax Returns, permits and authorizations for the transfer and sale of cattle, permits for improvements.
Ministry of Government	NGO's Registries
Ministry of Mines and Energy	Registry of Mine Concessions, Registry of Small-scale Miners, Registry of Artisanal Miners.
Ministry of Transport and Infrastructure.	Registry of Construction Licenses for natural persons. (Civil Engineers, Architects, Technicians, Graduates, Master Builders, Registry of Construction Licenses for legal persons.)
Ministry of Development, Industry and Trade	Registry of Intellectual Property, Registry of Tariff Quotas.
Ministry of Finance and Public Credit	Registry of Indemnity Bonds
National Lottery	Registry of Lottery Winners
Nicaraguan Postal and Telecommunications Institute	Registry of Telecommunication Equipment Imports, Registry of companies providing telecommunication services, Registry of companies providing postal services, Registry of authorized radio and TV companies, Registry of Agreement on satellite landing rights, Registry of Permits of frequency assignments, and Registry of suppliers of Internet and data services.
Office of Comptroller General of the Republic	Reports on Corruption Acts.

183. The requirements made by the UAF to public institutions, are shown below.

Table 16: Requirements made by the UAF to public institutions

Institution/Year	2013	2014	2015	2016	Total
Public Registries of Real Property and Commercial Property	3	48	41	239	331
National Police (NP)	22	98	23	14	157
General Revenue Office (DGI)	19	47	19	28	113
General Directorate of Foreigners and Migration (DGME)	5	41	15	16	77
General Customs Service Directorate (DGSA)	13	20	12	6	51
INSS	1	34	4	7	46
City Hall from Managua (ALMA)	3	28	6	0	37
Ministry of Mines and Energy (MEM)	2	5	2	0	9
Nicaraguan Institute of Tourism (INTUR)	1	2	1	0	4
National Lottery	1	0	0	2	3
SIBOIF	1	1	0	0	2
Ministry of Development, Industry and Trade (MIFIC)	0	1	0	0	1
Directorate of Registry and Control of Legal Associations – MIGOB	0	0	1	0	1
Total	71	325	124	312	832

184. In the "Fraudster" case, it is shown how the UAF, through an information crossover from the INSS, the Public Registry of Real Property and Commercial Property and the Information of Customers' Profiles of FIs, determined the existence of ML indicators.

FRAUDSTER CASE

The UAF, through the ORS, received three STRs from a banking RS called "B", which identified unusual operations in the transactions of three customers:

The UAF rated the three STRs received by the bank "B" as *High*, and proceeded to request additional information to different RSs, with the aim of establishing the origin and destination of STR-related funds, and it also requested information to several public institutions, finding the following ML indicators and criminal activity.

1. With the information provided by the Public Registry of Real Property and Commercial Property, it was determined that three legal persons, "COR, S.A", "TE, S.A" and "IN, S.A", were engaged in the trading of basic grains, including rice, it had registered different shareholders, and their arts. of incorporation were drafted by the same Attorney and Notary Public.
2. The Integral Profile of legal persons showed that they have the same registered offices and the same telephone numbers.
3. According to information from MIFIC, the three legal persons had tariff quotas assigned to import rice without paying the Import Custom Duty (ICD).
4. As per information from the DGA, these legal persons register a final rice import amount with CIF value of USD 3,195,922.42, by using tariff quotas.
5. In accordance with information from the DGI, these legal persons did not declare sales income with this organism.
6. Pursuant to information from the INSS and the Public Registry of Real Property and Commercial Property, the legal person "COR, S.A", represented by the natural person "ENDE", and a principal shareholder thereof, hired, and had as hired employees, some shareholders and representatives of the legal persons "TE, S.A" and "IN, S.A"; they were "FABE" and "MARO", who also occupied administrative positions in "COR, S.A".
7. From the analysis of the public institutions' information, it could be inferred that "TE, S.A" and "IN, S.A" were created for taking advantage of the tariff quotas granted by the MIFIC, committing customs fraud, pursuant to our

- legislation, since the principal shareholder of “COR, S.A” failed to pay the Import Customs Duty for the amount of USD\$ 859,543.43.
8. With the information from the RS, it was determined that the persons reported in the STRs had movements in 12 accounts for the amount of USD\$ 19,087,805.36, and it was also identified that:
 9. It was considered that the financial transactions registered by such natural and legal persons had ML indicators, apparently hiding, the illicit money derived from the tax and customs fraud.
 10. Likewise, with information from the NP and the Public Registry of Real Property and Commercial Property, the following personal and real property owned by the persons related to the STRs, were identified:
 - 16 vehicles.
 - 1 real property with Trillo infrastructure and 2 real property of residential use.

185. As previously mentioned, the UAF can make requests to RSs, and to any natural or legal person, in exercise of their duties.

Table 17: Requests to RSs and other legal persons

RS Type	2013	2014	2015	2016	General total
Banks	251	194	537	301	1283
Remittance and parcel companies	20	28	141	58	247
Finance companies	20	21	120	62	223
Microfinance institutions (MFIs)		19	149	17	185
Intermediary financial institutions of microfinance (IFIMFs)		8	76	9	93
Microfinance institutions beyond the monitoring of the CONAMI*		6	46	2	54
Entity from the capitals market			17		17
Pawnshops			12		12
Money exchange houses			5		5
Loan venues			4	1	5
Savings and credit cooperatives			5		5
Casinos		1	2		3
Factoring*		1	2		3
Insurance, reinsurance and securities entities			3		3
Remittances companies			1	1	2
Parcel companies				1	1
Total	291	278	1120	452	2141

* All factoring and microfinance sectors are not RSs, as per the Nicaraguan legislation. The UAF has made efforts to include new sectors in the preventive regime, hence, there are records of these sectors that could be understood as voluntary.

186. The statistics shared reflect that from 100% of the requests made by the UAF to the RSs, 60% of them are made to banks, 12% to remittances companies, 10% to financial companies, 16% (322) to MFIs, and 2% (56) to other sectors.

187. It is also noted from the previous statistics that, except for the casinos sector, the UAF does not receive reports and does not make requests to DNFBBs, for which it limits the access to additional information from other non-financial sectors, preventing the extension of their analysis framework and improving the production levels of financial intelligence. As abovementioned, this could be connected to the fact that only casinos are RSs under the Nicaraguan legislation.

188. In addition to the foregoing, within the limitations of the UAF to produce financial intelligence, it may be included all transactions that are conducted within sectors of the informal economy, that according to the information provided by Nicaragua, represents 75% of the Nicaraguan labor force, which implies that an unlimited number of transactions are not being covered by the AML/CFT regime, hence, may be vulnerable to ML/TF; information to which the UAF has no access.

189. On the other part, the UAF does not require judicial authorization for lifting the bank secrecy and obtaining the necessary information to comply with its duties. However, in order to request information to banking institutions, prosecutors require judicial authorization, that is why PPO's prosecutors expressed that, in some occasions, they are assisted by the UAF to obtain information, prior request made to the Judge, to filter and gain more certainty in the conduction of their investigations. In the event that a judge authorizes the request for banking information, this is channeled by the same judge to the SIBOIF, so that it instructs to its supervised bank to provide answer directly to the prosecutor. Prosecutors and judges expressed that the channeling of the requests to banks made through their regulator, guarantees the timely fulfillment of such requirements. The SIBOIF sends to the banks the request for information, instructing that, upon the prosecutor's answer, they must furnish a copy of the document with proof of reception by the prosecutor's office unit.

STRs received and requested by competent authorities

190. The statistics of STRs received by the UAF for 2013-2016, are exhibited below:

Table 18: STRs accepted by the UAF (January 2013-December 2016)

Reporting Entities	2013	2014	2015	2016	Total	%
Total STRs	436	379	197	200	1212	100
Banks	248	224	136	131	739	61%
Finance companies	63	47	22	26	158	13%
Insurance, reinsurance and securities entities	0	3	4	1	8	1%
Entities operating with electronic money	0	2	0	0	2	0%
Entity from the capitals market	0	0	2	0	2	0%
Remittance and parcel companies	116	85	13	18	232	19%
Savings and credit cooperatives	5	4	2	2	13	1%
Pawnshops	3	2	0	1	6	0%
Loan venues	0	1	0	0	1	0%
Casinos	0	1	0	2	3	0%
Gaming venues and similar	0	2	0	1	3	0%
MFIs	1	6	9	8	24	2%
IFIMFs	0	0	8	8	16	1%
Others*						
Factoring	0	1	1	2	4	0%
IFIMFs (beyond the monitoring of the CONAMI)	0	1	0	0	1	0%

* All factoring and IFIMFs (beyond the monitoring of the CONAMI) are not RSs, as per the Nicaraguan legislation. The UAF has made efforts to include new sectors in the preventive regime, hence, there are records of these sectors that could be understood as voluntary, upon the absence of a legal framework supporting such incorporation. FTRs numbers show low reporting levels.

191. From the creation of the Nicaraguan UAF as of the end of 2012, the UAF has received a total of 1212 STRs. From 10% of the STRs received, 61% come from the banking sector, 13% from the financial companies sector, and 19% from the remittances companies sector. The foregoing indicates that 93% come only from three (3) sectors (banks, financial and remittances companies), and 7% from other sectors (Insurances, Cooperatives and MFIs), all from financial RSs. It is noted that from the rest of the sectors, the submitting of STRs has been minimum, and in the case of money exchange houses, no STR has been received. On the DNFBPs part, only six

(6) STRs from casinos and gaming venues, have been received, so the financial intelligence generated by the UAF is limited, since it has no access to information allowing extending its analysis field beyond the financial sector, and obtaining as a result better FTRs levels, and a better quality for the disclosing to law enforcement authorities.

192. It is worth mentioning that, RSs that should send information to the UAF are those defined under Law No. 793, Section 9, that is, those monitored by the SIBOIF (Banks, Securities, Insurances, General Warehouses Stores), and those monitored by the CONAMI (MFIs and IFIMFs, the latter in a voluntary manner), and the financial cooperatives which manage financial resources with their members, money exchange houses, pawnshops, loan venues, and companies and agencies conducting remittances transactions and delivery of parcels, casinos, gaming venues and similar.

193. However, the UAF, in an effort to extend the RSs under the AML/CFT regimen, aimed at its strengthening, has determined by Resolution No. UAF-DIR-001/2013, the inclusion of the IFIMFs (out of the CONAMI regulation scope), financial leasing, factoring and trustee service companies. The so mentioned Resolution was derogated and updated by Resolution UAF-N-007-2016, and established the inclusion of additional sectors such as real estate brokers, merchants of metal, precious stones, works of art, and merchants of new or used vehicles, among others. Through Resolution UAF-N-009-2016, it the registry was established, and obligations were imposed, making that some sectors gain more awareness on the matter, and on the preventive responsibilities. However, upon the absence of a legal framework supporting the incorporation, a legal risk is being assumed, for the UAF and for these "voluntary-linkage" sectors, since they are not legally protected. The foregoing probably could explained the absence of reports from these sectors.

194. On the other part, as explained in IO4 and in the TC annex, the obligation to submit STRs by RSs included under Law 793 is not direct and explicit. Notwithstanding this, it is worth noting that before the enactment of Law 793, there existed the legal obligation of submitting STRs³, and this is why it is considered that in Nicaragua there is a reporting culture. Although the obligation of submitting STRs is not explicit in the legislation, the different regulators have imposed it in the provisions regulating their sectors. The absence in Law 793 presents limitations in the reporting process that may limit the capability of the UAF to generate financial intelligence, and currently, the obligation as such cannot be enforced on RSs.

195. Notwithstanding the foregoing, the UAF through Resolution, has established procedures and provisions aimed at making RSs to prepare STRs in the formats established by the entity. For that purpose, it has established a Procedures Manual for the treatment of STRs, thereby establishing all necessary parameters to receive a quality STR from RSs. In this respect, STRs received by the UAF are subject to a classification process, for which a matrix is applied by using the information contained in the STRs, in internal databases, and prioritizing criteria, allowing measuring the quality of the Information sent by the RSs. This matrix allows rating and classifying STRs in three levels: a) High, when there are rational indicators that make assume a probable ML transaction; b) Moderate, when the STR has some rational indicators or unusual activities in isolated transactions conducted by the reporting persons; and c) Low, when the financial transactions included in the STR have a few elements in which ML indicators are identified. If in the classification process of outcomes, it is indicated that the STR does not have adequate and complete information, the STR will be rejected. This process allows RSs to complete or correct the STR filed to the UAF, and have knowledge of the quality of information they are sending, since this is done through the ORS.

³ Before the enactment of Law No. 793, in 2012, Law No. 285 enacted in 1999, and its regulating decree, established the FTRs' obligation, which from then on has been complied with by RSs, mainly by the financial ones that were subject to the regime of Law No. 285.

196. The UAF has issued regulations aimed at making RSs improve the quality of information they send through the FTR, establishing that RSs must create mechanisms for the timely detection of unusual transactions, and for their analysis, until reaching the decision of generating a STR. In this respect, the UAF has held meetings with RSs and supervisors to provide feedback as to the quality of information received, and to share the typologies identified in the analysis conducted. The UAF has included in its Manual for Reports' Reception, Analysis and Processing, the possibility of rejecting the STR submitted by the RS, in the following cases:

"Section 23. Rejecting STRs and notifying the RS. The DFI's Director, and members of the Superior Directorate of the UAF, are empowered to reject STRs, in accordance with the following parameters:

- *When there is no data of the product or service in which the suspicious transaction is detected.*
- *When no alert signs originating the STR are included.*
- *When suspicious transaction details are limited.*
- *When the suspicious transaction description does not match with the data of products or services reported.*
- *When the report reflects actions or unusual conducts, and does not include escalating results.*
- *When the suspicious transaction reports noticeable events related to offenses, and does not have transactional levels.*
- *When persons reported are related to offenses which are not ML predicate offenses.*
- *When it involves persons related to offenses, which occurred more than five years ago."*

197. Once the non-acceptance of the STR in the OIS is confirmed, the notification message corresponding to the RS is sent to ORS. Rejected STRs will go to the OIS passive database and are not included in the corresponding assigned and processed STR statistics.

198. As already mentioned, the UAF receives the CTRs from the following institutions:

Table 19: Detail of CTR by industry.

Reporting Entities	2013	2014	2015	2016	Total
Total CTRs	9,688,136	9,030,372	10,661,948	9,440,696	38,821,152
Banks	9,688,102	9,030,276	10,660,841	9,433,892	38,813,111
Finance companies	0	0	0	18	18
Securities Institutions	3	0	0	0	3
Insurance, Reinsurance and Securities Entities	31	96	78	122	327
Remittance and Parcel Companies			55	1020	1075
Savings and Credit Cooperatives			329	3355	3684
Multisector Cooperatives				3	3
Pawnshops			46	249	295
Loan Entities			22	288	310
MFIs			98	415	513
IFIMFs			8	85	93
Other*					
Factoring				42	42
Trust				1	1
Financial leasing			332	1180	1512
IFIMFs (beyond the monitoring of CONAMI)				26	26

* All factoring, financial leasing, trust and IFIMFs (beyond the monitoring of CONAMI) sectors are not RSs as per Nicaraguan legislation. The UAF has made efforts to include new sectors in the preventive regime, hence, there are records of these sectors that could be understood as voluntary and which send CTRs.

199. From the information mentioned in the tables above, it can be perceived that the financial sector shows the highest amount of CTRs; except for the casinos reporting sector (WR) and (TR), the UAF does not receive CTRs from other sectors, such as DNFBPs.

200. In addition, the UAF can access information generated daily through the travelers' declarations to enter or leave the country. The UAF stated that it receives daily reports of travelers' declarations on cross-border movements on entry or exit of cash, bearer negotiable instruments and precious metals. Regarding investigations, it was stated that the DGA reports the NP about all over-the-threshold or falsely completed travelers' declarations. As a result, the police initiates an investigative process for people who declare money or values above the threshold and to those who did not falsely declare when the anomaly is identified in the review process.

201. There follows a statistical table of entry and exit travelers' declarations received by the UAF for the period 2014-2016:

Table 20: Entry and exit travelers' declarations

Year	2014		2015		2016		General total		
Entry/Exit	#Decl	USD Amount	#Decl	USD Amount	#Decl	USD Amount	#Decl	USD Amount	Euro Amount
Entry	3	32,000.00	34	1,930,761.51	44	2,702,982.00	81	4,665,743.51	4,000.00
Exit	7	168,048.56	27	680,681.75	27	652,385.26	61	1,501,115.57	8,600.00
Totals	10	200,048.56	61	2,611,443.26	71	3,355,367.26	142	6,166,859.08	12,600.00

202. Statistics highlight that, from 2014 to 2016, 81 entry declarations were received for a total amount of USD 4.6 million and 61 exit declarations were received for a total amount of USD\$ 1.5 million.

203. The UAF entered into an agreement with the DGA, whereby both parties agreed to jointly implement a registration system for people carrying cash, securities, objects, precious metals and goods in accordance with the threshold of USD\$ 10,000.00, besides providing information, spontaneously or required for these movements.

204. There follows a statistical table of travelers' declarations by destination country (Exits) and by country of origin (Entries):

Table 21: Passenger check-in and check-out by country

Dest/Orig Country	BELIZE	BOLIVIA	BRAZIL	CANADA	COLOMBIA	EL SALVADOR	USA	JAPAN	NICARAGUA	PANAMA	SWITZERLAND	TOTALS
NICARAGUA	1	1	1	2	2	2	68	2		1	1	81
USA									41			41
PANAMA									13			13
MEXICO									2			2
CUBA									1			1
BRAZIL									1			1
RUSSIA									1			1
COSTA RICA									1			1
CANADA									1			1
TOTALS	1	1	1	2	2	2	68	2	61	1	1	142

205. The DGA shares the information of travelers' declarations entering or leaving Nicaragua, as long as they exceed the threshold of USD\$ 10,000.00. The UAF can access this information through an electronic platform that allows to have updated information of the declarations that the DGA registers in the database.

206. From the previous statistical table of travelers' declarations by country, considering to the left according to destination (exit) and to the right according to origin (entry) it can be seen that 77% (109) of the declarations filed are of travelers with destination and/or origin from the USA.

207. Analyzing the shared statistic, 81 entry and 61 exit declarations were received during the analyzed period. Of the 81 entry declarations, 68 (84%) have as their country of origin the USA and, of the 61 exit declarations, 41 (67%) have the same country as destination. It is important to note that these numbers coincide with the behavior registered in the receipt of remittances, being mostly (56.3%) from the USA.

208. It can be seen that the STRs received by the UAF come mostly from 3 sectors: banks, financial entities and remittance houses. The percentage of sending and receiving STRs from the DNFBPs sector (casinos) is very low, so the information received by the UAF to develop financial intelligence is limited due to the lack of reports from these sectors. Besides, the UAF receives information from the DGA on a daily basis from travelers' entry and exit declarations.

Operational needs supported by FIU the analysis and dissemination

209. The UAF sends the FTR to the PPO when there is sufficient evidence to prove a predicate offense or ML/TF. However, the UAF sends FTRs to the NP when there are some unverified relevant signs of ML/TF. Besides, a copy of the FTR is sent to the AGO when the identified offense is against the Public Administration and of interest due to the connotation of the fact itself. This procedure applies under the provisions of the corresponding manuals issued by the UAF. However, the interviewed prosecutors consider that the FTRs should be sent to the PPO, the NP and the AGO, since Law No. 793 provides for the sending to such three entities without determining which of them specifically.

210. Nicaraguan law enforcement authorities stated that the intelligence information developed by the UAF, based on the different reports received, is important for the development of the investigative strategies in prosecuted cases. Both the NP and the PPO classify UAF information as very useful and timely for their investigations.

211. There follows a statistical table of the FTRs that have been generated by the UAF and referred to law enforcement authorities for corresponding investigations:

Table 22: Statistics: FTRs referred to law enforcement authorities (2013-2016)

Reporting Entities	STR		Related predicate offenses in FTR													FTR	
	relate	tax	dr	Sm	cus	mi	ag	dr	ag	M	ilic	dr	org	sex	cross	s-	pre

																	prosecutor's office	PPO and police	PPO-NP-PG	NP
Total	167	50	22	12	3	3	3	2	2	2	1	1	1	1	1	104	9	13	11	71
Banks	138	46	12	12	2	3	3	1	1	2	1	1	0	0	1	85	3	11	10	61
financial entities	8	1	2	0	0	0	0	0	0	0	0	0	0	1	0	4	0	1	0	3
insurance, reinsurance and securities entities	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0
remittance and parcel companies	7	2	0	0	1	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3
gaming venues and similar	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	1	0	0	0
Casinos	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0
factoring companies*	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
pawnshops and loan venues	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1
Factoring*	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0
savings and credit cooperatives	4	0	2	0	0	0	0	0	0	0	0	0	1	0	0	3	2	0	0	1
microfinance institutions (IFIMFs-MFIs)	4	0	3	0	0	0	0	0	0	0	0	0	0	0	0	3	2	0	0	1

* All factoring sectors are not RSs as per Nicaraguan legislation. The UAF has made efforts to include new sectors in the preventive regime, hence, there are records of these sectors that could be understood as voluntary.

212. Out of the 1212 STRs received during the last 4 years (2013-2016), 350 were assigned (29%). Out of the 350 assigned STRs, 167 (48%) were disseminated in 104 FTRs and 64 STRs (18%) were completed in 62 Concluding Reports. The difference of the 119 assigned STRs (34%) is under financial intelligence process. A total of 231 STRs have been processed, equal to 66% of the assigned STRs.

213. On the other hand, from the 1212 (100%) STRs received, when weighted by the risk matrix, 350 of them (29%) were valued as medium to high risk, therefore, their status escalated to analysis. The remaining 862 weighted STRs (71%) were assessed as low-risk and kept as consultation input in the database and scalable to analysis when new STRs are received if related to others of medium or high risk. Regarding the abovementioned, in 2015, the UAF initiated a RS feedback strategy with the specific purpose of improving reporting quality and

reducing the large number of STRs valued as low-risk. In this regard, there has been a slight improvement since, according to the information provided by the authorities from the accepted STRs, in 2015, 65.64% (107) was classified as low-risk, 27.61% (45) as high-risk and 6.75% (11) as medium-risk; in 2016, 57.48% (96) was classified as low-risk, 26.95% (45) as high-risk and 15.57% (26) was classified as medium-risk reports.

214. Regarding predicate offenses, 48% (50) of the disseminated FTRs are related to tax fraud, 25% (26) are related to drug trafficking and 14% to smuggling (12) and customs fraud (3). 87% (91) of the FTRs disseminated by the UAF were for the 4 ML predicate offenses mentioned above.

215. The ML/TF NRA for Nicaragua identified crimes entailing the main highlighted threats to the general economy and the national financial system: drug-trafficking, organized crime, unjust enrichment and bribery, human trafficking and sexual exploitation. The shared statistics on FTRs disseminated by the UAF indicate that from the total of 104 FTRs disseminated to the competent authority, most of them were found to have tax fraud as predicate offense, followed by those offenses related mainly to drug trafficking and smuggling, including some linked to migrant smuggling, sexual exploitation and organized crime. There follows a statistical table with the destination of FTRs as disseminated by the UAF per year and receiving entity:

Table 23: Destination of FTRs

YEAR	NP	PPO	NP-PPO-AGO	NP-PPO	Total
2013	0	3	0	0	3
2014	20	2	0	0	22
2015	48	3	0	0	51
2016	3	1	11	13	28
Total	71	9	11	13	104

216. Out of the 104 FTRs disseminated, 71 (68%) were referred to the NP, 9 FTRs (8%) to PPO, 11 FTRs (11%) to the NP and AGO and 13 FTRs (13%) to the NP and the PPO. In accordance with above, the UAF disseminates most of its FTRs to the NP.

217. As reported by Nicaraguan prosecutors, the investigation in ML/TF cases is carried out by the NP. However, the PPO guides and directs such investigation and this seems to be one of the reasons why the UAF disseminates most of the FTRs to the NP.

218. Regarding predicate offenses, 48% of the disseminated FTRs are related to tax fraud, 25% are related to drug trafficking and 14% to smuggling and customs fraud.

219. Out of the FTRs received from the UAF, the NP has sent 20 Police Reports to the PPO of which three (3) of them generated convictions for ML and predicate offenses.

220. From the number of FTRs disseminated by the UAF to the different law enforcement authorities, a low percentage of convictions is perceived, together with a large amount of unfinished investigations, probably due to the lack of staff and resources needed to increase and conclude the investigations derived from the FTRs received from the UAF. By way of the electronic platform called ORS, the UAF requests and receives the information it shares with law enforcement authorities, constituting a safe and reliable transmission channel between these entities.

221. There follows a statistical table of the analysis of the STRs received and the FTRs disseminated by the UAF:

Table 24: Analysis, dissemination and investigations of the NP (January 2013-December 2016)

Description/year	2013	2014	2015	2016	Total
Number of STRs related to FTRs	6	31	90	40	167
Number of FTRs (proactive)	3	22	51	28	104
Number of Financial Intelligence Reports (Reactive)	0	6	16	1	23
Total financial intelligence sent by the UAF	3	28	67	29	127
In-process police investigations derived from FTRs and UAF Intelligence Reports					Total
In-process NP investigations derived from FTRs	3	21	49	25	98
Intelligence reports supporting ongoing investigations	0	3	14	1	18

222. As indicated in the preceding table, during such period (2013-2016) the UAF analyzed 167 STRs generating financial intelligence information disseminated to the competent authorities through 104 FTRs. Additionally, it answered requirements through twenty-three (23) Financial Intelligence Reports. Out of the FTRs that the UAF has disseminated during the same period, 98 police investigations have been initiated, besides, intelligence reports have been filed supporting other police investigations.

223. The NP treats the information disseminated through the FTR as *notitia criminis* and initiates the corresponding investigations, seeking at all times to protect the source of information, i.e., without exposing the UAF in the investigation. The PPO stated that upon entering the ORS and obtaining the FTR, a concise initial document is prepared, which later becomes part of the investigation file where the reception of the FTR of the UAF is stated. In general, the data formally initiating the case are stated. This action could violate the confidentiality of intelligence information disseminated by the UAF, which should be judicialized to be formally used in a process. This could be an additional reason for the UAF to direct most of the FTRs to the NP instead of the PPO, since the NP treats intelligence information as *notitia criminis* and does not reveal the source of intelligence. Another reason why the UAF decides to send the FTRs to the NP is when there are unverified signs of ML/TF.

224. There follow statistical tables with information of associated amounts in the FTRs from the analyses carried out:

Table 25: Associated amounts and # of assets associated with FTRs

Associated amounts and # of assets associated with FTRs				
Year	NIO Amount	USD Amount	Personal property	Real estate
2013	5,846,924.80	208,214.49	3	2
2014	0.00	42,087,426.40	47	23
2015	0.00	164,085,134.00	96	35
2016	0.00	64,694,683.99	3	9
Total	5,846,924.80	271,075,458.88	149	69

225. From the analysis carried out to the STRs during the period (2013-2016), the UAF generated FTRs disseminated to law enforcement authorities and, as a result of the shared information, it was possible to identify amounts of money, personal property and real estate after the study of the wealth of account holders. The financial intelligence generated by the UAF is shared with law enforcement authorities through the FTRs, constituting an important input in the identification of goods, resources and assets resulting from criminal activities.

Table 26: Results in RTC-derived investigations

Description/year	2012*	2013	2014	2015	2016	Total
Total Police Reports sent to PPO	0	0	1	4	15	20
Total judgments	0	0	1	2	1	4
Total arrested during police operations derived from FTRs	0	0	1	23	0	24
Total convictions only for ML	0	0	0	1	0	1
Total convictions for ML and other crimes	0	0	0	0	1	1
Total convictions for other crimes	0	0	0	1	0	1
Total convicted	0	0		7	17	24
Total years in prison	0	0	0	15	15	
Confiscated real estate	0	0	0	10	37	47
Confiscated personal property	0	0	0	20	0	20
Confiscated money	0	0	0	NIO 55,570		NIO 55,570

*** The UAF began its functions in late 2012**

226. According to the statistical data shared in the table above, out of the FTRs disseminated by the UAF to the NP between 2012 and 2016, 20 reports were directed to the PPO, 4 accusations were made, 24 detentions were carried out in police operations, 3 convictions were sentenced, one of which for ML, the other for ML and a related crime and one for other predicate offenses. In addition, 24 persons were convicted with imprisonment for 15 years, including the confiscation of 47 real properties, 20 personal properties and money in accounts. Regarding TF, no STR has been received, nor any FTR on TF has been filed with law enforcement authorities to support any investigations into this offense.

227. The statistics of the requirements made to the UAF by competent authorities (NP, PPO and AGO) are as follows:

Table 27: Requirements served by the UAF

Receiving entity	NP	PPO	AGO
2014	3	2	1
2015	14	1	1
2016	1	0	0
TOTAL	18	3	2

228. As it can be shown by the statistics of requirements made by the competent authorities to the UAF, only 23 requests for information were made during the last 3 years (2014-2016), noting that the highest number of requests were made by the NP with 18 requirements and that during 2016, only one request for information was received. These figures show that the competent authorities, despite having the UAF intelligence information available, do not have any policy providing for the request of information to the UAF as an input into their investigations to pursue property, assets and resources related to ML/TF.

Cooperation and exchange of information/financial intelligence

229. The competent authorities are empowered to request from the UAF the information from the proceeds of their ML/TF preventive powers that may contribute to their investigations. When the UAF receives these requirements it proceeds to develop an intelligence report answering the competent authorities.

230. Statistics show that the UAF has disseminated twenty-three (23) Intelligence Reports at the request of the competent authorities, which have generated so far ninety-eight (98) investigations by the NP together with the PPO. The intelligence report is the result of the analysis of information at the request of the competent authorities.

231. There are a total of 201 reports related to ML. In the review period of the evaluation, 33 police reports have been submitted for parallel financial investigations and 51 police reports for autonomous offenses. It should be noted that the FTRs sent to the PPO are then worked together with the NP.

232. The UAF shares information with the NP, the PPO and the AGO, since they are the entities directly related to the use of intelligence for financial investigation. However, shared figures in requirements statistics carried out by such entities to the UAF for the period 2014-2016 reveal the NP made 18 requirements, PPO 3 and AGO 2.

233. During the on-site visit, it was evident that the UAF has high security standards, with approved and certified procedures and controls.

234. The UAF has a Security Manual to protect both the facilities and the information they receive and send. The RSs interviewed expressed confidence in the treatment and handling of sensitive information by the UAF.

235. The UAF uses ORS to receive the STRs, FTRs and other reports, as well as to meet the requirements of the competent authorities, be them the NP, the PPO or the AGO. Likewise, if it is necessary to expand the information through the different sectors, this procedure is carried out by way of the system. The transmission of information is protected and has a protection system that prevents access to third parties.

236. As for the transmission of the FTR by the UAF to the different competent authorities, it is carried out through the ORS. The NP and the PPO confirmed access to ORS through user and password in order to receive the corresponding FTRs.

237. Regarding international cooperation, the UAF has signed 15 memoranda of understanding with its counterparts for the exchange of financial intelligence information, most of them with countries in the Latin American region and China Taiwan. During the period 2013-2016, a total of 74 information requirements were sent, most of which were sent to Central American countries. During the same period, the UAF received a total of 18 information requirements, 16 of which were answered and 2 of which are pending.

238. In addition, the UAF of Nicaragua is part of the Regional Memorandum of Understanding for the fight against ML and TF between FIUs of which the FIUs of Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Panama and the Dominican Republic are also members.

239. The UAF during the period 2014-2015 received 4 requests for information from its counterparts aimed at knowing the beneficial owner of a legal person, and a total of 13 requests for information were sent to peers for the same purpose during the period 2013-2015.

240. Irrespective of the fact that the competent authorities demonstrated at the on-site visit that there was an acceptable level of inter-institutional coordination between them, either through the signing of agreements and co-operation agreements, in practice, many of them were found not highly effective. The UAF has highly important financial information, which could be analyzed and shared with the competent authorities at their request and not necessarily for the presentation of an FTR, since the statistics that were shared reflected a low number of requests for information.

General Conclusions of the Immediate Outcome 6

241. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 6.**

Immediate Outcome 7 (ML investigation and prosecution)

ML identification and investigation

242. Nicaragua has an accusatory criminal procedural system and the PPO must be in charge to exercise public criminal action, likewise, with the assistance of the NP, they have the duty to seek clarification of the facts in criminal proceedings, strictly complying with the purposes of the criminal prosecution.

243. In order for the investigations and the criminal action to succeed, both institutions must coordinate their efforts. For this purpose, the NP may request legal advice to the PPO to guide its investigative work. In that sense, NP officials indicated during the visit that the exchange of intelligence information with the PPO has been achieved in order to dismantle criminal structures dedicated to drug trafficking and organized crime. For this purpose, they showed the results of the operations carried out in the investigation called "Diamante", in which eighteen (18) persons were arrested and accused of belonging to the criminal organization named "Jade", which allegedly laundered NIO 747 million and USD 93 million over the period 2012-2014, and was dedicated to international drug transportation. It should be noted that the "Diamante" operation involved police officers from several countries to dismantle the aforementioned criminal organization, as drugs were transferred from Costa Rica to Honduras by land and water.

244. The PPO has the SUAOCO with federal jurisdiction to be reported on criminal investigations plus ML, drug trafficking, organized crime, public administration, real property, intellectual and industrial property, environment and natural resources, as well as crimes committed by members of local, national or transnational criminal groups or networks. The SUAOCO comprises a leading prosecutor and ancillary prosecutors with different subject-matter expertise, as well as expert prosecutors acting as liaisons between each department and the region of Nicaragua.

245. The PPO and the NP have the possibility to initiate investigations related to ML and its predicate offenses. All of the above, by virtue of a complaint filed by any natural or legal person, or by reason of the receipt of a FTR sent by the UAF. The following tables detail the number of investigations initiated by the PPO:

Table 28: PPO ML investigations

Beginning of investigations	2012	2013	2014	2015	2016	Total
Report-derived investigations	33	24	20	44	25	146

FTR-derived investigations	0	0	1	6	15	22
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246. Among the investigations of the PPO, fifty-one (51) belong to investigations related with other crimes as shown below, where the priority of investigations is mainly focused on organized crime:

Table 29: PPO ML investigations related with other crimes

PROSECUTOR'S OFFICE STATISTICS						
	2012	2013	2014	2015	2016	Total
ML investigations (related with other crimes) derived from reports						
ML, organized crime and drug transportation at the international level	3	2	1			6
ML, organized crime, drug transportation, financing and carriage of restricted weapons	1					1
ML, organized crime and drug trafficking	2	1		1		4
ML, illicit drug financing		1				1
ML, traffic, transportation, industrialization of narcotic drugs and organized crime	1					1
ML, illicit drug financing and organized crime		1				1
ML, illicit drug financing, drug transportation and organized crime		1				1
ML, organized crime and drug trafficking at the international level	2	1				3
ML, organized crime and drug transportation	4	1		4		9
ML and drug trafficking		1				1
ML, financing and drug transportation		1				1
ML and organized crime			3	1	2	6
Money laundering, organized crime, drug transportation and construction of a landing strip				1		1
ML and use of restricted weapons					1	1
ML, organized crime, aggravated fraud, material counterfeiting, ideological misrepresentation, suppression, concealment, and destruction of documents.					1	1
ML investigations (related with other crimes) derived from FTR						
ML and tax fraud					8	8
Tax fraud, smuggling, organized crime and ML				1	1	2
Drug transportation at international level, organized crime and ML				2		2
Fraud and ML				1		1
TOTALS	13	10	4	11	13	51

247. The table above shows the statistics of ML investigations related to other crimes initiated by the PPO. In most ML cases, the investigations are carried out along with crimes related to drug transportation and organized crime. It is important to mention that PPO representatives stated that in order to proceed with ML investigations, in general, they wait until the end of the related investigation for drug trafficking and organized crime and then they start with ML investigation, since the process to obtain evidence is simpler according to the PPO. This indicates that investigations do not entail a practice of initiating parallel financial investigations when investigating the predicate offense.

248. In the light of other relevant crimes in the context of Nicaragua, no information was submitted that could account for the parallel financial investigations that have been carried out in relation to other predicate offenses, other than drug trafficking. The only investigations of ML related to other offenses than this are those

originated by the FTRs sent by the UAF (1 for fraud, 8 for tax fraud and 2 for tax fraud, smuggling and organized crime).

249. The possible lack of parallel financial investigations may be due to the fact that Provision 06-2016 states that the NP should initiate parallel financial investigations for predicate offenses when identifying significant assets or resources or when determining the participation of organized groups dedicated to the ML activity.

250. The NP has specialized units, such as: Police Intelligence, Economic Investigations, Anti-Narcotics, Legal Aid, the roles of which are to discover, prevent, investigate and neutralize the threats and risks related to ML, drug trafficking, crimes related with narcotics, psychotropic drugs, other controlled substances, their precursors, organized crime, terrorism and other related crimes; investigating crimes against socio-economic order, crimes against the Public Treasury, counterfeiting of currency, tax goods and stamps, crimes against the nation's cultural heritage, crimes against public health, crimes against natural resources and the environment and all those with an economic or patrimonial affectation to the country. In order to perform its role, the NP can carry out investigations based on the analysis of the FTRs sent by the UAF, on its own initiative, due to a claim or by order of the PPO:

Table 30: NP investigations

	2012	2013	2014	2015	2016	Total
<i>Reception of FTRs and request for information</i>						
Number of FTRs received from the UAF	0	0	20	48	27	95
Number of FTRs received from the PPO for financial analysis report	0	3	2	3	1	9
Total FTR received at the NP	0	3	22	51	28	104
Number of police reports generated from FTR investigations sent to the PPO	0	0	1	4	15	20
FTR under investigation	0	3	21	49	25	98
Requests for information to the UAF	0	0	3	14	1	18
Investigations carried out by travelers' declarations (false or by findings)	0	0	0	0	1	1
<i>Investigations carried out in cases other than FTR</i>						
Number of ML investigations	19	14	11	23	14	81
Number of reports	19	14	11	23	13	80

251. From the table above, it can be seen that the NP has prepared police reports derived from the receipt of FTRs sent by the UAF. In this sense, the role of the NP is to investigate for the discovery and proof of alleged criminal acts and the result of the investigation will be presented as a report to the PPO or to the competent judicial authority. The NP can request the application of special methods of investigation. According to the information provided by the authorities, the existence of the roles of undercover agent, revealing agent and monitored delivery is evident. However, there is no information known on telephone interventions. On the other hand, in accordance with the previous statistic, it is clear that the NP has requested information from the UAF, which is relevant for the investigation and processing of ML. However, as mentioned in the IO 6, the number of requests for information to the UAF is relatively low.

252. From the previous table, it is also observed that the NP has carried out investigations in cases of ML, derived from other sources than FTRs, and it has issued reports of which convictions have been handed down.

253. Nicaragua has made efforts to dismantle criminal organizations that engage in ML. In this sense, by way of the inter-institutional coordination, it was possible to identify members of criminal organizations as depicted by the following case:

2016 - Sovereignty case:

A criminal group known as "El Cairo" and made up of Guatemalans, Costa Ricans and Nicaraguans was accused of being organized to commit the crime of international drug transportation in Costa Rica through the South Coast of the Lake of Nicaragua in the municipality of San Carlos, San Juan River.

It was possible to state as predicate offense a preliminary amount of money that this structure dedicated to drug trafficking denominated "El Cairo" kept as the result of money laundering by way of diverse activities such as purchase of cattle, purchase of movables and immovables, and mortgage loans being granted and repaid, all of which in order to convert the illicit money proceeds from the drug trafficking activity into allegedly legal money. Moreover, in order to show a façade of legality to the proceeds of drug trafficking, this group invested four million, three hundred and seventy-three thousand, four hundred and thirty Cordobas (NIO 4,373,430.00, approximately USD 147,253.53), in the purchase of livestock; and according to transfer guides of livestock transferred a total of 5,332, livestock for the period from 2012 to the first quarter of 2015, all destined to the farms of El Recreo, La Palma, El Roble or Los Mangos located in the sectors known as El Camibar, Papaturro and Jomusa, on the south coast of the municipality of San Carlos, San Juan River. The accused Omar Cárdenas López, Francisco Martínez Reyes, Santos Isabel Ramírez Reyes and Marcos Tulio Castro Mora, the accused, belong to the El Cairo.

In this case, 21 persons were charged, and 8 farms were searched with a total surface of approximately 4,720 blocks, a plot of land, a house, 10 vans, 2 trucks, 1 car, 1 motorcycle and 2 motorboats, 1,012 cattle heads and 87 horses.

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

254. In accordance with the IO. 1, the main highlighted threats in the NRA were drug-trafficking, organized crime, unjust enrichment and bribery, smuggling (including tax and customs fraud), human trafficking and sexual exploitation.

255. Regarding predicate offenses, during the period under evaluation, the NP has received the following reports:

Table 31: Predicate offenses reports

ML predicate offenses	2013		2014		2015		2016		Total	
	C	O	C	O	C	O	C	O	C	O
Related to psychotropic and other narcotic drugs	2317	2295	3790	3768	2570	2553	1503	1498	10180	10114
Aggravated fraud	249	206	235	207	241	202	179	147	904	762
Counterfeiting currency	32	26	27	24	3	3	10	9	72	62
Human trafficking for purposes of slavery, sexual exploitation or adoption	28	27	17	16	11	11	4	4	60	58
Weapons manufacturing, trafficking, possession and use	19	19	15	13	18	18	24	24	76	74
Bribery by individual	17	17	12	12	37	36	39	36	105	101
Embezzlement	26	26	30	26	15	15	12	10	83	77
Fraud	18	15	22	18	11	9	15	14	66	56

Procurring	4	4	11	11	4	3	1	1	20	19
Illicit vehicle trafficking	10	5	12	8	2	2	1	1	25	16
Sexual exploitation and pornography	6	6	14	12	10	10	8	8	38	36
Smuggling	1	1	0	0	1	1	0	0	2	2
Customs fraud	0	0	1	1	0	0	1	1	2	2
Trafficking, stockpiling and storage of illicit weapons	7	7	5	5	0	0	4	4	16	16
Extortive kidnapping	5	4	3	2	5	5	4	4	17	15
Bribery by authority body	2	2	4	4	4	4	1	1	11	11
Total	2741	2660	4198	4127	2932	2872	1806	1762	11677	11421

256. As previously mentioned, the emphasis of the Nicaraguan authorities has been on combating drug trafficking and organized crime, these being the main threats in the context of Nicaragua. In most ML cases connected with other crimes, according to statistics and the convictions shown, crimes are related to drug trafficking and organized crime, especially in the case of drug transportation. At the same time, in the case of autonomous ML, ML is evidently linked to drug trafficking patterns. However, in relation to the reports filed, evidence shows that the beginning of parallel financial investigations is not followed as an institutional policy. Only 38 ML investigations have been conducted as related to drug trafficking.

Castor Case (2015).

The Division of Assistance in Judicial matters (DAJ), in coordination with the Division of Economic Investigations (DEI), carried out investigative actions aimed at analyzing all the elements of conviction obtained in the searches carried out at the different properties of the accused, as well as the tax and financial information of the banking and non-banking FIs in the country, information duly authorized by the competent judge. Moreover, an analysis was performed on information from government and private companies, arriving at the conclusion that there are ML schemes, since both persons accused have created bank accounts with the proceeds of illicit activities –drug trafficking– making withdrawals, deposits and transfers in order to hide the illicit origin of the funds, all financial transactions are greater than expected and declared in its comprehensive client profile without a legal commercial activity that justifies the origin of the funds.

In this case, two people were charged, one arrested for being allegedly the front man of the sister of "Tito Negro".

257. Regarding the remaining threats, there are no information on parallel financial investigations carried out by the NP as a result of the reports filed for ML predicate offenses. The authorities state in the case of the crime of human trafficking that the investigations are directed to the 'recruiters', who are the first links in the chain of human trafficking, hence, the identified assets have been insignificant, indicating that in these cases financial investigations are not carried out to dismantle the structure of these organizations. On the other hand, and as previously mentioned, the only investigations of ML related to other offenses than drug trafficking and organized crime are those originated by the FTRs sent by the UAF (1 for fraud, 8 for tax fraud and 2 for tax fraud, smuggling and organized crime).

258. Of the 91 convictions entered by Nicaragua, most of them are for ML as related to drug trafficking and organized crime, except 3 cases in which an ML conviction is entered as related to customs fraud and 1 for bribery by individuals (in 2009).

259. Within the limitations that could affect the execution of a higher number of ML investigation in all its aspects are the number of human and technological resources assigned, as well as the need to strengthen investigation capacities.

260. In order to strengthen the capacities within the PPO, the Strategic Plan 2015-2019 is established as a key activity to improve the quality of care and representation of the crime victim. For this purpose, plans include the improvement of the investigative talent of the prosecuting personnel and ancillary staff; likewise, it is planned to strengthen the specialized divisions of the PPO, for which it is intended to set forth a guide that defines and develops the role of specialized divisions in the whole territory for the leading direction of specialized work, besides, based on the diagnosis of the current structure of specialties, it is sought to provide and gradually equalize specialized human resources and materials necessary for the operation at the national level. On the other hand, the aforementioned Strategic Plan seeks to improve the implementation of procedures in different areas, for which purpose all causes of serious offenses will be prosecuted, prioritizing organized crime, gender violence and human trafficking. Institutional growth and development are also on the agenda, for which institutional growth is planned according to the coverage plan in prioritized municipalities.

Types of ML cases prosecuted and convicted

261. According to the information filed by the authorities, the PPO has carried out several ML investigations:

Table 32: detail of ML investigations

	2012	2013	2014	2015	2016	Total
Report-derived investigations						
ML investigations (independent)	6	4	7	16	10	43
ML investigations (related with other crimes)	13	10	4	7	4	38
ML by representatives investigations	9	2	1	6	0	18
ML by cross-border transportation investigations	5	8	8	15	11	47
FTR-derived investigations						
ML investigations (independent)	0	0	1	0	6	7
ML investigations (related with other crimes)	0	0	0	4	9	13
ML by representatives investigations				1		1
ML by cross-border transportation of money investigations				1		1

262. According to the information filed, there are several ML modalities under investigation in Nicaragua. The investigated cases of ML are related to ongoing investigations of other crimes, independent ML and ML related to cross-border money transportation.

263. In the case of ML related with other crimes, as already mentioned, ML cases prosecuted in Nicaragua are derived from the crimes of drug trafficking with organized crime investigations. The authorities provided cases in which third parties were used to purchase goods.

"CHESPIRITO" CASE:
 This was an organized group dedicated to the trafficking of narcotics, psychotropic drugs and other controlled substances. Its members were Nicaraguans dedicated to buy drugs in CR, transport them to Managua and convert it into crack for sale in stores and in the street.
 The NP, through its national special divisions, investigated the case for the predicate offense with ML, because during the investigative process money laundering operations were identified since the money obtained from

the trade of crack was integrated in the purchase of movable property: Vehicles, Motorcycles and household goods. The acquisition of vehicles and real estate was carried out through third parties. The competent authorities commenced legal proceedings and as a result of the process, 13 people were convicted for the crimes of international trafficking of narcotics, psychotropic drugs and other controlled substances; organized crime; illegal possession of weapons; ML and obstruction of functions. Total confiscated property: 3 automobiles, 3 properties and 2 firearms.

264. In the independent way, most of the cases reviewed are also linked to drug trafficking and cross-border money transportation.

EXCHANGERS CASE:
 The NP investigated the criminal organization of persons engaged in currency exchange with ties to a CR businessman with backgrounds of international drug trafficking and who used the Los Chiles, CR route to San Carlos, San Juan river to transport the drug. He delivered the proceeds of that activity to a currency exchanger in charge of distributing the money among other currency exchangers who, in turn, entered Nicaragua with amounts of less than USD 10,000.00 and exchanged these amounts to Colons by means of banking institutions and San Carlos currency exchangers. Later on, the laundered money returned by 2 routes: 1. Legal route, migrations, by means of collective transport boat. 2. Illegal, clandestine route Las Tablillas. The NP by way of its border intelligence detected this illegal activity and arrested four individuals. As a result of the legal proceedings they were convicted for ML to 5 years of imprisonment and payment of a fine of USD 597,166.00. Total confiscated property: Cash (CS\$ 183,393.00, USD 32,760.00 and 84,960.00 colons), one water transport vessel and 2 marine engines.

265. From ML investigations, the table below shows the outcome in which ML convictions have been obtained as an autonomous crime and in relation with other crimes in the first instance.

Table 33: ML judgments as an autonomous crime and in relation with other crimes in the first instance

	2012	2013	2014	2015	2016	Total
<i>ML convictions as an autonomous crime</i>						
Convictions	11	6	7	3	11	38
Acquittals	1	0	1	0	1	3
<i>ML convictions (related with other crimes)</i>						
Convictions	7	13	6	8	8	42
Acquittals	0	0	0	2	0	2

Effectiveness, proportionality and dissuasiveness of sanctions

266. The punishment for the ML criminal offense ranges from 5 to 7 years of imprisonment and with aggravation of the sentence from 7 to 15 years. The aggravation of the sentence applies when there is evidence of related activities or activities which derive from crimes related to narcotics, psychotropic drugs and other controlled substances or other crimes that have been carried out by an organized criminal group member or a national or an international group, except in the case of organized crime. In that sense, crimes related to narcotics, psychotropic drugs and other controlled substances, organized crime and ML are closely related, therefore, criminal sanctions of each of these offenses are similar⁴ and it is considered that they could discourage or deter criminal organizations that seek to allege legality to the proceeds of criminal activities.

⁴ The average maximum punishment for offenses related to narcotics, psychotropic drugs and other controlled substances is 14.92 years, Title XVI, Sections 348-362 of Law No. 641.

267. Nicaragua reported 91 ML convictions for the period 2008-2015 and it is observed that the imposition of punishments ranges from 3 to 30 years. It was pointed out that during the period 2012-2016, there are no acquittals in criminal cases related to ML.

268. Likewise, in 49 cases an indictment was filed for ML as related to other crimes, such as organized crime and illegal transportation of narcotics, psychotropic drugs and other controlled substances. In these cases, convictions were entered and punishments ranged from 5 to 37 years. The conviction with most years of imprisonment entered is related to the charges filed for the following offenses: Trafficking in narcotics, psychotropic drugs and other controlled substances, ML, organized crime, illegal possession of weapons and obstruction of functions; however, this sentence has no confiscated amount and no fines either.

269. During the period under review, 247 people have been convicted of the crime of ML. The following table shows the average ML convictions ranging from 5 to 10 years:

Table 34: Average number of convictions and fines

Persons convicted by ML						
Year	Total	0 to 5 years	5 to 10 years	10 to more years	USD fines	NIO fines
2012	48	10	37	1	11,966,084.55	298,131,776.20
2013	68	12	56	0	221,219,634.20	242,382,274.30
2014	36	23	11	2	10,642,551.16	13,345,196.16
2015	16	5	9	2	4,212,820.00	2,534,780.00
2016	31	2	27	2	11,004,773.00	24,420.00

270. In addition, the authorities presented statistics of the total number of prosecuted cases (84 convictions) during the review period of the evaluation (2012-2016) from the first instance to final conviction.

Table 35: Sentences from first instance to final conviction

	2012	2013	2014	2015	2016	Total
Number of convictions	17	24	17	11	15	84
Number of appeals	15	23	15	7	8	68
Convictions not appealed	2	1	2	4	7	16
Confirmed appeal judgments	15	20	13	6	7	61
Under review	0	3	2	1	1	7
Number of ongoing appeals	4	8	9	0	0	21
Final appeal judgments	2	4	1	0	0	7
Under review	2	4	8	0	0	14

271. The legal system of Nicaragua foresees ancillary consequences for legal persons when criminal acts are performed using the legal person as a front or when performing illegal activities for the benefit of such legal person. During the years 2012 and 2013 ancillary consequences were presented as follows:

Table 36: Ancillary consequences

	2012	2013	2014	2015	2016	Total
Company dissolution	12	8	0	0	0	20

General Conclusions of the Immediate Outcome 7

272. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 7.**

Immediate Outcome 8 (confiscation)

Confiscation of proceeds, instruments and property of equivalent value as the purpose of a policy

273. Nicaragua has a policy to deal with organized crime, especially to combat drug-related offenses, for example, with the specific policy named "Retaining Wall". As a result of the actions performed, instruments and proceeds of organized crime and drug trafficking have been confiscated.

274. Additionally, in the case of specific cases of ML, it has been verified in the information obtained that the authorities in the cases presented have confiscated assets both in ML cases related to predicate offenses and in cases of ML as an autonomous crime, as detailed below:

Table 37: Number of confiscated property and assets

Number of confiscated real estate						
Type	2012	2013	2014	2015	2016	Total
Households	67	66	65	10	24	232
Hotels	0	11	1	0	0	12
Warehouses and stores	0	2	5	0	0	7
Collection centers (seafood, coffee, etc.)	0	1	0	0	0	1
Properties in coastal areas	0	0	12	0	0	12
Rural properties, land and farms	0	55	0	2	13	70
Total	67	135	83	12	37	334
Number of confiscated personal property (means of transportation)						
Light vehicles (sedans, vans, etc.)	47	44	52	9	5	157
Buses, tractors, trailers, microbuses and trucks	6	1	2	1	2	12
Heads and wagons	4	9	2	0	3	18
Motorcycles	7	19	32	5	1	64
Quadricycles	0	1	2	0	0	3
Vessels, skiffs and water engines, etc.	8	29	34	1	1	73
Aircrafts	3	0	0	0	0	3
Total	75	103	124	16	12	330
Other						
Jewelry	90	0	15	0	0	105
Weapons (shotguns, pistols, rifles, etc.)	17	7	22	2	2	50
Ammunition	0	80	68	0	0	148
Tech equipment (computers, printers, cell phones, etc.)	60	47	109	0	3	219
Household goods	15	85	13	0	0	113
Food	0	3479	0	0	0	3479
Iron products	0	1203	0	0	0	1203
School supplies	0	0	3	0	0	3
Accessories (handbags, purses and backpacks)	7	18	97	33	23	178
Clothes and shoes	249	2711	227	14	8	3209
Beauty products	0	0	0	0	4	4
Total	438	7630	554	49	40	8711

275. At the same time, in the case of property, estimated values presented were as follows:

Table 38: Confiscated property value

Year	Livestock value NIO	Vehicles value NIO	Property value NIO	NIO
2012		38,895,751.26	127,036,114.73	165,931,865.99
2013	81,800.00	9,525,005.47	78,072,585.07	87,679,390.54
2014		11,327,455.31	87,115,295.74	98,442,751.05
2015	18,905,294.00	9,446,334.00	43,840,259.14	72,191,887.14
2016		3,850,990.60	9,994,983.02	13,845,973.62
TOTALS	18,987,094.00	73,045,536.64	346,059,237.70	438,091,868.34

276. As regards the destination of real property confiscated between 2013 and 2016, these were allocated as follows:

Table 39: Allocation of real estate for the period 2013-2016

National Police	AGO	Army	PPO	Ministry of Health	MIGOB	Municipal Corporation of Markets	National Port Company	Nicaraguan Institute of Territory Studies	Ministry of Family, Community, Cooperative and Associative Economy	Total
155	88	7	6	3	3	2	1	1	1	267

277. Air and naval means, military communication media, systems of localization or global positioning (GPS) and restricted-use firearms were delivered to the Nicaraguan Army. On the other hand, firearms for civilian use and civilian means of communication, and terrestrial motor vehicles of less than three thousand cubic centimeters have been delivered to the NP.

278. In addition, the UABIDA provided information on money confiscated in ML cases, which shows that there has been a decrease with respect to the seizing of dollars and cordobas, except in some cases, as follows:

Table 40: Confiscation of cash in dollars, cordobas and other currencies (2012-2016)

Type/Year	2012	2013	2014	2015	2016	Total
USD	1,820,286.4	14,130,532.00	2,377,833.00	1,219,650.00	3,748,494.19	23,296,795.64
NIO	570,861.25	789,185.50	273,922.10	51,710.00	45,487.22	1,731,166.07
Lempiras	325.00	1,019.00	70.00	0.00	822.00	2,236.00
Colons	48,255.00	96,960.00	107,705.00	0.00	32,000.00	284,920.00
Quetzales	45.00	0.00	100.00	0.00	0.00	145.00

279. Regarding the distribution of money in ML cases by institution and purpose, according to the information provided, the majority was allocated to the NP as shown below.

Table 41: Distribution of money confiscated in ML cases, by institution and purpose

Concept	Dollars	Cordobas
Income in accounts of the Ministry of Finance and Public Credit (MHCP)	23,296,795.64	1,731,166.07
Allocations		
NP	69.84%	94.93%
MIGOB	29.78%	
National Penitentiary System (SPN) - 20%		
Directorate of Foreigners and Migration (DGME) – 9.78%		
Total	99.62%	94.93%

1. The money allocated to the NP was applied to institutional strengthening with the purpose of improving the fight against organized crime and common crime, through all its special divisions. (Infrastructure, means of transport, training, technological systems, among others).

2. As for the 29.78% of the money allocated to the Ministry of Government, it was divided into two institutions:

2.1. 20% was allocated to the National Penitentiary System for the construction of penitentiary systems (Prisons) of maximum security for dangerous imprisoned criminals with ties to organized crime.

2.2. 9.78% was allocated to the Directorate of Foreigners and Migration to strengthen the application of the System of Discovery Measures at borders by strengthening control of the various activities carried out by members of organized crime.

280. Regarding the confiscation of goods of equivalent value, it is important to note that Nicaragua does not have such a provision in its legal system, therefore, it is not possible to ascertain how effective this measure is.

Confiscation of the proceeds from foreign and domestic predicate, and proceeds located abroad

281. Nicaragua, as already mentioned in the analysis of the IO. 7 has conducted investigations and prosecutions of ML and other predicate offenses. From the criminal prosecution of these offenses movable and immovable property has been confiscated as detailed in the table above (see table: Number of confiscated property and assets)

282. Most of these cases presented by the authorities are related to ML, drug trafficking and organized crime. There is no information available on authorities having investigated cases to confiscate the proceeds of crime in other predicate offenses; this can be explained in part because, as shown in IO. 7, authorities have not actively conducted parallel financial investigations in order to track criminal assets.

283. From the information reviewed, no evidence was found that the authorities conducted their own investigations or investigations with authorities from other countries to confiscate of proceeds of predicate offenses committed abroad or to repatriate proceeds located abroad related to crimes committed at the national level.

284. In addition, Nicaragua requested real precautionary measures during the period 2013-2016, as follows:

Table 42: Requests for precautionary measures 2013-2016

Precautionary measure	2013	2014	2015	2016	Total requests	Total confiscation
Precautionary measure on money	5	9	7	2	23	4

Precautionary measure on real estate	7	34	52	31	124	111
Total	12	43	59	33	147	115

* Precautionary measures on money and property are mainly related to ML, organized crime and drug trafficking.

285. Regarding real precautionary measures of freezed and confiscated money for the period 2013-2016, the following information was submitted:

Table 43: Real precautionary measures of freezed and confiscated money 2013-2016

Real precautionary measures of freezed and confiscated money 2013-2016					
Money confiscation	2013	2014	2015	2016	total
Cordobas amount confiscated	84,406.04	74,319.19	42,266.17	0	200,991.40
US dollars amount confiscated	42,012.28	15,541.03	522,528.19	0	580,081.50

286. Regarding asset confiscation, proceeds of predicate offenses committed abroad and located abroad, it was indicated that no confiscation had been made.

Confiscation of falsely or undeclared cross-border transactions of currency/bearer negotiated instrument

287. Within the ML/TF NRA it was identified that controls at border crossings are frequently evaded for the introduction, circulation and exit of cash. However, the authorities have made efforts to detect unreported money or false statements. In addition, in order to strengthen border controls, a modern scanner system has been installed.

Table 44: Money undeclared and seized at borders

Year	Nationality	Border post	Department where it was investigated	Amount in USD	Amount in NIO
Year 2012					
2012	18 Mexicans	Las Manos	Nueva Segovia	9,255,631.00	
2012	Honduran	Peñas Blancas	Rivas	1,979,900.00	
Total year 2012				11,235,531.00	
Year 2013					
2013	Salvadoran	Peñas Blancas	Rivas	213,980.00	
2013		El Espino	Madriz	545,522.70	6
2013	Salvadoran	Peñas Blancas	Rivas	167,191.00	100
2013	Guatemalan	Peñas Blancas	Rivas	100,000.00	
Total year 2013				1,026,693.70	106
Year 2014					
2014	Honduran	El Espino	Madriz	36,670.00	4,941.00
2014	Costa Rican	Peñas Blancas	Rivas	376,780.00	
2014	Honduran	El Guasaule	Chinandega	231,300.00	2,900.00
2014	Honduran	Peñas Blancas	Rivas	91,172.00	44.5
2014	Nicaraguan	Peñas Blancas	Rivas	22,411.00	15,540.00
2014	Mexicans	Peñas Blancas	Rivas	93,301.00	100
Total year 2014				851,634.00	23,525.50
Year 2015					
2015	Nicaraguan	El Espino	Madriz	19,600.00	2,918.00

2015	Nicaraguan	El Guasaule	Chinandega	56,560.00	
2015	Honduran	Peñas Blancas	Rivas	22,762.00	
2015	Salvadoran	Peñas Blancas	Rivas	21,130.00	
2015	Mexican	Peñas Blancas	Rivas	9,560.00	
2015	Guatemalan	Peñas Blancas	Rivas	9,701.00	
2015	Guatemalan	Peñas Blancas	Rivas	33,151.00	
2015	Nicaraguan	Peñas Blancas	Rivas	94,000.00	2,420.00
2015	1 Guatemalan 1 Salvadoran	Maritime border, León	Maritime border, León	689,730.00	
2015	Nicaraguans	Las Manos	Nueva Segovia	333,164.00	785
2015	Honduran	Peñas Blancas	Rivas	40,037.00	
2015	Honduran	International Airport	International transit	27,800.00	
2015	2 Hondurans, 1 Nicaraguan	Las Manos	Nueva Segovia	22,000.00	
Total year 2015				1,379,195.00	6,123.00
Year 2016					
2016	3 Nicaraguan	Peñas Blancas	Rivas	129,040.00	1,960.00
2016	1 Guatemalan	Peñas Blancas	Rivas	303,000.00	10
2016	Costa Rican	Peñas Blancas	Rivas	467,020.00	
2016	1 Guatemalan 1 Costa Rican	Peñas Blancas	Rivas	700,220.00	200
2016		Peñas Blancas	Rivas	40,000.00	
2016	Guatemalan	El Guasaule	Chinandega	2,626,185.00	
2016	1 Nicaraguan 2 Hondurans	El Guasaule	Chinandega	180,020.00	
2016	6 Nicaraguans	El Guasaule	Chinandega	239,980.00	210
2016	2 Nicaraguans	El Guasaule	Chinandega	19,785.00	212
2016	Nicaraguan	Peñas Blancas	Rivas	483,680.00	20
Total year 2016				5,188,930.00	2,612.00
General total				19,681,983.70	32,366.50

288. With regard to money confiscated from organized crime in the modality of cross-border transportation, the UABIDA provided information for the period 2012-2016 pointing out that all cases refer to undeclared transactions, according to the following:

Table 45: Amounts confiscated in the form of cross-border transportation

Currency	Type	2012	2013	2014	2015	2016	Total
Dollars	Entry	115,963.00	10,190,249.00	492,153.00	1,124,150.00	3,566,653.19	15,489,168.19
	Exit	731,207.00	2,941,350.00	587,673.00	0.00	132,341.00	4,392,571.00
	Total	847,170.00	13,131,599.00	1,079,826.00	1,124,150.00	3,698,994.19	19,881,739.19
Cordobas	Entry	133,197.00	7,630.00	174,681.60	28,480.00	42,266.22	371,032.82
	Exit	7,305.25	185,652.00	98,640.50	0.00	0.00	291,597.75
	Total	140,502.25	193,282.00	273,322.10	28,480.00	42,266.22	677,852.57

289. A case related to the seizing of foreign currency in a border location was presented. It should be noted that this case served as the basis for the development of a ML typology at a regional level. For this purpose, the following is developed:

TELEVISA (2013)

The case is related to a television station called "TELEVISA", which consists of the seizing of US dollars at the border with Honduras. This ruling was issued on January 14, 2013, by the Ninth Judge of the Criminal District of Managua. In such ruling it is evidenced the use of white vans with a red emblem that reads "TELEVISA, SA de CV" and, using the logo of said company, those inside the vans had already crossed the primary area of the Migration and foreigners facilities with a north-south direction (Managua). When in Nicaraguan territory, these people were arrested and questions were asked to know who they were, how many they were, what vehicles they were using to what was the purpose of their travel to Nicaraguan territory. At that time, the arrest and the confiscation of six vans and USD 9,255,631.00 is carried out. The vehicles seized were registered in Mexico in the name of Televisa S.A. According to the authorities the money contained remains of cocaine. It should be noted that 18 people of Mexican nationality were arrested, who indicated to the authorities that they worked for the referred television station. Those arrested were convicted to 30 years of imprisonment and found guilty of drug trafficking, ML and organized crime.

290. This case entailed a series of information exchange of an investigative nature between the PPO of Nicaragua and Mexico's PGR. The arrest of those involved in the criminal activity allowed to initiate a series of investigations in Mexico and to seize 12 houses valued in USD 3 million, 10 luxury vehicles, jewels, watches and 2 gold ingots, among others. According to the Nicaraguan authorities, the arrested group alleged to be a journalist and television station employees to facilitate the transfer of money from Mexico to Central and South America and to transfer narcotics from those destinations to Mexico. The amounts confiscated were distributed as follows: USD 7 million to build high-security prisons and the rest to buy 75 fully equipped police units.

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

291. From the analysis carried out on the outcomes regarding convictions, it is observed that most of them are crimes related to drug trafficking. In addition, statistics related to confiscation show that assets and instruments of crime have been recovered, such as movable and immovable property, as previously shown. Due to the abovementioned, to a certain extent the confiscation carried out in Nicaragua correspond to the main threat and the country's priorities in combating drug trafficking and organized crime based on the policies for these purposes.

292. On the other hand, there is information missing with details of the confiscation of the proceeds of predicate offenses which are located abroad, without specifics as to what predicate offense they are related. Therefore, it is not possible to ascertain to what extent the confiscation outcomes are consistent with ML/TF risks, priorities and policies of AML/CFT.

General Conclusions of the Immediate Outcome 8

293. In accordance with the abovementioned, Nicaragua presents a **substantial level of effectiveness regarding the Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION*Key findings and recommended actions***Key findings****Immediate Outcome 9**

- TF is set as a criminal offense in Nicaragua. However, this criminalization does not reach all the elements contemplated in the R. 5. These deficiencies affect the authorities' ability to identify, investigate, prosecute and punish this crime.
- Nicaragua has neither investigated nor prosecuted any TF cases at the time of the on-site visit.
- Nicaragua has no other alternative measures that would interrupt TF activities in the event TF cannot be convicted.
- The authorities developed a NRA of TF in which they concluded that the country TF risk profile is moderate. However, in the development of the NRA, there are differences between the competent authorities regarding the knowledge and understanding of the TF risk.
- The authorities in charge of the fight against TF coordinate themselves appropriately (PPO, FIU, AGO, NP and Judiciary). The authorities have mechanisms in force for cooperation and also channels of informal communication and mechanisms that can be used to coordinate concrete actions to combat TF.

Immediate Outcome 10

- Nicaragua enforces a legal framework to comply with UNSCR 1267 and 1373, except for some FIs and DNFBPs.
- Both the Nicaraguan authorities and the RSs have demonstrated an adequate understanding of the obligations relating to the implementation of TFS.
- The legal framework applicable to NPOs limits the scope of possible AML/CFT measures.

Immediate Outcome 11

- The technical shortcomings in relation to R. 7, i.e., the lack of regulations to apply the relevant UNSCRs, make it impossible to evaluate the effectiveness in the IO. 11.
- The Nicaraguan authorities and the RSs have demonstrated that they have the knowledge and understanding of the implementation of the TFS of the FPWMD and that their implementation is feasible through the use of the same structure designed to comply with the UNSCRs related to TF.
- Although a good level of inter-institutional coordination is perceived between law enforcement authorities and the latter with the RSs, regarding the implementation of the UNSCRs related to the TFS for TF, the absence of regulations is presented as the only obstacle to implementation of the TFS of the FP.

Recommended actions**Immediate Outcome 9**

- Modify the TF criminalization as set forth by Recommendation 5.
- Develop mechanisms to strengthen the understanding of TF risks in all CFT system authorities.
- Conduct training for the identification, investigation and prosecution of TF, so that the authorities have the necessary tools to identify, investigate and prosecute, and ultimately to punish this offense effectively when a case is filed.

Immediate Outcome 10

- It should be made absolutely clear that confiscation and seizure legislation is also applicable to TF cases.
- The legal framework applicable to NPOs must state clear CFT provisions.
- Strengthen the actions of liaison with the sector of NPOs.
- Adequately assess the sector of NPOs in order to implement a risk-based approach.

Immediate Outcome 11

- Develop a regulatory framework to implement UNSCRs directed to the FPWMD.
- It is necessary to raise awareness and train law enforcement authorities and RSs in FPWMD.

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

Immediate Outcome 9 (TF investigation and prosecution)

Processing/conviction of types of TF activity consistent with the country's risk profile

294. Nicaragua has no record of any TF investigation or prosecution. Therefore, the effectiveness achieved by Nicaragua in this immediate outcome is focused on the review of institutions and the legal framework in force regarding the country's risk profile and the possibilities of identifying, investigating and prosecuting adequately TF conducts. However, since there are no TF cases identified nor investigated for strategies and plans to be developed, Nicaragua has taken as a reference the characteristics of international terrorism, types of activities and phases of terrorism and its financing, methods for movement of funds, typologies, methods of operation, means and instruments used by terrorist organizations in different countries.

295. The ML/TF NRA of Nicaragua identifies TF as an exogenous threat. In addition to the above, in order to deepen the understanding of TF risks, as mentioned in the IO. 1, the UAF carried out a TF risk assessment with the support of some relevant authorities and RSSs. Derived from the analysis, the TF risk was rated as 'moderate' (the calculation is made up of a probability of occurrence level 2, - "unlikely" and an impact of level 3 - "moderate").

296. Conclusions show that the UAF as entity in charge of suggesting AML/CFT measures, there is awareness on the limitations in the legal framework, specially deficiencies in the TF criminal typology which may imply difficulties for the identification, investigation and adequate prosecution of TF conducts, particularly the absence of criminalization of the financing of the individual terrorist, financing of foreign terrorists and financing of at least eight of the conducts provided for in the conventions and protocols of the annex to the convention for repression of TF⁵.

297. Therefore, within the strategic lines, the objective of strengthening the CFT legal framework was established. However, within such strategic lines, it is not evidenced that measures addressed to all the authorities in charge of prosecuting AML/CFT cases, i.e., judges, are being considered.

298. On the other hand, TF risk evaluation offers little assessment of the risk involved in DNFBPs outside the Nicaraguan AML/CFT regime (44,337), as well as the risk of FIs that the regime does not reach.

299. In addition, in order for TF countering authorities to address the identified TF risks and implement actions that strengthen authorities' capacity in TF investigation and prosecution, actions must be coordinated to implement the TF Strategy.

TF identification and investigation

⁵ Sections 1 and 1a of the Convention for the Suppression of Unlawful Seizure of Aircraft, Section 1.1.a of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Section 2 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, Section 1 of the International Convention against the Taking of Hostages, Section 7.1 of the Convention on the Physical Protection of Nuclear Material, Section II of the Protocol for the Suppression of Unlawful Acts of Violence in international civil aviation, which adds paragraph 1 bis to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Section 2 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Sections 2.1, a) and 2.2, c) of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

300. Although the legislation contemplates the type of TF in relation to the capacity to investigate TF, it is important to bear in mind that the TF criminal type does not cover all the aspects required by Recommendation 5 (see TC Annex) which may imply problems in identifying, investigating and prosecuting all TF behaviors.

301. The lack of regulation of some FIs and the large majority of DNFBPs, as well as the lack of the appropriate NPOs CFT regulatory framework, limits the possibility of identification of TF cases and therefore restricts the ability of the competent authorities to carry out TF investigations.

302. There are differences between competent authorities regarding the understanding of TF. The UAF has coordinated with the different authorities of the country the implementation of formal and informal channels of communication, which allows them to collaborate for different purposes, at different spheres and levels. In this sense, the international listings issued under the UNSCRs are verified by all bodies through an electronic system developed by the UAF, through which the UAF is in charge of notifying any changes that may occur and this represents an important input for the identification and investigation of TF.

303. In order to increase the capacity to identify TF cases from both the authorities and the RSs, the UAF coordinated the training of TF investigation authorities and RS-specific training courses in TF and STR referral. However, at the time of the on-site visit, there was no record of any STR that could be related to TF, nor did any analysis of the UAF resulted in a TF-linked FTR.⁶

304. One of the main threats identified is the transit of illegal migrants to the USA. Between 2013 and 2015, 255 people were captured in connection with human trafficking. Among migrants, people from conflict zones were identified. For this reason, in September 2016, 111,426 migratory controls were carried out by means of patrols and inspections to detect human trafficking at land cross-border posts, air, sea, rainfall and lake frontiers, free zones, tourist centers, hotels, shopping centers, roads, bus terminals and international transport lines. This allows the authorities to be better able to identify cases should they arise.

305. The NP within its scope of action has the capacity for the prevention and prosecution of TF, since its structure entails the following specialties:

- Police Intelligence in charge of discovering, preventing, investigating and neutralizing the threats and risks related to terrorism and other related crimes, among others;
- Economic Investigations, which investigates and analyzes the FTRs sent by the UAF; Assistance in Judicial matters: this special division, either proactively or reactively, is in charge of investigating and documenting any fact that may constitute crime or fault, individualize and arrest alleged perpetrators and gather useful research elements, evidence and pieces of conviction;
- Police Security in Airports with powers to prevent, investigate and neutralize common offenses, organized crime, terrorism, drug trafficking and related crimes;
- Weapons, Ammunition and Other Related Materials (DAEM), which is responsible for preventing, regulating, controlling, regulating the manufacture, possession and carrying of firearms, ammunition, explosives, gunpowder and the like; issuing licenses related to this type of artefact;
- Special Police Operations, which may intervene to restore public order in the event of serious alterations, participate in special operations;

⁶ Following the on-site visit, it was reported that in the year 2017 a specific process was initiated on STRs issues, developing the "Workshop on Scaling Suspicious Transactions and Sending STRs", this workshop includes specific aspects regarding typologies of possible TF operations.

- Institute of Criminalistics and Forensic Sciences participates in the technical inspection of the places where it is presumed the commission of a criminal act, collects and processes criminal evidences, performs tests through scientific methods, techniques and procedures; and
- INTERPOL National Central Office (OCN - Interpol) liaison with the OICP and member countries.

306. With regard to other competent authorities (PPO, DGA, and the General Directorate of Foreigners and Migration of the MIGOB), it is still necessary to carry out more focused training actions with the purpose of having all the tools and knowledge to identify and investigate the crime of TF and related behaviors.

TF investigation integrated with – and supportive of - national strategies

307. As previously mentioned, TF investigations have not yet been carried out up to the date of the on-site visit. However, the UAF has sought through training to understand the potential threats of TF and the importance of appropriate measures to prevent, identify and combat this offense. With this purpose, the UAF is leading the implementation of the Strategy and Plan against TF. However, it is essential to connect all the authorities in this process and to emphasize the component aimed at strengthening TF identification and investigation capacities, since some authorities, considering the threat of terrorism far away from Nicaragua, do not perceive any TF risk.

Effectiveness, proportionality and dissuasiveness of sanctions

308. The crime of TF is punished with 15 to 20 years of imprisonment and it is directed only at natural persons. Although TF prosecutions have not been carried out, it is considered that the abstract sanction is effective, proportional and dissuasive, especially considering its high quantum within the Nicaraguan Law and that is considered a serious offense. For purposes of comparison, other serious offenses or similar must be considered, such as illicit traffic of weapons (punishable by two to six years' imprisonment and two to five hundred days in fines), murder (which carries a penalty of fifteen to twenty years of imprisonment) and the offense of manufacturing, trafficking, possession and use of restricted weapons, substances or devices (punishable by four to eight years imprisonment and two to five hundred days fine). Under Nicaraguan Law, additional sanctions are provided for legal arrangements.

Alternative measures used when a TF conviction is not possible

309. Nicaragua has no other alternative measures that would interrupt TF activities in the event TF cannot be convicted. However, with regard to the implementation of UNSCR 1373, it was possible to show that Nicaragua has taken various actions to be in a position to identify and detect individuals through coordinated actions between the UAF, the NSSS and the other related authorities.

General Conclusions of the Immediate Outcome 9

310. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions for TF without delay

311. Nicaragua, by way of the implementation of Decree No. 17-2014, has developed mechanisms that allow it to apply TFS without delay, which implies executing the measures provided at once by a designation of

the relevant UNSC or corresponding Sanctions Committee, in order to prevent the flight or disposal of funds or other assets linked to terrorists, terrorist organizations, those who finance terrorism and FPWMD.

312. The NP is the authority empowered to execute the provisions included in the UNSC Resolutions, besides, the National Sovereign Security System (NSSS) is responsible for analyzing information from the various entities that make up the AML/CFT system in order to generate national designations; if these are executed, this is communicated to the Ministry of Foreign Relations (MINREX), who in turn reports to the UNSC. No domestic designations have been submitted for the period 2014-2015.

313. Moreover, the MINREX and the UAF continuously monitor the updates to the lists mentioned above, which for the period 2014/2015 have reported 46 updates. For this purpose, the UAF has an Internal Procedures Manual that provides for the issuance of circular letters addressed to the RSs, NSSS Institutions and other relevant public institutions. Likewise, the PPO, SCJ, NP, DGA, and the MIGOB have implemented mechanisms within the scope of their functions to fulfill the established obligations.

314. To ensure a prompt implementation, the UAF has developed an electronic platform whereby the UAF transmits in a matter of hours the UNSC lists, once they have been issued by it, to the RSs. The RSs (the compliance officer and his deputy) are notified that the listing has been updated by text message and email. Once the update has been received, the RS must make the review, send a confirmation and state whether it has carried out the freezing of any funds or assets or not. During the on-site visit, all RSs were aware of their TFS obligations and the implementation of the obligations at the time of receiving the UAF listings and verification at the time of transactions. The UAF performs a verification of RS notifications and in case the RS response time exceeds 24-48 hours, the UAF notifies the respective supervisor to carry out the pertinent control actions. However, it is necessary to extend the coverage of TFS obligations to all sectors.

315. Within the context of UNSCR 1373, Nicaragua has defined mechanisms to cooperate with other countries in the immobilization of funds or assets; being the UAF the recipient of requests for immobilization and withdrawal of funds or assets linked to terrorism or its financing. At the time of the on-site visit, no cooperation had been received or requested in following-up UNSCR 1373, however, the authorities have clear powers and the way mechanisms can be activated.

Targeted approach, outreach and oversight of at-risk non-profit organisations

316. The Department for Registration and Control of Associations of the MIGOB is responsible for the registration and accounting monitoring of NPOs, it reviews that NPOs are carrying out the activities for which they were constituted according to their corporate purpose and that the funds are used in such sense; accounting supervision includes inspection of: Balance sheet; Statement of income; Trial Balance; Details of donations specified (country, donor entity, date of donation, description of donation, amount of donation, destination of donation), additionally, they make visits for control and assistance and NPOs have the RUC of the Revenue General Directorate and are registered in the municipalities.

317. The authorities of the Department for Registration and Control of Associations of the Ministry of Government indicated that 6,793 NPOs are registered in the country, of which 50% are religious and 629 are foreign. According to their analysis, they have identified as risk 5 NPOs made up of people from areas of risk and conflict. In accordance with Decree No. 17-2014, they search the records and detect persons and entities designated in the lists nos. 1267/1988/2253; not having found any matches. Similarly, the investigating authorities can obtain information from registered NPOs in the said department.

318. The ML/TF NRA identified NPOs as a potentially used sector for ML/TF; taking as a risk that criminal organizations can structure and/or use NPOs to legitimize funds of illicit origin; organizations and/or individuals, whether linked or not to terrorism, could use NPOs for terrorist financing and the proliferation of weapons of mass destruction. In addition, the CFT National Strategy and Plan aims to strengthen the scope of TF prevention in relation to NPOs. The UAF is empowered by law to require information; for the period 2012-2015, the UAF has not received any STRs linked to NPOs. The authorities are working on a draft General Law on NPOs. However, up to the date hereof, targeted and proportionate measures have not been implemented for NPOs identified as vulnerable and at risk for terrorist financing, which shows the lack of a risk-based approach for the sector.

Deprivation of TF assets and instrumentalities

319. The Nicaraguan authorities have reported that they have not had any investigations of terrorism or TF, so no deprivation actions have been implemented in this regard. In the same sense, in the application of TFS, no funds or TF assets have been identified. However, it should be pointed out that the legal instruments set forth in national legislation, both for the seizing and confiscation of TF assets and instruments and for the freezing of assets under the TFS are adequate as the knowledge and the power of the authorities to promote them if necessary.

Consistency of measures with the overall TF risk profile

320. In the ML/TF NRA it is stated that there are no known financing transactions carried out by international terrorist forces in the country, nor the participation of Nicaraguans in terrorist activities. In addition, the UAF, with the purpose of delving into this topic, coordinated the National Evaluation, Strategy and CFT National Action Plan, with the following pending purposes: strengthening of the TF legal framework; of the field of TF prevention of NPOs; of the area of prevention, detection and interruption of terrorism and TF regarding persons and activities with links to countries financing terrorism and close to areas of conflict or with active terrorist threat; developing operative and strategic analysis to disseminate TF information to the RSs with the aim of preventing, detecting and reporting TF activities; understand the risks and plan the fight against TF, by the institutions that make up the NSSS; establishing the NRA, NA and the CFT NP in the particular policy against TF and updating the CFT institutional plan.

321. This indicates the country's efforts to implement measures in response to the identified risks, since the measures in force are not effectively adapted to the prevention and mitigation of those risks, as well as to the constant mutation of this situation. Furthermore, as mentioned above, such study has not been communicated to regulators and subjects under regulation, it does not cover all the commercial activities and economic sectors susceptible to TF identified in the ML/TF NRA, and the participation of all the related sectors was limited, which restricts the level of identification, evaluation, understanding, management and mitigation of TF risks, with a correct approach based on risk.

322. Nicaragua has mechanisms in force to implement TFS. The NSSS is empowered to generate designations of nationals, through a coordinated work with the institutions that make up the NSSS. Moreover, the MINREX and UAF continuously monitor the UNSC lists, while communicating them to the RSs who are aware of the issue and pursuant to current regulations respond to the authorities. In addition, the UAF, PPO, SCJ, NP, DGSA and MIGOB have implemented specific mechanisms to fulfill their obligations under the TFS.

General Conclusions of the Immediate Outcome 10

323. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 10.**

Immediate Outcome 11 (FP financial sanctions)

324. Nicaragua has the operational capacity to implement those related to FPWMD, as RSs and law enforcement authorities validated existing communication and coordination procedures and protocols to comply with UNSCR on TFS for TF. However, the lack of regulations aimed at implementing the aforementioned resolutions prevents the country from showing some degree of effectiveness in this immediate result.

325. FIs and casinos understand the obligations and compliance with UNSC resolutions on TF prevention, suppression and disruption, which indicates that they have the capacity to apply TFSs to FPWMD if the necessary regulations are in place. On the other hand, the competent Nicaraguan authorities can guarantee and supervise compliance with the UNSC resolutions regarding the prevention, suppression and interruption of the PWMD and its Financing, for which they must enact the legislation that gives them the necessary powers.

General Conclusions of the Immediate Outcome 11

326. In accordance with the abovementioned, Nicaragua presents a **low level of effectiveness in the Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key findings and recommended actions

Key findings

- FIs, especially banks, finance companies and MFIs, are more advanced in understanding ML/TF risks in relation to other sectors. In general, they are aware of the nature and level of the ML/TF risks of the sector and have policies and procedures to mitigate them.
- Regarding the policies and procedures for TF, although there is a greater understanding of the risk on the part of banks and financial institutions, the other FIs and DNFBPs do not adequately understand TF risks because, since there are no terrorist events, it is not considered that there is exposure to TF in the country.
- There is an evident lack of a clear and express provision in the Law about the requirement to the RSs of the referral of STRs. This, together with the lack of understanding of ML/TF risks, results in low rates of STRs referral by some FIs and DNFBPs established in the legislation.
- Lack of incorporation of some FIs and DNFBPs defined by the FATF as RSs. At the same time, registration of some RSs is missing (for instance, Cooperatives) defined as such in the Law.
- Some FIs and DNFBPs regulated by the UAF do not have an internal monitoring system capable of issuing sufficient alerts to detect unusual transactions. There are breaches in the remittance of information as required by their regulatory body, and the policies and procedures do not meet the requirements of the FATF Standards: They cannot identify their threats and vulnerabilities according to the sector in which they are and present weaknesses in CDD processes.
- Taking into account the levels of the informal sector (i.e. Currency exchangers and informal remittances identified as particularly vulnerable to ML/TF in accordance with the NRA) and of financial exclusion available at the country, it was not possible to identify the existence of a national policy that promotes financial inclusion in line with AML/CFT policies, which in the long run favors the CDD performed by FIs and DNFBPs.
- There are informal activities related to remittance agencies and currency exchangers which weakens the AML/CFT system.

Recommended actions

- Address the deficiencies identified with respect to the TC of recommendations for preventive measures.
- Deepen the training on what the ML/TF risk represents among the RSs, especially those less advanced in this area. Add training on the identification of threats and vulnerabilities of different sectors and the development of an appropriate RBA in their procedures.
- Improve the dissemination of local and international typologies and NRA findings in sectors that were not covered in the NRA release in accordance with IO. 1.
- Generate a national policy and regulation that promotes financial inclusion under AML/CFT policies proportional to ML/TF risks.
- Issue the relevant legislation to include the economic activities that need to be covered by AML/CFT provisions, in particular the sectors defined by the FATF. Implement mechanisms to register RSs that are still pending registration.
- Generate mechanisms that enable monitoring entities to verify the proper understanding of ML/TF risks by RSs, in order to improve the application of the RBA to RSs.

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

Immediate Outcome 4 (preventive measures)

Understanding ML/TF risks and AML/CFT obligations:

a) Financing Institutions:

327. SIBOIF, CONAMI and the UAF are in charge of registering and regulating the FIs that concern them (see Table 4 of this MER). In addition, IFIMFs (beyond the monitoring of CONAMI)⁷, financial leasing activities, factoring and merchants engaged in negotiation on the future of commodities, are activities that, as mentioned elsewhere in this MER, have been registered "voluntarily" (29 registered) before the UAF in compliance with the secondary regulations issued by said Authority. However, such legislation has no legal basis because Law No. 793 does not grant the UAF the authority to incorporate FIs and DNFBPs.

328. In addition, it should be mentioned that the lack of registration of all FIs, that is, of their activities related to credit unions, MFIs, pawnshops and loaners and remittance companies result in the absence of an application of the AML/CFT obligations and the understanding of ML/TF risks by them.

329. Among the activities identified as particularly vulnerable to ML/TF according to the ML/TF NRA, are quoted unofficial remittance companies and currency exchangers, who are operating informally without proper authorization. The UAF has established cooperative agreements with the General Directorate of Revenue and Mercantile Registry to meet natural and legal persons operating without registration or license, as well as, through the Federation of Independent Currency Exchangers of Nicaragua (FETRACAMNIC), registered before the CBN, there are at least 400 associates throughout the country organized with a secretary by department and sector, with an ID and membership card. However, they are not properly identified and registered as RSs, so they require attention from the competent authorities.

330. As mentioned in IO. 1, there are different levels of understanding of ML/TF risks by RSs. Banks, finance companies and MFIs are more advanced in understanding ML/TF risks in relation to other sectors.

331. The FIs regulated by SIBOIF and CONAMI are obliged to prepare a self-assessment annually on compliance with the Prevention Program or ML/TF Integral Risk Management and Prevention System (ML/TF IRMPS) and the legislation and regulations on the matter applicable to them by developing respective policies and procedures. The ML/TF IRMPS must include the activity under which the entity operates, the nature and complexity of its business, financial products and services, the volume of operations, geographic presence and technology used for the provision of its services in weighting their risks. In this regard, it was possible to verify during the on-site visit that banks and financial institutions detect their risk factors and propose measures to mitigate them, and that they follow up on the obligations imposed by the regulatory body.

332. However, some MFIs do not include in their self-assessments risk factors according to a RBA, such as the activity, nature and complexity of their business, financial products and services, geographic presence, technology used to understand their ML/TF risks.

333. FIs regulated by the UAF, according to the findings of the on-site visit, are obliged to carry out a risk evaluation of ML/TF every two years according to the nature and size of the business. This includes the analysis of natural and legal persons who request or make use of their services or transactions, the countries or geographical areas in which they operate, the types of services or transactions they offer and the means or channels through which they place their services or transactions available to the public. However, FIs mostly follow up on the obligations imposed by the regulatory body and detect the mitigating factors they have. However, it is not observed how they use the summary set out in the guidelines issued by the UAF related to threats, commercial activities and economic sectors, vulnerabilities, related risks and Recommendations, in order

⁷ Section 6.5 of Law No. 769 provides for the attribution of CONAMI to regulate and supervise MFIs, not IFIMFs.

to detect their risk factors, the inherent risk, the residual risk and the possibility to weigh them against a RBA. Therefore, it is not possible to identify the scope of the understanding of their ML/TF risks for their management.

334. Regarding TF policies and procedures, while there is a significant degree of awareness on the part of banks and finance companies, there are other FIs who agree that TF does not represent a significant risk to the country, since there are not any terrorist events and consequently there are no specific measures to mitigate TF risks. This lack of knowledge was noted particularly in the case of remittance companies and money exchange houses.

b) DNFBPs:

335. According to the abovementioned, the UAF, in an effort to include more RSs in the AML/CFT regime to strengthen it, determined through Resolutions that the activities of trustee service entities (beyond the coverage of SIBOIF), as well as the inclusion of real estate brokers, merchants of metal, precious stones, works of art, new or used vehicles, among others, establishing registration and imposing obligations. However, there is no power for the UAF to include other RSs outside those already established by Law No. 793 and the regulations issued by the UAF only apply to those RSs defined by the scope of Section 9 of Law No. 793.

336. Of the estimated 44,337 DNFBPs, to date there have been 67 Casinos and gaming venues and 46 DNFBPs registered voluntarily, beyond the scope of the Law.

337. Casinos and gaming venues are the only DNFBPs regulated by the UAF. From the information provided during the on-site visit, there was a lack of understanding of ML/TF risks, especially those of TF. Casinos agree that TF does not represent a significant risk to the country, since there are not any terrorist events and consequently there are no specific measures to mitigate TF risks. On the other hand, they are obliged to prepare a risk evaluation of ML/TF every two years according to the nature and size of the business. In this regard, compliance with this obligation is monitored, however, they do not identify their threats and vulnerabilities under a RBA.

338. In relation to DNFBPs registered on a voluntary basis, there is no indication of an understanding of ML/TF risks, nor of the AML/CFT measures given their recent voluntary linkage.

339. In addition, it should be mentioned that the lack of registration of all DNFBPs result in the absence of an application of the AML/CFT obligations and the understanding of ML/TF risks. Among them, lawyers, notaries public, other legal professionals and independent accountants are not part of the RSs group that must be covered by AML/CFT obligations according to FATF standards.

Implementation of measures for risk mitigation

340. FIs and DNFBPs regulated by SIBOIF, CONAMI and UAF have the obligation to prepare the PML/TF Annual Operating Plan (AOP), which according to the sample taken and the interviews carried out, consists of planning aspects such as updating the Manual, updating client records, preparing reports of the compliance officer, supervising transactions, monitoring alerts, monitoring the training plan, sending information to the regulatory body, analyzing and documenting suspicious transactions, updating the matrix, following up on observations of their audits.

a) Financing Institutions:

341. According to the information obtained during the on-site visit, banks and financial institutions have risk matrices to classify their clients according to a RBA by weighting several factors (e.g., customer type, activity, geographical area, products and services). Moreover, they have computerized monitoring systems capable of issuing alerts to detect unusual transactions, such as verifications related to the client's transactional movement not related to their profile, linkage between clients, division of transactions or movement of significant amounts, relationship with territories of greater risk.

342. As already mentioned, FIs registered before the UAF according to UAF-N-7-2016 are obliged to apply measures regarding AML/CFT, however, the UAF is not empowered to include RSs not included by Law No. 793, therefore, mitigation measures are not strong enough to be complied with by IFIMFs (beyond the monitoring of CONAMI), financial leasing activities, factoring and merchants engaged in negotiation on the future of commodities.

343. Regarding FIs regulated by the UAF and CONAMI, in some of them it is necessary to work in the provision of policies and procedures according to their risks. Some have risk matrices to classify their clients according to a weighting of factors, however, others, as shown: 50% of money exchange houses, 75% of cooperatives and 75% of microfinance institutions do not use a risk-based approach, i.e., they only set the level of agreement to a set threshold or definitions are set out without including a weighting methodology that justifies the assigned High, Medium or Low level. On the other hand, some do not have a monitoring system capable of issuing greater alerts to detect unusual transactions (according to their policies: 50% of money exchange houses, 75% of cooperatives, 50% of microfinance institutions and 50% of the remittance companies).

344. The money exchange houses sector seems to be relatively conservative in its business, however, in spite of fulfilling formal obligations and as it was already mentioned this sector lacks understanding of the risks especially with regard to TF, nor is there enough application of measures aimed at mitigating risks as indicated during the on-site visit. In addition, in some entities part of the CDD controls rest on what is done by the other FIs with which they operate.

b) DNFBPs

345. Mitigation measures have been implemented by DNFBPs mainly in accordance with the requirements imposed by their regulatory body. Some economic activities, such as lawyers, notaries public, other legal professionals and independent accountants.

346. Regarding casinos and gaming venues regulated by the UAF, it is necessary to work in the provision of policies and procedures according to their risks:

- They do not use a risk-based approach to qualify their clients, i.e., they only set the level of agreement to a set threshold or definitions are set out without including a weighting methodology that justifies the assigned High, Medium or Low level.
- They do not have an internal monitoring system capable of issuing sufficient alerts to detect unusual transactions.

Implementation of basic and enhanced CDD and record-keeping requirements

347. 75.2% of the force working in the informal sector identified in the NRA deters the correct performance of a CDD by the FIs and non-financing institutions.

a) Financing Institutions

348. According to the information obtained during the on-site visit, CDD is performed by the SIBOIF regulated FIs, generally in a simplified way to clients classified as low-risk, standard to medium-risk clients and intensified to high-risk clients. Institutions apply risk-differentiated CDD measures, as required by regulation and established in their respective policies. They also carry out actions to update their case files and keep records, to identify their clients and their beneficial owners. They also apply a continuous supervision mainly to those of high risk. On the other hand, in relation with rejections of a commercial activity when the CDD is incomplete, from 2012 to 2015 they have rejected 344 applications to open accounts or for business relations, and closed 839 accounts or business relationships for weaknesses found in the CDD.

349. Regarding the information requested at the beginning of the commercial relationship with clients, the FIs regulated by CONAMI and the UAF mostly require mainly a copy of identity card or passport to natural persons and legal identification documents to legal arrangements, as well as the filling of the Customer Integral Profile form (CIP) according to the customer's personal data, type of operation, economic activity, equivalent monthly income and references. In this regard, they do not request any other information from third parties to verify what is mentioned by the customer, especially to justify their entry and verify the range of income declared by the customer. This information provided by the customer in most cases is the basis for classifying their customers in high, medium or low risks.

350. According to the samples taken and interviews during the on-site visit to UAF regulated FIs, the CDD is carried out generally in a simplified way to clients classified as low-risk, standard to medium-risk clients and intensified to high-risk clients in the following cases:

- a. The simplified CDD consists of updating the customer identification and his/her CIP form.
- b. The standard CDD consists of updating the customer identification, his/her CIP form and performing an on-site visit; the latter required only by some FIs.
- c. The CDD intensified, in addition to the monitoring of its operations, in general for the Cooperatives and Microfinancing Industries, entails carrying out what was mentioned in the previous section, and for the remittance companies and money exchange houses the requirement of the entry documentation, such as contracts, invoices, financial statements and import support.
- d. Not all FIs internal policies and procedures mention the identification of the beneficial owner.

351. FIs file and keep records of all local and international transactions of their clients, as well as those derived from the application of their AML/CFT policies and procedures for a minimum period of 5 years.

b) DNFBPs

352. During the on-site visit, casinos have stated that they supervise the transactions of their regular customers mainly by requiring their identity card and are looking for other mechanisms to obtain public information about them. Likewise, they file and keep records of all local and international transactions of their clients, as well as those derived from the application of their AML/CFT policies and procedures for a minimum period of 5 years.

353. In most of the DNFBPs (trust and trust services) beyond the monitoring of CONAMI and SIBOIF, real estate brokers and metal and/or precious stones merchants) who have recently started their "voluntary" registration in June 2016, verification that reinforced or record-keeping measures have been implemented has not been achieved. Lawyers, notaries public, other legal professionals and independent accountants are not part of the RSs group that must be covered by AML/CFT obligations.

Implementation of RDD measures

a) Financing Institutions

354. During the on-site visit, it has been observed that FIs have policies and procedures to address relations with correspondent banks and countries at high-risk countries, identification and reinforced measures for PEP clients, criteria regarding new technologies according to standards. At the same time, the necessary training to implement these measures is in force.

355. However, it should be noted that, according to the evidence, financial leasing, factoring and trust entities do not include criteria to identify PEPs or to analyze new technologies within their internal policies and procedures.

356. Remittance companies, according to the evidence, do not contemplate in their internal policies all the criteria related to electronic transfers, which is of concern given the risk that the transfers represent in the context of Nicaragua.

b) DNFBPs

357. Most voluntary DNFBPs failed to verify that RDD measures have been implemented by them. In the case of casinos and gaming venues, the measures established in the regulations apply. However, the identification and reinforced measures for PEP customers are not met by some casinos as shown by the evidence, which do not include criteria for identifying PEPs in their policies and procedures.

358. Lawyers, notaries public, other legal professionals and independent accountants are not part of the RSs group that must be covered by AML/CFT obligations.

Reporting obligations and tipping-off

359. The obligation of STRs is in other coercive means, i.e., in the regulations of the different regulators (SIBOIF, CONAMI and UAF). Law No. 793 establishes a series of obligations for RSs that allow the provision of the obligation of STRs from an integral interpretation of Law No. 793, however, the obligation of STRs is not directly prescriptive. In practice, RSs fulfill and send STRs, mostly FIs, mainly banks, financing and remittance companies. On the other hand, it can be observed that some RSs have a low or null level of STRs which generates a call for attention in relation to the supervision performed by them.

360. The STRs sent to the UAF by the RSs and voluntary sectors, from the year 2013 to 2016 have been a total of 1212 (see table 17). As mentioned in IO. 6, most STRs (61%) come from banks and remittance companies. Money exchange houses have not sent STRs. IFIMFs (beyond the monitoring of CONAMI) and factoring in total have remitted five (5) STRs and those who provide trust services and financial leasing have not sent a single STR. On the part of DNFBPs, six (6) STRs have been submitted between casinos and gaming venues, none of the other voluntary DNFBPs has sent a single STR. This is, on the one hand, a sign of the low understanding of AML/CFT risks and obligations, and on the other hand, a lack of an express obligation by law to send STRs.

361. The submission of STRs does not apply in practice to certain economic activities, such as lawyers, notaries public, other legal professionals and independent accountants, because they are not regulated.

362. There are technical deficiencies in the requirements of tipping off (see TC annex), which implies that RSs are discovered by law in the face of liability, which makes it difficult to implement effectiveness against the STR filing obligation.

Internal controls and legal/regulatory requirements impending implementation

a) Financing Institutions

363. According to the interviews conducted and the sample taken from the FIs AML/CFT Manuals, "Know your Employee" policies and continuous training are included for officers, employees, directors and other representatives, and they are also obliged to send their regulators an Annual Training Plan - ATP.

364. RSs must implement an independent auditing role to verify the correct implementation of their AML/CFT programs.

365. On the other hand, as shown by the evidence, most FIs have made verifications by means of their Internal Audits, whose procedures are set forth in their PML/CFT and Internal Auditing Manuals, with the exception of cooperatives whose Internal Auditing Manuals do not mention the AML/CFT process to be verified.

366. According to the AML/CFT regulations issued by the UAF for FIs, there is an obligation to update the following information each January, in this respect, of the 94 FIs registered with the UAF in the first half of 2016, the UAF has received only the following reports at that date:

Table 46: Evaluations

Economic business	ATP	External evaluation MLP/TF/FP	Internal evaluation MLP/TF/FP
Financial services with special regime (financial leasing, factoring and trust)	7	1	1
Savings and Credit Cooperatives	31	1	24
Pawnshops and loan venues	15	0	9
Remittance and parcel companies	7	2	3
IFIMFs (beyond the monitoring of CONAMI*)	11	2	8
Money exchange houses	2	0	2
Total	73	6	47

* Section 6.5 of Law No. 769 provides for the power of CONAMI to regulate and supervise MFIs, not IFIMFs.

b) DNFBPs

367. According to the interviews conducted and the sample taken from the DNFBPs AML/CFT Manuals, "Know your Employee" policies and continuous training are included for officers, employees, directors and other representatives, and they are also obliged to send their regulators an Annual Training Plan - ATP.

368. RSs must implement an independent auditing role to verify the correct implementation of their AML/CFT programs.

369. On the other hand, as shown by the evidence, most DNFBPs have made verifications by means of their Internal Audits, whose procedures are set forth in their PML/CFT and Internal Auditing Manuals.

370. According to the AML/CFT regulations issued by the UAF for FIs and DNFBPs, there is an obligation to update the following information each January, in this respect, of the 85 DNFBPs registered with the UAF in the first half of 2016, the UAF has received only the following reports at that date:

Table 47: Evaluations

Economic business	ATP	External evaluation MLP/TF/FP	Internal evaluation MLP/TF/FP
Casinos and game rooms	60	9	25

General Conclusions of the Immediate Outcome 4

371. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Key findings and recommended actions

Key findings

- In general, FIs supervisors carry out adequate monitoring regarding formal compliance with ML/TF prevention measures, although there is a lack of supervision with a RBA.
- There are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua. In the case of DNFBPs, only casinos and gaming venues are RSs pursuant to the Law No. 793.
- The legal obligation to file STRs is not directly prescriptive, which deters an effective oversight of compliance and the possible application of fines in proportion to the seriousness of the infringement. This undermines the effectiveness of the system and the responsible authorities cannot perform their functions efficiently without the appropriate legal powers.
- In practice, supervisors do not use monetary sanctions or fines as a mechanism to achieve an adequate compliance level of the obligations set forth in the AML/CFT regulations; this weakens the authorities' position against a low compliance level under the scope of detection and suspicious transactions reporting.
- Scarce resources of the monitoring authorities on AML/CFT matters are obstacles to achieve an efficient oversight.

Recommended actions

- Legislative changes are required to incorporate a series of FIs and DNFBPs that are not RSs by law.
- The express obligation for the RSs to submit STRs must be set forth by law.
- With respect to the current RSs, supervisors must conduct their oversight duties directed by risk criteria, specifically aimed at improving the RSs effectiveness and compliance level of the internal analysis process and the decision-taking on STRs submission by the FIs and the DNFBPs.
- Monitoring authorities must secure, through effective oversight and use of sanctions, when applicable, compliance with the obligation of reporting suspicious ML/TF transactions.
- The cross-sectoral application of action plans and follow-up to RSs that have been identified as having formal deficiencies in the implementation of ML/TF prevention and detection measures is not sufficient.
- A wide range of sanctions, including fines over a wide range of amounts, must be applied, depending on the case, in accordance with the seriousness of violations of AML/CFT requirements.
- Provide monitoring authorities with resources for FIs.

The relevant Immediate Outcome considered and assessed in this chapter is the IO. 3. The relevant Recommendations for the effectiveness evaluation under this section are the R. 26-28, R. 34 and 35.

Immediate Outcome 3 (supervision)

License, registration and controls preventing criminals and associates from entering the market

372. Nicaragua has two natural supervisors of FIs, SIBOIF and CONAMI, who are responsible for authorizing, regulating and verifying compliance with the AML/CFT regulations they issue for the banking, securities, insurance and MFIs sectors. In addition, the UAF is empowered to regulate, supervise and sanction the other FIs established by Law No. 793: financial cooperatives, money exchange houses, remittance and parcels companies, and pawnshops and loans. Institutions dedicated to financial leasing, factoring and IFIMFs⁸ (voluntary registered) institutions are not RSs to the AML/CFT regulations. With regard to DNFBPs, casinos, gaming venues and the like are the only RSs to the AML/CFT regulation issued by the UAF.

⁸ Section 6.5 of Law No. 769 provides for the attribution of CONAMI to regulate and supervise MFIs, not IFIMFs.

373. The SIBOIF has regulations that allow it to apply certain controls prior to the granting of the pertinent license to operate in any of the financial sectors under its supervision, with respect to the agents that are incorporated into the activity as a bank, foreign bank representative office, finance company, electronic money company, insurance company, securities company or general warehouse.

374. On the other hand, the execution of these processes of granting operating licenses allows to avoid the establishment of shell banks within the financial system of Nicaragua. The aforementioned controls include a criminal background check process of those who are proposed as a shareholder, director, general manager and internal auditor of the FIs.

375. To date, no violations to this regulation have been identified on the control of the entry of criminals into the financial sector under the monitoring of the SIBOIF, nor has there been any changes in the status of persons assessed after the date of entry control. However, there are no regulations or mechanisms in force to control and prevent the entry of criminal accomplices into the financial market as a shareholder, director, general manager and internal auditor, since control is carried out with respect to the person as an individual and it does not reach related persons. There is also no evidence of request of that this type of information in the verification processes carried out at the time of the on-site visit.

376. Regarding the controls carried out by CONAMI at the time of the on-site visit, the authorities report that no violations have been detected to the standard that forbids persons with criminal backgrounds to be members of the board of directors, shareholders, partners or representatives of an MFI.

377. Regarding the role of the UAF in this matter, and without prejudice to the fact that measures have been implemented to verify that those who register as RSs have no criminal backgrounds, legal deficiencies regarding express authority to deny registration based on the element required by R. 26 and 28, weakens the effectiveness in preventing criminals and their accomplices from entering the market of any of the activities subject to the obligations of Law No. 793.

Supervisors' understanding and identification of ML/TF risk

378. Nicaraguan supervisory authorities have made efforts to improve their understanding of the country ML risks. They have participated in the work and conclusions of the ML/TF NRA and have timely transferred the results of this to their regulated parties.

379. Notwithstanding the abovementioned, there are no criteria established that link the results of the ML/TF NRA with the inputs which are part of the planning process of the oversight measures to be developed year by year showing the level of understanding of the risks raised by the ML/TF NRA, that focus is on certain sectors, agents within those sectors and/or products or services offered by these agents.

380. Regarding TF, the efforts to understand this phenomenon are limited to the freezing measures that must be applied within the framework of compliance with the revision of the lists of designated persons by UNSCR.

381. In the case of the SIBOIF, although the authorities are aware that the banking sector under their supervision is a high-exposure sector to be misused for ML/TF purposes and the results of the ML/TF NRA have been passed to the corresponding agents, the lack of a supervision approach based on these results shows that there is a need to move forward in this area, guiding monitoring decisions towards those aspects of products and services with greater exposure to ML/TF conducts.

382. As for the CONAMI, it has developed two risk assessment processes (2013 and 2014/2015) that aim to guide the supervision planning of MFIs under their regulation. Irrespective of this fact, there is no relation of these processes with the ML/TF NRA and the ML/TF risks identified by the latter.

383. One example of the lack of understanding of ML/TF risks and its relation with the oversight work is that even when there is a direct relation between some of the risks raised by the ML/TF NRA, "relevant cash income to the country" and the provisions of criterion 26.4 (b) of R. 26, the money exchange houses sector only maintains 2 agents registered as RSs, which to date have not sent a STR, even when under oversight of the UAF in 2013 and 2016 through the "Action Plan" mechanism, without any measures adopted by the supervisors having had any effect on increasing the number of registrations (through compulsory registration processes) and that these, in application of the prevention and detection mechanisms, are sending STRs in line with the risk detected linked to the cash management that enters from the Nicaraguan borders to the country's economy.

Risk-based supervision of compliance with AML/CFT requirements

384. The reasoning that defines the frequency and intensity of oversight to a RS by the supervisors is the self-rating on the sensitivity and level of risk of ML/TF that the FIs and DNFBPs themselves have determined through their risk matrices, and not the product of knowledge, analysis and evaluation of the sector and individual profile that the supervisor has of each of the agents of a given sector, so it is not guaranteed that the intensity and periodicity responds to the real risk to which any of the FIs or DNFBPs are exposed.

385. In the case of the SIBOIF, the authority body itself points out that the focus of supervision has been on the banking sector, and that as a consequence of this, the number of auditors for AML/CFT has increased; moreover, as from 2016, there are nine auditors for eight operating banking institutions.

386. Notwithstanding the foregoing and as a result of the crossing and analysis of the statistics provided (see Table 48) by the authorities of the country, it can be seen that the resources available to the SIBOIF to carry out inspections in each of the sectors under its monitoring are insufficient, even critical in some of them, such as in the insurance sector.

387. The following table shows the number of AML/CFT auditors by the number of institutions to be audited in each of the industries under the monitoring of the SIBOIF:

Table 48: Institutions to be inspected, number of inspections carried out and number of inspectors

Industry/Year	2012		2013			2014			2015			2016			
	# of inspectors	# of registered RSs	# of insp. On site	# inspectors registered	# insp. On site	# inspectors registered	# insp. On site	# inspectors registered	# insp. On site	# inspectors registered	# insp. On site	# inspectors registered	# insp. On site		
Banks	3	7	7	4	7	7	4	8	1	6	8	8	8	9	4
Finance companies		2	2		2	2		3	5		3	4		4	0
Insurance Companies	1	5	5	1	5	5	1	5	4	1	5	5	1	5	1
Insurance brokers		91	60		8	8		8	8		8	8		87	46
Values	1	7	7	1	7	7	1	8	8	1	8	8	1	8	2
Warehouses	1	4	4	1	4	4	1	4	4	1	4	4	1	4	2
Total															

For each year: Left column: number of inspectors / central column: number of registered institutions / right column No. of on-site inspections carried out.

388. Regarding the results of the audit carried out by the SIBOIF, considering the frequency of such audit, its scope only covers formal aspects of the implementation of the ML/TF prevention regulations without assessing the effectiveness of the system of the entity to detect and send STRs.

389. This is explained by taking into account the measures used to outline those under supervision by SIBOIF, in which process the regulated itself is required to self-determine the sensitivity and level of risk of ML/TF to which it is exposed, without there being any a categorization such authority and, added to this, the lack of personnel dedicated to specific AML/CFT matters.

390. As a result of the above, and despite the efforts made by SIBOIF authorities to carry out an adequate monitoring to verify compliance with prevention and detection obligations, the limited resources available to the institution make it difficult to reach a level of appropriate effectiveness in AML/CFT monitoring of the three most important financial sectors of the country's economy, such as the banking, insurance and securities sectors, to guarantee the adequate compliance of all obligations, mainly the sending of STRs.

391. In the case of CONAMI, it has developed its oversight planning prioritizing by level of risk in reference to the risk assessment processes that it has carried out in the years 2013-2015. Notwithstanding the foregoing, the lack of connection between the SBR planning processes and the ML/TF NRA results through a risk-based approach prevents ML/TF risks from being adequately mitigated through the proper implementation of ML/TF prevention and detection programs.

392. The UAF, on the other hand, has had a sustained development since 2013 to date of the execution of a plan by Law No. 793 to control the RSs without a natural supervisor, and of agents from other financial and economic sectors who have undergone a process of construction of a ML/TF risk matrix, which has been an input for a supervision planning that has resulted in the application of remedial actions through an action plan and its follow-up. However, the lack of a legal basis for incorporating RSs (financial leasing institutions, factoring, IFIMFs⁹, and DNFBPs - except for casinos, gaming venues and the like), prevent implementation of measures from having a real mitigation effect regarding ML/TF risks.

Remedial actions and effective, proportionate, and dissuasive sanctions

393. The prudential monitoring authorities (SIBOIF and CONAMI) have the legal powers and a normative framework that contemplates a wide range of fines to apply in order to correct the lack of implementation and adequate compliance of prevention and detection measures. However, in the period under analysis, warnings have been used mainly together with the preparation of an action plan, which is monitored in its correct implementation, which from the perspective of formal compliance with the AML/CFT measures generates a positive result and the actions they have carried out are highlighted.

394. In addition, the UAF, through the agreement signed with SIBOIF, has transmitted to it statistical reports of accepted and rejected STRs from RSs, allowing the SIBOIF to issue guidelines and feedback regarding the risks and deficiencies identified. However, in terms of effective implementation of the prevention and detection measures, it is not possible to have the measures implemented, nor a corrective effect that allows to increase the number of STRs in the light of the risks detected by the NRA and in consistency with the threats identified by the authorities of the country.

⁹ Section 6.5 of Law No. 769 provides for the attribution of CONAMI to regulate and supervise MFIs, not IFIMFs.

395. The SIBOIF, for the period 2012-2016, has applied different types of sanctions for the deficiencies detected in the AML/CFT prevention programs of the agents of the financial sectors under its supervision.

396. In the case of FIs subject to essential principles in terms of the R 26 (banks, insurance and securities), the application of monetary penalties was as follows:

Table 49: Monetary penalties applied by SIBOIF

Sector/penalty	2012	2013	2014	2015	2016
Banks	1 (USD5.000)	1 (USD5.000)			
Ins. Companies			1 (USD10.000)		1 (USD5.000)
Sec. Companies*					

* Securities or mutual fund brokers

397. Other fines applied by SIBOIF are the following:

Table 50: Sanctions/Fines applied by SIBOIF

Sector/penalty	2012	2013	2014	2015	2016
Financial institutions					
Insurance brokers	5 (USD 2,102)			3 (USD400)	5 (USD900)
Dep. Warehouses	1 (USD 2,500)				

398. As a complement to these penalties based on fines, for the period 2012-2016 other remedial actions were taken consisting of the application of warnings; establishment of action plans and issuance of instructions, which are reflected in the following table:

Table 51: Warnings, Action plans and Instructions

Sector/Action	2012			2013			2014			2015			2016			Total		
	W	AP	In	W	AP	In	W	AP	In									
Banks	4	5	20	7	6	22	5	7	31	6	7	27	4	4	16	26	29	116
Finance companies	2	2	8	2	2	8	0	2	8	0	2	10	0	0	0	4	8	34
EDES	-	-	-	-	-	-	0	0	0	1	1	3	0	0	0	1	1	3
Values	0	7	31	0	7	38	3	7	40	0	8	77	3	3	10	6	32	196
Companies	0	0	2	0	0	10	0	1	8	0	0	7	0	1	2	0	2	29
Warehouses	1	1	0	1	2	0	2	1	0	2	2	0	0	0	0	6	6	0
Total	7	15	61	10	17	78	10	18	87	9	20	124	7	8	28	43	78	378

399. In the case of CONAMI, this entity has applied just 1 monetary penalty for AML/CFT non-compliance as a result of 49 on-site inspections carried out in the period 2014-2016. Along with this, it has initiated nine (9) remedial actions to correct deficiencies detected in prevention programs.

400. The UAF, on the other hand, as a result of the oversight plan for RSs by Law No. 793 to control those without a natural supervisor, and of agents from other financial and economic sectors, has initiated remedial actions in 182 instances for the development and follow-up of an action plan to overcome detected deficiencies.

However, the lack of a legal basis for incorporating RSs (financial leasing institutions, factoring, IFIMFs¹⁰, and DNFBPs - except for casinos, gaming venues and the like), prevent execution of measures from having a real overcoming impact regarding ML/TF prevention programs implementation, but they are rather conditions to be applied voluntarily¹¹.

Impact of supervisory actions on compliance

401. Monitoring authorities in Nicaragua have developed a number of activities to bring the various RSs actors closer to ML/TF risks prevention by sector, shifting the importance of implementing prevention and detection programs by issuing guidelines; and oversight activities that have mainly changed to work plans to overcome deficiencies detected and their respective follow-ups.

402. In the case of the SIBOIF, the results in the main sectors regulated by it show in the banking sector, in general, a positive impact of the implemented measures, evolving downwards the number of infringements detected over the years as evidenced by the following statistics:

Table 52: Regulation infringements detected at on-site inspections

Industry/Year	2012	2013	2014	2015	1er sem. 2016
Banks	524	453	264	263	74
Companies	2	10	8	7	2
Values	31	38	40	77	10

403. With regard to CONAMI, there is no evidence to show a positive impact of supervision actions on an improvement in the level of compliance with the ML/TF prevention and detection programs by MFIs and IFIMFs.

404. Notwithstanding the abovementioned, and in particular with respect to the supervisory authorities' oversight processes, it can be established that they have a focus on verifying the formal compliance of AML/CFT obligations, mainly in the field of prevention measures. Due to this, in the scope of the analysis and sending processes of STRs to the UAF, the supervision measures applied to date have not generated a positive impact that results in an increase in STRs in line with the risks detected by the ML/TF NRA.

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

405. Through numerous communications (Table 53), the supervisory authorities have adequately promoted the system's emphasis on prevention, providing clear guidelines for the correct implementation of the formal elements of the AML/CFT in the terms required by Section 15 of Law No. 793. Notwithstanding the foregoing, there is still much to reinforce on the importance of the STRs filing obligation, providing clear signals to the reporting agents of the fundamental relevance of the detection within the AML/CFT system. A reflection of this absence is the low number of STRs in relevant sectors of the financial system of Nicaragua, as in others there is an absence of the mentioned STRs.

Table 53: Communications to the RSs with guidelines and recommendations for a better implementation of AML/CFT programs

Industry/Year	2012	2013	2014	2015	2016
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¹⁰ Section 6.5 of Law No. 769 provides for the attribution of CONAMI to regulate and supervise MFIs, not IFIMFs.

¹¹ The UAF has issued secondary regulations. Said regulation is only required to RSs within the scope of Section 9 of Law No. 793. Law No. 793 does not grant the UAF the authority to incorporate new RSs.

SIBOIF	-	1	13	10	33
CONAMI	-	1	4	1	8
UAF	-	-	6	-	12

406. From the review of the communications given by the supervisors to the different RSs sectors, it is clear that the focus has been set on the formal fulfillment of the prevention measures and this, together with the formal approach of the audits carried out by the supervisors generate a stagnation of the effectiveness of the system to detect the suspicious transactions and provide to the UAF, in timely fashion, the fundamental input so that it can carry out its functions.

Conclusions of the Immediate Outcome 3

407. In accordance with the abovementioned, Nicaragua presents a **low level of effectiveness in the Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key findings and recommended actions

Key findings

- The vulnerabilities of the types of legal persons and other legal arrangements available in Nicaragua's legal framework have not been assessed.
- No measures have been taken that directly aim to prevent and deter misuse of legal persons and trusts for ML/TF purposes.
- Although there is basic information available for some types of companies, it is not publicly available and it is not guaranteed that such information is accurate and updated, which makes it difficult for the competent authorities to carry out investigations.
- There is no sanctions regime that promotes a permanent updating of information that allows adequate access to basic information.
- The beneficial ownership information is not available, in due time and manner, to competent authorities.

Recommended actions

- It is necessary for them to assess the vulnerabilities of legal persons and arrangements.
- Nicaragua must make efforts to mitigate ML/TF risks associated with legal persons and arrangements.
- A sanctions regime should be set forth to guarantee the proper compliance with standards set out in R. 24.
- It must be ensured that the information on the beneficial owner can be obtained irrespective of the complexity of the structure of the legal arrangement.

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

Immediate Outcome 5 (legal persons and arrangements)

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

408. Nicaragua has 5,199 legal persons incorporated for business purposes (see Table 9) and 6,643 non profit organizations (see Table 10).

409. The legal system of Nicaragua identifies and establishes the requirements and processes of constitution, validity and legal standing of all those entities that can obtain legal personality. The same applies for trust creation regulations.

410. This legislation, which is found in different regulatory bodies, is available to public access. In digital media, information can be quickly found on the steps to be taken to create the entities that can obtain a legal personality. Beyond formal requirements, there is an important advancement towards the creation of several types of entities for the development of economic activities.

411. In view of the foregoing, any person in Nicaragua can obtain useful information to directly create, choosing the corporate type most appropriate to its purposes, a legal entity capable of obtaining a legal personality.

Identification, evaluation and understanding of ML/TF risks and vulnerabilities of legal entities

412. Even when the authorities from Nicaragua understand that legal persons and arrangements may be misused for ML/TF purposes, a risk assessment has not been developed to identify vulnerabilities in different types of companies to guide the competent authorities in their decision-making processes or in the implementation of appropriate measures to mitigate ML/TF risks.

413. The lack of this process prevents the competent authorities from understanding comprehensively ML/TF risks associated to the different types of legal persons available and in force in the country, not being clear the ability to identify the most vulnerable types of companies that can be used as vehicles for money laundering or terrorist financing, in order to focus their attention in such types of companies and to take appropriate measures in line with that approach. There is also no objective information to allow monitoring authorities to take mitigation measures aimed at the reporting sectors which justify the treatment as high risk of certain legal entities customers and the implementation of enhanced CDD measures.

414. All of the above undermines the adequate understanding of the possible abuses at local level of legal entities, whether as paper or façade companies, for ML and/or TF, and the impact that this use is having on other vulnerable sectors, such as the financial sector and other economic activities.

Mitigation measures to prevent misuse of legal persons and arrangements

415. There are no measures specifically aimed at preventing or mitigating misuse of legal persons and arrangements such as trusts for the purpose of being used as vehicles or instruments for money laundering or terrorist financing.

416. Lack of understanding of misuse of legal persons for ML/TF and difficulties in reaching to the beneficial owner, even with basic information in the case of complex corporate structures, undermines the authority's ability to take adequate measures to effectively mitigate the risks of ML/TF. Same consideration was obtained in respect of trusts.

Timely access to basic adequate, precise, updated, on beneficial ownership information related to legal entities

417. With regard to legal persons, records with basic information on a particular entity are available to the competent authorities, which have the powers to request them. Notwithstanding the foregoing, and with the exception of corporations, the information contained in said records on the shareholders or interests of the company, beyond that provided by the deed of incorporation thereof, is not guaranteed.

418. No specific measures have been taken to promote a permanent updating of the basic information of the legal person nor is there a regulatory regime, with specific sanctions to ensure the integrity and updating of the records. It is possible that for subsequent transfers of ownership of an entity, the authority may not timely access the relevant basic information in a criminal investigation, in an accurate and updated fashion.

419. On the other hand, the basic information of legal persons is found in manual records, and without prejudice to the effort and attention that the authorities responsible for these records dedicate to respond to the information requests of the Nicaraguan authorities, the lack systematization of information and data processing at the federal level make it difficult to ensure timely and adequate access to information by the responsible authorities in a ML/TF investigation.

420. The Public Registry system and access to the information therein, allows some access to basic information about the legal person and information about the beneficial owners in cases where the first line of owners are natural persons. Difficulties arise in the massive access to such information (for example, in relation to consolidated information on the ownership or participation of a natural person in the universe of legal entities established or in force in the country).

421. The problem to identify the beneficial owner arises when those who appear to constitute a company are other legal persons, which becomes more complex to the extent that there appear more and more upstream incorporating legal arrangements.

422. The competent authorities may request the information contained in the Public Registry, through the System of Index in the registries of the National Registry System of Nicaragua (SINARE) in a physical manner. This system is in the process of digitization which prevents the opportunity in access to such information.

Timely access to basic adequate, precise, updated, on beneficial ownership information related to legal arrangements

423. The basic and beneficial owner information of a trust is contained in the corresponding agreement, which must only be constituted by public deed and registered when there is a real estate property within the trust. The trustee service may be provided by any natural or legal person, and within the latter there may be the entities under the supervision of SIBOIF. The trust agreement must identify individuals acting as trustor, trustee and beneficiary. If the trustor and/or the beneficiary are legal entities, the information on the beneficial owner will not be included in the trust agreement, since it is not obligatory to include this information in the contract. On the other hand, there is no obligation of the trustor to disclose that he is acting on behalf of a trust when he operates with the trust assets.

424. For all of the above, even if partial information is available, and the authorities are empowered to request such information, access to adequate, accurate and current information is not guaranteed and no measures have been taken to mitigate the risk that these legal instruments may be misused for ML/TF.

Effectiveness, proportionality and deterrence of sanctions

425. There are no effective, proportionate and dissuasive sanctions available to be applied in cases where information is not accurately provided, without prejudice to the sanction of ineffectiveness, which is not considered adequate for these purposes. There are also no sanctions available to guarantee the updating of the basic information and beneficial owner of legal persons and trusts, which results in a lack of implementation of these measures, and therefore, in the lack of updated information in the records that allows, if they are consulted by the authority, access to timely and useful information for investigations and criminal proceedings.

Conclusions of Immediate Outcome 5

426. In accordance with the abovementioned, Nicaragua presents a **low level of effectiveness in the Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key findings and recommended actions

Key findings

- Nicaragua may provide international cooperation based on the agreements it has signed, and based on the reciprocity principle. The central authority is the AGO, which handles requests through the International Criminal Matters Unit.
- The authorities are empowered to request collaboration from any state entity in order to provide effective international cooperation.
- There is the necessary coordination between the competent authorities who must meet any request of the AGO in matters of international cooperation.
- Mutual legal assistance provided by Nicaragua is generally considered to be effective and efficient.

Recommended actions

- The modification corresponding to the criminal types of TF must be made in order to prevent and avoid possible limitations to the cooperation.
- There is a need to address shortcomings in access to information of the beneficial owner of legal persons and arrangements in order to ensure that, when a request for information and/or cooperation on the subject is made, satisfactory outcomes can be registered.
- Nicaragua could be more proactive in ML transnational complex investigations with the aim of identifying and tracing assets with confiscation and repatriation purposes.

The relevant Immediate Outcome considered and assessed in this chapter is the IO. 2. The relevant Recommendations for the effectiveness evaluation under this section are the R. 36-40.

Immediate Outcome 2 (international cooperation)

Mutual Legal Assistance (MLA) and extradition

427. Nicaragua is able to provide Mutual Legal Assistance (MLA) based on bilateral or multilateral agreements signed, or based on the principle of reciprocity that governs in that country. For the main Agreements, the central authority is the AGO, specifically by way of the International Criminal Matters Unit.

428. The FATF Global Network was consulted on the areas of cooperation and quality of assistance provided by Nicaragua during the period from 2012 to 2016, a response was received from 16 countries, of which in five cases they had a history of cooperation with the country evaluated. Out of the inputs received, it was observed that in the area of MLA, 34 requests were made, of which 52.94% (18) were in process, while 41.17% (14) were answered positively and only 5.88% (2) were not answered¹². Assistance provided by Nicaragua was generally described as efficient and effective.

429. Authorities reported that between 2012 and 2016 they received the following MLA requests:

Table 53: MLA requested by other countries to Nicaragua (2012 to 2016)

	2012	2013	2014	2015	2016
El Salvador	3	-	-	3	1

¹²In addition, two replies were received that provided information on previous years. With respect to this information, 96% of the cases (48) were satisfactorily answered, while only 4% (2) of the requests submitted were not answered by Nicaragua.

USA	1	-	-	-	-
Panama	2	-	-	-	-
Guatemala	1	1		1	1
Honduras	2	2	2	2	4
Mexico	1	-	-	-	-
Netherlands	1	-	1	-	-
Costa Rica	1	1	3	-	2
Total	12	4	6	6	8

430. Out of the total number of MLA requests in the abovementioned period, the Nicaraguan authorities reported that ten (10) were in process, i.e., 21.73%. According to the information provided by the Nicaraguan authorities, the response time varies according to the complexity of the request. Based on the period 2012-2015, they stated that the maximum was 2 years and 10 months, while the minimum response time was 4 months.

431. In terms of extradition, according to what is stated in the TC analysis, it is not possible to extradite Nicaraguan citizens in accordance with their Constitution, and in the face of possible extraditions there is an urgent extradition procedure.

432. According to information received from the FATF Global Network, for the period 2012-2016, two (2) extradition requests were made to Nicaragua, one was answered to in a positive manner, while the other is pending. However, it was not reported that any of these two cases was related to the crime of ML, predicate offenses or TF.

433. In addition, Nicaragua specified that it processed the following extradition requests related to the crimes of (a) organized crime; (b) international trafficking of narcotics, psychotropic drugs and other controlled substances together with organized crime and ML; (c) illicit financing of narcotics, psychotropic drugs and other controlled substances; (d) migrant smuggling and (e) aggravated robbery:

Table 54: Active Extraditions Processed by Nicaragua (2012-2016)

	2012	2013	2014	2015	2016
Guatemala	1	1	-	-	-
USA	1	1	-	-	-
El Salvador	-	-	-	-	1
Costa Rica	1	3	5	3	-
Honduras	-	1	-	-	-
Panama	-	-	2	-	-
Switzerland	-	-	-	1	-
Total	3	6	7	5	1

434. Regarding passive extraditions, Nicaragua answered the following requests related to the crimes of (a) organized crime; (b) trafficking of narcotics, psychotropic drugs and other controlled substances together with organized crime and ML; (c) migrant smuggling; (d) ML; (d) [SIC] illicit transportation of narcotics, psychotropic drugs and other controlled substances and (e) aggravated robbery:

Table 55: Passive Extraditions Processed by Nicaragua (2012-2016)

	2012	2013	2014	2015	2016
Italy	1	-	-	-	-
Costa Rica	2	4	5	3	5
Mexico	-	1	1	1	-

Spain	-	1	1	-	-
El Salvador	-	-	-	-	1
Guatemala	-	-	-	-	1
Total	3	6	7	4	7

435. Regarding the total number of extradited persons, the following was indicated:

Table 56: Number of extradited persons. Period 2012-2016

Year	Number of cases	Country	Number of extradited persons
2012	6	USA	1
		Honduras	4
		Guatemala	4
		Mexico	1
Total 2012			10
2013	12	El Salvador	3
		Guatemala	6
		Honduras	14
		Mexico	18
Total 2013			41
2014	4	Honduras	3
		Guatemala	1
Total 2014			4
2015	8	Honduras	10
		Guatemala	1
Total 2015			11
2016	7	Costa Rica	5
		Guatemala	1
		El Salvador	1
Total 2016			7
General Total			73

436. There could be difficulties in issues of MLA and extradition since, once weaknesses in the criminalization of the TF offense had been identified, some requests for the absence of certain types of behavior should be rejected. However, the countries consulted did not report that they had any drawbacks specifically related to the criminalization deficiencies.

Seeking timely legal assistance to pursue domestic cases with transnational elements

437. The MLA requests are processed by the AGO, which has the International Criminal Matters Unit under its structure, which is in charge of centralizing requests for cooperation, all applications are entered into the Case Tracking IT System in the Criminal Area (SISCAP) where the information specifics are established and this system allows to make a prioritization of cases, which according to the authorities of the AGO is given prior analysis of the request.

438. In 2012, Nicaragua made 12 MLA requests, all of which were answered. In 2013 they made 4 requests, all answered, in 2014 they made 6 requests, all answered, in 2015 they made 6 requests of which 3 were answered. In 2016, Nicaragua made 3 MLA requests related to ML. Even though during the last year the requests for MLA have increased, Nicaragua could be more proactive in ML transnational complex investigations with the same aim of identifying and tracing assets with confiscation and repatriation purposes.

Seeking other forms of international cooperation for AML/CFT purposes

439. There is contact between the competent authorities of Nicaragua and their counterparts through the signing of bilateral, multilateral or group agreements to which they are a party. In this sense, the SIBOIF has the possibility of exchanging information directly with its counterparts in the region, since it signed the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions (CCSBSO).

440. Likewise, the UAF repeatedly seeks cooperation from its counterparts, especially from the Central American subregion. Additionally, as it can be shown in the following table, the UAF is increasingly requesting international cooperation.

Table 57: Requirements served by the UAF (2013-2016)

REQUIREMENTS SERVED BY THE UAF PERIOD 2013-2016					
Country	2013	2014	2015	2016	TOTAL
Guatemala	1	4	6	9	20
El Salvador	-	2	2	1	5
Honduras	-	3	6	5	14
Panama	-	1	4	8	13
Colombia	-	3	1	1	5
Costa Rica	-	1	3	3	7
Peru	-	1	1	1	3
Dominican Republic	-	1	1	1	3
Mexico	-	-	2	3	5
Bolivia	-	-	2	-	2
Argentina	-	-	1	-	1
Brazil	-	-	1	1	2
Chile	-	-	1	1	2
Ecuador	-	-	1	-	1
Venezuela	-	-	1	2	3
Paraguay	-	-	1	1	2
Uruguay	-	-	1	-	1
Cuba	-	-	1	-	1
China Taiwan	-	-	1	1	1
TOTAL	1	16	15	10	21

441. For purposes of the previous Memorandum, a liaison committee was created to exchange quarterly information to monitor the relevant risks of the main Financial Groups in the region. The exchange of information in the framework of the liaison committee has been as shown below.

Table 58: Number of reports exchanged among countries

	NUMBER OF REPORTS EXCHANGED AMONG COUNTRIES (CCSBSO)
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	2012	2013	2014	2015	2016	TOTAL
Guatemala	1	2	12	14	4	33
El Salvador	4	6	16	10	2	38
Honduras	8	15	19	18	5	65
Costa Rica	8	14	16	14	3	55
Panama	1	2	10	14	5	32
Dominican R.	4	4	4	5	2	19
Nicaragua	13	20	20	14	3	70
Totals	39	63	97	89	24	312

442. Likewise, the DGA shares information with other customs authorities, since it subscribes to the Multilateral Agreement on Cooperation and Mutual Assistance among the National Directorates of Customs of Latin America, Spain and Portugal (COMALEP).

443. Similarly, the NP exchanges information through INTERPOL and it is a member of the Commission of Heads of Police of Central America, Mexico, the Caribbean and Colombia; it also processes requests received from other police authorities in the region, and, in general, of the world. It is also responsible for making requests to other jurisdictions.

Table 59: Request submitted (2012-2016)

REQUETS SUBMITTED PERIOD 2012-2016						
Country	2012	2013	2014	2015	2016	Total
Colombia	1					1
Costa Rica	3	2	2	4	2	13
USA	4			2	1	7
El Salvador	4	2		5	1	12
Guatemala	5	2		4	1	12
Honduras	2	1	1	2		6
Italy	1					1
United Kingdom	1					1
Mexico	3	1	1	1		6
Panama	2	1	1	2		6
Peru	1			1		2
Belize		1		1		2
Argentina				1		1
Brazil				1		1
Canada				1		1
Ecuador				1		1
Spain				1		1
Haiti				1		1
Netherlands				1		1
Switzerland				1		1
Romania					1	1
All member countries					41	41
	27	10	5	30	47	119

444. In addition, outside the Interpol Network, the NP has made the following requests for information to its counterparts:

Table 60: NP requests to their counterparts (2012-2016)

Country	2012	2013	2014	2015	2016	Total
Argentina	1	-	2	6	-	9
Costa Rica	43	48	95	85	2	273
Colombia	6	10	14	59	-	89
Canada	-	6	46	7	-	59
El Salvador	22	36	45	80	15	198
Guatemala	17	32	55	70	8	182
Dominican Rep.	-	-	46	-	12	58
Honduras	37	40	61	94	15	247
Mexico	35	40	64	69	8	216
Panama	6	2	15	64	6	93
Peru	-	-	12	-	-	12
Other countries	19	55	48	102	28	252
DEA	5	17	6	13	-	41
ICs*	-	-	-	131	-	131
Totals	191	130	509	780	94	1860

* Intelligence centers of the National Police of Central America, South America and the Caribbean.

445. From the total requests for information sent, the NP of Nicaragua has received an answer in 79.08% of the cases, i.e., it has received 1471 answers. On the other hand, the NP received the following requests for information:

Table 61: Requests received by the NP (2012-2016)

Country	2012	2013	2014	2015	2016	Total
Argentina	6	-	2	1	-	9
Costa Rica	13	28	22	36	4	116
Colombia	3	4	5	8	-	22
Canada	-	-	6	5	-	11
El Salvador	14	39	35	21	18	120
Guatemala	11	15	23	15	8	73
Dominican Rep.	-	-	4	-	5	4
Honduras	9	17	20	48	12	98
Mexico	17	38	19	31	5	109
Panama	6	14	23	59	11	107
Peru	-	-	44	11	-	55
Other countries	7	72	22	66	45	178
DEA	13	43	24	21	2	101
ICs*	-	-	-	355	-	355
Totals	99	270	249	677	110	1295

* Intelligence centers of the National Police of Central America, South America and the Caribbean.

446. Out of the total requests for information received, 94.30%, or 1325, have been met. The PPO is part of the Ibero-American Association of Public Prosecutors (AIAMP), acts as a contact point in the GAFILAT Asset Recovery Network (RRAG), and is part of other networks for which the requested cooperation is provided. Between the years 2012-2014, 16 requests for information were sent: 4 in 2012, 6 in 2013 and 6 in 2014.

Provision of other means of international cooperation with AML/CFT purposes

447. The PPO and NP can provide international cooperation to their counterparts in other countries both via the AGO and in cases where it is allowed or in cases of informal cooperation directly. In fact, within the

framework of the Commission of Heads of Police of Central America, Mexico, the Caribbean and Colombia, the NP has cooperated in the execution of eleven regional operations within five specialized lines (Diamante III, Diamante IV, Dúplex III, Impacto, Dignidad I and II, Orca IV and V, Rapel II, III and IV).

448. The UAF has signed memorandums of understanding with 15 countries: Guatemala, Chile, Peru, Venezuela, Cuba, Mexico, Honduras, Colombia, Paraguay, Argentina, Bolivia, Panama, Brazil, Costa Rica, China Taiwan), with which it exchanges information frequently. Although it is not part of the Egmont Group, requests for information were made and received from countries with which a MoU is not signed. For the timely exchange of information and effective cooperation with the FIUs with which it cooperates, the UAF complies with the principles set out in the document "Best Practices for the Exchange of Information". For the exchange of information, requests must be made to the UAF with: (a) a brief description of the relevant facts, (b) the identification of requested persons and (c) the motivation or link of the request with the UAF.

449. The UAF in its area of international affairs has a Manual on international information exchange, which establishes the internal procedures for the exchange of information with competent authorities and how to respond to requests for international cooperation. Based on this Manual, the requests for information received have been met and the UAF has cooperated efficiently and effectively, according to the information provided by the countries themselves.

450. The SIBOIF responds to the requests for information and/or cooperation it receives in terms of the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision, so it can provide assistance to the member countries to the same Agreement with 9 countries. In this regard, it was indicated that the bilateral exchange provided eight (8) reports between 2012 and 2015 to three countries subscribing to the Memorandum. For the same period, it received three (3) reports.

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

451. There is no evidence of any restriction in Nicaragua regarding the exchange of basic and beneficial ownership information. However, there are shortcomings regarding access to the information of the beneficial owner of the legal persons and arrangements in a timely manner.

452. According to the information provided, the UAF has made requests and met 3 requirements for the period 2014-2016 (one requirement is in process) requesting basic and beneficial ownership information of legal persons.

Conclusions of the Immediate Outcome 2

453. In accordance with the abovementioned, Nicaragua presents a **moderate level of effectiveness in the Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

TC1. This Annex provides a detailed analysis of the level of compliance with the 40 FATF Recommendations in their numerical order. It does not include a descriptive text on the situation or risks of the country, and it is limited to the analysis of the technical criteria for each Recommendation. It should be read together with the MER.

TC2. The AML/CFT system of Nicaragua has not been previously evaluated by GAFILAT, so this Annex provides a detailed analysis of all the criteria according to the Methodology 2013.

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

TC3. *Criterion 1.1* Nicaragua carried out the ML/TF NRA during the period 2013-2015, with technical assistance from the IDB. The methodology used to prepare this analysis was based on the Guide developed by the FATF in 2013 "National Money Laundering and Terrorist Financing Risk Assessment". Officials from public and private institutions responsible for prevention, detection and prosecution of ML/TF offenses participated: Ministry of Government, NP, AGO, Judiciary, SIBOIF, CONAMI, DGA, UAF and Banking and microfinance institutions. However, the participation of sectors, especially DNFBPs, was necessary in the process of preparing the ML/TF NRA.

TC4. Likewise, the UAF coordinated the TF NRA in which threats, vulnerabilities and risks of TF were identified. The Strategy and the National Plan CFT were developed through this study.

TC5. *Criterion 1.2* In accordance with the provisions of the Regulation (Decree No. 07-2013) of Law No. 793, Sections 5-7 The UAF is the agency responsible for preparing and following-up the National Strategy and the National AML/CFT Plan. Likewise, it is the lead agency and it is empowered with the joint coordination with the NCAOC for the preparation of public policies for the prevention of ML, TF and FPWMD.

TC6. *Criterion 1.3* Nicaragua completed its first NRA in 2015, within which it was established that the analysis will be updated every three years.

TC7. *Criterion 1.4* In accordance with Section 4, para. (6) of Law No. 793, the UAF has the authority to issue risk studies to unregulated subjects.

TC8. In addition, the UAF has held meetings to disseminate the results of the NRA, "Analysis of Threats, Vulnerabilities, Risks, Commercial Activities and Higher Risk Economic Sectors; and Recommendations". The meetings were attended by regulatory and supervisory authorities, compliance officers regulated by SIBOIF, CONAMI and the UAF.

TC9. On the other hand, the SIBOIF by means of the external circular letters DS-DL-1553-05-2016-VMUV, DS-DL-1554-05-2016-VMU, DS-DL-1556-05-2016-VMU, DS- 1557-05-2016-VMUV, and DS-DL1558-05-2016-VMUV communicated to the monitored sectors the outcomes of the risk-based analysis.

TC10. The UAF through external circulars UAF-CE-0609-2016; UAF-CE-0607-2016; UAF-CE-0608-2016 communicated to microfinance institutions under its regulation beyond the monitoring of CONAMI; representatives of casinos; factoring, trusts and financial leasing; remittance and shipping companies; the Best Practices Guideline on MLP/TF/FP, which integrates the findings of the NRA.

TC11. *Criterion 1.5* Nicaragua developed a National Strategy and an AML/CFT NAP which establishes national and sectoral measures aimed at mitigating and preventing risks in ML/TF, taking into account the threats and vulnerabilities identified in the ML/TF NRA. The AML/CFT NAP establishes the authorities and sectors responsible for the corresponding implementation of the actions. However, there is no evidence showing an allocation of resources based on the ML/TF NRA for the relevant institutions.

TC12. *Criterion 1.6* Nicaragua does not apply exceptions to any of the FATF Rs.

TC13. *Criterion 1.7* By way of Resolution No. CD-SIBOIF-524-MAR-2008, it requires that the supervised authorities implement intensified policies, procedures and measures; Sections 15 and 16 provide for an Intensified CDD and Intensified CDD measures, respectively. Section 8(b) CDD policy will be applied in a differentiated manner according to the sensitivity and ML/TF risk level, corresponding to the high risk level an intensified CDD. Section 24 (ML/TF Risk Assessment evaluation matrices) sets forth that RSs in their risk assessments must take into account the guidelines, typologies, and other directives issued by the authorities. In addition, in the external circular letters listed in the Criterion 1.4, the results of the ML/TF NRA were communicated to the RSs to be considered as appropriate. In the same sense, Resolutions No. CD-CONAMI-002 ENE31-2013 and UAF No.10-2016 establish: the former, CDD Policy, Intensified CDD; Measures of Intensified CDD; SP ML/TF Risk Matrix and the latter, CDD Application, Intensified CDD application, CDD-I Special Measures; Countries at highest risk; Rating matrices. In both cases, they take into account the ratings of their risk matrices, with special attention when risk is high.

TC14. Notwithstanding the foregoing, since only casinos are considered RSs within the AML/CFT regime, it is still necessary to develop regulations in this regard for DNFBPs and other FIs that are not established in Law No. 793.

TC15. *Criterion 1.8* In accordance with the regulations of SIBOIF, CONAMI and UAF the CDD policy is established, in which the low risk level corresponds to a simplified CDD for customers and classified operations with low ML/TF risk. This regulation only applies to FIs and casinos in accordance with Law No. 793 (Resolution No. CD-SIBOIF-524-1MAR5-2008, Sections. 8.b and 17, CD CONAMI-002-02ENE31-2013, Section 8, Resolution No. UAF No.010-2016, Section 25).

TC16. *Criterion 1.9* The monitoring and supervision of FIs under CONAMI, UAF and SIBOIF have limitations in terms of risk-based supervision. The remaining FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs (except casinos) outside the scope of Law No. 793 as RSs are not regulated nor monitored (see R. 26 and 28).

TC17. *Criterion 1.10* RSs regulated by the UAF in accordance with Law No. 793 are obliged to develop procedures and methodologies to know, identify, understand, evaluate, control, mitigate and prevent their own risk, in accordance with resolution UAF-N-010-2016, Sections 4, 22 y 34. The relevant obligations in charge of the financial subjects supervised by SIBOIF are set forth in resolution CD-SIBOIF.524-1-MAR5-2008, Section 24. The obligations for IFIMFs are contained in Resolution No. CD-CONAMI-002-02ENE31-2013, Section 20. The remaining FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs set forth by the FATF (except casinos) and outside the scope of Law No. 793 as RSs are not regulated. In the case of casinos, their obligations are set forth in Resolution UAF-N-009-2016, Section 3, first paragraph.

TC18. *Criteria 1.11 (a) - (c)* According to Section 15 of Law No. 793, RSs established by Law No. 793 must implement an ML/TF prevention program related to their risk profile, size, complexity and volume of their products, services or transactions, geographic areas in which they operate, and sector

specifics. The program to be approved by senior management must include policies, procedures, internal control, monitoring systems, parameters and variables to identify and manage their risks, in accordance with applicable resolutions. (CD-SIBOIF-524-1-MAR5-2008, Sections. 4(a) and 4(b), 6(b), 15(a); CD-CONAMI-002-02ENE31-2013, Sections. 4, paras. 1-2, 6, para. 2; UAF-N-010-2016, Sections 6, first paragraph, 7, second paragraph, para. 1.a, 8, paras. 2 and 3, and 27; UAF-N-009 2016, Section 25.

TC19. The remaining FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs (except casinos) set forth by the FATF and outside the scope of Law No. 793, are not RSs, therefore, they are not regulated in this regard.

TC20. *Criterion 1.12* FIs regulated by SIBOIF, CONAMI and the UAF, as well as casinos as per Law No. 793, are allowed to take simplified measures whenever they are low risk clients and that the classification process is properly documented. This is stipulated in the pertinent resolutions (CD-SIBOIF-524-1-MAR5-2008, Sections 8 and 17; CONAMI-002-02ENE31-2013, Sections 8 and 17; UAF-N-010-2016, Section 25.). The remaining FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs (except casinos) set forth by the FATF are not regulated in this regard.

Weighting and conclusion

TC21. Nicaragua prepared the ML/TF NRA which ended in 2015 and as a result, the UAF coordinated the development of the National Strategy and AML/CFT NAP. However, the participation of sectors, especially DNFBPs, was necessary in the process of preparing the ML/TF NRA, restricting outcomes. The AML/CFT NAP establishes the authorities and sectors responsible for the corresponding implementation of the actions. However, there is no evidence showing an allocation of resources based on the ML/TF NRA results for the relevant institutions. Moreover, FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs (except casinos) set forth by the FATF are not regulated by Law No. 793, are not RSs, and therefore, they are not regulated and they do not have any monitoring and sanctioning dedicated body. **The rating under Recommendation 1 is Partially Compliant.**

Recommendation 2 – National cooperation and coordination

Criterion 2.1 Nicaragua has NPHD 2012-1016, which establishes six State Policies (Economic, Fiscal; Public, Monetary, Exchange, Financial and Credit Investment; Domestic and Foreign Trade and Balance of Payments; Foreign Investment Encouragement) and in this document it incorporates the section on Public Safety and Fight Against Drug Trafficking and Organized Crime. Specifically, Nicaragua, under the coordination of the UAF, developed the National Strategy and AML/CFT NAP derived from the results of the NRA, in order to achieve effective prevention, detection and prosecution of ML/TF crimes. The limitations in the NRA (see Criterion 1.1) have an impact on the design of the National Strategy. In addition, the UAF coordinated the Evaluation, Strategy and National CFT Plan. Within the National AML/CFT Strategy, it was established that it could be updated at the time of significant changes in the risks specified in the risk matrix of the ML/TF NRA. On the other hand, the AML/CFT NAP will be updated each year, prior to the allocation of resources.

TC22. *Criterion 2.2* In accordance with Law No. 793 and its Regulation, (Decree No.07-2013), Chapter II, Sections 5, 6 and 7, the UAF is the lead agency that coordinates, together with the institutions that make up the CNACCO, public policy proposals for the prevention of laundering of money, property and assets arising from illicit activities, financing of terrorism and proliferation. Besides, the UAF must prepare the AML/CFT NAP and submit it to the President for approval. Similarly, the UAF implements and monitors the AML/CFT Strategy and NAP.

TC23. *Criterion 2.3* The UAF, as the body in charge of proposing ML/TF prevention policies, has coordination agreements in force with SIBOIF, CONAMI, NP, PPO, the Professional Association of Public Accountants, SCJ, DGA and the Nicaraguan Culture Institute. Additionally, in accordance with Law No. 919, Section 11(6), Nicaraguan authorities may coordinate within the Sovereign Security System, which reports to the President of the Republic, and for money laundering, property and assets and specifically organized crime, the UAF and SIBOIF are included. Likewise, in terms of Law No. 735, Section 3 paras. 2, 3 and 5, which include ML, organized crime, and terrorism, authorities must coordinate according to Section 6(c), and Section 5 establishes the NCAOC, of which SIBOIF is a part.

TC24. *Criterion 2.4* The mechanisms for cooperation and coordination to combat FPWMD are limited to those foreseen for the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, as well as mechanisms and procedures for the control of imports and exports of firearms lots, ammunition, explosives and other related materials that are not necessarily weapons of mass destruction.

Weighting and conclusion

TC25. Nicaragua has the NPHD 2012-1016, as well as the National Strategy and AML/CFT NAP and National CFT Strategy. However, the limitations in the ML/TF NRA (see Criterion 1.1) have an impact on the design of the National Strategy. Nicaragua lacks cooperation and coordination mechanisms for the prevention of FPWMD. **The rating under Recommendation 2 is Largely Compliant.**

Recommendation 3 - Money laundering offense

TC26. *Criterion 3.1* Section 282 of Law No. 641 provides the following:

“Section 282. Money laundering and laundering of property or assets.

Any person who knowingly, or who should have knowledge, by himself or by a third party, performs any of the following activities:

(a) Acquires, uses, converts, conceals, transfers, secures, custodies, administers, collects, interposes, sells, imposes a tax, donates, simulates or extinguishes obligations, invests, deposits or transfers money, property or assets originating in or coming from illegal activities or any other act with the purpose of hiding or concealing their illicit origin, either in a single act or by the reiteration of facts related to each other, regardless of whether any of these occurred inside or outside the country;

(b) Prevents by any means the actual determination of the nature, origin, precedence or relation of money, property, assets or interests generated from illegal activities; or advices, manages, funds, constitutes companies and fictitious companies or performs acts with the purpose of hiding or concealing their illicit origin, either in a single act or by the reiteration of facts related to each other, regardless of whether any of these occurred inside or outside the country;

(c) Provides false or incomplete information to, or from, banking or non-banking financial institutions, of insurance, stock exchange, remittances, commercial or any other nature for the purpose of contracting services, opening accounts, making deposits, obtaining credit, carrying out transactions or businesses of property, assets or other resources, when they originate or have been obtained from any illegal activity in order to hide or conceal their illicit origin;

(d) Supplies or provides his identification data or the name or business name of the company or any other legal arrangement of which it is a partner or shareholder or with which it has any relationship, whether legally constituted or not, irrespective of their purpose, for the commission of the money laundering offense or laundering of property or assets or perform any other activity of front man;

(e) Enters or extracts from the national territory property or assets derived from illegal activities using the customs or migration posts: land, sea or air or any other point in the country;

(f) Seriously violates the duties of his position to provides the conducts described in the previous paragraphs.

The behaviors mentioned above constitute this crime when they have as predicate illicit activity those sanctioned in its maximum top limit with a penalty of five years of imprisonment or more.

The offense of money laundering and laundering of property or assets is autonomous with respect to its predicate offense and will be prevented, investigated, prosecuted, convicted or sentenced by the competent authorities as such, in relation to any predicate illicit activities, for which a prior criminal proceeding in relation to such predicate illicit activity shall not be required.

For its prosecution, it is sufficient to prove a relation with the predicate offense. These conducts shall be punished with a penalty of five to seven years of imprisonment and special disqualification for the same period for the performance of professional activities, trade or office, and a fine of one to three times the value of the corresponding money, property or assets."

TC27. The criminalization of ML covers most of the requirements established in the Vienna and Palermo Conventions. However, it does not cover the following:

- It omits to include the conduct of "possession" (Palermo Convention, Art. 6, para. 1, (b), (ii).
- The definition of property contemplated in Section 2 of Law No. 735 applies only to the list of crimes established there, but not for other predicate offenses.

TC28. *Criterion 3.2* In accordance with Law No. 641 Sections 24, last paragraph; 49(a); and 282, second paragraph, predicate offenses are set forth as those crimes considered serious, these are those punishable by a maximum sentence of at least five years of imprisonment. Serious offenses include a range of offenses in each of the categories of offenses designated by the FATF. Notwithstanding the foregoing, under Nicaraguan Law, the crimes of material counterfeiting, ideological misrepresentation and falsification of medical certificates have penalties that do not exceed five (5) years of imprisonment. Additionally, the criminalization of the TF offense has limitations (see R. 5).

FATF predicate offense category	Corresponding range of offenses
Participation in an organized criminal group and racketeering	Aggravated fraud (230), insurance fraud (231), organized crime (393).
Terrorism and terrorist financing	Terrorism (394), Terrorist Financing (395).
Trafficking in human beings and migrant smuggling	Human trafficking for purposes of slavery, sexual exploitation or adoption (182), migrant smuggling (318), trafficking and extraction of organs and human tissue (346).
Sexual exploitation, including sexual exploitation of children	Sexual exploitation, pornography and sexual intercourse with adolescents for payment (175), specific aggravating circumstances in the case of sexual exploitation, pornography and sexual intercourse with adolescents for payment (176), promotion of tourism for the purpose of sexual exploitation (177), procuring (178), aggravated procuring (179), ruffianism (180), trafficking in persons for purposes of slavery, sexual exploitation or adoption (182).
Illicit trafficking in narcotic drugs and psychotropic substances	Trafficking in narcotic drugs, psychotropic and controlled substances (359).
Illicit arms trafficking	Illicit arms trafficking (402), manufacture, trafficking, possession and use of restricted weapons (404), trafficking, stockpiling or storage of prohibited weapons (405), construction or provision of runways (406).
Illicit trafficking in stolen and other goods	Illicit vehicle trafficking (227), illicit trafficking in cultural heritage (299).
Corruption and bribery	Bribery committed by an authority body, official or public employee (445), bribery committed by an individual (446), request or acceptance of improper advantages by an act performed or omitted (447), illicit enrichment (448), international bribery (449), embezzlement (451), misappropriation of public funds (452).

Fraud	Serious fraud (230), fraud in contests and other public acts (281), Fraud (454).
Counterfeiting currency	Counterfeiting currency (291)
Alteration and piracy of products	Simulation of drugs (355)
Environmental crime	Water contamination (366), air pollution (367), fishing racking or decanting in high sea (376), fishing with an unauthorized foreign flag (379), forest extraction, use and logging (384), logging in strands and slopes (385).
Murder, grievous bodily injury	Murder (138), assassination by price, reward or promise of remuneration (140), grievous bodily injury (153).
Kidnapping, illegal restraint and hostage-taking	Simple kidnapping (163), extortive kidnapping (164), simple hostage-taking (396).
Robbery or theft	Robbery with force to property (223), robbery with violence or intimidation to people (224), aggravated theft.
Tax crimes (related to direct taxes and indirect taxes)	Tax fraud (303), customs fraud (307), smuggling (308).
Extortion	Extortion (228).
Forgery	Material counterfeiting (284), ideological misrepresentation (285), falsification of medical certificates (288).
Piracy	Piracy (328).
Insider trading and market manipulation	Manipulation of stock market prices (266), insider trading (267), moneylending speculation (268), anticompetitive practices (273).

TC29. *Criterion 3.3* In accordance with the Criterion 3.1, predicate offenses cover all crimes considered serious within the Nicaraguan legislation, punishable by a maximum sentence of at least five years of imprisonment.

Criterion 3.4 ML extends to money, goods, assets, securities, interests and more broadly to other resources derived from illicit activities, as established in Section 282 of Law No. 641. Likewise, the term property is defined in Section 2 of Law No. 735, Law on Prevention, Investigation and Prosecution of Organized Crime and Administration of Seized, Confiscated and Abandoned Property.

TC30. *Criterion 3.5* In accordance with Law No. 641, Section 282, third paragraph, the offense of money laundering is autonomous with respect to its predicate offense and will be prevented, investigated, prosecuted, convicted or sentenced by the competent authorities as such, in relation to any predicate illicit activities, for which a prior criminal proceeding in relation to such predicate illicit activity shall not be required. For its prosecution, it is sufficient to prove a relation with the predicate offense.

TC31. *Criterion 3.6* In accordance with Sections 14 and 16 of Law No. 641, the enforcement of Nicaraguan criminal laws is extended to any conduct that occurred in another country as if the offense had occurred at the national level.

TC32. *Criterion 3.7* The ML offense is autonomous and is prosecuted irrespective of the prosecution of its predicate offense (Section 282, third paragraph, of Law No. 641).

TC33. *Criterion 3.8* In the ML offense, it is possible to infer the intention and knowledge of objective factual circumstances, as set forth by Section 193 of Law No. 406 (Criminal Procedure Code).

TC34. *Criterion 3.9* In accordance with the Nicaraguan criminal legislation, ML is considered a serious offense punishable with a penalty of five to seven years of imprisonment and special disqualification for the same period for the performance of professional activities, trade or office, and

a fine of one to three times the value of the corresponding property or assets. In the event of aggravating circumstances as provided for in Section 283 of Law No. 641, the imprisonment and the period of disqualification may be from seven to fifteen years, and the amount of the fine may be three to six times the value of the property or assets. In this sense, the aggravation of the conviction applies when there is evidence of related activities or activities which derive from crimes related to narcotics, psychotropic drugs and other controlled substances or other crimes that have been carried out by an organized criminal group member or a national or an international group, except in the case of organized crime. In accordance with the penalties established and considering the penalties for other crimes of the same seriousness, it is considered that the sanctions are proportional, effective and dissuasive.

TC35. *Criterion 3.10* In accordance with Section 113 of Law No. 641, ancillary consequences are foreseen for legal persons when criminal acts are performed using the legal person as a front or when performing illegal activities for the benefit of such legal person; however, it is not possible to enforce sanctions to legal persons in an autonomous and direct manner.

TC36. *Criterion 3.11* Law No. 641 allows punishment of ancillary conducts of money laundering, such as participation (41), association and conspiracy (393), attempt (74), incitement (43), help (44), facilitation and advice (282 (b), (d) and (f)).

Weighting and conclusion

TC37. The ML offense covers most of the requirements established in the Vienna and Palermo Conventions except for the inclusion of the conduct of possession (Palermo Convention, Section 6, para. 1(b)(ii) and the definition of property contemplated in Section 2 of Law No. 735 applies only to the list of crimes established therein, but not for other predicate offenses. Although it is possible to apply ancillary consequences to legal persons, there are no sanctions established for legal persons autonomously and directly. Likewise, the crimes of forgery have penalties that do not exceed five (5) years of imprisonment, therefore, they are not predicate offenses of ML and there are limitations in the criminalization of TF. **The rating under Recommendation 3 is Largely Compliant.**

Recommendation 4 - Confiscation and provisional measures

TC38. *Criteria 4.1 (a)-(d)* The Criminal Law of Nicaragua allows for the confiscation of the proceeds that arise from a conduct sanctioned as a crime, or of the assets acquired with the value of those proceeds, of the instruments used or intended to be used for execution, or of the proceeds of ML, predicate offenses, TF (not so for certain terrorist acts that are not covered by TF criminalization), except when they belong to a bona fide third party not responsible for the crime and who has legally acquired them. However, confiscation of property of an equivalent value is not provided for in such law.

TC39. *Criterion 4.2* Criminal procedural law in Nicaragua provides for some measures to enable the competent authorities to identify, track and value assets subject to confiscation:

- (a) The General Prosecutor of the Republic or the General Director of the NP may request a financial information order to be issued so that public or private FIs, and in their case the Office of Comptroller General of the Republic, report the court on the process of financial transactions in their possession, or where appropriate, of the audits and other reports under their custody (Sections 211 and 212 of Law No. 406). Moreover, the NP may request reports to any person or public or private entity (Section 230, para. 8, of Law No. 406). The valuation of property subject to confiscation is not possible under the Law on Prevention, Investigation and Prosecution of Organized Crime and Administration of Seized, Confiscated and Abandoned Property. However, the NP is in charge of evaluating assets subject to confiscation (Section 230 of the Criminal Procedure Code).

- (b) With regard to assets related to ML, the Criminal Procedure Code provides for precautionary measures, including the immobilization of bank accounts and certificates of shares and securities, seizure or preventive seizure and judicial intervention of a company (Section 167, para. 2, Law No. 406).
- (c) In the case of organized crime, the NP and the Prosecutor's Office Unit may request the application of precautionary measures to prevent actions that obstruct an investigation (Sections 35 and 36, Law No. 735).
- (d) The NP has the possibility to implement different measures to identify and trace assets subject to confiscation.

TC40. *Criterion 4.3* The rights of bona fide third parties are protected by the provisions of Sections 112 and 61 of Law No. 735).

TC41. *Criterion 4.4* The UABIDA is the authority responsible for the reception, administration, keeping, custody, investment, auction, donation, return or destruction of seized and confiscated property (Sections 43 and 44 of Law No. 735). Likewise, mechanisms and procedures are in place to dispose of frozen, seized or abandoned property. (Sections 48-61 of Law No. 735).

Weighting and conclusion

TC42. Nicaraguan law does not provide for confiscation of property of an equivalent value. In relation with the confiscation of assets from terrorist financing, there is no legal mechanism for certain behaviors due to the limitations in the criminalization of TF (see R. 5). **The rating under Recommendation 4 is Largely Compliant.**

Recommendation 5 - Terrorist financing offense

TC43. *Criterion 5.1* The TF offense is set as a criminal offense in Section 395 of Law No. 641, as follows:

“Section 395. Terrorist Financing

Any person who generates, collects, captures, channels, deposits, transfers, moves, secures, administers, protects, intermediates, lends, provides, delivers funds or assets from licit or illicit sources for use in the execution of any terrorist act or event described in the former Section, or otherwise finances or finances a terrorist organization without intervening in its execution or should any of these is not consummated, will be punished with a penalty of fifteen to twenty years of imprisonment.

The penalty shall increase by one third in its minimum and maximum limits, when the crime is committed through the financial system or by a partner, director, manager, administrator, guardian, external or internal auditor, representative or employee of a public entity or authority, official or public employee.”

TC44. The criminalization refers to the offense of terrorism, provided for in Section 394 of Law No. 641, which states:

“Section 394. Terrorism

Any person who acts in the service or in collaboration with bands, organizations or armed groups, using explosives, toxic substances, weapons, fire, flood, or any other act of mass destruction, acts against persons, property, public services and means of transportation, as a means to cause alarm, fear or terror in the population, in a group or sector of it, to alter the constitutional order, to seriously alter public order or to cause panic in the country, will be sanctioned with a penalty of fifteen to twenty years of imprisonment.”

TC45. The criminalization of TF does not comply with the full provisions of the International Convention for the Suppression of the Financing of Terrorism. Although Nicaragua is a signatory to the nine instruments listed in the Annex to the Convention, coverage of the type of terrorism is partial because it does not include:

- Arts. 1 and 1a of the Convention for the Suppression of Unlawful Seizure of Aircraft.
- Art. 1.1.a of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.
- The type of TF does not cover acts set forth in Section 396 of the Criminal Code that corresponds to Art. 2 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.
- Art. 1 of the International Convention against the Taking of Hostages.
- Art. 7.1 of the Convention on the Physical Protection of Nuclear Material.
- Art. II of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, which adds paragraph 1 *bis* to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.
- Art. 2 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.
- Arts. 2.1, a) and 2.2, c) of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.
- As set forth in Section 394, specific terrorist acts are related with the objective to *cause alarm, fear or terror in the population, in a group or sector of it, to alter the constitutional order, to seriously alter public order or to cause panic in the country*. However, Art. 2.1.a of the TF Convention provides that specific terrorist acts should be covered without the need of such a purpose.
- The type of terrorism refers to "the population" and "the country", in that sense it does not conform to what is indicated in Art. 2.1 of the Convention that refers to "a population", "a government" in general.

TC46. *Criterion 5.2* The TF offense extends to any person who commits the conducts deliberately sanctioned with a will to do so by any means with the intention of being used (a) to perform terrorist acts; or (b) by a terrorist organization (in the absence of a relation with a specific terrorist act or event). The type of TF does not extend to the financing of a terrorist individual in the absence of a relation with a specific terrorist act or event.

TC47. *Criterion 5.2 bis* The TF offense does not contemplate the possibility of punishing the financing of the travel of individuals traveling to another State, other than that State of their residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts or providing or receiving terrorist training.

TC48. *Criterion 5.3* The funds or assets to which the TF criminal type refers may come from licit or illicit sources. (Section 395, Law No. 641).

TC49. *Criterion 5.4* According to the criminalization of the TF offense regarding funds, it is evidenced that: (a) it is not necessary that the funds or assets have actually been used to carry out or attempt to carry out a terrorist act; (b) the funds must not be related with a specific terrorist act.

TC50. *Criterion 5.5* It is evident that Nicaraguan regulations set the offense of TF as an intentional criminal type and that intention and knowledge, which are elements of the criminal type, can be inferred from objective factual circumstances (Sections 192 and 193 of Law No. 406).

TC51. *Criterion 5.6* The TF offense is punishable by imprisonment of between fifteen (15) and twenty (20) years. In accordance with the penalties established and considering the penalties for other crimes of the same seriousness, it is considered that the sanctions are proportional, effective and dissuasive.

TC52. *Criterion 5.7* Another type of ancillary sanctions and consequences is contemplated within the Nicaraguan law and it is possible to attribute civil responsibility to legal arrangements irrespective of the criminal responsibility attributable to natural persons who commit the TF offense; however, it is not possible to apply sanctions to legal entities in an autonomous and direct manner.

TC53. *Criterion 5.8* The criminal code of Nicaragua sanctions as ancillary offenses:

- (a) the attempt to commit a TF offense (Section 27, Law No. 641);
- (b) the participation as an accomplice (Section 44, Law No. 641);
- (c) the organization or direction of others to attempt to commit or to commit a TF offense (Section 42, Law No. 641);
- (d) the contribution to the commission of one or more TF crimes or the attempt by a group of persons acting with a common purpose (Section 43, Law No. 641).

TC54. *Criterion 5.9* TF is considered a predicate offense of ML (Section 282, Law No. 641).

TC55. *Criterion 5.10* As set forth by Section 16(a) and (n) of Law No. 641, the enforcement of Nicaraguan criminal laws is extended to any conduct that occurred in another country as if the offense had occurred at the national level.

Weighting and conclusion

TC56. Although TF is criminalized, the country does not comply with all the elements set forth in Art. 2 of the International Convention for the Suppression of the Financing of Terrorism, since the criminal type of terrorism does not cover all crimes cited in the annex to the Convention. In addition, the wording of such criminalization does not cover the broader reference to "a population" or "a government" in general. The TF offense does not apply to an individual terrorist and does not provide for the punishment of the financing of the travel of individuals traveling to another State other than that State of their residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts or providing or receiving terrorist training. Finally, although it is possible to apply ancillary consequences to legal persons, there are no sanctions established for legal persons autonomously and directly. **The rating under Recommendation 5 is Partially Compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

TC57. *Criterion 6.1* With regard to the designations under UNSCR 1267/1989 and 1988, the regime is as follows:

- (a) The CNCO carries out the corresponding analysis and, if appropriate, reports to MINREX, which is the competent authority to communicate through the relevant channels to the UNSC Committees established under UNSCR 1267/1989 and 1988 resolution (Art. 9, paragraph 1, of Decree 17-2014).
- (b) The NP is empowered to obtain information to identify natural or legal persons that meet the criteria for the designation of UNSC resolutions (Section 7, paragraph 2, of Law No. 872).
- (c) In Decree 17-2014, it is expected that the national authorities of Nicaragua request the inclusion of an individual or entity within the UNSC designations under the relevant resolutions; for that purpose the criteria established in Section 10 of the said Decree must be considered.
- (d) The MINREX must adhere to the designation procedures and forms adopted by the Committee 1267/1989 or 1988 (Art. 9, paragraph 1, of Decree 17-2014).

(e) The request for designation must be sound and justified in such a way as to specify that the listing requirements of Committees 1267/1989 and 1988 are met. Decree 14-2014, Recital VII states the authority of the UAF to obtain financial, legal or accounting information from transactions or economic operations that may be linked to ML/TF, as well as to analyze, investigate and follow up, pursuant to FATF and UNSC standards.

TC58. *Criteria 6.2 (a) - (b)* In relation with UNSCR 1373, the designations and the identification of recipients are vested in the NDSS (Section 10, paragraph 1, of Decree 17-2014).

TC59. *Criterion 6.2 (c)* The UAF is in charge of processing proposals received from other countries, hence, it is its responsibility to verify that they have at least: the competent authority (institution and official) submitting the request and the largest amount of information possible justifying the request (motivation, description, documentation of support, identity information, nationality, physical and electronic address, financial information and any other that supports the request (Art. 15, Decree 17-2014).

TC60. *Criterion 6.2 (d) - (e)* In deciding whether or not to make a designation, the criteria established in Section 10 of Decree 17-2014 must be considered. When requesting another country to enforce freezing measures, at least the same information as in criterion 6.2 (c) shall be provided.

TC61. *Criterion 6.3 (a) - (b)* The NP is empowered to obtain information to identify natural or legal persons that meet the criteria for the designation of UNSC resolutions (Section 7, paragraph 2, of Law No. 872).

TC62. *Criterion 6.4* TFSs related to terrorism and TF are provided for in Decree 17-2014 (Section 5) and must be implemented without delay, ideally that is immediately and within hours as from the designation of the UNSC or of the relevant Sanctions Committee (Section 3, paragraph 7, and Section 12). In order to ensure proper implementation, the relevant authorities issued instruments in their areas of competence, SCJ, MINREX, Prosecutor's Office, Directorate of Foreigners and Migration of the Ministry of Government, NP, DGSA, as well as the UAF.

TC63. *Criterion 6.5* In Nicaragua, the TFSs related to terrorism and TF are implemented in accordance with Decree 17-2014, which establishes the following:

- (a) The UAF requests FIs and DNFBPs to immobilize without delay the funds or assets of designated persons and entities without prior notification (Sections 4, paragraph 4, 11 and 15 of Decree 17-2014). However, this obligation is limited to FIs and DNFBPs under the scope of Law No. 793.
- (b) The immobilization obligation extends to all categories of funds or assets owned individually or jointly by natural and legal persons identified as having links to terrorist acts and/or their financing; controlled directly or indirectly by persons or entities identified as having links to acts of terrorism and/or their financing; those which are individually or jointly owned or controlled directly or indirectly by persons or entities acting on behalf of, or under the orders of, or associated with; persons or entities identified as having links to acts of terrorism and/or their financing; those obtained or derived from other funds or assets owned or controlled, directly or indirectly, by persons or entities identified as having links to acts of terrorism and/or their financing. (Decree 17-2014 Section 2(a)-(d))
- (c) There is no express prohibition for all citizens, persons or entities located in Nicaragua to provide funds or other assets, economic or financial resources or other related services, directly or indirectly, totally or jointly, to persons or entities designated to benefit persons or designated entities: to entities owned or controlled, directly or indirectly, by designated persons, unless they have licenses or authorizations or similar authorizing documents, notified in accordance with UNSCR.

- (d) The UAF, through the electronic platform ORS, disseminates the updates of the lists 1267/1989/2253 and 1988, and if it is the case, the national designations. (Decree 17-2014, Section 11, second paragraph). Similarly, updates are posted on a public link.
- (e) RSs and public institutions, in the case of detecting funds or assets, must immobilize them immediately, without delay and in a preventive way, with the obligation to report in a confidential and expeditious way to the UAF. (Decree 17-2014, Section 12, first and second paragraphs). Communication of transaction attempts to be reported by FIs and DNFBPs in compliance with the prohibition requirements of the corresponding UNSCR is not defined.
- (f) The rights of bona fide third parties are protected by the exemption from liability in terms of Section 18 of Decree 17-2014.

TC64. *Criteria 6.6 (a) - (c) and (f)* Nicaragua has a procedure to remove from the listings and to revoke the measures of immobilization of the funds or assets. In accordance with Section 8 of Decree 17-2014, it is possible to revoke immobilization measures when designated natural and legal persons have been removed from the Lists by the UNSC, or in cases of homonymy.

TC65. The NDSS, whether *sua sponte* or at the request of an interested party may withdraw designated persons or entities and revoke asset or funds immobilizations, provided that there are reasonable grounds, elements for a conviction and proof of their separation from the person or entity as a terrorist or as part of a terrorist organization, or which may have direct or indirect participation in one or more terrorist acts, commits them or facilitate its commission. The denial of a request for withdrawal by the NDSS can be reviewed via administrative proceedings. When the designation is withdrawn, the UAF will be informed immediately for report to the PPO and the cease of immobilization of funds or assets (Sections 13, 15 and 16 of Decree 17-2014).

TC66. *Criteria 6.6 (d) - (e)* Any person or entity, national or resident, included in the List or relatives of deceased persons included in the List, may request to be excluded from the list, either before the Office of the Ombudsman of the United Nations Security Council or before the MINREX who, if it considers it appropriate, will channel it to the UNSC by the relevant route. Once the request for exclusion has been approved by the UNSC, it will be communicated to MINREX and the latter will communicate it directly to the interested party and the UAF. Likewise, when the NDSS withdraws the designation of a person, it will immediately forward the information to the UAF, which in turn will notify the PPO to request the lifting of the immobilization of the funds or assets to the corresponding judicial authority. (Decree 17-2014 Sections 9 second paragraph and Section 13, paragraph 4).

TC67. *Criterion 6.6 (g)* Once the NDSS withdraws the designation of a person, it will immediately forward the information to the UAF, which in turn will forward it to the PPO for it to request the lifting of the immobilization of the funds or assets to the corresponding judicial authority. (Decree 17-2014 paragraph 4).

TC68. By virtue of Sections 9, 13 and 16 of Decree 17-2014, the UAF receives notification of the decisions excluding the designation or liftings of the measure of immobilization of assets and communicates to the RSs about the situation. However, this obligation is limited to FIs and DNFBPs under the scope of Law No. 793.

TC69. *Criterion 6.7* Nicaragua allows access to immobilized funds in the case of assets necessary to cover basic expenses that may include the payment of food, rent or mortgages, medicines and medical treatments, taxes, insurance premiums, water and electricity costs or fees or provision of reasonable services, or fees or charges for maintenance of funds (Sections 7 and 14 of Decree 17-2014).

Weighting and conclusion

TC70. Nicaragua has the mechanisms to implement UNSCR 1267 and TFS without delay, through the application of Decree 17-2014. It also sets forth the possibility of requesting the inclusion of an individual or legal entity within the designations of the UNSC and it is the responsibility of NDSS to designate and identify recipients in relation to Resolution 1373. The UAF is responsible for processing the proposals received from other countries, communicating the lists and requesting the immobilization of funds when applicable to FIs and DNFBPs (only those determined by Law No. 793); follow up the lists and communicate to the PPO the decision of the NDSS to withdraw a designated person. Likewise, Decree 17-2014 stipulates the TFSs related to terrorism and TF, as well as the obligation of immobilization in all its categories, respecting the rights of bona-fide third parties. Nicaragua allows access to funds to cover basic expenses. There is no express prohibition to provide funds to persons listed under UNSCR 1267 and 1373. **The rating under Recommendation 6 is Largely Compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

TC71. *Criteria 7.1 to 7.5* Nicaragua has yet to implement a legal framework aimed at implementing the UNSC financial sanctions relating to the prevention, suppression and discontinuation of the PWMD.

Weighting and conclusion

TC72. Nicaragua does not have regulations that allow them to implement the TFSs of the UNSC regarding the prevention, suppression and discontinuation of the FPWMD. **The rating under Recommendation 7 is Non-compliant.**

Recommendation 8 - Non-profit organizations (NPOs)

TC73. *Criterion 8.1* With regard to NPOs:

- (a) The Law No. 147, General Law on Non-profit Organizations, establishes the legal framework that governs the NPOs sector, with the objective of regulating the constitution, authorization, operation and extinction of non-profit legal, civil and religious organizations in the country, and of those that in the future may be organized, be them non-profit associations, foundations, federations and confederations, of a civil or religious nature. By February 2016, the Department for Registration and Control of Associations of the Ministry of Government indicated that 6,643 NPOs are registered in the country, of which 91% are religious and 9 are foreign. Out of the total number, 63% are in the following categories: social (26%), religious (24%), community development (8%), cultural (2%), educational (2%), training (1%). The TF NRA did not identify a probable risk of abuse of NPOs for TF purposes.
- (b) According to the TF NRA, it identified the threats and vulnerabilities facing the sector.
- (c) Nicaragua has initiated the process of reviewing the measures included in its relevant legislation and regulations, specifically through the Department for Registration and Control of Associations of the Ministry of Government, prepared the draft of the "General Law on Non-Profit Organizations", which was reviewed by the UAF, the Intelligence Directorate for the Defense of the Nicaraguan Army and the Directorate of Legal Advice of the Presidency of the Republic. At the time of the on-site visit, this document had not been approved, so the country lacks CFT legislation and regulation for the NPOs sector.
- (d) Nicaragua has made a first evaluation exercise of its NPOs sector, within its TF NRA. However, within the section on *Recommendations to Mitigate Identified Risks*, the periodic re-evaluation of the sector was not included.

TC74. *Criterion 8.2.* Regarding the liaison with the sector of NPOs:

- (a) Law No. 147 "General Law on Non-Profit Organizations" provides for the fostering of transparency, integrity and public reliance on the administration and management of NPOs.

Specifically, measures are foreseen for the authorization of the operation of local NPOs (Sections 7-9), authorization of operation of foreign NPOs (Sections 19 and 20), the requirements are detailed in the Manual of Procedures of the Department for Registration and Control of Associations. Likewise, information is requested on the justification of the social usefulness of NPOs (Sections 7 and 9). In addition, the Department for Registration and Control of Associations of the MIGOB is designated as the person in charge of application of the said Law and the subjects on which it can exercise supervision (Sections 18, 22-24).

- (b) and (c) The MIGOB and the UAF, during the period 2013-2016, have carried out three activities of liaison with the sector. No schedule of further actions has been reported.
- (d) It was not reported that actions were taken to encourage NPOs to conduct transactions through regulated financial channels.

TC75. *Criterion 8.3* Law No. 147 provides for the prudential regulation that establishes that NPOs must be registered before the Department for Registration and Control of Associations of the MIGOB, with which they must file their bylaws; in addition, each NPO must carry a book for minutes, registration of members and accounting, meet the requirements to receive donations from abroad, and they must also file their financial statements every year. There are fines set forth for NPOs that do not meet the above prudential requirements. However, the measures implemented do not have a RBA and do not address the TF risks of the sector.

TC76. *Criterion 8.4* Regarding monitoring and supervision:

- (a) The General Law on Non-Profit Organizations (Law No. 147) establishes as the natural supervisor of the NPOs the Department for Registration and Control of Associations of the MIGOB, which is responsible for supervising compliance with prudential regulations, which, as already mentioned, should still develop a RBA.
- (b) The Department for Registration and Control of Associations of the MIGOB may apply the sanctions provided for in Section 22 of Law No. 147, which consist of fines ranging from one thousand to five thousand cordobas, and intervention to resolve irregularities. In addition, in the Manual of Procedures of the Department for Registration and Control of Associations provides a table of fines within the margin mentioned depending on the seriousness of the offense. However, these sanctions lack a proportional and dissuasive effect for CFT purposes.

TC77. *Criterion 8.5* (a) - (c) The PPO and the NP may investigate and collect information from NPOs held by the Department for Registration and Control of Associations of the MIGOB, UAF, CONAMI, and NPOs themselves. The UAF, for its part, has the authority to request the information necessary for the exercise of its powers. (d) Current prudential measures applicable to NPOs in Nicaragua do not ensure that in the event of suspicion or reasonable grounds for suspecting that a NPO is being abused for TF purposes, information is to be promptly shared with the competent authorities to undertake preventive or investigative actions.

TC78. *Criterion 8.6* The AGO is the central authority for providing information to competent authorities from other countries in the context of "mutual legal assistance" and "mutual legal assistance in criminal matters". Moreover, by virtue of Sections 4, paragraphs 4 and 5 of Law No. 793, the UAF has the power to exchange information with other financial intelligence units, through agreements, conventions and memoranda of understanding, or in accordance with the principle of reciprocity.

Weighting and conclusion

TC79. Nicaragua has evaluated its NPOs sector and the TF NRA identified threats and vulnerabilities of the sector. It concluded that there is no probable risk of abuse of NPOs for TF purposes. NPOs in Nicaragua are subject to prudential regulations and are registered in the Department for Registration and Control of Associations of the MIGOB, which supervises compliance with

applicable regulations to the sector. However, it is necessary to adapt the applicable laws and regulations, including AML/CFT provisions, and to ensure that the relevant authorities can take effective and proportionate actions to the identified risks, also, to establish a list of sanctions that are proportional and dissuasive as regards CFT. In addition, authorities still need to implement monitoring and supervising measures with a RBA, as well as actions for liaison and educational programs to raise awareness about the sector's risks. Due to the abovementioned, **the rating under Recommendation 8 is Partially Compliant.**

PREVENTIVE MEASURES

TC80. Those RSs which must report to the UAF directly and without being able to allege reservation or secrecy of any kind, in accordance with Section 9 of Law No. 793 are the following:

- "(a) Those supervised by the Superintendence of Banks and Other Financial Institutions;*
- (b) Financial cooperatives that manage financial resources with their associates;*
- (c) Microfinance Institutions supervised by the National Microfinance Commission;*
- (d) Money exchange houses;*
- (e) Pawnshops and loan venues;*
- (f) Remittance and Parcel Companies;*
- (g) Casinos, gaming venues and similar."*

TC81. On the other hand, pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs and DNFBPs are registered:

- FIs

- "8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;*
- 9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;*
- 15. Merchants engaged in negotiation on the future of commodities."*

- DNFBPs:

- "10. Real estate brokers;*
- 11. Dealers in precious metals and dealers in precious stones and/or works of art; those engaged in the purchase and sale, processing or manufacturing of jewelry or goods made with metals and/or precious stones;*
- 12. Dealers of service for transfer of securities, property and assets;*
- 13. Dealers of new or used vehicles;*
- 14. Assistants to dealers acting as auctioneers or real estate brokers;"*

TC82. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC83. Lawyers, notaries public, other legal professionals and independent accountants are not part of the RSs group that must be covered by AML/CFT obligations according to FATF standards.

Recommendation 9 - Financial institution secrecy laws

TC84. *Criterion 9.1* In relation to the provisions on secrecy applicable to FIs mentioned in Law No. 793, they are provided for in Section 18, which establishes, among others, the following exceptions:

- "1. The requirements that the Superintendent of Banks demands in this matter. The Superintendent is also empowered to process information on the issue of capital legitimacy in accordance with international laws and treaties.*
- 2. The information requested by other banking companies as part of the normal administrative process for the approval of transactions with their customers.*
- 3.*

4. Information channeled through exchange and cooperation agreements signed by the Superintendent with national or other financial supervisory authorities"

TC85. No other administrative authority, except for the SIBOIF and the UAF, may directly request the disclose from the Banks and other supervised FIs any specific or individual information of their customers for dissemination to authorities and institutions.

TC86. The active and service rendering transactions that banks enter into with their customers are subject to secrecy and may only be disclosed to the authorities and institutions indicated in the previous paragraphs.

TC87. MFIs are also subject to secrecy provisions; however, exceptions similar to those mentioned in the previous paragraph apply in accordance with Section 58 of Law No. 769.

TC88. As for the provisions related to law enforcement authorities, both the NP and the PPO may only request to lift the banking, financial and tax secrecy of the persons subject to investigation through the judicial authority, in terms of Sections 211 of Law No. 406 and 34 of Law No. 735. However the deficiencies under criterion 24.5 impact the full compliance with this Recommendation.

Weighting and conclusion

TC89. There are legal and regulatory provisions that address this Recommendation. However the deficiencies under criterion 24.5 impact the compliance with this Recommendation. **The rating under Recommendation 9 is Largely Compliant.**

Recommendation 10 - Customer Due Diligence (CDD)

TC90. The requirements for FIs must be introduced into the law, the requirement of this obligation under the Nicaraguan regime serves as a basis for compliance with CDD obligations, which is part of the revision of this Recommendation.

TC91. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:
*"8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;
 9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;
 15. Merchants engaged in negotiation on the future of commodities."*

TC92. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC93. *Criterion 10.1* FIs supervised by SIBOIF, CONAMI and UAF should not have anonymous accounts or accounts under obviously fictitious names; they must rather be in the name of an identified customer who can be identified unequivocally, whether being a natural person or a legal arrangement. (Resolutions SIBOIF 524/08, CONAMI 002/13, UAF 10/16, Administrative circular letter PE 590/16).

TC94. *Criterion 10.2* FIs should implement CDD measures:

- (a) In establishing commercial relations, they must obtain unequivocal information on the identity of the client and/or beneficial owner, including their representatives or their managers (Resolution CD-SIBOIF-524-1-MAR5-2008, Sections 8.d, CD-CONAMI-002-02ENE31-2013: Section 8.4 and UAF-N-10-2016 Sections 10.3 and 9.b.
- (b) In the case of FIs supervised by SIBOIF and CONAMI, it is stated that *"in the case of purely occasional customers who are non-recurrent, non-permanent and with a low ML/TF risk, or other*

persons involved such as managers, the Supervised Entity must at least identify them, taking note of the name, number and type of ID, and check the corresponding legal, official, current, reliable and undoubted documents according to applicable laws.", But there is no criterion of threshold or structuring of operations. (CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Sections 8.c and 9.b, Resolution No. CD-CONAMI-002-02ENE31-2013 of CONAMI: Sections 8.3 and 9.2)

With regard to the FIs regulated by the UAF, it is established in resolution UAF-N-10-2016 that they must adopt CDD measures when they reach the sum equal to or greater than ten thousand US Dollars (USD 10,000.00) or its equivalent in Cordobas or any other foreign currency, even in situations where the transaction is carried out in a single transaction or in several transactions during a month, which must be related among each other (Sections 11.5 and 16.8.c).

- (c) Regarding adopting CDD measures on occasional transactions through electronic transfers, criteria 16.2, 16.3 and 16.14 are not applied for money remitters and institutions supervised by CONAMI, and in all cases, the regulations do not apply in terms of record-keeping according to criterion 16.14.
- (d) In cases where there is an unbiased suspicion or reason to suspect that there is a risk of ML/TF, an enhanced CDD procedure should be followed (Resolution CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Section 16.k., D-CONAMI-002-02ENE31-2013 of CONAMI: Section 16.10.4, Resolution UAF-N-10-2016 Section 28.5.a).
- (e) RSs should apply CDD measures when they have doubts about the certainty or accuracy of customer identification data obtained previously (CD-SIBOIF-524-1-MAR5-2008 of SIBOIF, Section 16.k.i; CD-CONAMI -002-02ENE31-2013 of CONAMI: Section 16.10.1; UAF-N-10-2016 of UAF: Section 28.5.a).

TC95. *Criterion 10.3* FIs regulated by SIBOIF, CONAMI and the UAF must identify their customers who are natural persons and the representatives, managers and beneficial owners of all their customers. With regard to legal arrangements, it should be reasonably identified who are the owners and majority or significant members of a legal entity that is, in turn, a partner or shareholder of the legal entity customer of a RS, as well as the true beneficiaries or owners of the managed funds. The customer knowledge policy must include requirements, procedures and forms and for occasional customers who are non-recurring, non-permanent and low ML/TF risk, or other persons involved such as managers, the Supervised Entity must at least verify their identity. (CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Section 9.a-c, Resolution No. CD-CONAMI-002-02ENE31-2013 of CONAMI: Section 9.1-3, UAF-N-10-2016 of the UAF: Sections 11.2; 12 and 13).

TC96. *Criterion 10.4* FIs regulated by SIBOIF, CONAMI and the UAF must implement measures to verify the identity of the beneficial owners or actual beneficiaries of accounts or transactions in all cases where the customer acts, or where there are reasons to believe that he or she acts on behalf of others as representative, attorney-in-fact, agent or trustee. Measures should include procedures to inquire whether or not the customer is acting on behalf of another person or not, and the legal capacity under which the customer is acting. (Resolution CD-SIBOIF-524-1-MAR5-2008, Section 11.e, CD-CONAMI-002-02ENE31-2013, Section 11.1, UAF-N-10-2016, Section 16.4-5).

TC97. *Criterion 10.5* FIs regulated by the UAF and CONAMI must identify their customers, representatives, managers and beneficial owners. However, SIBOIF regulations do not comply with the definition of the Standards since they include legal arrangements in the definition of beneficial owner. (CD-SIBOIF-524-1-MAR5-2008, Sections 7.a.i.b; 9.a-b and UAF-N-10-2016 of UAF: Section 16.6.a-b; CD-CONAMI-002-02ENE31-2013, Section 8.4.1.)¹³

¹³ The regulations of the UAF define as "Beneficial owner: a. Natural persons who exercise effective or final control over a legal entity, when ownership/control is exercised by a chain of ownership or through indirect means

TC98. *Criterion 10.6* All FIs on the occasion of the account opening or beginning of the business relationship with the customer, must obtain information to understand the purpose and character that is intended to be attributed to the business relationship. (CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Sections 8.d.ii; 11.h, 12, “a”, viii, and “b” ix, D-CONAMI-002-02ENE31-2013 of the CONAMI: Sections 8.4.3; 11.5, UAF-N-10-2016 of the UAF: Sections 10.3.c; 16.8; 18.3)

TC99. *Criterion 10.7* The CDD performed by all FIs must include:

- (a) The examination of financial transactions is required of institutions supervised by SIBOIF, CONAMI and the UAF. (CD-SIBOIF-524-1-MAR5-2008: Sections 8.d.ii; 11.i, 16, para. “e”; CD-CONAMI-002-02ENE31-2013: Sections 5.2.1; 8.6; 16.5, and Resolution UAF-N-10-2016 of the UAF: Sections 10.3.c and 4; 16.8).
- (b) Updated maintenance of documents generated under the CDD must be carried out. The period for updating the identification form and supporting documentation will depend on the degree of risk of the customer, and varies according to the type of institution concerned (supervised by SIBOIF, CONAMI or UAF) (CD-SIBOIF- 524-1-MAR5-2008 of SIBOIF: Sections 8.g; 12.e.i, CD-CONAMI-002-02ENE31-2013 of the CONAMI: Sections 8.7; 12.5.1, UAF-N-10-2016 of the UAF: Sections 10.4; 18.1; 19.3).

TC100. *Criterion 10.8* In the case of legal entities, FIs must understand the nature of the customer's business and its shareholding and control structure. (Resolution CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Sections 9.c, CD-CONAMI-002-02ENE31-2013 of the CONAMI: Sections 9.3, UAF-N-10-2016 of the UAF: Sections 16.6; 9.b).

TC101. *Criterion 10.9* In the case of legal entities, all FIs must identify name, corporate type and proof of their existence, according to the following:

- (a) They must obtain documentation and updated evidence of their legal constitution and registration in the relevant Registry according to their activity, their address, the names of their owners or major or significant shareholders, associates or partners, directors, trustees (when applicable) or other persons who exercise control over the customer; as well as the identification of the persons authorized to represent, sign or act for the client, or to relate the client with the Supervised Entity. (CD-SIBOIF-524-1-MAR5-2008 of the SIBOIF: Sections 9.c, CD-CONAMI-002-02ENE31-2013: Sections 9.3, UAF-N-10-2016: Sections 16.6; 9.b)
- (b) They must identify and verify the identity of customers who are natural persons or who are part of a legal arrangement and hold a position in senior management (CD-SIBOIF-524-1-MAR5-2008 of SIBOIF: Sections 9.c, CD-CONAMI-002-02ENE31-2013: Sections 9.3, UAF-N-10-2016: Sections 16.6; 9.b).

of control. b. Natural persons on whose behalf a transaction is made. c. Natural persons who have control or ownership over a customer, whether natural or legal person. d. Natural persons who are a remainderman or a beneficiary of a trust agreement. e. Natural persons or groups of natural persons who receive charitable, humanitarian or other type of assistance through the services of non-profit organizations." For CONAMI, the term beneficial owner "refers to the natural persons who are the final owners of the product of a transaction or have the final control of a customer and/or the person on whose behalf the transaction takes place. It includes those persons who exercise effective control over a legal person or legal arrangement." In the SIBOIF regulations, beneficial owners "are all natural or legal persons who, without being or not having the status of customers of the Supervised Entity, are the final owners or final beneficiaries of the resources, securities or property under an agreement or business relationship, and/or who are authorized or entitled to dispose of them, including those who exercise final control over a legal entity."; and in the same regulations of the SIBOIF, they are defined as "Owners or major or significant partners: Natural or legal person who participates in the corporate capital of a legal person or company with a percentage equal to or greater than 5% of its corporate capital."

- (c) As part of the CDD, FIs must identify the address and make on-site checks to verify the actual existence and physical establishment of the customer's activity. (Resolution CD-SIBOIF-524-1-MAR5-2008: Sections 9.c; 16.c.i, CD-CONAMI-002-02ENE31-2013 of the CONAMI: Sections 9.3; 16.3, and UAF-N-10-2016: Sections 28.3.a)

TC102. *Criterion 10.10* FIs under the regulation of the UAF and CONAMI must identify and verify the identity of natural persons who have the majority shareholding in the case of customers who are legal entities. In this sense, they must provide the names of owners or major or significant shareholders, associates or partners, directors, trustees (when applicable) or other persons who exercise control over the customer; as well as of the persons authorized to represent, sign or act for the customer, or to relate the customer with the corresponding financing entity, which must understand the ownership and controlling structure of the customer. However, the definition of beneficial owner of SIBOIF regulations do not comply with the definition of the Standard (see Criterion 10.5). (Resolution CD-SIBOIF-524-1-MAR5-2008: Sections 9.c; 16.j, Resolution No. CD-CONAMI-002-02ENE31-2013: Sections 9.3, UAF-N-10-2016: Sections 11.2-3; 16.6).

TC103. *Criterion 10.11* In the case of trusts and legal arrangements, the identification rules mentioned for the cases of legal persons in criterion 10.10 shall apply, which was qualified as Non-Compliant. Except in the case of FIs supervised by SIBOIF, which should apply intensified CDD measures in cases of trusts or legal arrangements, especially when they operate as holding companies abroad for the management of assets and goods, or as suppliers of trust services. (CD-SIBOIF-524-1-MAR5-2008: Sections 9.c, e; 15.c.viii).

TC104. Also, some criteria of the R. 25 are not established in the provisions, which affects the CDD in the case of trusts, in aspects such as the fact that the figure of "professional trustee" is not provided for in Law No. 741, the remaindermen are not obliged to disclose their status to the FIs when they enter into a business relationship or engage in an occasional transaction, i.e., it is up to the RSs to carry out the appropriate CDD measures for identification.

TC105. *Criterion 10.12* With respect to the beneficial owners of policies, the insurance market RSs authorized to offer this service must:

- (a) State the full name of the person and the number and type of legal, official, current, reliable and indubitable ID and keep a photocopy of it when it comes to a natural person not classified as a "high-risk" customer. Legal persons or legal arrangements with a specific name are also included. (CD-SIBOIF-524-1-MAR5-2008, Section 66, b-c and circular letter DS-DL-2265-06-2016/VMUV).
- (b) State a customer integral profile for beneficial owners of policies. (CD-SIBOIF-524-1-MAR5-2008, Section 63, i)).
- (c) Verify the identity of the beneficiary of the policy before making any payments, in accordance with CD-SIBOIF-524-1-MAR5-2008 (Sections 64, b, ii; 65, a, i).

TC106. *Criterion 10.13* Insurance companies must include the beneficiary of a life insurance policy as a risk factor, and it is determined that if the beneficiary who is a legal person or legal arrangement presents a greater risk, more intensified CDD measures must be applied (circular letter DS-DL-2265-06-2016/VMUV, 3)).

TC107. *Criterion 10.14* FIs regulated by the UAF must verify the identity of the client when starting (or while entering into) a contractual relationship; including their representatives or their managers, and their beneficial owners. Only in exceptional cases, RSs supervised by SIBOIF and by the UAF may carry out verification of identity after the establishment of a new business relationship. These cases must be duly established in the policies and procedures according to ML/TF risk matrices. (CD-

SIBOIF-524-1-MAR5-2008, Sections. 9.b; 11.a, g; DS-DL-2265-06-2016/VMUV; CD-CONAMI-002-02ENE31-2013, Sections 9.2, 11.1, 6.i, 9.b, 11.a; and UAF-N-10-2016).

TC108. In the exceptional cases mentioned above, the obligation that the identity verification must be carried out as soon as reasonably possible affects only in the case of RSs by the UAF, who are also in a position to do so, when it is essential not to interrupt normal procedure of the transaction and the ML/TF risks are effectively under control.

TC109. *Criterion 10.15* The boards of directors of the RSs or the person or authority body with the highest administrative capacity are in charge of determining the conditions under which the customer may use the business relationship prior to verification. In this case, and in the case of RSs supervised by SIBOIF, consideration should be given to how risk management and mitigation will be carried out. (CD-SIBOIF-524-1-MAR5-2008, Sections 6.k; CD-CONAMI-002-02ENE31-2013, Sections 6.9, 7; and UAF-N-10-2016).

TC110. *Criterion 10.16* FIs should apply CDD to existing customers in a differentiated manner according to the sensitivity and level of ML/TF risk determined according to the subject's own risk matrix. The updating of the information must attend to the ML/TF risk levels, in the case of high-risk customers, the period may be up to one year or less in view of the aforementioned risks and the importance of the commercial relationship. For medium-risk to low-risk clients, regulations require that they be updated when atypical or significant variations or increases are evidenced, or every two years. (CD-SIBOIF-524-1-MAR5-2008, Sections 8.a-b and 12.e.i; CD-CONAMI-002-02ENE31-2013, Sections 8.1-2; and UAF-N-10-2016, Sections 10, 19.1, and 3, 24.1-2).

TC111. *Criterion 10.17* FIs should apply a differentiated CDD policy according to the sensitivity and level of ML/TF risk. (CD-SIBOIF-524-1-MAR5-2008, Section 8.a-b, 15 and 16; CD-CONAMI-002-02ENE31-2013, Sections 8.2 and 15.1; and UAF-N-10-2016, Sections 10.1, 24.1-2, 27 and 28).

TC112. *Criterion 10.18* According to applicable resolutions, FIs shall apply a differentiated CDD according to the sensitivity and level of ML/TF risk. A simplified CDD shall apply for low-risk cases. (CD-SIBOIF-524-1-MAR5-2008, Section 8.a-b and 17; CD-CONAMI-002-02ENE31-2013, Sections 8.2 and 17; and UAF-N-10-2016, Sections 10.1, 24 and 26).

TC113. *Criterion 10.19* When FIs can not meet the requirements for identification and verification of the client's identity, they must: (a) not initiate or, where appropriate, terminate the relationship; (b) consider issuing a STR. (CD-SIBOIF-524-1-MAR5-2008, Section 11.p; CD-CONAMI-002-02ENE31-2013, Section 11.10; and UAF-N-10-2016, Section 16.12).

TC114. *Criterion 10.20* When the FIs consider that carrying out the intensified CDD process could alert or warn the client or potential client about an eventual STR, they should not continue the intensified CDD process and consider issuing a STR immediately. (CD-SIBOIF-524-1-MAR5-2008, Sections 16.I.ii and 28.c.ii; CD-CONAMI-002-02ENE31-2013, Section 16.11.2; and UAF-N-10-2016, Section 28.8.b).

Weighting and conclusion

TC115. Part of these criteria are addressed by FIs. However, the following are not met by the CDD provisions: IFIMFs beyond the monitoring of CONAMI and any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust services. On the other hand, the FIs supervised by SIBOIF and CONAMI do not have the requirement to establish a threshold or the structuring of the operations for occasional clients. And regarding adopting CDD measures on occasional transactions through electronic transfers,

criteria 16.2, 16.3 and 16.14 are not applied for money remitters and institutions supervised by CONAMI. Moreover, in all cases, the regulations do not apply in terms of record-keeping according to criterion 16.14. It affects the provisions of CDD of trusts the fact that the figure of "professional trustee" is not provided for in Law No. 741. The definition of beneficial owner applicable to FIs regulated by SIBOIF do not comply with the definition of the Standards, since they include legal persons in the definition of beneficial owner. **The rating under Recommendation 10 is Partially Compliant.**

Recommendation 11 - Record-keeping

TC116. The requirements for FIs must be introduced into the law, the requirement of this obligation under the Nicaraguan regime serves as a basis for compliance with CDD obligations, which is part of the revision of this Recommendation.

TC117. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:

- "8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;*
- 9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;*
- 15. Merchants engaged in negotiation on the future of commodities."*

TC118. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC119. *Criteria 11.1-11.2* Law No. 793 only refers to the backup keeping of the copy of the report sent to the UAF and the media for information reported for a period of not less than five years, it does not refer to any safeguard for a period of five years of all records on national and international transactions, and records obtained through CDD measures. All other obligations are set out in the respective rules of the regulators, but not in any Law as provided for by the Standard.

TC120. *Criterion 11.3* Records must include adequate and sufficient information and documentation to enable the reconstruction of transactional links or individual accounts, and eventually to serve as elements or evidence in ML/TF analysis, investigation or prosecution (Section 34, subsection b), of Resolution CD-SIBOIF-524-1-MAR5-2008; Section 26, para. 2, of Resolution CD-CONAMI-002-02ENE31-2013 and Section 50, paras. 1 and 3 b, of Resolution UAF-N-10-2016).

TC121. *Criterion 11.4* Information derived from the implementation of the AML/CFT internal policies, procedures and controls of the FIs must be available to the competent authorities without delay and without alleging any secrecy. (Sections 34, Subsection a), and 35 of the Resolution CD-SIBOIF-524-1-MAR5-2008; Sections 26, para. 2, and 27 of Resolution CD-CONAMI-002-02ENE31-2013 and Section 50, para. 3(a), of Resolution UAF-N-10-2016).

Weighting and conclusion

TC122. Although there are some provisions regarding record-keeping, there is no provision under any Law for specific obligations for FIs to keep for a period of 5 years all records on both domestic and international transactions and records obtained through CDD measures. Moreover, the following are not met by the CDD provisions: microfinancing institutions beyond the monitoring of CONAMI and any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust services. **The rating under Recommendation 11 is Partially Compliant.**

Recommendation 12 - Politically Exposed Persons

TC123. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:

- "8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;*
- 9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;*
- 15. Merchants engaged in negotiation on the future of commodities."*

TC124. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC125. Within the AML/CFT regulations of Nicaragua, PEPs are considered to be:

"Persons holding public office, including close relatives, associates and close collaborators of such persons" (Section 2.14 of Decree 07-2013).

TC126. Likewise, the regulations of SIBOIF and CONAMI define them as *"Any natural person identified at the beginning or in the course of the contractual relationship, who performs or has performed roles as a high-ranking public official, in his or her own country or abroad. Includes closest relatives, close associates, close collaborators and also those persons in first-class positions, belonging to any company, business or other institution that has been organized by, or for the benefit of, or owned by, a high-ranking official or they are closely associated with him or her, and those with whom he or she publicly maintains financial or commercial relations. In addition, PEPs include political parties and organizations and embassies or diplomatic and consular representations."* (paragraph 11 of Annex 1 of Resolution CD-SIBOIF-524-1-MAR5-2008 and Section 3, para. 29, of Resolution No. CD-CONAMI-002-02ENE31-2013 of the CONAMI).

TC127. Likewise, Circular letter DS-DL-0237-01-2016/VMUV in its Subsection 2 includes national PEPs or persons to whom an international organization has entrusted with a prominent role; however, in the regulations issued by CONAMI this consideration is not included.

TC128. *Criterion 12.1* FIs should develop additional mechanisms and procedures for the treatment of customers or beneficial owners that could be considered PEPs in accordance with UAF guidelines.

- (a) Among the measures established by the UAF, it is mentioned that for the purposes of determining whether the client or the beneficial owner is a PEP, the CDD policy should be applied in a differentiated manner according to the rating matrix of each FI.
- (b) Obtain approval from senior management before establishing or continuing the business relationship with PEPs, be them a senior manager or a board member.
- (c) Among the measures established by SIBOIF, it is mentioned that they must take reasonable measures to establish the origin or source of capital and the origin or source of the funds of the customers, beneficial owners identified as PEPs. Among the measures established by UAF, it is mentioned that they must establish the origin of funds and assets of customers; however, there are not any measures to state the origin of the wealth of the funds of the customers and beneficial owners identified as PEPs. Among the measures established by CONAMI, it is mentioned that they must adopt measures to state the destination of funds, it is not specified if there are any measures to state the origin of the wealth of the funds of the customers and beneficial owners identified as PEPs.
- (d) In all cases, PEPs should be under an intensified CDD, in that sense, the monitoring of the relationship must be permanent and continuous.

(Sections 8, para. b, 10 and 14 of the Resolution CD-SIBOIF-524-1-MAR5-2008, Sections 8, para. 2, 15, para. 1, of the Resolution CD-CONAMI-002-02ENE31-2013, Sections 24 and 29, para. 1, of la Resolution UAF-N-10-2016).

TC129. *Criterion 12.2* Regarding local PEPs, for the purposes of determining whether the client or the beneficial owner is a PEP, the CDD policy should be applied according to the rating matrix of each FI and in consideration of risk circumstances and situations.

TC130. In the case of FIs supervised by SIBOIF and CONAMI, national PEPs are considered as high-risk, regardless of whether they are nationals or foreigners. The distinction of PEPs from international organizations can be found in the external circular letters. With regard to the subjects of the financial sector regulated by the UAF, it is established that according to the results of the Customer Rating Matrix with ML/TF Risk Approach, it is possible to apply simplified, standard or intensified CDD measures. (Sections 6, para. k, 8, paras. c, d, fraction i, e, f and j, 10, para. g, 14 para. b, fraction iv, 15, para. c, fraction VI, 16, paras. b, f and g, of Resolution CD-SIBOIF-524-1-MAR5-2008, Section 2, paras. a and b, of external circular letters DS-DL-0237-01-2016/VMUV, DS-DL-0238-01-2016/VMUV, DS-DL-0239-01-2016/VMUV, DS-DL-0240-01-2016/VMUV, DS-DL-0241-01-2016/VMUV, Sections 8, para. 4, 15, para. 2, 16 para. 1, and 41 para. 2, of Resolution CD-CONAMI-002-02ENE31-2013, Sections 17 and 29 of Resolution UAF-N-10-2016).

TC131. PEPs are not included in the consideration as such of persons who are or have been entrusted with prominent functions by an international organization, the regulations issued by CONAMI refer only to those who are members of senior management, directors, deputy directors and members of the board or equivalent functions.

TC132. *Criterion 12.3* Applicable measures include all persons in the definition of local and foreign PEPs, which in turn include "*closest relatives, close associates, close collaborators and also those persons in first-class positions, belonging to any company, business or other institution that has been organized by, or for the benefit of, or owned by, a high-ranking official or they are closely associated with him or her, and those with whom he or she publicly maintains financial or commercial relations.*"

TC133. PEPs are not included in the consideration as such of persons who are or have been entrusted with prominent functions by an international organization, the regulations issued by CONAMI refer only to those who are members of senior management, directors, deputy directors and members of the board or equivalent functions.

TC134. *Criterion 12.4* Resolution CD-SIBOIF-524-1-MAR5-2008 establishes the requirements related to PEPs and the corresponding CDD policy; said resolution is applicable to the insurance sector. In addition, external circular letter DS-DL-0239-01-2016/VMUV (para. 4) addressed to Insurance Institutions and Companies specifies that in the case of life insurance policies, reasonable measures must be taken to determine and verify at the latest at the time of payment, if the beneficiaries and/or the beneficiary's beneficial owner are PEPs. When high risks are identified, senior management must be informed prior to proceeding with the payment of the policy, to perform and ensure that all thorough examinations are conducted on the entire business relationship with the policyholder and consider the preparation of a suspicious transaction report according to the results of the examination performed.

Weighting and conclusion

TC135. Within the AML/CFT regulations of Nicaragua, PEPs are considered to be individuals who comply or have been entrusted with public roles within or without the country; however, PEPs are not included in the consideration as such in the case of persons who are or have been entrusted with prominent functions by an international organization. The regulations issued by CONAMI refer only

to those who are members of senior management, directors, deputy directors and members of the board or equivalent functions. Besides, among the measures established by UAF, it is not specified if there are measures to state the origin of the wealth of customers and beneficial owners identified as PEPs, and the regulations of CONAMI do not specify the origin of wealth or the funds of customers and beneficial owners identified as PEPs. Likewise, the following FIs are not covered by the following provisions: IFIMFs beyond the monitoring of CONAMI and any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust services. Due to the abovementioned, **the rating under Recommendation 12 is Partially Compliant.**

Recommendation 13 - Correspondent banking

TC136. *Criterion 13.1* Resolution CD-SIBOIF-524-1-MAR5-2008 of SIBOIF in Section 20 requires that FIs develop a policy of "Know Your Correspondent Banking Relations", which indicate the scope of this criterion. In the same sense, some of the provisions are mentioned in external circular letter DS-DL-2584-07-2016/VMUV (para. 2).

TC137. *Criterion 13.2* In external circular letter DS-DL-2584-07-2016/VMUV, SIBOIF established that in the case of correspondent relations, banking institutions must take the necessary measures to ensure and reasonably convince themselves that the represented bank has complied with and complies with CDD obligations on customers who have direct access to the accounts of the correspondent bank and that they are able to provide important information on CDD to the correspondent bank upon request. (Paragraph 4).

TC138. *Criterion 13.3* In accordance with Resolution CD-SIBOIF-524-1-MAR5-2008 (Section 20, para. b, fraction ii) and External circular letter DS-DL-2584-07-2016/VMUV (item 1), regarding the "Know Your Correspondent Banking Relations" policy, banking institutions should refrain from establishing or continuing correspondent relationships with fictitious FIs or constituted and authorized in a jurisdiction in which they have no physical presence nor are they under an effective supervisory regime; and neither with FIs that in turn provide correspondent relationships to other fictitious FIs or that lack such physical presence and supervision.

Weighting and conclusion

TC139. There are legal and regulatory provisions that address correspondent banking relations. **The rating under Recommendation 13 is Compliant.**

Recommendation 14 - Money or value transfer services (MVTs)

TC140. *Criterion 14.1* Nicaraguan law does not require MVTs (companies and remittance agencies and parcels agencies) to have a license to provide the indicated services. However, suppliers of MVTs are considered RSs for the purpose of reporting to the UAF and must register before the latter within the period of thirty days following the commencement of their operations (Law No. 793 - Section 9f, and Resolution UAF-N-007-2016, Section 2.6, Section 3, Section 4).

TC141. *Criterion 14.2* There are no actions to identify those who provide MVTs without a license or without registration, nor are there sanctions applicable for such cause.

TC142. *Criterion 14.3* While among the faculties of the UAF, it is suggested to propose AML/CFT policies to RSs that do not have a supervisory body, including "Remittance and Parcel Companies"; among their faculties it is not that of carrying out on-site or off-site supervision in order to follow up

on the provisions issued, as well as to issue respective sanctions for breaches (Law No. 793, Sections 4, 9 and 14).

TC143. *Criterion 14.4* Remittance and parcel companies must integrate a Business Ally Integral Profile (Subagent), and they must send a report to the UAF on the opening and closing of the business alliances that it carries out. (UAF-N-010-2016, Section 79. 2-3).

TC144. *Criterion 14.5* Remittance and parcel companies as RSs should adopt, finance and implement AML/CFT training; however, although it is anticipated that the training program at a general level will include business allies, but such training will not be compulsory and that they will not be monitored to ensure that they comply with those AML/CFT programs (UAF-N-010-2016, Sections 3.1, 58 and 59.2).

Weighting and conclusion

TC145. Even though it is foreseen that natural or legal persons providing MVTSSs will be registered, there are no actions to identify those who provide MVTSSs without a license or without registration, nor are there sanctions applicable for such cause. Also, one important failure is noted, in that there is no power for the UAF to carry out supervision and to issue respective sanctions for non-compliance. Nor is training mandatory for agents of MVTSSs providers, nor compliance with their AML/CFT programs will be monitored. **The rating under Recommendation 14 is Partially Compliant.**

Recommendation 15 - New technologies

TC146. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:

“8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;

9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;

15. Merchants engaged in negotiation on the future of commodities.”

TC147. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC148. *Criterion 15.1* For FIs, risk assessment must include the definition of the matrix or matrices applicable to the evaluation of new products and services, the technologies and distribution channels used, to be applied in the design, development, testing, approval and implementation stages. (Sections 6 and 25 of the Resolution CD-SIBOIF-524-1-MAR5-2008, Sections 6 and 21 of the Resolution CD-CONAMI-002-02ENE31-2013, Section 36, para. 5, of the Resolution UAF-N-010-2016 of the UAF).

TC149. On the other hand, Nicaragua has not identified nor assessed the potential ML/TF risks that could arise with respect to the development of new products and new business practices and the use of new or developing technologies for new or existing products.

TC150. *Criterion 15.2* Through the regulations of SIBOIF, CONAMI and the UAF, FIs are required to carry out risk assessments of new products, services or distribution channels, and the development of new products and services that require the use of new or developing technologies, and where anonymity is favored and/or where physical contact (face-to-face) with the final beneficial owners is not required or minimized, must be carried out prior to its launch, in the design, development, testing, approval and implementation stages.

Weighting and conclusion

TC151. Even though FIs must identify and evaluate ML/TF risks that could arise with respect to the development of new products or technologies; they do not comply with Criterion 15.1 as mentioned above. **The rating under Recommendation 15 is Partially Compliant.**

Recommendation 16 - Wire transfers

TC152. *Criterion 16.1* In the case of national or international transfers of funds and remittances or wire transfers, whether regular or occasional, regardless of the amount, RSs supervised by SIBOIF must include accurate, exact and valid information about the sending customer or beneficiary receiving the transfer (name, type and number of identification, address, telephone number and account number). Likewise, they must ensure that this information is kept with the transfer and messages throughout the payment cycle. (CD-SIBOIF-524-1-MAR5-2008, Sections 21, a.i, and b).

TC153. MFIs supervised by CONAMI, which in accordance with the Law on the subject can carry out national and foreign remittances operations (Law No. 769, Section 56.d), must comply as set forth in paragraph 2 of Administrative Circular Letter PE-590-05-2016/JML, whereby they are obliged to ensure that all cross-border transfers for an amount equal to or greater than USD/EUR 1,000.00 must include the following information from the originator: name, account number (if there is no account, a unique transaction reference number to track it), address, or the national ID number identity or customer identification number, or the date and place of birth. Similarly, information about the beneficiary and the account number must be required when used to process the transaction or a unique reference number to be able to track it.

TC154. On the other hand, remittance companies must maintain records of cross-border electronic transfers that individually or in fractional parts reach an amount equal to or greater than USD 1,000.00 or its equivalent. The information to be included is the name of the originator and the beneficiary, the tracking number, the address, or the national ID number or customer identification number, or the date or place of birth. (UAF-N-010-2016, Section 91).

TC155. *Criterion 16.2* MFIs supervised by CONAMI, when several individual cross-border electronic transfers from a single originator are grouped into a single batch file for transmission to the beneficiaries, the file must contain the required and accurate information on the originator and the complete information on the beneficiary, which are fully traceable in the beneficiary's country; and the institution must be required to include the account number of the originator or the unique reference number of the transaction. FIs supervised by SIBOIF must keep an automated system that facilitates monitoring; they must not execute transfers without prior registration and each transaction must contain the data of the originator of the payment order and the data of the beneficiary. Remittance companies must safeguard the registration and identification of the originator and the beneficiary of the transfers, keep the originator and beneficiary records and a transaction reference number that allows tracking. (PE-590-05-2016/JML, para. 3; CD-SIBOIF-524-1-MAR5-2008, Section 21; UAF-N-010-2016, Section 79).

TC156. *Criterion 16.3* In the case of FIs supervised by SIBOIF, information on the originator and the beneficial owner of national and international transfers must be collected regardless of the amount of the transaction. FIs supervised by CONAMI are required to ensure that all cross-border electronic transfers below the current minimum threshold (not exceeding USD/EUR 1,000) are accompanied by the information set out in this criterion. (CD-SIBOIF-524-1-MAR5-2008, Sections 21, a.i, and b; PE-590-05-2016/JML, para. 4). There is no applicable regulation for the remitters regulated by the UAF.

TC157. *Criterion 16.4* Intensified CDD measures should be applied in the case of customers, products, distribution channels and geographic areas rated with high risk of ML/TF, regardless of the

amount of the operation. (CD-SIBOIF-524-1-MAR5-2008, Section 16.k.v; CD-CONAMI-002-02ENE31-2013, Section 16.10.4; and UAF-N-010-2016, Sections 28.5 and 91).

TC158. *Criterion 16.5* Same originator and beneficiary information is required for cross-border electronic transfers and for national transfers. (CD-SIBOIF-524-1-MAR5-2008, Section 21, a.ii, c; PE-590-05-2016/JML, para. 5, UAF-N-010-2016, Sections 79, 81 and 91).

TC159. *Criterion 16.6* National electronic transfers must contain complete information on the beneficiary of the transaction, in cases where an account number is not included, a transaction reference number is included instead, provided that this number or identification allows the tracking of the transaction to the originator or beneficiary. Law enforcement authorities may request and receive the information provided. (CD-SIBOIF-524-1-MAR5-2008, Sections 21 and 35; PE-590-05-2016/JML, para. 6, UAF-N-010-2016, Sections 79, 81 and 91; Law No. 346, Section 7, Criminal Code, Section 230.8; Law No. 793, Section 18).

TC160. *Criterion 16.7* Provisions on record-keeping are applicable to the information of the originator and the beneficiary of the electronic transfers.

TC161. *Criterion 16.8* FIs should not execute electronic transfers in case the requirements indicated in Criteria 16.1 to 16.7 are not met. (CD-SIBOIF-524-1-MAR5-2008, Section 21; PE-590-05-2016/JML, para. 7, UAF-N-010-2016, Sections 79, 81 and 91).

TC162. *Criterion 16.9* RSs acting as intermediary institutions must ensure that all information from the originator and the beneficiary accompanying the electronic transfer is maintained throughout the payment cycle. (CD-SIBOIF-524-1-MAR5-2008, Section 21.a; PE-590-05-2016/JML, para. 8, UAF-N-010-2016, Sections 79, 81 and 91).

TC163. *Criterion 16.10* Information on cross-border electronic transfers, regardless of whether they are related to a national transfer, should be kept in accordance with the rules for record-keeping (Recommendation 11).

TC164. *Criterion 16.11* FIs under the supervision of SIBOIF must ensure that information on the originator and the beneficiary is kept throughout the payment cycle, they must closely examine transfers that do not contain complete information about the sender, or refraining from receiving it. For such purpose, they must keep an automated system for the extraction of data relating to all transactions that facilitate their monitoring and should not execute transfers without prior registration. (CD-SIBOIF-524-1-MAR5-2008, Section 21.a-b)

TC165. On the other hand, where technical constraints prevent the information on the originator or beneficiary accompanying the cross-border electronic transfer from remaining with the related national transfer, FIs supervised by CONAMI must keep a record for at least five years with all the information received from the ordering FI or from a different intermediary. (PE-590-05-2016/JML, para. 10).

TC166. FIs regulated by the UAF, when they act as intermediary institutions or beneficiaries in electronic transfers, must take measures to identify electronic transfers lacking the information required on the payor or the beneficiary. (UAF-N-010-2016, Sections 79, 81 and 91).

TC167. *Criterion 16.12* FIs regulated by SIBOIF, CONAMI and the UAF must implement policies, procedures, measures, controls, systems and tools based on risk when they must execute, reject or suspend a cross-border or national electronic transfer lacking the required information on the originator and the beneficiary and to establish the appropriate follow-up action. (CD-SIBOIF-524-1-MAR5-2008,

Section 21.a; DS-DL-2583-07-2016/VMUV, 1, para. “v”; PE-590-05-2016/JML, para. 11, UAF-N-010-2016, Sections 79, 81 and 91).

TC168. *Criterion 16.13* FIs acting as beneficiary institutions must identify cross-border electronic transfers lacking the information required on the payor or the beneficiary.

TC169. *Criterion 16.14* In the case of FIs regulated by CONAMI and the UAF, it is mentioned that they must verify the identity of the beneficiary of cross-border electronic transfers of USD/EUR 1,000.00, and for those supervised by SIBOIF, information must be obtained without prejudice to the amount involved. (PE-590-05-2016/JML, para. 12; CD-SIBOIF-524-1-MAR5-2008, Section 21; UAF-N-010-2016, Section 79). In all cases, the regulations do not apply in terms of record-keeping, (R. 11).

TC170. *Criterion 16.15* FIs acting as beneficiary institutions must execute, reject or suspend an electronic transfer lacking the information required on the payor or the beneficiary and take follow-up necessary measures as per Resolutions and circular letters CD-SIBOIF-524-1-MAR5-2008, Section 21.a; DS-DL-2583-07-2016/VMUV, 1, para. “v”; PE-590-05-2016/JML, para. 11, UAF-N-010-2016, Sections 79, 81 and 91 (see Criterion 16.8).

TC171. *Criterion 16.16* MVTs providers are RSs which must comply with the provisions of Recommendation 16, in accordance with Section 2 of Resolution UAF-N-10-2016.

TC172. *Criterion 16.17* MVTs providers are RSs supervised by the UAF in accordance with Section 2 of Resolution UAF-N-10-2016. In that sense, the provisions of CDD established in that Resolution are applicable.

TC173. *Criterion 16.18* RSs must freeze assets linked to persons and entities designated in the relevant UNSCRs in accordance with Decree 17-2014, Sections 3, 5, 12 and 15, as well as circular letter DS-DL-2583-07-2016, 1, para. “v”.

Weighting and conclusion

TC174. Although most of the criteria are applied, there are no provisions to address Criterion 16.3 by remittance companies and Criterion 16.14 regarding record-keeping. **The rating under Recommendation 16 is Largely Compliant.**

Recommendation 17 - Reliance on third parties

TC175. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:

“8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;

9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;

15. Merchants engaged in negotiation on the future of commodities.”

TC176. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC177. *Criterion 17.1* The responsibility of identifying and verifying the identity of customers is not delegable, therefore, RSs must carry out the measures established as part of their CDD policies (CD-SIBOIF-524-1-MAR-2005, Sections 8.c, 8d and 21 a, CD-CONAMI-002-02ENE31-2013, Sections 8.3 and 8.4 and UAF-N-010-2016 of the UAF, Sections 10.1, 10.2, 10.3 paras. a-c).

TC178. *Criterion 17.2* Entities supervised by SIBOIF must implement ML/TF IRMPS at the level of the Financial Group constituted in Nicaragua, including all its branches, subsidiaries and representative offices abroad. In the case of entities supervised by CONAMI and UAF, the responsibility of identifying and verifying the identity of customers is not delegable, therefore, RSs must carry out the measures established as part of their CDD policies (CD-SIBOIF-524-1-MAR5-2008, Section 4, CD-CONAMI-002-02ENE31-2013, Sections 8.3 and 8.4 and UAF-N-010-2016 of the UAF, Sections 10.1, 10.2, 10.3 paras. a-c).

TC179. *Criterion 17.3* FIs supervised by SIBOIF may rely on third party members of their Financial Group to share information that supports them in CDD tasks, for which they must establish policies and procedures to manage and control the information sharing process, they must also foresee in the integration of ML/TF IRMPS policies for the consolidated management of the ML/TF risk at the Financial Group level as appropriate and there should be internal and external audit programs for the periodic and comprehensive evaluation of the application of ML/TF risk-based CDD controls. The responsibility of identifying and verifying the identity of customers is not delegable for FIs regulated by the UAF and CONAMI, therefore, they must carry out the measures established as part of their CDD policies. (CD-SIBOIF-524-1-MAR5-2008, Sections 4, 6, 7 and 12, CD-CONAMI-002-02ENE31-2013, Sections 8.3 and 8.4, and UAF-N-010-2016 of the UAF, Section 10.1, 10.2 and 10.3 paras. a-c).

Weighting and conclusion

TC180. To a large extent, there are legal and regulatory provisions that address this recommendation; however, some FIs are not covered by these provisions. **The rating under Recommendation 17 is Largely Compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

TC181. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:
“8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;
9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;
15. Merchants engaged in negotiation on the future of commodities.”

TC182. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC183. *Criterion 18.1* In accordance with Section 15 of Law No. 793, all FIs must establish AML/CFT programs, which include, among other aspects, administrative structures for implementation and control, monitoring systems and procedures for the early detection and reporting of suspicious transactions, a continuous and updated training program on these risks, a Code of Conduct, the resources required for their implementation and an independent periodic evaluation of these programs.

(a) In the case of institutions supervised by SIBOIF, each supervised entity, and, where applicable, each financial group, must have a Property, Assets or Money laundering and Terrorist Financing Prevention Committee, and a ML/TF Risk Prevention Manager; the latter, as the chief executive officer for the coordination, administration and execution of ML/TF IRMPS with management level. In the case of MFIs supervised by CONAMI, they are obliged to formulate, implement and develop an integrated system to prevent and mitigate ML/TF risks, and a Compliance Officer hired under a permanent labor regime and with authority of top management level must be appointed. Regarding FIs regulated by the UAF, according to their

capacity and volume of operations, it is optional to set up a Compliance Committee on Prevention of ML/TF and define in their own Manual of ML/TF Prevention Policies and Procedures the functions of said Committee, as well, they should appoint a Compliance Officer, however, it is not specified that any managerial level is required. (CD-SIBOIF-524-1-MAR5-2008, Sections 38.41 and 42, CD-CONAMI-002-02ENE31-2013, Sections 34 and 35, and UAF-N-010-2016 of the UAF, Sections 54-57).

- (b) Within the selection procedures, FIs regulated by SIBOIF, CONAMI and the UAF should consistently develop a "Know Your Employee" policy that ensures a high level of integrity, professionalism and capacity of the personnel. (CD-SIBOIF-524-1-MAR5-2008, Section 19, CD-CONAMI-002-02ENE31-2013, Section 18, and UAF-N-010-2016 of the UAF, Section 27).
- (c) Within the requirements set forth in Section 15 of Law No. 793, the AML/CFT programs of FIs must include a continuous and updated training program on these risks. On the other hand, the specific resolutions of SIBOIF, CONAMI and UAF provide for minimum requirements of these programs and the obligation to keep registration and statistics of training.
- (d) FIs must implement an independent auditing role to verify the correct implementation of their AML/CFT programs, as per applicable Resolutions. (CD-SIBOIF-524-1-MAR5-2008, Section 7, CD-CONAMI-002-02ENE31-2013, Section 7, and UAF-N-010-2016 of the UAF, Sections 64 and 65).

TC184. *Criterion 18.2* Resolution CD-SIBOIF-524-1-MAR5-2008 stipulates that financial groups incorporated in Nicaragua, including all its branches, subsidiaries and representative offices abroad, must adopt AML/CFT programs that comply with the measures set forth in the Criterion 18.1; it is also mentioned that in the event that legal, regulatory, and standard requirements and AML/CFT practices of other countries where a member of the Financial Group operates differ from those established in Nicaragua, the member of said Group must apply the measures that result more stringent between jurisdictions according to international standards.

- (a) The AML/CFT program of the financial group must include a policy for consolidated ML/TF risk management at the financial group level, to be applied by the controlling company or coordinator responsible for the group. On the other hand, the board of directors of each member institution of the financial group must establish specific policies and procedures to manage and control the process of sharing information about customers with other supervised entities members of its financial group and determine the type of information to be shared, so that the board of directors may authorize the other members of the Group to obtain relevant and up-to-date information about the customer from the bank, without releasing them to comply with the corresponding CDD measures.
- (b) Financial groups should monitor compliance with AML/CFT functions in accordance with Sections 37, 44, 45, 48, 50, para. b and first paragraph of Section 51 of Resolution CD-SIBOIF-524-1-MAR5-2008, which includes the designation of ML/TF Prevention Coordinator, named among the risk prevention managers of the institutions comprising the financial group. Financial groups should monitor compliance with AML/CFT functions in accordance with Sections 57, 60 and 61 of Resolution CD-SIBOIF-524-1-MAR5-2008. The audit should incorporate in its Annual Work Plan the evaluation of the practices among the members of the Financial Group, in order to comply with the provisions established in ML/TF laws and regulations according to the respective countries in which they operate, ensuring that the External Auditor who carries out the Audit in each of them is the same for all the members of the group.
- (c) When the client makes use of the services of more than one supervised entity belonging to the same supervised financial group operating in Nicaragua and the main contractual relationship includes transactions with a banking entity of said group; the Board of Directors of the respective banking entity, in acceptance of its own risks, may authorize the other members of the Group to obtain from

the bank relevant and up-to-date information about the customer, provided that the conditions of Section 12 of Resolution CD-SIBOIF-524- MAR 1-2008 are met.

TC185. *Criterion 18.3* According to Section 4.h of Resolution CD-SIBOIF-524-1-MAR5-2008, FIs that are part of a financial group must develop an AML/CFT program at group level that includes all its branches, subsidiaries and representative offices abroad. In the event that legal, regulatory, standard requirements and practices for the prevention of ML/TF of other countries where a member of the Financial Group operates differ from those established in Nicaragua, the measures that result more stringent between jurisdictions according to international standards must apply, and likewise, when in other country the application of the AML/CFT program is forbidden, the headquarters and the SIBOIF must be reported and they must comply with local legislation.

Weighting and conclusion

TC186. There are legal and regulatory provisions that address this recommendation; however, some FIs are not covered by these provisions. It should be added that there is no provision for FIs regulated by the UAF to establish that the Compliance Officer has a managerial level. **The rating under Recommendation 18 is Largely Compliant.**

Recommendation 19 - Higher-risk countries

TC187. Pursuant to Section 2 of Resolution UAF-N-7-2016, the following FIs must be registered:

- “8. Microfinance companies beyond the monitoring of CONAMI, regardless of their legal status;*
- 9. Any other special financial activities beyond the specific and consolidated supervision of the SIBOIF, with a business purpose of financial leasing, factoring and trust;*
- 15. Merchants engaged in negotiation on the future of commodities.”*

TC188. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793.

TC189. *Criterion 19.1* Among the factors for the development of an appropriate CDD policy, FIs should consider the customer's geographic location, jurisdiction or country of origin. In particular, it is considered as a variable for the rating as "high-risk" when it comes to countries that are considered by international organizations specializing in AML/CFT as non-cooperative in the fight against ML/TF, as well as those whose systems of prevention of ML/TF risks are considered non-existent or exist but are not applied effectively. (Sections 8.a, 8.b, 14.b.ii, 15.d.i.ii, 15.d.iv and 16.k.iv, of the Resolution CD-SIBOIF-524-1-MAR5-2008, Section 15.2.1.7 of the Resolution CD-CONAMI-002-02ENE31-2013, administrative circular letter PE-577-05-2016\JML, Section 28.5.d Resolution No. UAF-N-010-2016).

TC190. *Criterion 19.2* There is no evidence that Nicaragua applies countermeasures in proportion to the risks.

TC191. *Criterion 19.3* FIs should integrate within their AML/CFT programs the standards, guidelines and directives provided by SIBOIF, CONAMI and the UAF, as appropriate. (Section 4.b and 4.h, Section 4.2 Resolution CD-SIBOIF-524-1-MAR5-2008, Resolution No. CD-CONAMI-002-02ENE31-2013, Section 4.6 of the Law No. 793).

Weighting and conclusion

TC192. There are legal and regulatory provisions that address this recommendation; however, some FIs are not covered by these provisions. **The rating under Recommendation 19 is Largely Compliant.**

Recommendation 20 - Reporting of Suspicious Transactions

TC193. *Criteria 20.1-20.2* The obligation to report transactions and attempts of suspicious transactions is not explicitly stated in Law No. 793. However, in making a comprehensive interpretation of Law No. 793 and recognizing the spirit of it, it can be understood that the obligation derives from that of the following provisions of Law No. 793: Section 3, which defines STRs, Section 4, on the faculties of the UAF to request and receive from the FIs information from transactions or economic operations that may be linked to ML from illicit activities and TF, Section mentions RSs which must report to the UAF and Section 15 that mentions that RSs should develop and implement prevention programs for early detection and STRs.

Weighting and conclusion

TC194. There is no direct mandatory obligation established in the law for FIs to report transactions if they have reasonable grounds to suspect that the proceeds originate from a criminal activity or are related to TF, including attempts to conduct transactions. In addition, deficiencies in the criminalization of ML (minor) and TF affect compliance with this Recommendation and some FIs are not covered by Law No. 793. **The rating under Recommendation 20 is Partially Compliant.**

Recommendation 21 - Tipping-off and confidentiality

TC195. *Criterion 21.1* Section 12 of Law No. 793 provides that FIs, as well as their officers, employees, directors and other representatives, shall keep complete confidentiality regarding the reports made to the UAF and shall be exempt from administrative, civil or criminal liability for supplying information to the UAF.

TC196. In this regard, the obligation to submit STRs must be express, as indicated in the analysis of compliance with Recommendation 20. Additionally, the UAF has no power to monitor other RSs out of the Law No. 793.

TC197. *Criterion 21.2* FIs, as well as their officers, employees, managers, directors and other representatives are required to keep complete confidentiality of reports sent to the UAF, they are prohibited from disclosing, reporting or alerting the customers that their transaction is being analyzed or considered for a report. (Law No. 793, Section 12 and Law No. 561, Section 164).

Weighting and conclusion

TC198. The AML/CFT provisions do not cover the entire financial sector, it is necessary to incorporate all industries into the scheme. On the other hand, the obligation to submit STRs must be expressly established in the Law. **The rating under Recommendation 21 is Partially Compliant.**

Recommendation 22 – DNFBPs: Customer Due Diligence

TC199. Nicaraguan legislation considers as DNFBPs the following:

- Casinos and gaming venues with categories A, B and C, according to Law No. 766 as amended;

TC200. On the other hand, pursuant to Section 2 of Resolution UAF-N-7-2016, the following DNFBPs are registered:

- “10. Real estate brokers;
 11. Dealers in precious metals and dealers in precious stones and/or works of art; those engaged in the purchase and sale, processing or manufacturing of jewelry or goods made with metals and/or precious stones;
 12. Dealers of service for transfer of securities, property and assets;
 13. Dealers of new or used vehicles;
 14. Assistants to dealers acting as auctioneers or real estate brokers;”

TC201. However, there is no law that allows the UAF to include other RSs that need to be covered by AML/CFT provisions beyond Law No. 793, therefore, Resolution UAF-N-7-2016 is not strictly applicable.

TC202. *Criterion 22.1* DNFBPs must comply with CDD requirements set forth in R. 10 in accordance with the following:

- (a) Casinos and gaming venues in cases where cash or electronic exchanges are made and the transaction is equal to or greater than USD 1,000.00 or its equivalent. (Resolution UAF-N-009-2016, Section 5).
 (b) - (c) Although pursuant to Section 2 of Resolution UAF-N-7-2016, registration requirement for FIs and non-financial activities, it has been arranged to apply a registration requirement to DNFBPs, real estate brokers, dealers of metals, precious stones and/or works of art, there is no faculty that allows the UAF to include other RSs than those established in Law No. 793, so that this criterion is not fulfilled in relation to these activities.
 (d) No provision in the matter was expressly applicable to lawyers, notaries, and other legal professionals and independent accountants.
 (e) Trust service providers, when providing trust creation services, execution of contracts in which fiduciary relationships are established; acting as remaindermen of an express trust; provision of domicile for purposes of registration of physical space for trusts; execution of escrow agreements; and execution of accessory services to the main business of the trustee. (UAF-N-009-2016, Section 8).

TC203. *Criterion 22.2* In the cases of casinos and gaming venues they are obliged to keep records according to the provisions of Sections 26, 27 and 28 of the Resolution No. UAF-N-009-2016. Therefore, they must keep for a period of at least five years after the end of the transaction or the provision of the service, organized in files, in physical or digital format: 1. Documents obtained according to the application of CDD measures; 2. Records of national or international transactions, as appropriate; 3. Commercial correspondence between the reporting subject and natural and legal persons who request or make use of their services/operations; 4. Results of suspicious transaction analyzes; and 5. Any other information arising from the prevention, detection and reporting of activities related to ML/TF. These records must be adequate and sufficient to track transactions of natural and legal persons who request or make use of their services/operations. This provision is not complied for clauses (b), (c) and (d) of Criterion 22.1 because they are not considered RSs.

TC204. *Criterion 22.3* Casinos, gaming venues and trustee service providers must implement measures with respect to PEPs, according to Sections 23 and 24 of the Resolution No. UAF-N-009-2016, which are similar to those mentioned in Recommendation 12. However, casinos, gaming venues and trustee service providers do not take reasonable steps to establish the source of wealth. On the other hand, the remaining cases pointed out in Criterion 22.1 mentioned in subsections (b), (c) and (d) do not meet the requirements of PEPs, since they are not RSs.

TC205. *Criterion 22.4* Casinos, gaming venues and trustee service providers should identify and assess the potential ML/TF risks that may arise in connection with the development of new business practices;

and the use of new or developing technologies for the provision of their services/transactions, particularly those that could favor the anonymity of natural and legal persons who request or make use of their services/transactions. Likewise, they should take appropriate measures to manage and mitigate those risks. (Section 29 of the Resolution No. UAF-N-009-2016). However, the remaining cases pointed out in Criterion 22.1 mentioned in subsections (b), (c) and (d) do not meet the requirements of new technologies, since they are not RSs.

TC206. *Criterion 22.5* Casinos, gaming venues and trustee service providers are not authorized to delegate to third parties the application of CDD measures (Resolution No. UAF-N-009-2016, Section 11). However, the remaining cases pointed out in Criterion 22.1 mentioned in subsections (b), (c) and (d) do not meet this provision since they are not RSs.

Weighting and conclusion

TC207. Although for the case of casinos, gaming venues and trustee service providers, the criteria of this R. are met, the other DNFBPs mentioned in Subsections (b), (c) and (d) of Criterion 22.1 are not covered. **The rating under Recommendation 22 is Non-compliant.**

Recommendation 23 – DNFBPs: Other measures

TC208. *Criteria 23.1-23.4* DNFBPs mentioned in Subsections (a) and (b) of Criterion 22.1 are not included in the scope of Nicaraguan legislation.

TC209. Law No. 793 does not provide for any obligation for DNFBPs (except in the case of casinos, as set forth in R. 20) to report transactions if they have reasonable grounds to suspect that the proceeds originate from a criminal activity or are related to TF, including attempts to conduct transactions.

Weighting and conclusion

TC210. DNFBPs mentioned in Subsections a) and b) of Criterion 22.1 are not included as RSs, therefore, this R. is not met. There is no obligation established for DNFBPs to report if they have reasonable grounds to suspect that the proceeds originate from a criminal activity or are related to TF, including attempts to conduct transactions. **The rating under Recommendation 23 is Non-compliant.**

Recommendation 24 - Transparency and beneficial ownership of legal persons

TC211. *Criterion 24.1* The legal system of Nicaragua identifies and establishes the requirements and processes of constitution, validity and legal standing of all those entities that can obtain legal personality. This legislation, which is found in different regulatory bodies, is available to public access, but it is not consolidated. The types of legal persons contemplated in the legal system of Nicaragua are classified as commercial legal persons, non-profit organizations and cooperatives.

TC212. Commercial legal persons for profit are regulated in the Commercial Code, which sets forth the requirements for constitution and validity, and in accordance with Section 118 are the following: general partnerships, limited partnerships, corporations, and limited partnerships with issued shares. Non-profit organizations are regulated as to their constitution and validity by Law No. 147, and are divided into associations and foundations. Finally, cooperatives are regulated as to their constitution and validity by Law No. 499.

TC213. For all cases the antecedents of the direct partners of the legal entity to be constituted are required, but if it is a cascade corporate arrangement, it is not a requirement to constitute the legal entity downstream, the information of upstream beneficial owners.

TC214. *Criterion 24.2* Nicaragua has not developed a risk assessment for each type of legal person available in the country that considers, according to its constitution and characteristics, the vulnerability and exposure to be misused for ML/TF purposes.

TC215. *Criterion 24.3* The different commercial companies that can be created in Nicaragua must be registered in the Commercial Registry, which is part of the National System of Records, reporting to the SCJ, being the administration of said registry in the Special Commission of Registers, entity in charge of registering, storing and providing to the interested parties the information of the mercantile companies created under the different types allowed by the legislation of the country. Companies acquire legal personality exclusively from their registration in the aforementioned registry.

TC216. The register must include, among others: the articles of incorporation of the company, the address, name, corporate capital, appointment of administrators (considering directors as such) founding members, agreements of General meeting of members or General Meeting of Shareholders regarding the changes in administrative bodies (Law No. 698, Sections 156 and 158).

TC217. *Criterion 24.4* Section 37 of the Commercial Code establishes that every corporation must have a stock register book in which the creation of shares will be recorded, as well as the issuance of shares, whether they are nominative and/or for remuneration. This book will contain: the names of the subscribers and the indication of the number of their shares or provisional safeguards that may have been given; payments made for each action or provisional safeguard; the number and value of the shares for remuneration, with indication of their shareholders; the transfer of nominative shares or provisional safeguards and shares for remuneration; and the specification of the nominative shares converted to bearer shares and of the corresponding securities issued. The information contained in the registration book is difficult to access and reserved, since Section 229 establishes the right to inspection but only for shareholders.

TC218. The information on the directors, owners and/or shareholders of the company is not updated in the Mercantile Registry, without there being an obligation, under specific penalty, to update the information beyond that provided at the time of registration; this information is only regarding the time of incorporation of the company and does not reflect the subsequent changes of ownership and the composition of its board of directors and management.

TC219. *Criterion 24.5* The regulations contained in the Commercial Code establish the obligations regarding the registration in the respective registry and in the respective book of the information required by Criteria 24.3 and 24.4. However, there is no obligation to update this information, it will only be updated when it is required to perform a legal act that requires it. Therefore, it is difficult to ensure information is or will be updated in a timely manner.

TC220. *Criterion 24.6* The Nicaraguan law does not require commercial companies to obtain and maintain, nor to establish the requirement for registration in the Mercantile Registry, of information on the beneficial owners of commercial companies. Competent authorities may rely on existing information held by FIs (see R. 10), not from DNFBBs (see R. 22); however, there are deficiencies in the identification of the beneficial owner, since within the regulations that make the identification obligation enforceable, the definition does not conform to the FATF Standard.

TC221. *Criterion 24.7* There is no requirement that the information about the beneficial owner be accurate and up-to-date.

TC222. *Criterion 24.8* There is no express rule that establishes the obligation for all commercial companies to cooperate with the competent authorities for the determination of the beneficial owner. Notwithstanding the foregoing and for specific cases, Law No. 793, Section 9.2 sets forth that the UAF is empowered to request any natural or legal person to report about data and/or information as required by it for the fulfillment of its functions, hence, if this information is requested to the legal representative of a particular legal person, he or she must provide it to the UAF.

TC223. *Criterion 24.9* There is no express rule that establishes the obligation for legal persons and/or their respective supervisory authorities to maintain records for at least 5 years of all information about their beneficial owner at the time of its dissolution.

TC224. *Criterion 24.10* In general, the powers of the law enforcement authorities are adequate and have sufficient powers to require the basic information and the beneficial owner information of legal persons, regardless of their corporate type. Notwithstanding the foregoing, the lack of an obligation to keep updated records and to include in them all changes of ownership during the life of the legal person impairs the possibility of obtaining timely and updated information on the beneficial owners of a particular legal person.

TC225. *Criterion 24.11* There are no measures in the legislation of Nicaragua to comply with any of the control mechanisms for bearer shares according to the provisions of this Criterion.

TC226. *Criterion 24.12* In the case of Nicaragua, the law does not contemplate the possibility of issuing nominal shares or designating nominal directors, meaning those acting on behalf of another whose identity is held in reserve. On the other hand, according to what is established in the commercial legislation of Nicaragua, in order for the performance of one person on behalf of another to be valid, a proxy is required to be executed by a notary public; therefore, the participation on behalf of another is always recorded in the corresponding original deed, which must be prepared by a notary public, in respect of which copies can be extended to evidence this.

TC227. *Criterion 24.13* There are no proportional and dissuasive sanctions in Nicaragua's legislation against non-compliance with the information requirements mentioned in the previous Criteria. In general terms, failure to comply with the obligations to provide basic information on the legal person at the time of its incorporation causes the denial of the respective registration in the Public Registry and, therefore, the denial to grant legal personality. Once legal personality is obtained, failure to update the basic information of the legal person can only result, where applicable, in the unenforceability of the legal act or its ineffectiveness against third parties. On the other hand, in terms of information on the beneficial owner of legal persons, Nicaragua's legislation does not even contemplate civil consequences for non-compliance with information requirements in terms of the Criteria discussed above.

TC228. *Criterion 24.14* Even though the Nicaraguan authorities are empowered to request basic information of a legal person, its shareholders and eventually beneficial owners, the availability of such information and its updating are not ensured, which decreases and affects the possibility of timely cooperation with foreign competent authorities.

TC229. *Criterion 24.15* Notwithstanding that there is the authority to do so, there are no established protocols to follow up and monitor the compliance or satisfaction of the answers received against the requests of the local authorities of information of beneficial owners or basic information of legal persons in general.

Weighting and conclusion

TC230. It is not possible to ensure the existence of basic information and beneficial owner information of legal persons and prevent their misuse for ML/TF purposes. **The rating under Recommendation 24 is Non-compliant.**

Recommendation 25 - Transparency and beneficial ownership of legal arrangements

TC231. *Criterion 25.1 (a)* In Nicaragua, the constitution of a trust is regulated in Law No. 741 on the trust agreement, which establishes in its Section 14 the identification of the trustor, the trustee and the beneficial owner or remainderman. Regarding the latter, the possibility of subsequent identification is contemplated in those cases of future or class beneficiaries, being valid even if not designated, as established in Section 21. Other categories of participants in this agreement are not included in the legislation.

TC232. Notwithstanding the foregoing, Law No. 741, when defining what is understood as a trustor and remainderman or beneficiary, states that he, she or it is the "person" constituting and benefiting from this legal figure, respectively. It then states that "person" means both natural persons and legal persons, as well as national and foreign persons. Therefore, considering that the agreement has an obligation to identify the "person" but not the person behind the person when it comes to a legal person, it is concluded that it is not possible to establish at first sight, in the trust agreement, who or who will be the natural person(s) who exercise control over the trust in cases where the remainderman or beneficial owner is a legal person, increasing the opacity in cases of complex corporate structures, especially when one of them is constituted abroad.

TC233. *Criterion 25.1 (b)* There is no obligation in the Law regarding the preservation of the identification information of the participants in the trust or trust service providers, advisors, investment managers, accountants, or tax advisors.

TC234. *Criterion 25.1 (c)* In the case where the person acting as a trustee is an FI under the supervision of SIBOIF or CONAMI, in compliance with the prevention obligations set forth in Law No. 793 for RSs to report, the conservation of the information for 5 years is regulated. For the rest of professional trustees there is no record-keeping obligation for the period indicated.

TC235. *Criterion 25.2* Except for the obligation to provide the information required for the constitution of the trust, Law No. 741 does not establish requirements to update said information.

TC236. *Criterion 25.3* There is no express obligation for the trustee to actively disclose to the FI or DNFBP, with which it establishes a business relationship, that it is acting in that capacity with respect to the funds that are part of the mentioned commercial relation. Passively, in compliance with the CDD rules by FIs or DNFBPs, it may be required to state whether, in the face of the commercial relationship being established, it is acting on behalf of a trust fund.

TC237. *Criterion 25.4* Only in cases where the trustee service is provided by a bank for which banking secrecy applies, information about the trustor or remainderman can not be delivered within the framework of the CDD to another FI or DNFBP with which it establishes a commercial relationship in exercise of the obligations that as administrator of the trust must be executed by the trustee.

TC238. For the rest of the agents that perform the activity of trustee, there is no express prohibition that prevents the delivery of this information. The foregoing is without prejudice to the fact that the trust agreement could contemplate a confidentiality clause, which would be obligatory for the trustee

if it was included in the trust agreement, taking into account that it is not expressly prohibited in Law No. 741 to include it.

TC239. *Criterion 25.5* In principle, law enforcement authorities may require information from any administrative authority, in a collaborative environment. In the case of trusts, information is only registered in administrative offices in cases where the trust affects real property, since in these cases the law requires that they be constituted by public deed and registered in the Public Registry. Notwithstanding the foregoing, in these cases, the information registered only reaches the identification of "persons" acting as trustor and remainderman, so if these are legal persons, there will be no information on the upstream beneficial owner.

TC240. On the other hand, Law No. 793 sets forth in its Section 9.2 that the UAF may request, in a timely manner and for a specific case, data and/or information required by it for the performance of its functions to any natural or legal person, among which are those who develop the activity of trustee, whether in a professional or sporadic manner.

TC241. In the event that the trustee is a bank FI, banking secrecy rules apply with respect to information, so it may be necessary to be supported by a court order to obtain information related to the parties involved (identification, residence) and the assets that make up the trust funds.

TC242. *Criterion 25.6* In Nicaragua, competent authorities have legal powers to cooperate with their foreign counterparts. Notwithstanding the foregoing, for those cases in which those who provide the service of trustee are banking entities, rules on banking secrecy may be an obstacle to cooperation, and for these cases the information must be requested by a MLA.

TC243. *Criterion 25.7* Section 30 of Law No. 741 provides for the obligations for the trustee, among which the law includes: To perform the acts to carry out the purpose of the trust; to keep track of the trust assets separately; to render an account of his, her or its management once a year to whom it corresponds according to the trust agreement; to protect and defend the trust assets; to give security or guarantee; to transfer the assets to whom it corresponds once the trust period has ended; and to carry out all the other obligations as provided for in the trust constituting instrument.

TC244. Section 40 of Law No. 741 provides for the civil liability of the trustee in case of failure to comply with the obligations established in the trust agreement at the time of its execution. Criminal liability can be applied under the general rules as applicable. Notwithstanding the foregoing, there are no sanctions set forth in the law to ensure the availability and updating of information related to the trustor, remainderman and acts executed in the administration of the trust assets.

TC245. *Criterion 25.8* In general, the legislation does not provide for specific penalties for non-delivery of information on the trust to the competent authorities. An exception to this is provided for in Section 9, paragraph 2, of Law No. 793, which empowers the UAF to request, in a timely manner and in a specific case, data and/or information required by it for the fulfillment of their functions, establishing the possibility of applying a pecuniary sanction, notwithstanding the criminal responsibility that might correspond, in the face of refusal to provide this information.

Weighting and conclusion

TC246. It is not possible to ensure the existence of basic information and beneficial ownership information of trusts and to prevent their misuse and the misuse of other legal arrangements for ML/TF purposes. The **rating under Recommendation 25 is Non-compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

TC247. *Criterion 26.1* Section 10 of Law No. 793 provides for the monitoring powers of the SIBOIF and CONAMI and expressly determines their powers of regulation, supervision and sanction in AML/CFT matters on the RSs indicated in Section 9 of such law, under their prudential supervision.

TC248. In the case of SIBOIF, this includes: banks, finance companies, representative offices of foreign banks, securities sector, insurance companies and insurance brokers, electronic money companies and general warehouses. In the case of CONAMI this includes the institutions registered before it that develop the activity of IFIMF and the MFIs.

TC249. In the case of other FIs that are RSs under Law No. 793, such as financial cooperatives, money exchange houses, pawnshops and loans, and companies and money remittance agencies, this Law provides for in Section 14.3 that they must comply with the rules issued by the UAF and, arising from Section 4.10 of Law No. 793, the statutory Decree of the Law, which describes the UAF's powers of inspection and sanction. However, there are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI).

TC250. *Criterion 26.2* In the case of banks, offices of foreign banks and other financial institutions, Law No. 561 "General Law on Banks" provides a procedure to be constituted as such, in which process the background of the organizers is verified, financial/economic feasibility is studied, compliance with legal and statutory requirements is validated and the subscription of the capital required by law is verified, and finally they are authorized to operate by SIBOIF.

TC251. In the case of representative offices of foreign banks and finance companies, and considering that it is prohibited to raise funds in the country, the authorization process is simpler.

TC252. The execution of the processes of granting operating licenses allows to avoid the establishment of shell banks within the financial system of Nicaragua.

TC253. In the case of insurance companies, to initiate operations, Law No. 733 on "Insurance and Financing" provides for conditions and requirements similar to those indicated in the previous paragraphs for the case of banks. Therefore, they can only develop the activity of insuring, reinsuring or securing legal persons authorized by SIBOIF once all the relevant technical background have been verified.

TC254. In the case of insurance brokers, Law No. 733 provides that natural or legal persons who want to render brokerage services or act as insurance auxiliaries require the authorization of SIBOIF, and must be included in the corresponding registry of such institution. Registration that must be renewed every 3 years for which they must update all the information required in the aforementioned authorization process.

TC255. In the securities market, Law No. 587 on "Capital Markets" establishes the requirements and procedures to operate as a stock broker and as an investment fund manager, requiring authorization from SIBOIF, after verification of compliance with the requirements established in such law.

TC256. In the case of other FIs obliged to comply with AML/CFT regulations, such as the MFIs registered and supervised by CONAMI, Law No. 769 "Law for the Promotion and Regulation of Microfinances" regulates the requirements to be included in the registry, and provides for the procedure

for authorization of the corresponding transaction. The same applies to MFIs (with a registered capital of less than 5 million 700 thousand cordobas), but unlike the previous ones, their registration with CONAMI is not mandatory.

TC257. In the case of financial cooperatives, these must be registered with the Nicaraguan Institute for Cooperative Development (INFOCOOP) of the MEFCCA, which carries a registry of these entities. In addition to the abovementioned and according to Section 14, paragraph 3 of Law No. 793, financial cooperatives, since they do not have a prudential regulator, must comply with AML/CFT regulations that the UAF approves and file with it as RSs.

TC258. The other FIs which are under the obligation of complying with Law No. 793, such as money exchange houses; pawnshops and loans; and companies and money remittance agencies, do not have a prudential regulator or a special register as a prerequisite to start their activities. Notwithstanding the foregoing, according to Section 14.3 of Law No. 793, those entities that carry out any of these activities must comply with AML/CFT regulations that the UAF approves and file with it as RSs.

TC259. *Criterion 26.3* Regarding the constitution of banking entities (banks or representative offices) and other finance companies, a prohibition is imposed on persons convicted for their participation in drug trafficking offenses and related offenses, and crimes of ML/TF, acting whether as shareholders, partners, investors or representatives. Notwithstanding the foregoing, this prohibition does not cover cases of persons with a criminal record for other offenses, including the various categories of ML criminal offenses (other than drug trafficking). On the other hand, this provision says nothing about any prohibition for accomplices to criminals to participate in a banking entity in any of the capacities mentioned above.

TC260. In the case of those who carry out the activities of stock brokers and investment fund managers, there is no express prohibition for persons with a criminal record to be able to participate as shareholders, partners, administrators or representatives of one of these entities. The standard neither covers the hypothesis of criminals' accomplices.

TC261. In the case of those who operate in the insurance sector, there is an impediment to participation as a shareholder or director of an insurance company for any person who has been convicted of any conduct criminalized in the Criminal Code; but this impediment does not exist for those acting in capacities as administrator or representative. The standard neither covers the hypothesis of criminals' accomplices. The regulation does not provide for any regulation in this matter, in the case of those who develop the activity of insurance broker.

TC262. Regarding FIs under CONAMI regulation, Section 46 of Law No. 769 states that a person who has been convicted for a common crime may not be a member of the Board of Directors of an MFI. As for the rest of the categories (shareholders, representatives, beneficial owners of the investment, etc.), the prohibition, according to Resolution CD-CONAMI-002-02ENE31-2013, reaches those convicted for ML/TF and drug trafficking and related crimes. There is no rule that solves the situation of criminals' accomplices in the terms raised by the Recommendation under analysis.

TC263. For those sectors without prudential regulation and that Law No. 793 includes in the AML/CFT system, there is no rule prohibiting criminals or their accomplices from developing the activity in their capacities as shareholder, partner, manager or representative, of financial cooperatives, money exchange houses, pawnshops and loans; or from companies and money remittance agencies. The regulations do provide that the compliance officer registered with the UAF must comply with criteria of moral suitability and have no criminal record.

TC264. *Criterion 26.4* According to the legislation of Nicaragua, banking and other finance companies, insurance and securities market sectors are regulated in AML/CFT by the regulations issued by SIBOIF under the sectoral laws and the Law No. 793. In matters of consolidated monitoring, the powers to exercise it with respect to the financial groups constituted in Nicaragua are established. In the case of financial groups domiciled abroad, a cooperation agreement with the authorities of the respective country is required.

TC265. In the case of FIs under the supervision of CONAMI, it has the authority to issue AML/CFT regulations, supervise compliance and sanction detected violations, in accordance with the provisions of Section 10 of Law No. 793.

TC266. In the case of other non-regulated financial sectors, that is to say, those who carry out the activities of a financing cooperative, money exchange house, pawnshop and loan, and company and money remittance agency, Law No. 793 subjects them to compliance with the regulations to be approved by the UAF. However, there are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI).

TC267. It is important to note that Law No. 793, Section 10, expressly established for SIBOIF and CONAMI powers of on-site and off-site supervision as well as powers to apply sanctions if violations are detected to the AML/CFT rules they may issue. The inspection and sanction powers of the UAF are described in the statutory Decree of the Law 793.

TC268. *Criterion 26.5* In the case of SIBOIF and taking into account that it is the supervisor of the banking and other finance companies, insurance and securities sectors, prioritization aims at the banking sector above the other two, in view of the fact that the authorities understand that this activity has a greater risk of being abused for ML/TF activities.

TC269. Within the banking industry, planning of oversight and the determination of its intensity correspond to objective criteria such as: size; number of customers; and number of assets handled. The frequency of the audit is determined by the General Banking Law. These inspections review all aspects that the prevention regulations provide as a "prevention program" to be implemented based on what is stated in Section 15 of Law No. 793. The risk profile of each institution is based on the self-determination of the level of ML/TF risk that the bank establishes through the preparation of its matrix, without there being an evaluation by the authority in the determination of a profile more or less risky. SIBOIF considers within its inspection planning the revision of the implementation by the banks of the recommendations communicated from the results of the NRA. However, these recommendations are of a general nature and do not mean identification, either by banking product, specific segments of clients, types of crimes that generate financial flows that by their very own nature increase the risk of the banking sector in particular, and so on. Therefore, it can be concluded that oversight decisions are not completely guided by the result of the NRA by means of a RBA in the field of monitoring.

TC270. In the case of the insurance and securities sectors, oversight is based on objective criteria and the intensity of the audit reaches the review of compliance with the formal aspects of the AML/CFT regulation.

TC271. On the other hand, FIs supervised by CONAMI are subject to an audit based on a prioritization regarding ML/TF risk rating reports developed in a sector risk assessment which was carried out in 2014 by way of an IDB consultancy. Notwithstanding the foregoing, having personnel

available and more or less material and financial resources are criteria that may influence in the determination of oversight intensity and frequency.

TC272. Regarding the other FIs that Law No. 793 includes as RSs in the AML/CFT system of Nicaragua, they must comply with the AML/CFT regulations approved by the UAF and are subject to supervision or monitoring by the UAF. However, there are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI).

TC273. *Criterion 26.6* SIBOIF, the UAF and CONAMI follow up on compliance with the action plan based on detected non-compliances. The level of compliance with this action plan and the self-determination of its risks are the factors that allow the configuration of the risk profile of the FI. However, there are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI).

Weighting and conclusion

TC274. Nicaraguan legislation does not include all financial sectors within the legal framework for AML/CFT prevention and detection. **The rating under Recommendation 26 is Partially Compliant.**

Recommendation 27 - Powers of supervisors

TC275. *Criteria 27.1 and 27.2* Section 10 of Law No. 793 expressly provide for SIBOIF and CONAMI the powers of on-site and off-site supervision of compliance with laws, regulations, standards, circular letters and instructions in the field of ML/TF prevention, with respect to the RSs under its supervision. Powers of the UAF to inspect and sanction the rest of FIs that Law No. 793 include in the AML/CFT system, such as financial cooperatives, money exchange houses, pawnshops and loans, and companies and money remittance agencies, are described in the statutory Decree of the Law No. 793. However, there are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI).

TC276. *Criterion 27.3* Both SIBOIF, as established in Law No. 316 and its respective regulations, and CONAMI, in accordance with Law No. 793 and its respective regulations, have the legal powers to request all the information necessary for the exercise of their supervisory functions in order to verify the formal compliance of ML/TF prevention programs by its regulated entities. Notwithstanding the foregoing, with regard to the information related to STRs and other mandatory reports sent to the UAF, supervisors do not have the authority to request this information for the purpose of verifying and reviewing the timeliness, quality and completeness of the reports, in attention to what is provided for in Section 12 of Law No. 793 on the confidentiality of information related to the reports sent to the UAF.

TC277. *Criterion 27.4* In the case of SIBOIF, General Banking Law No. 561; Capital Markets Law No. 587; and Insurance, Reinsurance and Securities Law No. 733 authorize it to apply sanctions and fines for non-compliance with AML/CFT obligations. This does not include the possibility of withdrawing the license or operating authorization for violations to AML/CFT regulations. In the case of CONAMI, Law No. 769 authorizes the application of sanctions and fines for non-compliance with AML/CFT regulations, including the possibility of canceling registration and therefore authorization to operate in the microfinance market.

TC278. For the rest of FIs included by Law No. 793 in the AML/CFT system of Nicaragua, as mentioned above, the UAF has the power to apply sanctions and/or fines for non-compliance with AML/CFT preventive regulations as approved by the UAF and which they must comply as per Section 14 of Law No. 793.

Weighting and conclusion

TC279. Supervisors do not have the authority to request information for the purpose of verifying and reviewing the timeliness, quality and completeness of the reports, in attention to what is provided for in Section 12 of Law No. 793 on the confidentiality of information related to the reports sent to the UAF. In the case of SIBOIF, this does not include the possibility of withdrawing the license or operating authorization for violations to AML/CFT regulations. There are categories of FIs defined by the FATF that are not within the AML/CFT system of Nicaragua (financial leasing, factoring and IFIMFs beyond the monitoring of CONAMI). **The rating under Recommendation 27 is Largely Compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

TC280. *Criteria 28.1* Casinos and gaming venues are RSs according to Section 9 of Law No. 793 and must comply with AML/CFT regulation approved by the UAF in accordance with the provisions of Section 14 of such Law.

TC281. As for the beginning of operations as an agent of this sector and according to the provisions of Law No. 766, it is necessary for those who wish to perform this activity to obtain an operator license and an operating license as a casino and gaming venue, whose registry is under the power of the Office of Casinos and Gaming Venues reporting to the Ministry of Finance and Public Credit of Nicaragua.

TC282. In the process of obtaining an operating license, applicants are required to obtain a police certificate in order to check they do not fall under the legal prohibition for persons convicted of crimes in the last 7 years to participate as shareholder, partner, director, manager, agent or worker of the casino. Notwithstanding the foregoing, this measure does not make it possible to prevent criminals' accomplices from participating in the casino in any of the abovementioned capacities.

TC283. *Criteria 28.2-28.5* Law No. 793 does not include as RSs other DNFBPs, nor any other additional category included by the country, nor does it identify an AML/CFT supervisory body with authority to verify regulatory compliance.

Weighting and conclusion

TC284. Only casinos are RSs. There is no authority responsible of oversight in AML/CFT matters for DNFBPs. **The rating under Recommendation 28 is Non-compliant.**

Recommendation 29 - Financial Intelligence Units

TC285. *Criterion 29.1* The UAF of Nicaragua was created in 2012 by way of Law No. 793 and it is the national center responsible for receiving and analyzing information directly from suspicious transactions with possible linkage with ML/TF and as a result generating a FTR for the pertinent referral of the information contained therein. (Law No. 793, Sections 4, 11; Decree 07-2013; Sections 11, 12). The UAF of Nicaragua is a decentralized entity with functional, technical, administrative and operative autonomy, with legal personality, its own assets, specialized in the analysis of information of a legal, financial or accounting nature within the system for combating property, assets and money laundering derived from illicit activities and TF. Section 4 provides for the powers granted by the Law to the UAF

for the performance of its functions, which are to request and receive financial, legal or accounting information, as well as to analyze, investigate, follow up and systematize all information collected in order to generate a FTR and, when appropriate, to send said FTR to the corresponding institutions legitimized for criminal prosecution, keeping a safe record of such information sent.

TC286. *Criterion 29.2* As per Section 4, paragraph 1 of Law No. 793, the UAF is empowered to receive directly and exclusively from any RS financial, judicial or accounting information, arising from transactions or economic operations that may be linked to ML of illicit activities and TF. Accordingly, the UAF is the only agency with authority to receive information from the RSs.

TC287. Section 11 of Decree 07-2013, which regulates Law No. 793, empowers the UAF to receive from RSs information that could constitute evidence of any action or activity that could represent asset, property or money laundering, terrorist financing and financing of proliferation. In the case of STRs of cash transactions and any other that arises in the exercise of the functions of the UAF will be presented according to the formats designed for that purpose.

TC288. The UAF is the only agency with the authority to receive STRs, as well as Cash Transactions Reports, Traveler's Declarations, Trust Assets Reports, Sale of New Vehicles Paid in Cash¹⁴, Sales Reports¹⁵, Real Estate Sales Reports¹⁶, Reports of Auction Transactions¹⁷, Winners Reports¹⁸, Transaction Reports¹⁹, Report of cross-border securities transfer transactions provided that the amounts are equal to or greater than USD 10,000.00. (Law No. 793, Section 4; Decree 07-2013, Section 11, UAF-N-005-2013 Section 3, UAF-N-009-2016, Section 34 and 35).

TC289. *Criterion 29.3* The UAF, in addition to the aforementioned reports, has the authority to obtain and use additional information from the RSs, as well as from public and private institutions, from any legal or natural person. It can also interact with the databases of public institutions, RSs and other private companies linked to ML/TF and financing of proliferation prevention. The UAF has access to a wide range of information contained in the Commercial Property and Real Estate Public Registries, the General Customs Directorate, the Supreme Electoral Council, the INSS, among others (Law No. 793, Sections 4.1, 11, Decree 07-2013, Sections 9 and 17).

TC290. As per Section 4, paragraph 1 of Law No. 793, the UAF is empowered to request and receive directly and exclusively from any RS of public and private institutions any financial, judicial or accounting information which may relate to ML from illicit activities and TF. Section 9 of Decree 07-2013, which regulates Law No. 793, states that the UAF is empowered to request information of interest

¹⁴ When the amount is equal to or greater than USD 10,000 or its equivalent.

¹⁵ Reports to be submitted by dealers of metals, precious stones and/or works of art, and those engaged in the sale, processing or industrialization of jewelry or goods made of metals and/or precious stones, in which they report on local sales paid in cash or any other means of payment within a period of thirty days, equal to or greater than USD 5,000.00 or its equivalent, and on outward sales or exports, paid locally, paid in cash or by any other means of payment within a term of thirty days, equal to or greater than USD 10,000.00 or its equivalent.

¹⁶ Reports that must be presented by the assistants of dealers who act as auctioneers or real estate brokers in which they report on one or more transactions within thirty days, equal to or greater than USD 7,000.00 or its equivalent.

¹⁷ Reports that must be presented by real estate brokers in which they report on real property sales paid in cash, or by any other means, made in one single transaction, or in multiple transactions, in a thirty-day term for an amount equal to or higher than USD 100,000.00, or its equivalent.

¹⁸ Reports which must be submitted by casinos and gaming venues for each person winning in one day, in one game or several, an amount equal to or higher than USD 1,000.00, or its equivalent.

¹⁹ Reports which must be submitted by casinos and gaming venues for transactions related to cash and other securities reaching, during a period of one month, in an individual or fractioned manner, an amount equal to or higher than USD 3,000.00, or its equivalent.

from public and private institutions, from any natural or legal person, establishing a deadline to respond of no more than 3 business days and if the required information is of some complexity, granting them a period of up to 7 days.

TC291. Section 17 of Decree 07-2013 provides that the UAF may interact with the databases of public institutions, RSs and other private companies linked to ML/TF/FP prevention.

TC292. The regulations allow the UAF to have access to information that comes from open or public sources, sources of information with direct access to databases, as well as other sources to which it can access on request.

TC293. *Criterion 29.4* The UAF performs operational analysis of the information received from the RSs in order to generate a FTR in accordance with its Manual of procedures to receive, analyze and process reports and information of the subjects (UAF G-05-2014) with the purpose of determining the existence of signs of illegal activity, including ML/TF. According to the same Manual, the UAF carries out the strategic analysis of the available information from the STRs, the FTRs, ML sentences or any other necessary information in order to identify the patterns and schemes related to ML/TF and to propose prevention policies.

TC294. *Criterion 29.5* The UAF is empowered to timely refer the information analyzed and contained in the FTR to competent institutions for prosecuting criminal activities, keeping records of what has been informed and received (Law No. 793, Section 4). The UAF has developed two systems that guarantee security and protection in the processing and exchange of information: the Online Reporting System (ORS) and the Confidential Documents Encryption System (SISCRIP), a technological tool that allows to code confidential or reserved information for storage and transmission applying security protocols and algorithms in order to guarantee and prevent unauthorized third parties from accessing such information.

TC295. *Criterion 29.6* The UAF has measures in force to protect information:

- (a) It has issued the Manual for the Protection of Information, the Manual for processing RSs information.
- (b) The Manual for the protection of plans, reports and other documents and information received and dispatched by the UAF, regulates the aspects related to the control of access of the personnel to UAF facilities, levels and schedules.
- (c) The Manual for the protection of plans, reports and other documents and information received and dispatched by the UAF also regulates aspects on visitor access to the facilities. In order to guarantee limited access to information, the UAF has developed ORS and SISCRIP.

TC296. The Manual for the protection of plans, reports and other documents and information received and dispatched was passed by Resolution No. UAF-G-06-2014. Additionally, Section 13 of Law No. 793 establishes that the information that the UAF obtains, generates or processes will be reserved public information. Therefore, RSs, officials, employees, managers, directors and other representatives, even after performing their duties or employment, are prohibited from disclosing information to the person investigated or third parties related to the circumstances of having been requested or referred information to the UAF. This ban is extended to UAF staff.

TC297. Section 18 of Decree 07-2013 establishes that the UAF, in order to comply with the confidentiality principle, is empowered to elaborate, modify, supervise and control the application of the Regulations for the Protection of Plans, Reports and Other Documents and Information Received and Dispatched.

TC298. *Criterion 29.7* The UAF is a decentralized entity with functional, administrative, technical and operative autonomy, hence:

- (a) It has the authority and capacity to analyze, request and disseminate information. According to paragraphs 1, 2 and 3 of Section 4 of Law No. 793.
- (b) It has the power to exchange information with its foreign counterparts through agreements, conventions, memoranda of understanding and the creation of other mechanisms. (Section 4.4 and 4.5 of Law No. 793, Decree 07-2013, Section 13). The Director of the UAF exercises the legal representation of the entity, a condition that allows him to sign cooperation agreements, letters of intent with public and private institutions, national or international linked to the prevention of ML, TF and FP, according to paragraph 1 of Section 33 of Decree 07-2013.
- (c) By having a decentralized nature, it is outside the scope of another authority, in fact, it has its own personnel, organizational structure and the necessary funds to carry out its attributions. (Law No. 793, Sections 6 and 7, Decree 07-2013, Sections 31 and 39). However, as per Section 10 of Law No. 919 on Sovereign Security of the Republic of Nicaragua, the UAF is part of the NSSS, along with other entities such as the Nicaraguan Army, NP, National System for Prevention, Mitigation and Attention of Disasters, Prosecutor's Office, AGO, Ministries of State with competence in food and nutritional security, MIGOB, General Directorate of Foreigners and Migration, DGSA, General Directorate of the National Penitentiary System, General Directorate of Firefighters and the SIBOF.
- (d) UAF's assets are made up of the budgetary allocations established annually in the General Budget of the Republic, donations from public, national or foreign institutions aimed at strengthening capacities for the fulfillment of the functions of the UAF, as well as movable and immovable property delivered or received in administration by the State. Although Law No. 793 in Section 2 places the UAF within the NDSS, now called NSSS under Law No. 919 which repealed Law No. 750, its location within the administrative structure of the Nicaraguan State is not clearly understood. However, and considering what is stated in Section 9 of Law No. 919, stating the NSSS is coordinated by the President of the Republic and that in Section 5 of Law No. 793 it is established that the Director of the UAF will be appointed by the President of the Republic, adding that according to Section 7 of the same Law, the UAF will render an annual report to the President of the Republic and in an extraordinary way when she or she so requires, it could be understood that the UAF is part of the Office of the Presidency of the Republic of Nicaragua.

TC299. *Criterion 29.8* The UAF requested admission to the Egmont Group of FIUs, by letter dated May 6, 2014.

Weighting and conclusion

TC300. Nicaraguan UAF has a legal framework that allows it to comply with the criteria established in the Standard. **The rating under Recommendation 29 is Compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

TC301. *Criterion 30.1* The institutional framework of Nicaragua includes law enforcement officials with responsibility for prosecuting and investigating crimes, in particular those related to organized crime, terrorism, drug trafficking and related crimes, as well as money laundering, predicate offenses and terrorist financing. Therefore, the following are included:

- NP. It has special divisions of Police Intelligence, Economic Investigations, Anti-Narcotics and Legal Aid. (Law No. 872, Section 17).
- Prosecutor's Office. It has within its structure the SUAOCO, with attributions in matters of organized crime and TF. (Law No. 346, Section 2).

TC302. *Criterion 30.2* The PPO has powers to promote investigation and prosecution of crimes, receive investigations from the NP and determine the exercise of criminal action. The PPO may request the NP to conduct a financial investigation of any ML predicate offense. Likewise, it can request a financial investigation or the preparation of a financial intelligence report, either to the NP or the UAF. (Law No. 346, Sections 7, 10.1, 10.2). On the other hand, the NP has a Normative of Procedures to Develop Financial or Patrimonial Investigations Parallel to predicate offenses of ML/TF (including organized crime).

TC303. *Criterion 30.3* The personal or real property, objects, products and instruments used in the commission of organized crime and the profits or benefits of their criminal action are subject to withholding, seizing, confiscation or occupation by the NP, who shall keep them in accordance with the Code of Criminal Procedure (Law No. 735, Section 33).

TC304. *Criterion 30.4* The DGA, without being a law enforcement entity or an armed authority body, carries out research activities of an economic nature (Law No. 265, Section 61). In that sense, it must coordinate activities with the migration, health, police and all public authorities exercising control over the entry or exit of people.

TC305. *Criterion 30.5* The PPO is the only competent authority to prosecute in Nicaragua.

Weighting and conclusion

TC306. Nicaragua complies with the criteria established by this Recommendation. **The rating under Recommendation 30 is Compliant.**

Recommendation 31 – Powers of law enforcement and investigative authorities

TC307. *Criterion 31.1* The NP has access to all the information and documentation necessary to be used in the investigations (Law No. 872, Section 7, para. 2, Law No. 406, Section 228). In addition, the General Prosecutor and the Director of the NP may request the judicial authority to lift financial, tax and bank secrecy. The NP itself may also take witness statements. Likewise, the NP or PPO may request judicial authorization for the search, arrest and seizure of assets. The NP must also try to identify objects or things occupied or confiscated as part of its investigative activity. (Law No. 735, Sections 34, 39, 42; Law No. 406, Sections 211, 212, 215, 230, 246; Law No. 872, Section 7). The PPO may summon the charged or accused, victims, witnesses, experts and interpreters when their presence is necessary to carry out an investigative or procedural act (Law No. 406, Sections 147, 250, Law No. 346, Section 10). The judge may request from the competent financial authorities or any public or private FI to produce information about financial transactions in their possession. The order will proceed at the express and well-founded request of the General Prosecutor of the Republic or the General Director of the NP. (Law No. 406, Section 211). The PPO when necessary will request a seizing order to the judge. The seized property will be identified, inventoried and placed in safe custody. (Law No. 406, Sections 215, 216, 217, 218). However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC308. *Criterion 31.2* The PPO and the NP can resort to special investigative techniques, such as covert operations, interception of communications, access to computer systems, supervised and controlled deliveries. In all cases, prior judicial authorization is required or, when it is not possible to obtain it beforehand and in case of emergency, it will be necessary for the competent judge to validate the act. (Law No. 735, Sections 62-66, 82-91). However, deficiencies in the criminalization of the ML (of a minor nature) and TF offenses deter the full compliance with this Criteria.

TC309. *Criterion 31.3* The competent authorities, by means of a court order, may request information on financial transactions held by FIs.

TC310. *Criterion 31.4* Competent authorities to carry out investigations for ML, associated predicate offenses and TF are the NP authorities; the PPO can request and receive the information analyzed and contained in the FTR prepared by the UAF.

Weighting and conclusion

TC311. Deficiencies in the criminalization of the ML (of a minor nature) and TF offenses deter the full compliance with this R. since they directly impact on the investigation capacity of the law enforcement authorities regarding non-criminalized offenses. **The rating under Recommendation 31 is Largely Compliant.**

Recommendation 32 – Cash Couriers

TC312. *Criteria 32.1-32.2* All persons entering or leaving Nicaragua must present and declare in writing to the customs authority cash money, securities, objects, precious metals, and goods they carry with them for a value equal to or greater than USD 10,000.00. The DGSA is in charge of receiving and sending the indicated information to the UAF (Law No. 793, Section 11; Technical Circular letter CT/117/2013, para. 1, partially modified by CT 22/2015). Moreover, Section 579 of the Regulations of the RECAUCA establishes that it is mandatory for all travelers who arrive at the customs territory through any authorized route, to make a declaration in the form that the customs service issues for such purpose.

TC313. *Criterion 32.3* Nicaragua has a declaration system.

TC314. *Criterion 32.4* Upon discovery of a false declaration, the NP is empowered to require information from the holder regarding the origin and destination of the money. (Criminal Procedure Code, Sections 228, 230; Law No. 872, Section 7). The Criminal Procedure Code of Nicaragua grants investigative powers to the NP, establishing in Section 228 the power to carry out the investigation activities necessary for the discovery and verification of alleged criminal acts. Section 230 of the same code provides for some powers to complement the investigation activities of the NP and for the power to obtain and require more information of the undeclared instruments by establishing that they may require reports to any person or public or private entity identifying the subject under investigation. Likewise, Law No. 872, in its Section 7 regarding powers, establishes the scope of investigation, legal aid and police intelligence, in charge of the police, aimed at the prosecution and investigation of crime in general, organized crime, terrorism, drug trafficking and related crimes, specifying in its para. (k) that they may summon any person who may provide data of interest to the investigations carried out, for the purposes of interviewing or receiving their statements in the form and with the guarantees established by Law.

TC315. *Criterion 32.5* If a false declaration is made, it is possible to apply administrative sanctions when no tax damage is caused, and cases of customs fraud are punished according to criminal law. (Criminal Code, Sections 307, 308, 309, 549, Law No. 265, Section 64). Law No. 265 that establishes Self-dispatch regulations for import, export and other regimes, reformed by the Law No. 421 of valuation at customs, in its Section 64 allows administrative sanctions provided they do not cause fiscal damage, specifying in its para. 12 that if declaration at customs of entry into the country of cash, by check or a combination of both carried with the traveler for an amount greater than the equivalent in national currency of USD 10,000.00 is omitted, a fine of 500 Central American pesos or its equivalent in national currency shall apply. Cases of customs fraud and smuggling are punishable by 3 to 6 years

of imprisonment and 4 to 8 years of imprisonment respectively, and in both cases with a fine equal to twice the goods or merchandise involved.

TC316. *Criterion 32.6* The UAF receives customs declarations directly through a computer system created by the DGA (Section 793, Section 11, Cooperation Agreement between the DGA and the UAF). Section 11 of Law No. 793 provides that the DGA is responsible for receiving the declarations of values of any national or foreign person who enters or leaves the country and also establishes that such information must be sent expeditiously to the UAF. In the Cooperation Agreement between the DGA and the UAF, the third clause establishes the commitment of the DGA to inform the UAF on irregularities linked to the ML/TF/FP related crimes that can be identified, either physically or by digital remote way, that allow to be incorporated in the processes of financial analysis.

TC317. *Criterion 32.7* Customs authorities coordinate with migration, health, police and all public authorities exercising control over the entry or exit of people (Law No. 793, Section 11; Regulations of the Central American Uniform Custom Code –RECAUCA–, Section 13, Cooperation Agreement between the DGA and the UAF). Section 10 of the Central American Uniform Custom Code (CAUCA), published by Resolution No. 223-2008, contemplates the coordination that must exist with the Customs Authority in the case of Nicaragua with the General Customs Directorate by other institutions when they have to exercise functions related to goods subject to customs control. Section 13 of the Regulations of the Central American Uniform Custom Code (RECAUCA), published by Resolution No. 224-2008, allows the coordination of functions between migration, health, police and all public authorities exercising control over the entry or exit of people, goods and means of transportation from or to the customs territory, must exercise their functions in a coordinated manner with the Customs Authority, collaborating with each other for the correct application of the different legal and administrative provisions. The UAF has signed with the DGA a Cooperation Agreement that allows coordination between both entities and undertakes mutual commitments that allow them to establish an interinstitutional national coordination platform.

TC318. *Criterion 32.8* The Nicaraguan authorities have the ability to stop or freeze cash or bearer negotiable instruments for a reasonable period of time, according to the following:

- (a) The Criminal Procedure Code allows the competent authorities to proceed with orders of seizing of objects related to the crime, those subject to confiscation and those that can serve as means of proof (Law No. 406, Section 215). Law No. 735 empowers the DGA to seize in cases of flagrante delicto narcotic drugs, psychotropic drugs and other controlled substances and goods, objects, products and instruments related to criminal acts, which must be placed at the disposal of the NP for its corresponding investigation, and reporting to the PPO (Section 33).
- (b) Such authorities shall have no powers in the event of a false declaration.

TC319. *Criterion 32.9* The DGA and the UAF have mechanisms for sharing information on traveler's declarations that exceed the established threshold, where appropriate, false declarations or omissions in the presentation of the declaration. The DGA may exchange information on travelers' declarations in terms of the Multilateral Agreement on Cooperation and Mutual Assistance among the National Directorates of Customs of Latin America, Spain and Portugal. On the other hand, the UAF can exchange information of the subject in terms of the agreements, conventions and memoranda of understanding subscribed with homologous foreign offices. In addition, both the PPO and the General Prosecutor of the Republic can exchange information if need be. (Law No. 346, Section 10, Decree 133-2000, Section 27.3, 35).

TC320. *Criterion 32.10* Computer tools developed and used to ensure the correct use of information collected through traveler's declarations do not restrict nor impede trade in goods and services or the mobility of capital.

TC321. *Criterion 32.11* Persons who physically transport bearer negotiable instruments or currency linked to TF, ML or predicate offenses are subject to the criminal sanctions indicated in R. 4. Administrative sanctions will apply when no tax damage is caused, in addition, corresponding criminal sanctions shall apply for customs fraud and smuggling. Likewise, it is possible to apply confiscation measures, that is, the definitive deprivation of money, goods or assets by decision of competent judicial authority.

Weighting and conclusion

TC322. Nicaragua has a written declaration system for passengers entering or leaving the national territory and carrying amounts equal to or greater than USD 10,000 or its equivalent in another currency. The Law allows in case of omission or falsehood in the declaration to be able to sanction said behavior, but not to hold the related resources. Due to the abovementioned, **the rating under Recommendation 32 is Largely Compliant.**

Recommendation 33 - Statistics

TC323. *Criterion 33.1* Nicaragua's statistics are kept as follows:

- (a) The UAF has developed the Online Reporting System (ORS), which constitutes a technological platform for the reception of STRs to have detailed statistics of reports received, rejected, accepted, processed and sent to the corresponding authorities. This statistic generates information by type of reporting entity, related predicate offenses, amounts, geographical area, among others. The UAF has a Procedural Manual for receiving, analyzing and processing the STRs, which in its Section 17 (Operational Intelligence System–OIS) allows the generation of operational statistics obtained from the STRs as well as strategic statistics based on the FTR.
- (b) The Judiciary has established an Administrative Commission whose function is to order and supervise the development of statistics, as referred to in Section 68, para. 7 of Law No. 260. Likewise, the SCJ has a system of statistics that registers the entry of cases, accused criminal types, state of the process, judicial decisions issued, execution of criminal sanctions. It also has a Discharge Management System that registers the entry of cases and the distribution and allocation in the different Jurisdictional Bodies.
The NP has a general statistical record of crimes investigated. This information details the number of cases, alleged predicate offenses, people and related goods, department/city in which it is investigated, among other aspects.
Likewise, the PPO has a department responsible for the registration and compilation of statistics, which includes investigations and accusations, (Decree No. 133-2000 Section 22.8).
- (c) Law No. 735 (Sections 43, 44 and 46) created the Administration Unit of Seized, Forfeited and Abandoned Assets (UABIDA), in charge of the reception, administration, storage, custody, investment, auction, donation, return or destruction of assets, objects, products and instruments from organized criminal activities. The UABIDA provided statistics on confiscated property.
- (d) The AGO keeps records and statistics on MLA, through SISCAP, which registers the activity of the four specialized units of the AGO and controls the MLA requests. It also carries a logbook of applications that are entered or required by the Central Authority with a chronological number per year which records the country from which it comes, the crime, the victims, the accused, the international instrument invoked, the requested measures, among other things. In the same order, the criminal division of the AGO maintains a single file record of records, which assigns a number and registers the MLAs answered. It also carries a Log which allows the monitoring and updating for each MLA application that is in process.

Weighting and conclusion

TC324. The UAF through its ORS maintains updated statistics; the Judiciary has established a Commission for Administration of statistics. The NP has a general statistical record of crimes investigated, likewise, the PPO, as per Decree 133-2000 has a statistics department which records ML/TF investigations and accusations. The AGO keeps records and statistics on MLA. In addition, the AGO keeps a unique registry of records and assistances. **The rating under Recommendation 33 is Largely Compliant.**

Recommendation 34 – Guidance and feedback

TC325. *Criterion 34.1* Natural supervisors (SIBOIF and CONAMI) and the UAF have adequately complied with establishing guidelines and providing feedback to RSs under Law No. 793 and other sectors identified by the FATF Standards as FIs or DNFBPs.

TC326. From 2013 and up to 2016 included, all three entities have continuously communicated guidelines aimed at understanding the obligations and risks identified. These guidelines and feedback have been aimed at transferring best practices to the agents of the different sectors in the implementation of the AML/CFT programs, guidelines for a correct implementation of the regulations, typologies and warning signals by sector and the results of the analysis of threats and vulnerabilities developed by the country. On the other hand, the UAF has held bilateral meetings, on a timely basis, with different FIs in order to guide on STRs and has provided training to various sectors.

Weighting and conclusion

TC327. Despite efforts by the country's authorities to provide feedback on RSs and other agents, there are categories of FIs and DNFBPs defined by the FATF that are not within the AML/CFT system of Nicaragua. **The rating under Recommendation 34 is Largely Compliant.**

Recommendation 35 - Sanctions

TC328. *Criteria 35.1 and 35.2* The subjects that carry out the activities indicated in Section 9 of Law No. 793 must implement the AML/CFT prevention and detection measures. These are subject to a wide range of sanctions for non-compliance with the above mentioned obligations, sanctions that are contemplated in different regulatory bodies that are as follows:

TC329. In the case of banks and other FIs supervised by SIBOIF, the sanctions regime is contained in Laws No. 316 and 561, the latter is regulated in terms of sanctions by Resolution CD-SIBOIF-410-1-MAR14-2006, dated March 14, 2006 and its amendment Resolution CD-SIBOIF 563-2-DEC 03-2008, which establishes in its Section 10 the fine range (USD 5,000 to USD 60,000) and individualizes enforcement violations, only with respect to the AML regulations, and the amount applicable to each of them. The application of fines is extended to any official who performs at the institution when the reservation obligation is violated regarding the analysis of a suspicious operation, with a sanction of between 4 and 8 monthly salaries.

TC330. On the other hand, it is possible to apply a fine of USD 10,000 to USD 50,000 to the Director who discloses information to the customer on one of his or her operations being analyzed or if sending a STR is under consideration of if it has already been sent. Notwithstanding the foregoing, the provisions of the aforementioned resolution are only applicable to the part of the preventive model that relates to the ML and not to TF.

TC331. Additionally, and only with respect to compliance with the provisions of FATF R. 6, in August 2014, SIBOIF issued Resolution CD-SIBOIF-848-1-AGOST13-2014, which establishes a description of the infractions and their corresponding fine with a range from USD 5,000 to USD 60,000.

Finally, the said Resolution provides for the same infractions and fines for disclosure of the news of the analysis or sending of a transaction as STR by coincidence with some designated in the lists of the UNSCR.

TC332. In the case of agents operating in the securities market, prudential sanctions are regulated by Law No. 587. Notwithstanding the foregoing, there is no special regulation that establishes a system of sanctions for non-compliance with AML/CFT regulations, except regarding compliance with R. 6, which was incorporated into the sectoral regulation through Resolution CD-SIBOIF-909-1 -SEPT29-2015, dated September 29, 2015.

TC333. Regarding insurance, Law No. 733 establishes the corresponding sanctioning framework, which is developed by Resolution No. CD-SIBOIF-803-1-OCTU18-2013, dated October 18, 2013, and establishing a range of fines of USD 5,000 to USD 60,000 for failure to implement the relevant AML/CFT regulation, describing a catalog of infringements and the amount of the corresponding fine. Under this resolution, it is possible to impose a fine of a monthly salary on those who, in their capacity as director, official manager or compliance officer, do not perform or perform poorly their functions or responsibilities related to the operation of the AML/CFT preventive system.

TC334. In the case of companies regulated by CONAMI, Law No. 769 establishes the legal sanctioning framework in its Section 60 with the power to impose fines with an amount of USD 500 to USD 10,000. The empowering standard is Resolution CD-CONAMI-011-01MAY06-2013, dated May 6, 2013, which describes the infraction behavior in the matter of ML/TF prevention and the applicable fine range.

TC335. Finally, Law No. 793 establishes for the UAF the possibility of imposing a fine on unsupervised RSs, ranging from USD 10,000 to USD 500,000, that refuse to inform, report, give information or give false information to the UAF. Notwithstanding the foregoing, these sanctions are not available to be applied against the finding of non-compliance in the implementation of the AML/CFT prevention and detection model in the terms indicated in Section 15 of the same Law.

Weighting and conclusion

TC336. The sanctions regime does not cover all the hypotheses raised by the Standards. On the other hand, there are other categories of FIs and DNFbps that are not RSs and are not subject to sanctions. **The rating under Recommendation 35 is Partially Compliant.**

Recommendation 36 – International instruments

TC337. *Criterion 36.1* Nicaragua has signed and ratified the Vienna Convention through Decree A.N. 061 of December 13, 1989, the Palermo Convention through Decree No. 3246 of February 13, 2002 and Decree 62-2002 of June 18, 2002, the United Nations Convention against Corruption (Merida Convention) by Decree A.N. 4374 of October 13, 2005 and Decree 102-2005 of December 16, 2005, the Convention for the Repression of TF by Decree 3287 of April 24, 2002, and Decree 79-2002, of August 30, 2002.

TC338. *Criterion 36.2* Nicaragua has implemented the Vienna Convention, the Palermo Convention, the Merida Convention and the TF Convention through the incorporation of the necessary provisions into its domestic legal system, particularly in the Criminal Code, Criminal Procedure Code, Law No. 735, Law No. 793, Law No. 681, administrative regulations of the UAF, SIBOIF and CONAMI, however, the deficiencies in the definition of the crime of ML and TF prevent full enforcement of this criterion.

Weighting and conclusion

TC339. Nicaragua is part of the Conventions required by the Standard, however, there are deficiencies in the definition of the offenses of ML and TF, therefore, **the rating under Recommendation 36 is Largely Compliant.**

Recommendation 37 – Mutual legal assistance

TC340. *Criterion 37.1* Nicaragua can provide MLA in the area of investigations, prosecutions and procedures, in terms of the international treaties to which it is a signatory, Vienna Convention, Palermo Convention, Merida Convention, TF Convention, Inter-American Convention on MLA, Inter-American Convention against Corruption; MLA Treaty on Criminal Matters between the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, the Inter-American Convention against Terrorism, the Central American Convention for the Prevention and Suppression of the Crime of ML, related to the Illicit Drug Trafficking and related crimes.

TC341. Likewise, Law No. 735 establishes that Nicaragua can collaborate through its competent entities in the investigations, processes and police, fiscal and judicial proceedings, related to the crimes to which this Law refers. In addition, the judicial authorities, the PPO, the NP and the Army have the power to render and request international assistance, as established by the international instruments signed by Nicaragua, or, if applicable, through MINREX, in operative acts, acts of investigation and judicial processes (Sections 93 and 95). However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC342. *Criterion 37.2* The AGO is the central authority to refer and execute MLA requests within the scope of the following international instruments: Vienna Convention, Palermo Convention, Merida Convention, Convention for the Repression of TF. The AGO has a Manual of Procedures and through SISCAP it keeps track of the requests received and sent, as well as the details of each one.

TC343. *Criterion 37.3* MLA is not prohibited, nor is it subject to unreasonable or undue restrictive conditions, the only restrictions are those that specifically establish the instrument relied upon. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC344. *Criterion 37.4* According to its legal framework, Nicaragua does not deny MLA for tax matters. However, since the foundation used is the Inter-American Convention on Mutual Assistance in Criminal Matters, Art. 9, f, provides that assistance may be refused when "the request pertains to a tax crime" and there is no provision in domestic law to clarify such provision, it is understood that under the circumstances, assistance may be denied.

TC345. On the other hand, MLA can not be refused for reasons of secrecy or confidentiality of FIs or DNFBPs, except that it is obtained in circumstances in which it applies the legal professional privilege or legal professional secrecy.

TC346. *Criterion 37.5* International conventions and agreements signed by Nicaragua include specific provisions requiring the confidentiality of evidence or information submitted. With regard to the MLA Treaty, confidentiality does not apply to all MLA requests since it is only applicable between the signatories of the treaty. Thus, there are no legal provisions of domestic law that guarantee that the confidentiality of all MLA orders must be maintained.

TC347. *Criterion 37.6* Nicaragua does not require double criminality to provide mutual legal assistance when it does not involve coercive actions. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC348. *Criterion 37.7* In Nicaragua, the principle of double criminality does not require that the crimes in the laws of the countries involved use the same terminology, but that the facts constitute crimes in both countries. (Criminal Code, Section 18). However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

Criterion 37.8 The range of investigation techniques mentioned in Recommendation 31 may also be used to respond to MLA requests; however, it should be considered that:

- (a) As provided by Law No. 735, Section 95, there is no searching authority.
- (b) It is not clear that the techniques referred to in Section 95 of Law No. 735 allow to cooperate in matters of undercover operations, interception of communications and access to computer systems.

Weighting and conclusion

TC349. Nicaragua has a legal framework that allows the performance of MLA, however, domestic law must include express provisions to guarantee the confidentiality of any MLA application, and clarify if it is possible for the country to refuse to give assistance in tax crime cases. Additionally, Nicaragua should be able to give assistance in matters of undercover operations, interception of communications and access to computer systems. Also, deficiencies in the criminalization of the ML and TF offenses may limit MLA possibilities. Therefore, **the rating under Recommendation 37 is Largely Compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

TC350. *Criterion 38.1* Within the framework of Law No. 735, law enforcement authorities may provide and request assistance to other States in operative actions, investigative acts and judicial processes, such as: conducting inspections and seizures and preventive embargoes, examining and inspecting objects and places, identifying or locating the proceeds of crime, property, instruments or other elements for evidentiary purposes. Within the scope of the mentioned Law, it is also possible to practice the immobilization of funds as a precautionary measure (Section 95). Confiscation, on the other hand, can only be ordered by a judicial authority (Criminal Code Section 112). However, confiscation of property of an equivalent value is not provided for in such law. Additionally, deficiencies in the criminalization of the ML (of a minor nature) and TF offenses deter the full compliance with this Criteria.

TC351. *Criterion 38.2* Confiscation without conviction is contrary to the principle of jurisdictional and enforcement guarantees established in the Criminal Code (Section 6).

TC352. *Criterion 38.3* Nicaragua can coordinate with other countries to carry out seizure actions in terms of Law No. 735 (Sections 43, 44 and 95) and United Nations Convention against Transnational Organized Crime. The Administration Unit of Seized, Forfeited and Abandoned Assets from illicit activities is in charge of the reception, administration, storage, custody, investment, auction, donation, return or destruction of assets, objects, products and instruments from organized criminal activities. However, deficiencies in the criminalization of the ML (of a minor nature) and TF offenses deter the full compliance with this Criteria.

TC353. *Criterion 38.4* There is no provision contrary to sharing confiscated property with other countries. However, there is no legislation regulating and integrating into domestic law the provisions that are established in the United Nations Convention against Transnational Organized Crime and in the Inter-American Convention against Corruption, instruments of which Nicaragua is part.

Weighting and conclusion

TC354. Nicaragua does not have provisions regarding the confiscation of assets of equivalent value, and it is not in a position to cooperate in the case of confiscation without conviction, in addition, the minor deficiencies in the criminalization of the ML and the TF limit the capacity to cooperate in the matter, therefore, **the rating under Recommendation 38 is Largely Compliant.**

Recommendation 39 – Extradition

TC355. *Criterion 39.1* Nicaragua may execute requests for extradition:

- (a) Both for ML and for TF.
- (b) The Criminal Code provides that the extradition will be carried out in the terms established in the Constitution of Nicaragua and the international instruments ratified (Sections 17 and 18). It also establishes extradition requirements. The procedure is carried out in accordance with the Criminal Procedure Code (Section 356).
- (c) The Criminal Code does not establish unreasonable or undue restrictive conditions for extradition.

TC356. However, deficiencies in the criminalization of the ML (of a minor nature) and TF offenses deter the full compliance with this Criteria.

TC357. *Criterion 39.2* Regarding extradition, Nicaragua:

- (a) Applies the principle of non-delivery of nationals (CPN, Section 43).
- (b) It must judge its nationals in cases in which it denies the extradition of a national. (Criminal Code, Section 19).

TC358. However, deficiencies in the criminalization of the ML (minor ones) and TF offenses deter the full compliance with this Criteria.

TC359. *Criterion 39.3* The principle of double criminality does not require that the crimes in the laws of the countries involved use the same terminology, but that the facts constitute crimes in both countries. (Criminal Code, Section 18), therefore, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC360. *Criterion 39.4* The Criminal Procedure Code (Section 335) establishes an urgent informal extradition procedure. In accordance with the foregoing, extradition may be requested by any means of communication, provided that there is an arrest warrant against the accused and a promise to comply with the requirements indicated for the procedure. In this case, the necessary documents must be presented to the Embassy or Consulate of the Republic, no later than the following ten days to be counted as from the arrest of the accused. The Court on Criminal Matters of the SCJ must be notified immediately and the documentation must be sent in order for it to be informed and resolve. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

Weighting and conclusion

TC361. The legal provisions of Nicaragua concerning extradition are in line with what is required by this Recommendation, deficiencies in the criminalization of the ML (minor ones) and TF offenses imply that in certain cases the extradition may be rejected for non-compliance with requirements. Due to the abovementioned, the **rating under Recommendation 39 is Largely Compliant**.

Recommendation 40 – Other forms of international cooperation

TC362. *Criterion 40.1* Nicaragua has a broad legal framework to provide international cooperation in different areas. This legal framework includes provisions applicable to regulators and supervisors of the financial system and DNFBPs, as well as law enforcement authorities. The exchange may be spontaneous or upon request.²⁰ However, deficiencies in the criminalization of the ML (minor ones) and TF offenses deter the full compliance with this Criteria.

TC363. *Criterion 40.2* The competent authorities in Nicaragua have a broad legal basis to provide cooperation and are authorized to use the most efficient means to cooperate. In this regard, they have developed manuals and signed agreements to exchange information and cooperate through secure transmission and enforcement mechanisms of requests. The UAF has the Manual of Information Exchange in which the processes of prioritization and execution are not identified, in order to respond in a timely manner to requests for international cooperation. Moreover, deficiencies in the criminalization of the ML (minor ones) and TF offenses deter the full compliance with this Criteria.

TC364. *Criterion 40.3* Nicaragua has signed bilateral and multilateral cooperation agreements for the exchange of information and international cooperation, including Nicaragua's adherence to the Convention on Mutual Administrative Assistance in Tax Matters of the OECD and the MLA Treaty between the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

TC365. The SIBOIF has signed the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions. What is more, it is also signatory of nine bilateral agreements.

TC366. The DGA has signed the Multilateral Agreement on Cooperation and Mutual Assistance among the National Directorates of Customs of Latin America, Spain and Portugal (COMALEP).

TC367. On the other hand, the UAF has signed 15 Bilateral Memoranda of Understanding and a Regional Memorandum which includes the countries of Central America Mexico, Colombia and the Dominican Republic.

TC368. The PPO is part of the Ibero-American Association of Public Prosecutors, of the Central American and Caribbean Council of Public Prosecutors, it has been working in coordination with the Security Commission of the Central American Integration System (SICA), joining efforts in the implementation of some of the components of the Central American Security Strategy (ESCA). It is part of the Prosecutor Network against Organized Crime (REFCO), a platform for cooperation between Specialized Prosecutors in the fight against organized crime in Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and the Dominican Republic.

²⁰ Law No. 793, Sec. 4; Law No. 316, Sec. 3; Law No. 769, Sec. 6; Law No. 561, Sec. 157; Law No. 562, Sec. 27, 146; Law No. 339, Sec. 5; Law No. 346, Sec. 10; Law No. 872, Sections 7, 13; Law No. 260, Section 33; CPP, Section 138; Decree 07-2013, Section 13, Decree 19-2009, Section 5, 27; Decree 133-2000, Section 27, 35; memorandum of understanding signed by the UAF.

TC369. Nicaragua also has an INTERPOL National Central Office (OCN - Interpol). In addition, the NP of Nicaragua is a member of the Commission of Chiefs and Police Officers of Central America, Mexico, the Caribbean and Colombia.

TC370. Nicaragua is part of the Central American Treaty on the Recovery and Return of Stolen, Appropriated or Illicitly Retained Vehicles.

TC371. *Criterion 40.4* The Nicaraguan legal framework does not prohibit providing feedback on the usefulness of information received from the authorities of the countries that have provided assistance. According to the Manual on International Information Exchange, the UAF must provide feedback annually or at the request of the homologous financial intelligence unit on the use and quality of the information obtained.

TC372. *Criterion 40.5* Restrictions on the exchange of information or assistance are provided for in treaties, conventions, and international instruments signed and ratified by Nicaragua. Specifically for the case of the UAF, the following are grounds for rejection:

- When it contradicts the domestic legislation or international commitments entered into by the requested State Party.
- When it causes or could cause damage to the sovereignty, security, public order or other substantial interests of the State of the requested party.
- When there is no certainty that the party will operate with reciprocity.
- When the offenses are pursued for a political reason.

TC373. Even when not forbidden, nor when there are restrictive, few reasonable or undue conditions for the exchange of information or assistance, deficiencies in the criminalization of the ML (minor ones) and TF offenses deter the full compliance with this Criteria.

TC374. *Criterion 40.6* It can be evidenced that Nicaragua has controls and safeguards to ensure that the information exchanged is used only for the purposes requested. Law No. 393 Section 4 provides that UAF officials must keep reserve of the information obtained and requested; in the same sense, the provisions of the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions provide for the obligation to protect the information.

TC375. *Criterion 40.7* Nicaraguan authorities are subject to the obligations of protection and confidentiality of the information established in the applicable domestic legal framework. In addition, information exchanged on the basis of international treaties, agreements, conventions and instruments signed and ratified by the country must be treated and submitted to the controls and mechanisms to safeguard it as established in those mechanisms.

TC376. *Criterion 40.8* Competent authorities may conduct preliminary investigations in accordance with the following:

- The Superintendent of Banks may enter into agreements for the exchange of information or cooperation with financial supervisors of an international nature to carry out inspections in places where members of a financial group operate and any other agreement necessary for consolidated supervision. Such information must be used exclusively for supervisory purposes, the counterparty can not disclose data to third parties without prior authorization. (Law No. 561, Section 157). However, that information that is required to be used as evidence must be channeled through MLA.

- The Prosecutor's Office Unit may also carry out exchanges of information and evidence with other public ministries or prosecutors and investigative agencies of other countries, in order to ensure the effectiveness of criminal prosecution.
- The NP may also sign cooperation agreements, establish or develop relations of exchange and mutual collaboration with counterparts in other countries or with regional or international police agencies. (Law No. 872, Section 13).

TC377. *Criterion 40.9* The UAF has the authority to exchange information with counterparts in other countries, as well as to create mechanisms for such exchanges. Between 2012 and 2015, it has signed fifteen Memoranda of Understanding with its counterparts of: Guatemala, Chile, Peru, China Taiwan, Venezuela, Bolivia, Cuba, Mexico, Honduras, Colombia, Paraguay, Argentina, Panama, Brazil, Costa Rica and the GAFILAT. In addition, the UAF has an international information exchange manual. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC378. *Criterion 40.10* The Manual of international information exchange establishes that the UAF should provide feedback to its counterparts by the exchange of information on an annual basis or upon request in relation to the use and quality of the information obtained through the exchange of information.

TC379. *Criterion 40.11* In accordance with Law No. 793, Section 13, the UAF may directly exchange any information it has in the exercise of its functions, either within the framework of the Memorandum of Understanding or under the principle of reciprocity.

TC380. *Criterion 40.12* Financial supervisors, SIBOIF, CONAMI and the UAF have a legal basis to cooperate with their foreign counterparts.²¹ Specifically, the SIBOIF has signed the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions and has nine bilateral agreements signed for such purpose.

TC381. *Criterion 40.13* SIBOIF, CONAMI and the UAF have a legal basis to exchange information with their foreign counterparts by way of the signing of agreement for the exchange of information and cooperation.

TC382. *Criterion 40.14* The SIBOIF, in its capacity as signatory of the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions, is empowered to reciprocally report on its regulatory systems, supervisory procedures and nature and extent of the consolidated supervision to be carried out.

TC383. *Criterion 40.15* The Superintendent of Banks may enter into agreements for the exchange of information or cooperation with financial supervisors of an international nature to carry out inspections in places where members of a financial group operate and any other agreement necessary for consolidated supervision. Such information must be used exclusively for supervisory purposes, the counterparty can not disclose data to third parties without prior authorization. (Law No. 561, Section 157).

²¹ Law No. 793, Section 4; Law No. 316, Section 3; Law No. 587, Section 177; Law No. 733, Section 6; Law No. 769, Section 6.

TC384. *Criterion 40.16* The SIBOIF, in its capacity as signatory of the Multilateral Memorandum on Information Exchange and Mutual Cooperation for Consolidated Cross-border Supervision among Members of the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions must communicate to the supervisory authority providing the information, if obliged to do so, as per the applicable legislation of its jurisdiction, to disclose to a third party the information obtained based on this Memorandum and state the reasons for such obligation. (Para. VII). Such information received by means of the exchange or cooperation with homologous financial authorities must be used exclusively for supervisory purposes, the Nicaraguan counterparty can not disclose data to third parties without prior authorization. (Law No. 561, Section 157). Such information that is required to be used as evidence must be channeled through MLA.

TC385. *Criterion 40.17* The NP and PPO may exchange information for purposes of intelligence and investigation of ML, associated predicate offenses or TF, including identification and tracking of proceeds and instrumentalities of crime (Law No. 872, Sections 7, 13; Law No. 346, Section 10). The NP is a member of the Commission of Chiefs and Police Officers of Central America, Mexico, the Caribbean and Colombia, it participates within its scope of competence in the Central American Treaty on the Recovery and Return of Stolen, Appropriated or Illicitly Retained Vehicles to which Nicaragua is a party, as well as the International Drug Enforcement Conference (IDC). On the other hand, the PPO is part of the Prosecutor Network against Organized Crime (REFCO), a platform for cooperation between Specialized Prosecutors in the fight against organized crime in Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and the Dominican Republic.

TC386. *Criterion 40.18* Law enforcement authorities may use their powers to conduct searches and obtain information on behalf of their foreign counterparts, in accordance with Criterion 40.8.

TC387. The INTERPOL National Central Office (OCN - Interpol) is the special division of the PN that serves as a liaison with the International Criminal Police Organization and member countries of that organization for the exchange of information related to captures, extraditions and deportations of fugitives or people circulated and other topics of interest. Provide authorized users with the system of publication of Interpol and national notifications against organized crime. (Section 17, Subsection 20 of Law No. 872). The INTERPOL National Central Office (OCN - Interpol) has the Communication System I-24/7 through which they receive and send information requests on capture and extradition, location, background, among others.

TC388. *Criterion 40.19* The PPO has the authority to request technical support from national and foreign advisors or experts from public or private entities to form interdisciplinary investigation teams for specific cases. (Law No. 346, Section 10, Subsection 8).

TC389. On the other hand, the AGO may enter into collaboration agreements with the NP and National and International Information Services for the investigation of criminal acts. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

TC390. *Criterion 40.20 (Mostly Met)*. Nicaragua's legal framework does not impose restrictions on the exchange of information in an indirect manner with non-counterpart authorities. However, deficiencies in the criminalization of the ML and TF offenses deter the full compliance with this Criteria.

Weighting and conclusion

TC391. Deficiencies in the criminalization of ML (these being of a minor nature) and TF may limit the cooperative capacity of the Nicaraguan authorities, and processes of prioritization and execution of



requests for international cooperation should be established to ensure that they are met timely, therefore, **the rating under Recommendation 40 is Largely Compliant.**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. <i>Assessing risks & applying a risk-based approach</i>	PC	<ul style="list-style-type: none"> • The participation of sectors, especially DNFBPs, was necessary in the process of preparing the NRA, restricting outcomes. • There is no evidence showing an allocation of resources based on the risk as per NRA outcomes for the relevant institutions. • FIs (factoring, financial leasing y IFIMFs beyond the monitoring of CONAMI) and DNFBPs (except casinos) are not RSs, and therefore, they are not regulated and they do not have any supervisory dedicated body.
2. <i>National cooperation and coordination</i>	LC	<ul style="list-style-type: none"> • The country lacks legislation and coordination mechanisms for the FPWMD. • The limitations in the NRA (see Criterion 1.1) have an impact on the design of the National Strategy.
3. <i>Money laundering offense</i>	LC	<ul style="list-style-type: none"> • The ML criminal type does not cover the conduct of "possession". • Deficiencies in R. 5 affect enforcement of R. • The definition of property of Section 2 of Law No. 735 applies only to the list of crimes established therein, but not for other predicate offenses. • There are no sanctions established for legal persons autonomously and directly.
4. <i>Confiscation and provisional measures</i>	LC	<ul style="list-style-type: none"> • Confiscation of property of an equivalent value is not provided for. • Deficiencies in criminalization of ML and TF affect enforcement of this R.
5. <i>Terrorist Financing offense</i>	PC	<ul style="list-style-type: none"> • The criminalization of the behaviors set forth in the Annex to the TF Convention is partial. • The TF criminal type should refer to "a population" or "a government" in general. • The financing of the individual terrorist is not sanctioned. • The criminal type does not cover the financing of the travel of individuals for the purpose of perpetrating, planning, preparing or participating in terrorist acts or providing or receiving terrorist training. • There are no sanctions established for legal persons autonomously and directly.
6. <i>Targeted financial sanctions related to terrorism and terrorist financing</i>	LC	<ul style="list-style-type: none"> • There is no express prohibition to provide funds to persons listed under UNSCR 1267 and 1373. • The obligation of urgent immobilization without prior notice of funds or assets of persons and entities designated is limited to FIs and DNFBPs under the scope of Law No. 793.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> There is no regulation to comply with the UNSCR for FPWMD.
8. Non-profit organizations	PC	<ul style="list-style-type: none"> Lack of adequacy of laws and regulations applicable to NPOs, which should include AML/CFT provisions. It is necessary to ensure that the relevant authorities can take effective and proportionate actions to identified risks. There are no proportional nor dissuasive sanctions regarding AML/CFT. Authorities still need to implement monitoring and supervising measures with a RBA. It is also necessary to implement actions for liaison and educational programs to raise awareness about the NPOs sector risks.
9. Financial institution secrecy laws	LC	
10. Customer Due Diligence	PC	<ul style="list-style-type: none"> Some FIs are not covered by the provisions. FIs supervised by SIBOIF and CONAMI do not have the requirement to establish a threshold or the structuring of the operations for occasional clients. Regarding adopting CDD measures on occasional transactions through electronic transfers, criteria 16.2, 16.3 and 16.14 are not applied for money remitters and institutions supervised by CONAMI. It affects the provisions of CDD of trusts the fact that the figure of "professional trustee" is not provided for in Law No. 741. The definition of beneficial owner applicable to FIs regulated by SIBOIF do not include all elements provided for in the Standard, since the law includes legal persons in the definition of beneficial owner.
11. Record keeping	PC	<ul style="list-style-type: none"> There is no provision under any Law for specific obligations to keep for a period of five years all records on both domestic and international transactions and records obtained through CDD measures. Some FIs are not covered by AML/CFT provisions.
12. Politically Exposed Persons	PC	<ul style="list-style-type: none"> PEPs are not included as such in the case of persons who are or have been entrusted with prominent functions by an international organization to members of senior management of CONAMI. UAF regulations do not specify if there are measures to state the origin of the wealth of customers and beneficial owners identified as PEPs. CONAMI regulations do not specify the origin of the wealth and funds of customers and beneficial owners identified as PEPs.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> Some FIs are not covered by AML/CFT provisions.
<i>13. Correspondent banking</i>	C	
<i>14. Money or value transfer services</i>	PC	<ul style="list-style-type: none"> There are no actions to identify those who provide MVTSS without a license or without registration, nor are there sanctions applicable for such cause. There is no power for the UAF to carry out supervision and to issue respective sanctions for non-compliance. Training is not mandatory for agents of MVTSS providers, nor compliance with their AML/CFT programs is monitored.
<i>15. New technologies</i>	PC	<ul style="list-style-type: none"> There are no provisions for the country to identify and evaluate it. Some FIs are not covered by these provisions.
<i>16. Wire transfers</i>	LC	<ul style="list-style-type: none"> There are no provisions to address Criterion 16.3 by remittance companies and Criterion 16.14 regarding record-keeping.
<i>17. Reliance on third parties</i>	LC	<ul style="list-style-type: none"> Some FIs are not covered by these provisions.
<i>18. Internal controls and foreign branches and subsidiaries</i>	LC	<ul style="list-style-type: none"> Some FIs are not covered by these provisions. There is no provision for FIs regulated by the UAF to establish that the Compliance Officer has a managerial level.
<i>19. Higher-risk countries</i>	LC	<ul style="list-style-type: none"> Some FIs are not covered by these provisions. There is no evidence of Nicaragua applying countermeasures.
<i>20. Reporting of Suspicious Transactions</i>	PC	<ul style="list-style-type: none"> There is no direct mandatory obligation in the law for FIs to report transactions and attempts at suspicious transactions. Some FIs are not covered by AML/CFT provisions, hence, they are not obliged to file STRs. Deficiencies in criminalization of ML and TF affect enforcement of R. 20.
<i>21. Tipping-off and confidentiality</i>	PC	<ul style="list-style-type: none"> Lack of express obligation in STR Law. Some FIs are not covered by AML/CFT provisions, hence, they are not obliged to file STRs. In consequence, they are not protected regarding civil or criminal liability derived from the disclose, nor are they obliged to any secrecy.
<i>22. DNFBPs: Customer Due Diligence</i>	NC	<ul style="list-style-type: none"> Real estate agents, dealers of metals and precious stones, lawyers, notaries public, other legal professionals and independent accountants are not covered by this provision since they are not regulated.
<i>23. DNFBPs: Other measures</i>	NC	<ul style="list-style-type: none"> DNFBPs mentioned in Subsections (a) and (b) of Criterion 22.1 are not included as RSs, thus, this R. is not met. There is no obligation for DNFBPs to report transactions if they have reasonable grounds to suspect that the proceeds

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		originate from a criminal activity or are related to TF, including attempts to conduct transactions.
24. <i>Transparency and beneficial ownership of legal persons</i>	NC	<ul style="list-style-type: none"> • In the case of a cascade corporate arrangement, it is not a requirement to constitute the legal person downstream, the information of upstream beneficial owners. • Nicaragua has not developed a risk assessment for each type of legal person available in the country that considers, according to its constitution and characteristics, the vulnerability and exposure to be misused for ML/TF purposes. • The information on the directors, owners and/or shareholders of the company is not updated in the Mercantile Registry, without there being an obligation, under specific penalty, to update the information. • Commercial companies are not obliged to obtain and maintain, nor to establish any requirement for registration in the Mercantile Registry, of information on the beneficial owners of commercial companies. • There is no express rule that establishes the obligation for any commercial company to cooperate with the competent authorities for the determination of the beneficial owner. • There is no express rule that establishes the obligation for legal persons and/or their respective supervisory authorities to maintain records for at least 5 years of all information about their beneficial owner at the time of its dissolution. • There are no measures in the legislation of Nicaragua to comply with any of the control mechanisms for bearer shares according to the provisions of the Recommendation. • There are no proportional and dissuasive sanctions against non-compliance with the information requirements mentioned in this Recommendation. • There are no established protocols to follow up and monitor the compliance or satisfaction of the answers received against the requests of the local authorities of information of beneficial owners or basic information of legal persons in general.
25. <i>Transparency and beneficial ownership of legal arrangements</i>	NC	<ul style="list-style-type: none"> • Under a trust figure, it is not possible to determine who will be the natural person(s) exercising control in cases where the remainderman is a legal person. • There is no obligation in the Law regarding the preservation of the identification information of the participants in the trust or trust service providers, advisors, investment managers, accountants, or tax advisors. • Only for those supervised by SIBOIF and CONAMI there is a record-keeping obligation for the period indicated. • There is no requirement to update the information provided for the constitution of the trust.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • There is no express obligation for the trustee to actively disclose to the FI or DNFBP, with which it establishes a business relationship, that it is acting in that capacity with respect to the funds that are part of the mentioned commercial relation. • Only where the trustee service is provided by a FI for which banking secrecy applies, information about the trustor or remainderman can not be delivered to another FI or DNFBP with which it establishes a commercial relationship in exercise of the obligations that as administrator of the trust must be executed by the trustee. • There are no sanctions set forth in the law to ensure the availability and updating of information related to the trustor, remainderman and acts executed in the administration of the trust assets. • Except as provided for in Law No. 793, Section 9, para. 2, the legislation does not provide for specific sanctions for non-delivery of information on the trust to the competent authorities.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> • Nicaraguan legislation does not include all financial sectors within the legal framework for AML/CFT prevention and detection.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • Nicaraguan legislation does not include all financial sectors within the legal framework for AML/CFT prevention and detection. • With regard to STRs and other mandatory reports sent to the UAF, supervisors do not have the authority to request this information for the purpose of verifying and reviewing the timeliness, quality and completeness of the reports. • In the case of SIBOIF, applicable sanctions do not include the possibility of withdrawing the license or operating authorization for violations to AML/CFT regulations.
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> • There are no measures to prevent criminals' accomplices from participating in the casino as shareholder, partner, director, manager, agent or worker. • They are not included as RSs by law to other DNFBPs, nor any other additional category included by the country. Moreover, it does not identify an AML/CFT supervisory body with authority to verify regulatory compliance.
29. Financial Intelligence Units	C	
30. Responsibilities of law enforcement and investigative authorities	C	

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
<i>31. Powers of law enforcement and investigative authorities</i>	LC	<ul style="list-style-type: none"> Deficiencies in the criminalization of the ML and TF offenses directly impact on the investigation capacity of the law enforcement authorities.
<i>32. Cash Couriers</i>	LC	<ul style="list-style-type: none"> Related resources (money or bearer securities) are not allowed to be held in case of omission or falsehood in the declaration.
<i>33. Statistics</i>	LC	<ul style="list-style-type: none"> There are statistics requiring updating. The timely collection of information is limited by the lack of digitization of the information.
<i>34. Guidance and feedback</i>	LC	<ul style="list-style-type: none"> There are other categories of FIs and DNFBPs that are not considered RSs.
<i>35. Sanctions</i>	PC	<ul style="list-style-type: none"> The sanctions regime does not cover all the hypotheses raised by the Standards. There are other categories of FIs and DNFBPs that are not RSs by law and are not subject to sanctions.
<i>36. International instruments</i>	LC	<ul style="list-style-type: none"> Deficiencies in criminalization of ML (minor ones) and TF affect enforcement of this Recommendation.
<i>37. Mutual legal assistance</i>	LC	<ul style="list-style-type: none"> Deficiencies in criminalization of ML (minor ones) and TF restrict the capacity of the authorities to provide MLA.
<i>38. Mutual legal assistance: freezing and confiscation</i>	LC	<ul style="list-style-type: none"> No confiscation of goods of equivalent value is provided for, nor is it possible to cooperate in cases of confiscation without a conviction. Deficiencies in criminalization of ML (minor ones) and TF may imply limitations to cooperate in matters of freezing and confiscation.
<i>39. Extradition</i>	LC	<ul style="list-style-type: none"> Deficiencies in criminalization of ML (minor ones) and TF limit the capacity of Nicaragua to cooperate in matters of extradition with other countries.
<i>40. Other forms of international cooperation</i>	LC	<ul style="list-style-type: none"> Deficiencies in criminalization of ML (minor ones) and TF may limit other forms of international cooperation.



The Financial Action Task Force of Latin America (GAFILAT) is a regionally based inter governmental organization that gathers 16 countries from South America, Central America and North America in order to combat money laundering and terrorist financing by means of a commitment for continuous improvement of the national policies against both scourges, and the enhancement of different cooperation mechanisms among its member countries.

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