



Anti-money laundering and counter-terrorist financing measures

The Federal Republic of Nigeria

AUGUST 2021

**Mutual Evaluation
Report**





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

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Executive Summary

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in the Federal Republic of Nigeria (Nigeria) as at the date of the on-site visit (23 September 2019 to 14 October 2019). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Nigeria's AML/CFT system. It provides recommendations on how the system could be strengthened.

Key Findings

- a) Nigeria has undertaken positive steps to increase its risk understanding, and authorities demonstrated a broad general understanding of the types of ML risks facing the country, both through its AML/CFT National Risk Assessment and other related studies. Although Nigeria recognises the wide range of both ML and TF threats and vulnerabilities it faces, the depth and sophistication of its understandings of key ML risks, including of corruption and fraud, legal persons (including free zone enterprises (FZEs)) and politically exposed persons (PEPs), are underdeveloped considering their complexity, materiality and scope. Nigeria's understanding of TF risks is significant, but could be improved in material respects, e.g., with regards to cross-border flows and formal financial sector vulnerabilities.
- b) Law enforcement agencies (LEAs) access financial intelligence and other relevant information to develop evidence and trace criminal proceeds related to ML, predicate offences and TF. Proactive and reactive disseminations by the Nigerian Financial Intelligence Unit (NFIU), to some extent, support the operational needs of LEAs. However, the use of financial intelligence by LEAs remains limited due to the (i) low level of LEAs' feedback to the NFIU, (ii) limited scope of entities that file suspicious transaction reports (STRs) (iii) lack of reporting on cross-border movement of bearer negotiable instruments (BNIs) and inbound cross-border movement of currency disclosures due to the low level of implementation of these systems; and (iv) the limited scope of institutions from which the NFIU requests additional information to support its analysis.
- c) Several agencies are designated to investigate and prosecute ML cases. However, there is limited or lack of coordination among these agencies. LEAs, including the Economic and Financial Crimes Commission (EFCC), do not prioritise ML investigations and focus primarily on ML predicate offences. There are also technical compliance deficiencies related to Recommendation 3 (criteria 3.5 and 3.6). As a result, stand-alone ML offences are not pursued, nor are those related to foreign predicate offences. The number of investigations, prosecutions and convictions for ML is inconsistent with the

risk profile of the country. There is no reliable data to determine if the sanctions applied to natural and legal persons for ML are proportionate and dissuasive.

- d) Nigeria lacks an explicit policy to confiscate the proceeds and instrumentalities of crime or property of equivalent value. The country did not demonstrate effective seizure and confiscation of all types of proceeds and instrumentalities of crime, including TF. The legal framework is deficient on asset-sharing and formal arrangements for assets sharing with foreign countries for purposes of restitution. The authorities have not effectively utilised the physical cross-border declaration system to seize or confiscate falsely declared or undeclared currency and bearer negotiable instruments (BNIs).
- e) Understanding of ML/TF risks varies across the private sector. The larger commercial banks and those affiliated with international groups have a good understanding of these risks. In contrast, the non-bank financial sector (such as foreign exchange dealers (forex dealers)), microfinance banks (MFBs) and insurance intermediaries) have a low level of understanding of ML/TF risks. The level of supervision of registered/licensed forex dealers is not commensurate with the risk of the sector. At the same time, thousands of forex dealers operate informally and are entirely unsupervised. FIs are required in addition to customer due diligence (CDD) measures to put in place appropriate risk management systems to determine whether a potential customer, existing customer or beneficial owner is a PEP. FIs, particularly banks, do submit monthly return on PEPs to the Central Bank of Nigeria (CBN) and the Nigerian Financial Intelligence Unit (NFIU). Relevant supervisors (CBN, Securities and Exchange Commission (SEC) and the National Insurance Commission (NAICOM)) implement risk-based frameworks for core principles financial institutions (FIs). The CBN is gradually extending the same to other financial institutions (OFIs) under its supervision.
- f) The Special Control Unit against Money Laundering (SCUML) has a general understanding of Nigeria's and sectoral ML/TF risks. However, SCUML lacks resources to supervise DNFBPs due to the composition and size of the sector. Self-regulatory bodies for DNFBPs have a low understanding of ML/TF risks and the AML/CFT obligations of the businesses and professions in their sectors. Supervisors have applied limited sanctions against financial institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) (collectively referred to as "reporting entities") for non-compliance with AML/CFT requirements. Lawyers are not subject to AML/CFT obligations due to a December 2014 judicial decision currently on appeal at the Supreme Court. Internet casinos exist in Nigeria, but are neither covered by AML/CFT requirements nor supervised for such purposes. A large number of unregistered/unlicensed dealers in precious metal and stones (DPMS) and car dealers, both designated as DNFBPs, are operating within the country.

- g) Reporting entities are obliged to collect and maintain beneficial ownership information (BO information) of legal persons before they establish a business relationship with them. Competent authorities, including LEAs, can access this information along with basic information held by the Corporate Affairs Commission (CAC). However, CAC does not have a mechanism in place to systematically collect and maintain BO information, and this impacts the transparency and verification of beneficial owners of legal persons.
- h) Nigeria did not demonstrate effective legal and operational frameworks for seeking international cooperation, including the recovery and repatriation of assets. Nigeria did not demonstrate that it prioritises and provides constructive information or assistance, including adequate, accurate and current basic and BO information of legal persons promptly. Nigeria recently enacted the Mutual Legal Assistance in Criminal Matters Act, 2019 (MLACMA) to streamline processes for mutual legal assistance (MLA).
- i) Nigeria has a significant but incomplete understanding of its TF threats and risks. It lacks adequate insight into Boko/ISWAP's international linkages and abuse of the formal financial and commercial sector. The authorities do not prioritise TF investigations, as there are only a few TF prosecutions and convictions which do not reflect Nigeria's TF risk profile. The Department of State Services (DSS), Nigeria's lead counter-terrorism agency, has significant ability to identify and investigate TF activity. It conducts parallel financial investigations in conjunction with terrorism investigations. However, there is little evidence of the effectiveness of such efforts. The content of TF-related STRs submitted to the NFIU have not been of demonstrable value, appearing to add little to Nigeria's CFT efforts. Nigeria has extended AML/CFT requirements on the Not-for-profit (NPO) sector which is not in line with the FATF requirements and does not reflect a risk-based approach.
- j) Nigeria does not implement targeted financial sanctions (TFS) without delay, and reported no frozen assets of designated terrorists. Nigeria has not conducted a sectoral risk assessment of NPOs vulnerable to TF abuse in line with the risk-based approach. Authorities' understanding of NPOs' TF risks do not justify their categorisation and regulation as DNFBPs. Nigeria's implementation of TF-related TFS is inconsistent with its TF risk profile. There is no legal framework for TFS related to proliferation financing (PF). Nigeria does not otherwise implement such measures effectively.

Risks and General Situation

2. Nigeria is described as the economic “powerhouse” of West Africa, contributing over 50% of the regional GDP. The range of FIs, except internet casinos and most of the DNFBPs are subject to AML/CFT requirements. The DNFBPs operate throughout the country to facilitate financial business (though mostly absent from the North-East conflict zone). Nigeria presents significant complexity when

considering its ML/TF risks and materiality. This challenge results from factors that include a broad range of commercial activities conducted in the country (e.g., financial, economic, corporate, trade); the nature of the jurisdiction (36 Federal States, six geo-political zones, and fourteen active financial free zones); and the degree of AML/CFT supervision of reporting entities. These features, among others such as the widespread use of cash throughout the economy, expose Nigeria to considerable domestic and international ML/TF risk. Nigeria is also significant source country for criminal proceeds laundered in global financial centres, particularly stemming from domestic corruption, fraud and theft.

3. The most prevalent ML predicate crimes in Nigeria include corruption, fraud (including significant levels of cybercrime like advance fee fraud), drug trafficking, maritime offences, armed robbery, arms trafficking, kidnapping, oil bunkering and human trafficking. Corruption is endemic and systemic across all sectors of Nigeria's economy, comprising a threat in itself and enabling other illicit conduct. Most of the activities connected to these crimes are domestic, with flows laundered both internally and outside the country. Proceeds generated from criminal activities conducted outside Nigeria and laundered into the country are far lower than those generated in Nigeria and transferred abroad, but still significant.

4. Nigeria faces some of the deadliest and destructive terrorist threats in the world in Boko Haram¹ and its offshoot, Islamic State West Africa Province (ISWAP), which broke away in 2015-2016². Both groups pledge allegiance to ISIS Core, which recognises only ISWAP as its official branch. Still, the groups continue to share similar aims and have generally avoided conflict with one another. Together these groups, have claimed over 36,000 lives since 2010 and operate in areas of Nigeria's North East and the broader Lake Chad region covering parts of Niger, Chad, and Cameroon.

5. Boko/ISWAP pose significant TF risks that are challenging to disrupt, operating in large part outside the formal financial and commercial system in the conflict zone. In these areas, Boko and ISWAP are mainly able to "live off the land" through a variety of means, including kidnapping for ransom, extortion and taxation, raiding, and controlling commercial activity. As with other forms of illicit financial activity, pervasive use of cash enables these groups' funding. A study estimated ISWAP's revenues, deemed larger than Boko's, at up to USD 36 million annually, much of it from trading activity and taxation in the Lake Chad region³. According to Nigerian authorities, both groups have also continued to mobilise, move and utilise funds through the formal financial and commercial system as well, accounting for a relatively small portion of TF activity. These groups also engage in international trafficking activities and as sworn adherents to the Islamic State, also have links with other regional and global terrorist networks. The authorities believe that any external support from ISIS Core may account for a small portion of ISWAP's overall revenues. However, trade with broader criminal networks that could extend to regional jihadist organisations appears to generate significant income for both Boko Haram and ISWAP.

¹ Also known as Jamaat Ahlussunnahlid-Dawa wal-Jihad, or JAS, led by Abubakar Shekau – herein referred to simply as "Boko", consistent with popular usage in Nigeria.

² Because Nigeria considers the groups as one for most intents and purposes this report will generally refer to "Boko/ISWAP", and refer to the groups individually as relevant.

³ Survival and Expansion: The Islamic State's West African Province, Global Initiative for Civil Stabilisation (April 2019).

Overall Level of Compliance and Effectiveness

6. Since 2008 when GIABA conducted its first mutual evaluation, Nigeria has improved its AML/CFT legal and institutional frameworks in line with the FATF standards. Nigeria has enacted the following laws and regulations: the Money Laundering (Prohibition) Act, 2011 (MLPA), to strengthen preventive measures on ML/TF; the Nigerian Financial Intelligence Unit Act, 2018 (NFIU) to ensure the operational autonomy of the NFIU; and the Mutual Legal Assistance in Criminal Matters Act, 2019 (MLACMA), to facilitate mutual legal assistance in criminal matters, including ML, associated predicate offences and TF; and the Terrorism Prevention Act (TPA) and the TPA Regulations to criminalise terrorist financing and implementation of TF TFS related to TF and provide for related matters. Sectoral supervisors have also issued several implementing regulations to ensure the effective implementation of these laws. Nigeria does not have a legal framework on targeted financial sanctions (TFS) concerning the United Nations Security Council Resolutions (UNSCRs) related to the financing of the proliferation of weapons of mass destruction (proliferation financing/PF) and a comprehensive proceeds of crime law to facilitate the recovery and management of proceeds of crime. Legal professionals are not subject to AML/CFT obligations due to a December 2014 judicial decision currently on appeal at the Supreme Court. This situation presents a significant concern, mainly due to their central role as gatekeepers in the overall economic and political architecture of Nigeria.

7. Nigeria has implemented an AML/CFT system that is averagely effective in some respects. Particularly, moderate results are being achieved in relation to the use of financial intelligence and supervision of reporting entities. Fundamental improvements are needed to deepen its understanding ML/TF risks and address the identified risks, including the maintenance of relevant national statistics to enable it to better understand the effectiveness of its AML/CFT regime, strengthen international cooperation, enhance the implementation of preventive measures, enhance the transparency of beneficial ownership of legal persons and arrangements, enhance the investigation and prosecution of ML/TF, increase the confiscation of proceeds and instrumentalities of crime, and to ensure the effective implementation of TFS.

8. In terms of Technical Compliance, Nigeria enhanced its legal framework with the enactment of the Money Laundering(Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011(as amended). These enactments are complemented by relevant Regulations and cover the criminalisation of ML/TF and related preventive measures. Nigeria has also enacted legislation to streamline mutual legal assistance. Despite this significant progress, Nigeria needs to improve its technical framework in relation to the criminalisation of ML, TFS, NPOs at risk of TF abuse, record keeping, PEPs, new technologies, higher-risk countries, suspicious transaction reporting, beneficial ownership of legal persons and arrangements, the regulation and supervision of DNFBPs, cash couriers, guidance and feedback.

9. The ratings of the IOs result partly from the absence of reliable, comprehensive statistics, and substantiated information regarding the activities of Nigerian authorities. The absence of relevant data and statistics significantly impede a full and accurate understanding of Nigeria's ML/TF risks and the effectiveness of its AML/CFT system. The Assessors often lacked assurance that statistics were accurate. Relevant metrics, quantitative data, and supported qualitative information were unavailable.

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

10. Overall, Nigeria recognises a wide range of ML and TF threats and vulnerabilities present in the country, as articulated most fully in its 2017 National Risk Assessment (NRA). Nigerian authorities affirmed throughout the on-site that the NRA continued to reflect their current understandings and assessments. While the Nigerian authorities have a broad understanding of the country's ML risks, there are certain gaps regarding their complexity and scope. Such deficiencies, together with other shortcomings, appear to have contributed to Nigeria's toplined rating of its ML and TF risks as "medium-high" and "medium", respectively. Both ratings underestimate and, therefore, do not reasonably reflect Nigeria's actual ML/TF risks.

11. Key among these deficiencies is that Nigeria has not conducted a detailed and comprehensive examination of ML risks related to corruption and fraud, considering their contribution to illicit financial flows. The country also lacks clear strategies to address these ML risks. Also, Nigeria has not identified and assessed the vulnerabilities or extent to which legal persons created in the country can be misused for ML/TF. Other significant discrepancies between its risk ratings and their substantiation pertain to the banking sector. Nigeria's understanding of its TF risks requires improvements in material respects, including through enhancing awareness of Boko/ISWAP's international linkages and activity through the formal financial sector.

12. Nigeria's national AML/CFT Strategy 2018-2020 has several important goals informed by Nigeria's risk understanding. Yet it also suffers from overbreadth, including large-scale economic and other initiatives well-beyond the ambit of AML/CFT authorities. At best, such an approach risks distraction from key AML/CFT activities, blurring the lines of accountability, and asynchronous undertakings and implementation. Relatedly, the AML/CFT Strategy lacks a framework for prioritisation, and its timelines are far out of date. These defects also undermine the utility of Nigeria's AML/CFT Action Plan developed under the Strategy.

13. Nigeria's understanding of its risks broadly informs the work of competent authorities in line with the findings and direction of the NRA, AML/CFT Strategy and certain supervisory policies, such as that of the CBN. Notably, however, the EFCC lacks a risk-informed enforcement framework or strategically guided priorities, including for ML-related cases. It is thus not entirely clear how this key agency's investigations and cases reflect a risk-informed set of articulated priorities. Importantly, Nigeria's treatment of DNFBPs, which it defines to include several sectors in addition to the enumerated FATF-designated entities -most notably NPOs-, appear inconsistent with the risk-based approach.

14. National coordination and cooperation on ML/TF have generally improved at the policy level since the 2008 mutual evaluation on both the formal and informal levels, but needs to be enhanced. Operational coordination on ML/TF is strong among the financial sector supervisors, but weak between SCUML and DNFBPs or their associations concerning professional entry/licensing and compliance issues, including sanctions. Operational coordination on AML/CFT among operational agencies, especially the EFCC, ICPC and NDLEA, needs to be strengthened. There is limited national cooperation and coordination on PF, amounting to occasional interactions between Customs and Nigerian intelligence agencies.

15. Supervisory authorities have a good understanding of ML risks in their sectors. However, efforts to educate entities under their supervision are mixed. The CBN and SEC have been most active

on this front, although SCUML and the NFIU have also made good efforts at socialising relevant risks. Still, outreach to DNFBP sub-sectors and other FIs is limited relative to their size and materiality.

16. As noted in R.33, the NFIU has the mandate to collect statistical information. However, key information is often lacking, including on terrorist financing prosecutions and convictions and other relevant issues. Moreover, available information was often of uncertain provenance and lacked consistency. FIs and DNFBPs receive little feedback from supervisory authorities, with the CBN, SEC, and the NFIU better at providing broader guidelines on reporting and detecting suspicious transactions. These deficiencies and ambiguities limit Nigeria's ability to fully understand and appreciate the complexity and scope of its ML/TF risks.

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

17. Nigeria has moderate shortcomings in its legal framework for the ML offence as well as the investigation and prosecution of ML.

18. Nigeria is using financial intelligence to combat ML, predicate crimes and to trace property for confiscation to limited extent. LEAs, particularly the EFCC and ICPC, and to a minimal extent the NDLEA, are making some use of the NFIU's spontaneous disseminations to initiate and support ML/predicate investigations. There is insufficient evidence of the use of internally generated financial intelligence and other relevant information in pursuing cases related to ML or predicate offences.

19. Nigeria is using financial intelligence to combat TF to a minimal extent. The contents of TF-related STRs received by the NFIU have not been useful to form the basis of operational or strategic analysis, partly due to (i) the lack of/low quality of STRs filed with the NFIU, (ii) lack of STRs from the DNFBP sector identified as being a conduit for 80% of TF activities in Nigeria, (iii) limited information on cross-border declaration of currency and bearer negotiable instruments; and (iv) lack of feedback from LEAs.

20. The NFIU has the mandate to receive and analyse statutory reports and information and disseminate financial intelligence and other relevant information to relevant competent authorities. The NFIU has direct access to some government and private sector databases to support its functions. However, its disseminations are not entirely consistent with the country's ML/TF risk profile. Commercial banks file the majority of STRs (approximately 97%). Submission of cash transaction reports (CTR) follows the same trend. Generally, reporting entities have filed STRs relating to TF and higher-risk predicate offences at a level that is inconsistent with Nigeria's ML and TF risk profile.

21. Furthermore, despite the gatekeeper role of lawyers in Nigeria's economy, particularly concerning legal persons, PEPs and high net worth clients, AML/CFT requirements are inoperative against lawyers. Lawyers do not file STRs due to a decision of a High Court which declared the filing of STRs as a breach of the legal professional privilege between lawyers and their clients. Nigeria's focus on outbound cash limits its ability to obtain the full range of information that could support intelligence gathering on ML, associated predicate offences and TF.

22. The NFIU has powers to obtain information from FIs, DNFBPs and competent authorities to support its functions. Yet it depends heavily on banks that have filed STRs for additional information to

perform its analysis. The NFIU seeks financial intelligence from its foreign partners promptly, mainly through requests to other FIUs through the Egmont secure website. However, from July 2017, the Egmont Group suspended the NFIU over concerns regarding the protection and confidentiality of information held by the NFIU, the legal basis and clarity of its operational autonomy. The suspension curtailed the NFIU's ability to exchange information with the Group's members. On entry into force of the NFIU Act in June 2018, which guaranteed its operational autonomy, the Egmont Group reinstated the NFIU in September 2018 with full rights.⁴ However, the NFIU's 2019 statistics demonstrates limited proactive engagement with counterparts its foreign counterparts in accessing relevant information for its functions. There is insufficient evidence that LEAs request for and use of appropriate financial and law enforcement intelligence and other information from foreign counterparts to support their functions.

23. Nigeria has achieved a low number of successful convictions for ML, as well as ML associated predicate offences.

24. Internal units of LEAs (for example, EFCC, ICPC, NDLEA, NPF, NAPTIP) investigate and prosecute ML consistent with their mandate to pursue associated predicate offences. However, the LEAs do not investigate and prosecute ML in a manner consistent with the country's risk profile.

25. LEAs conduct parallel financial investigations for ML, including where the associated predicate offence occurred outside the country. They did not demonstrate effective prosecution and conviction for all types of ML cases (third party, self-laundering and stand-alone). Nigeria is not pursuing ML cases involving legal persons.

26. Some of the factors contributing to these conclusions include: (a) defect in the framework regarding foreign predicate offences; (b) the need to prove the specific offence from which proceeds were generated; (c) the lack of standard policies and systems for LEAs to prioritise ML (d) weak coordination among LEAs and other authorities; (e) lack of timely, adequate, accurate and current basic and BO information on all types of legal persons (f) lack of resources among most LEAs; (g) lack of assessment of ML risks in some risk areas (e.g. corruption in the oil sector, virtual assets, legal persons).

27. Nigeria has, in law, proportionate and dissuasive sanctions for the ML offence. However, the sanctions imposed are generally not effective, proportionate or dissuasive.

28. Nigeria does not have an explicit policy to confiscate proceeds and instrumentalities of crime. The legal framework does not cover assets sharing and victim restitution.

29. Individual LEAs manage the assets they seize in pursuit of mandatory investigations. Confiscated cash, mostly in Naira, is deposited in the Consolidated Revenue Fund of the Federation at the CBN and disbursed in line with the orders of the relevant Court (State or Federal). All other movable assets confiscated are individually maintained by the respective LEAs and disposed of according to confiscation/forfeiture order issued by a court of competent jurisdiction. Nigeria does not have a law, policy or guideline for victim compensation and sharing of confiscated and forfeited assets. While

⁴ Paragraph 10, page 2 of the Co-Chair's Statement, 25th Plenary of the Egmont Group of Financial Intelligence Units.

ARMU's mandate is limited to foreign recovery of confiscated assets, currently, there is no similar arrangement for domestic confiscations. The authorities do not maintain a comprehensive database for all recovered assets, which would facilitate a consolidated accounting and transparency in the confiscation and disposal process.

30. Confiscation of asset related to TF is not an explicit and operational policy objective of LEAs for both domestic and foreign terrorist groups. For transnational terrorist financing activities, less effort is shown on inbound movement at the borders as compared to outbound movement where the authorities demonstrated a high rigour of enforcement.

31. Nigeria has adopted a declaration system for incoming and outgoing cross-border transportsations of currency and bearer negotiable instruments (BNIs). The system requires travellers making physical cross-border transportation of currency or BNI of a value exceeding USD 10,000 to submit truthful declaration to the Nigerian Customs Service officials at the frontiers. However, Nigeria is not effectively utilising the cross-border declaration system to seize both inbound and outbound cash and bearer negotiable instruments (BNIs). The authorities focus their efforts focused on outbound currency. There is no evidence of criminal prosecution and sanctions for falsely declared or undeclared cross-border currency and BNIs. Such deficiencies impact the ability of the authorities to detect cross-border movement of cash and BNIs for TF in light of the widespread use of cash transfers by terrorist groups.

32. Recently, Nigeria has taken some measures aimed at recovering laundered proceeds of public corruption located outside the jurisdiction. Under these measures, Nigeria established the Asset Recovery and Management Unit (ARMU) in August 2017 under the Ministry of Justice. Nigeria has successfully recovered some of the proceeds of corruption located abroad. However, the authorities did not demonstrate effective confiscation of all types of proceeds of crime, including those related to foreign predicates and TF consistent with the country's risk profile. The funds recovered or repatriated to Nigeria were mainly due to the effort of external entities and not Nigeria (ARMU) itself.

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

33. For more than a decade, Nigeria has faced the unrelenting terrorist insurgency of Boko /ISWAP, which control or operate in territories that provide them with the bulk of their resources and funding. While Boko and ISWAP activities in the North East theatre account for most of Nigeria's TF risks, these also arise elsewhere in the country, including in the formal financial and DNFBP sectors and the informal economy. The government has more recently begun to incorporate CFT authorities and initiatives into its national strategies and law enforcement efforts, including by enhancing its regulation of the private sector and conducting parallel financial investigations in all terrorism cases.

34. Since 2015 Nigeria has brought only a handful of significant cases for TF, in keeping with its prioritisation of operational investigations over financial ones. Nigeria appears to have used TF-related charges (e.g., material support) more frequently in cases against an unknown, but seemingly significant number of mostly low level “security detainees” captured in the North East. The cases reflect a recognition of the utility of CFT authorities. However, the nature of these cases, which often lacked evidence and relied extensively on confessions after years of pre-trial detention, do not go far towards demonstrating CFT effectiveness. There is also a large backlog of these cases (more than 5,000); it is unknown how many of them may be related to TF. Altogether, TF prosecutions and convictions do not

appear to reflect Nigeria's risk profile for TF, even accounting for these cases and the elusive nature of TF activity in the country.

35. As noted, Nigerian authorities do not typically conduct stand-alone TF investigations. Instead, they conduct parallel financial investigations into terrorist suspects identified using intelligence and law enforcement tools. Led by DSS, Nigerian authorities effectively analyse and investigate financial profiles and activities, with assistance from the NFIU. However, the NFIU has conducted little strategic analysis of TF activity. The little TF analysis may partly be the result of the limited number and low quality of TF-related STRs filed with the NFIU.

36. Nigeria has begun to focus on CFT investigations, financial intelligence, supervision and enforcement, captured in its 2016 National Counter-Terrorism Strategy, 2016 (NACTEST) as well as its 2018-2020 AML/CFT Strategy. Still, TF is a relatively minor element compared to ML in the policies and strategies of Nigerian authorities, which is inconsistent and disproportionate with the level of TF risk in the country. These strategies guide MDAs in shaping and developing their internal structures, priorities and operations.

37. Overall, Nigeria has policies, institutions, and processes in place to counter TF activity, but provided little evidence demonstrating the extent or effectiveness of these efforts during the assessment period. These efforts are incommensurate with Nigeria's high TF risks, even accounting for the opaque, nearly impenetrable nature of Boko/ISWAP financing and resource mobilisation.

38. Nigeria's most significant TC compliance deficiency (R.5, c.3) has not impeded its ability to identify or prosecute terrorists or encumber terrorist assets. There is no sufficiently detailed information to determine if Nigeria applies proportionate, effective or dissuasive sanctions to individual terrorists, financiers and supporters. Nigeria has not reported any administrative sanction against FIs, OFIs, or DNFBPs for TF-related violations. Alternative measures to counter TF activity are wide-ranging, but not to date demonstrably effective.

39. As described in R.6, Nigeria does not implement TF-related TFS without delay, potentially partly due to a convoluted freezing process and other technical deficiencies. It also lacks an institutional commitment to implement such measures. The Nigerian authorities frankly stated that the value of TFS in the context of Nigeria's efforts against Boko/ISWAP was limited. This view partially explains why the Nigeria Sanctions Committee (NSC), for which the NFIU is the Secretariat, has not issued the List of domestically sanctioned actors required under the TPAR. Nigeria did not have a clear and established mechanism to communicate UN or domestic designations to competent authorities or the private sector. The NSC had also not taken other substantive action in line with its mandate, such as issuing policy guidance.

40. Key regulators, as well as major banks, have taken some measures to encourage compliance with TFS obligations, although these are limited in impact and scope. Other important FIs and DNFBPs, showed little familiarity with TFS, nor did they have effective compliance systems or controls. The CAC lacks a mechanism to identify designated persons and entities systematically.

41. Nigeria has not assessed its NPOs most vulnerable to TF abuse in line with the risk-based approach. Instead, Nigeria has classified all NPOs as DNFBPs, mainly based on their supposed ML risk,

but also TF grounds. In the absence of an assessment, however, such a categorisation is not justifiable; it is also unduly burdensome on legitimate NPO activity.

42. Nigeria's efforts to seize or destroy terrorist assets have been led chiefly by its military, which has destroyed or confiscated physical assets employed by Boko/ISWAP, including markets, vehicles, and cargoes. However, Nigeria did not provide information regarding these efforts, or otherwise demonstrate that it had effectively deprived terrorists of funds or other assets. Nigeria neither reported frozen assets of designated terrorists nor provided other information to demonstrate the effectiveness of its asset freezing or confiscation efforts.

43. Ultimately, Nigeria's implementation of TFS, supervision of the NPO sector for TF activity, and deprivation of terrorist funds or other assets are inconsistent with Nigeria's high TF risk profile.

44. Nigeria lacks a statutory legal framework to implement TFS to combat proliferation financing (TFS on PF), which apply to "all persons". As with terrorism-related TFS, Nigerian authorities did not demonstrate a means to communicate to regulated entities and the general public sanctions designations without delay. Only FIs subject to supervision by the CBN and that have reporting obligations to the NFIU are arguably subject to sanctions for violations, and then only regarding their reporting obligations concerning such assets. There are otherwise no enforceable means to apply civil or administrative – let alone criminal - sanctions for engaging in such transactions, constituting a fundamental deficiency.

45. Generally, banks are aware of UN sanctions against States such as North Korea and Iran. They indicated that any transactions they identified should result in the filing of an STR or further inquiry to their supervisor. Other financial institutions (OFIs) and DNFBPs have a vague or no awareness of their obligations in this respect. FIs and DNFBPs with screening software employing locational and name-based filters could theoretically identify transactions linked to PF-sanctioned entities, but none reported doing so. Relevant competent authorities – namely the CBN, NFIU, SEC, NAICOM, and SCUML – have issued circulars and guidance to entities under their supervision to comply with UN sanctions. These are not, however, enforceable means. Customs officials generally described mechanisms to prevent the import or export of goods deemed to be contraband related to Iran and North Korea, but provided no examples or related documentation.

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

46. Banks, capital markets operators (CMOs) and insurance companies have a good level of understanding of ML/TF risks and AML/CFT obligations. They generally apply mitigating measures for ML risk, and focus less on TF risk. Large banks described rules in place to detect geographic and transactional red flags. The understanding of ML/TF risks by the other financial institutions and non-bank sector is lower, especially concerning microfinance banks (MFBs), forex dealers and insurance intermediaries.

47. Commercial banks, particularly large international banks, apply ML/TF risk assessments of their customers, products and services. However, there is inconsistency in the risk assessment and controls of high-risk areas such as private banking. Both the NRA and some banks did not consider private banking or wealth management services as high risk. Others considered private banking as high risk in contrast to the NRA results. Therefore, the basis for the rigorous controls for private banking remains unclear. Banks did not demonstrate a high degree of vigilance for PEPs. The forex sector did

not appear to apply any risk profiling of customers and proportional controls. Most FIs consider Nigeria as a high-risk jurisdiction, contrasting with the “medium-high” assessment of the NRA for ML.

48. Not all FIs are subject to the AML/CFT regime. Forex dealers, which pose a high risk for ML, are regulated and supervised, although not consistent with their risk exposure. Moreover, most of them are unregistered/unlicensed, which effectively excludes them from AML/CFT obligations.

49. The application of CDD and Enhanced Due Diligence (EDD) measures differ across FIs and generally did not reflect Nigeria’s risk environment across the board. Again, banks appeared to institute the most far-reaching controls. FIs establish the beneficial ownership of corporate customers using documentation from the Corporate Affairs Commission (CAC). However, the Assessors determined that the CAC does not maintain timely, adequate, accurate and up-to-date BO information.

50. DNFBPs generally have a low-level understanding of their ML/TF risks and AML/CFT obligations. Many operators are unaware of the NRA and its findings. While large and more sophisticated entities such as accounting firms and the real estate conduct enterprise risk assessments, not all the firms have registered with the self-regulatory bodies (SRBs). Hence, it is reasonable to assume that they have not established adequate risk-based policies, procedures and controls to mitigate their ML/TF risks.

51. The different DNFBPs did demonstrate limited awareness and implementation of their AML/CFT obligations, including CDD measures and reporting obligations. They generally do not effectively implement other AML/CFT preventive measures such as enhanced CDD for PEPs and TF. The lack of records to serve as evidence, and a relatively low number of STRs filed demonstrates this low-level of implementation, which represents a significant gap in the country’s AML/CFT regime.

52. FIs are gradually increasing their reporting of suspicious transactions, but not clearly in keeping with their level of risk. Forex dealers are yet to file any STR. Reporting by insurers and insurance brokers is even lower, especially for TF-related STRs, none of which have been filed by DNFBPs despite the risk-level of the sector. The lack of STRs reflects the limited adoption of AML/CFT controls by DNFBPs, notwithstanding guidelines and outreach by SCUML.

53. Legal professionals play a vital role in Nigeria, particularly in high-risk sectors and activities such as real-estate transactions and the formation of companies. There is no certainty regarding the number of trust and company services providers (TCSPs) operating across the country, as well as legal entities having nominee shares/shareholders. However, AML/CFT requirements do not cover lawyers. On 17 December, 2014, the High Court declared section (§) 5 of the MLPA and SCUML’s “power” to regulate legal practitioners as contrary to section 37 of the 1999 Constitution (as amended), §192 of the Evidence Act, 2011 and Rule 19(1) of the Rules of Professional Conduct for Legal Practitioners, 2007. The lack of full compliance with AML/CFT requirements by legal professionals is, therefore, a significant challenge to the country’s AML/CFT efforts.

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

54. Financial supervisors have a good understanding of Nigeria’s money laundering and terrorist financing (ML/TF) risks primarily based on the 2017 NRA. However, sectoral ML/TF risks need to be monitored and updated more frequently, including through the institutional risk assessment processes

conducted under the supervisors' risk-based frameworks, as well as from internal prudential and external sources.

55. Most entities engaged in financial activities as defined under the FATF standards are subject to AML/CFT requirements, except some lenders. The CBN supervises banks on a risk-sensitive basis. It is gradually extending the same to non-bank FIs under its supervision. The risk-based supervisory processes for the capital market and insurance sectors are evolving. The number of monitoring by FI supervisors are relatively low, which impacted the number and quality of STRs filed by FIs.

56. There is evidence of thousands of participants involved in virtual asset activities and operations in Nigeria, either as exchangers, transmitters, brokers or merchants, and offering several products such as Bitcoins, Litecoin. Some of the participants are corporate bodies that are licensed to provide other Fintech products and services in the country but not cryptocurrencies/virtual assets. Kidnappers and fraudulent investment schemes (Ponzi schemes) in the country have collected ransom and deposits in Bitcoins, respectively. Despite the risks, which is evident, and the emergence of virtual assets as a global risk, Nigeria is yet to fully articulate a comprehensive policy or operational response, including assessing the ML/TF risks posed by virtual assets. The CBN and SEC have issued circulars to their supervised entities and assured that they are monitoring developments in the virtual asset space intending to formulate substantive regulations to deal with the phenomenon. In the absence of any regulatory framework, it was not clear if relevant FIs apply enhanced or special measures to manage the risks arising from virtual assets related businesses in the country.

57. Supervisors' licensing processes and fitness and propriety controls are generally sound. However, the large number of non-bank FIs under CBN supervision, namely forex dealers and microfinance companies, raises questions as to the depth of due diligence conducted, particularly for the high-risk forex sector. Also, corporate information filed with CAC does not provide, in all cases, a reliable source for establishing the beneficial ownership of licensees efficiently, requiring the supervisor to undertake additional due diligence measures.

58. Supervisors are generally of high calibre and appropriately trained for supervision. However, the vast number of FIs subject to AML/CFT supervision (over 5,800 for the CBN alone) stretches the supervisor's capacity to be able to conduct effective ongoing supervision, particularly for on-site inspections and the high-risk banking and forex sectors. Supervisory institutions like the CBN are encouraged to integrate and pull together their resources, including AML/CFT personnel, to maximise effectiveness in on-site supervision in particular. AML/CFT supervisory cooperation and coordination are generally good at the policy and operational levels.

59. Not all FATF-designated DFNBP activities are in practice supervised for AML/CFT compliance. Internet casinos are in operation and are neither licensed nor supervised. There is an estimated large number of real estate agents and accountants conducting FATF-identified activities that have not registered with SCUML and hence not supervised for AML/CFT compliance. As noted above, legal professionals, rated as medium-high in the NRA report, are currently not subject to AML/CFT obligations representing a significant systemic gap.

60. Market entry controls are weak for most of the subsectors within the DNFBP sector. SCUML's registration process is insufficient for fit and proper purposes, particularly in establishing the background of owners, controllers and managers, including their associates. For jurisdiction-based casinos, which

are subject to licensing at the State level, only Lagos and Oyo have established a lottery and gaming board, which issue licenses in their States. No other State licenses casinos and they are operating without undergoing fit and proper assessments/review. SRBs for the real estate, precious metals and stones, accountants and the legal professionals' sectors do not or barely apply AML/CFT requirements in their licensing and market entry processes.

61. SCUML is yet to implement a comprehensive risk-based framework for the supervision of all DNFBPs currently registered with it. SCUML has a presence in only 9 out of the 36 States across the Federation, with 60 permanent and 43 ad hoc personnel dedicated to compliance supervision. The number of entities registered with SCUML (more than 72,000) and the high but unknown number of unregistered DNFBPs impedes its ability to conduct effective monitoring for AML/CFT purposes. SCUML does not have an effective strategy to deal with this challenge. Nonetheless, SCUML receives CTRs from DNFBPs and has dedicated staff to conduct strategic analysis of these reports, which is not part of its core supervisory function.

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

62. The Corporate Affairs Commission (CAC) is the sole entity responsible for registering legal persons and arrangements, except for cooperatives, in Nigeria. The Ministry of Budget registers International Not-for-Profit Organisations (NPOs). CAC has zonal offices in the six geo-political zones of Nigeria. CAC maintains registers of companies, partnerships and other legal persons and arrangements which are available to the public, including other competent authorities and FIs and DNFBPs. FIs and DNFBPs also obtain and maintain information on beneficial ownership of companies through customer due diligence measures (including bank verification numbers (BVN)). However, the CAC needs to improve the update of accurate BO information of legal persons.

63. The NRA refers to the use of legal persons for ML purposes. However, Nigeria has not identified and assessed the ML/TF risks associated with all legal persons, including Free-Zone Enterprises (FZEs), created in the country, thus impacting on the understanding of risk as well as the vulnerabilities and misuse of legal persons to ML/TF.

64. Basic and BO information on all types of legal persons, especially private companies, created in the country is publicly available and adequately assessed by competent authorities. Timeliness and availability of adequate, accurate and current BO information to law enforcement agencies needs to be improved significantly.

65. Nigeria prohibits the issuance of bearer shares. However, the country does not have a policy of inquiring/prohibiting or otherwise becoming aware of foreign companies that are shareholders in local companies and that have issued bearer shares. This policy is particularly relevant for identifying the ultimate beneficial ownership of local companies which can impede effective law enforcement investigations involving foreign companies. It can also prejudice international cooperation and make CDD by REs more difficult.

66. CAC has a weak monitoring and sanctioning regime. Existing monetary sanctions are not dissuasive enough to guarantee compliance to make disclosures, including the beneficial ownership of foreign partners and shareholders. Contrary to the requirements of the CAMA, entities that failed to file yearly returns for as long as thirteen years are still on the register with no sanctions applied.

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

67. Nigeria utilises both formal and informal channels for international cooperation. It has established a central authority in the FMOJ with the responsibility to receive and disseminate Mutual Legal Assistance Treaty (MLAT) requests. Nigeria has extradited a low number of fugitives in relation to ML and associated predicate offences, but non on TF, which is inconsistent with the country's risk profile. Nigeria does not maintain comprehensive statistics readily available on international cooperation.

68. LEAs utilise their membership in international law enforcement organisations to exchange information and cooperate with their foreign counterparts, including through informal and formal methods. The DSS reports good communication and collaboration with counterparts on terrorism cases. It cited positive interactions leading to material results with at least three countries. The NFIU is responsive to requests and works through the Egmont Group to disseminate its financial intelligence to foreign countries. In 2019, the NFIU provided TF-related information to a foreign authority. Its cooperation with neighbouring countries on TF issues remains more aspirational than actual. However, Nigeria has established contact with its counterparts in Chad, Niger, and Cameroon to exchange information on TF activity.

Priority Actions

- a) Nigeria should undertake a comprehensive assessment of the ML risks relating to corruption, fraud, legal persons (including FZEs), and PEPs. It should take immediate and robust measures to act on these findings and update associated action plans and strategies. The CBN, NFIU, SCUML and LEAs should ensure that the findings of these assessments inform their supervisory, analytical and enforcement activities. Nigeria should modify its regulatory approach to NPOs in line with their substantiated risks and no longer classify all NPOs as DNFBPs.
- b) Nigeria should review relevant legal frameworks to:
 - i. Appropriately extend the ML offence to foreign predicate offences and include explicit provision in the law that confirms that a conviction for a predicate offence is not required for a ML offence;
 - ii. Explicitly oblige reporting entities to submit suspicious transaction reports related to ML and associated predicate offences;
 - iii. Asset-sharing and formal arrangements for assets sharing with foreign states for restitution;
 - iv. Clearly specify the AML/CFT obligations of lawyers concerning their activities specified by the FATF standards, including matters that should fall under legal professional privilege or professional secrecy;

- v. Strengthen self-regulatory bodies (SRBs) and ensure that SRBs fully understand the ML/TF risks their businesses/professions face, and their supervisory mandates, including powers to apply dissuasive sanctions against the members for non-compliance with AML/CFT requirements;
- vi. Ensure that legal persons obtain and maintain adequate, accurate and timely information on beneficial owners and regularly update their records at CAC, and provide for persuasive and dissuasive sanctions against legal persons that fail to update their records, make false or misleading statements or conceal BO information.
- c) Nigeria should ensure that it is actively investigating, prosecuting, and convicting a full range of ML cases, including by strengthening knowledge and expertise at the EFCC, NDLEA, ICPC and other LEAs. This could include providing training and guidance to prosecutors on the different types of ML to ensure that they systematically consider, prioritise and pursue all types of ML, including against legal persons where appropriate. Nigeria should expedite the development of inter-agency information-sharing platforms as called for in the NACTEST, AML/CFT Strategy and the AML/CFT Action Plan.
- d) The NCS should rigorously implement the declaration system for both inbound and outbound cross-border movements of currency and BNIs and pursue confiscation of falsely declared/undeclared currency and BNIs. It should make every effort to enhance the physical security of Nigeria's borders and actively exchange information with the NFIU and financial supervisors in addition to LEAs and international partners.
- e) Nigeria should assess its NPO sector to identify the subset of NPOs most vulnerable to TF abuse. As part of this undertaking, Nigeria should strengthen its cooperation with NPOs operating in the North East to consider ways to alleviate undue administrative burdens on NPOs while continuing to mitigate identified security risks.
- f) Supervisory authorities should identify the reporting entities operating without license or not registered and apply appropriate sanctions taking into account a wide range of sanctions available in the MLPA and relevant enforceable means.
- g) Policy authorities should review the mandate and resources of SCUML, including its capacity to effectively supervise the wide range and high number of DNFBPs under its purview. SCUML should collaborate with other competent authorities to ensure adequate supervision of internet casinos for AML/CFT compliance.
- h) The Ministry of Justice should adequately educate LEAs on the MLACMA to improve their ability to seek timely MLA on ML and TF, including the

confiscation of proceeds of crime located abroad promptly and consistent with Nigeria's risk profile.

- i) Nigeria should establish a mechanism to systematically collect and maintain comprehensive statistics on ML/TF investigations, prosecutions and convictions; property frozen, seized and confiscated; mutual legal assistance or other international requests for cooperation made and received; and other matters relevant to the effectiveness and efficiency of its AML/CFT system.

Effectiveness & Technical Compliance Ratings

Table 1-1. Effectiveness Ratings⁵

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

Table 1-2. Technical Compliance Ratings⁶

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

⁵ Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

⁶ Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

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

This evaluation was based on the 2012 FATF Recommendations and prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 23 September 2019 to 14 October 2019.

The evaluation was conducted by an assessment team consisting of:

- Mr. Edward Cudjoe, Head of Legal and Prosecutions, Economic and Organised Crime Office, Ghana (Legal Expert);
- Mr. Michael Morris Lieberman, Senior Advisor, Office of Terrorist Financing and Financial Crimes, Department of the Treasury, USA (Legal Expert);
- Dr. Jonathan Nii Okai Welbeck, AML/CFT Policy Analyst, Bank of Ghana, Ghana (Financial Expert);
- Mr. Sheku Kamara, Operations Officer - Superintendent of Police, Sierra Leone Police, Sierra Leone (Law Enforcement Expert); and
- Mr. David Borbor, Deputy Head, Compliance and Prevention, Financial Intelligence Unit, Sierra Leone – DNFBPs and FIU Expert.

The team was supported by Mrs Gina Wood (Legal Officer, GIABA Secretariat); Mr Gustavo Manuel Vasquez (International AML/CFT Consultant, Belize); Mr Karonn Lofigue (Programme Officer, GIABA Secretariat); and Mr Lansana Daboh (Research Officer, GIABA Secretariat).

The report was reviewed by Mr Phineas Moloto Legal and Policy Department, Financial Intelligence Centre, South Africa; Mrs Rebecca Kotonya Obare, Regional AML/CFT Advisor, Africa, International Monetary Fund; Mr Tiago Lambin, Senior Inspector, Institute of Public Markets, Real Estate and Construction (IMPIC), Lisbon, Portugal; Ms Alison Kelly, National CT FI Training and Engagement Manager SO15 Counter Terrorism Command|National Terrorist Financial Investigation Unit, United Kingdom; and the FATF Secretariat as default reviewer.

Nigeria previously underwent a GIABA Mutual Evaluation in 2007, conducted according to the 2004 FATF Methodology. The 2008 Mutual Evaluation Report has been published and is available at www.giaba.org.

That Mutual Evaluation concluded that Nigeria was C with 2 Recommendations; LC with 7 Recommendations; PC with 22 Recommendations; and NC with 18 Recommendations. Nigeria was rated C or PC with 3 of the 16 Core and Key Recommendations. Nigeria was placed on the Expedited Follow-Up process, and reported in May 2009 (First follow-up report (FUR)); May 2010

(2nd FUR) 3rd Follow-Up -May 2011; May 2012 (4th Follow-Up); May 2013 (5th FUR); May 2014 (6th FUR); May 2015 (7th FUR); May 2016 (8th FUR); May 2017 (9th FUR); May 2018 (10th FUR). There were concerns regarding the operational autonomy of the NFIU and its suspension from the Egmont Group, and the absence of a comprehensive legislation for the confiscation and management of proceeds and instrumentalities of crime, and mutual legal assistance (MLA). The Plenary placed the country on the Enhanced Follow-Up process. Nigeria submitted its 11th FUR in November 2018. Nigeria exited the on the basis that with the entry into force of the Nigerian Financial Intelligence Unit Act on 29 June, 2018, it had addressed the issues relating to the operational autonomy of the NFIU.

CHAPTER 1. ML/TF RISKS AND CONTEXT

69. The Federal Republic of Nigeria has an area of about 923,768 square kilometres (KM²) within the Western coast of Africa. The country has six geo-political zones⁷ divided according to economic, political and ethnic criteria, with each Zone containing several of Nigeria's 36 States. Nigeria is bordered to the West by the Republic of Benin, to the East by Chad and Cameroon, to the North by Niger and to the South, by a coastline on the Gulf of Guinea. Lagos, Nigeria's largest city and commercial capital, has a major road connecting it to Abidjan, the capital of Cote d'Ivoire through three western neighbours, Benin, Togo, and Ghana, and air links throughout the region.

70. Nigeria is among the largest petroleum producers and exporters in the world. The petroleum sector, which is mainly state-controlled, dominates its economy and has traditionally accounted for the major share of government revenues. At the same time, much of the economy is informal and small-scale. It had a GDP of nearly USD 447 billion (bn) in 2019, both the largest in Africa. Nigeria's population is estimated at more than 200 million (mln), comprising more than half of West Africa's population. The country is home to approximately 250 ethnic groups who among them speak over 500 indigenous languages. Religiously, there is a balance between Muslims, mostly in the North of the country, and Christians in the South.

71. Nigeria's government comprises three distinct branches: the executive, the legislature and the judiciary with powers determined by the 1999 Constitution of the Federal Republic of Nigeria, establishing the country as a democracy after decades of military rule. The executive branch is headed by the President, who can serve a maximum of two four-year terms. The legislative branch, the National Assembly of Nigeria, is a bicameral legislature made up of a 109-member Senate composed of three members from each of Nigeria's 36 States and one from the Federal Capital Territory (FCT) and the 360-member House of Representatives based on proportional representation of the population of each of the 36 States and the FCT. At the State level, the Constitution vests legislative power in the houses of assembly whose seats range from 24 to 40 members, depending on the population of the particular State. Members of the executive and legislature are elected for a four-year term.

72. The judicial branch, headed by the Chief Justice, comprises the Supreme Court of Nigeria; the Court of Appeal; the Federal High Court; the High Court of the FCT, Abuja; a High Court of a State; the Sharia Court of Appeal of the FCT; a Sharia Court of Appeal of a State; the Customary Court of Appeal of the FCT; and Customary Courts of Appeal of a State and headed by the President of the Customary Court of Appeal. Although States retain a variety of formal authorities under Nigeria's Constitution, the Federal Government exercises a predominant role in the nation's governance.

73. For the last decade, Nigeria has faced a tenacious terrorist insurgency from Boko Haram and its offshoot ISWAP, who have ties to ISIS Core and are among the deadliest groups in the world. Nigerian authorities stated that these groups pose a formidable military threat and exercise a substantial degree of territorial control and influence in areas that lack much formal commercial and financial infrastructure and that rely on in-kind and cash transactions. These characteristics make traditional TF tools somewhat less

⁷ North Central (Middle Belt): (Benue, Kogi, Kwara, Nasarawa, Niger); North-West (Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Zamfara), North-East (Adamawa, Bauchi, Borno, Gombe, Taraba); South (also known as Niger Delta region) (Akwa Ibom, Bayelsa, Cross River, Rivers); South-East (Abia, Anambra, Ebonyi, Enugu); and South-West (Ekiti, Lagos, Ogun, Ondo).

effective than in other contexts. At the same time, they do engage in certain TF activities susceptible to disruption, including through the formal financial system.

74. Nigeria is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), the Economic Community of West African States (ECOWAS), the African Union (AU) and the United Nations Organisation (UN).

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

1.1.1. Overview of ML/TF Risks

75. This part of the MER summarises the Assessors' understanding of ML/TF in Nigeria. The understanding is based on documents provided by Nigeria, including the NRA report, publicly available documents, as well as discussions with relevant competent authorities and the private sector during the on-site visit.

76. Nigeria faces a vast array of ML threats owing to the size and nature of its economy and high levels of revenue-generating criminality.⁸ For decades, Nigeria has served as a major transhipment hub for narcotics and arms. It has generated high levels of crime amidst a domestic context of weak institutions and governance, economic uncertainty, entrenched poverty, low human development, conflict and insecurity, criminal networks, and widespread social and societal tensions. Against this background, the most significant predicate offences for ML in Nigeria are corruption (including in the State-controlled oil sector), fraud (including significant levels of cybercrime such as advance fee fraud), drug trafficking, armed robbery, arms trafficking, kidnapping, illegal oil bunkering, and human trafficking.

77. Most ML predicates occur domestically, and their proceeds are laundered in Nigeria. However, large sums, particularly from corruption and other major schemes, are transferred out of Nigeria and laundered abroad. External predicate offences generating funds laundered through Nigeria appear relatively less common, not including smuggling activities where the goods may originate externally but moved through the country.

78. Nigeria also faces a wide range of significant ML vulnerabilities. These include broad systemic challenges to effective Nigerian governance generally, as well as those specific to ML and TF. These vulnerabilities, as discussed in detail elsewhere in this report, include regulatory, supervisory and enforcement gaps, inadequate preventive measures, human capital and institutional capacity challenges, and resource constraints. Illicit actors rely on networks of enablers to exploit these vulnerabilities, including those who provide accounting, legal and other professional services in the financial and non-financial sectors.

79. Nigeria also serves as the predominant player in the region's drug trade, serving as a longstanding, major transit route for illicit drugs – including heroin and cocaine – from South America and elsewhere to Europe and Asia. There is also a growing domestic drug industry with clandestine laboratories situated in and around major cities in certain States, producing methamphetamine and ephedrine both for local consumption and trafficking to Asia. Bribes to border security, customs and law enforcement agents feature heavily in the drug trade. Part of the majority of funds from this trade is retained and spent on operations

⁸ IMF, Nigeria: Selected Issues (March 13, 2019).

and patronage in Nigeria, often in cash. An estimated 20% or so are introduced into the formal banking sector and laundered, often internationally.⁹

80. Maritime criminality in Nigerian waters, including incidents of piracy and hostage-taking of crews, also presents significant ML/TF risks. Nigeria has a high rate of violent crime such as armed robbery, and high levels of kidnapping for ransom, organised by terrorist groups as well as sophisticated criminal rings.

81. Nigeria is a rising hub of financial technology, with the highest number of FinTech incubation hub on the African continent. Nigeria is also an important centre for financial crime, including cybercrime and other fraud-related digitally enhanced crime. Proceeds generated from criminal activities, for example, from advance-fee-fraud, are laundered in Nigeria using different mechanisms. In 2017, the CBN and SEC issued circulars, warning banks, OFIs and CMOs not to engage in providing virtual asset services while they try to understand the ML and TF risks associated with virtual assets.

82. Generally, the movement of proceeds of illicit activities within and outside Nigeria occur through a variety of means, including cash transfers, trade-based ML, cross-border trade (e.g., importation of goods such as luxury or used cars, textiles, precious metals and consumer electronics) involving illicit funds, direct wire transfers, domestic and foreign bank deposits and foreign currency transactions. A large percentage of proceeds are also laundered abroad through forex dealers and cash couriers to regional and international jurisdictions.

83. There are significant gaps and vulnerabilities in the controls of reporting entities, especially forex dealers and DNFBPs such as real estate agents, car dealers, lawyers and accountants, trust and company service providers (TCSPs) and dealers in precious metals and stones (DPMS). These gaps enable the large flows of illicit funds both within and outside Nigeria.

84. Nigeria's TF risks are also among the world's highest. For more than a decade, Nigeria has faced the terrorist insurgency of Boko Haram (Boko) and its offshoot, the Islamic State West Africa Province (ISWAP).¹¹ While the precise extent of Boko/ISWAP's territorial control and influence is fluid, both groups remain able to sustain themselves financially through a range of activities conducted due to their territorial control or operational reach. The Nigerian authorities believe that as of May 2019, Boko/ISWAP controlled significant pockets of land and operated extensively across Nigeria's north-eastern borders with Cameroon, Chad, and Niger. It is estimated that in May 2019, Boko and ISWAP had 1,500 and 3,500 fighters, respectively, although another study places ISWAP's ranks at approximately 18,000.¹² Major attacks, both on civilian and military targets, remain a near-daily occurrence in the country's North-East regions and across Nigeria's borders with Niger, Chad and Cameroon.

85. The primary sources of funds sustaining Boko/ISWAP include a broad range of criminal activities, including theft (such as large-scale cattle rustling), armed robbery, kidnapping for ransom,

⁹ Threat Assessment of Money Laundering and Terrorist Financing in West Africa (GIABA) (2010).

¹⁰ <https://thefintechafrica.com/random-tech/top-10-fintech-companies-in-nigeria-and-their-ceos/>.

¹¹ See, e.g., Global Terrorism Index 2018, at <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018.pdf>.

¹² Survival and Expansion: The Islamic State's West African Province, Global Initiative for Civil Stabilisation (April 2019).

raiding and looting (including military targets), extortion and protection fees (including in-kind payments), and trafficking in arms, stolen cars, and other contraband. Boko/ISWAP also raise funds through activities that are not inherently criminal, such as agriculture and trade in and around Lake Chad, as well as cattle markets and routes. Such activities have further included the extension of microloans (sometimes conscripting debtors who could not repay), control of small-scale traders' markets and businesses, and donations and membership fees. Funds from outside affiliates and supporters, such as al-Shabaab, Al-Qaeda in the Islamic Maghreb (AQIM), and the Islamic State in Iraq and Syria (ISIS) core, are not considered major sources, but cannot be excluded.

86. The authorities believe that the groups generally spend relatively little of their funds on local governance, alleviating them of some of the financial burdens faced by other terrorist groups that control some measure of territory. Nor are the groups believed to have significant infrastructural or logistical overhead, although ISWAP is reported to reinvest funds gained from its commercial activities into additional infrastructure for small scale agriculture and trade. Still, for the most part, Boko and ISWAP are believed to spend the bulk of their funds on payments for fighters and their families, including martyrdom payments, and operatives. The costs of attacks, typically involving small arms, explosives, and vehicles, is relatively low.

87. Boko/ISWAP operatives move funds using the formal financial system. They also rely in large part on informal or untraceable financial channels, including Forex dealers, hawaladars and cash couriers. Since most of Nigeria's north-eastern borders are not under the effective control of the government, cash couriers serve as an external conduit for operatives of Boko/ISWAP. In doing so, they take advantage of their connectivity to other jihadist groups operating in the region along with other smuggling and trading networks.

Figure 1-1 Map-Boko-Haram-territory-in-Nigeria



Source: *Telegraph (UK)*¹³ (indicative only)

88. Given the nature of the threat posed by Boko Haram and ISWAP as active armed insurgencies, the Nigerian Armed Forces, especially the Army, collaborates with Civilian Joint Forces and state agencies (for example, DSS, NPF, NIS and NSCDC) in countering these groups in the declared military zones in the North East. Despite a strong political commitment and robust military effort, the lack of adequate resources and the pervasive effects of corruption across Federal and State agencies, among other factors, exacerbate TF challenges and risks for Nigeria.¹⁴

89. Overall, the consequences of ML and TF activity in Nigeria are highly evident and significant. The TF activities continue to support some of the deadliest and ruthless terrorist groups in the world, which continue to claim lives nearly every day. The corrosive effects of illicit proceeds generation, especially proceeds from large-scale endemic corruption and related ML, have undermined effective and transparent governance and development in Nigeria over many years. An estimate indicates that the costs of corruption in 2014 amounted to USD 1,000 for every person in Nigeria,¹⁵ while public reporting and academic analyses point to how it has undermined the campaign against Boko/ISWAP in the North East.

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

90. Nigeria completed its country-wide ML/TF risk assessment (NRA) in May 2017. The Nigerian Financial Intelligence Unit (NFIU) coordinated and led the NRA process under the auspices of the Inter-Ministerial Committee (IMC). Nine working groups composed of ninety-two personnel drawn from public and private sector AML/CFT stakeholder institutions (law enforcement, policy, supervisory and reporting entities) participated in the conduct of the NRA. Nigeria adopted the World Bank National Risk Assessment Tool as the methodology for conducting the NRA and made close reference to typologies reports of the FATF and FATF-Style Regional Bodies (FSRBs).¹⁶ Nigeria's NRA was based on data and information covering a six-and-a-half-year period between January 2010 and June 2016. The NRA involved the analyses of national and sectoral ML risks, threats and vulnerabilities, as well as analysis of national TF risks.

91. In addition to identifying ML threats as the predicate offences described above, the NRA exercise also identified various ML/TF vulnerabilities in Nigeria's financial sector and throughout DNFBPs. Banks and Forex dealers, as well as cash transfers, as also noted above, were among the major channels used for moving illicit proceeds. In total, for ML the NRA examined eighteen financial and non-financial sectors to create a risk rating for each sector.

¹³ <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/11339781/Map-Boko-Haram-territory-in-Nigeria.html> (accessed 17 Oct. 2019)

¹⁴ See, e.g., Otu Duke, Dickson Agbaji, Corruption and the Challenge of Boko Haram Terrorism in Nigeria: A Case of the Nigerian Armed Forces, Asian Research Journal of Arts & Social Sciences (Jan. 2017); Security Sector Corruption and Military Effectiveness: The Influence of Corruption on Countermeasures Against Boko Harm in Nigeria, Small Wars & Insurgencies, v. 31, Issue 1 (Dec. 2019).

¹⁵ Impact of Corruption on Nigeria's Economy, PricewaterhouseCoopers (2017)

¹⁶ MONEYVAL Typologies Research: Use of Securities in Money Laundering Schemes – July 2008; FATF - Money Laundering and Terrorist Financing in the Securities Sector – October, 2009; Money Laundering Trends and Typologies in the Canadian Securities Sector – April, 2013; EAG Typology Report on Money Laundering Through the Securities Markets – July, 2013

92. Generally, the NRA neither revealed unknown risk areas nor explored emerging issues. For instance, despite the reported use of virtual assets, including its demand by kidnappers for payment for ransom and bank transfers related to Ponzi Schemes¹⁷, the country did not assess the risks and threats related to this product (see IO3). Furthermore, being the first for Nigeria, the country did not have any benchmarks to assess the consistency of the outcomes of the NRA with previous results on the most prevalent predicate offences. The lack of data also limited the utility of the exercise, as did an ambiguous methodology of weighting various factors in its analyses and its ultimate top-line conclusions for various risks. It also neglected to analyse certain key risks, such as that of legal persons, as well as ML-related corruption arising in the oil sector.

93. AML/CFT regulations and supervision of banks and other financial institutions (BOFIs) by the CBN are relatively well developed (see IO.3). However, the limited implementation of preventive measures commensurate with Nigeria's ML/TF risk presents major vulnerabilities to the sector (see IO.4). Nigeria has AML/CFT regulation and supervision scope-deficiencies relating to forex dealers and most DNFBPs. In the DNFBP sector, the exercise identified NPOs, casinos, lawyers, real estate and dealers in precious metals and stones (DPMS) (referred to in Nigeria's AML/CFT framework as jewellery dealers) sectors as subject to exploitation, due in a large part to the lack of supervision or regulation. These deficiencies are significant for those DNFBP subsectors facing higher risk. However, not all entities so regulated warrant such treatment, most notably NPOs.

94. The NRA rated Nigeria as having a medium risk of TF based on measures taken by the Government to curb terrorist activities in the country and reduce the territories under Boko/ISWAP control. It also identified sources, channels, and uses of funding, and discussed some of the specific dynamics underlying TF activity in Nigeria.

95. In deciding what issues to prioritise for increased focus, the assessors reviewed material provided by Nigeria on its national ML/TF risks (as outlined above), and information from reliable third-party sources (e.g., reports of other international organisations and open-source reports). The Assessors focused on the following priority issues:

- a) **Pursuit of ML related to major predicate offences:** The assessors focused on the extent to which LEAs successfully investigate and prosecute ML related to fraud and corruption drug trafficking and illegal oil bunkering and confiscate the proceeds. They also focused on the extent to which the authorities prosecute the different types of ML offences and convicted offenders, and whether they focus on the predicate offence at the expense of pursuing an accompanying ML investigation or charge.
- b) **Banking Sector:** Nigeria considers the exposure of the banking sector as medium-high due to weaknesses in AML general controls and quality of supervision. The extent to which the sector is implementing AML/CFT measures and the effectiveness of the supervisory framework, including guidance and feedback, were areas of focus.
- c) **Capital market operators:** The ML risk of the sector is medium. According to the NRA, dealers account for more than fifty per cent of international transactions in the capital market sector. Still, they file nil foreign transaction reports to the NFIU and SEC. Also, there are concerns

¹⁷ Case Study 1, page 14 Unlicensed Digital Investment Schemes (UDIS), Financial Inclusion Global Initiative (FIGI), 09/2018.

about the number and quality of STRs reported by CMOs. The team determined the extent of understanding of risks and implementation of preventative measures in the CMOs sector.

- d) ***AML/CFT obligations and supervision of higher-risk DNFBPs:*** The NRA rated real estate agents, dealers in precious metals and stones (DPMS), accountants, trust and company service providers (TCSPs) (which are often the subject of STRs), and lawyers as having a medium-high risk of ML due to the nature of their transactions and profile of their clients. The NRA also identified the DNFBP sector as a conduit for 80 per cent of TF activity. While lawyers play a central role in Nigeria, particularly in company formation, representation of PEPs, and the purchase of real estates, the AML/CFT regime is inoperative against them. They are not subject to AML/CFT supervision. The Assessors focused on how well real estate agents, DPMS and accountants are implementing their AML/CFT obligations. Assessors also sought to determine the impact of lawyers on the effectiveness of the AML/CFT regime.
- e) ***Financing of terrorism:*** Most of the TF activity occur in a territory outside the effective control of the authorities. The Assessors considered Nigeria's understanding of the TF threat posed by Boko/ISWAP and how Nigeria counters these risks. They focused on: the extent to which Nigeria identified and investigated TF activity through the regulated financial and commercial system, used TF-related charges against terrorist detainees, coordinated internally and with foreign partners; the enforcement, supervisory, intelligence and other tools to investigate and disrupt the TF activities of these terrorist groups; efforts and ability to monitor FIs, especially Forex dealers, to investigate, analyse, and target the financial elements of terrorist activity, to prevent the misuse of NPOs, to apply TFS without delay; and the impact of measures taken to supervise DNFBPs and detect and prevent illicit/non-declarant cash couriers.
- f) ***Misuse of legal persons and arrangements for ML/TF purposes and availability of beneficial ownership information:*** The 2017 NRA identified the non-availability and access to reliable BO information, the misuse of legal entities in complex ML schemes, and the lack of cooperation of lawyers to implement AML/CFT requirements, particularly disclosure of information on their customers and reporting of suspicious transactions as major vulnerabilities. AML/CFT requirements are inoperative against lawyers. Also, Nigeria has not assessed the ML/TF risk of legal persons created in the country. The Assessors focused on measures taken to prevent the misuse of legal persons for ML purposes, including the prompt exchange of accurate and up-to-date BO information and the application of sanctions for non-compliance with reporting requirements.
- g) ***Effectiveness of operational coordination and cooperation:*** Nigeria has several competent authorities, self-regulatory bodies, law enforcement agencies and supervisors involved in AML/CFT regulation, supervision and enforcement. Given the size of Nigeria and the number of enforcement and supervisory authorities, assessors focused on level coordination and cooperation in implementing and enforcing AML/CFT measures. Assessors sought to ascertain the quality and usage of financial intelligence, supervision of FIs and DNFBPs, and coordination and information sharing amongst competent authorities and self-regulatory bodies at all levels. Also, Assessors explored the extent to which the NFIU and supervisors of reporting entities collaborate to achieve expected supervisory and enforcement outcomes.
- h) ***International Cooperation:*** Nigeria has some documented cases of Mutual Legal Assistance (MLA) and extradition requests made and received from 2015 to 2019. The Assessors determined the extent to which Nigeria is providing and seeking international cooperation,

including the exchange of accurate and up-to-date basic and BO information of legal persons and arrangements.

- i) ***Cross-border Movement of Cash and BNI:*** Nigeria is a highly cash-based economy. Both the 2008 MER and 2017 NRA report highlighted the intensive use of cash and the existence of a large informal sector in Nigeria, resulting in the non-traceability of many financial transactions. Also, the NRA identified bulk cash smuggling and cross-border trade as channels for ML. The Assessors ascertained the effectiveness of measures to address the ML/TF risks of the informal sector, cross-border movement of cash and BNI, including bulk-cash smuggling.
- j) ***FinTech:*** Nigeria is a rising hub of financial technology, with the highest number of FinTech incubation hub on the African continent.¹⁸ There are concerns about the use of virtual assets for legitimate and illegitimate transactions. The Assessors sought to determine the understanding of associated ML/TF risks, and any risk-mitigating measures to protect the financial system from ML/TF abuse linked to virtual assets.
- k) ***Proliferation financing:*** Nigeria does not have a legal framework to implement TFS relating to the financing of proliferation of weapons of mass destruction (proliferation financing/PF). Nigeria maintains trade and diplomatic links with the Democratic Republic of Korea (DPRK). Assessors focused on the extent to which reporting entities have identified funds or other assets of PF-designated persons and entities without delay, and prevented the designees from operating or executing financial transactions related to PF.

1.2. Materiality

96. Nigeria is an evolving international financial services centre which features Africa's largest economy (USD 447 bn in 2019) and a population (more than 200 mln). GDP growth in 2019 year was just over 2%, with growth continuing to be muted following its 2016 recession¹⁹. Still, the country is described as the economic "powerhouse" of West Africa and contributes nearly 50% of the regional GDP.

97. Nigeria ranks as the largest oil producer in Africa and among the top producers in the world. Nigeria's oil sector is state dominated, with the Nigerian Government exercising control through several ministries and agencies. Oil and gas exist in States located in the southern region of the country, including Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo and Ondo States and Rivers. Oil is the most significant single driver of the country's economy, and accounts for about 80% of foreign exchange earnings²⁰. An increasing share of Nigeria's growth is attributable to expansion in the non-oil sector, such as in agriculture, forestry and fishing; information and communication; manufacturing; and mining and quarrying. Services is the largest sector of Nigeria's economy, accounting for about 50% of total GDP (₦ 6.265 tln²¹ (USD 17.574 bln)).

¹⁸ <https://thefintechAfrica.com/random-tech/top-10-fintech-companies-in-nigeria-and-their-ceos/>.

¹⁹ The World Bank Group, World Bank national accounts data, and OECD National Accounts data files, 2019, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=NG>; <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>

²⁰ National Bureau of Statistics (National Account of Nigeria) 2015.

²¹ Trading Economics.Com/National Bureau of Statistics, Nigeria, <https://tradingeconomics.com/nigeria/gdp-from-services>

98. Nigeria's 40 existing or planned Export Free Zones aim to diversify the revenue base of its economy, generate significant employment, and encourage export through local production. As at the end of the on-site, (14) of the Free Zones (FZs) were operational with 2 (Calabar and Kano) being government-owned, and more than 400 licensed Free Zone Enterprises (FZEs). Since its inception in 1991, the Nigeria Export Processing Zones Authority (NEPZA) has attracted over \$20 billion Foreign Direct Investment (FDI) into the national economy, accounting for a major percentage of Nigeria's FDI.

99. Nigeria's five major export trading partners, as well as their percentage share in the second quarter (Q2) of 2019, were: India (17.27%), Spain (11.97%), Netherlands (10.41%), United States (7.68%) and France (6.09%), while its five major import trading partners and percentage share in the same Q2 of 2019 were China (25.47%), United States (10.53%), Netherlands (9.33%), India (7.48%) and Belgium (6.24%). The country mainly exports crude oil (85.61%), petroleum gas (9.44%) and agricultural goods (1.60%). At the same time, it imports manufacturing goods - including machinery, construction supplies, vehicles, among others. Table 1.1 provides the breakdown of the trading activities of Nigeria and its major trade partners in 2019.

Table 1-1 Major Trade Partners and Share to GDP

SN	Country	Trade value (bln)	Share (%)	GDP
Exports				
1	India	N908.6 billion	USD 2.96	17.27%
2	Spain	N775.7 billion	USD 2.53	11.97%
3	Netherlands	N519.3 billion	USD 1.69	10.41%
4	USA	(N454.7 billion	USD 1.48	7.68%
5	France	N332.2 billion	USD 1.08	6.09%
Imports				
1	China	N1,020.6 billion	USD 3.33	25.47%
2	USA	N422.1 billion	USD 1.38	10.53%
3	Netherlands	N374.1 billion	USD 1.22	9.33%
4	India	N299.8 billion	USD 0.98	7.48%
5	Belgium	N248.9 billion	USD 0.81	6.21%

Source: Quarterly Reports, Foreign Trade in Goods Statistics, National Bureau of Statistics, Nigeria.

100. Nigerian income inequality is among the highest in the world, with approximately half the population living in poverty.²² Nigeria ranks 157 (out of 189) countries in the UN's Human Development Index. The informal economy, in which most Nigerians operate, and which is mainly cash-based, has been estimated to make up nearly two-thirds of Nigeria's entire economy.²³ Only approximately half of Nigerians have access to some sort of banking service.

1.3. Structural Elements

101. Since 1999, Nigeria has maintained a relatively stable democratic system, with regular alternations in power between the country's leading political parties. Nigeria's judiciary elicits more trust than many other public institutions, however, there are concerns about the adherence to the rule of law. In the World Justice Project's 2019 Rule of Law Index, for example, Nigeria ranked 106 out of 126 countries on measures such as regulatory enforcement, access to justice, efficacy and impartiality of criminal justice

²² <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=NG>

²³ IMF Working Paper, The Informal Economy in Sub-Saharan Africa: Size and Determinants (July 2017).

administration, due process, constraints on government powers, and the absence of corruption. These features of Nigerian governance hinder implementation of an effective AML/CFT regime.

102. Nigeria also ranks in the bottom quintile on nearly all of the World Bank's Governance Indicators (for example, the rule of law, control of corruption, regulatory quality, governmental effectiveness, and political stability (see Table 1.2 below). Nigeria invests considerable resources into its core enforcement, security and intelligence agencies, which have demonstrated an ability to be effective, but which also suffer from some of the problems afflicting Nigerian governance more broadly. Reports also suggest other issues including long delays in criminal cases (including non-consecutive trials), including lengthy detentions without trial, procedural and due process irregularities, a heavy reliance on confessions, and concerns about the secrecy of proceedings²⁴. Broadly, Nigerian government agencies face acute resource and capacity restraints, as demonstrated by the continued reliance on manual processes for much of their work.

103. From the AT's observations and review of various third-party assessments,²⁵ Nigeria has a relatively free press, although widely seen as subject to political influence and factionalism, resulting in the coverage of corruption and ML issues that can be contradictory and play to different audiences. Still, the sensationalism and widespread frustration with corruption make enforcement actions, prosecutions and allegations of corruption highly prominent in mainstream media coverage.

Table 1-2: World Bank, World-Wide Governance Indicators – Nigeria²⁶

Indicator	Governance Score (2.5 to +2.5) ²⁷		Percentile Rank 2018 (0-100) ²⁸	
	2013	2018	2013	2018
Voice and Accountability	0.69	0.41	27.70	33.50
Political Stability and Absence of Violence/Terrorism	-2.09	-2.19	3.79	4.29
Government Effectiveness	-0.99	-1.02	16.59	14.90
Regulatory Quality	-0.66	-0.88	27.01	17.31
Rule of Law	-1.11	-0.88	12.21	18.27
Control of Corruption	-1.22	-1.04	9.4	13.46

104. Since 2015, Nigeria has seen a highly visible campaign against corruption in Nigeria, resulting in the prosecution and conviction of some high-profile former and current public officials. In 2018, Nigeria moved up four places on Transparency International's (TI) Corruption Perception Index ranking 144 out of 180 countries. This ranking within the bottom 15% of countries globally is reflected in Nigeria's recognition of corruption among its most pervasive and entrenched ML threats, as well as a large body of third-party analysis.²⁹

²⁴<https://www.hrw.org/news/2018/09/17/nigeria-flawed-trials-boko-haram-suspects>; <https://core.ac.uk/download/pdf/234649906.pdf>.

²⁵ See, e.g., Reporters Without Borders: Nigeria (2021), at <https://rsf.org/en/nigeria>.

²⁶ The Worldwide Governance Indicators, 1996-2018, 2019 Update.

²⁷ Estimate of governance (ranges from approximately -2.5 (weak) to 2.5 (strong) governance performance).

²⁸ Percentile rank among all countries (ranges from 0 (lowest) to 100 (highest) rank).

²⁹See Nigeria's National Risk Assessment (2016); see also, e.g., Matthew Page, A New Taxonomy for Corruption in Nigeria, <https://carnegieendowment.org/2018/07/17/new-taxonomy-for-corruption-in-nigeria-pub-76811> (July 2018).

1.4. Background and Other Contextual Factors

1.4.1. AML/CFT strategy

105. Nigeria has a National AML/CFT Strategy document spanning 2018 to 2020 to address risks identified in its NRA. The primary purpose of the AML/CFT Strategy is to provide a framework for combating and preventing ML and TF to enhance and sustain the socio-economic and political development of Nigeria. The objectives of the Strategy are to (i) enhance existing AML/CFT preventive measures aimed at protecting the financial and designated non-financial sectors from abuse by money launderers and financiers of terrorism; (ii) enhance the effectiveness of national AML/CFT stakeholders thereby reinforcing the regulatory and institutional framework of Nigeria's AML/CFT regime; and ((iii) strengthen national AML/CFT cooperation and coordination through a multi-faceted synergy to combat ML and financing of terrorism. The Strategy envisions policy and operational coordination among competent authorities as well as the private sector.

106. Nigeria adopted an Action Plan in October 2018 to implement the AML/CFT Strategy. The Action Plan provides a roadmap of tasks and milestones for the sub-elements. It assigns responsibilities to agencies for their execution. These steps include (i) the enactment of the Proceeds of Crime Bill to enhance the recovery of proceeds and instrumentalities of crime, including civil forfeiture of the proceeds of criminal conduct and illicit cash; (ii) enactment of the Mutual Legal Assistance Bill to facilitate international cooperation on AML/CFT issues; enactment of the Nigerian Financial Intelligence Bill; (iii) amendment of the MLPA to designate oil bunkering as a predicate offence of ML; (iv) enactment of an independent legal framework to establish SCUML outside the MLPA; and (v) allocation of adequate resources to competent authorities. The Action Plan also specifies issues that may impact supervisory resources in a manner inconsistent with a risk-based approach, such as expanding the scope of DNFBPs under the supervision of SCUML. In addition to being more aspirational, though some elements of the Action Plan appear to fall outside the scope of AML/CFT authorities, they are important given the cascading effect on the perpetration of ML predicate offences, if not addressed. For instance, it introduces free and compulsory education in the North East to reduce the vulnerability of children to terrorist recruitment.

107. Nigeria adopted the National Counter-Terrorism Strategy, 2016 (NACTEST) to provide broader counterterrorism policy priorities and a framework for Nigerian agencies. The NACTEST is the first high-level document of its kind. It recognises the role of financing to the ability of terrorist groups to organise and operate, how they raise funds, and articulates the roles and responsibilities of the various CT agencies (see discussion in IO.9). It also notes the role of asset freezing and TFS in disrupting terrorist activity. The NACTEST directs that all terrorist suspects must be subject to financial investigation.

108. Other national plans and strategies, such as Nigeria's Strategy for Financial Inclusion and efforts to reduce the use of cash, also bear on AML/CFT priorities and outcomes.

1.4.2. Legal & institutional framework

109. Since the last assessment in 2008, Nigeria has improved its legal framework and supervisory regime. At the time of the last on-site, the country did not have adequate CDD and record-keeping measures for reporting entities, including prohibitions on the opening of numbered or anonymous account; lack of full coverage of CDD requirements; and assessment of customer risks. Also, the laws substituted STRs for CTRs and lacked a definition of a suspicious transaction. Nigeria has amended the MLPA to address these issues. Nigeria has amended financial sector laws to remove financial institution secrecy provisions and prohibit the opening and maintenance of numbered or anonymous accounts, accounts in fictitious names and shell banks. Nigeria has also, enacted the NFIU Act 2018 which among other things provides for or

guarantees the operational autonomy of the NFIU and designates it as the coordinating mechanism for the implementation of AML/CFT measures in Nigeria. These Acts are complemented by sector specific regulations which impose AML/CFT obligations on reporting entities.

110. The following are the main ministries and authorities responsible for ensuring the effective implementation of AML/CFT matters and proliferation financing:

Ministries and coordinating committees

- a) The **Inter-Ministerial Committee (IMC)**, inaugurated in March, 2015³⁰, is the primary mechanism for AML/CFT policy development and cooperation for Nigeria's AML/CFT stakeholder agencies at both policy and operational levels. The IMC is charged by its Charter with developing, implementing and monitoring strategic AML/CFT initiatives, developing legislative proposals, facilitating information-sharing, coordinating the NRA, and implementing the National AML/CFT Strategy framework. The IMC coordinated the NRA through the NRA Forum. The NFIU is the Secretariat of the IMC as prescribed by section 24 of the NFIU Act.

At the policy level, the AGF chairs, while the Ministers of Interior and Finance serve as IMC co-chairs. The AGF is responsible for informing the Federal Executive Council (comprised of ministers and the President) of the IMC's activities. At the operational level, the membership includes officials, not below the rank of Assistant Director, drawn from 27 regulatory, law enforcement and supervisory bodies, as well as the DSS and ONSA, which represent TF considerations.

- b) The **Nigeria Sanctions Committee (NSC)** has the mandate to formulate and provide general policy guidelines for the implementation of the TPA and the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013 (TPR) and advice the AGF on the effective implementation of the UN Security Council Resolutions (UNSCRs). The NSC comprises the AGF and representatives of the Minister of Foreign Affairs (MOFA), the National Security Adviser (NSA), the Director General of the State Security Service, the Governor of the CBN, the Inspector General of Police (IGP), the Director General of the National Intelligence Agency (NIA), a representative of the Chief of Defence Staff (CDS), and the Director of the NFIU (Member Secretary).
- c) The **Department of State Services (DSS)** is responsible for the prevention and detection of any crime against the internal security of Nigeria; protection and preservation of all non-military classified matters covering the internal security of Nigeria, and such other responsibilities, affecting the internal security of Nigeria. In this capacity, the DSS is also responsible for the prevention and investigation of terrorism, including operational TF.
- d) The **Federal Ministry of Finance (FMF)** is responsible for economic and fiscal policies of the country³¹. The FMF works in close collaboration with all the major players involved in AML/CFT in Nigeria. It is responsible for the coordination of policy issues concerning the coordination of AML strategies in Nigeria. The FMF's efforts to tightly regulate monetary and

³⁰ The IMC was established in July 2008 as part of Nigeria's National strategic initiative for combating ML/TF, including coordination and implementation of the National AML/CFT strategy framework.

³¹ The National Planning Commission, which is now headed by a cabinet minister, is responsible for economic planning and advisory services to the Presidency.

fiscal policy, together with the CBN, have led to stabilisation of the value of the Naira and the virtual elimination of the black-market exchange rate to the direct benefit of the country and would reduce cash transactions.

- e) The **Ministry of Justice (MOJ)** is responsible for the administration of justice in Nigeria. The AGF is the head of the MOJ and the legal advisor to the President and government agencies on all government business. The AGF is authorised to institute and undertake civil and criminal proceedings under the 1999 Constitution of Nigeria. The Complex Cases Group (CCG) within the MOJ handles the prosecution of TF cases. The AGF is the Chairperson of the IMC and a member of the Legal ‘Practitioners’ Privileges Committee (LPPC). The LPPC is responsible for the functions of a legal practitioner.
- f) The **Federal Ministry of Interior** has the mandate to ensure and maintain the internal security of the nation; formulate and implement policies and programmes on the following: granting of Nigerian citizenship, prisons, immigration and visa, seamen’s identity card/certificate, passport and travel documents, the National flag and the national coat of arms, permit for foreign participation in business, movement of aliens in the country, repatriation of aliens, relations with civil defence and national identity card.
- g) The **Ministry of Foreign Affairs** is responsible for the formulation, articulation and implementation of Nigeria’s foreign policy and external relations. The MoFA is involved in efforts and actions against terrorism and disseminates relevant UNSCRs to government agencies. It also supports the other agencies and monitors progress in the implementation of these Resolutions.
- h) The **Corporate Affairs Commission (CAC)** is responsible for the registration of corporate bodies and NPOs. It is the principal repository of records of all businesses registered in the country. All competent authorities can access company records upon request, and for the private sector on payment of a prescribed fee to CAC. Basic information is available on the CAC’s website and accessible to the public.
- i) **Nigeria Export Processing Zones Authority (NEPZA)** operates according to the Nigeria Export Processing Zones Act of 1992 to designate areas of the Country as Export Free Zones, and manage, control and coordinate all activities within the Zones. NEPZA may grant a licence for any approved activity in a Zone to an individual or business concern incorporated in the customs territory and elsewhere. The grant of a license by the Authority is registration for a company within the Zone. Up to 100 per-cent foreign ownership of a business in the Zones allowable.
- j) The **Ministry of Budget and National Planning** oversees cooperation and coordination of information sharing between their Ministry and LEAs regarding international NGOs (INGOs). To avoid duplicated requests and responses, the Office of the Secretary General of the Federation serves as the central clearing points for all requests for information from the LEAs. The Ministry also interfaces between the INGOs forum and the relevant authorities.

Criminal Justice and Operational Agencies

- a) The **Nigeria Financial Intelligence Unit (NFIU)** is an autonomous national centre for receiving, requesting, analysing suspicious transaction reports (STRs) and other information related to ML, associated predicate offences, TF, PF, and proceeds of crime from reporting entities and Customs. The FIU analyses these reports and disseminates the results of its analyses to competent authorities, spontaneously and upon request.

- b) **The Economic and Financial Crimes Commission (EFCC)** is the lead agency for the investigation and prosecution of all offences connected with, or relating to economic and financial crimes, including ML, in Nigeria. It also works closely with the security services, including the DSS, in investigating illicit financial activity, including TF. In recent years, the EFCC has become increasingly resourced and empowered. The EFCC has undertaken an unprecedented pace of investigations and prosecutions. Steady funding and a towering new headquarters in Abuja demonstrate the prominence being given to this agency.
- c) **National Drug Law Enforcement Agency (NDLEA)** has the principal mandate related to narcotic drugs law enforcement. The NDLEA also has powers to investigate and prosecute ML offences arising from illicit traffic in narcotic drugs and psychotropic substances. The NDLEA has a department responsible for the recovery of assets derived from laundering the proceeds of narcotic drugs. The Agency pursues its objectives through concerted efforts within Nigeria as well as international collaboration both at bilateral and multilateral levels. Its resource base needs to be improved.
- d) **Independent Corrupt Practices and Other Related Offences Commission (ICPC)** has the mandate to investigate and prosecute corruption offences under its enabling legislation or any other law prohibiting corruption. It can trace, seize, freeze, confiscate and forfeit all proceeds of corruption and related offences. It lacks the requisite resources commensurate to its functions and Nigeria's context.
- e) **The Nigeria Police Force (NPF)** is responsible for (i) the prevention and detection of crime; apprehension of offenders; (ii) preservation of law and order; (iii) protection of life and property; and (iv) enforcement of all relevant laws and regulations. The NPF investigates and prosecutes ML and predicate offences.
- f) **The Code of Conduct Bureau (CCB)** has the mandate to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability. It manages the asset-declaration regime of Nigeria. It receives complaints about non-compliance with or breach of the provision of the code of conduct or any related law, investigates complaints and, where appropriate, refers matters to the Code of Conduct Tribunal.
- g) **The Code of Conduct Tribunal (CCT)** serves as the court for the CCB. It adjudicates any case referred to it by the CCB. Unlike the other agencies mentioned above, the Code of Conduct Bureau and Code of Conduct Tribunal derive their powers from the Constitution and thus need not refer to the Ministry of Justice in the discharge of their judicial and prosecution powers.
- h) **The Nigeria Customs Service (NCS)** is responsible for implementing Government fiscal policies as they relate to the import and export regime. It is the competent authority for enforcing the cross-border declaration of currency and bearer negotiable instruments (BNIs).

Financial Sector Supervisory Bodies – Government

111. The Nigerian financial sector comprises the regulators and regulated entities (operators). While the operators apply the provisions of the AML laws as a guide to their operations, the regulators, mainly government institutions, enforce compliance with the laws and regulations. The regulators also perform various examination and assessments to detect possible infringements and impose sanctions for non-compliance.

- a) The **Central Bank of Nigeria (CBN)** Supervises deposit money banks, specialised institutions credit registry bureaux, and related institutions microfinance banks, bureaux-de-change, development finance institutions, primary mortgage institutions and finance companies.

- b) The **National Insurance Commission (NAICOM)** Supervises insurance companies, agents, brokers, and loss adjusters.
- c) The **Securities and Exchange Commission (SEC)** Supervises capital market operators (CMOs) comprising broker-dealers, fund/portfolio managers, custodians, issuing houses, registrars, trustees, underwriters, investment advisers, solicitors, accountants, surveyors and sub-brokers.
- d) The **Nigerian Deposit Insurance Commission (NDIC)** ensures safe and sound banking practice and prevents incidents of failed banks. It insures deposit liabilities of licensed banks and such other FIs operating in Nigeria to create confidence in the Nigerian banking system. The **Federal Inland Revenue Service (FIRS)** is responsible for tax policies and implementation in Nigeria.

DNFBPs Sector Supervisory Bodies – Government

The Special Control Unit against Money Laundering (SCUML) of the Federal Ministry of Trade and Investment, in collaboration with the NFIU and other relevant self-regulatory bodies (SRBs), is responsible for the registration, certification, and supervision of DNFBP in Nigeria for AML/CFT purposes. The SRBs include the Nigerian Bar Association (NBA), Institute of Chartered Accountants in Nigeria (ICAN), Nigerian Tourism Development Corporation (NTDC), AEGIS and the Federal Ministry of Mines and Steel Development (FMMSD).

Financial sector bodies and associations - Private Sector

- a) The **Nigeria Stock Exchange (NSE)**, a registered company limited by guarantee, licensed under the Investments and Securities Act (ISA), and is regulated by the Securities and Exchange Commission (SEC) of Nigeria. The Exchange offers listing and trading services, licensing services, market data solutions, ancillary technology services and more. As of September 2019, the NSE had 156 listed companies with a total market capitalisation of about ₦ 26.962 tln (USD 74.616 bln)³². The NSE belongs to several international and regional organisations, including the International Organisation of Securities Commissions (IOSCO).
- b) The **Bankers' Committee** consists of Chief Executives of Banks in Nigeria. It is chaired by the Governor of the CBN. The Committee meets monthly to review progress in the implementation of FIs' policies and to address any emerging issues.
- c) The Chartered Institute of Bankers of Nigeria (CIBN) is the umbrella professional body for bankers in Nigeria. It was incorporated in 1976 as the Nigerian Institute of Bankers and Chartered in 1990 (now CIBN Act 5 of 2007). The principal responsibilities of the CIBN are to determine the entry requirements for prospective members of the banking profession; secure and maintain relevant registers of members, conduct professional examinations for the award of prescribed certificates; and ensure the furtherance, maintenance and observance of ethical standards and professionalism among practitioners of the banking profession in Nigeria. Its objectives include supporting the Government in creating a corruption-free society with special emphasis on internationally acceptable standards of best practice. The corporate members are made up of Deposit Money Banks, Regulatory bodies, Non-Interest Banks, Merchant Banks,

³² Page 1, NSE Q3 2019 Fact Sheet

Development Finance Institutions, Asset Management Corporation, Primary Mortgage Institutions, and Microfinance Banks.

- d) **Committee of Chief Compliance Officers of Capital Market Operators in Nigeria (CCCOCIN)** is the equivalent of ACCOBIN for Chief Compliant Officers of capital market entities, including their regulators as members. They also hold regular meetings to discuss AML/CFT and other regulatory/ compliance issues.
- e) **Association of Chief Compliance Officers of Banks in Nigeria (ACCOBIN)** formerly known as the Committee of Chief Compliance Officers of Banks in Nigeria (CCCOBIN)³³ comprises Chief Compliance Officers of Nigerian banks and regulators/supervisors of the financial sector such as CBN, NDIC, NAICOM, SEC, NDLEA, FIRS, NPF, EFCC and NCS. The Association meets monthly to discuss regulatory issues with AML/CFT as one key item. It is now the rallying point for matters concerning AML/CFT compliance in Nigeria.

DNFBPs and other matters - Private

- a) **The Estate Agents & Surveyors:** The Estate Surveyors and Valuers Registration Board of Nigeria regulates and controls the practice of estate agents.
- b) **Although the NBA** ensures the proper conduct of legal practitioners in Nigeria, lawyers are currently not covered by AML/CFT requirements due to a subsisting Court of Appeal decision exempting them from AML/CFT obligations.
- c) **Association of Capital Market Solicitors** comprises solicitors registered with the SEC. They undergo an interview to determine their knowledge of the Securities sector. They verify and authenticate documents associated with the sale and purchase of shares in the capital market.
- d) ICAN is empowered by law to set standards and regulate the practice of Accountancy in Nigeria. ICAN has licensed more than 48,000 members since 1965. Also, another body – Association of Nigerian Accountants (ANAN) was also set up in 1998 to regulate Accountancy practice. About 2,000 of 7,000 chartered accountants licensed by ANAN are in practice. There can be sole practitioners and up to 20 partners. ICAN has revoked the licences of some firms, but not for non-compliance with AML/CFT requirements.

1.4.3. Financial sector and DNFBPs

112. Nigeria presents significant complexity when considering risk and materiality related to ML and TF, given the range of activity in its economy. As of September 2019, there were 7,599 FIs in Nigeria. In 2018, financial services accounted for 18% of Nigeria's GDP and 7% of total employment in the economy. The authorities have observed that there are thousands of participants involved in cryptocurrencies operations in Nigeria, either as exchangers, transmitters, brokers, or merchants, and offering various products such as Bitcoins, Litecoin, among others. Although some of the participants are registered as corporate bodies, they are neither licenced nor regulated to offer cryptocurrency (virtual assets) services in Nigeria.³⁴ Bitcoin exchange (transaction) volumes from December 2016 to 2018, increased almost by three-

³³ –CCCOBIN was formed in 2007 by all the Deposit Money Banks (DMBs) in Nigeria to deepen the collaborative, cooperative and coordinating efforts among its members and all other stakeholders in the fight against Money Laundering, Terrorist Financing, Fraud and all other criminal activities in the financial services industry and the country at large.

³⁴ Page 32, Report and Proceedings, Two-Day Seminar on Understanding the Interface between Cryptocurrency and Money Laundering, by the Presidential Advisory Committee against Corruption, The Presidency, Nigeria.

folds from more than N400 mln (USD 1.3 mln). Kidnappers have collected ransom in Bitcoins while the facility has also been used in “Ponzi schemes” in the country. Nigeria is yet to fully articulate a comprehensive policy or operational response, including non-assessment of the ML/TF risks posed by virtual assets. The CBN and SEC have issued circulars to institutions under their supervisory purviews and assured that they are monitoring developments in the virtual asset space to formulate substantive regulations to deal with the phenomenon.

113. The other financial institutions (OFIs) sector under the CBN comprises the primary mortgage banks, microfinance banks, development finance institutions, finance companies, foreign exchange (forex) and money or value transfer service (MVTS) operators. Contemporary trends include merchant banks, sector-specific lending vehicles, and from policymakers, an increased focus on products to promote financial inclusion. These include microfinance, mobile platforms, and the establishment of a network of mobile money agents to service this developing financial infrastructure. As of 30 September 2019, the total number of licensed OFIs stood at 6,017 with a total asset of ₦ 3.189 tln (USD 8.92 bln).

114. Nigeria has adopted a broad definition of DNFBPs, including dealers in cars and luxury goods, clearing and settlement companies, dealers in mechanised farming equipment, mechanised farmers, hotel operators, travel agents, lottery operators, supermarkets. It subjects all these sectors to AML/CFT compliance requirements such as CDD, record-keeping and suspicious transaction reporting. There is no indication of a comprehensive risk assessment as a basis for the designation. Still, the DNFBP sector is much smaller in terms of size as compared with the financial sector. Registered DNFBPs contributed 3.57% to aggregate real GDP in Q3 2019.³⁵ The overall level of vulnerability of the DNFBP sector is assessed as “High” primarily due to inadequate AML/CFT control measures, high use of cash and close links to the informal sector and, in many cases, higher-risk customer base. The 2017 NRA identified the informal sector, which consists of a substantial proportion of DNFBPs, as a conduit for 80% of TF activities in Nigeria due to minimal regulation-inefficient STR reporting from the sector.³⁶

115. Given their materiality and level of ML/TF risks, the Assessors ranked the sectors based on their relative importance in the Nigeria context. The Assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report but is most evident in Chapter 5 on IO.4 and Chapter 6 on IO.3:

- a) **The banking sector is weighted as being the most important in Nigeria based on its materiality and risks.** The banking sector is dominant within the formal financial sector, which is nevertheless reasonably diversified, with the largest banks following the universal banking model and a range of specialised actors tapping specific niches. It has 27 banks comprising 22 national commercial and 5 foreign banks/subsidiaries of foreign banks. Together Nigerian banks have an asset base of ₦ 38.617 tln (USD 108 bln) constituting 92 per cent of industry assets. The NRA identified the banking sector as being at medium-high risk of ML.
- b) **Forex dealers, lawyers, trust and company services (TCSPs) and real estate sectors** are weighted as highly important in terms of materiality and risk in Nigeria’s context as follows:

³⁵ 69, GDP Report, Quarter 3, 2019, NBS.

³⁶ Pages xxiii and 197, 2017 NRA.

- i. **Forex dealers:** Nigeria has 4,798 registered forex dealers with an asset base of ₦ 167.93 bln (USD 469.734 mln) constituting 4.01 per cent of the financial sector assets. In 2018, the outflow of forex sales through the CBN amounted to ₦ 3.157 tln (USD 8.83 bln)³⁷, accounting for 15.67% of foreign exchange disbursements through the CBN³⁸. There are reported cases where forex dealers courier huge amounts of cash usually foreign currency on behalf of clients to another jurisdiction or within the country.³⁹ Besides, there is an estimated thousand or a more higher-risk unlicensed/ “black market” foreign exchange operators doing business throughout the country. These forex dealers do not have permanent business addresses; nor implement any form of identification measures or threshold requirements; neither file or submit STRs and other statutory reports; maintain records to trace their customers or the movement or sources of funds⁴⁰, and are not under any form of monitoring and regulation by the CBN or subject to discipline by Association of Bureaux de Change Operators of Nigeria (ABCON). The activities of the unlicensed operators provide a channel for laundering illegally obtained funds and TF, and they lack controls or compliance programs.
- ii. **Lawyers:** According to SCUML data, 2,999 legal service providers which undertake the FATF regulated activities for legal professionals as well as trust services.⁴¹ According to the NRA, 61.3% of the clients of lawyers are individuals, while 38.7% are corporate clients, including PEPs and non-residents.⁴² Significantly, the CAC relies on statutory declarations made by legal practitioners in respect of documentation for the incorporation of companies as sufficient evidence of compliance with such requirements (§35, CAMA). There are no specific AML/CFT control measures in place while the Nigerian Bar Association has challenged their statutory reporting obligation in a court of law for which judgement was given in their favour.⁴³ The lawsuit relates to the applicability of the Federal Ministry of Industry, Trade and Investment Regulations for DNFBPs to lawyers and SCUML’s capacity to regulate them for AML/CFT compliance. The Court invalidated the provisions of the MLPA as it applies to legal practitioners as null and void. It also adjudged the inclusion of legal practitioners in the definition of designated non-financial institutions as inapplicable. Based on this, the Court granted an order of perpetual injunction restraining the Federal Government, the CBN and the SCUML from seeking to enforce section 5 of the MLPA against legal practitioners. Notably, the decision enforces the lawyer-client confidentiality principles in the AML/CFT regime and declares SCUML as a non-juristic person. The matter is currently on appeal before the Supreme Court. SCUML believes that the appeal reverts the AML/CFT situation regarding lawyers to the *status quo ante*, requiring lawyers to comply with AML/CFT requirements. However, there is no reliable information evidencing that lawyers comply with AML/CFT requirements, as SCUML and lawyers

³⁷ Page 48, Central Bank of Nigeria Annual Report, 2018.

³⁸ P. 51, *supra*.

³⁹ P. 35, 2017 NRA.

⁴⁰ P. 35, 2017 NRA.

⁴¹ The NBA was unable to provide reliable data on the number of lawyers registered with it as it was yet to build its database.

⁴² Page 28, 2017 NRA.

⁴³ Page 28, *supra*.

have diverse views on this issue. Nigeria has not assessed the ML/TF risk of legal persons created in the country. The NRA identifies lawyers as being at medium-high risk for ML with 39 instances of complicity having been noted.

- iii. **TCSPs:** This sector comprises 1,500 entities, including lawyers and accountants. The number of legal persons created and operating in the country places a high demand for the services of TCSPs. In 2019, CAC incorporated 1,283 and liquidated 588 legal persons (struck off names from the company register). The Assessors considered the scoping issues regarding lawyers and the lack of effective AML/CFT supervision of accountants.
 - iv. **Real Estate Agents:** There are 17,919 real estate companies in Nigeria with an asset base of N8, 632,817.11 (USD 24.215.48). The real estate sector's contribution to nominal GDP in Q2 2019 stood at 6.36% as against 7.09% recorded in the second quarter of 2018 and 5.79% recorded in the first quarter of 2019.⁴⁴ In the third quarter of 2019, services from this sector grew in nominal terms by 3.71 per cent with a considerable proportion being residential property. Nigeria's NRA ranks the real estate sector as the 2nd most vulnerable to ML risk (medium-high). The latest and the easiest means of ML in Nigeria is through the real estate sector. There are many luxurious properties constructed in high-brow areas and tastefully furnished but remain abandoned and unoccupied⁴⁵. The prices of these properties are estimated to be far more than the known incomes of their owners. Also, the sale of real estates is mainly cash-based with random prices which makes it difficult to trace such transactions.
- c) **Capital market operators (CMOs), MVTS, Accountants and Auditors, DPMS and car dealers are weighted moderately important in terms of materiality and risk in Nigeria's context.** The inherent risk and materiality of these sectors obtain from the nature of their customer base, cash transactions and other factors discussed below:
- i. **Nigeria's** capital market is relatively underdeveloped, accounting for only 11% of GDP in 2017. There are 451 CMOs in Nigeria with an asset base of ₦ 1.054 tln (USD 2.947 bln). The capital market is principally for long term corporate and government investments comprising equities, fixed income securities, exchange-traded products, foreign exchange derivatives and commodities, among others. The market represents a small but growing proportion of the nation's economy. As of September 2019, the combined asset base of the equities market and exchange-traded products had a ₦ 9.863 tln (US \$32.9 bln), while the fixed income securities and foreign exchange derivatives had a combined turnover of ₦ 17.889 tln (USD 59.6 bln). CMOs/consultants in Nigeria comprise broker-dealers, fund/portfolio managers, custodians, issuing houses, registrars, trustees, underwriters, investment advisers, solicitors, accountants, surveyors and sub-brokers. Broker-dealers and fund/portfolio managers have a considerable number of individual clients, including PEPs, and exposed to non-face-to-face transactions to a limited degree. The capital market represents a small market size but a growing proportion of the nation's economy (less than 5%) of the financial sector of Nigeria, but faces a growing risk of illicit activities, including Ponzi Schemes.

⁴⁴ Nigerian Gross Domestic Product Report Q2 2019

⁴⁵ Page 29, 2017 NRA.

- ii. **MVTS** mainly provide in-bound remittance services. They engage in high volume transactions from different jurisdictions, including higher-risk countries and locations, and most of their transactions are non-face-to-face. Remittances to Nigeria are substantial and amounted to USD 24.3 in 2018, contributing 6% of the country's GDP.⁴⁶ Though the NRA rates MVTS as having a low ML risk, the elevated level of terrorism in Nigeria makes the sector susceptible to abuse by terrorist financiers.
 - iii. **Accountants/Auditors:** This sub-sector consists of domestic and international firms, with the international firms controlling a lesser percentage. There are an estimated 2,642 registered Accountants/Auditors in Nigeria. ICAN and ANAN have 2,329 and 313 registered members, respectively. Accounting and audit firms provide a wide range of services, including mergers and acquisition of companies, creation of legal persons, management of securities and other assets, purchase and sale of real estate. Nigeria identified the accounting sector as being at "Medium High" risk for ML.
 - iv. **DPMS** are mainly small to medium scale jewellery shops. There are 39 DPMS registered with SCUML. According to the NRA, customers of jewellery dealers are mostly medium-income individuals (90.9%) and very few high net-worth customers (9.1%). The NRA highlighted that ineffective regulation of activities of DPMS in Nigeria had given rise to the operation of several illegal DPMS in the country. The ease of concealability and ability to smuggle precious metals and stones out of the country without trace or records makes it very difficult to have an accurate record on the volume of proceeds generated from these activities. Statistics⁴⁷ show that Nigeria exports more and imports fewer precious metals and stones, with minimal contribution to the economy of the country. The smuggling of precious metals and stones may account for the low contribution of this sector to the economy of Nigeria. Although there were no ML cases involving DPMS during the NRA period, Nigeria rated the potential ML risk of this sector as "Medium High".
 - v. **Car dealers** are under the supervision of SCUML for AML/CFT purposes. SCUML statistics shows that there are 3,421 car dealers registered with SCUML. Transactions in this sub-sector are cash-intensive and untraceable, while major car dealers in the sector have a poor record-keeping culture. Most car dealers are illiterates and often claim ignorance of their reporting obligations. The NRA also states that the number of organised car dealers is insignificant compared to the size of the sector and the number of car operators. It also cites difficulties in identifying the BOs of car dealership businesses. The NRA has assessed the overall vulnerability and ML risk of car dealers as "High"/"Medium-High".⁴⁸
- d) **MFBs, insurance companies and casinos** are weighted as being of less importance given their materiality and risk for ML/TF in Nigeria:
- i. Formal **microfinance** banking commenced in December 2005 with the launching of the **Microfinance** Policy, Regulatory and Supervisory Framework for Nigeria. The specific objective was to leverage on global best practices to make financial services accessible to a large segment of the productive but financially excluded population, promote innovative, rapid and balanced growth of the industry. The number of microfinance banks (MFBs) stood

⁴⁶ <https://www.businessamlive.com/cbn-announces-commitment-to-strengthen-indigenous-money-transfer-operators/>

⁴⁷ Foreign Trade in Goods Statistics Q3_2019, The National Bureau of Statistics.

⁴⁸ Page xxii and 30, 2017 NRA. Pages xxii and 30 assigned different ratings to car dealers.

at 908 at the end of September 2019 compared with 885 at end-December 2018 and 1,008 at end-December 2017. MFBs have a branch network of 2,751, an asset base of NGN 467.87 bn (US\$1.312 bn) and a total industry asset of 1.116%. The NRA rated the MFBs sector as being of Medium Low risk for ML.

- ii. The **insurance** sector forms a small part of Nigeria's financial services sector with a total balance sheet of the resources of insurance companies representing about 0.52% of GDP at the end of 2018 and 0.52 in quarter 2 of 2019.⁴⁹ The insurance industry in Nigeria comprises life, non-life and reinsurance. There are 59 insurance companies (14 Life, 28 non-life, 13 composites (offering both life and non-life businesses), two re-insurance, and two takaful). As of the conclusion of the NRA, the non-life insurance sector, represented 74% of the industry's GDP compared to that of the life sector, had a medium-high vulnerability to ML, reflecting the higher-risk profile of the products offered and its customer base. The rise of Life insurance business in Nigeria has depended on the emergence of mandatory Group Life policies for employers and the regulator's recent (2018) intervention.⁵⁰ The percentage of insured populace in Nigeria is extremely low. The NRA assessed the vulnerability of this sector to ML as "Medium-Low" due to inadequate implementation of CDD measures and lack of application of sanctions for non-compliance with AML/CFT requirements. However, there is evidence of ML related to insurance premiums.
- iii. **Casinos** - There are 193 land-based casinos registered with SCUML. Some unlicensed internet casinos are operating in Nigeria (see IO.4). Operations of land-based casinos are declining due to online gaming/casinos. The majority of the States, except for Lagos and Oyo, do not subject casinos to licensing procedures. This sector is weighted less heavily for its size but may be highly vulnerable to ML.

Table 1-3. Overview of financial institutions in Nigeria

TYPE OF INSTITUTION		NUMBER		BRANCH NETWORK	ASSET BASE	% OF INDUSTRY TOTAL ASSETS
Core Principles FIs		Subtotal	Total		₦ = Mln	%
Banks	National Banks	22	27	4599	N38,616,973/ USD 126.01	92.117
	Foreign Banks/Subsidiaries of Foreign Banks	5		210		
Securities	(Brokers, Dealers, Portfolio Managers)	355	451	..	..	..
Insurance	Life Insurance	14	59	..	..	3.69
	Non-Life	28				
	Composite (life and non-life)	13				
	Reinsurance	2				
	Takaful	2				
Microfinance Banks		908	2,751		N467,870/ USD 1.53	1.116
Rural & Community Banks		..	..		..	X
Finance Houses		73	..		N125,730/ USD 0,41	0.300
Credit Unions		..	..		..	..
Savings & Loans Companies		34	X		N445,420/	1.063

⁴⁹ P. 94, Nigerian Gross Domestic Product Report Q2 2019.

			USD 1.45	
Forex dealers	4,798	4,798	N167,930/ USD 0.55	
MVTS/Remittance Companies	66	..	N40, 578/ USD 0.13	0.097
Finance & Leasing Companies	..	..	..	..
Pension Service Providers	..	..	..	..
Others (DFIs)	7	200	N1,941.82/ USD 0.01	4.632
Payments Service Providers				
Mobile Money Operators	30	131	N60,000/ USD 0.20	0.143
Switching Companies	11	11	N10,000/ USD 0.03	0.024
Payments Solution Service Providers	33	33	N32,000/ USD 0.10	0.076
Third-Party Payments Processors	4	4	N4,000/ USD 0.01	0.010
Payments Terminal Service Providers	27	27	N2,700/ USD 0.01	0.006
Super Agents	17	17	850/ USD 0.003	0.002
Card Schemes	4	4	6,000/ USD 0.02	0.014
TOTAL	6,453	12, 684	41,806,321	100
DNFBPs				
Casinos	193	..	..	..
Lottery	19	..	..	..
Pool Betting	16	..	..	..
Legal Professionals (Notaries, Registrars, lawyers)	2999	..		..
Auditors/Accountant/Tax Auditors	2642	..	N4,862,488.55/ USD 15.867	..
Trust and Company Service Providers	1500	..		..
Real Estate Developer/Agents	17919	..	N8,632,817.11/ USD 28.170	..
DPMS	39	..	N114,018.88/ USD 0.372	..
Car Dealers	25, 327	..	13,609,324.54/ USD 44 410	..

1.4.4. Preventive measures

116. The MLPA is the main legal basis of AML/CFT obligations on the FIs and DNFBPs. The preventive measures apply to all FIs and DNFBPs and require them to: i) apply CDD measures; ii) keep records and iii) report STRs to the NFIU. AML/CFT Regulations issued by regulators impose more detailed requirements on FIs and DNFBPs. Other than car dealerships, there are additional sectors outside the scope of the FATF Recommendation upon which AML/CFT measures are applied in Nigeria.

1.4.5. Legal persons and arrangements

117. The types of legal persons created in Nigeria under the Companies and Allied Matters Act, 1990, Cap. C20 (CAMA) are Private Limited by Shares (LTD); Public Limited Company (PLC); Unlimited Company (ULTD); Company Limited by Guarantee (LTD/GTE). Others are Business Names (covers "partnership" registration) and Incorporated Trustees. In the third quarter of 2019, private limited liability companies accounted for 40 % of corporate bodies registered in Nigeria. Generally, requirements for legal

persons and arrangements remain unchanged since the 2008 MER (see paragraph 603 to 609 of the 2008 MER). As of 30 September 2019, 3,299,770 active companies were operating in Nigeria. From 1 January 2019 to 30 September 2019, CAC registered 1,283 new companies and dissolved 558 companies. It struck off the names of 48,058 companies from the companies register (see Table 1.4).

Table 1-4 Overview of legal persons and arrangements in Nigeria

Description	Number	Description
Private Limited by Shares (LTD)	1,777,415	A private company is one which is stated in its memorandum to be a private company. Every private company is required to, by its articles, restrict the transfer of its shares. The total number of members of a private company shall not exceed 50, not including persons who are bona fide in the employment of the company, or were, while in that employment and have continued after the determination of that employment to be, members of the company.
Public Limited Company (PLC)	666	A company other than a private company, is a public company and its memorandum is to state that it is a public company.
Unlimited Company (ULTD)	1,132,965	An unlimited company is a company registered with a share capital; and where an existing unlimited company does not register with a share capital below the authorised minimum share capital.
Company Limited by Guarantee (LTD/GTE)	677	LTD/GTE is a company that is registered without shares and is a vehicle used by most non-profit organisations in Nigeria because the process for registration is less tedious than Trustees. They are allowed to make profit which cannot be shared but only used for the objects of their creation. The fiat of the Attorney General is required to register an LTD/GTE company
Business Names (covers "partnership" registration)	1,433,583	Business name is a name under which an individual, firm or corporation having a place of business in Nigeria carries on business.
Incorporated Trustees	88,740	One or more persons appointed by any community of persons bound together by custom, religion, kinship or nationality or by anybody or association of persons established for any religious, educational, literary, scientific, social, development, cultural, sporting or charitable purpose.
Number of legal persons registered from January to September 2019	1,283	
Number of companies dissolved by September 2019	558	
Number of companies struck off the register	48,058	

Source: NFIU/CAC

118. CAMA recognises the formation of legal persons and arrangements under other enactments in force in Nigeria. For instance, NEPZA licenses any approved activity in a Zone to an individual or business concern incorporated in the customs territory. An enterprise that intends to undertake any activity within a Free Zone must apply in writing to NEPZA, and provide the relevant information.⁵¹ There are 40 Free Zones/Industrial Parks (FZs) 14 of which are operational with 2 being government-owned, while the rest are under various stages of development (see 1.2 above and IO.5). There are more than 400 licensed Free Zone Enterprises (FZEs) some of which are fully owned by foreigners.

⁵¹ Evidence of Companies, if any, which have expressed interest to locate in the proposed Zone and targeted prospective companies or clients; (ii) Names and resume of the Promoter and detailed definition of Zone Management structure; (iii) a likely number of enterprises that would be located in the Zone and nature of their products; (iv) Financing options including evidence of source of funding (both local and foreign), and (v) evidence of payment of \$1000 to NEPZA for processing of the application.

1.4.6. Supervisory arrangements

119. The three main AML/CFT financial supervisors for Nigeria are the Central Bank of Nigeria (CBN), the Securities and Exchange Commission (SEC) and the National Insurance Commission (NAICOM) (referred to in section 9(2) of the MLPA as regulatory authorities). Section 25 of the MLPA defines "other regulatory authorities" and "regulators" to mean "the SEC and NAICOM", in respect of the former, and "the competent authority responsible for ensuring compliance of FIs with the requirements to combat ML/TF" in respect of the latter. They are empowered by section 16 of the MLPA to apply sanctions for non-compliance with AML/CFT requirements.

120. Section 5 of the MLPA implicitly designates the Federal Ministry of Investment, Trade and Industry (FMITI) as the competent supervisory authority for DNFBPs. They include casinos, real estate agents, DPMS, NPOs, and the legal and accounting profession. The FMITI performs its supervisory functions through the Special Control Unit on Money Laundering (SCUML). SCUML has the mandate to register and monitor the activities of DNFBPs and apply administrative sanctions for non-compliance with the Regulations, the MLPA and TPA. The entire Regulations is silent on "other professions and other related matters", as well as proliferation financing.

121. For lawyers, the Federal High Court held in the case of the Registered Trustees of the NBA v the CBN that the establishment of SCUML contradicted section 5(4) of the MLPA and the Legal Practitioners Act, Cap L11 2004. The Court concluded that "*SCUML cannot override or take precedence over the statutory and Constitutional bodies including [the] Supreme Court of Nigeria which are charged with the responsibility of regulating the legal profession as well as disciplining of erring lawyers. The Legal Practitioners Act remains the law that regulates the practice of law and Rules of Professional Conduct for Legal Practitioners unless and until it is amended or repealed*"⁵².

122. Section 3(n) of the Nigerian Financial Intelligence Unit Act (NFIUA) mandates the NFIU to monitor compliance by reporting institutions and advise supervisory authorities as to the discharge by those institutions with regards to their obligations under the NFIUA. Also, section 19 of the NFIUA empowers the NFIU to conduct regular inspection of reporting institutions, jointly with the relevant regulatory authority or by itself, to ensure compliance of reporting entities with the MLPA and the TPA.

Table 1-5 Supervisory arrangements – FIs and DNFBPs

FIs and DNFBPs		
Supervisory Arrangements - FIs	Supervisor/Licensing/Registration Authority	AML/CFT supervisor
Banks, Microfinance Banks, Rural & Community Banks, Finance Houses, Credit Unions, Mortgage Finance Companies, Savings & Loans Companies, Bureau de Change, MVTS/Remittance Companies, Finance & Leasing Companies, Pension Service Providers, Payments Service Providers	CBN	NFIU/CBN

⁵² Suit No. FHC/ABJ/CS/173/2013 (unreported), Certified True Copy of a judgment delivered by Justice Gabriel Kolawole of the Federal High Court Abuja on 17 December 2014; Appeal No. CA/A/202/2015 (Unreported) Judgement delivered by the Court of Appeal, Abuja on 14 June 2017, per Abdu Aboki (JCA) Certified True Copy; Eboibi, F. and Mac-Barango, I. (2019) Global Eradication of Money Laundering and Immunity for Legal Practitioners under the Nigerian Money Laundering Regulation: Lessons from the United Kingdom. Beijing Law Review, 10, 769-794. doi: 10.4236/blr.2019.104042.

Securities (Broker-dealers, Dealers and Portfolio Managers)	SEC	NFIU/SEC
Insurance (life and non-life)	NAICOM	NFIU/NAICOM
Supervisory Arrangements - DNFBPs		
Legal Professionals (Notaries, Registrar, lawyers)	General Council of the Bar/Nigerian Bar Association	-None
Auditors/Accountant/Tax Auditors	ICAN/ANAN	NFIU/SCUML
Trust and Company Service Providers	FMITI	NFIU/SCUML
Real Estate Developer/Agents	FMITI	NFIU/SCUML
Casinos	State	NFIU/SCUML
DPMs	FMITI	NFIU/SCUML
Car Dealers	FMITI	NFIU/SCUML
Hoteliers	FMITI	SCUML

1.4.7. International cooperation

123. Nigeria faces a vast array of ML threats due to the size and nature of its economy and high levels of revenue-generating criminality. As set out previously, Nigeria is a predominant player in the region's drug trade, serving as a longstanding, major transit route for illicit drugs – including heroin and cocaine – from South America and elsewhere to Europe and Asia. Large sums are transferred out of Nigeria and laundered abroad, particularly from corruption and other major schemes.

124. Nigeria also faces significant TF risks due to the terrorist insurgency of Boko Haram (Boko) and its offshoot, the Islamic State West Africa Province (ISWAP) that operate extensively in areas across Nigeria's north-eastern borders with Cameroon, Chad and Niger.

125. As a result of its risk exposure, Nigeria receives requests from all regions of the world. Nigeria's major international partners on ML are the United Kingdom and the United States while its major partners on TF are Benin, Cameroun, Chad and Niger.

126. Nigeria recently enacted the Mutual Legal Assistance in Criminal Matters Act, 2019 (MLACMA) to facilitate the reciprocal provision of mutual legal assistance in criminal matters under an agreement(s) between Nigeria and foreign States. matters covered by the MLACMA include the location and identification of suspects and witnesses, the recovery of proceeds and instrumentalities of crime, in line with the laws of requesting States. The MLACMA designates the Attorney General as the Central Authority for mutual legal assistance in Nigeria and is responsible for making, receiving and transmitting requests for assistance.

127. Nigeria's extradition procedures are laid out in the Extradition Act, 1966, Extradition Act (Modification) Order, 2014 and Federal High Court (Extradition Proceedings) Rules 2015. The Extradition Act designates the Attorney General as the central authority for all requests for extradition.

128. The CAU of the FMOJ receives and dispatches all incoming and outgoing requests for MLA and extradition to relevant law enforcement authorities (LEAs) and foreign counterparts through diplomatic channels via the Protocol Department at the MOFA.

129. Nigeria also engages in all areas of informal international co-operation to some extent. Competent authorities seek forms of international co-operation and also participate in various international AML/CFT fora and networks.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

- a) Nigeria has undertaken positive steps to increase its risk understanding.
- b) The authorities demonstrated a broad general understanding of the types of ML risks facing the country, both through its AML/CFT National Risk Assessment and other related studies. Although Nigeria recognizes the wide range of both ML and TF threats and vulnerabilities it faces, the depth and sophistication of its understandings of key ML risks, including of corruption and fraud, legal persons (including FZEs) and peps, are underdeveloped considering their complexity, materiality and scope. Nigeria's limited assessment of cross-border and formal sector TF risks, its lack of analytical distinctions between Boko and ISWAP financing, and the absence of an assessment of the NPO sector to identify those most at risk for TF abuse detracts from Nigeria's appreciation of its overall TF risk (see also IO.10).
- c) Nigeria's understanding of its risks helps competent authorities operate broadly in line with the findings and direction of the NRA, AML/CFT Strategy and relevant policies. However, Nigeria's key AML investigators and prosecutors, the EFCC, lacks a risk-informed enforcement framework or strategically guided priorities, as well as a clear delineation of responsibilities with the ICPC. The Strategy and Action Plan, moreover, lack strategic prioritisation. They also contain elements that are highly attenuated from and fall far outside AML/CFT authorities' mandate, such as broader poverty alleviation and environmental remediation efforts.
- d) Nigeria has taken positive risk-based action to identify lower-risk scenarios for the purposes of financial inclusion. Nigeria provides appropriately for simplified due diligence measures according to a reasonable risk assessment of various financial inclusion products. CBN's risk-based framework also requires EDD for higher-risk customers, also based on identified risks. The absence of guidelines on identifying suspicious transactions for financial inclusion products, however, despite their lower risks, is a gap identified by the team, as well as the Financial Inclusion Risk Assessment. Sector-specific Regulations provide for other simplified measures and exemptions, although some do not appear to reflect Nigeria's assessment of potentially applicable risks.
- e) Nigeria's understanding of ML/TF risks broadly informs efforts to identify and counter associated predicate offences. The CBN plays a key coordinating role in promoting the implementation of AML/CFT obligations by banks and other FIs under its supervision, for example, while the EFCC - as the lead LEA responsible for the investigation and prosecution of ML cases pursues common predicates of ML identified in Nigeria's NRA. However, the EFCC lacks a risk-informed enforcement framework or strategically guided priorities in determining which cases to pursue. The NFIU's areas of focus are broadly consistent with the risks Nigeria has identified. As the chief CT agency in Nigeria, the DSS investigates the

financial profiles and linkages of terrorist suspects and their networks, in keeping with the NACTEST. For other DNFBP subsectors SCUML has prepared frameworks and prioritised compliance examinations reflective of Nigeria's ML risks; however, the absence of an NPO risk assessment and the categorization of NPOs as DNFBPs precludes effective NPO supervision.

- f) Competent authorities cooperate through formal and informal mechanisms at the operational and policy-making level. Cooperation is stronger among financial sector supervisors and key leas, and weaker as between the EFCC and ICPC and between SCUML and the SRBs. The absence of certain national-level policies and practices appears to inhibit fuller coordination, for example in coordinating ML-related corruption cases. Obstacles include overly restrictive need to know policies, interagency rivalry, overlapping functions, and the lack of a recognised central platform to coordinate and deconflict AML/CFT and related matters. Coordination and cooperation on countering PF is negligible, partly the result of the absence of a legal framework.
- g) Authorities engaged in broad consultations among relevant agencies and key private sector entities. Overall, authorities made significant efforts to ensure broad outreach to the largest and most active entities within the financial and non-financial sectors. The Nigerian authorities did not demonstrate they meaningfully included smaller non-bank FIs, most notably Forex dealers. SCUML's outreach to NPOs and certain DNFBPs, such as accountants, NPOs, and hotels was proactive and considerable.

Recommended Actions

- a) Nigeria should re-visit its NRA methodology, inputs, analysis and its overall risk ratings for ML and TF to ensure it accurately reflects the situation in the country and serves to increase the risk understanding of authorities and the private sector. In relation to ML, authorities should strengthen their understanding of key ML risks for corruption, including in the energy sector, PEPs, and legal persons, using a wide range of inputs (e.g., CCB filings, CAC information and TUGAR's expertise in typologies). In relation to TF, Nigeria should enhance its TF understanding, particularly regarding foreign linkages and the use of formal financial sector.
- b) Nigeria should ensure that the policies and activities in the AML/CFT Strategy are put in place to directly mitigate the risks in the NRA. Nigeria should scope its AML/CFT Strategy and Action Plan to reflect the risks identified in its NRA and related risks, such as those described in its anti-corruption initiatives, as well as those within the purview of AML/CFT agencies. It should also prioritize the elements of its AML/CFT Strategy and Action Plan considering achievable short, medium and long-term objectives and allocate the resources necessary to implement the Action Plan.

- c) Nigeria should extend the scope of AML/CFT requirements to all relevant sectors (for example, lawyers, unregulated lenders, internet casinos) and revisit the risk assessment and justification for the extension of AML/CFT measures beyond the FATF standards and remove the application of unnecessary AML/CFT measures that are not in line with risks. Most significantly, NPOs should not be treated as DNFBPs and the requirements on them should be risk-based in keeping with the FATF standards.
- d) Nigeria should develop a focused stand-alone CFT strategy building on the NACTEST, the NRA, and its analysis of developments in the fight against Boko and ISWAP since 2015. In doing so, the authorities should ensure that any operational observations regarding differences in Boko and ISWAP's TF methods and international linkages are incorporated. The authorities should also ensure that the strategy is consistent with, and takes into account, evolving or emerging TF risks, such as TF risk posed by the IMN or other groups that authorities view as exhibiting terrorist 'tendencies', or state sponsored terrorist activities.
- e) Nigeria should develop clear, risk-based processes to prioritize investigation and prosecution of the most material types of ML-related crimes. It should further ensure efficient mechanisms to allocate responsibilities in cases where AML and related predicate offenses overlap, most urgently between the EFCC and ICPC in ML cases involving corruption.
- f) The IMC or ONSA should convene relevant agencies to (i) address specific information-sharing issues identified as problematic in the NRA, (ii) determine those that impede operational efficacy, and (iii) propose practical solutions. Nigeria should expedite the development of inter-agency information-sharing platforms as called for in the NACTEST, AML/CFT Strategy and the AML/CFT Action Plan. The EFCC, CCB, and ICPC should strengthen effective operational coordination for ML.
- g) Nigeria should continue efforts to encourage financial inclusion as part of the packages of measures to mitigate ML/TF risks. It should also continue to conduct outreach to the private sector, expanding its efforts to include a greater share of entities, including of small-to-medium size firms.

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

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

131. The 2017 NRA continues to reflect Nigeria's current understanding of the types and nature of its ML/TF risks as of the onsite, according to virtually all Nigerian authorities met by the Assessors. Nigerian interlocutors provided few substantive updates or additional views on this topic beyond those laid out in the NRA, and regularly referred to the NRA to describe the country's contemporaneous views on ML/TF risks. Accordingly, the Assessors based their analysis of Nigeria's understanding of its ML and TF risks in large part on the NRA, as informed by discussions with authorities and assessors' broader evaluation.

132. In reaching its conclusions, the team considered the significant information gaps and data integrity concerns presented concerning the relevant metrics and statistics, as well as qualitative information, about Nigeria's ML and TF risks. As the Nigerian authorities forthrightly acknowledged, similar challenges hampered its efforts in conducting the NRA and in better understanding its risk.

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

Understanding of ML Risks

133. Overall, Nigeria demonstrated a broad, general understanding of the types of ML risks it faces; yet its appreciation of the nature of these risks is ultimately mixed. Notably, Nigeria has convincingly identified its most material ML threats in terms of predicate offences, and in some sectors evinced a clear understanding of the nature of risk, for example in connection with forex dealers. The authorities also recognise a wide range of vulnerabilities and mitigating factors in reaching conclusions on risks. Yet Nigeria did not show itself to have a thorough ongoing understanding of the modes, methodologies, and typologies of how its ML threats manifest themselves in terms of key ML risks, e.g., with respect to corruption, especially with respect to PEPs and the oil sector. Moreover, Nigeria, in many cases did not meaningfully weigh various factors in arriving at its conclusions for overall and sectoral risk levels. Frequently, for example, Nigeria placed undue weight on a single factor, such as the AML legal framework, as a mitigating element to reach an ultimately inaccurate description of risk. As a result, the NRA's overall assessment of Nigeria's ML risk as "medium-high" is not well supported.

134. Nigeria appropriately considers its major ML threats as those predicate offences that generate the largest volumes of illicit proceeds. Nigeria identifies its major threats as bribery and corruption, pipeline vandalism and oil bunkering, advance fee and other fraud, armed robbery, weapons trafficking, currency trafficking and counterfeiting, drug trafficking, human trafficking, and kidnapping for ransom. As noted, Nigeria has a good understanding of the wide variety of criminal enterprises and activities that pose major ML threats. The authorities are broadly aware of the scale and scope of these criminal enterprises.

135. Still, Nigeria's understanding of the attendant ML risk is not commensurate with the complexity, materiality and scale of these offences in the country. Of particular significance is the limited understanding of ML risks deriving from the country's endemic corruption-related ML threats. Despite considering the corruption threat as "high," the authorities neither assessed nor demonstrated a good understanding of the specific sectors, channels, forms, participants, processes, ministries/departments/agencies, or other means through which corruption-related ML occurs. Discussions with key authorities (such as the EFCC and ICPC) provided little further demonstration of how the authorities perceive corruption-related ML risks arising in Nigeria.

136. A related gap is the lack of demonstrated understanding regarding the massive corruption-related ML risks arising from the state-dominated oil sector. While the NRA notes that more than 90% of Nigeria's illicit financial flows are "oil-related" (although only in the context of pipeline theft and illicit oil bunkering), it does not meaningfully address this issue from an ML risk point of view. Assessors could not gather additional information during the onsite, as they did not meet with the relevant officials in the sector. Also, the Nigerian authorities did not produce information showing an understanding of the specific ML risks arising from corruption related to PEPs or to all legal persons created in the country (see also TC Annex, R.1). These deficiencies contribute to the limited efforts by banks to assess and institute appropriate controls over PEP customers, including their companies (see IO.4).

137. Similar concerns arise over fraud-related ML, where the understanding regarding ML risks arising from various fraud schemes lacks in-depth analysis, resulting in a rating of “medium-high.” This lack of specificity impedes Nigeria’s efforts to prioritise, investigate, and prosecute fraud-related ML (see IO.7).

138. Nigeria’s examination of various sectoral risks further demonstrates the mixed nature of its risk understanding. Notably, the NRA’s characterisation of the banking sector as “medium-high” apparently results from underestimating the sector’s ML threats and vulnerabilities (rated respectively as ‘medium’ and ‘medium-high’), including the provision of high-risk products (e.g., private banking and wealth management), the limited availability of BOI, the low level of enforcement of criminal sanctions, and the relatively nascent supervisory regime for inspections, sanctions and STRs. At the same time, the NRA overestimates the effectiveness of preventive factors - such as the role of its legal framework, compliance effectiveness, supervisory capacity and the effectiveness of its suspicious transaction reporting. Notably, some commercial banks consider the ML risk of private banking as “high” instead of “medium-high” as indicated in the NRA.

139. In contrast, Nigeria’s understanding of the risks posed by forex dealers is robust. Nigerian authorities recognise the high-risk customer base, insufficient internal controls, and inadequately trained staff of forex dealers, among other factors giving rise to these ML risks. These are especially acute among the vast number of unregistered forex dealers known as “Black market operators”, which presumably lack any internal controls whatsoever and not supervised.

140. Of particular concern to the Assessors is the NRA’s assessment of NPOs for ML, which considers the entire sector to pose a “medium-high” risk because they are ostensibly insufficiently regulated and supervised. Such an assessment of NPOs is not contemplated by the FATF standards, which only recommends the consideration of NPOs at risk of TF. More problematically, Nigeria’s approach wrongly conflates vulnerabilities with risks while identifying no concrete instances of bona fide ML threats. In explaining its view, Nigeria generally refers to instances where PEPs misused NPOs to launder illicit proceeds, a plausible but unquantified or otherwise demonstrated scenario. Nigeria acknowledges that to date, there has been no relevant investigations or prosecutions of NPOs for ML, and no assets seized or confiscated. This unsubstantiated view on the risks of NPOs has nonetheless led Nigeria to regulate all NPOs as DNFBPs (before the NRA), a policy not sanctioned by the FATF standards and unsupported by a risk-based approach. Relatedly, and as discussed in IO.10 and R.8 below, Nigeria has not assessed its NPO sector to identify those most vulnerable to TF abuse.

Understanding of TF Risks

141. Overall, Nigerian authorities demonstrated a stronger understanding of its types of TF risks, which is also captured in the 2017 NRA. In assessing its TF risk, Nigeria drew on intelligence and other official information, typologies studies, press reports and expert analyses, among other sources. Nigeria assesses the ongoing terrorist movements of Boko/ISWAP as its greatest TF threat. These groups mainly operate within Nigeria and its immediate neighbours to the North East, and, less directly, via ungoverned or insecure territories in West Africa and beyond. Nigeria also considers the groups’ economic and social impacts in the North East and the broader region in placing them at the centre of its TF risk analysis.

142. Nigeria also does not distinguish at the analytical level between Boko Haram and ISWAP when considering TF risks. Nigeria sees Boko/ISWAP revenues and resources as primarily generated within Nigerian territory, and employing similar means of generating revenue such as extortion, kidnapping for ransom, and agricultural trade. At a general level, this may be correct, but overlooks potentially important distinctions with potentially significant policy implications, such as the groups’ geographic distribution and attendant economic activities, or their approach to local governance and social control. It also overlooks

research findings that ISWAP relies to a higher degree on commercial trade and taxation, including value-added services to local traders.⁵³ In light of Nigeria's military-focused strategy towards defeating Boko/ISWAP by recapturing territory, any misapprehension of risk resulting from conflating Boko and ISWAP's TF activity may not unduly impede progress in reducing TF risks – given their propensity to "live off the land", eliminating their freedom of movement and reducing their territorial control will disrupt their TF activities regardless of distinctions between them. Nevertheless, it may prevent the development of more targeted CFT responses in keeping with the dynamic nature of the conflict and as the military effort unfolds. Additionally, the authorities did not demonstrate a particularly granular understanding of the nature of Boko/ISWAP's international financial linkages. Given Boko/ISWAP's growing reach and increasing cross-border activities in the region,⁵⁴ this level of analytical understanding of the financial dimension of such linkages appears to be a significant knowledge gap.

143. Also, authorities recognise the heavily cash-based nature of TF activity in addition to risks of TF activity occurring through banking and commercial channels in government-controlled urban areas, including those near the North-East conflict areas. However, they consider these risks less significant due to the limited operations of formal financial institutions in the region. The AT found mixed evidence for this, being told by certain authorities that banks were not operational in Maiduguri, one of the largest cities in the North East, but hearing from others that banks were in fact operating there (and finding some evidence for this). Elsewhere, authorities appeared to downplay the risk of Boko/ISWAP activity through other formal financial channels. At the same time, the NRA mentions many instances of such exploitation and estimates that 20 per cent of TF activity occurs through such institutions. The lack of a detailed assessment of the NPO sector (see R.8) also impedes the development of a clear understanding of TF in Nigeria.

144. Nigeria's understanding of the TF risks posed by Boko/ISWAP is more developed than the country's understanding of a third group Nigeria has proscribed under its criminal anti-terrorism authority, the Islamic Movement of Nigeria (IMN). The authorities demonstrated little understanding of the ostensible TF risks posed by this organisation or other groups that authorities view as exhibiting terrorist "tendencies", but not formally proscribed or designated - and whose tactics and aims are quite distinct from Boko/ISWAP. Nor did Nigeria consider in its NRA the risk of State-sponsored terrorist activities on its soil, a risk evidenced by the prosecution of two individuals involved in a foiled attack on civilian targets backed by a foreign State. (See Taphande case study in IO.9). Although significant oversights, the Assessors placed proportionately less weight on these deficiencies.

145. The Assessors further noted a significant disparity between authorities' understanding of the scale of Nigeria's TF risks and their characterisation of the risk "medium" in the NRA. The Nigerian authorities explained that the "medium" rating reflects the reduction in Boko/ISWAP territory since the start of the government's military offensive in 2015. The offensive rolled back Boko from large swaths of territory, cut the groups' revenue base and disrupted their financial position. Even allowing for the accuracy of this statement, which finds mixed support, such a relative comparison is not an accurate basis to articulate Nigeria's current TF risks, which in the face of Boko/ISWAP relentless insurgency remain among the highest in the world.

⁵³ Survival and Expansion: The Islamic State's West African Province, Global Initiative for Civil Stabilisation (April 2019).

⁵⁴ See, e.g., *Illicit Financial Flows: The Economy of Illicit Trade in West Africa*, OECD (2018); Jacob Zenn, *Boko Haram Factionalisation: Who are Islamic State in West Africa Province Fighters in Niger and Chad?* (June 2019).

2.2.2. National policies to address identified ML/TF risks

146. *AML/CFT National Strategy* - The findings from Nigeria's NRA form the basis for its AML/CFT National Strategy for 2018-2020, the foundational framework of Nigeria's national AML/CFT policy. The AML/CFT Strategy lays out three broad strategic objectives: 1) legislative changes, formalisation of the economy, and broad sensitisation of AML/CFT risks and obligations; 2) improving the effectiveness of AML/CFT authorities; and 3) strengthening national AML/CFT cooperation, coordination, and information sharing. However, the Strategy does not describe any specific priority legislative reforms. The Action Plan provides such priorities (see paragraph 149).

147. As high-level strategic goals, these objectives appropriately synthesise and reflect the findings of the NRA. Also, most of the specific goals and outputs of the Strategy are well-considered and responsive to identified risks and challenges. These include vulnerabilities identified in the NRA involving human resources, supervisory capacity, the use of cash, information-sharing, and regulatory compliance. The Strategy thus calls for responsive measures such as (i) increased training and retention policies, (ii) resource enhancements, initiatives to reduce the use of cash and strengthen border checkpoints, (iii) developing infrastructure to disseminate information more efficiently, and (iv) promoting private sector adoption of AML/CFT requirements.

148. Other goals of the Strategy, however, pose a risk of distraction or confusion by attempting to address longstanding systemic challenges facing Nigerian governance under the auspices of AML/CFT. For example, to meet the objective to develop and implement comprehensive AML/CFT preventive measures, the Strategy calls for the acquisition of skills and vocational acquisition programs, restructuring the education system in the country's North-East region, and environmental clean-up and infrastructural development. However vital, such actions are too attenuated from the causes of ML/TF risk, whether identified in the NRA or otherwise known, for an AML/CFT-focused strategy. Moreover, they fall far outside the purview of Nigeria's AML/CFT authorities. Their inclusion in the Strategy risks distraction from the more pressing AML/CFT challenges the Strategy correctly identifies, by impeding the required allocation of budgetary resources, political and operational commitments and risks and complicate the accountability and expectations of AML/CFT authorities. Compounding the confusion caused by this sprawling set of aims is the absence of any prioritisation or strategic sequencing among even the most relevant goals and outputs. These issues also carry over to Nigeria's AML/CFT Action Plan implementing the Strategy.

149. *AML/CFT Action Plan* - In October 2018, the AGF signed an AML/CFT Action Plan to implement the Strategy by identifying concrete initiatives to advance the objectives identified in the Strategy and assigning them to relevant MDAs. These appropriately include many specific actions to rectify deficiencies identified in the NRA or to enhance Nigeria's AML/CFT regime otherwise. The priority legislative reforms cover the following:

- a) enactment of the Proceeds of Crime Bill, the Nigerian Financial Intelligence Unit Bill, the Mutual Assistance on Criminal Matters Bill, an independent legal framework for the establishment of the Special Control Unit against Money Laundering (SCUML) outside the MLPA;
- b) amendment of the MLPA to recognise illegal oil bunkering as a predicate offence of ML, review the threshold for cash transactions downwards, expand the definition of transaction to include activities of DNFBPs and a customer, provide for protection for Chief Compliance Officers and more proportionate and dissuasive criminal and administrative sanctions;

- c) amendment of the Nigerian Copyright Commission (NCC) Act to recognise piracy and counterfeiting of products as predicate offence to ML thereby expanding the scope of investigations to the assets of offenders;
- d) review and amendment of section 4(3) of the 2014 Pension Reform Act which permits voluntary contribution to introduce AML/CFT control measures on verification of source of funds;
- e) amendment of the CAMA to provide for the disclosure of beneficial ownership information of public companies during registration, maintenance of an online public register of all beneficial owners as well as the presentation of identification documents of all directors and shareholders for all classes of registration (public and private quoted companies);
- f) Review Insurance Act CAP I17 LFN 2004 to provide for the disclosure of beneficial owners of Insurance Policy; and
- g) Streamline the legal framework to meet the requirements of the UNSCRs 2255, 1267 and 1373, as well as successor resolutions.

150. The legislation selected as priorities are broadly in line with the NRA. However, considering that section 15(6) of the MLPA extends the ML offence to other criminal acts specified in any other law in Nigeria, the Assessors question the appropriateness of the proposed review/amendment of the MLPA and the NCC Act to recognise illegal oil bunkering, piracy and counterfeiting of products as predicate offences of ML. Assessor also question the appropriateness of streamlining the legal framework to meet the requirements of UNSCRs when the NRA states that “*there are adequate laws and regulations as enshrined in S.5 of the Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations 2013 on measures to implement the UN resolutions 1267,1373,1988,1989 and successor resolutions*”.⁵⁵

151. The Action Plan covers other areas such as (i) increasing the number of supervisory examiners; (ii) developing centralised information databases, and (iii) building guard towers in border areas to counter smuggling, including of bulk cash. Following the AML/CFT Strategy, however, the Action Plan also includes a number of initiatives that are far removed from AML/CFT initiatives.

152. In August 2016, several months before the adoption of the NRA report, Nigeria issued a National Counter-Terrorism Strategy (the NACTEST), which provides broad counterterrorism policy priorities and a framework for the relevant national agencies. Though less specific on TF than the AML/CFT Strategy, the NACTEST recognises the role of financing to terrorist organisations and articulates basic roles and responsibilities of the various agencies with AML/CFT responsibilities (see discussion in IO.9). The NACTEST’s most germane TF mandate is all terrorism suspects be subject to financial investigation. The NACTEST also requires for prioritisation of criminal prosecution in countering terrorism and notes a complementary role for asset seizures/freeze and TFS in disrupting terrorist activity. It further identifies the need to enhance border security and information sharing. Still, in the view of the Assessors, Nigeria could do more to explicitly recognise and integrate important CFT priorities into its broader counterterrorism strategy. While the NACTEST sees a role for the CBN and the NFIU in monitoring transactions, for example, it makes no mention of the importance of supervision or enforcement actions, or

⁵⁵ Page 205, 2017 NRA.

of SCUML in supervising the DNFBP sector. Other CFT priorities, such as disrupting terrorists' use of cash or enhancing international financial intelligence information-sharing, also go unmentioned.

153. *Other ML-Related Policies* - Likewise, Nigeria's assessment of its ML-related corruption risks is not meaningfully reflected in the country's Anti-Corruption Strategy 2017-2021 (AC Strategy), nor in other policies or strategies provided by the authorities. While the AC Strategy recognises some asset forfeiture and transparency steps, it does not refer to key AML mitigation actions or measures.

154. Nigeria has other national strategies in place, some of which are informed by risk assessments. For example, the 2015-2019 National Drug Control Master Plan directs the NDLEA and LEA operatives to target criminal wealth of high-level drug suppliers and producers by enhancing asset forfeiture and AML efforts. In October 2018, Nigeria has issued a National Strategy on Financial Inclusion (discussed below). This Strategy seeks to reduce the use of cash and to promote the formalisation of the economy, which is in line with one of the NRA's findings and objectives of Nigeria's AML/CFT Strategy and Action Plan.

2.2.3. Exemptions, enhanced and simplified measures

155. Nigeria has taken positive risk-based action to identify lower-risk scenarios for the purposes of financial inclusion. Nigeria has properly applied findings from its risk assessments to justify simplified measures for lower-risk scenarios within the context of financial inclusion. Financial inclusion has been a priority of financial regulators since at least 2012, when Nigeria issued a Financial Inclusion Strategy, which it revised in October 2018. This Strategy seeks to expand access to financial services and products by the approximately 40 per cent of Nigerians traditionally excluded from the financial system. It establishes a risk-based regulatory framework that accounts for risks emanating from both the product and the user.

156. Pursuant to the Financial Inclusion Strategy, the CBN has issued a simplified, three-tiered know your customer (KYC) framework, which allows for reduced due diligence obligations for low and medium value savings accounts. SEC and NAICOM have issued similar sets of guidelines for insurance companies and CMOs. In the light of the main 2017 NRA, the 2017 Financial Inclusion Products Risk Assessment considered features and restrictions of various financial inclusion product categories, the target demographic, and repertoire of financial inclusion products abused for ML or TF. The exemptions and reduced KYC thresholds are considered justified on various grounds. These include the inability to use financial inclusion products anonymously, the low amount and transaction limits imposed on FI products, the low-income profile of the customer base, and the absence of STRs or enforcement actions involving financial inclusion products. The inability to conduct cross border transactions, inaccessibility to non-residents, and the need for non-bank FI products to ultimately employ the formal banking system buttressed the conclusion of the Financial Inclusion Products Risk Assessment. Audit capabilities and a credible system of transaction monitoring across multiple FI product platforms also supported this finding.

157. Banks, MMOs, insurance companies, and other providers of financial inclusion products, as well as relevant supervisors, support the findings of the Financial Inclusion Products Risk Assessment. The absence of guidelines on identifying suspicious transactions for financial inclusion products, however, despite their lower risks, is a gap identified by the team, as well as the Financial Inclusion Risk Assessment. As Nigeria expands its financial inclusion efforts and allows new products to come to market, the risks of this sector may grow or shift, recommending for continued vigilance of this sector.

158. Some Sector-specific Regulations provide for other simplified measures and exemptions, although some do not appear to reflect Nigeria's assessment of potentially applicable risks (see c.1.6 and 1.8). Also, the AML/CFT regime does not cover some financial and DNFBP activities (for example,

unregulated lenders and internet casinos). The regulation of lawyers is currently under challenge in court; currently, however, due to a court opinion, lawyers are not subject to enhanced measures. These activities are effectively outside the scope of AML/CFT requirements in the absence of proven low-risk assessments.

159. There are prescribed EDD measures in place for PEPS, correspondent banking, and other high-risk scenarios.

2.2.4. Objectives and activities of competent authorities

160. Nigeria's understanding of its ML/TF risks broadly informs agencies' efforts to identify and counter associated predicate offences, including through enforcement and supervisory action, and coordinating with counterparts. Demonstrations of effectiveness in this regard varied significantly according to agency at the operational level.

161. CBN - As Nigeria's primary financial supervisor, the CBN plays a key coordinating role in promoting the implementation of AML/CFT obligations by banks and other FIs under its supervision. CBN has adopted a risk-based supervision framework incorporating findings from the NRA and issues regular supervisory work plans reflecting a considered prioritisation of risks. For example, in May 2018, the CBN inspected 100 forex dealers based on the characteristics identified in the 2017 NRA report - (i) size, (ii) volume and value of transactions, (iii) product and service type, and (iv) location and off-site reviews of returns (see IO3 para 497). On the other hand, for example, it did not appear as if the CBN had conducted broad or targeted supervision of FIs concerning their obligations vis-à-vis PEPs. The CBN has also issued circulars to banks and other FIs under its supervision reminding them of various ML and TF risks. However, the CBN appears to release these circulars somewhat sporadically. The CBN also coordinates the interagency Stakeholder Consultative Forum, discussed below, which brings together Nigerian agencies responsible for AML/CFT.

162. EFCC - As the lead LEA responsible for the investigation and prosecution of ML cases, the EFCC has investigated, prosecuted and secured some convictions in respect of some financial and economic crimes identified by the 2017 NRA as the most prevalent predicates of ML (see figures on Table 3.11 in IO.7). However, the EFCC lacks a risk-informed enforcement framework or strategically guided priorities, including for ML-related cases. As a result, EFCC officials described an ad hoc process for selecting cases to investigate and prosecute, as well as for cases to refer to other agencies such as the ICPC or receive from them. Perhaps relatedly, the number of cases of fraud and corruption are still relatively low, despite these two offences identified as being high ML risk in the NRA. The weak results could be due to the lack of a clear policy or enforcement framework for prioritising specific types of financial crime cases, for example, those that most undermine public trust (example, PEPs, high-dollar volume, focus on a particular sector, among others). Also, over the last five years, the number of investigation of petitions on public sector corruption and ML cases has decreased (there are no statistics on corruption-related ML investigations).

163. NFIU - The NFIU's areas of focus are broadly consistent with the risks Nigeria has identified. It has disseminated more financial intelligence on corruption, fraud, tax evasion and TF compared with other predicate offences. The NFIU has increased the number of financial intelligence disseminated to the ICPC in recent years, more than doubling its count from 2017 to 2018. Separately, the 2018 inauguration of the NSC, for which the NFIU is the Secretariat, was a step towards implementing Nigeria's TF-related TFS regime under the TPA Regulations. However, the NSC is not operational and to date, has not issued guidelines or established a clear policy direction for the implementation of TFS related to TF.

164. DSS - As the lead CT agency in Nigeria, the DSS investigates the financial profiles and linkages of terrorist suspects and their networks, in keeping with the NACTEST. The DSS performs this function

through its Financial Analysis and Intelligence Unit, under the Counter-Terrorism Investigation Department (CTID), and its Directorate of Economic Intelligence (DEI), which provide the DSS and other agencies with financial information to support their CT functions. The DSS does not operate according to tailored internal AML/CFT-specific strategies, but instead according to the direction established under their statutory mandates and ONSA.

165. CCG - The MOJ has established a dedicated unit called the Complex Cases Group (CCG) to prosecute terrorism offences. The CCG comprises attorneys trained to assist investigators in identifying the financial dimensions and prosecuting terrorism suspects in both major cases and the security detainee trials discussed below in IO.9. As noted there, the CCG provided little data or specific information concerning its caseload. The EFCC also has authority over TF under the TPA and the EFCCEA. In practice, the EFCC defers TF cases to the CCG as they are both subject to the authority of the AGF.

166. SCUML – As discussed above, SCUML operates according to an unsubstantiated and incomplete assessment of the NPO sector’s ML and TF risks in supervising them as DNFBPs. In this regard, the Assessors do not consider SCUML’s activities to reflect an appropriate risk-based approach. Regarding TF, SCUML has identified certain general risk factors of NPOs for potentially more targeted and appropriate supervision in the future. Without undertaking the assessment called for by R.8, however, SCUML may not tailor its activities appropriately. For other DNFBP subsectors SCUML has prepared frameworks and prioritised compliance examinations reflective of Nigeria’s ML risks, although its supervisory efforts remain in their early days (see IO.3, para 483).

167. NCS - The NCS also includes countering ML as one of its functions, identifying it as a key challenge in its mission statement. To aid in this effort, the NCS shares a common intelligence platform with the NFIU, EFCC, NDLEA and other agencies. It also works closely with the EFCC and NDLEA to identify smuggling activities, including currency, and assist in these agencies’ investigations. The NCS has an understanding with the EFCC to detain cash smugglers, seize currency, and hand them over to the EFCC for further investigation. Given the assessed role of cash smuggling in Nigeria’s ML and TF activity, such efforts represent a concerted effort in response to the risks identified by the NRA⁵⁶ and emphasised by the authorities during the on-site visit.

2.2.5. National coordination and cooperation

168. Nigerian agencies cooperate and coordinate reasonably well to develop and implement policies and activities to counter ML and TF. Cooperation is stronger among financial sector supervisors and key LEAs, and weaker as between the EFCC and ICPC and between SCUML and SRBs. However, significant new inter-agency strategic initiatives and focus are only recently underway. Coordination and cooperation on countering PF is negligible, partly resulting from the absence of a legal framework (see R.7) and the lack of attention to this issue.

169. As described above (see para 41(e)), the MOJ is the lead agency for government-wide AML/CFT coordination in its capacity as head of the Inter-Ministerial Committee (IMC). Aside from overseeing some discrete tasks such as coordinating the NRA and mutual evaluation; however, the IMC does not appear to be effectively executing the mandate outlined in its Charter. There is no evidence that the IMC meets at its senior-most levels for more than ceremonial events, and according to its minutes appears seized more with

⁵⁶ Pages 18 and 19, 2017 NRA.

administrative matters than a substantive agenda. Now charged with implementation of the AML/CFT Strategy and Action Plan, it remains to be seen whether this body would grow into its role.

170. The CBN oversees an important cooperation and coordination framework through its organisation of the multi-agency AML/CFT Stakeholders Consultative Forum (the Forum). The Forum is composed of senior expert representatives from key AML/CFT agencies such as the DSS, SCUML, NFIU, and EFCC and financial supervisors. Through this forum, agencies more usefully discuss the implementation of AML/CFT issues, including implementation of laws, regulations and other measures, with the respective agencies briefing their activities in the field. Issues and problems are raised with the group, and follow up actions are committed to and subsequently considered and discussed. The minutes of these meetings reflect open and active participation by key agencies across a broad range of issues relevant to AML/CFT. It was not made entirely clear to the Assessors how distinct the mandate of the Forum was from that of the IMC, although its minutes showed a more substantive and practical AML/CFT focus.

171. Nigerian agencies have signed numerous MOUs with one another to facilitate the exchange of information relating to ML and TF. There are also various liaison partners embedded throughout the Nigerian inter-agency framework. The NPF, for example, has seconded personnel to the ICPC, EFCC, CAC and elsewhere. The NFIU hosts an Authorised Officers Forum of LEAs, which meets quarterly to discuss ways to enhance operational coordination.

172. Under the NACTEST, the ONSA has the overall responsibility for Nigeria's counterterrorism efforts, including CFT. ONSA implements its responsibility through interagency fora such as the Joint Intelligence Board (JIB), comprised of security agency heads, the Intelligence Community Committee, made up of the heads of Nigeria's intelligence agencies, and the General Security Appraisal Committee, consisting of all agencies involved in Nigeria's CT campaign. Nigeria treats CFT in these fora as an element of Nigeria's CT efforts, and relevant guidance and coordination at the highest levels was said to occur in these discussions. Authorities cited, for example, the GSAC's guidance to the Joint Intelligence Centre and the CCG to conduct further investigation, including financial investigations, into detainees captured in the North East.

173. Still, the lack of certain national-level policies and practices appears to inhibit fuller coordination. Obstacles by way of (i) "need to know" policies concerning sensitive intelligence, (ii) bureaucratic bottlenecks, (iii) interagency rivalry, (iv) knowledge gaps, (v) overlapping functions, and (vi) the lack of a recognised central platform to channel AML/CFT and related matters impede effective coordination among relevant agencies. LEAs do not regularly provide the NFIU with feedback following the dissemination of TF-related STRs. The lack of feedback, some of which result from a reluctance to share information, adversely impacts the ability of the NFIU to improve guidance to reporting entities and to enhance its analytical efforts. At least some of this, it was indicated, resulted from a reticence to share information.

174. There is no coordinated process to investigate ML and related financial crime cases, where authorities overlap, for example, corruption-related ML cases. The EFCC and ICPC, for example, have significantly overlapping mandates in corruption ML cases but no clear criteria for determining how to assign overlapping cases between each other. The NCS, the Nigerian Intelligence Agency and other intelligence/enforcement organisations (e.g., DSS) coordinate and cooperate on PF on ad hoc basis. These agencies have platforms to fuse intelligence and non-classified information on potential shipments of proliferation concern. Aside from sporadic circulars alerting banks to PF-related developments at the UN, and as described further in IO.11 and R.7, Nigeria has not taken steps to implement PF-related TFS, and its absence of interagency cooperation reflects this gap. Given the limited focus on PF and few historical cases arising in Nigeria, the Assessors concluded that agencies could cooperate effectively on an ad hoc basis in

response to specific intelligence. Otherwise, there are no systems in place to proactively identify or interdict PF.

175. Nigeria has AML/CFT requirements on data protection and privacy and other similar rules. However, there is no evidence that competent authorities cooperate and coordinate, whether formally or informally, to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules, and other similar provisions.

2.2.6. Private sector's awareness of risks

176. The Nigerian authorities engaged in broad consultations among relevant agencies and key private sector entities in developing the NRA, and upon its completion circulated the full version of the NRA to major institutions in the private sector. Nigeria also conducted some outreach to the private sector to increase awareness of the outcomes of the NRA through workshops and engagement with supervisory authorities, self-regulatory bodies and reporting entities. The NFIU and SCUML, for example, have published the full version of the NRA report on their websites, which are accessible to the public.

177. Overall, it appears the authorities made significant efforts to ensure broad outreach to the largest and most active entities within the financial and non-financial sectors, focussing most of the outreach with the larger, sophisticated FIs and their associations. The Nigerian authorities did not demonstrate they meaningfully included smaller non-bank FIs, most notably forex dealers, in the NRA process or in subsequent outreach. In contrast, SCUML's outreach to NPOs and certain DNFBPs, such as accountants and hotels was proactive and considerable. The assessment team based its conclusions on interviews with the NFIU, private sector entities and relevant supervisors/self-regulatory bodies.

Overall Conclusion on IO.1

178. Assessors' findings and conclusions for this Immediate Outcome are grounded in the pervasiveness and scale of Nigeria's ML/TF threats and vulnerabilities. Nigeria has made considerable efforts to identify these threats and vulnerabilities and attendant risks, and has achieved a broad general understanding of their types and nature. Based on this understanding, Nigeria has developed a strategy and action plan, and has oriented key institutions to undertake responsive initiatives. Nigeria also has positive examples of agencies operating in line with the country's risks, including investigations and prosecutions of key predicate offenses and associated money laundering activities. Nigeria, moreover, has taken positive risk-based action to identify lower-risk scenarios for the purposes of financial inclusion.

179. However, Nigeria's understanding of these risks appeared ultimately relatively superficial given their complexity and scale. These deficiencies are significant considering the materiality of these risks, and assessors weighted this finding accordingly. Also informing the rating was the AT's finding that the EFCC, Nigeria's key agency charged with ML investigations and prosecutions, lacks a risk-informed enforcement framework or strategically guided priorities, as well as a clear delineation of responsibilities with the ICPC. The absence of prioritization and specificity of the Strategy and Action Plan, moreover, may hinder the adoption of effective correctives to these and other identified deficiencies. Of considerable significance also is Nigeria's unsubstantiated assessment of risks posed to NPOs, which leads it to categorise all NPOs as DNFBPs in a manner inconsistent with the FATF standards.

180. Overall, Assessors conclude that although Nigeria has basic elements of an effective AML/CFT regime in place with respect to risk understandings, national policies, objectives of authorities, and coordination and cooperation, in light of its extreme risk profile, Nigeria needs fundamental improvements in these areas.

181. *Nigeria is rated as having a Low level of effectiveness for IO.1.*

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a) LEAs (for example, NAPTIP and NPF) make relative use of financial intelligence received from the NFIU to investigate predicate crimes, particularly trafficking in human beings. Generally, LEAs make limited use of financial intelligence in their investigation of ML, associated predicate offences (including the most proceed-generating predicate offences) and TF.
- b) The NFIU mainly requests for additional information from banks, and less so to competent authorities and other reporting entities to develop financial analysis.
- c) Lack of internet access at the locations of some LEAs, coupled with the large geographical size of the country tend to impede the timely dissemination and access to reliable financial intelligence and other relevant information through the goAML electronic platform.
- d) Banks filed approximately 97% of the STRs as opposed to CMOs, insurance companies and mortgage finance banks with a very negligible number of STRs filed to the NFIU. The filing of STRs is not consistent with the risk profile of Nigeria, particularly the non-filing of STRs by DNFBPs and the scope issues regarding lawyers and internet casinos.
- e) The NCS focuses more on the detection of outbound cross-border movement of currency than the expense of inbound activities. The NCS is not implementing cross-border declaration requirements for BNIs, and this tends to derail the concentrated effort of the country in combating ML, associated predicate crimes and TF.
- f) The NFIU performs strategic analysis related to crimes, indicating modus operandi. However, it is yet to have a systematic approach to assess the overall quality of STRs and corresponding financial intelligence disseminated to competent authorities.
- g) The NFIU does not usually provide feedback on all STRs filed by reporting entities, as a way of encouraging them to comply with their reporting obligation. In the same vein, LEAs do not provide comprehensive feedback on the use of financial intelligence they receive from the NFIU.
- h) Of the twenty strategic products developed by the NFIU, only three provide detailed lead information to LEAs (drug trafficking, tax evasion and TF investigation) and support LEA investigations. The NFIU has not developed a

strategic product/guideline to assist LEAs ML investigations in line with Nigeria's risk profile.

- i) The EFCC and ICPC have designated authorised officers entrusted by the NFIU with the responsibility to handle requests and receive financial intelligence disseminated for and on behalf of their respective agencies. This mechanism ensures adequate confidentiality of the information received and ultimately disseminated by the NFIU.
- j) To a large extent, the NFIU and LEAs provide and seek appropriate financial and law enforcement intelligence and other information from their foreign counterparts.

Immediate Outcome 7

- a) While Nigeria has achieved a few successful outcomes from ML investigations and prosecutions, Nigerian LEAs do not have a system in place to prioritise these efforts in a manner consistent with the risk profile of the country. Given the degree of its ML risks, the authorities do not pursue ML cases in a manner commensurate with Nigeria's ML risk profile. LEAs focus mainly on prosecution related to predicate offences.
- b) Most LEAs lack adequate resources to perform the full range of their functions, taking cognisance of the risks and context of Nigeria. They also demonstrated limited ability to identify, investigate and prosecute both basic and complex ML activities.
- c) There are technical limitations regarding the mental element and predicate offences committed outside Nigeria. There is no clear evidence of how the authorities pursue the types of ML cases, including self-laundering and third-party ML with international elements.
- d) Nigeria did not demonstrate the ability to detect and prosecute criminals that committed predicate crimes outside the country while laundering the proceeds of their crime in Nigeria.
- e) While relevant laws provide for the use of special investigative techniques, such as wiretapping, controlled delivery and the use of undercover agents for the conduct of ML investigations, their effective use has not been demonstrated in this assessment.
- f) Nigeria did not provide sufficient evidence on the conduct of sophisticated, large and complex, global and high-value ML investigations, including legal entities and arrangements identified as being misused.
- g) Sanctions provided in statutes appear proportionate and dissuasive. The sanctions imposed for ML are not effective, proportionate and dissuasive. Nigeria does not have a shared database on ML cases investigated and prosecuted, as well as the sanctions imposed.

Recommended Actions

Immediate Outcome 6

- a) Nigeria should prioritise the use of financial intelligence related to ML/TF consistent with the risks of associated predicate offences identified in the NRA such as corruption, cyber fraud, oil bunkering, TF, etc.
- b) The NFIU should conduct additional training and raise awareness actions for DNFBPs to detect suspicious transactions and file STRs.
- c) The NFIU should extend and increase the level of requests for information from other competent authorities to enhance its effectiveness and efficiency in developing financial analyses.
- d) Policymakers should increase the financial and technical resources allocated to LEAs, including modern technology, to facilitate the timely dissemination and access to financial intelligence and other information.
- e) The NFIU and LEAs should develop and maintain a sustainable feedback mechanism on financial intelligence sharing, which in time should help improve the quality of financial intelligence and STRs received.
- f) The NFIU should provide timely feedback to FIs and DNFBPs on STRs received to maintain effective compliance with their reporting obligation.
- g) The NFIU should develop and disseminate strategic products on ML and other specific threats like corruption and cyber fraud-related crimes, for instance, for the benefit of the appropriate LEAs.

Immediate Outcome 7

- a) LEAs should establish a framework and processes to prioritise ML investigations and prosecutions in line with Nigeria's ML risk profile, including corruption, advance fee fraud, corruption and drug trafficking. The framework should outline clear priorities as well as the roles and responsibilities of the LEAs and, identify measurable performance metrics for each.
- b) Policy authorities should provide LEAs tasked with specific AML/CFT functions with adequate resources to enable them to perform their full range of functions in line with the risk and context of Nigeria.
- c) Nigeria should amend the MLPA to explicitly provide for the mental element of ML and extend the ML offence to predicate offences committed outside Nigeria, and include explicit provisions in the law that confirm that conviction for or proof of a predicate offence is not required for a ML offence.

- d) Nigeria should clarify and streamline the roles and responsibilities of the agencies with the mandate to investigate and prosecute ML and associated predicate offences. Policy authorities should establish a framework for coordination to ensure that the relevant agencies investigate appropriate cases, including the consolidation of existing agencies/authorities and their mandates.
- e) Policy authorities should support the operational independence of agencies investigating and prosecuting ML, especially in the context of corruption.
- f) Nigeria should examine how the AG's discretionary power to discontinue criminal proceedings instituted or undertaken by him or any other authority or person at any stage impedes or hinders ML prosecutions and sanctions. Where it is discovered that this discretionary power negatively impacts ML investigations and prosecutions, the authorities should consider amending this power to include measures to prevent hindering ML prosecutions.
- g) The authorities should provide resources to LEAs and judges (for example, financial investigations), to enhance their understanding of ML offences and the use of investigative techniques, to facilitate the investigation and prosecution of all types of ML offences, including those with international elements consistent with the risk profile of Nigeria.
- h) The NFIU should collect and maintain comprehensive and readily available data/statistics on ML and predicate offences investigated and prosecuted, as well as the sanctions imposed.

Immediate Outcome 8

- a) Policy authorities should formulate an explicit policy on confiscation that allows for the sharing of assets and victim restitution related to fraud cases, including ML.
- b) Policy authorities should prescribe a threshold/ceiling for the confiscation and forfeiture assets, and establish a central management system or mechanism to manage such assets located within and outside Nigeria. A central register or database, coordinated and managed by ARMU, should support this system or mechanism to facilitate a consolidated accounting and transparency.
- c) The NCS should ensure the enforcement of declaration of currency and BNIs at all points of entry and exit, and exert enforcement on inbound generally with the same rigour given to outbound movements or transportation of currency.
- d) The Nigeria authorities must prioritise general enforcement and confiscation of criminal assets including instrumentalities of crime with a view to depriving criminals from making profit out of crime.
- e) Maintenance of comprehensive statistics of seizure, confiscation and forfeiture of all crime proceeds including instrumentalities of crime should be a key priority to all LEAs.

182. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

General information on intelligence institutions

183. In Nigeria, the following authorities access and use financial intelligence and other relevant information to combat ML, associated predicate offences and TF:

- a) The NFIU is established, in law, as an independent and operationally autonomous entity (§2 NFIUA 2018). The NFIU receives STRs from FIs and DNFBPs predominantly in electronic format. It also receives requests from national and foreign LEAs, CTRs, cash declaration reports from the NCS, and foreign counterparts. The President of the Federal Republic appoints and removes the Director of the NFIU subject to confirmation by the Senate. The NFIU has a separate budget approved by the Senate annually. Other sources of funding for the NFIU include grants, gifts or donations from international organisations and donor agencies, on terms and conditions consistent with its functions. The Director of the NFIU can sign MOUs with relevant domestic and foreign competent authorities, including foreign FIU counterparts without recourse to any higher authority. The NFIU has 204 personnel full AML/CFT responsibilities, all domiciled at the Abuja Headquarters. The NFIU has a well-resourced ICT with trained operatives. The challenge of the Unit is the operatives yet to domicile across the country due to inadequate staff strength.
- b) The EFCC is responsible for the investigation and prosecution of a wide range of economic and financial crimes, including ML and TF. In addition to its head office in Abuja, the EFCC has 14 zonal offices throughout the Federation. It has 3,403 staff dedicated to handling different aspects of ML investigations, including forensic accounting, transactional analysis, surveillance and cyber analysis to determine the commission of relevant offences.
- c) The ICPC is involved in ML investigations primarily as relates to its responsibilities regarding corruption and other related offences. The ICPC has 797 staff, 18 of whom have ML responsibilities. The number of ML staff of the ICPC has decreased from twenty-three in 2016 and 2017 to eighteen.
- d) The NDLEA has the mandate to enforce measures related to narcotic drugs, including investigation and prosecution ML offences arising from illicit trafficking in narcotic drugs and psychotropic substances. The NDLEA has 20 staff attached to the Assets and Financial Investigations Unit in Abuja. At the same time, its offices in the 36 States of the Federation have two staff each. In 2015, the Federal Government approved the recruitment of 15,000 staff for the NDLEA, but the NDLEA has recruited 5,000.
- e) The CCBT has the mandate to receive asset declarations by public officers. It examines the assets declared to ensure compliance with the requirements of applicable laws in Nigeria. The CCBT does not have the mandate to investigate ML cases.
- f) The Nigeria Immigration Services screens and processes travellers and has the mandate to detect and prevent the trafficking in human beings, possession of altered or false travel documents.
- g) The NCS regulates the cross-border movement of goods and human beings that give rise to ML/TF risks. The goods include cash, precious metals, narcotic drugs, counterfeit products and other potential contrabands. The NCS does not have the mandate to conduct ML investigations and prosecutions, and refers all cases relating to the seizure of currencies to the EFCC for investigation.

- h) DSS - The Financial Analysis and Intelligence Unit, under the Counter-Terrorism Investigation Department (CTID), and its Directorate of Economic Intelligence (DEI), provide the DSS and other agencies with financial information to support their CT functions.
- i) The Complex Cases Group (CCG) is unit established under the MOJ. It is responsible for the prosecution of terrorism offences. The CCG comprises attorneys trained to assist investigators in identifying the financial dimensions of terrorism cases and prosecuting terrorism suspects. Since 2016, the CCG has increased its staff strength from eight (08) to thirty (30). It draws its budget from that of the MOJ.

184. Staff of the above-mentioned authorities have received ML/TF training regarding their areas of competence (for example, analysis of STRs, investigation and prosecution of ML, predicate offences and TF, asset investigation, among others). Overall, resources for LEAs remain inadequate to address the identified national ML risks. For instance, the ICPC has identified inadequate personnel (professionals), insufficient training and development of staff competences, challenges with its centralised operational structure and its multiple attendant lines of reporting, slow judicial process, exercise of the Attorney-General's power to enter a nolle prosequi and threats of mergers as threats to pursuit of cases under its mandate.⁵⁷ Table 3.1 represents the resources for competent authorities that access and use financial intelligence for ML, associated predicate offences, TF and asset recovery.

Table 3-1 Resources of Financial Intelligence Authorities

Authority	2016	2017	2018	2019
STAFF DEDICATED TO AML/CFT PROGRAM				
NFIU	72	72	72	X
EFCC	Over 3,000			
ICPC	23	23	19	18
CCG	8	14	28	30
NDLEA	21	21	21	20
NPF	x	x	x	x
ARMU	..	4	4	4
NO OF GENERAL TRAINING ON AML/ CFT				
NFIU	10	5	16	25
EFCC	246	210	307	41
ICPC	29	13	48	74
CCG	x	x	x	x
NDLEA	11	3	1	2
NPF	x	x	x	x
ARMU	..	1	5	1
NO OF SPECIALISED TRAINING ON AML/ CFT				
NFIU	x	x	x	x
EFCC	All trainings are specialized on AML/CFT			804
ICPC	13	7	24	40
CCG	4	6	10	8
NDLEA	5	5	3	-
NPF	x	x	x	x
ARMU	..	1	1	x
BUDGET FOR AML/CFT PROGRAM				
NFIU	As an anti-corruption agency, over 50% of the NFIU's budget is dedicated to AML/CFT			
EFCC	As an anti-corruption agency, over 50% of the EFCC's budget is dedicated to AML/CFT			

⁵⁷ Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis, ICPC 2019-2023 Strategic Plan.

Authority	2016	2017	2018	2019
ICPC	ICPC has a centralised budget where all AML/CFT & other investigation activities draw funds from			
CCG	The CCG is a unit and does not have a separate budget from the Federal Ministry of Justice			
NDLEA	NDLEA has a centralised budget from where it draws funds for all AML/CFT & other investigation activities.			
NPF	x			
ARMU	The ARMU is a unit of the Federal Ministry of Justice and does not have a separate budget.			

Source: NFIU

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

3.2.1. Use of financial intelligence and other information

185. Competent authorities have access to several sources of financial intelligence and other relevant information to facilitate financial investigations. The authorities use financial intelligence to investigate ML, associated predicate offences, TF and the tracing of criminal proceeds to a limited extent. However, the use of financial intelligence is not entirely consistent with the significant ML risks faced by Nigeria (for example, corruption, fraud and illegal oil bunkering), including the tracing of proceeds of crime. LEAs and the NFIU lack sufficient customs data considering the significant risks of ML through cross-border movements of cash and BNI. The trends in the dissemination of financial intelligence and other relevant information appear inadequate. Overall, the frequency and the extent of the use of financial intelligence and other information is limited in the context of Nigeria's ML/TF risks. The capacity and expertise of LEAs and security services to undertake financial investigations varies. The assessment team based its conclusions on statistics on the STRs, cash declarations and seizures and requests for information by LEAs; interviews with the NFIU, the EFCC, ICPC, NPF, Customs, FIRS, DSS, CCG (MoJ); and, review of procedures, minutes and reports of relevant meetings and programmes, case studies and financial intelligence dissemination.

186. Relevant authorities have access to a wide range of sources of financial and other relevant information containing identification data and other relevant information related to natural and legal persons. These include (a) STRs, (b) Currency Transaction Reports (CTRs), (c) Foreign Transaction Reports (FTRs), (d) PEP Transaction Reports (e) customs declarations, (f) Bank Verification Numbers (BVNs), (g) Cash-based Transaction Reports (CBTRs) bank records, (h) whistle-blowers and other informants, (i) petitioners or walk-ins, (j) field officers, (k) routine reporting on cross-border cash movement, (l) information kept by CAC, (m) regulatory information, and (l) open sources. Notable sources include:

- a) **Disseminations from STRs:** LEAs can access financial intelligence disseminated by the NFIU following analysis of STRs, both physically and electronically (through the goAML portal).
- b) **Currency Transaction Reports (CTRs)** – FIs and DNFBPs file threshold-based reports (CTRs) and cash-based transaction reports (CBTRs) to the NFIU and SCUML, respectively. The threshold for individuals is N5,000,000.00 (USD 14,025.25), and N10,000,000.00 (28,050.49 USD) for corporate entities. The NFIU and SCUML have signed an MOU that facilitates the transmission of CTRs and CBTRs filed by DNFBPs with SCUML to the NFIU through the goAML system. The NFIU disseminates relevant intelligence gathered from the analysis of CTRs to LEAs.

- c) **Foreign Transaction Reports (FTRs)** –banks file reports on transactions to and from a foreign country of funds or securities by a natural person or body corporate, including money service business of a sum of not more than \$10,000 or its equivalent.
- d) **Customs declarations** – the NCS’s reports on undeclared and falsely declared currency are available to the EFCC and the NFIU. Nigeria’s declaration system focuses more on the out-bound movement of currency. The country is not implementing a system related to the cross-border declaration of BNIs, precious metal and stone.
- e) **BVN** is one of the most important and widely used sources of financial intelligence. It is a biometric identification system implemented by the CBN to curb or reduce illegal banking. It is particularly useful to LEAs’ financial crime investigation, including ML and TF. The BVN also facilitates the identification of fraudulent accounts, as evidenced in this assessment.
- f) **Bank records** – Unlike the EFCC and DSS, other LEAs can obtain customer information through the NFIU or by means of a production order from the court. The EFCC obtains such information directly from the banks without recourse to a production order from the court. .
- g) **Whistle blowers** – The Federal Ministry of Finance has set up a whistleblowing programme to encourage members of the public to report any violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and theft.
- h) **CAC information** – basic information on legal persons and BO information where it exists (see IO.5).

187. The NFIU has direct access to supervisory information and can request and obtain financial information held by the private sector directly. The NFIU does not require a court order to obtain any information from FIs or any competent authorities. It is duly empowered to this effect by the provisions of the NFIU Act and uses this power on behalf of LEAs on their request.

188. Except for the EFCC (empowered by section 21 of the ML (Prohibition) Act 2011 (MLPA), all other LEAs obtain information from FIs through the NFIU (sections 3&4 of the NFIU Act, 2018).

189. Alternatively, LEAs have access to a broad range of financial intelligence and other information including tax records, information from reporting entities (except FIs), currency declarations/information on cross-border transportation of cash, company registry information, commercial databases, vehicle license records, and information on database of other competent authorities such as CAC, and immigration Service directly without recourse to court order. They make use of the information to support investigations especially in relation to predicate offences. To access the information, LEAs must have reasonable grounds to believe that an object in the custody of a person/entity may serve as evidence. In practice, LEAs can obtain court orders within 24 hours without further evidentiary support. LEAs obtain the required information directly from the private sector, except FIs which they do through the supervisory authorities, including the NFIU or SRBs. The average time for receiving responses to requests for information, particularly from FIs, ranges from five days to three months. There are also delays, an average of seven days, between the procurement of court orders and the receipt of requests for information from LEAs.

190. In 2012, the NFIU introduced the goAML system, subsequently obliging all reporting entities to submit STRs through the system. Consequently, FIs and DNFBPs file STRs through this system. The banks attribute the increase in suspicious transaction reporting to improvement in internal systems and supervisors’ attention. There are concerns regarding the rejection of STRs without full mandatory

information resulting in low dissemination of financial intelligence. Also, the NFIU does not integrate goAML with its other databases. As a result, there is no automatic analytical function in the system. Instead, analysis is completed manually by importing and exporting data through the fragmented systems.

191. The NFIU accesses some external databases to support its analysis and disseminates intelligence from its analysis to LEAs or other competent authorities. The NFIU prioritises its analysis and disseminations based on ongoing investigations of predicate offences, ML/TF and known targets aiding LEAs.

192. There are no concerns regarding the resources and operational autonomy of the NFIU. However, the lack of reliable internet facilities across the country impedes the timely dissemination of financial intelligence and other information.

193. Relative to ML, predicate offences and asset tracing, the EFCC and ICPC receive most of the financial intelligence/analyses disseminated by the NFIU. From 2015 to 2019, the NFIU disseminated 1109 financial intelligence on corruption, identified as the highest threat and the most proceeds generating crime in Nigeria, to the EFCC, ICPC and the CCB. The figure represents 57% of the 1944 financial intelligence disseminated to competent authorities during that period. These disseminations are not adequately in line with the number of STRs received, and not generally compatible with risks identified by the NRA. Some LEAs, such as NAPTIP, EFCC and NPF demonstrated limited use of financial intelligence received from the NFIU to investigate ML and predicate offences, particularly trafficking in human beings. Nigeria is yet to adequately address the pervading economic threats identified by the NRA (page 15) due to the negligible level of financial intelligence dissemination in relation to illegal bunkering (2), cybercrime (3), economic/financial crime (5) and arms smuggling (7), each representing 0%. Also, there is no dissemination of financial intelligence on counterfeiting of currency, currency trafficking, piracy and infringement of copyright and smuggling, also identified as significant sources of ML/TF threats in the country. Hence, the statistics in Table 3.1 below do not reflect these criminal activities.

Table 3-2: Number of financial intelligence disseminated on predicate crimes by NFIU

Type of offence	2015		2016		2017		2018		2019		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Corruption	109	46%	355	68%	194	56%	246	54%	205	54%	1109	57%
Fraud	67	28%	72	14%	100	29%	155	34%	100	26%	494	25%
Tax Evasion	23	10%	26	5%	17	5%	19	4%	18	5%	103	5%
TF	5	2%	42	8%	9	3%	4	1%	27	7%	87	4%
Human Trafficking	9	4%	12	2%	14	4%	18	4%	9	2%	62	3%
Drug Trafficking	14	6%	9	2%	2	1%	11	2%	11	3%	47	2%
Treason	2	1%	3	1%	2	1%	2	0%	4	1%	13	1%
Arms Smuggling	3	1%	1	0%	3	1%	..	0%	..	0%	7	0%
Terrorism	4	2%	..	0%	..	0%	..	0%	1	0%	5	0%
Economic/Financial Crime	..	0%	..	0%	..	0%	2	0%	3	1%	5	0%
Theft/Robbery	2	1%	..	0%	1	0%	..	0%	1	0%	4	0%
Cybercrime	..	0%	2	0%	..	0%	..	0%	1	0%	3	0%
Kidnapping	..	0%	..	0%	1	0%	..	0%	2	1%	3	0%
Illegal Oil Bunkering	1	0%	..	0%	1	0%	..	0%	..	0%	2	0%
Total	239	..	522	..	344	..	457	..	382	..	1944	..

Source: NFIU

194. Nigerian authorities provided a few examples of cases using financial intelligence generated by the NFIU. Generally, their use was for predicate offences (see case study in Box 3.1 below). Despite the

outcomes of the case studies, they did not demonstrate consistent and systematic use of financial intelligence across all LEAs in the investigation of ML, associated predicate offences or asset tracing consistent with Nigeria's risk profile.

Box 3-1. Use of NFIU intelligence for predicate offences

Example 1: In 2015, NAPTIP received a complaint concerning the trafficking of a 14 year old boy to Libya for exploitative labour. Upon demand by the abductors, the mother of the victim paid various sums of money into a bank account in a Nigerian bank provided by the trafficker to secure the return of the boy. Information obtained from the NFIU regarding the account holder (address, duplicate passport size photograph and details of his referee) led to the arrest of the trafficker through his referee and subsequent rescue and return of the victim to Nigeria.

Example 2: In 2016, NAPTIP handled an MLA case from the French law enforcement authorities through the FMoJ. The principal suspect was a Nigerian allegedly involved in the trafficking of girls from Nigeria to France for exploitation purposes (prostitution). The court in France convicted the perpetrator of the human trafficking offence. The suspect allegedly laundered the proceeds of crime to Nigeria through her family members. NAPTIP investigated the ML aspect with the repository account details provided by the French authorities. NAPTIP, requested the NFIU, and the financial analysis/intelligence reactively disseminated disclosed contact details of persons of interest. The investigation is pending.

Example 3: In 2019, the suspect in a human trafficking investigation refused to disclose all her bank accounts and assets. Upon request by NAPTIP, the NFIU provided the relevant information, using the suspect's BVN. The information enabled NAPTIP to arraign the suspect in court on charges of human trafficking. Prosecution pending. NAPTIP did not pursue the ML components nor referred the same to the EFCC

NFIU's requests for additional information

195. The NFIU, by its mandate, has broad powers to obtain financial information and relevant records held by both public and private institutions, including REs, in addition to receiving STRs and CTRs from FIs and other competent authorities. From 2015 to 2019, the NFIU made 325 requests for information to banks and received 267 responses, pretty much to all the requests, which is indicative of the responsiveness of banks to their AML/CFT obligations.

196. The NFIU's requests for additional information from competent authorities, such as CBN, NAICOM, SCUML, SEC and CAC to develop financial intelligence for either spontaneous or reactive disseminations needs to be improved considerably. Table 3.3 below shows that the NFIU makes the majority of the requests for additional information (60%) to the FIRS followed by the FMoJ (25%). It is not enough that the NFIU request information from the other competent authorities such as SCUML, SEC and the CAC in a very negligible manner. These are also vital stakeholder institutions involved in the regulation and supervision of reporting entities. Additional information from the broadest range of competent authorities would enhance effective compliance by reporting entities and enrich the NFIU's analyses of STRs. Since the NFIU can request information from any authorities, such requests made when the need arises.

Table 3-3: Requests for additional information made by the NFIU to competent authorities

Competent Authority	2015	2016	2017	2018	2019	Total	Total in %
CBN					1	1	1%
NAICOM					0	0	0%
SCUML		1	1		5	7	5%
SEC		1	3		1	5	4%
CAC					2	2	2%
FIRS	21	23	12	12	10	78	60%
FMOJ			4	18	11	33	25%
CRC				1	0	1	1%
NCC				2	0	2	2%
FMFA					1	1	1%
Total	21	25	20	33	31	130	100%

Source: NFIU.

Spontaneous disseminations

197. The NFIU disseminates financial intelligence through the goAML portal. Each LEA has designated two screened authorised officers (AOs) to access the portal to facilitate timely and secure dissemination of financial intelligence and other information to their respective LEAs. Where internet access is a challenge or not available, the NFIU can disseminate hard copies of financial intelligence to such LEAs. The lack of response to phone calls and emails to AOs, the geographical location of AOs, the size of the country and delays by some AOs impede the timely access and use of the physical copies of financial intelligence disseminated to the LEAs.

198. The NFIU provides financial intelligence and other relevant information to LEAs spontaneously. These support LEA investigations of high-profile ML and associated predicate offences and facilitate criminal asset tracing, including funds in fraudulent bank account. The NFIU disseminates most of the financial intelligence (831) to the EFCC, followed by the ICPC (407). The analyses primarily relate to fraud. The NFIU's spontaneous dissemination decreased marginally from 491 in 2016 to 354 in 2018 due to the dependence on the level/number of relevant STRs received from reporting entities. The disseminations resulted in the investigation of several high-profile ML and TF cases. The case examples in Box 3.2 highlight the outcomes of some financial intelligence disseminated to LEAs, though insufficient to support this position.

Table 3-4: Spontaneous dissemination of financial intelligence to main LEAs by NFIU

Year	EFCC	ICPC	NDLEA	NPF	CCB	DSS	NAIC	NAPTIP	NSCDF	Total (per year)
2015	205	51	27	12	05	03	09	12	-	324
2016	306	71	09	18	15	35	21	12	04	491
2017	156	70	02	36	08	06	10	15	01	301
2018	29	143	11	27	03	02	13	20	01	354
2019	43	72	05	122	05	01	09	08	-	255
Total (per LEA)	834	407	54	215	36	47	62	67	06	1725

Source: NFIU

Box 3-2. Investigations of targets and assets tracing supported by NFIU financial intelligence

1. **The JP case:** In 2018, the EFCC froze a bank account with ₦ 9.2 bln (USD 25.734 mln) and USD 8.4 mln suspected to be the proceeds of a serious offence. The court forfeited the funds, together with two houses, to the Federal Government of Nigeria in a non-conviction-based proceeding.
2. **Military Procurement Fraud case:** In 2015, the NFIU disseminated financial intelligence to the Presidential Investigations Committee on Arms Procurement. The dissemination led to the investigation and prosecution of some serving and retired army personnel mainly from the Air Force Division, for corruption and ML related to the procurement of arms involving billions of US dollars. *The prosecution is pending.*
2. **JN case:** Between 2007 and 2018, the NFIU actively participated and provided financial intelligence to the EFCC, leading to the investigation, prosecution and conviction of a high-profile state actor, for corruption and mismanagement of ₦ 1.6 bln (USD 4.5 mln) from the State Government Treasury. The court ordered the refund of this amount in addition to 14 years term of imprisonment. The authorities did not charge the defendant with the ML offence.

Source: NFIU

199. The NFIU also provides financial intelligence on request LEAs during financial investigations (see Table 3.5). LEAs rely on the NFIU for the provision of relevant financial information which they could not otherwise access during financial crime investigations. Most LEAs did not confirm the number of reactive financial intelligence they received from the NFIU, including the types of offences related to the dissemination. However, the ICPC, NDLEA and NAPTIP confirmed receiving financial intelligence related to corruption, drug trafficking and human trafficking, respectively. However, the Assessors could not establish the same breakdown for EFCC and the NPF –who have mandates over several criminal offences.

Table 3-5: Reactive Dissemination to the main LEAs

Institution/Year	2015		2016		2017		2018		2019		Total (per LEA)	
EFCC	115	54.5%	254	58%	62	28%	49	19%	33	11%	513	35%
ICPC	41	19.4%	68	15%	65	30%	123	47%	114	38%	411	28%
NDLEA	14	6.6%	9	2%	2	1%	10	4%	9	3%	44	3%
NPF	9	4.3%	16	4%	26	12%	35	13%	57	19%	143	10%
CCB	4	1.9%	15	3%	8	4%	3	1%	37	12%	67	5%
DSS	3	1.4%	33	7%	2	1%	0	0%	6	2%	44	3%
NAIC	11	5.2%	20	5%	9	4%	9	3%	13	4%	62	4%
NAPTIP	9	4.3%	11	2%	15	7%	18	7%	8	3%	61	4%
NSCDC	0	0.0%	4	1%	1	0%	1	0%	0	0%	6	0%
ONSA	5	2.4%	8	2%	19	9%	14	5%	17	6%	63	4%
NIA	0	0.0%	0	0%	3	1%	0	0%	0	0%	3	0%
NAVY	..	0.0%	1	0%	..	0%	1	0%	..	0%	2	0%
DIA	..	0.0%	1	0%	..	0%	1	0%	2	1%	4	0%

Institution/Year	2015		2016		2017		2018		2019		Total (per LEA)	
NIS	..	0.0%	1	0%	..	0%	..	0%	..	0%	1	0%
NCS	..	0.0%	..	0%	6	3%	19	7%	0	0%	25	2%
NACMP	..	0.0%	..	0%	..	0%	3	1%	8	3%	11	1%
Total	211	X	441	X	218	X	286	X	304	X	1460	X

Source: NFIU

200. Several LEAs (for example, the EFCC, ICPC, NDLEA and DSS) regularly use financial intelligence disseminated by the NFIU both spontaneously and upon request. On average, LEAs use about 60% of the NFIU's disseminations to investigate ML, associated predicate offences and TF. The financial analyses on those cases, however, provide leads of illicit financial transactions and facilitate investigations. They are twofold: operational/tactical analysis provides details of suspects' identity; strategic analysis provides details of how the crime occurred. LEAs, especially the NPF and NAPTIP regularly requests the NFIU for financial intelligence when information is needed during investigation, and in the same vein, can request for additional details from the NFIU. Although the Nigerian authorities did not make details of this nature available to the Assessors in the course of this assessment, the LEAs expressed their satisfaction with the quality of the intelligence received from the FIU and confirmed that the NFIU's intelligence supports their operational needs while response to requests is timely.

201. The NFIU disseminates the results of its analysis spontaneously to relevant LEAs, such as EFCC, ICPC, NDLEA, NPF, CCB, DSS, NAPTIP resulting to investigations. From 2015 to 2019, the EFCC received the highest number of disseminations (831) during the review period (see Table 3.6), representing 50.5 % of the total ML dissemination prompted investigations. Although effort is noted, it was not sustained in the preceding years, 2017 – 2019, and most significantly, it was not targeted at key other threat areas identified in the NRA. These are Kidnapping, Illegal Oil Bunkering, Cyber Crimes, Theft/Robbery, Drug Trafficking, Arms Smuggling, Human Trafficking, Fraud and Corruption. The NFIU's disseminations to the DSS within the same period prompted 47 TF investigations, thus representing 25.3% of the total disseminations, which is not consistent with the TF risk level of Nigeria, and except for 2016, the disseminations for 2015, 2017 – 2019 are very low. The Agency also reiterated receiving intelligence in a reasonable proportion from assigned field officials. However, there is no data to this effect and other information generated from other sources. The NFIU, in the same period, also provided spontaneous information (107) to the FIRS on tax related transactions to support its activities, notwithstanding there was a complete decline in 2019 (Table 3.6). According to the NFIU, the inconsistency and decline of financial intelligence dissemination shown or noted was due to the non-availability of prompting information.

Table 3-6: Investigations Prompted by NFIU's Disseminations

Institution/Yea r	2015			2016			2017			2018			2019*			Total			
	Offence	ML	TF	Or.	ML	TF	Or.	ML	TF	Or.	ML	TF	Or.	ML	TF	Or.	ML	TF	Or.
EFCC	205				306			153			134			33			831		
ICPC	51	-	-		71			70			143			72			407		
NDLEA	27	-	-		9			2			11			5			54		
NPF	15	-	-		18			36			17			2			89		40
Force Criminal & Intel. Dept											5			6					
Police Special											10			1					

Institution/Year	2015	2016	2017	2018	2019*	Total
Fraud Unit						
INTERPOL					13	5
CCB	5	-	-	15	8	3
DSS	3	-		35	6	2
NAIC	9	-		21	10	13
NAPTRIP	12	-	12		15	20
NSCDC		-			4	1
ONSA	6	-		16	21	17
NIA		-			1	3
NAVY		-				1
DIA	-	-	-	2	2	
MP						8
Military Intelligence						1
NIS	-	-	-			1
NCS	-	-	-	-	6	9
FIRS	23	-	-	25	18	34
ARMU	-		-		7	19
Total	338	18	0	456	74	313
				40	388	37
					37	149
						26
						14
						1644
						186
						53

Source: NFIU

202. The NFIU also uses accumulated STRs received to develop typology reports on risk for the usage and benefit of FIs and the public. For example, the NFIU has used typologies from suspected TF activities in the North-East to inform banks about potential TF risk and to solicit more responsive STRs.

Investigation of TF

203. The Agency also reiterated receiving intelligence in a reasonable proportion from assigned field officials. However, there is no data to this effect and other information generated from other sources.

3.2.2. STRs received and requested by competent authorities

204. The FIU receives STRs from reporting entities through the goAML portal. In addition to STRs, the FIU receives reports on transactions, lodgement or transfer of funds above a threshold of N5,000,000 and N10,000,000 or their equivalent made by individual and corporate bodies, respectively directly from banks and other financial institutions, and indirectly from DNFBPs through SCUML. To a large extent, the STRs contain relevant and accurate information that assists LEAs, the FMOJ to perform their functions. The NFIU asserted that most STRs contain useful information, which invariably enhances their analysis. Reporting entities, particularly banks, regularly attach useful information (for example, CDD documentation, account statements). However, The NFIU rarely provides feedback on STRs to FIs and other reporting entities.

205. Generally, unlike the non-bank FIs and DNFBPs, the volume of STRs filed by FIs to the NFIU is somewhat encouraging. There are several reasons for the low number of or lack of STRs from non-bank FIs and DNFBPs. These include: (a) lack of understanding of AML/CFT obligations, (b) non-coverage of lawyers for AML/CFT purposes, (c) lack or inadequate supervision and monitoring of sectors for the implementation of AML/CFT obligations, (d) lack or inadequate knowledge of filing STRs through the goAML portal. Despite the inherent ML/TF risk in the sector, DNFBPs did not file any TF related STR, relative to the entities low level of understanding of ML/TF risk and AML/CFT obligations.

206. Commercial banks file the majority of STRs (approximately 97%). The number of STRs filed by banks has increased over the past three years (for example, 3,459 in 2016 to 10,283 in 2018). The increase is mainly due to the improved internal systems of banks, and awareness of their supervisors' attention. However, the number of STRs filed by OFIs under the supervision of the CBN did not demonstrate such awareness. From 2015 to 2019 MFCs filed 34 STRs. Other FIs under the supervision of the CBN, including forex dealers, did not file any.

207. CMOs filed 82 STRs (78 in 2017 and 4 in 2019). Considering the low level and quality of STRs filed by CMOs (see Table 3.7) The NFIU and SEC trained CCOs of CMOs in June 2019 on how to generate STRs from their daily operations, the appropriate use of the STR reporting template and the rendition of STRs on the goAML portal. During the training, about 90% of CCOs (180 CMOs) registered on the goAML portal to enhance the level of suspicious transaction reporting⁵⁸. While recognising the effort made by SEC and the NFIU to improve the level and quality of STRs filed by CMOs, there is no evidence to assess the impact of the training on suspicious transaction reporting by CMOs, including the quality of STRs after the training.

208. Insurance companies have filed a substantial number of STRs and CTRs to the NFIU. These are 186, 201 and 301 while CTRs represent 6,226, 7,378 and 8, 332 from 2017 to 2019, respectively.

209. Despite the inherent ML/TF risk in the DNFBP sector, DNFBPs did not file any STRs. DNFBPs demonstrated a low level of understanding of their ML/TF risk and AML/CFT obligations. Table 3.7 below provides a breakdown of STRs and CTRs filed by FIs and DNFBPs from 2015 to 2019.

Table 3-7: Number of STRs and CTRs filed by Reporting Entities

	2015		2016		2017		2018		2019		Total		%
	STR s	CTRs	STR s	CTRs	STR s	CTRs	STR s	CTRs	STR s	CTRs	STR s	CTRs	STRs CTRs
Breakdown by types of FIs													
Commercial Banks	1,93 2	3,069,4 43	3,45 9	3,173,5 15	3,64 1	4,578,4 33	10,33 6	6,447,0 80	7,10 4	4,170,2 94	26,47 2	21,438, 765	97% 99%
Microfinance Banks	0	9,222	0	3,243	0	9,001	0	1,066	0	0	0	22,532	0% 0.10%
Rural & Community Banks	0	0	0	0	0	0	0	0	0	0	0	0	0% 0.00%
Finance Houses	0	0	0	336	0	304	0	591	0	25	0	1,256	0% 0.01%
Credit Unions	0	0	0	0	0	0	0	0	0	0	0	0	0% 0.00%
Mortgage Finance Companies	0	9,530	0	4,571	0	13,486	0	6,109	34	2,317	34	36,013	0.12% 0.17%
Savings & Loans Companies	0	0	0	0	0	0	0	0	0	0	0	0	0% 0.00%
Forex dealers	0	26,332	0	508	1	921	0	5,335	0	0	1	33,096	0% 0.15%
MVTS/Remittance Companies	0	0	0	0	0	0	0	20	0	0	0	20	0% 0.00%

⁵⁸ SEC Report on a Practical goAML Training Workshop for CCMOs, 21 June, 2019.

	2015		2016		2017		2018		2019		Total		% CTR _s	
	STR s	CTR _s	STR s	CTR _s	STR s	CTR _s	STR s	CTR _s	STR s	CTR _s	STR s	CTR _s	STR _s	CTR _s
Finance & Leasing Companies	0	0	0	0	0	0	0	0	0	0	0	0	0%	0.00%
Pension Service Providers	0	0	0	239	0	0	0	2,494	0	0	0	2,733	0%	0.01%
Insurance Companies	11	4,295	0	4,836	186	6,226	201	7,378	301	8,332	699	31,067	2.56 %	0.14%
CMOs	33	20,593	0	13,312	78	14,398	0	5,047	4	7,286	115	60,636	0.42 %	0.28%
Others	2	80,526	0	1	0	55	0	20	0	68	2	80,670	0.01 %	0.37%
STRs & CTRs filed by FIs	1,978	3,219,941	3,459	3,200,561	3,906	4,622,824	10,537	6,475,140	7,443	4,188,322	27,323	21,706,788	100%	100.00 %
Breakdown by types of DNFBPs														
Casinos and other Operators of lotteries	0	0	0	0	0	586	0	7,506	0	10,249	0	18,341	0%	5.2%
Real Estate Developers/Age nts	0	0	0	0	0	370	0	5,472	0	5,071	0	10,913	0%	3.1%
DPMs	0	0	0	0	0	0	0	0	0	0	0	0	0%	0.0%
Lawyers	0	0	0	0	0	0	0	7	0	0	0	7	0%	0.0%
Notaries Public	0	0	0	0	0	0	0	0	0	0	0	0	0%	0.0%
Auditors/Accountants/ Tax Advisors	0	0	0	0	0	21,390	0	158,550	0	104,557	0	284,497	0%	80.7%
TCSPs	0	0	0	0	0	0	0	2,547	0	1,555	0	4,102	0%	1.2%
Car Dealers	0	0	0	0	0	1,152	0	5,218	0	5,305	0	11,675	0%	3.3%
Other DNFBPs	0	0	0	0	0	3,925	0	11,717	0	7,327	0	22,969	0%	6.5%
STRs & CTRs - DNFBPs	0	0	0	0	0	27,423	0	191,017	0	134,064	0	352,504	0%	100%
Total STRs & CTRs - FIs & DNFBPs	1,978	3,219,941	3,459	3,200,561	3,906	4,650,247	10,537	6,666,157	7,443	4,322,386	27,323	22,059,292		

Source: NFIU. Statistics for the insurance sector further revised by Nigeria on 26 June 2020 (post-targeted review).

210. The detection of suspicious activity related to information on cross-border movement of cash, BNI and precious metal and stones, is not evident in this assessment. For instance, the NFIU received 19,160, and 18,828 NCS reports on cash declarations in 2017 and 2018, respectively. The reports do not distinguish between situations where non-reported or falsely declared cash or where there was a suspicion of ML/TF. Also, the NCS concentrates detection more on the outbound movement of currency. Hence, no implementation of requirement related to cross-border declaration of BNIs by the NCS. There is limited information regarding currency declarations at the land borders whilst no information regarding precious metals and stones have been made available during this assessment. Considering the TF threats from both foreign and domestic sources, and the prevalence of bulk cash smuggling, kidnapping for ransom, the absence of such information can impede the NFIU's ability to conduct operational and strategic analyses related to cross-border transportation of cash and BNIs. Competent authorities can obtain information on cross-border declarations.

211. Reporting entities file STRs through the goAML Platform. The goAML system rejects any STR form where the mandatory fields are not fully completed. They must complete and refile the STRs to the NFIU within 24 hours. Those fully completed go through the system and are received by the NFIU compliance officer, who assigns them to the STR Analyst. The Analyst can request additional information from the reporting entity concerned, to perform its analysis properly. Where relevant, the NFIU disseminates the results of its analysis to the appropriate LEA (see Table 3.2). The NFIU receives a high volume of STRs daily. Thus, the Unit prioritises the analysis based on the significance of the STRs.

212. Once the goAML system accepts an STR, the STR qualifies for financial analysis. The STRs received and not utilised for financial analysis are eventually used in developing strategic products. This practice, in part, accounts for the low level of dissemination of financial intelligence notwithstanding the volume of STRs received. For instance, during the review period, the NFIU received 817 TF-related STRs and disseminated 109 financial intelligence to LEAs. The assessors believe that once an STR is of quality, it is worth analysing and the intelligence generated from it disseminated to the appropriate LEA to pursue the relevant investigation. Therefore, the Assessors concluded that the rejection of STRs by the goAML system is not an issue of evaluating quality but rather a technical control system for receiving STRs. The NFIU has organised several sensitisation and guidance programmes to encourage and enhance compliance by FIs and DNFBPs with their reporting obligations. Despite this effort, the lack of STRs filing by reporting entities, particularly non-bank entities remain high.

213. The NFIU uses its legal authority to obtain additional information from FIs and DNFBPs to enhance the analysis of STRs. The information enables LEAs to, among others, identify principal suspects, their associates and other possible targets. Apart from the NAPTIP case examples in Box 3.1, there are no statistics on the outcomes of such additional information. As and when circumstances demand, the NFIU participates in or works on the field with LEAs, particularly the EFCC, to identify main targets and associates in major corruption or fraud cases.

214. The NFIU attaches a quarterly feedback form to the financial intelligence it disseminates to LEAs. However, the LEAs are not sufficiently complying with this feedback mechanism due to challenges regarding the collation of responses for agencies with zonal offices across the country and ICT issues⁵⁹, non-availability of information or intelligence requested from the NFIU⁶⁰. Also, while LEAs do not provide feedback in respect of results of investigations conducted based on the NFIU's disseminations, the NFIU does not follow-up to ensure compliance or effectiveness of this mechanisms. Only the NPF demonstrated providing feedback to the NFIU in a letter dated 27 July 2018 and signed by the Deputy Commissioner of Police (see Table 3.8). Similarly, the NFIU does not appear to be complying with paragraph 5.0 of the NFIU's *Guidance to Reporting Institutions on Preparing a Complete Suspicious Transaction/Activity Report and Filing Electronically to the Nigerian Financial Intelligence Unit (NFIU)*⁶¹, which emphasises the importance of providing reporting entities with periodic feedback on all STRs/SARs received to encourage them to comply with their reporting obligations. However, the NFIU confirmed providing general feedback during engagements with FIs especially banks (under the platform of the Chief Compliance Officers Association of Banks), which has also assisted to improve the quality of STRs filed. The bank officials (compliance officers) met confirmed the usefulness of feedback provided by the NFIU in improving the quality of STRs filed.

⁵⁹ Minutes of the Ist Quarter Meeting of AML/CFT Authorised Officers Forum held on 13 March, 2018,

⁶⁰Minutes of the 2nd Quarter Meeting of AML/CFT Authorised Officers Forum held on 28 June, 2018,

Table 3-8: NPF Feedback on NFIU disseminations

S/N	NFIU Case No.	Date	NPF CR. No.	Feedback Comment
1	1512/002/1/0317/003	27/01/2017	FHO/X/PSFU/306/2017	Suspect's account records collected and analysed
2	112/002/0417/028	4/4/2017	FHO/X/PSFU/375/2017	-do- and effort geared towards arresting suspects
3	1512/002/1/1317/014	10/2/2017	FHO/X/PSFU/324/2017	Casefile with DPP – investigation concluded
4	1512/002/1/0317/014	10/2/2017	FHO/X/PSFU/305/2017	Investigation concluded, awaiting legal advice
5	1512/001/0217/009	-	FHO/X/PSFU/303/2017	Case under investigation
6	1512/002//1017/033	28/9/2017	FHO/X/PSFU/458/2017	Investigation concluded, awaiting legal advice
7	1512/002/1/0317//0028	29/3/2017	FHO/X/PSFU/450/2017	Effort geared towards arresting suspect
8	1512/002/0218/024	8/2/2018	FHO/X/PSFU/84/2018	Case under investigation
9	1512/002/0918/041	7/9/2018	FHO/X/PSFU/449/2018	Suspect account records collected and analysed

Source: NPF

215. A feedback/perception survey conducted by the NFIU shows that 88% of LEAs assessed the NFIU's dissemination as suitable for investigation. However, the same survey indicates that only 1% of the NFIU's disseminations resulted in the prosecution of ML, associated predicate offences and TF, indicating that LEAs are using financial intelligence to a very minimal extent. Table 3.9 below provides one of such responses, including the fields provided on the feedback form.

Table 3-9: Summary of feedback survey to NFIU on intelligence disseminated

QUESTION	Percentage
What was your assessment of the intelligence disseminated to you?	
Suitable	88%
Unsuitable	9%
Reallocate to another agency	1%
To what extent did the intelligence disseminated to you enhance your investigation?	
New information	56%
Verified existing	32%
Not useful	9%
State if the information was received in a timely manner	
Prompt	17%
Reasonable	53%
Late	30%
Feedback - please select at least one of the following	
Transactions from crime proceeds	18%
Other proceeds of crime identified from intelligence	9%
Resulted/assisted in an arrest	2%
Realisable assets identified	NA
Was helpful in moving towards a prosecution	1%
No connection to crime but still suspicious	49%
Funds not linked to criminality	NA
Enquiry cannot be progressed; confidentiality may be broken	1%
Linked to an ongoing enquiry	19%
Final assessment - please select one of the following	
Existing intelligence enhanced	56%
New intelligence	1%
Suggest reallocation to another agency	7%
Prosecution pending	1%
Convicted	NA
Seizures of assets	22%
Interim forfeiture of assets	11%
Final forfeiture of assets	NA

Sources: NFIU Database and Annual Reports

216. The goAML Portal is the only medium available and accessible to FIs and DNFBPs to file STRs and CTRs promptly. The NFIU prioritises STRs based on the history, amount, location, line of business, quality, and mode of transaction.

3.2.3. Operational needs supported by FIU analysis and dissemination

217. The Monitoring and Analysis Section (MAS) and the Strategic Analysis Section (SAS) of the NFIU collaborate in conducting tactical analysis using STRs, CTRs and Customs Declaration Reports (CDRs) to develop strategic analysis products. SAS undertakes project research to assess potential ML/TF risks and vulnerabilities exploited by criminals across various financial and non-financial sectors in the country. It supports the development of appropriate policy guidelines based on the outcome of research/typologies studies. SAS also collaborates with MAS to integrate lessons learned from the strategic analysis of information received by the NFIU into research findings. This information serves as a feedback mechanism for AML/CFT stakeholders. The Summary of Feedback Survey in Table 3.9 above demonstrates the significance of financial intelligence analyses dissemination to LEAs. The NFIU has developed and issued five strategic products and guidelines to support FIs to minimise the vulnerabilities related to their day-to-day operations. The NFIU has also developed and issued three strategic products on drug trafficking, tax evasion and TF related investigations for LEAs. Table 3.10 below provides details of the Strategic Products/Guidelines issued by the NFIU.

Table 3-10: Strategic products developed and shared by the NFIU⁶¹

S/NO.	Product Name	Date Published	Recipient(s)
1	NFIU Guidance on TF Indicators	June 2015	Financial Sector Regulators, LEAs and the public
2	NFIU Guidance on Tax Evasion Indicators	March 2015	-Do -
3	NFIU Guidance on Drug Trafficking Indicators	March 2015	-Do -
4	ML Indicators	-	Reporting entities
5	AML/CFT Reporting Guidelines		
6	NFIU Advisory on Biometrics Verification Number	Dec. 2018	Competent authorities and reporting entities
7	NFIU Guidance on FATF Best Practices for Targeted Financial Sanctions on TF	June 2015	Reporting entities
8	NFIU Guidance on FATF Advisory on Transparency and Beneficial Ownership	Feb. 2015	Reporting entities
9	NFIU Guidance - Update on FATF Advisory on Transactions to High-Risk Jurisdictions Feb 2015	Feb. 2015	Reporting entities
10	AML-CFT Guidance for Dealers in Precious Stones and Metals	March 2014	DPMS
11	NFIU Advisory on Potential ML/TF Risks of Virtual Assets	June 2015	National authorities and the private sector
12	NFIU Confidentiality and Data Protection Policy	2019	NFIU
13	NFIU data encryption Policy	3 June 2019	NFIU
14	Application development Policy	3 June 2019	NFIU
15	NFIU Domain and Password Policy	3 June 2019	NFIU

⁶¹ <https://www.nfiu.gov.ng/index.php/advisory-guidance>

S/NO.	Product Name	Date Published	Recipient(s)
16	NFIU Email Usage Policy	3 June 2019	NFIU
17	NFIU information governance policy	3 June 2019	NFIU
18	NFIU information transfer policy	3 June 2019	NFIU
19	Internet usage policy	3 June 2019	NFIU
20	Patch Management and Vulnerability Assessment Policy	23 June 2019	NFIU

Source: NFIU

218. While LEAs (for example, EFCC, FIRS and NDLEA) confirmed receipt of the strategic products, they could not highlight the operational outcomes of these products. Most strategic products for LEAs, FIs and DNFBPs predate the NRA. They do not provide examples of detailed analysis in identifying specific risks and mitigating measures in Nigeria's context. Also, there is no strategic product/guideline focused on supporting LEAs in the investigation of ML and major predicate offences like corruption, which constitute threats to the Nigerian economy. Therefore, the extent to which the NFIU's strategic products help to focus and drive forward operational outcomes of LEAs remains unclear. As shown in Box 3.3 below, the information and sample of cases provided are entirely related to FIs' detection and generation of STRs. These cases are somewhat relevant to this assessment because the NFIU referred those related to the reporting of suspicious transactions to the appropriate LEAs to initiate investigations.

Box 3-3. FIs detection and generation of STRs

Case Study 1: Child's bank account

On 22nd August 2016, an FI reported a customer made large and frequent cash deposits totalling USD 248,000 into his account followed by outward wire transfers. The bank considered the transaction suspicious due to the frequency of the wire transfers to his children's accounts offshore, which was incommensurate with the customer's known income (salary). The NFIU disseminated financial intelligence to the EFCC.

Case Study 2: Tax evasion

In 2015, an FI filed an STR on its customer alleging tax evasion. The customer instructed the FI to transfer ₦2.6 bln (USD 7.2 mln) out of ₦2.9 bln (USD 8.2 mln) as dividends to the customer's shareholders abroad. The STR resulted in the dissemination of financial intelligence to the FIRS.

219. The NFIU disseminates financial intelligence according to the mandate of each LEA. For example, the NFIU disseminates fraud-related financial intelligence to the EFCC, public corruption to the ICPC, and tax evasion/fraud to the FIRS. Financial analysis on ML dissemination depends on the underlying predicate offence in that analysis. The NFIU disseminated 57% of its financial intelligence on corruption (see Table 3.2 above), which represents Nigeria's highest risk identified by the NRA. There is a low level of dissemination on other crimes, particularly cybercrime (3 representing 0%) and human trafficking (62 representing 3%), which also pose significant ML/TF risks in Nigeria. Notwithstanding this, the NFIU has a reasonably thorough analysis procedure and produces good financial intelligence used by LEAs to support investigations. The NFIU supports the operational needs of LEAs through proactive and

reactive disseminations, developed through an analysis process. The Unit also supports the operational needs of LEAs through the provision of expert advice on the use of its financial intelligence products.

220. The financial intelligence disseminated by the NFIU largely supports the operational needs of the LEAs in Nigeria. Several investigations of ML, associated predicate offences and proceeds of crimes, were prompted by NFIU dissemination. However, the extent of their usage remains unclear due to the lack of corresponding data. Box 3.4 below provides two situations where NFIU disseminations prompted the investigation of a predicate offence of ML (fraud).

Box 3-4. Samples of disseminations to LEAs

Sample Case Study 1: NFIU case reference No. 1512/602/1018/164)

Proactive/spontaneous intelligence report on suspected fraud, including details of financial transactions conducted by the subject, accounts of associates and accounts linked to the subject. The NFIU disseminated this report to the NPF.

Sample Case Study 2: (NFIU case reference No. 1512/005/0808/077)

Proactive/spontaneous intelligence report on suspected fraud in which details of financial transactions such as accounts of associates, linked accounts to the subject, was provided to the ICPC.

Source: NFIU

221. LEAs can also request further information and analysis from the NFIU based on a memorandum of understanding or request for support to on-going investigations. NATIP's case examples in Box 3.1 above demonstrate this approach. However, the Nigerian authorities could not provide relevant statistics to support this assertion. The Unit has conducted joint investigations with LEAs like the EFCC by providing supporting information on the field. These cases were at the instance of the NFIU. There is no relevant statistics to assess the effectiveness of this initiative.

3.2.4. Cooperation and exchange of information/financial intelligence

222. The NFIU and other competent authorities including LEAs, demonstrated a reasonable level of coordination, collaboration and cooperation in the pursuit of a common goal: combatting ML, associated predicate crimes and TF. The NFIU provides financial information to LEAs and other relevant competent authorities to support AML/CFT related activities, including investigation. The data provided show that the NFIU shares financial intelligence with the LEAs before and during on-going investigations. Hence, financial intelligence analyses disseminated by the NFIU support activities relating to investigations of ML, associated predicate crimes and TF to a certain extent. Assessors based this conclusion on the disseminations made by the NFIU, requests for information made by the NFIU to, and responses received from the competent authorities, and requests for information made by some competent authorities to and responses received from the NFIU (see relevant Tables above). In addition, competent authorities have signed MoUs with each other to enhance cooperation and information exchange. For instance, there are a number of MoUs entered into by NFIU, SEC, NAICOM, NPF, EFCC, NCS and NDLEA for the purposes of strengthening cooperation in exchange of information. However, the low level of feedback from LEAs and other competent authorities regarding financial intelligence and other relevant information disseminated by the FIU appears to have adversely impacted the needed collaboration. Feedback is a fundamental requirement to maintain outstanding coordination and collaboration between the LEAs and the NFIU.

223. Each LEA has designated an officer entrusted with the responsibility to request and receive financial intelligence for their respective agencies. The officers are sort of liaisons and have restricted access to the goAML platform to follow pertinent requests and dissemination by LEAs and the NFIU, respectively. This approach does not affect the dissemination and confidentiality of financial intelligence. Competent authorities often exchange information through the goAML Platform, which helps to safeguard and protect the information accessed, or disseminated to support their functions. The NFIU did not report any breach of confidentiality as of the on-site visit.

224. The NFIU and LEAs affirmed that they could obtain information from supervisors/regulators, FIs and DNFBPs within 72 hours through written requests to support their functions. They also affirmed that existing MOUs between the NFIU and regulatory/supervisory institutions facilitate access to information. Correspondence between the CBN and LEAs showed average response periods from 5 to 50 working days. This situation calls into question whether the cooperation mechanisms facilitate the timely exchange of financial intelligence and other relevant information.

225. The NFIU has signed MOUs with 11 stakeholder institutions (SEC, SCUML, CBN, Nigeria Inter-Bank Settlement System (NIBSS); INTERPOL; NDLEA, Federal Inland Revenue Services (FIRS); Central Securities Clearing System; Administrative Staff College of Nigeria; and Centre for Democracy and Development (CDD); Institute of Advanced Legal Studies) to facilitate cooperation and information sharing on AML/CFT matters. For instance, the FIRS and NDLEA are investigating tax fraud and narcotic drug-related crimes in line with their respective mandates. In particular, the FIRS provides tax-fraud-related information to the NFIU and LEAs upon request to support their respective functions. The FIRS receives financial intelligence from the NFIU. Supervisory authorities (for example, SCUML, SEC and CBN), collaborate with the NFIU to strengthen compliance by reporting entities with their reporting obligations. The NFIU also shares financial intelligence with these agencies and requests for information as and when considered necessary to develop its financial analyses.

226. NIBSS operates a modern infrastructure for handling inter-bank payments to remove potential bottlenecks associated with inter-bank funds transfer and settlement. NIBSS operates the Nigeria Automated Clearing System (NACS). The NACS facilitates the electronic clearing of cheques and other paper-based instruments, electronic funds transfer, Automated Direct Credits and Automated Direct Debits. NIBSS thus holds much information regarding financial transactions on several mediums of payment. The NFIU has unhindered access to the online database of NIBSS and can conduct its analysis of transactions undertaken on their platform to support the financial investigations conducted by LEAs.

227. The NFIU strengthens its proactivity as a member of various operational and strategic platforms, including the IMC on AML/CFT, the AML/CFT Stakeholder's Consultative Forum, the National Focal Point on Terrorism and Inter-Agency Task Team with membership drawn from LEAs, including the NPF, EFCC, NIS and NCS. The IMC holds regular monthly meetings to discuss pertinent matters or issues relating to AML/CFT and assign responsibilities to relevant agencies. For instance, discussions about investigations on ML/TF form part of the agenda of the IMC regular meetings. Information exchange between the various agencies at such meetings facilitate the work of the NFIU and the LEAs concerning ML/TF. Thus, the NFIU, for instance, as deliberations progress, can be tasked to provide financial intelligence on a pertinent subject matter relating to ML/TF investigation.

228. The NFIU hosts an Authorised Officers Forum of LEAs, which meets quarterly to discuss ways to enhance operational coordination. On this basis, existing MOUs are facilitating the exchange of information relating to ML, associated predicate offences and TF. However, there is no information evidencing the extent to which these MOUs have facilitated cooperation between these domestic authorities.

229. The NFIU relies on its powers to request information from its foreign counterpart law enforcement agencies, anti-corruption agencies and competent authorities in other countries for operational needs and those of competent authorities. Between 2015 and 2019, the NFIU made two hundred and twenty-one (221) requests for information to foreign counterpart FIUs including but not limited to FIUs of Algeria, British Virgin Island, Canada, Bahamas, India, Italy and Hong Kong. Reciprocally, the FIU received two hundred and fifty-three (253) requests from its counterparts in Finland, Germany, Ghana, India, Italy, to name but a few. Within the same period, one hundred and sixty-four (164) spontaneous information was received by the NFIU from other FIUs. There is no information available on the level of response to those requests shown in the statistics provided. Assessors are therefore concerned about Nigeria's responses indicating the lack of response by either party to most of those requests. (See IO.2).

230. From July 2017, the Egmont Group suspended the NFIU over concerns regarding the protection and confidentiality of information held by the NFIU, the legal basis and clarity of its operational autonomy. The suspension impacted the NFIU's ability to exchange information with the Group's members. On entry into force of the NFIU Act in June 2018, which guaranteed its operational autonomy, the Egmont Group reinstated the NFIU in September 2018 with full rights. Consequently, the NFIU exchanges information through the secure Egmont Website. The Assessment team did not observe concerns regarding the operational autonomy of the NFIU.

231. The NFIU implements effective ICT security policies (see Table 3.10) and has adequate physical security measures. Entry to the ICT components and installations is restricted to authorised operatives and persons. Dissemination of financial information is via the secure goAML platform.

Overall conclusion on IO.6

232. LEAs and other competent authorities access and use financial intelligence and other relevant information to combat ML, associated predicate offences and TF, and to trace illicit proceeds. However, there is insufficient data and statistics to determine the appropriate use of these tools. There are concerns about the non-filing of STRs on TF by the DNFBPs, a high-risk sector for TF. This deficiency has the potential to undermine and derail the country's efforts to combat TF. LEAs do not regularly provide feedback on the use of financial intelligence which tends to impede the NFIU's effort to assess and evaluate the quality of financial intelligence and STRs disseminated and received, respectively.

233. The dissemination of financial intelligence has assisted LEAs, especially the EFCC, to initiate investigations of ML, associated predicate offences and TF, and trace and identify trace criminal proceeds. The NFIU is well ICT capacitated to perform its analysis functions, domiciled in a well secured environment. Notably further, banks file the majority of STRs (approximately 97%), which helps to assure and guarantee the compliance level by this sector in an economy confronted by financial improprieties. This is however not healthy enough for the NFIU to accomplish its objectives due to the inadequate level of cooperation or compliance by other REs in filling STRs. The Unit therefore bears the total responsibility to encourage and ensure, at least, a reasonable level of compliance by other sectors or institutions. LEAs and the NFIU demonstrated limited cooperation with their foreign counterparts for the appropriate use of financial and law enforcement intelligence.

234. **Nigeria rated as having a Moderate level of effectiveness on IO.6.**

3.3. Immediate Outcome 7 (ML investigation and prosecution)

General framework

235. Since 1994 when Nigeria criminalised ML, the MLPA has undergone several amendments, the latest being 2012. Nigeria's ML legal framework covers designated predicate offences, stand-alone (or autonomous) ML, third party ML and self-laundering (§§ 15 and 17, MLPA). The ML offence extends to all proceeds of crimes, including the FATF- designated predicate offences and all offences in any other laws in Nigeria. However, there are concerns regarding the criminalisation of ML relative to the requirement of intent in determining criminal liability, foreign predicates, proof of proceeds of crime, inference of intent as well as the range of sanctions (see R.3).

236. Due to these limitations, the prosecution of ML focuses on "knowledge of the predicate offence", which is covered by the MLPA and is based on proof that the offender knew or ought to have known that funds or property is or forms part of the proceeds of unlawful activity. Therefore, most ML charges are assumed within the predicate offences (for example, criminal breach of trust and criminal misappropriation) or linked to a specific unlawful activity rather than putting together a string of facts which leads to the conclusion that a suspect committed an ML offence. This has led to a limited number of ML convictions where there is no proof of the predicate offence or an act alone suffice (see section 3.3.3 below).

3.3.1. ML identification and investigation

237. Nigeria has several LEAs, some of them with single mandates, that investigate ML and associated predicate offences. The LEAs have specialised ML units and/or personnel trained in ML investigations.

Apart from the EFCC, other competent authorities focus primarily on the investigation of ML predicate offences and, in some cases, conduct parallel financial investigations (i.e., predicate offences plus “follow the money”) to develop leads and trace assets for seizure and confiscation.

238. LEAs identify potential ML cases through the NFIU’s financial intelligence dissemination, publicly available information, complaints (petitions) from the public, suspicion of ML formed during enquiries/investigations of predicate offences; information provided by suspects on asset declaration forms and referrals from other competent authorities.

239. LEAs did demonstrate, to a limited extent, that the identification and prosecution of ML offences are of high priority in their work compared to those related to predicate offences. However, the statistics and case examples provided by LEAs are not comprehensive and/or consistent to show that the component parts of the system (investigation, prosecution, conviction and sanctions) are working coherently to mitigate the ML risks, making it challenging for the assessment team to draw clear conclusions on how well the country is achieving this immediate outcome. In line with the FATF Methodology, where evidence in the form of statistics or otherwise was not made available, the assessment team concluded that the system is not as effective as expected.

Identification and investigation per LEAs

240. The NPF’s functions include investigation and prosecution of serious and complex criminal cases within and outside the country. The NPF CID is divided into sections with most of them headed by Commissioner of Police. The Nigeria Police Force Criminal Investigation Department (FCID) is the highest investigating arm of the Nigeria Police. Its functions include investigation and prosecution of serious and complex criminal cases within and outside Nigeria. It also coordinates crime investigations/prosecution throughout the force. The sections under FCIID include the Anti-Fraud Section; General Investigation; Special Fraud Unit (SFU); Legal Section; INTERPOL; Anti-Human Trafficking Unit; CIB/SIB Force CID Annex. The NPF identifies ML cases in the course of investigating predicate offences and based on referrals made to it by other agencies who do not have powers to investigate ML as well as from its foreign counterparts. Statistics provided by the NPF shows that during the period under review, the Force investigated 235 predicate offences out of which six (6) ML prosecutions are pending. The NPF is yet to secure any conviction for ML. The low number of ML cases suggests a lack of prioritisation of ML offences, and a low capacity in ML investigation and prosecution by the NPF.

241. The Operations Department of the EFCC identifies and investigates potential ML cases through a variety of means, including complaints received from members of the public, whistle-blowers, press reports, referrals of suspected cases by other authorities (for example, the NCS - ML related to falsely declared or undeclared cross-border movements of currency, and the Immigration Service - human trafficking), and financial intelligence from the NFIU. The EFCC also initiates ML investigations from requests for assistance from foreign counterparts. Proven evidence of living beyond one’s means can also trigger ML investigation. The EFCC prioritises cases based on public interest, where there is a high probability that the assets will be dissipated if action is not taken promptly. The EFCC has no written framework for prioritising cases. The decision to prosecute is at the discretion of the Director or Executive Chairman. The EFCC recognizes the importance of joint investigations in dealing with economic crime and has collaborated with the NCS on cross-border ML.

242. From 2015 to 2019, the EFCC investigated 534 ML cases based on NFIU intelligence, and 404 based on petitions. During this period, the EFCC prosecuted 74 (8%) and secured 48 (approximately 5%) convictions for ML. The EFCC has a low number of ML prosecutions and convictions compared to the total number of cases investigated and the available human resources. This is an indication of a lack of

effective prioritisation, and to some extent, the EFCC's ability to investigate and prosecute complex ML cases.

243. The ICPC receives and investigates complaints from members of the public on allegations of corrupt practices and in appropriate cases prosecutes the offenders. Therefore, it identifies potential ML cases in the course of investigating public corruption and related practices. While the ICPC's cases involve elements of ML by high-profile public officers, it typically focuses on pursuing and prosecuting the predicate offence. Between 2016 and 2019, the ICPC charged 232 corruption and corruption-related cases to court. Out of this number, only two cases involved ML, which again demonstrates the lack of prioritisation of ML investigation and prosecution by the ICPC due to its focus on corruption, a predicate offence directly linked to criminal proceeds unlike commodity crimes such as drug trafficking. The ICPC is yet to secure any ML conviction, whether against a natural or legal person.

244. The NDLEA is empowered to conduct full scale financial investigations related to drug trafficking offences and refers unrelated elements to the appropriate competent authorities for investigation and prosecution. The Directorate of Asset and Financial Investigation identifies ML offences while investigating drug trafficking offences. The NDLEA charges ML in circumstances where it seizes property which is proceeds of crime, including, for example, where the drug trafficker conspires with others to hide the money, or where banks are complicit with the suspect. From 2015 to 2019, the NDLEA investigated 52 potential ML cases and charged 29 to court. The NDLEA did not secure any conviction for ML during this period.

245. The number of ML cases investigated and prosecuted by the NDLEA and ICPC are limited considering the significance of drug trafficking and corruption (which Nigeria accepts as a high-risk predicate offences). This observation is consistent with the NRA's findings of low identification and investigation of ML cases and needs significant improvement.

246. The Nigeria Immigration Service, which screens and processes travellers at points of entry/exit, has the mandate to prevent and detect human trafficking, the possession of altered or false travel documents. The Immigration Service is responsible for the investigation and prosecution of human trafficking. It refers potential ML cases to the EFCC for investigation and prosecution.

247. NAPTIP conducts an initial financial investigation as part of investigating predicate offences under its mandate (trafficking in human beings). It identifies ML through complaints from the public, intelligence provided by the NFIU, disclosures made by suspects and reference by foreign competent authorities. NAPTIP demonstrated little capacity to conduct parallel financial investigations.

248. The NCS regulates the physical cross-border movement of funds, goods and other forms of value, accompanied or unaccompanied, and monitors the ML risks related to such movements. The goods include intangible values, merchandise, commodities, precious metals and stones, prohibited items such as illegal arms, narcotic drugs and psychotropic substances, counterfeit products, engendered animals and other contrabands. The NCS is not empowered to investigate ML. However, in cases of seizure of falsely declared or undeclared currency, or detection of movement of contrabands, the NCS refers such matters to the EFCC for investigation, including the potential ML. The NCS focuses on the outbound movement of currency and is yet to pay the needed attention to bearer negotiable instruments, thus limiting its ability to facilitate the identification and investigation of a broader range of ML relative to all physical cross-border movement of currency and BNIs.

249. There is no data on the number of cases forwarded by other LEAs in Nigeria to the EFCC for further action was provided.

250. Most LEAs lack protocols regarding the identification and investigation of ML cases, resulting in the adoption of conflicting approaches in addressing the single challenge of ML. Procedures undergirding the operations of the NCS requires officials to refer cases related to seized currency to the EFCC for further investigations. However, SOPs of other LEAs, including the ICPC and the NDLEA, do not provide such directions. In the absence of any such convergence, cooperation, if any, in these respects were found to be arbitrary. For instance, both the ICPC and EFCC investigate public corruption cases. This overlapping of function could lead to blind spots, conflict, corruption, abuse of the judicial process, misuse of resources, especially as there is no active collaboration and coordination between LEAs investigating ML.

251. The EFCC is responsible for the coordination and enforcement of all economic and financial crime laws and enforcement functions conferred on any person or authority, including functions and activities relating to the investigation and prosecution of all offences connected with or relating to economic and financial crimes (section 6(c) and (m), EFCCEA). However, the EFCC Act does not provide mechanisms for such coordination. Similarly, while section 25 of the MLPA defines “competent authority” to mean any agency or institution concerned with combatting ML/TF under the MLPA and any other law and regulation, the Act is silent on coordination between such authorities. The EFCC demonstrated limited coordination with the ICPC and other Anti-Corruption Agencies through the exchange of information and intelligence and joint operations, notably, coordination with the ICPC, the Immigration Service and the NDLEA in respect of three cases covering 2015 (ML, abuse of office, misappropriation of public funds and stealing); 2018 (ML, obtaining money by false pretence); and 2019 (conspiracy, ML, breach of trust, forgery and OBT). In one of such cases, the suspect was initially arrested by the ICPC while the EFCC was investigating the same case. The EFCC took over and continued with further investigation. In another, the suspects were investigated by the NPF and the EFCC subsequently took over. The NPF, however, assisted by releasing the statements taken from the suspects during their investigation, which revealed vital information. In the third case, which is presently in court, an officer from the ICPC has given evidence on behalf of the EFCC as prosecution witness.

252. The other LEAs (for example, the NDLEA) refer to the EFCC cases that do not fall within their mandate when they come across them, which is more about interagency collaboration. For example, between 2016 and 2017, the NDLEA transferred thirteen (13) cases to the EFCC. The cases involved seizure of cash amounting to USD 568,879 of which 15,000 was suspected to be counterfeit notes; Euro 16,640.00, FCFA 2,307,000.00, N3,932,705.00. They also involved the arrest of 4 persons at the Lagos airport in possession of 498 travellers’ cheques of which 198 were suspected to be counterfeit; and 33 ATM cards; (ii) an arrest at DHL involving 80 ATM cards; and (iii) one arrest at the Seme border. However, the EFCC could not confirm the number of cases referred to it by NDLEA. Also, the decided cases provided indicate the prosecution of only the predicate offences under the mandates of the NDLEA and the ICPC thereby bringing into question the ability of LEAs to investigate and prosecute sophisticated ML cases.

253. In general, there is limited coordination among the agencies responsible for investigating ML (for example, the NPF, EFCC, ICPC and the NDLEA). The cases provided do not demonstrate that enough effort is being made towards effective coordination of ML investigations and prosecutions. Similarly, the authorities lack shared databases, and most interactions are manual. There is no information on the breakdown of liaison officers from the various LEAs with the EFCC and vice versa.

254. Most LEAs have limited presence in other parts of the Federation and demonstrated varying degrees of coordination at the Federal, State and local government levels. The NPF maintains a command structure throughout the country (the NPF Headquarters, 12 Zonal Commands, 36 State Commands and the Federal Capital Territory, Abuja). There is the need for Nigeria to build the capacity of the NPF to provide the required backup support to the EFCC – for example, all State Police Commands should have well

trained and equipped financial investigation teams that work ubiquitously with the EFCC due to its limited presence across the country.

255. The EFCC coordinates with other authorities such as the NCS and tax authorities to identify and investigate ML cases. Overall, the lack of coordination impedes a harmonised/systematic approach to investigations, and thereby undermines effectiveness.

256. While investigative techniques such as wiretappings, the use of undercover agents and control deliveries are available under extant laws (for example, the EFCCEA, the NDLEAA and the CPROA) for the conduct of investigations for ML and associated predicate offences, the authorities provided limited information to support their utilisation in identifying ML cases (see Table 3.3 for examples).

Box 3-5. Examples of International Control Delivery (Operation Eagle)

Example 1: The authorities intercepted an outbound shipment at the DHL Hub in Lagos containing Chinese tea and 387 grams of Methamphetamine leading to the arrest of some Nigerians and foreign nationals. One of the foreign nationals made several shipments, including 1.050 kg of Ephedrine intercepted at the DHL hub in Leipzig, Germany on its way to New Zealand.

Example 2: A combined operation between Nigeria, Niger and Austria led to the arrest of an Iranian and his Afghan wife in Vienna on August 6, 2019. The owner of the methamphetamine was a Nigerian living in the UK.

On 12 February 2018, the NDLEA received intelligence from the United States DEA about a container on a known vessel based on a prior art for 541 kgs of cocaine. The NDLEA shared the intelligence with all seaports along the route (Casablanca-Lomé-Pointe Noire-Luanda-Doula-Hamburg) and seized the Cargo on 24 February, 2018.

Source: NDLEA

257. The Nigerian authorities demonstrated diverse levels of expertise in the initiation and conduct of financial investigations, as well as broader systemic and organisational issues. Inter-agency task forces are evolving and would need adequate resources to perform optimally. Table 3.11 provides statistics on ML cases/preliminary investigations conducted by LEAs. This information only confirms limited domestic coordination among LEAs dealing with ML. However, this is not reflected in the number of prosecutions and convictions for ML.

Table 3-11: ML Investigation, Prosecution & Conviction (LEAs)

YEAR	2015	2016	2017	2018	2019*	TOTAL
EFCC						
Number of ML Investigations	-	203	134	67	57	457
Number of ML Prosecutions	-	19	13	18	24	74
Number of ML Convictions	1	13	19	6	9	48 ⁶²
Cases Started as ML but prosecuted Predicate Offence		-	-	-	-	-

⁶² Recent 2015-2019 statistics and narratives do not corroborate this number. Most of them related to false and non-declaration of currency.

YEAR	2015	2016	2017	2018	2019*	TOTAL
NPF						
Number of ML Investigations
Number of ML Prosecutions	6 ⁶³
Number of ML Convictions	-	-	-	-	-	-
Cases Started as ML but prosecuted Predicate Offence
ICPC						
Number of Investigations on Corruption Cases		704	669	530	140	2,043
Number of Prosecutions		70	55	45	51	221
Number of Convictions		-	-	-	-	-
Cases Started as ML but prosecuted predicate offence		-	-	-	-	-
NDLEA (arising from drug trafficking)						
ML Investigations		10	24	12	6	52
ML Prosecutions		7	10	8	4	29
Number of ML Convictions		-	-	-	-	-
Cases Started as ML but prosecuted predicate offence		-	-	-	-	-
CCB (arising from non or false declaration of assets)						
ML Investigations		11	22	7	16	56
Number of ML Prosecutions		1	-	-	1	2
Number of ML Convictions		-	-	-	1	1
Cases Started as ML but prosecuted Predicate Offence		-	-	-	1	1

Source: Listed LEAs and NFIU

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

258. The 2017 NRA report rated the level of ML risk as “medium-high”. The major predicate offences for ML as identified in the report are advance fee fraud, corruption, drug trafficking, capital market fraud, counterfeiting of currency, drug trafficking, fraud and forgery, trafficking in human beings, sexual exploitation, kidnapping and hostage-taking, pipeline vandalism and illegal oil bunkering, piracy, copyright infringement and smuggling. However, the National AML/CFT Strategy does not provide priorities for investigation and prosecution of ML in line with the country’s highest assessed risk. LEAs did not demonstrate the criteria for prioritising cases (for example, predicate offences, complex over simple cases, domestic over foreign cases consistent with the country’s risk profile).

259. The statistics provided and cases described by the LEAs did not demonstrate the prioritisation of ML cases consistent with Nigeria’s risk profile, which may be vulnerable to abuse by LEAs.

260. The NDLEA prosecutes third-party ML and self-laundering but emphasises the predicate rather than prosecution for ML. It has achieved some convictions resulting from drug offences. However, considering the ML risk emanating from drug trafficking, the number of convictions is very limited (the “low hanging fruit” types).

261. While the EFCC states that it prosecutes third-party ML and self-laundering, this was not demonstrated. Officials of the EFCC can initiate high-value complex ML cases, including those involving

⁶³ There is no breakdown of number of ML investigations conducted per year.

foreign predicate offences. However, cases involving foreign predicate offences have stalled due to the absence or delay of foreign intelligence and interlocutory applications.

262. LEAs utilise inchoate offences where investigators can establish the roles played by other persons in the commission of an offence. Corruption remains Nigeria's priority areas. The extent of corruption-related investigations in Nigeria does not convey the anticipated grasp LEAs are expected to demonstrate when dealing with ML. their prioritisation of cases does not appear to be in line with the conclusions of the NRA report.

263. Overall, the authorities did not demonstrate that they target more high-end corruption, fraud and drug trafficking cases. For instance, there are no priority targets, such as the concentration of enforcement efforts on high-risk illicit pathways used for the importation and exportation of illicit goods. This lack of priority targets may emanate from the absence of guidance by the National AML/CFT Strategy for LEAs to focus on high-end ML cases.

Box 3-6. Case Example 1 FGN VS JS - CHARGE No. FHC/L/3459/2016

Based on a fraudulent misrepresentation to AC Bank purporting to emanate from GDV, Nigeria, AC Bank made payment of ₦25,000,000.00 (USD 70,126.23) to the account of CITAF Society with ABU Bank. The bank subsequently paid ₦15, 000,000.00 (USD 42,075.74) into the account of the defendant with DD Bank. On the same day, the defendant transferred some money into his Zenith Bank and withdrew some for himself and transferred to 3rd parties. As of July 2015, only ₦1, 451.40 (USD 4.07) remained in the account of the defendant. The authorities charged the defendant with the offences of (i) conspiracy to commit a cybercrime, (ii) fraudulent impersonation, and (iii) ML. The defendant's co-conspirators absconded. However, the court convicted the defendant of ML, conversion of ₦ 15,000,000.00 (USD 42,075.74) belonging to AC Bank, among others.

Source: NFIU

264. Nigeria's ML risk primarily emanate from corruption and abuse of public office. Consequently, it would not be out of place if the cases investigated and prosecuted for corruption had associated ML convictions.

265. As stated under 3.3.1. above, the ICPC has, in its 2019-2023 Strategic Plan, identified the use of the AG's *nolle prosequi* as an impediment to the performance of its investigation and prosecution functions. Section 174 of the 1999 Constitution of Nigeria empowers the Attorney General to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person. This power applies to cases handled by all LEAs, including the EFCC. The powers conferred upon the Attorney-General of the Federation may be exercised by him in person or through delegated authority (see Dr. Olubukola Abubakar Saraki V FRN⁶⁴). In exercising the powers under this section, the AG must have regard to the public interest, the interest of justice and the need to prevent abuse of legal process. The effect of discontinuance depends on the stage at which the case has reached, which may result in finality being brought to the case and an accused being acquitted and discharged or an option for the A-G to restart the prosecution on the same or different charge and fresh evidence.

⁶⁴ (SC.852/2015)[2016] NGSC 53 (5 February 2016) (SC.852/2015) [1960] NGSC 1 (04 FEBRUARY 2016).

266. The development of ICPC's 2019-2023 Strategic Plan involved a review of the implementation of the 2013-2017 Strategic Plan which highlighted the lack of political commitment, societal tolerance for corruption, legal authority of the ICPC at the State level (which now reads in the current Strategic Plan as "*Challenges to the ICPC Act Jurisdiction and the Attorney-General nolle prosequi*". Assessors sought to clarify the extent to which the exercise of the AG's *nolle prosequi* impedes or hinders legitimate ML investigation, prosecutions and sanctions in the country. Nigeria assured that the AG did not exercise this power during the period under review. While the Strategic Plan may not be taken as a mirror of reality, Assessors believe that the lack of ML convictions by the ICPC for the entire review period is a fundamental shortcoming in Nigeria's overall level of effectiveness in mitigating corruption-related ML risks.

267. The Oil Fraud Case in Box 3.7 below also illustrates how Nigeria has pursued some corruption cases. There is no correlation between the number of convictions for corruption and ML. Accordingly, the types of ML activities investigated and prosecuted by LEAs are not consistent with the country's threats and risk profile as well as national AML strategy.

Box 3-7. Oil Fraud Case:

The EFCC arraigned the Managing Director and Chairman of an oil and gas company, alongside the company before a Lagos High Court on 1 August 2013 on charges of forgery, conspiracy and altering of a document to commit fuel subsidy fraud. The defendants obtained the sum of ₦ 1.96 tln (USD 5.5 mln) from the Petroleum Support Fund for a purported importation of 39.2 mln litres of Premium Motor Spirit in 2010. On 26 January 2017, the High Court sentenced the defendants to a minimum of 10 years in prison. The Court ordered the defendants to refund ₦754 mln (USD 2.12 mln) to the Federal Government of Nigeria being the amount they defrauded.⁶⁵ The authorities did not charge the defendants (both natural and legal) with ML. On February 8, 2018, the Appeal Court quashed the conviction and discharged the MD due to the absence of the co-accused.⁶⁶

268. Access to financial intelligence is facilitated by designated officers within LEAs who liaise with the NFIU to facilitate the dissemination of financial intelligence. LEAs have Directorates of Prosecution and Legal Services. The efforts of the prosecutors are complemented by in-house lawyers to ensure smooth and quick prosecutions. While prosecutors have received training, both locally and internationally, on the prosecution of ML, the types of cases prosecuted and the results achieved indicates the need for intensive training for LEAs to achieve higher effectiveness.

3.3.3. Types of ML cases pursued

269. Nigeria prosecutes predicate offences and subjects offenders to prescribed punishments. The authorities provided some statistics on ML investigations and prosecutions. However, there is no comprehensive data and statistics to demonstrate the underlying predicate offences for ML investigations, including the consistency of investigation and prosecution with the country's ML risk profile. LEAs mostly

⁶⁵ <https://efccnigeria.org/efcc/news/2288-court-jails-wagbatsoma-and-ugo-ngadi-10-years-over-n754m-oil-subsidy-fraud>

⁶⁶ CA/L/348c/17, and CA/L/389c/17

investigate and prosecute third party laundering and self-laundering cases. There is no information on cases categorised as third-party or self-laundering because such a categorisation system did not exist in Nigeria.

270. As regards the investigation and prosecution of ML related to foreign predicate offences, the EFCC stated that the classification “foreign predicate offence” is not familiar to Nigerian law. The authorities did not appear to take cognisance of the gap identified concerning criterion 3.6 and the fact that the NDLEAA (§§20(1) (h) and (i) and 31(b)) cover foreign predicate (drug) offences. Given the level of criminal activities in Nigeria with international elements, this legal lacuna impacts the prosecution of ML related to foreign predicate offences and the effectiveness of Nigeria’s enforcement system.

271. The EFCC does not investigate financial crimes below a predetermined threshold. The authorities did not demonstrate that they prioritise and classify ML cases based on types for easy reporting.

272. Plea bargaining exists under the Criminal Code. The EFCC provided a case⁶⁷ where the High Court admitted a plea-bargaining agreement in respect of the 3rd accused person to pay of a fine of ₦10,000,000.00 (USD 28,050) and forfeit gold to the FGN. The case involved the possession of 35.58 kilogrammes of Gold Bars wrapped in six bags without the appropriate permit and contrary to section 1(a) and 16(1) (d) of the MLPA. It provided a clear demonstration of the limited use of plea-bargaining agreements in respect of ML cases.

Box 3-8. FGN v A Y & 7 Others. FHC/ABJ/CR/80/2019

The authorities arrested the 1st defendant for trafficking in gold with an estimated value of ₦1,127,308,460.40 (USD 3,162,155.57). A search on his person revealed 112,800 Euros, 19 ATM cards. The defendants pleaded guilty to the charge of unlawful possession of gold contrary to section 131(d) of the Nigerian Minerals and Mining Act. The Court fined each of them ₦40 mln (USD 112,201.96). The authorities returned the gold to the defendants upon payments of the fines.

273. Statistics and cases reviewed suggest that Nigeria has investigated and prosecuted ML to a limited extent, and not consistent with the country’s risk profile. Nigeria failed to demonstrate that it comprehensively investigates and prosecutes the different types of ML.

274. Assessors noted that the ineffective investigation and prosecution of all types of ML offences result partly from the deficiencies in the legal framework and how the courts have approached the prosecution of ML cases. Specifically, the MLPA does not cover “the intention to assist another person from evading the legal consequences of his/her criminal action” (see criterion 3.5). Also, the prosecution needs to prove the specific predicate offence of the ML, thereby impeding the effective prosecution of cases. In the case of Gabriel Daudu v. Federal Republic of Nigeria (2018) LPELR-43637(SC) the Court held that “Proving Money Laundering cases is a herculean task because it requires a prior establishment of the predicate offence before the money laundering aspect can be established. In this regard, failure on the part of the prosecution to prove the underlying offence results in the acquittal and discharge of the accused. The cases of EFCC v Thomas and Agaba v FRN in Box 3.9 further demonstrate how the Nigerian courts have dealt with the prosecution of ML.

⁶⁷ Federal Republic of Nigeria vs. Bukar Mandara Zarami & 2 Ors, May 14, 2019) Read more at: <https://prnigeria.com/2019/05/14/gold-dealers-forfeit-property/>

Box 3 9: Precedents on Proof of ML

EFCC v. THOMAS (2018) LPELR-45547(CA)

The Appellant was in possession of \$2,198,900.00 cash ostensibly stolen. According to the Court “The facts are clear that the money was being moved to Abuja for conversion on the instructions of the Respondent, does that offend a law? I did not find any section of the Anti-Money Laundering Act legislating against moving money or being in possession of money”. The Court stated that “It is settled that money laundering must be accompanied by a predicate offence. The Appellant [the EFCC] is therefore required to name a predicate offence that generated the funds. No predicate offence was alleged in this case. It was held that “The appellant cannot create an offence outside what has been legislated or overstretch legal provisions beyond statutory capacity.”

It appears that the framers of the law did not consider all acts which may occasion the offence and failed to include elements such as what the accused person engaged in. The court took a narrow and literal approach of interpreting the law, if the court had used a purposive approach and considered the mischief the law intends to cure, it would have found it meaningful to broaden the scope of interpretation to include the acts done by the accused person. In the Courts own words “intention was clear” and thereby meeting the basic requirements of establishing criminal liability. Such interpretation would not mean that the Court in reading words into the statute but rather seen as developing the law in the face of a drafting deficiency. It must be admitted that the wording of the statute needs to be improved to avoid situations of this kind which will allow the Court to exonerate offenders by placing emphasis on technicalities and niceties.

In the case of **AGABA V. FRN**, the court explained conversion to mean “an act of wilful interference without lawful justification with any chattel in a manner inconsistent with the right of another whereby that other is deprived of the use of that chattel”. The Assessors are of the view the definition by the court is erroneous within the context of money laundering. Rather, conversion in the context of ML is when the aim is to conceal the illicit origin of the funds or property or assist another person to evade the legal consequences of his or her illicit actions. In this case, the Respondent argued that the predicate offence was stealing as prescribed by section 383-390 of the Criminal Code Act.

275. The country needs fundamental improvements to be able to demonstrate effectiveness in identifying, prosecuting, and securing convictions for the various types of ML.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

276. Nigeria has two sanctions regimes under the MLPA. Under section 15 of the MLPA, penalties for ML range from 7 to 14 years imprisonment without an option of a fine. Under section 17 of the same Act, the ML offence attracts a term of imprisonment for not less than five years or a fine of five times the value of the proceeds obtained. Also, sanctions are high and not proportionate with those provided for other types of serious crimes in Nigeria. The maximum sentence notwithstanding, it is acceptable considering the risk and context of Nigeria. Legal persons are liable to a fine (100% of the proceeds of crime), liquidation of the legal person and forfeiture of its assets to the government and prosecution of its officers (director, manager, secretary or similar officials).

277. While the Nigerian authorities asserted that Courts have, after successful ML prosecutions, convicted offenders to various sentences with the highest recorded being 14 years imprisonment, they did not provide statistics to demonstrate this assertion.

278. The ICPC is yet to secure a conviction for ML. In a case concerning public corruption, the EFCC prosecuted the defendant for embezzling 1.64 bln Naira (USD 4.5 mln) in a forty-one counts charge of Fraud. In 2007, the defendant admitted to misappropriating 180 million naira out of 250 million naira meant for stationery in his state and offered to return the same. The Federal High Court sentenced the defendant to 14 years imprisonment and ordered him to refund the monies he diverted. The Court of Appeal reviewed the sentences imposed by the trial court and sentenced the appellant to 5 separate 12-year terms of imprisonment which were to run concurrently on the ground that he was a first-time offender. The Court also ordered the appellant to pay a fine of 185 mln Naira⁶⁸. Given the circumstances of the case and the profile of the defendant, Assessors consider the sentence as proportionate as the fine imposed was commensurate to the amount he admitted having misappropriated. However, assessors are of the view that depriving the defendant of their proceeds of his crime would have served as a better deterrent to potential criminals.

279. Nigeria's ML investigations do not routinely include legal persons. The authorities provided only one case where a legal person was charged with ML among other offences (see Box 3.10).

Box 3-9: Case Example – P&ID

In September 2019, a British court awarded the defendants \$9.6 bln against Nigeria for a failed gas swap deal between the parties. P&ID, a company incorporated in the British Virgin Islands, registered in Nigeria with the CAC in 2010 and signed a gas processing supply agreement with the Federal Government of Nigeria through the Ministry of Petroleum Resources. The FGN was to supply gas and P&ID was to construct a facility in Cross River State. P&ID misrepresented in the agreement that the Cross River State had allocated the land for the facility. Further enquiries revealed that even though the company registered with the CAC, it neither filed returns nor updated its records. The company underpaid taxes due the FGN and defaulted in paying the difference of 10,000,000.00 (USD 28,050.49).

In September 2019 representatives of company pleaded guilty to 11 count charges on obtaining by false pretence; dealing in petroleum products without appropriate license; ML and failure to register with SCUML as required by law, amounting to economic sabotage against the Nigerian state. The High Court sitting at Abuja ordered the winding up of the affairs of the company and the forfeiture of their assets wherever situated to the Federal Government of Nigeria. The Court inquired why the EFCC failed to charge the defendants under section 54 of the CAMA (failure of a foreign company to obtain incorporation as a separate entity in Nigeria). The prosecutor (EFCC) replied that the natural consequences of the action before the court would be to wind up the companies, whether local or foreign, and forfeit their assets to the Federal Republic of Nigeria as envisaged under section 55 of the CAMA.

⁶⁸ The case of CJCD commenced from 2007 and the defendant was jailed on June 12, 2018. The Appeal was decided in November 2018. Assessors noted that on 7 February 2020, the Supreme Court affirmed the 12-year jail term and set aside the fines imposed on the appellant by the courts on the grounds that they were outrageous and done without any prompting.

280. In the above case, the EFCC did not charge the defendants under sections 15(4) and 19(1) of the MLPA which extends the ML offence to legal persons and provides appropriate punishment (a fine of not less than 100% of the funds and properties acquired from the commission of the offence, withdrawal of licence...etc.,), as well as their officers. There was no effort to lead evidence to establish whether the company possessed the intention to commit ML (that is, whether the company was used in facilitating or committed the ML offence itself). The EFCC did not attempt to prove the liability of the officers of the company (the commercial director and the director), except to acknowledge their cooperation with the process. Given the risk profile of Nigeria concerning legal persons (for example, unregulated Forex dealers, casinos, lack of implementation of AML/CFT measures by lawyers, among others), the Assessors concluded that there is no effective prosecution of legal persons, including the application of proportionate and dissuasive sanctions for ML.

281. Nigeria did not demonstrate the maintenance of a database that provided access to the statistics on ML prosecutions initiated, pending, concluded and the sanctions imposed. This situation confirms the poor record-keeping culture identified in the NRA report.

3.3.5. Use of alternative measures

282. Nigeria has legal basis to apply non-conviction-based forfeiture where the authorities have pursued an ML investigation, but it is not possible, for justifiable reasons, to secure an ML conviction (§17 AFFROA). The process takes account of the interests of third parties who purchase tainted property for valuable consideration without notice. However, Nigeria did not demonstrate that it had pursued these alternative measures in circumstances where it is not possible, for justifiable reasons, to secure an ML conviction for any type of ML offence (See Table 3.11). As such, the assessment team could not determine whether the forfeiture measures diminish the importance of, or operate as a substitute for, prosecutions and convictions for ML offences.

Overall conclusion on IO.7

283. Nigeria lacks accurate and sufficient statistics on ML identification, investigation and prosecutions. The authorities have investigated and prosecuted a low number of legal persons for ML. The authorities have not adequately prioritised the investigation and prosecution of ML and associated predicate offences in line with the country's risk profile. There is inadequate coordination and collaboration among LEAs, and this has severely undermined the identification, investigation and prosecution of ML. There is apparent lack of capacity for ML investigations in most of the LEAs, but particularly the NPF. There are technical deficiencies regarding the criminalisation of ML and related matters (for example, the mental element, foreign predicate offences and proof of proceeds of crime). Fundamental improvements are required.

284. **Nigeria is rated as having a Low level of effectiveness for IO.7**

3.4. Immediate Outcome 8 (Confiscation)

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

285. Nigeria does not have a policy objective to pursue confiscation of assets or property of corresponding value in cases of ML, higher-risk predicate crimes and TF. There are no Technical

Compliance gaps regarding asset-sharing and formal arrangements for assets sharing with foreign countries for purposes of restitution. However, Nigeria has not pursued these aspects of confiscation.

286. Nigeria's National AML/CFT Strategy 2018-2020 recognises confiscation as a key strategic objective. Strategic objective 3.1 (Comprehensive AML/CFT Preventive Measures) aims to amend relevant legislation and implement financial inclusion measures to address challenges related to the tracing of proceeds of crime. Strategic Goal 1 requires Centralised Databases for AML/CFT activities. Strategic Objective 3 (Strengthened National AML/CFT Cooperation and Coordination) requires the formulation and effective implementation and coordination of National AML/CFT Policy and Strategy. It envisages the establishment of a framework and mechanism that ensures implementation of all AML/CFT international obligations on request for freezing, seizing and confiscation of assets or proceeds of crime.

287. The 2018-2020 Action Plan Strategy requires the review and enactment of the Proceeds of Crime and Mutual Legal Assistance Bills to address identified AML/CFT deficiencies. It also requires the amendment of the MLPA to designate illegal oil bunkering as a predicate offence of ML. Technical Objective V of the NACS requires the appropriation of existing legal frameworks for civil forfeiture in the interim and expansion of the framework on non-conviction-based forfeiture (NCBF) in line with international best practice. It requires the passage and enactment of the Proceeds of Crime Bill. Nigeria is yet to translate the objective of the Strategy into enabling policy actions. The MLACMA entered into force on 20 June 2019. Nigeria is yet to enact the Proceeds of Crime Bill.

288. Although Nigeria has measures in place to enable competent authorities to seize, confiscate and forfeit proceeds and instrumentalities of crime with or without conviction, there is limited evidence that Nigeria is seizing and confiscating all types of proceeds and instrumentalities of crime, including TF. The authorities have not effectively utilised the cross-border declaration system to seize cash, BNIs, precious metals and stones at all frontiers.

289. The authorities are pursuing the recovery of proceeds of corruption as a policy objective. As such, LEAs pursue confiscation of criminal assets that fall within their enforcement mandates as prescribed. The Assessors based these conclusions on reviews of the relevant legislation: the MLPA, EFCCEA, CPROA, NDLEAA, AFFROA, Executive Order 6, TPA, TPAR and discussions with a range of LEAs and prosecutors during the on-site visit.

290. The data provided indicate that LEAs, including the EFCC and the NDLEA, are pursuing confiscation of proceeds of predicate offences of ML. The data did not cover laundered property, proceeds of crime (including income or benefits derived from such proceeds) and instrumentalities used or intended for use in ML and TF. Therefore, the Assessors could not assess the extent to which the authorities have confiscated these types of assets/property.

291. Individual LEAs manage the assets they seize in pursuit of mandatory investigations. They deposit confiscated cash, mostly in Naira, in the Consolidated Revenue Fund of the Federal Government at the CBN and disburse the same in line with the orders of the relevant Court (State or Federal). Individual LEAs maintain and dispose of other confiscated movable assets according to confiscation/forfeiture orders issued by a court of competent jurisdiction. Nigeria does not have a law, policy or guideline for victim compensation and sharing of confiscated and forfeited assets.

292. There is no comprehensive and consistent statistics for (i) seizures by all LEAs concerning ML and higher-risk predicate offences; (ii) court-confiscation orders related to ML and all higher -risk predicate offences; (iii) amounts forfeited to the state for all higher-risk predicate offences and amounts granted to

the community or government agencies. The statistics in Table 3.13 demonstrate that most LEAs focused on the freezing and seizure of movable and immovable property.

Table 3-12. Number and value of assets frozen or seized (predicate offences)

Type of Property	2016	2017	2018	2019	Total
Cash (USD)	1,295,808.66	14,301,322.99	920.72	140,860.00	15,738,912.37
Bank accounts	113	144	39	Nil	296
Movable	164	20	12	9	205
Immovable	148	88	101	36	373
Businesses	11	6	25	4	46

Source: EFCC, ICPC, NDLEA & NAPTIP

293. As indicated in Table 3.13 above, Nigerian the authorities focus on the confiscation of proceeds and instrumentalities of predicate offences. The Assessors could not determine the extent to which LEAs are pursuing confiscation related to ML, associated predicate offences, particularly, offences that constitute the major sources of illicit proceeds and source of TF in Nigeria.

Table 3-13: Number and value of asset forfeitures (EFCC and NDLEA) – 2015 to 2019⁶⁹

Type of Property	2015	2016	2017	2018	2019	Total
Cash (USD)	Nil	USD 214,158	Nil	Nil	USD 8.69 mln/₦ 13.6 tln	8,283,158.00
Bank accounts	Nil	9	4	5	Nil	18
Movable	3	8	344	Nil	494	849
Immovable	2	6	81	36	10	135
Businesses	Nil	Nil	Nil	Nil	1	1

Source: EFCC & NDLEA

294. There is no evidence of freezing and confiscation of criminal assets pursued by other LEAs: CCB, DSS, and NPF shown on the data provided by the authorities during this assessment.

295. The recovery of criminal proceeds from corrupt PEPs and criminal organisations that loot Nigeria's Treasury and deposit or invest the same in foreign jurisdictions is now a federal law enforcement priority. In view of this, Nigeria established the Asset Recovery & Management Unit (ARMU) of the MOJ in 2017 to take over the entire recovery and management of assets once the Proceeds of Crime Bill is enacted. Currently, ARMU focuses on the confiscation, forfeiture, and management of foreign assets and has pursued certain confiscations and forfeiture of corrupt proceeds in collaboration with host jurisdictions like the UK and Switzerland. ARMU's staff strength, four, is relatively low considering the enormity of its tasks in managing foreign assets confiscation and forfeiture for the Federal Government of Nigeria. The ARMU also has ICT issues – e-filing.

296. ARMU seeks to ensure the pursuit of confiscation as a matter of Federal priority and a goal of domestic and international law enforcement with the collaboration, coordination and cooperation of local counterparts and foreign jurisdictions including but not limited to those with a binding accord (such as the

⁶⁹ No data available for the remaining LEAs.

UK and Switzerland) to deprive criminals of ill-gotten wealth. This resilient posture is not evident among the other LEAs. ARMU is staffed by prosecutors from the Attorney General's Office, who litigate on behalf of the Federal Government, including non-conviction-based confiscation. Consistent with this stated priority, prosecutors at the AGF's office are adequately trained to handle financial prosecutions. However, the LEAs, including the ARMU, do not have operational policy/ guides to identify, trace, confiscate, and forfeit proceeds and instrumentalities of crime.

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

297. Nigeria did not provide comprehensive and consistent statistics for (i) seizures by all LEAs related to ML and all higher-risk predicate crimes; (ii) court-confiscation orders in related ML and all higher-risk predicate crimes; (iii) amounts forfeited to the state for all higher-risk predicate crimes; (iv) amounts allocated to the community or government agencies. The data provided was incomplete and not broken down by crime-type.

298. The country has demonstrated its pursuit against tax fraud by the NCS which has imposed administrative sanctions or penalties for import tax evasion. Between 2016 and 2019, the NCS imposed a total penalty of N 932.19 mln (USD 2.7 mln) on various commodities valued USD 119.54 mln seized for duty evasion. The NSC has the mandate to seize and confiscate instrumentalities of crime. However, there is no evidence that the NCS pursues this mandate due to the lack of data. Hence, it is not possible to assess the extent to which the authorities pursue this particularly important aspect of law enforcement.

299. The FIRS has also made some recoveries against tax defaulters. Between 2016 and 2019, the Legal Department of the FIRS recovered a total of N 6.9 tln (USD 19.17 mln) and a total sum of USD 7.95 mln and £676,965.31 from tax defaulters through civil actions and out-of-court settlements.

300. Although Nigeria has legal measures for the reciprocal sharing of confiscated property with foreign States (s.66(1) of the MLACMA), the country lacks a policy or agreement on asset sharing between LEAs and for victim compensation. This conclusion based on the absence of data and responses from the appropriate authorities.

301. ARMU manages confiscated assets at the Federal level, and has, through the MOF's Whistleblowing Policy (as described in IOs.1 and 6 above), recovered N 685.7 mln (USD 1.92 mln) looted from the public treasury and kept in commercial banks in Nigeria. ARMU is yet to achieve the objective of the jurisdiction of having a central criminal asset management authority.

302. Unlike the ARMU, LEAs do not have specialised units to recover and manage proceeds. For instance, the EFCC outsources the management of immovable criminal proceeds or assets to. The Consolidated Revenue Fund of the Federal Government held at the CBN is the only central asset management mechanism in Nigeria that is dedicated to forfeited and confiscated cash. The Minister of Finance manages the cash according to the relevant orders made by the court of competent jurisdiction.

303. Nigeria has no framework for monitoring, managing and utilising criminal proceeds, resulting in the lack of coordination amongst the numerous LEAs. The country lacks a central/comprehensive register or database for recovered proceeds and foster coordination among LEAs regarding asset recovery. Invariably this has impeded the Assessors' effort to ascertain the amounts of criminal assets recovered for the period under review.

304. There is no evidence of restitution to victims of ML and TF, and equitable sharing of confiscated property with Federal, States and local LEAs that contribute to seizures/forfeitures. The overall priority of victim compensation and how to do so are not available or set out in guidance or do not exist in Nigeria.

305. Nigeria has demonstrated some level of achievement in using confiscation mechanism for high-value laundered proceeds. The Federal prosecutors typically resort to non-conviction-based forfeiture in the first instance since it is easier to show probable cause to freeze or seize assets. The EFCC Act, the CPROA and the NDLEAA provide for confiscation of instrumentalities of crime. However, there are gaps regarding the non-coverage of foreign predicates, the absence of powers to confiscate currency and BNI, and seize/freeze property of corresponding/equivalent value.

306. While the Nigerian authorities have achieved some conviction and non-conviction-based orders within the period under review upon this assessment (2015–2019), they were not able to provide statistics concerning the full scale of the orders made by the Court.

Foreign proceeds of crime located in Nigeria

307. There is a technical compliance deficiency regarding foreign predicate offences. Section 15(7) of the MLPA provides that “a person who commits an offence under subsection (1)⁷⁰ of this Act (ML), shall be subject to the penalties specified in that subsection notwithstanding that the various acts constituting the offence were committed in different countries or places”. As provided, the MLPA does not extend the ML offence to foreign predicates. The deficiency impedes Nigeria’s ability to confiscate proceeds from foreign predicate offences.

308. There is no evidence that the authorities have made efforts to identify proceeds of foreign predicate offences located in Nigeria and take appropriate action, including their confiscation, repatriation, sharing and restitution of such assets. Nigeria recently enacted the MLACMA which implicitly provides for the repatriation of confiscated proceeds of crime or its equivalent value to a foreign jurisdiction (§67(3) MLACMA). The MLACMA also provides for restitution and victim compensation. Nigeria needs to make the necessary legislative amendments (extend the ML offence to predicate offences that occurred abroad) to facilitate the confiscation of proceeds of foreign predicates.

Proceeds located abroad

309. The MLPA prohibits the movement of proceeds of crime abroad (see criterion 3.1). In view of this, Nigeria has pursued non-conviction-based confiscation of proceeds located abroad using the asset recovery tool. In December 2017, the Nigerian authorities recovered USD 322.6 mln being assets stolen by a former PEP and held in Switzerland. At the time of the on-site, the authorities were also in the process of recovering USD 73.29 mln being the proceeds of an oil concession awarded to a PEP and held in the United Kingdom. The Swiss and UK authorities initiated the process to repatriate the stolen assets to Nigeria in collaboration with the Nigerian authorities. There is no data regarding the confiscation of criminal proceeds located abroad by any other LEAs including the EFCC, ICPC, NAPTIP and the NDLEA. The authorities could not illustrate any.

⁷⁰ Section 15(1) of the MLPA criminalises ML.

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

310. A person who fails to declare or falsely declares currency or BNI above USD 10, 000 or its equivalent to the Nigerian Customs authorities at the points of entry and exits commits an offence and is liable on conviction to forfeiture of the undeclared currency or BNI or imprisonment to a term of not less than two years or both. The NCS, in collaboration with the EFCC, seizes and confiscates undeclared or falsely declared currency. Intelligence and other information received from the NFIU, NPF and open sources trigger a significant proportion of such seizures. Mandatorily, the EFCC investigates and prosecutes such matters. The penalty for false declaration or failure to declare is mostly forfeiture of the cash seized. There has been no seizure and confiscation of falsely declared BNIs as customs does not pursue this core issue. The authorities focus on outbound bulk cash smuggling and give less attention to inbound transportation or the movement of travellers. The Assessors based their conclusions on discussions with officials of NCS and relevant data on confiscations, demonstrating that Nigeria's effort in the seizure of currency (outbound) in a variety of circumstances between 2015 and 2018.

311. The authorities primarily focus on the detection of bulk cash transportation at the South-West Border with Benin due to the high volume of funds movement from this country through Nigeria to the Middle East. However, the seizures pursued are not consistent with the country's risk and context on public corruption, bulk cash smuggling and ML/TF. Seizure of inbound undeclared currency has decreased since 2016 (see Table 3.15). The NCS has focused considerable effort on the outbound movement of currency. However, the weight of enforcement and how the authorities prioritise their efforts concerning the three other border zones (North, East and South) are not evident in this assessment.

Table 3-14: Seizure and Confiscation Related to Cross-Border Transportation of Currency

Year	Total Declarations	Value of Declarations	No. Sanctions Imposed for Non/False Declarations	Total Amount of Seized	Amount Confiscated by way of Sanction
2015					
Inbound			-	-	-
Outbound	31,470	USD 745,179,842.94	117	USD 14,849,680.00 £529,755.00 €827,400.00	\$14,849,680.00 £529,755.00 €827,400.00
Total	Nil	Nil	117	USD 14,849,680.00 £529,755.00 €827,400.00	USD 14,849,680.00 £529,755.00 €827,400.00
2016					
Inbound	293	USD 10,124,414.82	Nil	Nil	Nil
Outbound	18,919	USD 268,745,653.83	11	USD 1, 903,290.00 £27,485.00 €1,375.00	USD 1, 903,290.00 £27,485.00 €1,375.00
Total	19,212	USD 278,870,068.65	11	USD 1, 903,290.00 £27,485.00 €1,375.00	USD 1, 903,290.00 £27,485.00 €1,375.00
2017					
Inbound	125	USD 6,666,999.64	Nil	Nil	Nil
Outbound	18,703	USD 260,453,248.10	1	USD 270,000.00	USD 270,000.00
Total	18,828	USD 267,120,247.74	1	USD 270,000.00	USD 50,000.00
2018					
Inbound	68	USD 3,087,310.53	Nil	Nil	Nil
Outbound	24,566	USD 476,557,855.73	1	USD 2,120,026.61	USD 300,000.00
Total	24,634	479,645,166.26	1	\$2,120,026.61	USD 300,000.00
2019					
Inbound	Nil	Nil	Nil	Nil	Nil

Outbound	Nil	Nil	Nil	Nil	Nil
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Source: NCS

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

312. Nigeria provided data of conviction-based confiscations, but no indication as to their relationship to associated crime/s. In other words, there is no statistical data available regarding the breakdown of confiscation measures by type of offences except for ML. Therefore, it is difficult to draw clear conclusions on the country's efforts concerning the threats that form the sources of funds for TF activities, as indicated in the NRA. Thus, the extent to which the country gives priority to confiscation with regards to TF and those other threats, including corruption, is virtually uncertain by this assessment. At the Federal level, LEAs obtain more forfeiture orders for corruption and fraud cases, including the embezzlement of public funds. The Assessors based these conclusions on the risks identified in the NRA, discussions with LEAs (the EFCC, ICPC and NAPTIP) and the absence of a law enforcement prioritisation.

313. Nigeria, to some extent, investigates and prosecutes ML cases in line with its risk profile as set out in core issue 7.2. While the authorities seize and confiscate the proceeds of crime, the samples of cases reviewed are not indicative of the types of ML in those instances. Although terrorism and TF are pervasive issues in Nigeria, as indicated in the NRA. For instance, over 80% of the funding for terrorists' attacks take place outside the formal financial system, while only about 20% or less was routed through the financial sector (page 220 refers). Despite these, Nigeria does not appear to prioritise the confiscation of assets related to TF. As noted in IO.9 below, Nigeria has partially succeeded in integrating TF investigations with its national CT and AML/CFT strategies. Consequently, the data and information provided did not represent this core aspect of the assessment:

314. Nigeria pursues confiscation of criminal assets upon the available tools or based on the current legal framework, it is impossible, based on the statistics provided, as shown below, to determine the effectiveness of the country's AML/CFT regime concerning the threats shown in the NRA. However, deducing from the Assessor's discussion with the LEAs, cases of self-laundering could have triggered a significant proportion of the confiscations achieved by the EFCC, NDLEA and NAPTIP and reflected on Tables 3.16 below:

Table 3-15: Conviction-based confiscations for ML: 2016-2019

CASH	OTHER ASSETS	QUANTITY	VALUE
EFCC, NDLEA & NAPTIP			
USD 499,202,372.9	Current/securities' accounts (17); Building/housing (130); Undeveloped real estate plots and warehouses (86); Vehicles (236); Motorcycles (462); Personal watercraft and vessels (5); Businesses and companies (7); Hotel (1)		Not indicated
ICPC			
\$61,030,891.22	Unspecified number of: Current/securities' accounts, Building/housing, Undeveloped real estate plots and warehouses; Vehicles; Motorcycles; Personal watercrafts and vessels; Businesses and companies; Hotel.		

Source: EFCC, NDLEA and NAPTIP

315. Public corruption mostly generates crime proceeds in Nigeria. Reasonable extent of confiscation and forfeiture of assets in this line of risk has not been evident in this assessment, notwithstanding it has given a sense of high prioritisation by the Federal Authorities, resulting in the establishment of ARMU, targeting mainly looters of Nigeria's treasury. ARMU did demonstrate a low level of repatriation of money

from foreign jurisdictions in two instances. In the absence of relevant national data with the breakdown of underlying offence types, it is difficult to assert that confiscation orders obtained accurately reflect the ML/TF risks and national AML/CFT policies and priorities identified by the Nigeria authorities.

Overall conclusion on IO.8

316. Nigeria has demonstrated the commitment to deprive criminals of their illicit proceeds through seizures and confiscation of relating to predicate offences (particularly corruption, narcotic offences, trafficking in human beings and outbound cross-border movement of cash.). The country does not have a policy objective to trace, seize or confiscate assets related to ML, high-risk predicate crimes, including TF. The technical deficiencies regarding foreign predicates and the absence of measures in place to compensate victims or arrangements for sharing confiscated assets among competent domestic authorities impede Nigeria's efforts to confiscate proceeds and instrumentalities of crime. Nigeria has not achieved a level of confiscation that is commensurate to its threats or risks profile

317. Nigerian authorities need to adopt and implement the necessary laws and policy guidelines to deprive criminals of the proceeds and instrumentalities of their crime (both domestic and foreign) in line with the country's risk profile. Overall, the deficiencies highlighted require fundamental improvements.

318. **Nigeria is rated as having a Low level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

TF investigation and prosecution – TF offence (IO.9)

- a) Nigeria possesses a broad but uneven understanding of its TF threats and risks. It recognises the primary means by which Boko and ISWAP raise, move, and use funds, but has a less-developed understanding concerning distinctions between these groups, risks arising from their international TF linkages, and how they exploit the formal financial and commercial system.
- b) Nigeria’s record of major prosecutions and convictions does not reflect its risk profile for TF, even accounting for the elusive nature of most TF activity in the country (i.e., in kind or cash transfers and transactions behind enemy lines). Significant numbers of TF-related cases, e.g., material support charges, have been brought against an unknown but significant number of low-level “security detainees” captured in the North East. Based on the few major TF cases documented, Nigeria prosecutes different types of TF activity using an appropriate range of charges in light of available evidence.
- c) While perhaps the major prosecutions and convictions are in some ways reflective of the country’s TF risk profile, the limited data on these cases (notably figures on types of charges), weak evidentiary bases, high rates of dismissal, due process concerns, and the large backlog of cases, suggest the need for significant improvements in Nigeria’s prosecutorial processes and resource allocation.
- d) Authorities provided little evidence demonstrating the extent or effectiveness of Nigeria’s TF investigations or their ability to identify terrorist financiers or financing activity. Still, CT authorities, led by the DSS, can access a range of financial intelligence reactively. The content of TF-related STRs the NFIU has received has not been useful enough to inform operational or strategic analysis meaningfully. Authorities have not used financial information to identify new terrorist networks or, more generally, broaden Nigeria’s understanding of terrorist activity.
- e) Nigeria conducts parallel financial investigations in terrorism cases, according to the policy direction of the NACTEST. The degree to which specific investigations have informed national strategies and policies was not evident. The NACTEST and AML/CFT Strategy could do more to advance CFT efforts across the government, given Nigeria’s high TF risk profile.
- f) There is no information demonstrating that Nigeria’s TF sanctions are effective, proportionate, or dissuasive. The limited evidence available suggests that in at least a major case, Nigeria did not meet this standard. Anecdotal evidence suggests some appropriate sentences handed down to security detainees in material

support cases, but there is little data or other substantiating information on these sentences.

- g) Beyond its military campaign and tactical CT activities, Nigeria employs or has at its disposal several alternative measures to target TF activity where convictions are not practicable. These include using alternative charges using a broad CT legal framework, proscriptions of terrorist groups, and powers to freeze accounts. – Long-term, systemic initiatives to counter TF, as well as terrorism more broadly, include (i) a de-radicalisation and reintegration program alongside other development efforts, (ii) initiatives to formalise the economy and reduce the use of cash, and (iii) micro-lending programs to reduce reliance on Boko/ISWAP.

TF related targeted financial sanctions and NPOs (IO.10)

- a) Nigeria does not implement TFS pursuant to the relevant UNSCRs without delay. It has not issued the list of TFS prescribed by Nigerian law, nor does it have a clear and established mechanism to communicate UN or domestic designations to competent authorities or the private sector. Nigeria also cannot clearly freeze designated terrorist assets absent a court order. Nigeria reported no frozen assets of designated terrorists and provided no other information demonstrating the effectiveness of its asset freezing efforts.
- b) Key competent authorities, particularly the CBN, NFIU, and SCUML, have promoted private sector compliance with TF-related TFS through circulars, guidance, and engagement with the private sector. Aside from the CBN's recommendation to institute a full sanctions compliance program; however, guidance issued for TFS compliance provide little concrete advice for private sector actors. There have been no enforcement actions for non-compliance with TF TFS. Large formal financial institutions described instituting screening software and compliance processes. In contrast, other FIs, including Forex dealers, and DNFBPs showed little familiarity with and had no real compliance systems to implement TFS.
- c) Nigeria has not imposed TFS on terrorist actors pursuant to UNSCR 1373, nor made any such requests to third countries. It has proscribed one terrorist organisation in addition to two UN-designated entities though no funds of these three groups have been identified or frozen. Nigeria has made two proposals to the UNSCR 1267/1989 UN Committee, both in 2014.
- d) Nigeria has not assessed its NPO sector to identify those most vulnerable to TF abuse. SCUML has identified some general risk factors for TF and described applying them in selecting NPOs to examine as part of its broader supervisory responsibilities of DNFBPs. Still, it is not clear how the authorities came to deem these risks applicable to TF in Nigeria, or how the authorities relied on them to select NPOs to examine. No such examinations had occurred by the time of the onsite. Nigeria does not support its classification of all NPOs as DNFBPs with a showing of TF risk, making this determination out of line with the risk-based approach and unduly disruptive of legitimate NPO activity. The military's oversight of NPO operations in the North-East conflict zone is extensive and more

clearly targeted, although not always calibrated to avoid undue burdens on legitimate activity.

- e) Outside of the destruction of Boko/ISWAP assets by Nigeria's military or the seizure of instrumentalities used in terrorist attacks, Nigeria did not show it had effectively deprived terrorists of assets or property.

Proliferation financing (IO.11)

- a) The absence of an applicable legal framework precludes Nigeria from effectively implementing PF TFS. Nigeria reported no frozen assets of designated proliferators or financiers, and there is no information demonstrating the effectiveness of its PF-related asset freezing efforts.
- b) Circulars, advisories and other guidance issued by the relevant competent authorities for PF TFS purposes are effectively hortatory, and not enforceable means by which to implement PF TFS. They are, moreover, not tailored to the conditions in Nigeria or targeted to specific audiences other than FIs. They nevertheless demonstrate an effort to sensitise FIs to the existence of international standards and, to a more limited degree, domestic supervisors.
- c) Supervisors did not demonstrate effective monitoring and oversight of potential PF threats and compliance, nor describe mechanisms or demonstrate compliance of non-regulated private entities with reporting requirements for PF. Supervisors did not appear to have PF-focused training or enforcement modules.

Recommended Actions

TF investigation and prosecution – TF offence (IO. 9)

- a) Authorities should improve their understanding of TF risk outside the North East theatre, including by increasing awareness of domestic and trans-national TF risks. DSS should use its leadership position as Nigeria's premier TF investigative agency to share lessons learned and additional TF information with relevant stakeholders to expand their understanding of TF typologies and activity. Nigerian authorities, including the NFIU, should continue work to develop and share financial information with Nigeria's partners against Boko/ISWAP.
- b) Nigeria should ensure its competent authorities identify and prosecute terrorist financing in line with the country's risk profile by focusing additional efforts on the investigation and prosecution of TF activity, including funding operations of Boko/ISWAP through the formal system and criminal and other fundraising activities, including those with international linkages. Nigeria should also clear the backlog of security detainee cases, prioritising TF charges against individuals for whom prosecution is the most dissuasive, proportionate, and effective form of

action. It should also systematically track sentences issued in TF cases (as well as other terrorism charges) and make this information readily available to assist judges in making consistent sentencing decisions.

- c) Nigerian authorities should refine methods to identify and investigate terrorists or terrorist financiers proactively and improve the quality, exploitation, analysis and utility of TF-related STRs. They should ensure compliance of DNFBPs with suspicious transaction reporting obligation, as appropriate, and target DNFBPs for supervision and enforcement on a risk-based approach to TF. Better feedback from LEAs on STRs and strengthened interagency information-sharing (see below) would aid this effort. Nigeria should also intensify cooperation between CCG prosecutors and the JIC to ensure appropriate investigations, prosecutions, and dispositions of security detainee cases. Policy authorities should allocate adequate resources to the CCG to routinely target TF cases in line with Nigeria's risk profile.
- d) Nigeria should develop a CFT-focused Strategy and AP, given its level of TF risk. Such documents need not repeat broad AML/CFT-relevant elements of the NACTEST or AML/CFT Strategy, but as a stand-alone document should focus attention on TF-specific enhancements. Key agency-level efforts should inform and be guided by such a Strategy upon its completion. Such guidance might also inform prosecutorial efforts. As part of this effort and its broader risk understanding, Nigeria should also systematise and ensure the collection of information and data relating to TF investigations, including of security detainees.
- e) Nigeria should expedite the development of cross-agency information-sharing platforms as called for in the NACTEST, AML/CFT Strategy, and AML/CFT Action Plan.

TF related targeted financial sanctions and NPOs (IO.10)

- a) Nigeria should fully implement the TPAR, including by creating the Sanctions List and developing mechanisms to disseminate and make it publicly available. The NSC should convene more regularly, and develop and issue policy guidelines for competent authorities to implement TFS without delay. Competent authorities should enhance their guidance to supervised entities and develop agency-specific internal protocols for identifying and freezing funds controlled by or having an interest of designated persons and entities.
- b) Nigeria should consider the utility of making requests for additional domestic designations under 1373, including in conjunction with regional partners focused on the fight against Boko/ISWAP. It should also make necessary amendments to the TPAR to streamline its processes and authorities considering its technical compliance deficiencies concerning domestic designations.
- c) The CBN should institute a supervisory protocol for TF-related TFS compliance, part of which may involve requiring banks and OFIs to audit their sanctions screening software to ensure appropriate calibration of the software and dispositioning of matches. Given the limited compliance awareness or

infrastructure of DNFBPs for TF-related TFS, SCUML should also adopt a protocol to supervise DNFBPs for compliance with the requirements of the Sanctions Lists.

- d) Nigeria should assess its NPO sector to identify the subset of NPOs most vulnerable to TF abuse. As part of this undertaking, competent authorities should strengthen their cooperation with NPOs operating in the North East to consider ways to alleviate undue administrative burdens on NPOs while continuing to mitigate identified security risks. SCUML should develop a risk-based supervisory methodology accounting specifically for relevant TF risks and their application to the NPO sector both in selecting NPOs to examine and in assessing compliance with relevant obligations. Nigeria should no longer classify all NPOs as DNFBPs as this designation is inconsistent with the FATF standards, unsupported by the risk-based approach and imposes undue burdens on legitimate NPO activity.
- e) Upon completion of its sectoral assessment, SCUML should update its 2019 Guidance to NPOs and any subsequent such guidance to provide actionable, concrete guidance to relevant NPOs on assessing and mitigating TF risks. In doing so, it might usefully draw upon the FATF's "Report on the Risk of Terrorist Abuse in Non-Profit Organisations" and similar reports and documents.

Proliferation financing (IO.11)

- a) Nigeria should enact and implement a clear and comprehensive legal framework based on the requirements of Recommendation 7 to implement all PF-related UNSCR sanctions without delay.
- b) The NSC should develop guidelines to implement and oversee an interagency campaign to sensitize FIs and DNFBPs to any future obligations concerning the implementation of PF-related targeted financial sanctions. More immediately, UN designations on proliferation should be made readily accessible through all relevant Nigerian agencies' websites.
- c) The CBN and other supervisors should explicitly incorporate PF TFS supervision into their examination frameworks.
- d) Forex dealers and DNFBPs should, in a manner consistent with the risk-based approach, obtain and employ screening software and systems to prevent exploitation by PF-designated actors.

319. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

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

320. As discussed in Chapter 1 and IO.1, Nigeria's TF risks are among the highest in the world by virtue of its long-running terrorist insurgency. Nigerian authorities share a common view of these risks arising chiefly from Boko/ISWAP's abilities to resource themselves by "living off the land" of the territories they control or in which they operate. Boko/ISWAP's reach within North-East Nigeria and across adjacent borders give them access to various resources, including raiding and looting military and civilian targets, through control of commercial activities, extortion/taxation, kidnapping for ransom, smuggling/trafficking, and donations from local sympathisers.

321. Based on intelligence, observation, public reporting, and other sources, Nigeria reasonably assesses that these groups generate a significant portion of their resources in kind, with financial activity typically taking place in cash. This understanding is consistent with Nigeria's cash-based economy, especially in the North East where few - if any - formal FIs operate. The risks of cross-border financial activity, mostly cash-based or in-kind, result from Nigeria's porous borders, which also allow for foreign fighters from the region, including Cameroon, Chad, Niger, and Senegal to enter Boko/ISWAP-controlled areas of Nigeria to join these groups.⁷¹ Nigerian authorities believe, however, that members of Boko Haram and ISWAP consist primarily of Nigerian nationals. Financial or other support from like-minded terrorist groups such as ISIS (in the case of ISWAP) may have in the past been significant. However, Nigerian authorities do not currently consider this as a major source of funds.

322. Nigerian authorities also identified risks arising from individual terrorist operatives and sympathisers outside the North East that engage in self-funding, including from criminal and commercial activities and also receive transfers from their leadership. Although likelier to exploit the formal financial and commercial system and reflect a more traditional model of TF activity, such operatives are fewer in number and proportionally play a less prominent role in terrorism and TF activity in Nigeria. The threat they pose remains serious, however, as illustrated by a series of deadly or planned attacks in Nigeria's major cities outside the North East.

323. Nigeria demonstrated few prosecutions and convictions of TF given its risk profile. Authorities provided evidence of having prosecuted six individuals for TF-related charges in three different cases over the five years following the height of Boko Haram's reach in Nigeria (two of these prosecutions involved a terrorist group other than Boko or ISWAP). Nigeria has also prosecuted an unspecified number of cases on material support and potentially other TF-related charges, mainly against low-level security detainees. The Assessors considered available information about these two types of cases - i) major prosecutions against serious terrorist operatives and ii) "security detainees" apprehended in the North East – in reaching its conclusions.

⁷¹ For example, as of 2018 at least thirteen Senegalese nationals had been convicted in Senegal for efforts to establish a branch of Boko Haram in that country after having fought with Boko Haram in northern Nigeria; one reportedly received USD 20,000 in cash from Boko Haram's leader to establish a Senegalese branch. See Boko Haram's Senegalese Foreign Fighters, at <https://www.refworld.org/docid/5b728d2fa.html> (accessed July 8, 2020).

Major Cases

324. Nigeria's TF cases against major terrorist operatives and leaders have involved the provision of substantial financial and material support for terrorist organisations or terrorist activity. As of the on-site, Nigeria had initiated six such prosecutions in three different cases, resulting in five convictions; and one case remains pending. The two defendants in one of these cases had links with a State-sponsored terrorist group rather than Boko or ISWAP. Given Nigeria's risk profile, this small number of cases indicates limited effectiveness in prosecuting TF cases and securing convictions, as well as a lack of resources focused on such cases.

Box 4-1. Major Cases

Case Study 1: ASOG (and 6 others): A suspected Boko Haram member who had studied in the West and served in the Nigerian military, ASOG, was arrested in Sudan on an Interpol warrant and extradited to Nigeria following the bombing in April 2014 of the Ayana bus station near Abuja. The attack resulted in the deaths of about 120 people and injuries to at least 200 more. The authorities accused ASOG of being a “co-mastermind” of the attack, including by providing financial support for it, as well as for providing funds to widows and dependents of Boko Haram members. An analysis of ASOG’s bank accounts following the attack showed he had revived a dormant account to transfer money used in the bombing. The authorities did state that they would file TF-related charges, among others. At one point the court ordered the release of the accused for want of “diligent prosecution”, but the accused remained in custody.

Case Study 2: Mobusa, Musskha (AKA Jiman), Falakar – Charged with Foreign Exchange and other Activities on behalf of Boko/ISWAP

Between 2014 and 2017, the three defendants facilitated a financial facilitation network on behalf of a terrorist organisation. The authorities charged all the defendant being members of a terrorist group (Boko Haram) contrary to section 16 of the TPA. Also, Nigeria charged Mobusa, the ringleader, with two counts of converting a total of approximately 100,000 euros to Nigerian naira, in violation of TPA Section 13(2)(b)(involvement in arrangement resulting in resources for terrorism for the benefit of a terrorist group); Jiman with two counts of making funds and property available for the benefit of Boko Haram in the form of the naira equivalent of nearly \$44,000, laptops, cameras and accessories (TPA Section 13(2)(b), as well as with one count of receiving training in making an explosive device (TPA Section 7(a); and **Falakar**, rendering support to a terrorist organisation for “feeding over 50 children” in a village in violation of TPA Section 5(b) (rendering support to a terrorist group). The investigation remains ongoing.

Case Study 3: Taphande and Saludem – Convictions for TF and Other Offences on behalf of Iranian Terrorist Organisation

In December 2012 DSS arrested a cleric, Taphande, and his associate, Saludem, for involvement in offences under the Terrorism Prevention Act (as amended). Taphande was accused of being recruited by Iran’s Islamic Revolutionary Guard Corps while studying in Iran and undergoing training there in the use of assault rifles, pistols, and IEDs. He was subsequently dispatched to conduct surveillance in Lagos against American, Israeli, and Nigerian targets, for which he recruited his associate and co-defendant Saludem. Taphande received approximately USD 30,000 from his Iranian handlers in Tehran and Dubai for his activities, which he spent on renting and furnishing a house in Lagos, a shop, and visa expenses, among other activities.

Taphande was charged with six counts under the TPA, specifically: i) rendering support for an act of terrorism (TPA Section 5(1)(a) (rendering support for a terrorist act); ii) failing to disclose information regarding terrorism (Section 8(1)); iii) receiving approximately USD 30,000 in funds from an Iranian terrorist to facilitate the commission of terrorist acts (TPA Section 13(1)(a)(ii) (receiving/possessing funds from terrorist groups); iv) recruiting others for terrorism (Section 10); v) conspiracy to engage in terrorist activity (Section 17)(conspiracy to commit a terrorist offence); and vi) supporting the commission of a terrorist act by providing facilities (Section 12). Nigeria charged Taphande's accomplice, Saludemi with counts v) and vi) above.

In January 2018, the Court found **Taphande** guilty on all six counts, and found Saludemi guilty of recruiting and conspiracy offences under TPA Sections 12 and 17. Considering the five years each defendant had served since the arrest, the Court sentenced each of them to five additional years for each count, to run concurrently.

325. Although few, these cases indicate that Nigeria appropriately draws on a broad set of TF authorities to prosecute different types of TF activity, as available evidence allows. They show the use of core TF offences such as rendering support for a terrorist act, providing support to a terrorist group, and receiving funds from a terrorist group, as well as closely related or more specific charges such as providing facilities in support of a terrorist act and involvement in an arrangement for furnishing resource for a terrorist group or act.

Security Detainee TF Cases

326. The other types of TF cases in Nigeria are those against an unknown subset of about 6,000-8,000 “security detainees” apprehended in the military zones of the North East. Generally, these cases consist of a range of both TF and non-TF terrorism-related offences. However, there are no specific figures or statistics on the breakdown of charges. Based on public reports, a substantial portion, and perhaps even a majority of the defendants, were prosecuted for providing what appeared to be minor acts of material support, for example, repairing vehicles, washing clothes, and supplying food and other basic goods to Boko/ISWAP.⁷²

327. In October 2017, Nigeria held the first of three mass trials of defendants apprehended as far back as 2011 and arrested on charges that included membership in a terrorist organisation, concealment of information relating to terrorism, material support to terrorist groups, and other terrorism offences. Federal High Court judges from Abuja sitting in a military barracks in Kainji, in western Nigeria, conducted the trials, which like other terrorism and TF cases, were prosecuted by the CCG. Subsequent, Nigeria held mass trials in February and July 2018. To date, the CCG has prosecuted 1,669 individuals in such cases, with another 5,000-6,000 cases pending.

328. Of the 1,248 cases concluded as of July 2018, there were 366 convictions and 882 judicial discharges. Many the dismissals resulted from several factors, most significantly the absence of compelling evidence against many of the detainees. According to CCG prosecutors and outside observers, the available evidence frequently consisted only of written confessions, often made under duress. Moreover, many of

⁷² See, e.g., Nigeria: Flawed Trials of Boko Haram Suspects (September 2018), available at <https://www.hrw.org/news/2018/09/17/nigeria-flawed-trials-boko-haram-suspects>

the offences were themselves said to have been committed under duress, especially minor material support or concealment cases, a factor that led judges to dismiss charges in many cases or sentence defendants to time served.

329. The Assessors considered that these cases, irrespective of the number, warranted a limited degree of weight in determining the effectiveness of Nigeria's TF prosecutions and convictions. On the one hand, such cases demonstrate Nigeria's use of TF charges to address support to Boko and ISWAP. Moreover, such material support cases are reflective of the informal nature of TF activity in Nigeria's North East (although there is the need to account for cases of duress and extortion). The large number of cases discharged and the reasons for doing so, however, suggest an improper allocation of prosecutorial resources. As described below, moreover, investigations of such cases were often non-existent, often based solely on confessions, hearsay or both. Combined with the long delay between arrest and trial, it is unclear how much these types of cases are disruptive of TF activity, let alone proportionate and dissuasive.

Table 4-1: Convictions and discharges of security detainees (an unknown portion of which involved TF-related charges) - October 2017-July 2018

Date	Convictions	Discharges
October 2017	50	203
February 2018	203	582
July 2018	113	97
Total	366	882

Source: DSS

4.2.2. TF identification and investigation

330. Led by DSS, operating under the NACTEST, Nigerian authorities incorporate financial investigations into their broader terrorism investigative work, although they have not initiated investigations based on financial intelligence or activity. As with prosecutions, their CT efforts prioritise disrupting tactical and operational activity such as attack planning. As with its CT efforts more broadly, Nigeria's identification and investigation of TF activity is chiefly intelligence-led, taking account of financial information to supplement other sources of information.

331. Authorities described their emphasis on TF as in its early stages, but a growing area of focus. DSS' Financial Analysis and Investigations Department leads this effort and conducts financial analysis of terrorist threats using information derived from STRs, CTRs, Bank Verification Numbers (BVNs), other bank data, and other relevant financial information. The DSS appears able to quickly obtain a range of relevant financial information it needs from its counterparts to support the financial dimensions of its investigations. The information includes account opening records and account numbers, customer profile data, transactional information about in/outflows and related senders/beneficiaries, ATM withdrawals/deposits, and wire transfers. DSS also explained that it could work with the CBN to monitor accounts and track information using BVNs surreptitiously. DSS reported such information as readily forthcoming, partly due to the presence of DSS officers or through regular engagement. Using such means, Nigerian security agencies described conducting parallel financial investigations for approximately a dozen cases. Although the authorities provided little detail explaining the nature or type of information obtained or its utility, the Assessors credited the DSS' descriptions of its capabilities and the few (classified) details cited.

332. For their part, DSS counterparts complained of receiving limited information from DSS and questioned its willingness to share information. They did not provide examples of unreasonable withholding of information, and it was unclear to the Assessors how much such withholding reflected legitimate operational security practices. Discussions with both DSS and other agencies, however, indicated that they could safely share more information with reasonable protocols in place.

333. The NFIU plays a supporting role to DSS in TF investigations, providing information as requested and forwarding relevant STRs. The NFIU reports that of the TF-related STRs received by the NFIU since 2016, none materially aided CFT or terrorism investigations. The DSS did not substantiate or explain, or directly acknowledge or recognise the NFIU's claims of STRs prompting investigations by LEAs, as laid out in Table 4.2 below, leaving assessors to surmise that the authorities may have conducted follow-up, but no full-fledged investigations occurred. The NFIU reports that of the TF-related STRs received by the NFIU since 2016, none materially aided CFT or terrorism investigations. The NFIU complained of not receiving feedback on the intelligence reports it had disseminated to LEAs, thus impeding its ability to improve its feedback to FIs or analysis.

334. Despite the DNFBP and informal sectors having been identified in the NRA and by authorities as a channel through which 80% of TF-related activities (fundraising and movement of terrorist funds) occur in Nigeria,⁷³ the NFIU reported having received only one TF STR from a DNFBP. An effort by the NFIU to coordinate with and share information between FIUs of the other members of the Multinational Joint Task Force comprised of Nigeria, Niger, Benin, Chad, and Cameroon has not resulted in any exchange of information identifying TF leads.

335. DSS, NFIU, and CBN and banks meet under the auspices of CCCOBIN to share updates on TF typologies along with broader AML/CFT topics. At a point, for example, they discussed the use of ATMs in the North East at certain times of the night or more generally transfers to/from financial institutions in the North East as red flags for TF activity. The outcomes from these discussions, however, were unclear, and they did not appear to have led to STRs, enhanced monitoring, or another follow up action.

Table 4-2: Terrorism-related STRs Received, Analysed and Disseminated

	2015	2016	2017	2018	2019	Total
Terrorism, including TF	5	42	9	4	27	87

Source: NFIU

336. To develop information and improve the quality of investigations in the North East, including detainee prosecutions, the Joint Investigation Centre (JIC), comprising representatives from Nigeria's security and intelligence agencies⁷⁴, including DSS, was established at the direction of the ONSA in coordination with the GSAC. The JIC serves as a fusion centre with access to all-source intelligence and other information from the field. The National Civil Defence and Security Corps (NCDSC) works with the JIC and exercises police powers in areas that have been brought back under Nigerian authorities' control. It conducts preliminary investigations, including obtaining financial information from the suspect (bank

⁷³Pages xxiii, 196 and 207, 2017 NRA

⁷⁴National Police Force, DSS, and National Security and Civil Defence Corps, Army, National Intelligence Agency, and Defence Intelligence Agency.

accounts, accomplices, facilitators, among others) before handing the investigation over to another agency, typically the DSS.

337. The JIC's efforts concerning TF appear to have evolved slightly since October 2017, when the case files of prosecuted detainees amounted to little more than a statement of confession. Following the large number of cases dismissed following the first tranche of trials (203 out of 253 cases decided, or more than 80%), the CCG began to work closely with the JIC and NCDSC investigators to develop additional information, including the possibility of looking at financial intelligence derived from interrogations and following up on information received from agencies/headquarters. The CCG has noted one significant TF-related lead arising from this cooperation, involving a commander that stated he participated in a funds transfer, a claim that investigators are pursuing. Although there is no information on TF-related charges specifically, this closer cooperation may have helped contribute to slightly improved conviction-to-discharge rates for the terrorism cases tried in February and July 2018 (up to nearly a 32% conviction rate across both tranches).

338. Although some of the security detainees could fit the profile of foreign terrorist fighters, Nigeria did not demonstrate that it had investigated or prosecuted cases per se, or the provision of support to such individuals. Boko/ISWAP's ties to other jihadist groups and regional prominence, exacerbated by the growing regional instability and terrorist activity in West Africa more broadly, may continue to draw recruits from outside the country and provide support to terrorists elsewhere. This situation calls for enhanced regional information sharing and cooperation to counter TF activity. Consistent with its broader lack of focus on TF, Nigerian authorities did not indicate such activities were or would become an area of focus, and an FIU forum established with Chad, Niger, and Cameroon has not yet resulted in useful information-sharing. Nigeria explained that the authorities also share financial intelligence through a five-country regional intelligence fusion unit. There are no examples of such information-sharing efforts.

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

339. Nigeria has partially succeeded in integrating TF investigations with its national CT and AML/CFT strategies. The 2016 NACTEST prescribes financial investigation for “every suspected terrorist, irrespective of the outcome of his case”. The DSS reported implementing this directive in all its terrorism investigations. Similarly, the CBN and NFIU respectively support the NACTEST’s mandate to institute financial controls and receive/disseminate TF-related information. Neither the NACTEST nor AML/CFT Strategy, however, provide clear strategic or operational direction, for example, to prioritise FTFs or increase scrutiny of DNFBPs or cash transactions in high-risk areas.

340. Nigeria explained that while not captured in these formal strategies, the ONSA-led fora such as the JIB and GSAC provide such direction. These discussions treat CFT as an element of Nigeria’s CT efforts, and relevant guidance and coordination at the highest levels occur in these discussions. Efforts such as that of the JIC and Complex Cases Group to conduct additional investigation into detainees captured in the North East reflect the outcomes of such discussions. There are no other examples of TF-related guidance emanating from these councils. The Assessors concluded that the guidance provided in these fora concerning TF were, as with investigations, intelligence-led and ad hoc rather than systematic and strategic.

341. While the JIC and GSAC, operating broadly from the NACTEST help inform national investigative priorities at the operational level, there is no information indicating how TF investigations inform Nigeria’s formal national strategies. Nigeria’s AML/CFT Strategy does not clearly reflect lessons learned from TF investigations or articulate CFT priorities. Although a few elements of the Action Plan appear to do so, such as initiatives responding to cash smuggling and porous borders, the Action Plan, like the NRA and Strategy, contain few TF-specific measures.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

342. As described in R.5, the TPA provides for the possibility of dissuasive and proportional sanctions against natural persons convicted of TF offences, with sentences ranging from 10 years to life imprisonment. There is no comprehensive statistical data or other relevant information on sanctions imposed for the TF-related convictions secured, leaving the Assessors with little basis to conclude if the sanctions applied are effective, proportionate, or dissuasive.

343. The sanction imposed for the TF charges in the Taphande case, described above, does not appear proportionate or dissuasive. The Court convicted the suspects on three TF-related charges but sentenced them to five years on each charge to run concurrently. Given the potential for such activity to facilitate attacks by a terrorist organisation that has successfully perpetrated mass-casualty bombings in the past, the sentence is not proportional or dissuasive. While Taphande's five years in detention at the time of sentencing was a consideration, it is not clear that even a ten-year sentence would have met the relevant criteria.

344. There is no comprehensive information or statistical data on TF cases for the security detainee trials. In a case described by a third-party observer, which may or may not be representative, Nigeria sentenced a woman to time served in detention, a period of five years, for concealing information, providing support, and aiding and abetting the kidnapping of children. Although other prison sentences ranged from 01 to 60 years, the Assessors could not determine the charges and underlying activity, preventing a finding that Nigeria had demonstrated effectiveness in imposing proportionate and dissuasive sanctions for TF. The various due process issues arising in the trials, acknowledged by Nigeria, also raise questions as to the proportionality, dissuasiveness, or effectiveness of these cases.

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

345. Nigeria's approach to CFT is foremost a counterinsurgency effort to retake territory from which Boko/ISWAP generate their primary sources of funding. In Nigeria's view, degrading these terrorists' membership, infrastructure, and equipment by military means and other tactical/operational efforts is the most effective means of disrupting TF activity, and its dedication of resources to this effort reflects this basic strategy. Since 2015, Nigeria's military, working with DSS and various civilian agencies, has succeeded in rolling back Boko/ISWAP from large swaths of territory and reasserting government control over areas they had occupied. The Multinational Joint Task Force, formed in conjunction with Nigeria's Lake Chad neighbours, has also been instrumental to the effort to deprive Boko/ISWAP of territory and defeat these groups. Ongoing efforts by the Nigerian military target the trade in goods in sectors controlled by or that benefit Boko/ISWAP, such as fish, rice, and dried pepper in the Lake Chad region. Seizure and destruction (or appropriation) of such goods by the Nigerian army frequently occurs, thus depriving ISWAP of potential revenues.⁷⁵ These ongoing efforts deprived Boko/ISWAP of funds and resources, even as they remain among the deadliest and most active terrorist organisations in the world.

346. Nigeria typically presses non-TF charges in terrorism cases and has a wide variety of available terrorism offences from which to select an appropriate charge. However, there are no statistics or data on

⁷⁵ Survival and Expansion: The Islamic State's West African Province, Global Initiative for Civil Stabilisation (April 2019).

such cases, including on any instances when Nigeria sought to pursue TF charges, but charged other terrorist offences.

347. As discussed in IO.10, Nigeria has not issued the Nigeria Sanctions List, and thus has not undertaken any domestic asset freezes of individual terrorists. Using a separate authority than the TPAR, Nigeria has proscribed three groups to date - Boko Haram (including ISWAP), a defunct or latent Boko splinter group known as Jama'atu Ansarul Muslimina Fi Biladis Sudan (Ansarul), and a third organisation, the Islamic Movement of Nigeria.⁷⁶

348. There is no information indicating that Nigeria has adopted or employed other commonly used measures such as administrative asset freezes, passport confiscations, or deportations against terrorists instead of TF prosecutions. As described in IO.8, Nigeria has not effectively employed its border controls to intercept incoming cash couriers, potentially harming CFT efforts given Boko/ISWAP's reliance on cash.

349. Longer-term, as laid out in Nigeria's NACTEST, the government has adopted a comprehensive CT strategy that includes addressing de-radicalisation.⁷⁷ One of the primary programmes for this peacebuilding and development effort is Operation Safe Corridor, a program that encourages former members of Boko/ISWAP – including acquitted or discharged security detainees – to submit to a radicalisation and reintegration regimen. More than 900 terrorist suspects have gone or are currently in the program. Also notable is Nigeria's financial inclusion strategy, intended to counter Boko/ISWAP's provision of microfinance opportunities to expand its membership and operational capabilities. Nigeria's initiatives to discourage the use of cash and promote the formal economy are also part of its broader CFT strategy in reducing vulnerabilities terrorist organisations can exploit. These projects have only recently begun and have not yet had a chance to demonstrate success.

Overall conclusions on IO.9

350. The Assessors considered Nigeria's effectiveness in the context of its unique TF risk profile and the primacy of its military campaign against Boko/ISWAP. Nigerian CT agencies are capable and can conduct parallel financial investigations using a wide variety of information within the limits of Nigeria's broader AML/CFT regime. The Assessors gave this capability positive weight, as it did to Nigeria's inclusion of CFT as an element of its NACTEST. The Assessors also credited the use of TF charges in prosecuting some offenders, including security detainees. However, the Assessors ultimately found the few prosecutions of significant terrorist financiers to be disproportionate with the country's immense overall terrorism and TF risks. Even crediting a larger number of TF prosecutions against security detainees, the uncertain number of such cases, the weak evidentiary bases for TF-related charges against them, their overall high rates of dismissal, and the large backlog of cases constrain the degree to which these cases represent effective TF prosecutions, let alone investigations. The Assessors also placed considerable weight on the low number and limited utility of TF-related STRs or other leads from the financial or DNFBP sectors. Nigeria has begun the work of establishing a reasonably effective CFT regime, but fundamental improvements are needed.

⁷⁶ Federal Republic of Nigeria, Official Gazette No.34, Vol. 100, Lagos, 24th May, 2013.

⁷⁷ This is further laid out in Nigeria's Policy Framework and National Action Plan for Preventing and Countering Violent Extremism, as well as the Northeast Development Committee, a multidimensional development program for the region focusing on agricultural, commerce, industrialisation, education and infrastructure.

351. **Nigeria is rated as having a Low level of effectiveness for IO.9.**

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

4.3.1. Implementation of targeted financial sanctions for TF without delay

352. Nigeria's framework to implement TFS relating to TF without delay, as described in R.6, has considerable technical deficiencies, including potentials for causing delays resulting from (i) a convoluted and unclear process of list dissemination, (ii) the absence of clear mechanisms to inform the private sector, (iii) duplicative freezing measures that in one case require court intervention, and (iv) other major gaps. Nigeria does not otherwise possess an effective system of implementation that compensates for these shortcomings. As is evident from the findings below and discussions during the onsite, Nigeria places a low priority on TFS implementation and has devoted few resources to this effort.

353. As elaborated in R.6, Nigeria's TPAR seeks to implement the relevant UNSCRs through a consolidated "Nigeria List" consisting of: i) persons designated pursuant to UNSCRs 1267 and 1988 (and successor resolutions) and ii) persons designated by Nigeria pursuant to UNSCR 1373. The Nigeria Sanctions Committee, which is chaired by the AGF and consists of members from key foreign affairs and security agencies, is responsible for the creation and dissemination of the Nigeria List. The NFIU serves as the Secretariat. The Committee is also responsible for formulating policy guidelines for the implementation of TFS, including considering third party or domestic designations, pursuant to the relevant UNSCRs.

354. The NSC has not developed the "Nigeria List" of TF-related TFS prescribed by the TPAR. There is no mechanism to alert competent authorities or supervised entities about updates to the list, including updates to the UN lists. The inauguration of the NSC on 19 January 2018, nearly five years after its establishment in law, partly explains the lack of these and other key means of implementation. The NSC has not issued policy guidelines or meaningful guidance to obligated entities. There is no description of the agenda or outcome of the NSC's three meetings since its inauguration, thus precluding a fuller assessment of its activities.

355. Nigeria proposed targets for designations at the UN under UNSCR 1267 in 2014, namely Boko Haram and its leader, Abubakar Shekau. It has not made additional nominations since that time. Nor has it issued designations, requested such action by third countries, or received such requests pursuant to 1373.

356. The DSS has investigated, including financial information, of identified Boko/ISWAP operatives/leaders on Nigeria's "Most Wanted" list who are members of UN-designated terrorist group. None of these persons is domestically designated or the subject of international 1373 requests by Nigeria. Neither DSS nor other authorities reported locating associated assets, nor frozen any assets.

357. In 2015, the NFIU issued an advisory on TF-related TFS to banks. Although it provides a good overview of TFS in general, the advisory lacks practical guidance to help operators comply with their obligations. It instead largely summarises the general rationale for TFS and the administrative processes for designating persons. The website of the NFIU does not provide links to the UN or other international sanctions lists for operators to consult. There are no points of contact for regulated entities to ask questions, and no automated alert mechanism for operators to receive updates.

358. The CBN has issued circulars, though sporadically, reminding banks and forex dealers of their TFS obligations. The CBN also cooperates with the DSS to identify assets of individuals associated with UN-sanctioned groups under UNSCR 1267. In one case in 2016, the CBN **mentioned** receiving instructions from the DSS to freeze an account related to terrorism. The CBN could not substantiate, confirm or provide the legal basis for this occurrence. There are no details regarding the disposition of assets.

359. In September 2019, SEC issued a one-paragraph circular reminding CMOs of their TF-related TFS obligations and reminding them to screen customers before executing transactions. It provides no additional instruction on how to do so, however, and made no specific reference to sanctions lists or other guidance to assist operators in conducting such screening.

360. SCUML alerts DNFBPs of their TF TFS obligations in the course of its outreach sessions and provides links to UN and OFAC sanctions lists on its website. Notably, this was the only agency to do so as of the onsite visit. It also screens NPOs that register with it against the UN Lists. However, SCUML does not have a dedicated protocol to supervise DNFBPs for TFS compliance during its supervision.

361. As regards FIs, banks, MMOs and insurance firms subscribe to third party automated screening databases/systems to check against various international and third-country lists. They understand their obligation to freeze any transactions or accounts and file an STR with the NFIU and provide informal notification to the DSS. None, however, reported ever receiving a match, or even a false positive, against the Sanctions Lists. Forex dealers have a general awareness of TF TFS. However, neither their transaction software nor that provided by ABCON, the forex dealers association, include a means to screen against the Sanctions lists.

362. The majority of DNFBPs, most notably DPMS, have minimal understanding of their TFS obligations and no systems beyond manual searching for screening against relevant lists. None of them has made a match against the list, including for false positives, or filed a TFS-related STR.

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

363. Nigeria has a large and active NPO sector, official estimates of which range from 60,000-90,000 organisations. As of September 2019, SCUML had registered 50,084 NPOs. The vast majority of these are domestic entities, with an estimated 176 NPOs registered as International NPOs (INPOs), which are organisations headquartered abroad.

364. Nigeria has not identified those NPOs most vulnerable to TF abuse (see R.8). Nevertheless, competent authorities, including the military and SCUML, which regulates NPOs as DNFBPs, believe the sector to pose substantial TF risks. These views are greatly influenced by the vulnerabilities giving rise to the ML risks that Nigeria believes NPOs present, as described in its NRA. Again, as discussed in IO.1, Nigeria's classification of NPOs as DNFBPs on the grounds of ML extends well beyond the FATF standards and is inconsistent with a risk-based approach. The separate analysis required by IO.10.2 concerning TF leads to a similar conclusion: Nigeria's regulatory and supervisory posture for the NPO sector is over-inclusive and disproportionate to its substantiated TF risks. In so doing, Nigeria may disrupt or discourage legitimate NPO activity. At the same time, Nigeria's measures to address the ill-understood, but still real TF risks that do exist in the NPO sector would benefit from certain improvements.

Assessment of NPOs' TF Risks

365. The lack of a TF risk assessment of the NPO sector fundamentally precludes the effective regulation and supervision of the NPO sector for TF in line with the risk-based approach. Rather than the specific sectoral assessment called for in R.8, the authorities base their views of NPOs' TF risks on (i) general NPOs vulnerabilities identified in the NRA⁷⁸, (ii) FATF and GIABA typology reports (which cite historical case studies of NPOs' facilitating TF activity), and (iii) general concerns that humanitarian activities of NPOs would benefit terrorist organisations. These views on NPOs' vulnerabilities in Nigeria and its recognition of certain TF risk factors of NPOs do not compensate for the lack of the required assessment as called for by the FATF standards.

366. SCUML's 2019 Guidance Note lists various factors for assessing NPOs for TF risks. Some of these are relevant to a clear understanding of TF risk, while others are notably less so. For example, relevant risk factors Nigeria identified include international linkages (particularly NPOs with links to Turkey and Pakistan), extensive use of cash, and the timing of their establishment relative to the conflict with Boko/ISWAP. Yet the notable risk factors also include foreign donors with "complex logistic network[s]", work with cooperative or community groups, and those operating using bank accounts – all lacking a rationale for their inclusion or the risks entailed. Critically, Nigeria did not weight or apply any of these factors to the actual population of Nigerian NPOs (See *SCUML Guidance and Outreach* subsection below). Similarly, the CBN's Framework for AML/CFT RBS Regulation for FIs identifies NPOs as susceptible to ML/TF and requires FIs to apply enhanced due diligence measures to transactions by NPOs based on specific parameters, but not based on an assessment of NPOs operational in Nigeria.⁷⁹

367. In contrast to the authorities' view, the TF risks of NPOs and those of the sector as a whole appear low, with those vulnerabilities that exist largely mitigated through preventive measures, intelligence and law enforcement efforts, and appropriate coordination with the military,⁸⁰ as highlighted by the representatives of NPOs operating in the North-East conflict zones as well as those active elsewhere in Nigeria. This discrepancy between NPOs' and the government's view of the TF risks arising from NPO activity in the North East arises at least partly due to perceptions of the degree to which humanitarian aid is or can be diverted for or used to reinforce Boko/ISWAP (see discussion at para 290 below).

Registration of NPOs

368. Domestic NPOs: Nigeria operates a voluntary registration system for NPOs. However, domestic NPOs are required to register with the CAC to enjoy the status of legal personality and have attendant opportunities and rights, e.g., to execute contracts and maintain bank accounts. As with other legal entities and their founders or directors, the CAC does not systematically screen NPOs, their founders, or trustees against any sanctions or other official list of suspected terrorists or affiliates. Instead, it relies on "human intelligence" (the subjective judgment of intake/approval officials) to identify suspicious applicants. When they do, the CAC provides the name to ONSA or DSS for vetting. The CAC described one case involving an applicant with a name similar to an internationally designated terrorist organisation that it denied

⁷⁸ As a general matter, the NRA recognised NPOs' TF vulnerabilities, but did not assign a specific TF risk rating – it instead assigned a risk rating of "medium-high" for ML. A 2019 SCUML Guidance Note to NPOs characterises the risk of NPOs as "high," but in doing so, it does not differentiate between ML and TF risks, appearing to either conflate or combine them. The guidance also appears to mis-state the NRA as describing the level of ML risk of NPOs as "high" rather than "medium high".

⁷⁹ These are: Purpose and objectives of their stated activities, Geographic locations served including headquarters and operational areas, Organisational structure, donor and volunteer base, funding and disbursement criteria, including basic beneficiary information, record keeping requirements, affiliation with other NGOs, governments or groups, Internal controls and audits.

⁸⁰ See, e.g., Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria (2017).

incorporating. However, this denial appeared to be the product of coincidence and not the result of any protocol designed to prevent terrorists from incorporating an NPO. CAC also requires NPOs to provide audited financial statements and to publicise their proposed establishment in two newspapers for two weeks before finalizing their registration.

369. **International NPOs (INPOs):** INPOs register with the Federal Ministry of Budget and National Planning (FMBNP) and are subject to several detailed and extensive background checks and reporting requirements.⁸¹ ONSA has issued a directive not to register any INPOs without being vetting the NPO. In addition to basic organisational details, NPOs must provide copies of their incorporating documents in their home jurisdiction, annual audited financial reports, names and addresses of trustees, planned activities, and a range of other details. These are shared for vetting by various security agencies, including the ONSA (for INPOs working in the North East), DSS, the Ministry of Justice, and the NIA. The FMBNP screens INPOs against UN lists before approval.

370. **SCUML Registration:** Based on their classification as DNFBPs, all NPOs, including INPOs, must register with SCUML. As of the end of the on-site visit, SCUML had registered 50,084 NPOs. SCUML also screens NPOs against UN and also international Sanctions Lists and confers with the NFIU and Ministry of Budget and National Planning when it receives applications where it has questions about an NPO.

Risk-Based Supervision and Enforcement

371. As discussed in IO.1, fears of NPO ML risks, which rest on a thin, at best, evidentiary basis, has led Nigeria to classify all NPOs as DNFBPs and subject them to the requirements imposed on all such entities.⁸² Accordingly, all NPOs must (i) undertake AML/CFT risk analysis, (ii) institute risk-mitigation plans, (iii) undertake CDD measures, (iv) appoint a CO, (v) submit CTRs, STRs, and weekly CBTRs, (vi) conduct regular AML/CFT training, (vii) establish an internal audit unit to ensure AML/CFT compliance, and (viii) centralise collected information. SCUML conducts risk-based supervision of NPOs against these requirements according to a general manual, but does not have an NPO-specific protocol or prioritisation matrix. In identifying NPOs to examine, SCUML relies on the risk characteristics described in its 2019 Guidance document and stated that it would examine approximately 20 NPOs based in countries considered as having high TF risk. There is no documentation such as a risk matrix establishing how these NPOs were selected, most if not all of which appeared to be reputable global organisations. SCUML also stated that it plans to examine domestic NPOs operating in the North-East, NPOs with high annual operating income, high cash turnover and those believed to have weak internal controls for supervision.

372. SCUML partly tailors its NPO examinations to detect TF risk. For example, SCUML noted that an NPO failed to report certain cash disbursements above the statutory threshold to SCUML, failed to perform EDD on a “high-risk donor”, and lacked a CO at the management level. On these and several other grounds, SCUML referred the NPO to the EFCC for investigation and prosecution. Yet SCUML did not provide any clear rationale for these particular controls from a TF perspective, nor for its criminal referral

⁸¹ INPOs can register with the CAC in addition to the Ministry of Budget and Planning if they seek local incorporation as well.

⁸² SCUML explains in its FAQs that NPOs have been classified as DNFBPs pursuant to the Minister’s authority to designate additional sectors and notes that such designations are “usually made where a sector is found to be vulnerable to money laundering.” However, section 25 of the MLPA empowers the Minister to designate “other businesses” and no formal vulnerability assessment appears to have been made.

of the NPO in question to guard against TF. These outcomes instead appear to reflect Nigeria's excessively broad regulation of all NPOs as DNFBPs.

Table 4-3: Instances and Results of NPO Supervision

No. Supervisory Examinations	<i>Nil</i>	77	167	126	25	462
Violations Identified	All years: non-reporting, failure to conduct CDD/KYC, failure to develop AML/CFT programs, failure to conduct AML/CFT training for staff and failure to document AML/CFT policy.					
Sanctions Imposed		Warning Letters	Warning Letters	Warning Letters, Prosecution	Warning Letters, Prosecution	
Referrals to LEAs	0	0	0	1	5	6

Source: SCUML

Guidance and Outreach

373. SCUML's written guidance to NPOs on conducting an internal risk assessment does not provide actionable advice and not sufficiently tailored to the NPO context in Nigeria. As noted above, SCUML explains ML and TF risks that DNFBPs, including NPOs, face, and lists various threats and vulnerabilities that NPOs should consider. The Guidance, however, is more a list of considerations and risk factors than it is a clear statement of how to mitigate TF risks. Without explanation, for example, PEPs as NPO "customers" are offered as consideration for TF risks. "NPOs with unincorporated trustees", as one of the two ways to register NPOs in Nigeria, are listed alongside "NPOs operating in areas with active terrorist threats" and "NPOs blacklisted by Government[s]" as TF risks.⁸³ Similarly, the "Industry/Sector Risk" description consists simply of a list of various "good works" activities in a manner that equates sport and recreation NPOs with those providing humanitarian aid. The Guidance does not refer to the 2014 FATF "Report on the Risk of Terrorist Abuse in Non-Profit Organisations", nor is there any meaningful overlap with its content or that of similar efforts to help NPOs better understand their TF risks.

374. The major shortcomings with its Guidance notwithstanding, SCUML's outreach to NPOs has been relatively active, both specifically and in broader groupings of DNFBPs. In 2018, SCUML participated in at least three workshops (in February and March) that reached over two hundred participants. In May 2019, SCUML participated in a series of meetings organised by the EFCC in collaboration with INGOs in the North East to sensitise INGOs on TF risks, explain SCUML's supervisory activities and the filing obligations of INGOs.

375. NPOs appear familiar with the requirements imposed on them as DNFBPs, and generally with the TF (and ML) rationale articulated by the government. The more sophisticated and established NPOs also demonstrated good knowledge and understanding of FATF requirements, best practice papers and guidance for NPOs. They did not agree with official views or characterisations as posing high ML or TF risks. The Network of Nigerian NGOs (NNNGO), a large umbrella group, has trained in the past two years over one thousand NPOs on FATF R. 8 and issued several publications on AML/CFT measures. NPOs

⁸³ Relatedly, the discussion of internal control systems, which may have a bearing on NPOs' ability to mitigate their TF risks, (apparently mistakenly) refers to dealers in jewels and precious stones and describes these issues from that perspective, rather than that of an NPO.

broadly comply with SCUML and other statutory reporting obligations regularly. However, the obligations imposed on NPOs have resulted in considerable compliance burdens and associated time and resource commitments.

NPO and Supervisory Activity/Coordination in the North East

376. The humanitarian emergency resulting from the Boko/ISWAP terrorist threat in the North East has led to an overlapping, but separate oversight and coordinating structure for NPOs in that region. International NPOs and the United Nations, working with the Government of Nigeria and local partners, are the primary providers of basic needs to millions of displaced and threatened civilians in the North-East conflict zone. They have many international and local personnel, including local contacts, organising and executing a wide array of humanitarian activities and aid programs.

377. Nigerian authorities recognise the essential role NPOs play. They are also concerned about TF risks they see arising from the operations and activities of NPOs in a fluid, insecure environment in which terrorists' ability to raid convoys and communities provide them with much of their resources. NPOs and aid workers have not been immune, with 12 killed in 2019 alone. Vulnerabilities of NPOs in the North East include using cash to pay for salaries, contractors and necessities, aid programs involving cash transfers, where individuals receive small amounts of cash or cash-based microloans, and transportation and distribution of supplies and other resources.

378. Out of concern over such activity, and ostensibly acting at least partly on intelligence information, the Nigerian authorities – primarily the military and the EFCC (because of its mandate over TF activity) – have detained staff of NPOs and shut down some NPO offices. Among the accusations levelled were that NPO personnel were affiliated with or providing support to Boko/ISWAP. The authorities did not substantiate these claims or file any charges against the detained individuals. Other claims made were that the NPOs had not sufficiently engaged with the military or notified them of their movements, leading to suspicions of collaboration or risks of diversion to terrorists. These incidents continue to generate robust and active engagement between the military, other government agencies, INPOs and the UN to identify and improve collaboration.

379. In August 2019, INPOs, the EFCC, military and other government representatives agreed for INPOs to file detailed advance notifications of cash and cargo movements to the EFCC and the military. Currently, for example, INGOs must complete a form detailing reasons for moving cash to the field, the donor/source, withdrawal of funds from and the destination, and file the form with the military and the EFCC zonal office. If approved by the EFCC, INGOs must move the cash within two weeks; after that the approval lapses and needs to be renewed. Before this arrangement, NPOs declared cash movements under SCUML CTR and CBTR reporting thresholds, and monthly. INPOs in the North East also vet local businesses according to their internal procedures, including by verifying registration with the CAC and proof of bank accounts with established institutions.

380. Overall, it appears that enhanced coordination has addressed some of the Nigerian authorities' concerns and that there are channels in place to address this issue. Still, it is not clear that procedures are streamlined in a manner to avoid undue disruption and overlapping reporting lines – to EFCC, SCUML, and the military – that may be impeding legitimate NPO activity. Moreover, the absence of an institutionalised system, necessitating regular re-engagement and renewal of previously agreed modalities due to turnover and transfers, may also continue to hinder humanitarian efforts in Nigeria.

4.3.3. Deprivation of TF assets and instrumentalities

381. Nigeria reports no assets of arrested, convicted, or sanctioned terrorists frozen, confiscated, or forfeited, including the case with a non-UN-designated organisation proscribed by Nigeria on the grounds of terrorism, namely the Islamic Movement of Nigeria in July 2019. Nigerian authorities stated that banks would be responsible for identifying and freezing any funds associated with the organisation and that they would know to do so. Nigeria does not seem to have any lists of individuals or taken other actions to enforce the financial elements of the proscription concerning members of the group or any associated instrumentalities. As noted above, Nigeria did not report “false positives” of transactions or accounts that it had frozen for any designated or proscribed person or entity.

382. Law enforcement agencies reported seizing instruments of terrorist attacks during their investigations. These appear to have been operational seizures, and there is no comprehensive account or set of figures regarding these seizures. In one instance, for example, the authorities seized a van used in an attempted attack. However, on conviction of the terrorist, the Court could not forfeit the van because it did not belong to the terrorist. It is unclear whether the authorities sought to prove that the owner of the van provided the van as support or did not know that the terrorist would use the van for any purpose. In other cases involving the conviction of terrorist operatives, Nigeria did not report the identification or deprivation of any bank accounts, property, or other resources.

383. Nigeria deprives terrorists of assets chiefly through ongoing military operations against their bases and sources of funding. In one case, Nigeria’s military destroyed a fish market in Baga (on the shores of Lake Chad in Nigeria’s North-East). This incident occurred after ISWAP took control of the operations of the market and used revenues from it to fund itself. In 2016, similarly, the Nigerian military shut down four cattle markets that BH had similarly exploited. The military routinely seizes and destroys or confiscate trucks carrying fish and other goods in which ISWAP has an interest. An unintended consequence of such activity has reportedly been an increase in the price of these commodities, inuring to the ultimate benefit of ISWAP as it taxes and trades in these items.

4.3.4. Consistency of measures with overall TF risk profile

384. Nigeria’s efforts to apply TFS related to TF are not consistent with its overall TF risk profile. Nigeria lacks interest or action to pursue designations or establish mechanisms to implement TFS measures. Its lack of interest primarily stems from its view that such measures are insignificant in its fight against Boko/ISWAP. It considers intelligence, military, and law enforcement methods as more appropriate as Boko/ISWAP operate mainly outside the formal financial and commercial system. At the same time, such views may limit Nigeria’s ability to counter TF activity effectively.

385. Nigeria has not identified or frozen any terrorist-linked assets, including, for example, assets associated with convicted terrorists, assets associated with the nearly 100 individuals on its most-wanted list, or any other resources and funds linked to the estimated 20 per cent of TF-related funds channelled through its formal financial sector. The absence of false positives, let alone record of useful TF-related STRs that might inform future targeted sanctions, indicates an ineffective system relative to TF risk, even if Nigeria’s military effort is, indeed, considered paramount.

386. Nor does the vast and largely informal DNFBP sector identified for raising and moving over 80% of terrorist funds in Nigeria⁸⁴, receive the supervision necessary to identify and freeze terrorist-linked funds at a level consistent with the risks believed posed.

387. Nigeria's posture towards its NPOs sector similarly cannot be said to be in line with its risk given the absence of a tailored sectoral assessment. Nigerian authorities have seized funds from certain international NPOs upon suspicion of engaging in TF activity. However, it is not clear that these actions were duly predicated and not excessively disruptive, given the subsequent lack of criminal charges and ultimate return of the funds.

Overall conclusions on IO.10

388. Nigeria has only recently developed an institutional framework to implement TFS related to TF, an effort that remains largely dormant. The country lacks a domestic list of designated persons and entities, and there is limited communication, supervision, guidance and outreach on TFS. Its legal framework appears duplicative in key respects, precluding implementation without delay, and features significant technical gaps. Nigeria has not frozen any assets related to TF, nor received false positives related to TFS.

389. As a general matter, Nigeria's lack of a comprehensive and substantiated sectoral risk understanding of those NPOs most vulnerable to TF abuse precludes the application of focused and proportionate measures that do not disrupt or discourage legitimate NPO activities. To the extent that TF risks play a role in categorising all NPOs as DNFBPs, such steps are disproportionate. In the North East, Nigeria is taking an array of steps to mitigate the higher TF risks of NPO operations in coordination with the NPO community. Nigeria has deprived terrorist organisations of assets through military operations but has not frozen or seized terrorist funds or property (other than instrumentalities of attacks). These measures are not consistent with Nigeria's TF risk profile and require fundamental improvement.

390. **Nigeria is rated as having a Low level of effectiveness for IO.10.**

4.4. Immediate Outcome 11 (PF financial sanctions)

391. As Africa's largest economy and a major trade and financial hub for West Africa that features several systemic vulnerabilities in its financial sector, Nigeria offers a potentially attractive location for illicit actors engaged in PF activities to conduct and obscure their activities. North Korea is known to operate extensively in West Africa, as noted in several reports by the United Nations Panel of Experts on North Korea. Nigeria hosts a DPRK embassy in Abuja and receives trade delegations from the DPRK. At least one major North Korean firm, the Korea General Company for External Construction (GENCO), which according to the Panel of Experts has links to an UN-sanctioned entity, is registered in Nigeria.⁸⁵ In 2014, Nigeria and the DPRK signed an agreement to promote knowledge exchange (including for "modern technology"), although the extent to which these countries have implemented such exchanges is not clear. Nigeria does not possess a large industrial base for dual-use or other WMD-relevant technologies.

⁸⁴ Page 207, 2017 NRA.

⁸⁵ <https://www.undocs.org/S/2019/171>, p. 56

392. Nigeria's economic ties with Iran are seemingly limited, with trade consisting in large part of agricultural products. Iranian intelligence agencies are known to operate in Nigeria, and Iran has provided support to an organisation that Nigeria recently proscribed as a terrorist group. Iran has, in the past, also sought to ship weapons through Nigeria. There is no information on proliferation-related activity for the period of the assessment.

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

393. As described in R.7, Nigeria lacks a legal framework to implement TFS concerning the UNSCRs relating to the combating of PF. The TPAR does not provide for any such measures, and no competent Nigerian authority has promulgated enforceable means under any other applicable provision of law. No policy direction or other guidance has been issued to competent authorities to implement PF TFS. There is no information demonstrating consistent implementation of PF TFS. Nigeria has submitted only one national report to the 1718 Committee regarding the country's implementation of UNSCRs 1718 (2006) and 1874 (2009). In its report, Nigeria stated that “[t]he Government of the Federal Republic of Nigeria has taken steps to disseminate resolutions 1718 (2006) and 1874 (2009) to the relevant Government ministries and agencies, and would take necessary measures to ensure compliance with the requirements of the resolutions”⁸⁶. Nigerian authorities did not make representatives from the MFA available to the Assessors to explain how it disseminates new UN sanctions designations and how, if at all, it apprises Nigerian authorities of PF TFS in addition to TF TFS as provided for in the TPA Regulations.

394. Nigeria's only legislative attempt to oblige FIs and DNFBPs to implement PF TFS is under the CBNR which requires BOFIs to report assets frozen or actions taken in compliance with PF-related UNSCRs in compliance with the prohibition requirements of the TPAR. It also provides for administrative sanctions for non-compliance (see R.7). However, the TPAR does not provide for TFS related to PF. Nevertheless, in compliance with this reporting requirement, several banks reported to the CBN that they had not identified or frozen any related funds.

395. Notwithstanding the absence of a domestic legal requirement, the CBN has issued two circulars advising banks and other financial institutions (BOFIs) under its supervision of their (purported) obligations to freeze the assets of persons designated under PF UNSCRs on the DPRK-related UNSCRs. The first, issued in September 2016, recounts various Security Council-imposed prohibitions for the DPRK, although referring only to “the relevant UNSCRs”. It then states that banks are “required” to institute measures to ensure compliance with the most recent, UNSCR 2270, issued in March 2016, and provides a list of the persons, entities, and ships designated in that resolution. The second Circular, issued on 20 September 2019, refers to the CBN's AML/CFT Regulations of 2013⁸⁷ and previous circulars on TFS generally to “remind” FIs on the need to “increase surveillance and report” transactions involving persons and entities designated under UNSCR 1718 and all other successor resolutions on the DPRK. The Circular advises FIs to screen customers and transactions against global sanctions lists and freeze without delay funds of persons designated by the UN Sanctions Committees. It also reiterates that terminated transactions or frozen funds must be reported to the NFIU immediately. A similar circular issued by the SEC in September 2019 to CMOs directs SEC-regulated entities to screen against UN and other sanctions lists. These Regulations

⁸⁶ Report of the Panel of Experts established pursuant to resolution 1874 (2009), <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>.

⁸⁷ Note the technical deficiency of these Regulations and subsequent issuance by the AGF of same on 10 October, 2019.

and circulars, however, do not create a substantive prohibition implementing PF TFS, let alone without delay.

396. Similarly, on 19 September, 2019 the NFIU issued a PF TFS advisory to Nigerian FIs, DNFBPs and competent authorities⁸⁸. In it, the NFIU recounted FATF's Public Statement of 22 February, 2019, calling for countermeasures on North Korea to protect the world's financial sectors from PF and other illicit finance threats and cited the various DPRK-related UNSCRs. The Advisory cautioned FIs, DNFBPs and others operating within the Nigerian financial sector to (i) be aware of the UNSCRs' various prohibitions, (ii) exercise vigilance against sanctions evasion schemes, and to collaborate with the national government, (iii) conduct EDD on customers believed to be affiliated with the DPRK, (iv) adopt reporting obligations and submit STRs for potential DPRK-related transactions, and (v) report all financial transactions relating to the DPRK mission in Abuja. The advisory also specifies prohibited activities, such as operating correspondent accounts with DPRK FIs or allowing DPRK entities to use Nigerian flagged vessels. The advisory threatens penalties for violations, though the basis for imposing sanctions is not clear.

397. The CBN and NFIU indicated that they issue circulars and advisories to promote effectiveness even in the absence of legal obligations, and to elicit voluntary TFS compliance by FIs and DNFBPs for PF measures. To this end, the circulars represent an effort to promote compliance with the UN obligations and the FATF standards. Notwithstanding, as explained in R.7, such circulars do not qualify as enforceable means, and an institution that refuses or fails to abide by these circulars would have strong grounds to challenge any penalties assessed. Besides, the timing of such documents did not lend credence to a consistent approach to ensure compliance with PF requirements. The Assessors thus placed little weight on these assertions in its effectiveness analysis, especially given the lengthy delays between the designations and issuance of the relevant circular.

398. Nigeria has taken few other steps to publicise the UN Lists or to add names (including from the UN) to its yet unissued Nigeria List. The CBN, NFIU and MFA (responsible for transmitting TF TFS designations to Nigerian authorities) do not post links to or recreate the UN lists on their website. There is no subscription service or mechanism to receive new listings. No updates on PF-related UNSCRs nor UNSCRs themselves are published in the Nigerian Gazette. Again, the Assessors identified SCUML as the only agency linking its website to the UN Lists. However, DNFBPs under SCUML's supervision do not appear to conduct screening against the list.

399. The NCS implements measures to identify potential PF TFS evasions. Upon receipt of updates from the MFA, the NCS inputs new names, vessels and entities into its general screening database, which generates an alert on the entry of the name of a sanctioned person, vessel or entity. There is no information regarding the exact potential timelines between the designation at the UN and the MFA's dissemination, nor the time it takes to add the names to the screening platform. Customs officials identify, seize and dispose of goods and vessels belonging to sanctioned persons and entities through a general confiscatory process used for abandoned cargo that requires court proceedings. A shipment that arrives from the DPRK triggers a red flag in Customs' system, and the officials subject the vessel to heightened scrutiny. Customs did not confirm discovering such items. It is also not clear exactly how such a system would work in practice for PF TFS given the absence of a legal mandate or specific regulatory direction. Also, the NCS did not demonstrate that the legal basis for this action could rely on the existence of a PF designation alone, and may need to entail violations like export controls or material misrepresentations.

⁸⁸ <https://www.scuml.org/wp-content/uploads/2019/10/nfiu-advisory0001-2.pdf>

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

400. Neither Nigerian authorities nor FIs/DNFBPs reported identifying funds or other assets of designated persons or entities or those acting on their behalf or preventing the execution of any PF-related TFS. FIs or DNFBPs have identified no PF-related false positives, nor reported to the NFIU. Similarly, the CBN has not identified any PF-related transactions or accounts during its supervision. The NFIU has not reported receiving STRs relating to the DPRK mission in Abuja, which is staffed by 15 employees. In response to a post-onsite request by the Assessors, banks reported existing bank accounts held by the DPRK Embassy or North Korean individuals, with none designated.

401. Systematic coordination among competent authorities concerning PF is almost non-existent, as Nigeria explains evidence of the absence of PF-related activity or sanctioned shipments. The NCS can share intelligence indicating items of concern on its way to or from Nigeria as does for outright contraband such as narcotics or weaponry. The sharing of intelligence may lead to cooperation with agencies as needed. There is historical precedent, including cases or examples for the five years preceding the on-site visit supporting this view.

402. Cooperation and coordination concerning PF occur primarily between the NCS and intelligence agencies which have platforms to fuse intelligence and non-classified information on potential shipments of proliferation concern.

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

403. Nigerian banks generally understand their obligations for TFS. They typically do not differentiate between TF-related TFS and PF-related TFS. Banks broadly construe their obligations in this respect to apply to both types of designated persons and entities. They have subscribed to commercial screening software which enables them to identify both suspicious accounts and transactions, and screen new customers through these platforms upon opening an account. These FIs engage with Nigerian law enforcement and security agencies, which provide regular reminders of their obligations. MMOs also employ screening systems to check senders/beneficiaries for international and other (non-TF) local lists.

404. However, forex dealers, which are especially vulnerable to exploitation by illicit actors of various types, do not have such screening software. Forex dealers claimed that they check manually against the lists, but could not cite which lists or how and when they do so. Professional DNFBPs such as lawyers registered by SEC and accountants are aware of general obligations to comply with PF TFS, but describe their business and clientele as posing low risks for such activity and as a result, only screen upon suspicion.

4.4.4. Competent authorities ensuring and monitoring compliance

405. As noted above, the CBN has issued circulars describing ostensible PF TFS obligations, although these are infrequent, unpublicised, and lack a mandatory basis beyond reporting. It also requires reporting on accounts used by the DPRK embassy and has received some relevant reports. The CBN has not incorporated a specific TFS module into its RBS framework in examining FIs, nor have other financial regulators or SCUML. The NFIU's advisory is prescriptive in this respect. However, it does not yet incorporate into the RBS frameworks of the FI/DNFBP supervisors. Nor does the NFIU's STR form contain a box or other method to identify PF as the basis for filing an STR.

406. The DSS also exercises jurisdiction for PF and DPRK-related evasion activity to the extent such activity is deemed inconsistent with Nigerian national security, but reports having identified no such activity

occurring in Nigeria. Informally, DSS could request FIs and DNFBPs to freeze funds or assets associated with the DPRK that come into their possession, with a high degree of confidence. The FIs and DNFBPs would honour such a request, even without any clear or straightforward legal basis, and in the absence of any contrary prohibition. Nigeria did not demonstrate the existence of a robust information sharing mechanism among relevant NCS, financial supervisors, intelligence and LEAs regarding PF. Consequently, the assessment team could not ascertain the extent of intelligence collection and information-sharing with regulated entities in this respect.

Overall conclusion on IO.11

407. Nigeria lacks the basic legal framework to implement PF-related TFS. It did not otherwise demonstrate any of the elements of an effective system for implementing PF-related TFS.

408. **Nigeria is rated as having a Low level of effectiveness for IO.11.**

CHAPTER 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions

- a) Large banks, MMOs, CMOs (broker-dealers, fund/portfolio managers), and insurance companies have a good understanding of ML/TF risks and AML/CFT obligations. Commercial banks, particularly large international banks, conduct internal enterprise-wide ML/TF risk assessments of their customers, delivery channels, geographical area, and certain products and services. However, there is inconsistency in the risk assessment and controls of high-risk areas such as private banking. The understanding of ML/TF risks needs significant improvement among other FIs (for example, forex dealers, MFBs and insurance brokers).
- b) Not all FIs, e.g., electronic currency payment system operators, are subject to the AML/CFT regime. A high number of unregistered/unlicensed forex dealers are operating in the country. They are effectively excluded from the obligation to implement preventive measures, and render the sector largely unsupervised for compliance with AML/CFT obligations.
- c) Across all FIs, the implementation of AML/CFT preventive measures are not consistent with the risk profile of the country. Large commercial banks and those affiliated with international financial groups have a good understanding of nationwide ML/TF risks, and the specific higher-risk situations which require EDD. They apply mitigating measures commensurate to their ML risks. While they do not do so sufficiently for TF risks, cooperation with the security services is positive. Forex dealers and MFBs have a poor level of understanding of ML/TF risks and are not applying mitigation measures consistent with their risk profile.
- d) Cooperation among FIs and the security services is positive on TF.
- e) Large banks implement their CDD obligation to a good extent. The lack of timely, adequate, accurate and current BO information impedes the ability of FIs to identify and verify the identity of beneficial owners of their corporate customers.
- f) While large banks employ software to screen customers against the UN and other international sanctions lists, they did not demonstrate the extent to which they screen against sanctions evasion activities. Forex dealers do not have adequate TFS screening capabilities, creating a major vulnerability.
- g) The number of STRs filed by commercial banks increased over the period under review while reporting among CMOs, insurance brokers and mortgage finance companies were extremely low. The quality and depth of analysis of STRs filed

by these FIs are mixed. Forex dealers and MFBs did not file STRs, while none of the FIs filed any STR related to TF.

DNFBPs

- a) AML/CFT requirements are inoperative against legal professionals, except those registered with the SEC. Their exclusion is due to the decision of a Federal High Court which declared the provisions of the MLPA as unconstitutional concerning legal practitioners. AML/CFT requirements do not cover internet casinos.
- b) Nigeria has designated: hotels, travel agents, dealers in cars and luxury goods, chartered, clearing and settlement companies, supermarkets, dealers in mechanised farming equipment and machines, practitioners of mechanised farming as DNFBPs and subjected them to AML/CFT requirements. Except for car dealers, there is no indication of a comprehensive risk assessment as a basis for the designation. Given the size of the FATF-designated DNFBPs in Nigeria, this undermines SCUML's RBA efforts.
- c) Overall, DNFBPs demonstrated a low level of understanding of their ML/TF risks and AML/CFT obligations. SCUML has developed a generic risk assessment guideline for use by different DNFBPs. However, most of the DNFBPs have not risk profiled their customers, products, distribution channels and geographical area into high, medium and low-risk buckets. Many operators were not aware of or had only recently become aware of the findings of the NRA. SCUML is making efforts to translate relevant documents into local languages to enhance the understanding of DNFBPs.
- d) Implementation of CDD and record-keeping measures are weak among DNFBPs. Ongoing transaction monitoring are ineffective. Also, DNFBPs do not routinely screen their customers against the UN or any international sanctions list. There is no national sanctions list for TF.
- e) Despite the level of ML/TF risks highlighted by the NRA regarding the DNFBP sector, including 80% of TF activities, DNFBPs did not file any STR during the period under review. The lack of STRs is indicative of a poor understanding of ML/TF risk and the ineffective risk-mitigating measures in the DNFBP sector.
- f) Internal controls, including AML/CFT governance structures, training, internal STR escalation mechanism, were generally weak or non-existent among the DNFBPs.

Recommended Actions

- a) FIs should strengthen as appropriate their ML/TF risk assessment model by developing an appropriate proxy to capture TF risks within the Nigerian context.

- b) OFIs, CMOs and insurance companies should develop the appropriate risk assessment models to risk profile their customers, products and services, delivery channels and geographical areas into high, medium and low-risk bucket to deepen their understanding of ML/TF risk and their AML/CFT risk obligation and ensure ongoing monitoring of customers on a risk-sensitive basis.
- c) FIs should develop appropriate tools and implement rigorous oversight and controls concerning PEPs, more effective BOs and maintain accurate and up-to-date records on BO information.
- d) FIs, especially NBFIs, should enhance their risk mitigation and STR reporting obligations.
- e) Nigeria should amend the CAMA to address the technical deficiencies noted in the respect of BO information. FIs should rapidly implement these measures, particularly concerning their corporate customers that are PEPs.

DNFBPs

- a) Nigeria should consider whether maintaining the treatment of all the non-FATF-designated entities as DNFBPs is appropriate in the light of the risk-based approach.
- b) DNFBPs should develop an appropriate ML/TF risk assessment model to risk profile their clients. They should categorise their customers into high, medium and low risk and ensure ongoing monitoring by using appropriate tools and systems. Also, DNFBPs should develop appropriate risk mitigation tools to enhance customer identification and verification in addition to the use of the BVN.
- c) DNFBPs should develop appropriate internal mechanisms to escalate STRs, improve STR reporting in order to achieve DNFBPs STRs reporting obligations. Also, enhance AML/CFT training would improve the overall AML/CFT obligations of DNFBPs.
- d) DNFBPs should acquire appropriate tools to screen customers and transactions against the UN and other international sanctions lists.
- e) DNFBPs should enhance their record-keeping procedures to ensure easy retrieval and timely submission to relevant authorities.

409. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

Immediate Outcome 4 (Preventive Measures)

410. For the reasons of their relative materiality and risk in Nigeria's context, implementation issues the Assessors weighted: most important for the banking sector, which plays a dominant role in Nigeria;

heavily important for forex dealers, lawyers, TCSPs and real estate sectors; moderately important for MVTS, CMOs, DPMS, and Accountants; less heavily for insurance companies and casinos. The NRA rated the ML risk of car dealers as “medium-high”. Assessors did not weight car dealers in this assessment since there was no interaction with them. This is explained in Chapter 1 (section 1.4.3). Overall, the Assessors concluded:

- a) **Most important:** Large banks appear to be implementing preventive measures to a large extent, but need to frequently update their monitoring systems, particularly concerning the identification of suspicious transactions, to improve effectiveness. forex dealers have a relatively low implementation of preventive measures and demonstrated little understanding of their AML/CFT obligations. There are thousands of unlicensed forex dealers.
- b) **Highly important:** Implementation of preventive measures by legal professionals and real estate agents, except solicitors who manage securities for their clients, some TCSPs and real estate agents registered by SEC, is non-existent.
- c) **Moderately important:** CMOs and MVTS and are implementing mitigating measures proportionate to their risks. Implementation by accountants is uneven with the smaller firms demonstrating a low understanding of their AML/CFT obligations. DPMS have a relatively poor implementation of preventive measures and demonstrated low awareness of their AML/CFT obligations. The team did not assess car dealers. The sector is cash-intensive and has “Medium High” ML risk.
- d) **Less important:** MFBs and insurance brokers are not implementing mitigating measures commensurate to their risks. Casinos are not implementing preventive measures and demonstrated a very poor level of understanding of their AML/CFT obligations. Other DNFBPs (not covered under the FATF standards) (for example, hoteliers and travel agents) have a poor understanding of AML/CFT obligations and are not effectively implementing preventive measures.

411. Assessors based their findings regarding IO.4 on interviews with a range of private sector representatives, supervision reports, findings from enforcement actions, input from supervisors, and other Nigerian authorities (including the NRA) concerning the relative materiality and risks of each sector. Meetings with the private representatives revealed varying levels of implementation of requirements related to CDD, record-keeping, PEPs, correspondent banking, wire transfers, internal controls. The banking and securities sectors, especially the larger regional and international institutions, demonstrated a good understanding of ML/TF risks and a good appreciation of the need to implement preventive measures commensurate to their ML/TF risks. The other sectors demonstrated a lower level of effectiveness. For example, foreign exchange dealers, MFBs and most DNFBP sectors demonstrated a poor understanding of risks and ineffective implementation of preventive measures.

5.1.1. Understanding of ML/TF risks and AML/CFT obligations

412. Generally, FIs were required to have AML/CFT policies and procedures to combat ML/TF or other illegal acts. There are measures in place to ensure that FIs have adequate AML/CFT compliance programs which is commensurate with their risk profile.

413. The understanding of risk varies across different sectors and within sectors, depending also on the size and types of products offered and customers. Large FIs have a good understanding of their sectoral ML and TF risks, and the risk faced by Nigeria, as captured in the 2017 NRA. Some sectors (e.g., large

banks, broker-dealers, fund/portfolio managers and insurance companies) exhibited overall a good understanding of their ML risk mainly based on a thorough knowledge of the relevant ML vulnerabilities faced by the sector. Forex dealers, insurance brokers and agents, MFBs, and other types of FIs exhibited a poor understanding of their ML risk. However, the insurance brokers disagree with the conclusions of the NRA, mainly regarding country threats and vulnerabilities. Despite the high level of terrorism in Nigeria and its related TF activities, FIs demonstrated a weak understanding of TF risks.

414. Banks, MVTS, broker-dealers, fund managers and insurance firms risk-profile their customers taking into consideration customer, product, geographic areas, transactions or and delivery channel risks. FIs, including banks, tend to focus on the risk indicators in their sector Regulations. There was no evidence that FIs document their risk assessment as required by the 2011 CBN ML/TF Risk Assessment manual. Also, FIs did not demonstrate that they had used the findings of the NRA to conduct their risk assessments.

415. Large, formal FIs appreciate Nigeria's TF risks, generally understood the TF risks of Nigeria. These FIs have instituted various preventive measures to mitigate against TF, including scrutinising transactions involving the North East, repeated ATM withdrawals, and other typologies. They also described a close and responsive relationship with Nigerian CT authorities. Still, based on Nigeria's assessment that some 20 per cent of TF occurs in the formal financial system in which banks play a major role, there appears to be evidenced in the lack of TF-related STRs filed within the assessment period. There is also an excessive focus on sanction screening to address TF risk.

416. In general, the FIs' understanding of the ML and TF risk is affected by the shortcomings noted in the analysis of IO.1 concerning the country's understanding of risk. Nigerian FIs do not systematically scrutinise transactions with indicia of corruption or adequately document and refine risk assessments and controls of PEPs as customers or beneficiaries. As the NRA itself noted, many FIs lack systems to perform PEP screening and have difficulty identifying PEP customers.

417. The lack of an assessment of the risk of forex dealers (at sector and product/services level) and other unlicensed FIs not only limited Nigeria's risk understanding of this major subsector, but also hindered forex dealers' ability to conduct a firm-level risk assessment taking into account sectoral risks as identified by the country.

418. As noted under 5.2.4 above, FIs, including banks, do not have a good understanding of their obligations concerning BOs (for example, BO is not always the shareholder with more than 5% shares in a company, but also the person having ultimate effective control over the customer). This lack of understanding is an issue particularly for banks who have corporate and trusts as customers, including those introduced by lawyers and accountants/auditors/tax advisors. Some of the FIs (e.g., forex dealers, MFBs and insurance brokers), did not exhibit a good understanding of their AML/CFT obligations. Except for large banks, MVTS, some CMOs, awareness of specific target financial sanctions (TFS) obligations was low among FIs.

419. MVTS who deal with only inbound remittance services have systems that monitor the originating countries and remittance originator. These systems flag transfers that originate from high-risk jurisdictions, and MVTS subject the flagged transfers to further checks. MVTS interviewed demonstrated a good understanding of their ML risks and a low understanding of TF risks. MVTS have implemented adequate controls to mitigate ML risks and continue to rely heavily on sanctions list from globally recognised bodies and advisories from competent authorities.

DNFBPs

420. The DNFBP sector of Nigeria comprises land-based casinos, real estate agents, estate surveyors and valuers, DPMS, Accountants/Auditors/Tax advisors, audit firms, tax consultants and TCSPs. Nigeria has also designated, as DNFBPs, (i) hotels and travel agents; (ii) dealers in cars and luxury goods; (iii) chartered, clearing and settlement companies; (iv) supermarkets, (v) dealers in mechanised farming equipment and machines; and (vi) merchandised farmers. Real estate developers/agents dominate the activities of the DNFBP sector in terms of numbers and financial assets (see chapter 1). Accountants/Auditors/Tax advisors) and the other DNFBPs (car dealers, casinos, DPMS, lottery and pool betting) are the next dominant entities in the DNFBP sector.

421. Unlike FIs, the understanding of ML/TF risks and AML/CFT obligations among DNFBPs is less developed. Most operators in the DNFBP sector are not aware of the findings of the NRA. The different DNFBPs demonstrated a low level of understanding of ML/TF risks and their AML/CFT obligations, including suspicious transaction reporting as highlighted below:

- a) ***Real estate developers/agents:*** Real estate developer/agents demonstrated a low understanding of ML/TF risks and their AML/CFT obligations. They focus on business risks, and do not ML/TF risks associated with their customers, products and services they offer.
- b) ***Accountants/Auditors/Tax advisors:*** Accountants/Auditors/Tax advisors within foreign firms are familiar with ML risks and their obligations under the AML/CFT laws and assess their ML/TF risks based on the requirements of group policies and procedures. Accountants/Auditors/Tax advisors demonstrated a moderate understanding of ML risks and a low understating of TF risks. The smaller firms and accredited individual practitioners have a low understanding of ML/TF risks and their AML/CFT obligations.
- c) ***Lawyers:*** As discussed under Chapter 1, AML/CFT requirements are inoperative against lawyers. Therefore, legal professionals in Nigeria are not under legal obligation to undertake ML/TF risks assessments. Lawyers have a low understanding of ML/TF risks issues, including the transactions which pose a higher risk to ML, including PEP transactions. They did not participate in the NRA, though the NRA considered the legal profession as a higher-risk sector. The lawyers disagree with the conclusions of the NRA regarding law firms as not evidence-based. The lawyers emphasise the existence of adequate measures to ensure compliance with their AML/CFT obligations, including the obligation to maintain clients' accounts. Nevertheless, compliance with AML/CFT requirements by lawyers was non-existent, even before the Court decision.
- d) ***TCSPs:*** Lawyers and accountants provide trust and company services, but the MLPA identifies TCSPs as separate entities. The 1500 TCSPs are subject to AML/CFT obligations. Despite the high vulnerability rating highlighted in the 2017 NRA, lawyers are not subject to AML/CFT obligations. Also, accountants are not subject to effective AML/CFT supervision.
- e) ***Casinos:*** The AML/CFT regime does not cover internet casinos. Operators of land-based casinos are not aware of the outcomes of the NRA report and demonstrated a poor understanding of ML/TF risks.
- f) ***DPMS:*** The DPMS sector is subject to AML/CFT obligations, including STR reporting and TFS obligations. DPMS have a low level of awareness of ML/TF risks. DPMS recognised that criminal elements could abuse their sector for ML, due to their client base (PEPs and their

close family members). However, DPMS are yet to understand the importance of their role in addressing the ML/TF risks they face.

- g) **Car dealers:** The Assessors did not consider car dealers in the assessment due to the low number registered with SCUML compared to those not registered. However, Assessors recognise the nature of transactions, cash-intensive, and the ML risk-rating by the NRA, “medium-high”.
- h) **Hotels and travel agents:** Hoteliers and travel agents interviewed demonstrated a poor understanding of ML/TF risks and their AML/CFT obligations. Despite this, this sector was not allotted much weight in this assessment.

422. The Assessors did not meet with other DNFBPs identified in the SCUML regulation, including car dealers. Overall, the awareness of risk assessment requirements and the adequacy of risk understanding among DNFBPs is low in the light of their significant exposure to ML/TF.

423. DNFBPs demonstrated a low understanding of ML/TF risks and awareness of AML/CFT requirements.

5.1.2. Application of risk mitigating measures

424. FIs and DNFBPs apply varying degrees of risk-mitigating measures, as observed in the analysis below. Concerning TF, as noted above, reporting entities depended excessively on sanctions screening tools to mitigate their TF risks, although instituted controls based on other risk criteria as well. Most reporting entities, other than banks, were unaware of their legal obligations to implement TFS.

Financial institutions

425. Large banks, MVTS, broker-dealers, fund/portfolio managers and insurance companies generally apply mitigating measures that are proportionate to their risks. Within this subset of FIs, the robustness of mitigating measures is better among large banks than insurance firms and CMOs. Most large banks have automated systems with relevant built-in red flags to continuously monitor transactions to identify unusual activities. The outcomes of the 2017 NRA partly inform these measures (for example, private banking) and, in some cases, the firms’ risk assessment.

426. FIs, particularly large banks, have ML/TF risk assessment models and risk profile customers based on customer type, products and services, delivery channels and geographical areas into high, medium and low-risk categories. These customer classifications focus on ML risks and do not include parameters to measure TF risks. FIs did, however, institute certain transactional screening parameters, for example, flagging geographic red flags on customer activities.

427. The team has a concern regarding some FIs’ risk classification of their customers. In most cases, the requirements used by the firms consider the business activity or occupation of the customer. They include several factors for the assessment of the geographical risk of the customer (for instance, not just the nationality, but also the residence or principal place of business). The internal policies of the majority of FIs mostly focus on customer-related risk factors. Therefore, FIs do not integrate the risk elements of BO into the analysis of the risk posed by customers. The customers of most FIs in Nigeria include high network individuals and corporate entities, including PEPs. Including the factors on the BO, and the risk assessment of customers would allow a more effective risk segmentation and management of customers.

428. Agents of service providers in the MVTS sector are only permitted, by Regulation, to transfer money or value on behalf of one FI authorised by the CBN. This measure strengthens the AML/CFT system against the higher-risk related to cross-border MVTS. MVTS implement transaction monitoring measures that are generally commensurate with the risk level of their customers. The monitoring system takes account of the customer risk indicators. They are also proportionate to the fixed sum thresholds for identifying higher-risk situations. Insurance companies undertake self-risk-assessment and use the results to limit the businesses to those risks within their appetite consistent with regulatory requirements.

429. Forex dealers, MFBs and insurance brokers did not demonstrate the implementation of measures commensurate to the specific risk factors in place to mitigate their risks. For example, they lack awareness or programs to identify red flags for suspicious transactions and automatic mechanisms for screening the sanctions lists.

430. Forex dealers, MFBs and insurance brokers do not have risk assessment models. They do not apply measures to mitigate the high ML/TF risks identified by the NRA or individual themselves. Forex dealers operations are mainly cash transactions carried out by high worth individuals, including PEPs, within and outside Nigeria. These FIs do not categorise their customers based on customer type, product and services offered, delivery channels and geographical areas.

DNFBPs

431. The standard of application of risk-mitigating measures by DNFBPs is uneven across sectors and DNFBP types. Accountants/Auditors/Tax advisors apply AML/CFT mitigating measures based on group-wide policies. However, accountants are not effectively implementing mitigating measures. SCUML report of an accounting firm showed that the AML policy did not correctly address the obligation of the firm under the MLPA. For example, the internal audit function lacked the competence to conduct a proper AML/CFT audit.

432. Casinos have several measures in place to mitigate the risk of gambling frauds, and not to mitigate the ML/TF risks identified in the NRA and by themselves. The measures include the loading cash on specific gaming cards; non-payment of winnings to third-parties or through credit or debit cards; and payment of winnings through the same mode of payment used by the customer.

433. Generally, DNFBPs are yet to adopt risk-mitigating measures to address the risk identified by the NRA. Most DNFBPs have not implemented some of the non-sector specific guidelines issued by SCUML. Real estate developers and agents are of the view that the construction of residential homes for individuals do not involve high ML/TF risk. They do not consider it necessary to apply mitigation measures.

434. A significant number of DNFBPs do not apply the risk-based approach (RBA) in their business relationships. The risk assessment methodologies of DNFBPs do not take account of the four main risk elements (the customer, product, interface and country). DNFBPs do not take account of the risks posed by the nature of the business of the client company in categorising their clients.

5.1.3. Application of CDD and record-keeping requirements

FIs

435. Implementation of CDD measures vary among FIs. They understand and carry out the record-keeping requirements. However, the absence of an express requirement in the domestic framework to keep records of BOs could impede the effectiveness of record-keeping measures.

436. FIs implement record-keeping requirements concerning CDD measures for both customers and BOs. However, the internal policies of some FIs do not incorporate recordkeeping requirements for BOs. Most FIs demonstrated effective implementation of CDD requirements (for example, customer identification and verification). However, forex dealers and MFBs do not have effective verification systems. Insurance firms confirmed that they also conduct CDD before paying out the proceeds of a policy to a beneficiary and keep records accordingly. FIs indicated that records are kept for a minimum of five (5) years as enshrined in AML/CFT laws.

437. Large commercial banks maintain electronic records at both country and group levels. The financial intermediaries review the information given, according to the risks and the customer's situation. They depend on their knowledge of the customer's business, public information and, if necessary, the information provided by external companies. If the intermediary is a fiduciary or fund/portfolio manager, they also often refer to information kept by the bank.

438. Large banks have automated systems for monitoring transactions of customers and identifying unusual transactions. However, these monitoring systems are not frequently updated, which reduces their effectiveness to identify suspicious transaction reporting. Other FIs, especially forex dealers, MFBs, insurance brokers, do not have effective systems to monitor unusual transactions and STR reporting. They monitor unusual transactions and suspicious transaction reporting manually.

439. Generally, FIs implement CDD and record-keeping measures to meet regulatory requirements. For high-risk activities (e.g., remittances), the institutions interviewed collect adequate information from both the ordering and beneficiary sides to determine whether to file an STR.

440. Furthermore, banks employ a risk management system to determine whether a potential customer, a customer or the beneficial owner is a PEP. If a customer has a high ML or TF risk in some of their activities and fails to submit CDD documents, the account is closed, and an STR filed. Despite these controls, Nigeria continues to face PEP-related fraud and ML through the financial and DNFBP sectors.

441. Large banks conduct CDD on SEC-registered financial intermediaries (lawyers, solicitors and real estate agents) before onboarding and continuously monitor their transactions. However, most lawyers are unwilling to comply with the CDD requirements by these banks and accounts are not opened and, in some cases, closed and STR filed.

442. FIs, except forex dealers, MFBs and insurance brokers indicated that they implement measures to confirm the identity of the BOs of their customers. Although inadequate, most depend on the CAC for the source of such identification of BOs. However, company registration documents kept by the CAC are not dependable and current. Large banks, CMOs, insurance brokers indicated that they identify the BO using the shareholding structure as stated in the company registration documents. FIs classify holders with more than 5 per cent shares in a legal person as BO(s). They refuse business when CDD is incomplete.

443. The introduction of the BVN by the CBN has improved the CDD process. The CBN requires all persons who undertake banking transactions to have a BVN. However, as of July 2019, only 74.67 mln (approximately 70.7%) of all bank accounts in Nigeria had BVNs, with a high backlog of accounts not having BVNs and require updating. FIs under the supervision of SEC and NAICOM do not use the BVN.

444. There are various practices in the banking sector for updating information on existing customers and changes in their risk level. The large banks implement and adopt a risk-based approach. Large commercial banks, CMOs and insurance companies update client information periodically with new information as part of the ongoing CDD process and re-categorise clients in their AML/CFT systems.

Insurance brokers/agents' firms conduct much of the CDD in this sector. However, there is limited supervision by insurance companies and NAICOM. The firms maintain records, including BOI where available. The practices do not seem satisfactory. Other FIs did not demonstrate the use of effective ongoing monitoring tools.

445. Notwithstanding the above, FIs still experience some challenges in identifying and verifying BO of legal persons and arrangements, including control of NPOs, partially due to the absence of complete and current information kept by the CAC.

446. MMOs monitor the transactions of their super agents and their agents to ensure that they operate within limits and apply the CBN's three (3) tier KYC/CDD policy.

447. Overall, FIs apart from forex dealers, MFBs and insurance brokers identify higher-risk customers like PEPs at the onboarding stage and review them annually. The FIs initiate the annual reviews based on developments related to the customer's risk level; negative information reported in the press or by a third party; or where the FIs observe any unusual activity during transaction monitoring. Some major institutions active in retail banking, with large numbers of customers, also review low risks categories of customers and business relationships periodically though very inadequate. Transaction monitoring systems include high alert thresholds for customers which may not be complete and risk-based.

448. Large banks, CMOs and insurance brokers demonstrated increased compliance with CDD and record-keeping requirements as shown in the onsite examination reports of CBN, SEC and NAICOM. However, forex dealers and MFBs had more violations of AML/CFT regulatory requirements.

DNFBPs

449. DNFBPs demonstrated different degrees of effectiveness in implementing CDD requirements and a generally low level of understanding and implementation of the record-keeping requirements.

450. Large accounting firms employ CDD requirements and refuse to on-board customers or conduct transactions when they are unable to complete the CDD process. Application of CDD and record-keeping measures are quite basic or non-existent among other DNFBPs including real estate agents.

451. DNFBPs did not demonstrate a good understanding of the concept of BO. However, over-reliance on BO information maintained by CAC, which are often not up to date, may lead to weak due diligence, including revealing the natural persons behind businesses.

452. DNFBPs with on-going business relationships with their customers, such as accounting firms, apply periodic reviews of files based on the customer risk profile. Casinos have automated systems for on-going monitoring, and subject highlighted cases to proportionate review (e.g., deposits/withdrawal history as well as gameplay monitoring). They also have tools to trigger alerts and reports regarding transactions or customers that may seem suspicious or unusual.

453. Real estate developers/agents do not have AML/CFT policies or procedures to record transactions appropriately, collect CDD documents or implement risk assessments. They usually collect documents manually and conduct risk assessments as a mental process rather than a recorded one. Also, they do not differentiate between the levels of CDD collected for high-risk and low-risk customers.

454. Real estate developers/agents, accounting firms and casinos refuse business when CDD is incomplete CDD. Still, the examples provided referred mostly to the on-boarding of the client rather than for business relationship already established. Other types of DNFBPs did not demonstrate awareness of

their obligation to refuse business relationships in case of failure to satisfactorily CDD, including filing an STR in relation to the customer.

5.1.4. Application of EDD measures

PEPs - FIs

455. Sectoral Regulations rightly require FIs to take steps to identify potential and existing customers that are PEPs, obtain and monitor their accounts, transactions, and relationships. Enhanced measures include (i) senior management approval, enhanced and ongoing monitoring of business relationship, (ii) identification and verification of the identity of the beneficial owner or the beneficiary, (iii) annual review of relationship, (iv) verification of source of funds. FIs also file monthly transaction reports on all transactions with PEPs to the CBN and NFIU. Nigeria's statutory requirement for PEPs contains a deficiency regarding the timing for ascertaining the status of a customer as PEP and beneficiaries (see criterion 12.1). There are also concerns regarding the PEPs requirement for insurance companies. Considering the corruption challenges in Nigeria, FIs (primarily, banks, forex dealers, CMOs and insurance companies) should focus their risk-based approach, to identify and monitor PEP activity. This focus is critical as banks frequently feature at all stages of laundering the proceeds of corruption in Nigeria, with several past cases of bank employee complicity and connivance.⁸⁹

456. The application of the PEP requirements varies depending on the size and geographical footprint of the FIs. Large banks, CMOs and insurance companies have a good understanding of their obligations concerning PEPs, including corruption risk. They are aware of the requirements to establish the source of a customer's funds; conduct EDD for private banking; and exercise diligence on the family members and associates of PEPs. They also explained arrangements in place for the approval by senior management or special committees of the establishment and continuation of business relationships.

457. Still, significant issues presented themselves as raising questions regarding the effectiveness of FIs' efforts to screen and monitor PEPs. FIs reported difficulty identifying PEPs due to the low numbers cited in the NRA for PEP clients (see pp. 110-112) among key FIs, which do not appear accurate. PEPs are reluctant to provide full CDD details, including their sources of wealth, and insist on confidentiality in their dealings.

458. It is not clear that banks have sufficient controls to overcome these obstacles to effective PEP management. Large banks rely on AML software to identify both foreign and domestic PEPs. However, they appear to rely on this system highly and do not seem deeply acquainted with the criteria for such lists or actively curate their lists based on relevant information. Smaller FIs focus solely on domestic PEPs and do not have systems to identify and maintain PEP lists. Their means of compliance is difficult to ascertain and not demonstrated. Also, FIs tend to rely more on the information provided by the customers certified by lawyers or auditors in verifying the source of wealth and the source of funds, including for high-net-worth clients and PEPs.

⁸⁹ As a former Chairman of the EFCC, Nuhu Ribadu observed, "almost no case of corruption occurs without the involvement of banks and bankers." Onyiliogwu, Ike, "Money Laundering by Politically Exposed Persons in Nigeria: Consequences and Combative Measures" (2018), https://digitalcommons.lasalle.edu/ecf_capstones/29.

459. These vulnerabilities were more acute and likely consequential for the forex sector, which was recognised by authorities as exploited frequently by high-ranking government officials and political appointees. Forex dealers, as well as MFBs, exhibited limited knowledge of their obligations regarding PEPs and relatively weak controls.

460. CBN statistics and other information demonstrate supervisory violations of CDD and other requirements concerning PEPs. As indicated in Table 6.11 below, the CBN recorded 48 violations by banks regarding PEP obligations (2015 - 17, 2016 - 11; 2017 - 5, 2018- 11, 2019 - 4). The violations included failure to (i) obtain management approval before opening accounts for individual and corporate PEPs (including directors); (ii) conduct CDD; (iii) classify a customer as PEP; (iv) establish the source of wealth of customers identified as PEPs; (v) update identification document; and (vi) failure to submit returns. FIs did not demonstrate measures to mitigate the high risks associated with key banking products appropriately. More so, regarding private banking and loans/credit - considering the NRA's finding that PEPs often repay loans in cash using commingled funds (p. 96).

461. The NRA found that lawyers have PEP clients, giving rise to ML risks. It remains to be seen whether the absence of supervision of lawyers exacerbates the issue of undetected PEP relationships with and activities through FIs. Also, in the absence of supervision, it is not possible to conclude that lawyers can readily serve as undeclared proxies for PEPs through client trust accounts or other means.

Correspondent banking

462. Banks in Nigeria have correspondent banking relationships with banks in other jurisdictions. They generally establish these relationships at the authorisation stage, and therefore verify them during the application process. Correspondent banking relationships involve an assessment of the risk associated with the establishment of the business relationship with the correspondent bank. Banks are generally aware that the MLPA prohibits them from establishing or continuing with correspondent banking relationships with shell banks. Upon request by the CBN through the Prudential Return, banks provide the CBN with information on their correspondent banking relationships, including the locations of the correspondent banks. Correspondent banks also ensure that commercial banks have appropriate AML/CFT measures in place before the commencement of relationships and on an ongoing basis. Banks terminate business relationships once a respondent bank fails to meet AML/CFT obligations. Other FIs do not maintain correspondent relationships with foreign FIs.

New Technologies

463. FIs undertake an ML/TF risk assessment for all new products and services, as part of the CBN, SEC and NAICOM licensing procedures and in the light of their risk assessment models. Payment Service providers, particularly MMOs, demonstrated a good awareness of the ML/TF risks associated with new technologies and measures in place to mitigate them. The implementation of a regulatory framework for new business activities such as MMOs assesses new technologies as part of their systems of controls for CDD and on-going monitoring. Examples include the CBN, SEC and NAICOM policies on the three (3) tier CDD framework for mobile users. MMO conduct further out-house technology checks through external service providers such as refinitiv world check. Commercial banks partner with MMOs to deliver financial services through the mobile network implementing the CBN's financial inclusion and cashless policies. Nigeria recognises virtual assets as an emerging risk in Nigeria and globally.

Wire transfers

464. Banks and MVTS provide wire transfer services, with MVTS belonging to large international firms that apply group-policy requirements, including in the implementation of wire transfer rules. They have software that disallow or block the execution of wire transfers without complete originator/beneficiary information. The software also detects names on sanctions-related lists embedded in the software. MVTS highlighted cases where the systems blocked wire transfers related to high-risk types of customers (e.g., PEPs). In some cases, the software blocks the transactions without indicating the specific indications of the cause (which is not ideal, as the relevant staff needs to request for the information from the group CO, which may affect the timeliness of certain processes – e.g., if the FIs need to notify the NFIU about a positive match with the name of a designated terrorist or terrorist organisation on the UN list).

Targeted financial sanctions related to TF (FIs)

465. The understanding of TFS and its operational implications need considerable improvement across all sectors, particularly among the smaller FIs (MFBs, forex dealers and insurance brokers). Most types of FIs (banks, MVTS, broker-dealers, fund/portfolio managers, and mobile money operators) conduct checks of customers at onboarding and periodically (with large banks using commercial databases). The issues noted in the analysis of the FI's understanding of BOs also affect the implementation of TFS, as it prevents the identification of potential targets that are BOs of the customer. FIs (banks and MVTS) providing wire transfers also screen the beneficiary of the transactions.

466. FIs have a mixed understanding regarding the sanctions list against which to screen names. Some FIs refer to the “OFAC list” (per CBN’s AML/CFT Regulation (p. 39), others a “FATF list”. Some small FIs (e.g., MFBs, Forex dealers, and insurance brokers) are not aware of the existence of any lists. Some firms refer to the list of countries under sanctions and confuse them with the list of designated persons/entities. There is inadequate awareness of internal procedures for dealing with matches (potential or real) across all types of FIs as well as regarding the legal requirements and implications concerning TFS. Generally, FIs demonstrated a passive approach to screening and an absence of even false positives, suggesting a failure in establishing appropriate algorithms for screening to identify the potential evasion of TFS.

Targeted financial sanctions related to TF (DNFBPs)

467. The understanding of TFS requirements also needs significant improvement across all types of DNFBPs. DNFBPs affirmed that they conduct checks of customers at onboarding and periodically (Accountants/Auditors/Tax advisors, also using commercial databases). However, they did not demonstrate awareness to do the same for BOs and senior management in the case of corporate entities. They lack understanding of which “list” to screen against, with some referring to OFAC, FATF, and some real estate agents not being aware of the existence of lists. Except for some law firms registered with the SEC and real estate developers/agents, there is inadequate awareness of internal procedures for dealing with matches (including with false positives). The issues noted regarding the DNFBPs’ understanding of BO also present an obstacle to the identification of potential targets, thereby affecting the implementation of TFS.

Higher risk countries (FIs and DNFBPs)

468. The CBN, SEC and NAICOM have directed banks, CMOs and insurance companies to classify as “high-risk” clients with links (e.g., nationality or residence) to countries on the FATF list of higher-risk jurisdictions. FIs, particularly large banks, MVTS, CMOs, insurance companies regularly access the FATF websites or, for those that are part of international groups, receive alerts from the group CO. Overall, large

FIs demonstrated effective implementation of enhanced due diligence requirement. Some small FIs (forex dealers and insurance brokers) were not aware of the higher-risk countries identified by the FATF.

469. DNFBPs, particularly real estate developers/agents, demonstrated a poor understanding of jurisdictional risks, including the case of higher-risk countries identified by FATF.

5.1.5. Reporting obligations and tipping off

470. FIs and DNFBPs in Nigeria send monthly returns on PEPs, correspondent banking, new technologies, wire transfers, TFS and higher-risk countries identified by the FATF to the supervisory authorities. However, considering the weak understanding and application TFS by other FIs indicates low returns filed, resulting in the low TF-related STRs filed and tipping off.

FI_s/DNFBPs

471. As discussed under IO.6, the breakdown of STRs by the industry sector filed from 2016 to 2019 showed that banks largely account for the majority of STRs filed by FIs within the assessment period. However, insurance firms and CMOs filed a low number of STRs. Forex dealers filed one STR, while the remaining OFIs, including MVTS and MFBs, as well as DNFBPs, filed none (see Table 3.6).

Financial Institutions

472. Overall, STRs filed by FIs and DNFBPs is unsatisfactory compared to the level of predicate offences (for example, corruption, bribery, romance fraud) involving a high level of government officials, including PEPs and high net worth individuals. Cases show that most corrupt public officials channel much of the proceeds of corruption through the banking and the DNFBPs sectors of Nigeria. The NRA also highlights the low filing of STR by these sectors, due to inadequate CDD/EDD undertakings and record-keeping, lack of customised training and weak AML/CFT governance structures especially in the DNFBPs sector, ineffective internal regime within FIs and DNFBPs to escalate STRs and file to the NFIU. The low rate of STR filing has also been a matter of concern in various inspection reports.

473. FIs file CTRs to the NFIU while DNFBPs file to SCUML. As with STRs, banks file the majority of CTRs indicating a good understanding and implementation of their legal obligations as compared to other FIs and DNFBPs. Though satisfactory, the filing of CTRs is not consistent with the number of STRs filed within the period, as shown in Table 3.6 in IO.6 above. SCUML overstretches its resources to undertake a strategic analysis of the CTRs received from the FATF and Nigeria-designated businesses and professions and subject to the AML/CFT regime.

474. Overall, FIs (excluding large commercial banks) have a poor understanding of the legal requirements regarding STRs and tipping off measures. Supervisory authorities include the practical measures to prevent tipping off in any on-going AML/CFT training to promote an understanding and an awareness of what would constitute a tipping-off offence. CBN, SEC and NAICOM review the training plans as part of its risk assessment of the firm. The policies of large bank have detailed provisions on tipping-off. However, forex dealers and MFBs could not clearly explain their procedures to prevent tipping off the clients.

475. There are also concerns about the quality of STRs filed by CMOs and defensive STR filing by FIs, particularly large banks. There are situations when, in the opinion of LEAs, FIs file STRs only after they become aware (for example, through media) of an on-going investigation.

476. Large banks have imbedded the effects of tipping-off in their AML/CFT policies and conduct frequent training to highlight ways tipping-off can occur. Large banks have internal mechanisms to escalate suspicious transactions for filing to NFIU.

477. For FIs, especially large banks and other core principles FIs, internally, STR forms are sent electronically to the compliance team. The form is then assigned to the investigative team for a preliminary assessment and then referred to the risk team, which determines whether to file the STR or not. Relevant staff review customer accounts to verify whether there have been changes in the customers' circumstances before filing an STR.

DNFBPs

478. For DNFBPs, there is a generally low level of compliance with STR filing obligations. The sector has filed no STR relating TF in the last four years notwithstanding the vulnerabilities and risks. The issues noted earlier in the case of FIs are also relevant for DNFBPs. Accountants/Auditors/Tax advisors, lawyers, real estate developers/agents demonstrated a poor understanding of the reporting requirements. Lawyers are of the view that LEAs could obtain whatever information they require from banks where the lawyers maintain client's accounts. The understanding of other DNFBP types, particularly the procedures for reporting to the NFIU through the new platform (goAML), was not always satisfactory.

479. There are serious concerns regarding the quality, considering the low number of disseminations by the NFIU and the near absence of investigations prompted by STRs, also for DNFBPs, particularly the real estate developers/agents. There are also concerns regarding exemptions for legal professional privilege in compliance with footnote 66 of the FATF Methodology (see c.23.1).

5.1.6. Internal controls and legal/regulatory requirements impending implementation

480. Generally, FIs, except, forex dealers, MFBs and insurance brokers, have good internal controls and procedures which are well documented and reviewed periodically. FIs that are part of a group do so proportionately to their size and risks, including internal audit requirements. FIs indicated that they screen all staff during recruitment and existence in the FIs and information is maintained at both group and subsidiary levels. FIs undertake ongoing AML/CFT training for all its employees and submit prudential returns on AML/CFT training to their respective supervisors. Also, large FIs have independent departments responsible for ensuring their compliance with AML/CFT requirements. In the large FIs, the independent compliance function is generally performed at the head office by a business unit also in charge of legal affairs and reports directly to the governing board of directors.

481. There are no FI secrecy laws or application of common law in Nigeria that inhibit the implementation of AML/CFT measures or restrict the exchange of information between firms. The compliance departments of the larger banks interviewed have access to necessary information and are generally qualified and experienced. They ensure that the tasks involved in the preventive management of ML/TF risks are carried out and are part of the institution's internal control structure. International financial intermediaries interviewed showed evidence of collaboration with their audit departments to conduct annual independent testing of AML/CFT functions.

482. Larger FIs have set up internal control structures that ensure an independent unit reviews their AML/CFT system. Forex dealers, MFBs and insurance brokers do not undertake independent testing of the AML/CFT functions. They consider their operations as small and that conducting independent testing of AML/CFT function may increase their operation cost.

483. Financial groups have AML/CFT policies that apply to all entities within the group. However, there is still some doubt about the control exercised by FIs over their foreign branches and subsidiaries. Groups' locations abroad have local teams that report to the head office's compliance department. Internal and external audits of the foreign entities regularly check up on compliance with the group's internal directives. FIs interviewed did not demonstrate effective information sharing among the parent and subsidiaries for AML/CFT purposes.

484. FIs have applied internal control and procedures to a large extent to ensure compliance with AML/CFT requirements. Large banks have documented internal control policies which are reviewed and updated annually. The policies also include procedures for independent testing of the AML/CFT function by internal and external auditors. AML/CFT supervising authorities conduct annual targeted and on-the-spot AML/CFT inspections.

485. Not all financial intermediaries implement preventive measures that are proportional overall to their risks due to weaknesses in their assessment and understanding of their ML/TF risks. More notably, there are significant gaps in both the financial and DNFBP sectors concerning the implementation of controls and procedures for STR reporting. Most non-core principles institutions have filed a low number, or no STRs over the review period (see Table 3.7 above).

486. Apart from the big auditing firms, there is limited internal controls for compliance with AML/CFT obligations by DNFBPs.

Overall conclusions on IO.4

487. Internet casinos are currently not subject to AML/CFT Regulations in Nigeria and their operations pose a high level of ML/TF risk to Nigeria. Also, the high level of predicate offences (for example, bribery, corruption and fraud) perpetrated by PEPs who patronise financial services, exposes FIs to high ML/TF risks.

488. Large FIs have a good understanding of the ML risk and a limited understanding of TF risk. Large banks, CMOs and insurance companies have ML/TF risk assessment models to risk-profile their customers into high, medium and low-risk buckets. These FIs implement CDD/EDD measures to mitigate ML/TF risks identified. However, there are serious concerns about how FIs apply risk-mitigating measures to PEPs.

489. Large banks, CMOs, MVTS, have automated monitoring and sanction screening tools, however, these are absent for forex dealers, MFBs, insurance brokers and most DNFBPs. Despite an increase in the filing of CTRs, DNFBPs demonstrated poor understanding of ML/TF risk and their AML/CFT obligations. FIs require regular access to current Sanctions Lists and effective assessment tools that capture TF risks by FIs to improve their understanding of ML/TF risk.

490. The DNFBP sector is rated high-risk in the NRA. A key mitigating factor to their ML/TF risk is that many of these DNFBPs use the banking system, where their activities undergo further AML/CFT scrutiny. However, the high ML/TF risk posed by forex dealers and weak implementation of AML/CFT by this sector, as well as MFBs, insurance brokers and DNFBPs creates contagion risk for Nigeria's banking sector.

491. Weak compliance with the key STR reporting requirements and the absence of effective procedures and controls have contributed to the very low number of STRs reported for years by most

FI sectors and none by DNFBPs. The importance of this preventive measure weighs significantly on the overall rating. It demonstrates significant weaknesses in other preventive measures, including, but not limited to CDD, ongoing monitoring, record-keeping, training and other resources, as well as a failure by the designated authorities to supervise their entities for compliance with the STR obligation effectively. The highlighted deficiencies require fundamental improvements.

492. **Nigeria is rated as having a Low level of effectiveness for IO.4.**

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Financial Institutions

- a) Licensing authorities for FIs implement measures to prevent criminals and their associates from holding, being the beneficial owner of a significant interest or hold management role in FIs. All FI applicants are subject to “fit and proper tests” that include criminal background checks. However, the authorities do not have systemic processes to ensure that they are aware of changes to the integrity after market entry. To increase the formalisation of the forex sector, the CBN licensed five hundred forex dealers within the span of a few months. While this is commendable, the number of licenses approved within the period calls into question the extent to which the CBN complied with the market entry controls for those forex dealers.
- b) The financial sector supervisors (CBN, SEC and NAICOM) have a good understanding of the country’s ML risk. However, their understanding of ML and TF risk is still evolving. They base their understanding of risk primarily on the 2017 NRA and sectoral ML/TF risk assessments and information obtained during prudential supervision of their respective sectors. Strong collaboration between CBN, SEC and NAICOM through the AML/CFT Consultative Stakeholders Forum provides a platform of information exchange which also contributes to their understanding of risks across the various sectors of the financial system.
- c) The strategies and activities of financial supervisors are not well aligned with the risk of the sectors they supervise. For example, the CBN did not demonstrate consistent supervision of forex dealers, rated by the NRA as high-risk, in a manner commensurate with that risk forex dealers.
- d) A few providers of financial activities fall outside the scope of Nigeria’s supervisory framework (for example, unregulated lenders and unlicensed forex dealers).
- e) The CBN generally supervises banks on a risk-sensitive basis. It is gradually extending the same to the non-bank FIs under its supervision. The risk-based supervisory processes for the capital market and insurance sectors are evolving. The number of on-site inspections/examinations conducted by FI supervisors are low relative to the number of licensed reporting entities, which impacted the number of STRs filed by FIs.
- f) AML/CFT supervisory cooperation and coordination are generally good at the policy and operational levels.

- g) Supervisors are generally of high calibre and appropriately trained for supervision. However, the vast number of FIs subject to AML/CFT supervision (over 5,800 for the CBN alone) stretches the capacity to conduct effective ongoing supervision, particularly with respects to onsite inspections and the high-risk banking and forex sectors.
- h) While supervisory actions including sanctions (administrative and monetary penalties) saw modest improvements in compliance requirements across the various sectors of FIs. The supervisory actions in most sectors perceived as medium and high risk are not consistent with the risk.

DNFBPs

- a) Not all FATF-designated DNFBPs (lawyers and internet casinos) are subject to AML/CFT supervision. The AML/CFT regime does not cover all land-based casinos. Unlicensed internet casinos are operating in the country. Most of the real estate agents and accountants have not registered with SCUML and are hence not supervised by SCUML for AML/CFT purposes.
- b) Market entry controls are weak for most DNFBP subsectors. The SCUML's registration process is insufficient for fit and proper purposes, particularly relevant to establishing the background of owners, controllers and managers, including their associates. The lottery and gaming boards of two States (Lagos and Oyo) subject land-based casinos to licensing requirements. Unlicensed casinos are operating in the remaining States, and not subject to fit and proper tests due to the absence of such regimes. Internet casinos are out of the scope of the AML/CFT regime of Nigeria. SRBs for the real estate, DPMS and accountants' sectors do not or barely apply AML/CFT requirements in their licensing and market entry processes.
- c) The MLPA is not operative in respect of lawyers because of a Court decision. The Court nullified the designation and inclusion of legal practitioners as DNFBPs and the power of the Federal Government, including SCUML, the NFIU, the EFCC, to supervise lawyers for AML/CFT compliance. As a result, lawyers, except those registered with SEC, are not supervised for AML/CFT purposes, which represents a significant gap in Nigeria's AML/CFT regime.
- d) SCUML has a good understanding of DNFBPs and related ML and TF risks based on their participation in the 2017 NRA and through offsite and onsite supervision of the sector.
- e) SCUML is developing a comprehensive risk-based framework for the monitoring all DNFBPs currently registered with it.
- f) SCUML has limited human capacity to effectively supervise the DNFBPs with only 65 personnel dedicated to compliance supervision with presence in only 9 out of the 36 States across the Federation. Given the more than 72,000 entities registered with SCUML, it is virtually impossible to conduct effective monitoring for AML/CFT purposes. SCUML does not have an effective strategy to deal with

this challenge. Nonetheless, it receives CTRs DNFBPs and has dedicated staff to conduct strategic analysis of these reports, which is not part of its core supervisory functions.

- g) While SCUML has applied remedial actions (for example, warnings, penalties, suspension or withdrawal of licence, fines, administrative sanctions, imprisonment of officials, the publication of sanctions in annual financial reports, there is no evidence to substantiate that position

Recommended Actions

Financial Institutions

- a) Supervisors should ensure that licensing processes, including “fit and proper” control measures are commensurate with the risk posed or identified with financial intermediaries during the on-boarding process. They should also go beyond the use of CAC data, which currently is not adequate for verifying BO information in Nigeria. Supervisors should implement measures for foreigners and Nigerians resident abroad, including ongoing verification.
- b) Supervisors should enhance and robustly apply market entry controls for applicants for a licence to operate FIs to ensure that they identify indicators or links to criminal activities and their possible connections to criminal associates.
- c) Supervisors should regularly monitor licensees to ensure proper reportage of changes in shareholding structure and circumstances relating to the fitness and propriety of shareholders, directors and managers of FIs.
- d) Supervisors should periodically conduct and update the sectoral risk assessments, including the development of institutional and sectoral risk profiles. The results of these updated risk assessments should inform their supervisory strategies and activities. Notwithstanding Nigeria’s ongoing efforts to combat terrorism and TF, all supervisors would benefit from conducting specific TF vulnerabilities assessments as part of their risk-based framework.
- e) Financial supervisors should also require that in the case of high-risk sectors (e.g., forex dealers, private banking), appropriate mitigating measures to be applied.
- f) The CBN should maximise the use of its limited resources by focusing on high-risk activities and properly realigning its AML/CFT supervisory strategy to enhance the effectiveness in off-site and on-site inspections.
- g) FI supervisors and the NFIU should enhance outreach, training and feedback to FIs, in order to promote understanding of ML/TF risks and their obligation including, the maintenance of adequate up-to-date statistics is equally critical and apply persuasive and dissuasive sanctions to ensure compliance.

DNFBPs

- a) Lawyers should be subject to registration requirements and AML/CFT supervision.
- b) SCUML and ICAN should enhance their market entry controls, including the disclosure of BO information, concerning ML/TF risks with high priority supervision of real estate agents and accountants.
- c) Policy authorities should enhance the supervisory resources of SCUML, considering the vast number of entities within the DNFBP sector. At least, in the medium term, the authorities should limit the oversight functions of SCUML to the FATF designated DNFBPs and ensure that SCUML uses its comprehensive risk-based framework to monitor all the DNFBPs registered with the entity.
- d) SCUML should consider maintaining the rejected applications to generate leads for LEAs and assist in prosecution to establish intent to evade applicable law.
- e) SCUML should complete and improve its risk assessment model sensitise and train SRBs and industry associations on AML/CFT issues and ensure the effective application of AML/CFT measures across the DNFBPs sectors.
- f) SCUML should apply persuasive and dissuasive monetary and other sanctions to DNFBPs that fail to comply with AML/CFT requirements.

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

6.2. Immediate Outcome 3 (Supervision)

494. As described in Chapter 1 above, the CBN, SEC and NAICOM are the regulators and AML/CFT supervisors of FIs in Nigeria. SCUML is responsible for registering and monitoring DNFBPs for AML/CFT compliance. The NFIU also has some AML/CFT supervisory responsibilities over FIs and DNFBPs according to its mandate.

495. CBN: The CBN has three departments that has responsibility for AML/CFT; Financial Policy, Regulation Department, Banking Supervision Department (BSD) and Other Financial Institutions Supervision Department (OFISD). These departments collaborate and exchange information through monthly inter-departmental meetings. The CBN created the Payment System Management Department (PSMD) in November 2018 to supervise new technology organisations such as fintech, mobile money operators (MMOs), PSSPs, among others. The Trade and Exchange Department also supervises the MVTS. The Monitoring Divisions within the two supervisory departments also work closely with the AML/CFT division in their off-site review.

496. The two (2) AML/CFT supervision departments, the BSD and OFISD, with 44 dedicated staff. Over the past four years, the dedicated staff of the CBN have received 152 training on general AML/CFT and 21 on RBA supervision. The CBN increased its budget allocation from N122,200,000.00 (USD 398 107) in 2018 to N236,800,000.00 (USD 772 719) in 2019.

497. SEC: The Monitoring Department of SEC is responsible for the supervision of CMOs and other market participants on ML/TF issues. The Department has 30 dedicated staff. From 2015 to 2019, the staff of the Department received 183 AML/CFT-related training (131 on general AML/CFT and 52 on RBS). SEC increased its budget from N45,000,000.00 (USD 146,842.88) in 2018 to N138,632,000.00 (USD 452,380.05) in 2019.

498. NAICOM: The Policy and Regulation and the Inspectorate Directorate Directorates are responsible for the issuance of insurance business licences and supervision of insurance companies, respectively. Insurance companies comprise Life Insurance (14), Non-Life (28), Composite (13), Reinsurance (2), Takaful (2) and other insurance professionals (agents, brokers, and loss adjusters). Between 2016 and 2019, AML/CFT staff received 7 training on general AML/CFT and 3 on RBS. Its AML/CFT budget increased from N22,000,000.00 (USD 71 789.85) in 2018 to N25,000,000.00 (USD 81 579) in 2019.

499. SCUML: Market entry control in the DNFBP sector is very weak with respect to establishing the background of owners, controllers and managers, including their associates. Most part to the verification is limited to commercial licence and membership of professional bodies for some DNFBPs, particularly for real estate agents and accountants. Between 2016 and 2019, SCUML had an average of 65 staff. SCUML now has 60 staff responsible for AML/CFT compliance monitoring of all DNFBPs (FATF and country-designated, including "NPOs" totalling 72,000). From 2016 to 2019, staff received 279 training on general AML/CFT and 250 on RBA supervision. In 2019, SCUML's budget decreased to N352,200,000.00 (USD 1 149 290) compared to N437,251,562.20 (USD 1 426 828) in 2018. Its cumulative budget from 2016 to 2019 amount to N1,500,295,312.5 (USD 4 895 726). The size and geographical spread of DNFBPs in Nigeria constitutes a big challenge to the effective supervision of the sector. SCUML does not have adequate human resources for the effective supervision of DNFBPs for AML/CFT compliance.

500. The Nigerian Financial Intelligence Unit (NFIU) has as part of its non-core mandate to supervise FIs and DNFBPs (by itself or jointly with financial regulators) for compliance with obligations under the NFIUA and other AML/CFT laws and advice regulators on FI's compliance with these laws. In practice, the NFIU only supervises FIs for compliance with their obligations under the NFIUA. On request, the NFIU assists the financial supervisors and SCUML with background information during market entry. Between 2016 and 2018, the NFIU had 72 staff dedicated to AML/CFT compliance. The staff received 57 training on general AML/CFT and one on RBS. The NFIU was a department under the EFCC from 2016 to mid-2018 and did not have a dedicated budget. There is no information regarding the budgetary allocation for the NFIU from 2016 to 2018. Its current budget for AML/CFT is N160,000,000.00 (USD 522 108).

501. Table 6.1 provides a breakdown of the resources allocated to supervisors for their AML/CFT functions covering 2015 to 2019.

Table 6-1 General Information on Regulatory/Supervisory Authorities

Authority	2016	2017	2018	2019	Total
Staff Strength Dedicated to AML/CFT Program					
CBN	40	40	42	45	N/A
SEC	28	30	29	33	N/A
NAICOM	40	41	38	55	N/A
SCUML	65	68	63	65	N/A
NFIU	72	72	72	X	N/A
No. of General Training on AML/ CFT					
CBN	40	37	27	48	152
SEC	12	18	19	23	72

NAICOM	1	2	2	2	7
SCUML	59	62	76	82	279
NFIU	10	5	16	25	57
No. of Training on AML/CFT RBA Supervision					
CBN	10	15	17	27	69
SEC	4	8	11	12	35
NAICOM	1	NIL	1	1	3
SCUML	47	56	69	78	250
NFIU	-	-	-	1	
BUDGET FOR AML/CFT PROGRAM					
CBN	N87,000,000.00 (USD 283 896.23)	N86,800,000.00 (USD 283 243.60)	N122,200,000.00 (USD 398 759.99)	N236,800,000.00 (US 772 719.86)	N 445,887,000.00 (USD 1455007.3)
SEC	N30,880,000.00 (USD 100 766.85)	N31,522,000.00 (USD 102 861.80)	N31,230,000.00.0 (USD 101 908.96)	N45,000,000.00 (US 146 842.88)	N 138,632,000.00 (USD 452 380.5)
NAICOM	N20, 000,000.00 (USD 65 263.50)	N10,000,000.00 (USD 32 631.75)	N22,000,000.00 (USD 71 789.85)	N25,000,000.00 (USD 81 579.38)	N77,000,000 (USD 251 264.48)
SCUML	N330,625,000 .00 (USD 1 078 887)	N380,218,750.00 (USD 1 240 720.35)	N437,251,562.50 (USD 1 426 828,40)	N352,200,000.00 (USD 1 149.29)	N 1,500,295,312.5 (USD 4 895 726.3)
NFIU	..	..	..	N160,000,000.0 (USD 522 108.01)	X

Sources: CBN, SEC, NAICOM, SCUML & NFIU

502. There remain several unregulated and unregistered entities (lending companies, forex dealers, real estate agents, car dealers and casinos) outside the AML/CFT regime. They pose varying levels of risks to Nigeria's economy (see IO.1 above).

503. There are sectoral gaps in terms of activities not covered by the AML/CFT regime (for example, lawyers, notaries, and to a certain degree, TCSPs and unregulated lenders).

504. Supervision frameworks cover both AML and CFT requirements. However, the Assessors did not receive any evidence from competent authorities to have conducted supervision on targeted financial sanctions or focused solely on CFT issues, including guidance on the systems which reporting entities, in particular banks, implement to assist in meeting these requirements.

505. For reasons of their relative importance in terms of materiality and risk in the Nigerian context, assessors weighted supervision issues: most heavily for the banking (particularly for commercial banks where most assets are held); heavily for forex dealers, lawyers, TCSPs and real estate sectors; moderately heavy for the securities sector, MVTS, Accountants and Auditors, DPMS and car dealers, and less heavily for less important sectors (MFBs, insurance companies and casinos). The weighting is because of the relative materiality and risk in Nigeria's context of these supervised entities, as explained above in Chapter 1 (section 1.4.3). Also, see Chapter 1 (section 1.4.2) for a description of each supervisor and which entities they are responsible for supervising.

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

506. Nigeria's legal frameworks provide for licensing and registration requirements for FIs and DNFBPs. Institutional arrangements for supervision are in place to prevent criminals and their associates from obtaining licenses or having a significant role in FIs or DNFBPs. Criminal record checks cover board members and promoters. FIs and DNFBPs must be licensed before they commence operations. Unlicensed entities are subject to sanctions under the relevant laws.

Financial Institutions

507. FI Supervisors do not have a clear policy or procedure that addresses the handling of non-residents, PEPs and legal persons and arrangements in licensing application. Despite the lack of clarity on policy relating to the handling of PEPs, it was evident that the central bank of Nigeria do undertake screening of applicants for license against a database of PEPs generated through monthly returns by FIs. The CBN also rely on NFIU resources for vetting during licencing application. Key FI Supervisors including CBN, SEC and NAICOM do conduct criminal background check on promoters, shareholders and senior management of applicants for licence which is part of an enhanced fit and proper person's test.

508. The licensing, registration, and other market entry controls implemented by the CBN are sound for banks but inadequate for OFIs such as MFIs and forex dealers. SEC and NAICOM have less robust market entry controls due to weaknesses in the mechanism for verifying the BO information (the CAC database) which is often not up to date. The lack of accurate and current BO information in the CAC database impedes the supervisors' ability to prevent criminals from holding or being the beneficial owner or from holding a controlling interest or management function of a CMO or insurance company.

509. The CBN's market entry controls include fit and proper person tests, credit search on the proposed institution and screening of the major shareholders and Directors or senior management against designated watch lists, including the UNSCR 1267 Sanctions List and other watch lists. The CBN also verifies BOs and their criminal background. The CBN is not robustly implementing the market entry control process for forex dealers. In some cases, the CBN did not carry out BO verification, criminal background check and screening against Sanctions Lists for promoters, directors or senior management.

510. CBN requires shareholders, directors or senior management staff of FIs to be cleared by the Nigeria Police of any criminal records and trace of conviction for criminal activity. This requirement is more applicable for banks, discount houses and development finance as compared to other FIs (Mortgage Finance, Microfinance, forex dealers, among others). In the absence of criminal background for significant shareholders, directors or senior management of forex dealers during licensing, it is challenging to prevent criminals and their associates from holding or becoming beneficial owners of forex companies.

511. In vetting significant shareholders, directors or senior management of an applicant, the CBN considers evidence of conviction for any offence involving dishonesty or fraud, when found guilty of serious misconduct or disqualification or suspension from practising in the candidate's profession. However, the regime does not provide for the possible connections to criminal associates of the applicant.

512. While the CBN is implementing the approved persons regime robustly for banks during licensing, the same is not evident for other FIs, particularly forex dealers. For instance, the procedure followed in the licensing of some forex dealers did not include criminal background checks.

513. CBN conducts ongoing monitoring of its market entry controls of owners and officials of FIs using the resources of the NFIU, market intelligence, internal and open-source information. It undertakes similar measures where there are changes in ownership and senior management of FIs.

514. The CBN rejects applications that do not meet the licensing requirements and encourages the applicants to resubmit the documents or re-petition. The CBN has initiated a study on shadow banking and acknowledged the presence of a large number of unregistered/unlicensed forex dealers. However, it is yet to conduct any study to estimate the size of the market. Some individuals also act as marketing agents for licensed forex dealers.

515. The CBN works with LEAs to identify unlicensed or unregistered forex dealers, and thus unsupervised, with little success. In the absence of licensing/registration and associated fit and proper tests for owners and management of these forex dealers, failure to detect unregistered forex dealers may allow criminal elements to abuse the sector for ML/TF. From January 2019 to September 2019, the CBN rejected 182 out of 752 applications of potential forex dealers. The reasons for the rejection include non-compliance with requirements on capital deposit, AML/CFT policies, account statements of Directors and BVNs. These instances indicate the need for the CBN to enhance surveillance on the forex activities.

Table 6-2: Applications Rejected by the CBN (2019)

Year	Type of FI	Licenses Granted	Applications Rejected/Deficiencies	Pending Applications/AIPs	Total
2019	Deposit Money Banks	2	1	3	6
	NIBs	1	1	1	3
	Merchant Banks	0	0	2	2
	Micro Finance Banks	4	3	28	35
	Forex dealers	368	182	202	752
	Others (PSSPs, MMOs)	96	0	35	131
	Finance Companies	5	2	27	34
	PSBs	0	4	4	8

Source: CBN

516. CMOs: SEC licenses issuing houses, broker/dealers, estate surveyors & valuers, fund /portfolio managers, investment advisers, commodities/futures exchange, trustees, capital market consultant (solicitors), underwriter and corporate investment adviser, capital market depository. Potential CMOs apply directly to SEC, which reviews the submitted documents, qualifications and criminal records for individuals and corporate entities. In general, SEC has strengthened its market entry controls for licensing CMOs and other Stock Exchange operators (dealers, brokers, broker-dealers, sub-brokers) in the last few years. However, SEC also relies on CAC data on BO information, which is often not up to date.

517. It is a requirement for applicants for CMOs to have three (3) individuals supporting the application by an individual to operate as a dealer in securities. One of the dealers must be a CO and a managing director of the company to be among the sponsored individuals. The applicant also provides (i) police clearance reports for each sponsored individual; (ii) two (2) recent passport photographs of each sponsored individual; and (iii) copies of means identification of the directors and the sponsored individuals of the company (international passport, tax or utility payment documents).

518. An applicant for company broker/dealer licence submits a completed registration form with supporting documents – a certificate of incorporation, Memorandum and Articles of Association (including the power to perform the specified function), CAC Form(s) showing Statement of Share Capital, Return of Allotment, and Particulars of Directors.

519. Promoters and proposed managers undergo fit and proper tests. The process for registration/licensing commences with the submission of CAC registrations documents clearly stating the object of the company. Promoters complete a set of forms and provide their BVN. Sponsors, beneficial owners, shareholders, directors, key management staff undergo the fit and proper test. SEC writes to supervisory, regulatory authorities, LEAs and other agencies to confirm the propriety of natural persons. For example, SEC writes to the NFIU for intelligence and EFCC & Police for criminal background checks (copies sighted on files). SEC has signed MOUs with CBN, NAICOM, CAC, NFIU, EFCC, Police and other agencies for exchange of information. SEC runs names of proposed promoters through internal

database called “Customer Relations Management System” which captures the status of CMOs. To confirm fitness, SEC has a set of criteria, and only subjects Executive Directors to the fit and proper test. SEC classifies a shareholder with shareholding from 5 per cent as a beneficial owner.

520. SEC relies on CAC documentations -writes or physically visits CAC and pays fees for search on BOs. Where a BO or promoter is a PEP, SEC conducts EDD using open-source information. SEC outsources capital verification to external auditors and confirms the sources of funds from bank statements. Also, SEC requests for fidelity bonds issued by an insurance company acceptable to the Commission against theft/stealing, fraud or dishonesty, covering each officer, employee and sponsored individual of the company. SEC undertakes continuous monitoring using internal and external information and carries out the same onboarding process when there is a change of directors, shareholders and key management persons. Applicants that do not meet the licensing requirements are requested to review their applications and resubmit them. However, aggrieved applicants can petition through the Administrative Proceeding Committee (APC) of the Exchange or Investment & Securities Tribunal or the courts. SEC may decline an application if the proposed promoter is the subject of an STR or under investigation.

521. From 2015 to 2019, SEC rejected thirty-five applications (new and existing). The most common reasons for rejecting the applications included the lack of (i) documentation/information on sponsored individuals, including police clearance and responses from referees; (ii) complete evidence of SEC registration fees/payments; (iii) information from previous employer and verified address; and (iv) experience or professional qualifications (see Table 6.3 below). There are no rejections related to ML/TF concerns.

Table 6-3: CMOs Applications Rejected by SEC

Application	2015	2016	2017	2018	2019	Total
Registration as an Issuing House	1	1		1	-	3
Registration as a Broker/Dealer	-	-	-	1	-	1
Registration as Estate Surveyors & Valuers	1			2		3
Registration a Fund /Portfolio Manager	1	-	-	-	1	2
Registration as Corporate Investment Advisers	1	-	-	-	-	1
Registration as a Commodities/Futures Exchange	1	-	-	1	-	2
Registration as Trustees	-	1	-	-	-	1
Registration as Capital Market Consultant (Solicitors)	-	1	-	-	-	1
Registration as an Issuing House, Underwriter and Corporate Investment Adviser	-	-	1	-	-	1
Registration as Capital Market Depository	-	-	-	-	1	1
Restructuring of Companies within the Group Structure	1					1
Registration/ Transfer of Sponsored/Additional Sponsored Individual	-	4	1	3	4	12
Approval/Notification of Appointment of Directors	-	-	2	-	-	2
Receiving Banker	-	-	-	1	-	1
Registration as SRO	-	1	1	-	-	2
Reinstatement of Registration Licence	-	-	-	-	1	1
Total	6	7	6	9	7	35

Source: SEC

522. From 2015 to 2019, SEC detected some breaches and took steps to suspend, withdraw or cancel licences (see Table 6.10 below). Based on the identified breaches, SEC has referred several cases to LEAs, including ML, for investigation and prosecution. The detection may indicate growing risks related to the licensing of entities under its supervision, an improvement in its ability to detect licensing breaches, or both. Several unlicensed CMOs owned by Nigerians and foreigners are undertaking financial activities

whose operations involve substantial amounts of local currency and virtual assets. SEC has detected 9 cases of Ponzi operators SEC is collaborating with LEAs and the Interpol regarding 9 of such cases. It has handed some culprits to the LEAs for investigations and prosecution.

523. **NAICOM:** NAICOM has some controls in place to prevent criminals and their associates from owning or controlling insurance firms, including criminal checks and checks from competent authorities (for example, CBN, Nigeria Deposit Insurance Corporation, the National Pension Commission and SEC), Official Gazette Notification and interviews and former places of business in respect of directors. The threshold for beneficial ownership in an insurance company is 5% shareholding. Unsuccessful applicants can petition NAICOM for redress. Where NAICOM is not satisfied with the application, it notifies the applicant in writing of its decision to reject the application within 60 days of the submission of the application. An aggrieved applicant can appeal against the decision or reapply on satisfying the stated conditions within 30 days, and the Minister of Finance decides on the appeal within 60 days (section 7, Insurance Act, 2003).

524. Between 2014 and 2019, NAICOM rejected 11 applications for licence to conduct insurance business (see Table 6.4). The major reasons for the rejections related to the conduct of business while applications were pending (see 2015(3) and 2019(1)). This is followed by documentation and pre-registration interview issues. None of the companies whose applications were rejected during the period under review appealed or reapplied. NAICOM did not have any case of rejection based on criminal background check or fraudulent source of funds within the period under review. However, in such circumstances, NAICOM refers such cases to the appropriate authority for further investigations and /or prosecution. A few unregistered insurers issue vehicle insurance without authorisation. NAICOM is currently working with relevant LEAs to investigate and prosecute the unauthorised operators.

Table 6-4: Insurance Companies Applications Rejected by NAICOM

Year	No.	Reasons for Rejection
2015	5	Conducting businesses during the processing of the application for operating licence (3); unsuccessful at pre-registration interview (2).
2016	2	Failure to complete documentation; and failure to complete registration process due to insufficient information provided.
2017	1	Failure to respond to the Commission's stage one letter
2018	1	Company's object clause in the Memorandum and Article of Association did not capture insurance business.
2019	2	Improper Object Clause in the Memorandum and Article of Association and Non-Professionally Qualified CEO; and conducting businesses during the processing of the application for operating licence.

Source: NAICOM

Non-resident FIs

525. Entities and persons, including branches and agents of foreign undertakings listed in the MLPA, must comply with registration requirements (see R.26). The applicant must provide the licensing authority with (i) the no objection of the supervisory authority in the home country to the incorporation of a subsidiary in Nigeria, (ii) confirmation that the entity is licensed by the supervisor to conduct the specific business and is in good standing; (iii) a notarised statutory declaration of the non-disqualification of directors; (iv) biometric details and current curriculum vitae of the potential directors and CEO stating minimum

qualification; (v) evidence of certification; (vi) letter of intent from the promoter(s); Proposed Company name; Draft Memorandum and Articles of Association regulations for the company's operations, among others. Applicants need to successfully pass a formal interview with the CBN, SEC or NAICOM (depending on the FI) management before final approval.

DNFBPs

526. SCUML, NBA, ICAN, NTDC, AEGIS and FMMSD are responsible for the registration of DNFBPs for AML/CFT and professional and business purposes. They implement some procedures and processes for market entry requirements in their respective sectors. However, the application of fit and proper procedures varies across the regulators, and is generally weak for all sectors.

527. For DNFBPs established as legal entities, the basic and BO information maintained by CAC does not provide a sound base or reliable source for the verification and control of applicants and their associates. Information held by CAC is not up to date.

528. SCUML registers and supervises DNFBPs for AML/CFT purposes. The registration certificate from SCUML is a prerequisite for any DNFBP to operate a bank account in Nigeria. The registration requirement involves providing the following to SCUML: (i) Certificate of Incorporation; (ii) Article and Memorandum of Association; (iii) Tax Clearance Certificate; (iv) Audited Financial Report; (v) Authorised Operational License; and (vi) Company/Organisation Profile. SCUML conducts background checks with the EFCC on the list of persons convicted for economic and financial crimes, ML before registering applicants. SCUML also checks the SDN list, the office of Foreign Assets Control (OFAC) as well as the UN terrorist watch list. However, the lack of a complete or updated database maintained by the EFCC constrains the effectiveness of these controls. SCUML's registration process involves completion of a registration form and submission of supporting documents which for the most part are details of the CAC registration.

529. SCUML did not demonstrate that it has adequate measures in place to subject persons holding senior management functions or holding a significant or controlling interest, or professionally accredited to a fit and proper test, including criminal background check especially for non-residents.

530. In addition to CAC and SCUML registration requirements, some SRBs and professional bodies conduct due diligence on professionals and their beneficial owners before issuing them with practising licences. The professional licensing process is less stringent for accountants, lawyers, and by extension, trust and company service providers. Their requirements do not focus on AML/CFT requirements. DNFBPs are required to submit changes of Directors to SCUML. There is no evidence to suggest that registered reporting entities fully comply with this requirement.

531. From January 2019 to mid-September 2019, SCUML registered 72,751 REs while 12,019 applications for registration were in progress as at the time of onsite. Considering the number of DNFBPs registered with SCUML at the time of on-site and SCUML's staff strength of 63, the Assessors concluded that SCUML has not demonstrated adequate capacity for the application of fit and proper procedures for DNFBPs.

532. There are no cases where SCUML identified a criminal attempting to own or manage a DNFBP. However, from January 2016 to September 2019, SCUML rejected 51,972 applications for registration of DNFBPs due to an enhanced risk-based approach (see Table 6.5). With the pending decision of the Court, it is unclear how lawyers applied to SCUML for registration. There is no disaggregation in the statistics on

the number of prospective lawyers, accountants and tax consultants. Therefore, it is difficult to determine the number of rejected applications concerning lawyers.

533. SCUML deletes rejected applications on its server and requests the applicant reapply. Assessors are of the view that SCUML could maintain the rejected applications to generate leads for LEAs and assist in prosecution to establish intent to evade applicable law.

Table 6-5-Applications for Registration Rejected by SCUML as of September 2019

Sectors	2016	2017	2018	Jan-Sep 2019	Total
Real Estate	1,571	2,404	1,814	3,952	9,741
Mortgage Brokers, Developers, Real Estate Valuers & Surveyors, Construction					
Professionals	770	1,948	756	7904	11,381
Legal Professions, Chartered Accountants, Tax Consultants					
Hotels & Hospitality	110	1,110	907	3,952	6,079
Hotels, Travel Agencies					
Luxury Goods, DPMS, Supermarkets, Car Dealers	1,001	499	1,058	4,610	7,168
Total	3,452	5,961	4,535	20,418	34,369

Source: SCUML

534. The Federal Ministry of Mines and Steel Development licenses DPMS, especially dealers in Gold and Diamonds. A person qualifies to obtain a mining lease or other permit if the person is (i) a citizen of Nigeria with legal capacity and convicted of a criminal offence; (ii) a body corporate duly incorporated under the CAMA, or (iii) a Mining Co-operative⁹⁰. For Mining Lease, including prospecting and exploration, the applicant must provide an attestation of non-conviction of criminal offences under the Act by a Lawyer. The requirements for a Possess and Purchase Licence include: (i) a Certificate of Incorporation of the Company, including CAC Form 1.1, (ii) Application letter, (iii) Tax Clearance, (iv) Legal Practitioner's Attestation of non-conviction for a criminal offence, Banker's Reference Letter; Letter of consent from a Mineral titleholder; Evidence of technically competent person (credentials of Mining Engineer); and Payment of the prescribed fee. The licence is valid for one year, and renewable annually provided the holder of the licence meets the relevant requirements. An entity may obtain the right to search for or exploit Mineral Resources through Reconnaissance Permit, an exploration license, small scale mining Lease, Mining Lease, Quarrying Lease or a Water Use Permit. The applicant must be a citizen of Nigeria with legal capacity and who is not subject to a criminal conviction; a body corporate duly incorporated under the CAMA or a Mining Co-operative

535. **Legal Professionals (lawyers):** The AML/CFT framework is inoperative regarding lawyers. The General Council of the Bar is responsible for licensing lawyers in Nigeria. An individual who completes the relevant programmes (a law degree and bar advocacy tutelage), qualifies to practice as a Barrister and Solicitor of the Supreme Court of Nigeria. The individual may be a Nigerian or a citizen of a country whose legal system analogous to that of Nigeria.

⁹⁰ Section 47-50, Nigerian Minerals and Mining Act, 2007 and the Minerals and Mining Regulation 2011.

536. The Body of Benchers⁹¹ evaluates the suitability of potential lawyers on the production of qualifying certificates. The Legal Practitioners Disciplinary Committee considers and determines cases of violations under the Legal Professions Act resulting in the striking out of names off the roll of lawyers, suspension from practice the register, admonishment and refund of moneys paid.

537. The NBA ensures the highest standards of professional conduct, maintains the integrity and independence of the Bar in its relations with the judiciary, and promotes good relations among members of the NBA. Membership of the NBA (full or honorary) is open to any person duly enrolled at the Supreme Court of Nigeria as a legal practitioner and registered with a Branch of the Association⁹². A member of the NBA who is not in good standing cannot practice the profession.

538. **The** licensing procedures for lawyers do not cover AML/CFT purposes. As such, it lacks the specific fit and proper test applicable to other sectors to prevent criminals or their associates from practising in the profession. As a result of the court ruling, most lawyers in Nigeria are not subject to the AML/CFT regime. The decision undermines the effective implementation of market entry AML/CFT controls for lawyers. Lawyers did not demonstrate awareness of, and general interest in their AML/CFT obligations, including entry controls to prevent criminals from practising in the profession.

539. **Accountants/Auditors:** The fitness and propriety test for membership of ICAN requires the individual to pass a professional examination, complete 36 months of practical experience in a chartered accounting firm, and pass an interview conducted by ICAN. ICAN does not conduct criminal background checks on its members. ICAN's screening process is not focused on AML/CFT. The licensing process is limited to those who provide assurance services⁹³. A member who is offering other services requires a separate license with the regulatory authority for those services.

540. **Real Estate agents:** Corporate entities engaged in housing industry in Nigeria including Developers, financiers and agents are closely linked in the real estate business professionals operate in the building construction industry of Nigeria. The Real Estate Developers Association of Nigeria (REDAN) is an umbrella body that seeks to achieve positive relations with all stakeholders connected with the housing industry including organisations, producers, providers, financiers and landowners. The association also strives to play an active role in the promotion of research and development of building materials and systems, as well as standard-setting for the industry. An applicant must fulfil the following conditions set by REDAN: (i) pay a subscription, (ii) submit a company address and contact details, including principal representatives, (iii) disclose the details of the Board of directors, (iv) provide copies of financial performance and key documents such as Certificate of Incorporation, Memorandum and Articles of Associations, audited accounts, tax clearance, and (v) evidence of registration with SCUML. There is no evidence that REDAN verifies the information provided or subjects the directors to fit and proper person

⁹¹ The Body of Benchers is made up of the Chief Justice of Nigeria and all the Justices of the Supreme Court, the President of the Court of Appeal; the AGF; the Presiding Justices of Court of Appeal Divisions; the Chief Judge of the Federal High Court; the Chief Judge of the FCT, Abuja; the Chief Judges of the States of the Federation; the AGs of the States of the Federation; the President of the NBA; the Chairman of the Council of Legal Education; thirty legal practitioners nominated by the NBA; and not more than ten eminent members of the legal profession in Nigeria of not less than 15 years' post-call standing.

⁹² Section 4(1) (a) of the Constitution of the NBA.

⁹³ Process of analysing and used in the assessment of accounting entries and financial records.

tests and applies market entry controls for AML/CFT purposes. SCUML has limited capacity to implement effective fit and proper controls.

541. **Casinos:** There is no central authority at the federal level for the licensing of Casinos. State authorities license casinos under State laws. Land-based casinos are not subject to licensing in most States in Nigeria except for Lagos and Oyo. For instance, the Lagos State Lotteries Board (LSLB) is responsible for licensing casinos in Lagos. There are two casino licence categories: Category A (Hotel Casino) and Category B (Stand-alone casino). Casino Licence is for a term of 1 year and renewable annually. An applicant for a licence to operate a casino is required to provide the Board with documentary evidence of Business incorporation: Certificate of incorporation Memorandum and Articles of Association, the minimum share capital of ₦ 20 mln (USD 56,100) Details of Directors, Registered office address; name and profile of all directors and key management staff; tax clearance certificate of all directors in the preceding 3 (three) years; descriptions of operations and management structure; the names of major players; current gaming licences held by the Applicant; and the nature and extent of financing and capital investment, including whether foreign investment is involved in the business. Casinos are required to inform the licensing authority of any changes in ownership and directorship. There is no evidence of fit and proper test.

542. There are reports of internet-based casinos operating in Nigeria⁹⁴. Casino operators demonstrated poor knowledge of the ML/TF risks associated with the sector. They lacked appropriate measures to deal with the risks, including cash transactions and dealing with high-net-worth customers and PEPs. There is little or no AML/CFT market entry controls for this sector.

543. **Other designated activities:** Hotels and travel agents subject to the AML/CFT regime but are not subject to adequate market entry control except for the requirements of CAC and SCUML. The Nigeria Tourism Development Corporation is under an injunction from exercising supervisory controls over the operations of hotels and hospitality services.

544. There are insufficient controls for all DNFBPs to prevent criminals and their associates from holding or being the beneficial owner of significant interest or hold a management role in the sector.

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

545. The CBN, SEC and NAICOM have a reasonable understanding of the ML/TF risks in their respective sectors. They have a weaker understanding of TF (and PF) than for ML, mainly based on the 2017 NRA, and complemented through the risk-based supervisory frameworks for their sectors. The supervisors access and use ML and TF risk assessments of their respective regulated entities to enhance ML and TF risk understanding of FIs under their supervision.

546. CBN has a good understanding of the inherent nature of risks, particularly in the banking sector. As it extends its risk-based supervisory framework to OFIs and MVTs, its understanding of risks in those sectors needs to improve as well. CBN risk-based supervisory framework is documented and includes a risk assessment model developed in conjunction with the International Monetary Fund (IMF). The model rates the structural and inherent risk factors to arrive at an institutions' gross risk.

⁹⁴ <https://nairacasinos.com/>; <https://www.bestcasinosites.net/nigeria/>; etc.

547. The CBN assesses the gross risk/inherent risk against institutional mitigants/controls to arrive at the residual risk for each institution. It assigns risk ratings for residual risk (high, medium and low).

548. The CBN bases its risk assessments on information obtained through periodic submission of returns and dialogue with FIs. CBN has factored the findings of the NRA into its risk assessment model and has accordingly risk profiled institutions. CBN leverages on prudential supervision to better understand the vulnerabilities of individual FIs and conducts AML/CFT supervision jointly with prudential supervisors.

549. CBN encourages dialogue between the licensed institutions and itself to ensure a clearer understanding of the measures needed to mitigate the institutions' risk more effectively through Risk Self-Assessment. However, continuous monitoring, update and understanding of risks of regulated entities is weak, particularly for the non-bank sectors.

550. Strong collaboration exists among the CBN, SEC and NAICOM through the AML/CFT Consultative Stakeholders Forum hosted by the CBN. This forum provides a platform of information exchange which also contributes to their understanding of risk across the various sectors of the financial system.

551. NAICOM and SEC participated in the NRA and demonstrated a good understanding of the inherent nature of ML/TF risks across licensed institutions. NAICOM also has a risk assessment model and has risk profiled its institutions. It maintains and updates its understanding of ML/TF risks through periodic returns, risk assessments and on-going dialogue with LEAs, the NFIU and other stakeholders. Both NAICOM and the SEC have similar risk assessment frameworks for their supervised entities that support their understanding of risks on an ongoing basis.

DNFBPs

552. SCUML participated in the NRA and demonstrated a fairly good understanding of ML/TF risks of DNFBPs, and some of the subsectors under its supervision. However, SCUML has no mechanism in place to maintain a good understanding of the risk regarding all DNFBPs.

553. As the primary supervisor for DNFBPs, SCUML has developed a model to assess ML/TF risks. SCUML could not demonstrate that it has been able to implement the model on an ongoing basis.

554. Industry associations (for example, the NBA, REDAN, ICAN, ASCON) need to provide first level supervision of their members to complement SCUML's functions. However, they do not conduct ML/TF risk assessments that can assist SCUML in the risks in their respective sectors.

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

555. The level of sophistication in the development of risk-based models for supervision vary among the supervisors in Nigeria. Financial supervisors have risk-based supervision (RBS) frameworks. Before 2017, most supervisors included some elements of ML/TF risk in their supervision programme. However, prudential risk indicators weigh heavily on scheduled supervision cycles.

556. The CBN's RBS methodology commenced in 2012 with the development of the capacity of both the CBN and the FI on the Risk Assessment tools and methodology, pilot examinations, targeted guidance to FIs. The CBN commenced AML/CFT examinations in 2014. The Risk Assessment model became fully operational in 2017.

557. SEC migrated to RBS in 2012 following technical assistance by the IMF. It conducted an impact assessment of Risk-Based Supervision in the Nigerian Capital Market in two (2) phases (January and April 2018). NAICOM started applying risk-based supervision in 2017. The RBS by SEC and NAICOM were on pilot implementation at the time of onsite.

558. SCUML appears to be applying risk-based supervision at the entity level rather than at sector-wide. Their supervision seems to focus on those activities at entity level that is adjudged to pose serious risk.

559. All supervisors are enhancing their supervisory activities following the outcomes of the NRA.

Financial Institutions

560. Financial supervisors collaborate through the platform of the Financial System Regulatory Coordinating Committee (FSRCC) for effective AML/CFT risk-based supervision of FIs in Nigeria. Supervisors categorise FIs using risk assessment models for effective Risk-Based Supervision (RBS). However, supervisors could recalibrate the model used to give additional weighting to TF risk consistent with the risk profile of the country.

561. The Risk-based Framework (RBF) covers two broad elements: (i) structural factors (size, corporate, ownership, years in operation, products and services, customer, delivery channel and governance); and (ii) control measures/mitigation (corporate governance, risk management, policies and procedures, internal audit, compliance and training).

562. Financial supervisors structure their pre-on-site examination assessment into two parts: risk assessment and the effectiveness of control measures. Part 1 reviews the size, corporate and ownership structures (including local and subsidiaries (local and foreign), number of years in operations, products and services, customers and delivery channel to measure the riskiness of the operation and rates these variables ranging from 1 to 5, with 1 representing the least less risky and 5 representing the highest risk. The second part involves the assessment of (i) corporate governance structure, (ii) quality of risk management processes and inclusion of AML/CFT components; (iii) policies and procedures; (iv) reasonable capacity of internal audit to analyse and assess the adequacy and effectiveness of risks controls and the company's AML/CFT programme; (v) compliance/internal control AML/CFT program; and (vi) staff training and ranked from 1 to 5 with 5 being the highest score. The net of the two parts constitutes the net residual risk rating.

563. The on-site examination involves entry and exit meetings with the management and random interviews with staff of FIs. The examination covers several areas, including implementation of outcomes of the previous examination, AML/CFT policies, procedural manuals and policy files and tests transactions on bank statements. It seeks to confirm the effectiveness of mandatory reporting (STRs and CTRs). It also assesses the general compliance with the AML/CFT laws and regulations, identifies and reviews significant activities of the company and reviews the controls available. Finally, it tests for the adequacy, classification of the entity in terms of risk exposure and observes the general awareness of AML/CFT requirements. At the end of the on-site examination, the examination team present a draft report containing the main findings and recommendations, including remedial actions and where applicable sanctions to the examined entity.

564. The CBN demonstrated the examination of BOFIs. The CBN focuses its on-site examinations on the banking sector. It is yet to fully implement the same in the other sectors, particularly the high risk and large forex sector.

565. Regarding foreign branches and majority-owned subsidiaries of Nigerian banks, the CBN bases its on-site examination on MOUs signed with its foreign regulatory counterparts. It notifies the foreign counterparts of its annual inspection programme concerning institutions established in the foreign jurisdictions and their links with other institutions under the control of the counterpart authority. The examination of subsidiaries takes account of the implementation of AML/CFT requirements consistent with those of host countries, even where the requirements are more stringent than the measures of the home country. For instance, a host country requires regular monitoring and review of the account high-risk customers (PEPs) every 12 months. In contrast, the examinee's AML/CFT Manual provides for more prolonged periods based on the level of risk. Overall, however, the CBN does not inspect and supervise FIs under its supervisory purview for compliance with PEP obligations in a manner commensurate with the identified risk.

566. SEC conducts targeted/spot checks and AML/CFT RBS quarterly, while it conducts RBS/thematic examinations annually. SEC is also implementing its RBS framework for CMOs for both off-site and on-site examination process (see Table 6.6 below).

567. The Inspectorate Directorate of NAICOM conducts RBE of insurance companies based on the same parameters as the CBN and SEC. NAICOM assesses the size of an insurance company based on the premium income and the total number of policyholders of insurance companies. It confirms that the company businesses and premium do not involve high-risk clients or businesses. NAICOM also verifies that the high-risk business does not outweigh the general businesses that constitute a low risk. It also reviews ratio to policy count to confirm that the company has a minimal volume of high-risk businesses that is manageable within its capacity.

568. NAICOM requires more training to improve its risk-based supervision of insurance companies. NAICOM's Reviewed Reports and Amended Summary of Risk Rating Matrix for 5 insurance companies faulted the risk profiling conducted on insurance brokers and agents. The examiners did not follow the given ratings' format and understanding of AML/CFT requirements due to inadequate preparation/training before embarking on the AML/CFT RBE. NAICOM revised the rating of two insurance companies from high to medium ML risks. The outcomes of the reviews question the quality of examination conducted by NAICOM. Given this background, it is not clear how NAICOM reduced its RBS to 5 and 4 in 2018 and 2019, respectively.

569. Table 6.5 below shows the frequency of RBS conducted by financial supervisors from 2015 to 2019. No copies of comprehensive examination schedules were received from each supervisor to determine if the frequency and scope of the examinations planned for 2019 correlate to known ML/TF risks.

Table 6-6: Statistics on AML/CFT Examination -FIs

SECTOR	2015	2016	2017	2018	2019
Banking					
Banks	23	25	26	27	27
Capital Market					
CMOs	30	38	120	145	93
Insurance					
Insurance companies	..	..	34	5	4
Other Financial Institutions					
Microfinance Banks	609	766	738	637	301
Bureau de Change	135	NIL	84	100	100
MVTS/Remittance Companies					
Others (MMOs, PSSPs, etc.)	-	-	-	-	19

Total Examination (Financial Sector)	797	829	1,002	914	544
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Source: NFIU

570. The Compliance Department of the NFIU undertakes targeted examination of all FIs in the country in collaboration with the relevant sector regulators/supervisors on a risk-based approach. The NFIU has not developed a risk-based supervisory framework. It is not clear whether the NFIU had relied on primary supervisors' risk-based supervisory framework and tools in conducting joint examinations.

571. During the period under review, the NFIU participated in only two joint on-site examinations with SEC (see Table 6.7). Generally, the data reflects quite a low level of monitoring and supervision of those sectors by the relevant competent authorities. There was no joint examination in 2015, 2017 and 2018 (see Table 6.6 below); and particularly, no joint examination undertaken by the NFIU with CBN, NAICOM and CAC. This omission impacts the number and quality of STRs and other statutory reports filed by FIs and DNFBPs.

Table 6-7: NFIU and Regulatory Authorities Joint Examination Conducted

Year	Examining authorities	Number of CMOs examined	Number of separate examination(s)
2015	Nil	Nil	Nil
2016	NFIU & SEC	38	1
2017	Nil	Nil	Nil
2018	Nil	Nil	Nil
2019	NFIU & SEC	93	

Source: NFIU

DNFBPs

572. SCUML has an AML/CFT Compliance Risk-Based Assessment Process and Procedure for On-Site and Off-Site Examination of DNFBPs. SCUML is yet to implement it across all sectors fully. SCUML's risk-based supervision tools are evolving for the conduct of risk assessments, and there is a documented process and procedure for off-site and onsite AML/CFT supervision. SCUML has developed and documented a risk-based framework methodology for supervision. The procedure for off-site examination entails the collation, evaluation and analysis of from both internal and external sources regarding the entity's management structure, bankers, affiliation to local and international entities; types of products and services provided, customer base and types; regulatory, audit and other statutory reports; previous sanctions/nature of offences; location/geography; as well as policies, processes and procedures. On the other hand, on-site examination requires pre-examination planning, the understanding of the overall ML/TF risk exposure of the entity and review of internal processes and reports.

573. SCUML is required to ensure that DNFBPs: (a) have comprehensive AML/CFT Policy/Manual; (b) identify, analyse, categorise and understand all risks; (c) have efficient/effective AML/CFT controls that are commensurate to the risks identified; (d) segregate dual control duties; and (e) implement coherent internal processes and procedures and render relevant statutory reports to regulators. SCUML is also required to focus on high-risk business areas and products, such as setting up trust arrangements, transactions with PEPs and non-resident persons, online transactions high cash transactions, and geographic locations such as high-risk jurisdictions and jurisdictions with weak or non-existent AML/CFT measures, as well as the entity's asset size, customer base, products, services and geographic location, e-banking, cards, among others.

574. SCUML develops a preliminary risk profile of entities to have a primary guide on the level of the prospective AML/CFT examination. The examination manual does not set timelines for completing these actions. While the manual sets the parameters for rating the reviewed information as C, LC, PC and NC, the risk rating is set as follows: 60 and above – High Risk; 40 to 59-Medium Risk; and 19 to 39 – Low. The Assessors reviewed an Excel-based matrix for risk assessment for construction and real estate companies. The matrix captured quantitative parameters such as annual income, number of staff, number of client base as well as qualitative parameters such as the effectiveness of AML/CFT programme and classified the construction companies into high, medium and low risk. The Assessors considered this insufficient as it did not cover pertinent issues like TF, including TFS. There is no information on the risk rating of the other DNFBP sectors, particularly DPMS and car dealers.

575. SCUML has conducted some basic compliance-based on-site inspections and targeted spot checks on DNFBPs. However, in the absence of a comprehensive risk assessment rating of the sectors, subsectors, SCUML cannot conduct effective risk-based supervision of the DNFBP sectors. As noted above, lawyers are out of the AML/CFT regime. Some unregistered and unregulated DNFBPs (for example, land-based and internet casinos, accountants, real estate agents and DPMS) are operating in the country.

576. SCUML has limited capacity to match the growing size and geographical spread of DNFBPs in Nigeria. With a national staff strength of 63 (and 40 ad hoc staff) to cover about 72,751 REs under its supervision spread across the country and its other supervisory responsibilities such as registration of entities, outreach and sensitisation. The workforce of the institution remains grossly inadequate and renders supervision ineffective.

577. The RBS Framework for DNFBPs is evolving. The assessment team was provided with Guidance on Risk-based Approach for DPMS and the Hospitality/Hotel industry. This guidance on Risk-Based approach to supervision is dated post onsite in 2019 and some in January 2020. There was no evidence at the time of on-site or after that, suggesting that SCUML applies these tools.

578. Legal Professions (lawyers): AML/CFT supervision does not legally cover lawyers due to a High Court decision of 2014 and upheld by the Court of Appeal in 2017. Before the court decision, the authorities did not subject lawyers in Nigeria to AML/CFT supervision.

579. Accountants/Auditors: SCUML demonstrated on-site supervision of an accounting firm conducted on 17 June 2019. The examination period covered 1 June 2018 to 31 May 2019. The FMITIR contained general requirements (for example, risk assessment, risk-based approach), SCUML based its examination solely on the MLPA. Also, the examination did not cover TF and TFS. The examination revealed the fundamental flaws in the firm's implementation of AML/CFT measures (though SCUML relied solely on the MLPA). However, SCUML rated the firm's level of ML/TF risk as "Medium", thus demonstrating a lack of effective RBA examination of this sector.

580. ICAN does not have risk-based supervisory tools for AML/CFT and does not participate in the enforcement of compliance. The role is limited to advising members to comply with national laws, including AML/CFT laws. During the discussion with officials of ICAN, they did not appear to be aware of their role as AML/CFT supervisors for accounting professionals. ICAN was of the view that most accountants in Nigeria are officials of private and public sector companies and are therefore subject to AML/CFT supervision.

581. Real Estate agents: SCUML provided a sample report on RBS of a real estate company, a subsidiary of an entity with geographical footprints. The company sells commercial properties and high-end residential apartments outside Nigeria to high-net-worth individuals and high earning middle-class

professionals in Nigeria. The entity has non-national non-resident directors. The scope of the examination covered January 2017 to 31 August 2018. SCUML computed the company's aggregate ML/TF risk be very high (78.5%). Based on the entity's profile, the examination should have focused on high-risk clientele in terms of CDD/EDD and transactions. The testing of customer onboarding did not consider screening against the designated list for TF. There was no evidence in the examination/inspection. The examination does not appear to be risk-based.

582. Casinos: There is no evidence of risk-based supervision of the subsector, and many are not subject to licensing and supervision. Internet casinos are not yet subject to AML/CFT compliance.

Other designated activities

583. Table 6.8 below provides an overview of the number of on-site inspections undertaken by SCUML from 2016 to June 2019:

Table 6-8: Number of inspections by SCUML per sector

SECTOR	2016	2017	2018	2019 (As of June)	TOTAL
Real estate agents	77	165	285	21	597
Professionals (Legal Professions, Chartered Accountants, Tax Consultants)	77	144	76	18	369
Hotels & hospitality (hotels and travel agencies)	180	297	300	44	808
Luxury goods; DPMS	118	235	165	17	599
TOTAL	452	841	826	100	2,373

Source: SCUML

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

Financial Institutions

584. Supervisors apply remedial actions and sanctions through queries, warnings, penalties, suspension or withdrawal of licence, fines, administrative sanctions, imprisonment of officials, publishing of sanctions in annual financial reports (§16 MLPA; reg. 34 CBNR; CBN AML/CFT Administrative sanctions 2018; reg. 93 SECR; Securities and Exchange Commission Rules & Regulations 2013, Rule 7; regulation 28 NAICOMR).

585. The CBN applies administrative for violations of AML/CFT obligations, including written requests, administrative monetary penalties and criminal. The CBN has applied monetary sanctions to non-compliant forex dealers. However, the sanctions are not considered effective and dissuasive. As shown in Table 6.9 below, from 2015 to 2019, the fine against high-risk forex dealers ranged from USD 205 to USD 1,450 (at the current exchange rate).

Table 6-9: -Statistics on AML/CFT violations and sanctions foreign exchange dealers

Type of infraction	2015	2016	2017	2018	2019
No AML policy	21	-	19	29	25
Non display of AML Caution notice	24	-	23	18	17
AML Training	38	-	26	5	5
Compliance Officer	31	-	16	4	3
KYC/False documents	64	-	10	12	12
Customer profiling	2	-	10	11	9
Non-Rendition of STR	30	-	36	30	24
Non-Rendition of CTR	28	-	35	27	24
Total	244	-	175	136	119
Penalty imposed (Naira)	128,000,000 (USD 359,046)		13,000,000 (USD 36,466)	56,500,000 (USD 158,485)	28,800,000 (USD 80,785)

Source: CBN

586. CBN undertakes follow-up actions to ensure that licensed institutions address the identified deficiencies. Compliance has improved over the years. There is no statistics on sanctions for the other CBN sectors to determine the effectiveness of the CBN's supervisory actions in those sectors.

587. SEC applies a graduated approach for corrective measures or sanctions. SEC also conducts follow-up actions, further examinations to ensure that licensed institutions address the identified deficiencies. Overall compliance has improved due to the application of administrative sanctions, training and other regulatory interventions. Sanctions appear to have been dissuasive, proportionate and effective. See Tables 6.1 and 6.11 regarding monetary fines and enforcement actions for CMOs.

Table 6-10: CMOs penalised for various infractions (monetary fines (n))

NATURE OF VIOLATION	2015	2016	2017	2018	2019
Non-Rendition of STRs	507,019,500 mln	6.8 mln	72 mln	77 mln	4.8 mln
Various infractions	-	24.6 mln	39.6 mln.	227.9mln	26 mln

Source: SEC

Table 6-11: Statistics on enforcement action by SEC

CATEGORY OF SANCTION	2015	2016	2017	2018	2019
Suspension	12	8	2	9	
License Withdrawal/Cancellation of Registration	84	8	3		-
Sealing of Illegal Operators	5	5	9	5	3
Fraudulent cases investigated	49	334 1 case of a dormant acc. USD 4.9 mln)	341	159	70
CMOs charged for ML offence			197		

Source: SEC

588. NAICOM needs to enhance the application of sanctions and maintenance of related statistics. Information provided indicated that in 2017, NAICOM fined an insurance broker an amount of ₦1,000,000.00 (USD 2,805) for failure to submit an annual training plan and quarterly PEP report. In 2018, NAICOM routine onsite examinations on the sector discovered infractions involving ML through insurance

premiums and sanctioned erring institutions. There is no information regarding the nature of sanctions applied, including against senior managers and directors of the institutions in respect of those infractions to ascertain if they are proportional, effective and dissuasive.

DNFBPs

589. SCUML has applied some remedial actions including warnings, penalties, suspension or withdrawal of license, fines, administrative sanctions, imprisonment of officials, publication of sanctions in annual financial reports. However, there is no evidence to substantiate that position.

590. SCUML partners with the EFCC to prosecute non-compliant DNFBPs for ML/TF breaches. The authorities have prosecuted and convicted some DNFBPs for AML/CFT infractions. However, the number of convictions is very negligible, compared to the number of cases under investigations.

591. Table 6.12 summarises the number of ongoing investigations, prosecutions and convictions of DNFBPs from January 2016 to June 2019.

Table 6-12: Criminal Sanctions/Prosecutions/Conviction of DNFBPs

INVESTIGATION	2016	2017	2018	2019 (June)	TOTAL
Non-Compliance cases under Investigation	18	56	70	21	165
Under Prosecution	1	2	3	2	8
Conviction	1	1	2	3	7
TOTAL	20	57	75	26	180

Source: SCUML

592. SCUML issues warning letters to non-compliant DNFBPs and requests them to take corrective measures to address the deficiencies. Failure to apply corrective measures leads recommendations for sanctions. As noted above, SCUML's inadequate human resources impedes its ability to effectively monitor the vast number of DNFBPs for compliance AML/CFT obligations. It also impacts its ability to identify violations across all sectors and apply sanctions.

6.2.5. Impact of supervisory actions on compliance

Financial Institutions

593. Supervisors point to their sanctions activities as a measure of supervisory impact on compliance arising from their actions without providing other bases, for example, outreach, STR quality, governance issues.

594. The CBN is of the view that their supervisory actions contribute to improvement in the level of compliance with the AML/CFT requirements of FIs. Table 6.11 below summarises the various violations as a result of non-compliance related to (i) Know Your Customer/Customer Due Diligence (KYC/CDD) requirements, (ii) non-reporting of Suspicious Transactions and other AML/CFT Statutory Reports/Transactions that exceed the threshold, (iii) PEPs approval and reporting requirements for staff, (iv) AML/CFT Training requirement, (v) Risk Profiling of Customers/Products, (vi) AML/CFT Policy issues, and (vii) Record-Keeping. The statistics do not correlate with the table of sanctions for Forex dealers (Table 6.8). Table 6.8 shows a much higher number of sanctions than for all the sectors in Table 6.13 below. Consequently, both tables are not reliable indicators of sanctions, and as a measure of the impact of supervisory actions.

Table 6-13 -Violations of AML/CFT requirements (Banks)

YEAR	2015	2016	2017	2018	2019	TOTAL
CDD	28	33	6	24	14	105
STR	6	2	1	2	4	15
Other Transaction Reports	8	13	2	7	2	32
Pep Transactions	17	11	5	11	4	48
Training	5	6	0	2	1	14
Risk Profiling	6	6	0	5	2	19
AML/CFT	13	43	4	25	3	88
Record Keeping	4	2	4	4	3	17
Total No. Of Violations	87	114	22	80	33	338

Source: CBN

595. Following examinations of Deposit Money Banks (DMBs), using 2015 as the base year, the number of AML/CFT examinations and the scope of the examinations conducted from 2015 to 2019 increased due to adoption of and training of Examiners on AML/CFT issues.

596. The CBN identified 87 violations in 2015, 33 in 2016, 22 in 2017, 47 in 2018 and 41 in 2019. The number of violations has reduced taking 2015 as the base year because of frequent examinations, stricter enforcement of AML/CFT laws and regulation as well as frequent AML/CFT training of bank operators. Implementation of CDD has improved, and banks risk- profile customers and products in line with regulation. The level of STR reporting has also improved. Banks have appointed compliance officers at senior management level. Remedial measures and enforcement actions have led to increasing compliance.

597. The monetary penalties imposed increased as a result of the implementation of the CBN Administrative Sanctions Regulation Gazetted on 2 February 2018. The Administrative Sanctions are more effective, proportionate and dissuasive. They also have elements of personal liability on the Board, Senior Management Staff, Chief Compliance Officer (CCO) and Executive Compliance Officer (ECO). Remedial measures and enforcement actions have led to increasing compliance. The CBN expects industry compliance to improve year on year, especially the OFIs after the adoption of the RBS of the sub-sector in 2019.

598. Improvement in compliance and industry expectations are high increasing the filing of STRs, CTRs and other reports, the appointment of COs and formation of CCCOBIN, among others. Remedial measures and enforcement actions have led to increasing compliance with administrative monetary fines.

599. SEC also relied on sanctions imposed as the basis for supervisory impact. As noted in Table 6.8 on CMOs penalised for various infractions, the number of licenses withdrawn, or registrations cancelled saw a sharp decline from 84 in 2015 to 3 in 2018 and 2019. Unlike the suspension of licences where statistics shows a marginal decline from 2015 to 2018 (12 to 8 in 2015-2016; then 2 to 9 in 2017-2018). As seen in Table 3.7 above, CMOs filed a low number of STRs in 2017 (78) and 2019 (4).

600. There is evidence that suspicious transaction reporting by insurance companies is improving (70, 53 and 80 STRs in 2017, 2018 and 2019, respectively). Nevertheless, this is inconsistent with the sector Medium Low level of ML risk.

DNFBPs

601. SCUML's supervisory actions such as training and outreach programmes, compliance examinations, issuance of guidance notes and referrals for compliance enforcement have increased registration of DNFBPs. Supervisory actions are more noticeable in the North-Eastern part of Nigeria, where the Boko Haram Insurgency prevails than other areas. The recent decrease in volume of registration is due to the enhanced requirements for DNFBPs at the point of registration like proficiency certificate in case of consulting firms, Council for Registration of Engineers of Nigeria (COREN) certificates for a director of a company engaged in construction activities. Most DNFBPs alert LEAs whenever "they observe any suspicious activity". Hoteliers' description of suspicious activity lends credence to the lack of STRs by DNFBPs amid the significant ML/TF risks in the sector.

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

Financial Institutions

602. Supervisors publish circulars and guidance and undertake a range of outreach activities with their supervised sectors to promote clear understanding of AML/CFT obligations and ML/TF risks. These include Circulars & Guidelines on AML/CFT obligations (NAICOM operational guidelines for insurers and intermediaries, 2011, Circular on Code of Corporate Governance, 2016, Market Conduct and Business Practice Guidelines for Insurance Institutions, 2015 and others). SEC has also issued guidance to CMOs for various ML/TF quarterly and annual returns for Risk management and control. SEC requires CMOs to develop and implement AML/CFT compliance-training programmes.

603. All sponsored individuals and COs undergo pre-registration training on prudential and AML/CFT. SEC conducts the training programmes and engages with all the SRBs: NSE), Central Securities Clearing System (CSCS), trade groups in the capital market and CCOCIN through the Capital Market Committee (CMC) quarterly. NAICOM meets and trains the MDs, Senior Officers and the Risk Committee of insurance companies in Nigeria, chaired by the Nigerian Insurance Association monthly.

604. Supervisors have not conducted outreach or training to promote the understanding of ML/TF risks.

605. CBN conducts extensive outreach programmes through engagements, circulars, training, seminars, workshops, joint supervision. Also, the CBN provides well-regarded guidance, advisories, the sanctions list and other information to engage the private sector and enhance the abilities of reporting entities. SEC engages with CMOs through their association, workshops, circulars, training, seminars, joint supervision, among others. It provides well-regarded guidance, advisories and other information to engage the private sector and enhance the abilities of FIs and DNFBPs. SEC engages the industry through CMOs' association. There is open dialogue between the SEC and the licensed institutions. No outreach or training provided for understanding risks.

606. NAICOM conducts extensive outreach programs to insurance companies through presentations, seminars, public-private sector forums, establishment of supervisory college and meetings with industry. NAICOM provides well-regarded guidance, advisories and other information to engage the private sector and enhance the abilities of FIs and DNFBPs. No outreach or training provided for understanding risks.

607. The NFIU also engages the supervisors and the operators on identified ML/TF risks in local and regional trainings, workshops and meetings on ML/TF from time to time, primarily through the Chief Compliance Association bodies.

DNFBPs

608. SCUML conducts daily sensitisation programmes for DNFBPs to promote understanding of their AML/CFT obligations before it issues certificates to applicants. The sensitisation informs them of the ML/TF risks and measures they need to take to mitigate the risks as well as knowledge of their AML/CFT obligations. SCUML obtains and analyses feedback from DNFBPs to ascertain their level of understanding. However, given the vast number of registrations, the frequency and effectiveness of these efforts are unclear.

609. SCUML conducts compliance inspection on DNFBPs. The process reveals the level of performance/compliance areas of deficiencies are noted in observation letters and communicated to the DNFBPs for necessary improvement. Given the vast number of DNFBPs, the effectiveness of this effort is unclear.

610. Furthermore, SCUML uses various platforms like printed flyers, electronic media on television to educate DNFBPs on their AML/CFT obligation.

Overall conclusion on IO.3

611. CBN, SEC and NAICOM generally have robust mechanisms in place to prevent criminals and associates from entering the market, particularly for core principles FIs. However, the establishment of BO and continuous monitoring after registration could be enhanced. Also, some FATF-designated FIs, including forex dealers are not subject to licensing or registration, including fit and proper tests. For the high-risk forex sector, the CBN has licensed hundreds of operators within a relatively short period to formalise their operations. This number would not allow for a proper screening before authorisation/registration.

612. There is no indication of adequate measures to subject persons holding senior management functions or holding a significant or controlling interest, or professionally accredited to a fit and proper test, including criminal background checks, especially for non-resident DNFBPs. SRBs like accountants, lawyers and by extension TCSPs apply less stringent due diligence measures on professions and their beneficial owners before issuing practising licences. Their licensing or registration requirements do not focus on AML/CFT. Certain DNFBPs (for example, lawyers, casinos, accountants, real estate agents and DPMS) are not subject to licensing/registration, and supervision. They are not subject fit and proper tests.

613. CBN, SEC, NAICOM, NFIU and SCUML generally have a good understanding of ML/TF risks arising from the NRA. Regular risk assessment is evolving for some sectors. Financial supervisors have developed risk-based supervision tools, but implementation in the non-bank sector is still underdeveloped and negligible for the DNFBP sectors. The SEC has still not implemented a periodic risk profiling update for CMOs which does not ensure continuous monitoring, update and understanding of risks of the sector. Also, CBN's supervisory activities are more focused on banks. The CBN RBS framework in the non-bank financial institutions under its supervision is evolving. There are unregulated forex dealers and lending companies which does not allow for a fuller understanding of sectoral risks.

614. SCUML demonstrated a generally good understanding of ML/TF risks in the DNFBPs sectors based on the NRA. Still, SCUML cannot effectively supervise the sector due to lack of resources, the vast size of these sectors, and the absence of comprehensive assessment of the sectors. SCUML lacks

the legal power to supervise lawyers, and by extension lawyers that provide trust and company services due to a pending court judgement regarding the capacity of SCUML to supervise them for AML/CFT purposes. Also, DNFBPs have a low level of understanding of their entity level ML/TF risks.

615. Financial supervisors have applied a range of sanctions, including fines, warnings and criminal prosecution for regulatory breaches. However, based on the statistics provided or lack thereof, the effectiveness of sanctions cannot be fully assessed. This situation is worse for the non-bank/forex sectors and DNFBP sectors.

616. The level of outreach to FIs, particularly for banks and CMOs is good, but evolving among other FIs, particularly foreign exchange dealers, and impacted by the presence of unregulated activities. Outreach to the DNFBP sector is at the nascent stage and needs to be improved considerably. The number of DNFBPs, as well as the lack of human resources for SCUML impede this effort. These deficiencies require major improvements.

617. **Nigeria is rated as having a Moderate level of effectiveness on IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

- a) Information on the creation and types of legal persons created under the CAMA are publicly available via the website of the CAC. Public information regarding FZEs and trusts focus on legislative requirements for establishing and maintaining them.
- b) Nigeria has a limited understanding of the risks associated with legal persons. While the NRA highlights many vulnerabilities of ML/TF associated with the creation and operations of legal persons in the country, Nigeria has not identified and assessed the extent to which all legal persons, including FZEs, created in the country can be or are being misused for ML/TF.
- c) The many elements of ML/TF risks highlighted by the NRA regarding the creation and operations of legal persons and arrangements in Nigeria do not seem to drive the interventions put in place by the CAC. Though the CAC uses public engagements and customer fora as mechanisms to receive feedback, educate and inform the public about its services, there is no evidence that such interventions have led to any meaningful improvement in understanding the potential misuse of legal persons and arrangements for ML/TF.
- d) Basic ownership information on legal persons created in Nigeria is available through the relevant registries, FIs and DNFBPs that allow competent authorities to trace such information relatively easily. However, information held is not always accurate, up-to-date and available on a timely basis. Only FIs and some DNFBPs have a requirement to maintain BO information, and there is no requirement for companies or public registries to maintain BO information on legal persons. Key gatekeepers/intermediaries, promoters, especially lawyers, are not subject to any AML/CFT obligations and do not facilitate the provision of BO information. BO information on legal persons can be obtained indirectly through FIs, especially large banks, CMOs and insurance brokers, but is not always accurate as they are only updated periodically and need to be verified with information held by CAC, which often lacks accurate and up-to-date BO information. BO information is not available to competent authorities in a timely manner as LEAs often resort to protracted investigative techniques to augment BO information obtained from the CAC.
- e) The sanctioning regime for reporting requirements is weak in terms of available sanctions, regular monitoring and enforcement actions. There are concerns that the low range of pecuniary fines and criminal sanctions may limit the ability of the authorities to subject all persons who breach information measures to effective, proportionate and dissuasive sanctions.

Recommended Actions

- a) Nigeria should identify and assess the ML/TF risks associated with the range of legal persons created in the country (including those in the free zones), product delivery channels, geographical exposure and the activity of the concerned legal persons to understand the ML/TF risk and implement a risk-based approach as required by Recommendations 1 and 24. The risk assessment should also include the role of intermediaries and service providers. Based on the findings of the risk assessment, competent authorities should conduct outreach to the public and private sectors on ML/TF risks to mitigate the abuse of legal persons and arrangements.
- b) Nigeria should establish a requirement for the CAC and NEPZA to receive updated and accurate information on natural persons who actually own and take advantage of capital or assets of legal persons well as on those who really exert effective control over the legal person (whether or not they occupy formal positions within that legal person or require companies to hold accurate and up-to-date BO information in their own company registries. Nigeria should require CAC and NEPZA to verify that the information maintained is accurate on an ongoing basis. CAC should be mandated to apply the same mechanism to legal arrangements.
- c) Nigeria should subject trustees, including lawyers, to AML/CFT obligations and require trustees to maintain accurate and current information on trusts, including beneficiaries/natural persons exercising effective control over the trusts.
- d) Nigeria should, by law, establish mechanisms that allow require trustees, (including trustees of foreign trusts) to disclose their status when entering into a business relationship with FIs and DNFBPs.
- e) The authorities should target outreach and guidance to FIs, DNFBPs, associations and foundations any other non-profitable organisations that can be created in the country, with the support SCUML, on the need to, among other things, update their records on beneficial ownership; and
- f) Nigeria should review the CAMA with emphasis on the sanctioning regime and empower the CAC to apply effective, proportionate and dissuasive sanctions to all persons that fail to maintain and provide accurate and up-to-date BO information to CAC upon the creation of the legal person and when there are changes.
- g) CAC should collaborate with AML/CFT supervisors and the NFIU to identify priority jurisdictions with shell companies for international cooperation on legal persons and arrangements. It should ensure that mechanisms are in place to support proactive cooperation in keeping with their risk profile.

- h) The CAC, NEPZA and the Ministry of Budget and Planning (MBP) ought to computerise their systems for completeness, accuracy, effective verification and accessibility of information on legal persons and arrangements.
- i) Assessors should briefly list the main corrective actions required for the country to improve its level of effectiveness and technical compliance. Assessors should clearly indicate which IO/REC the recommended actions relate to.

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

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

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

619. Information on the creation and types of legal persons under the CAMA is publicly available on the website of CAC. Publicly available information on the types of legal persons created in free zones is limited to processes for licensing. Publicly available information on legal arrangements is limited, even though these are common in the country.

620. These conclusions are based on a review of public websites and databases, as well as discussion with CAC, LEAs and the private sector.

621. CAC screens all new applications to eliminate duplications and communicates the results from the initial screening (suitability and availability of name) to the applicant within 48 hours. The CAC also has thirty-eight (38) Customer Service Centres spread across the country. The CAC and MBP register legal arrangements, respectively. There is no information on the aggregate of legal persons and arrangements in Nigeria. The CAC and the MBP ought to computerise their systems to ensure completeness, accessibility and accuracy of the information on legal arrangements.

622. There are more than 2,911,273 legal persons registered in Nigeria (see chapter 1). Limited liability companies are the most commonly used types of legal persons created in Nigeria. Information maintained by the CAC is accessible to competent authorities and regulated AML/CFT businesses and professions via an online portal. While the public can access the information maintained on privately quoted companies, the information is limited to the name, address and date of registration. Request for additional information comes at a fee. FIs and DNFBPs can manually access information via a formal request through a consultant at a fee. This procedure does not facilitate the timely and cost-effective verification of basic and BO information.

623. There are more than 400 licensed domestic and foreign FZEs in Nigeria. The primary purposes for establishing these FZEs are to diversify the revenue base of Nigeria's economy, generate employment and encourage export through local production. Therefore, up to 100 per-cent foreign ownership of a business in the Free Zones is allowable. Non-resident investors in the Free Zone are required to register

their investments with NEPZA for records and statistical purposes⁹⁵. NEPZA's headquarters is located in Abuja, and it has liaison offices in Calabar, Kano and Lagos. The grant of a license by the Authority constitutes registration for a company within the Zone and does not require additional registration with the CAC. NEPZA's website provides information on steps to enterprise formation and operation. Information on an Enterprise registered in the Free Zone is available on application to the Managing Director with evidence of payment of the requisite fees. The information available on FZEs to the public, via NEPZA's website, are general and relate to the registration of FZEs, their activities, application forms, types of returns, remittance of capital, among others⁹⁶. The information is not specific to outline the creation and types of legal persons available in the free zones.

624. Nigerian law allows for the creation of incorporated trusts through the CAC. CAC has published the CAC requirements for the setting up of an incorporated trust on its website, which is accessible to the public. The information is limited to the legislative requirements for establishing and maintaining a trust. It does not provide any information on the types of trusts permitted in Nigeria.

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

625. Nigeria has not developed any significant and precise understanding of how the legal persons can be or are being used for ML/TF. The Assessors based this conclusion on a review of the references to legal persons in the NRA; discussions with LEAs, registrars, supervisors, FIs and a variety of DNFBPs.

626. Although Nigeria has recognised as a vulnerability that criminals can use legal persons for ML/TF purposes, the country has not conducted a thorough and detailed assessment of the inherent ML/TF vulnerabilities of all legal persons created in the country. The NRA only highlights challenges in accessing BO information as ML/TF risks and vulnerabilities posed by legal persons and arrangements. The NRA does not assess factors regarding the range of legal persons created in the country, product delivery channels, geographical exposure and the activity of the concerned legal persons to understand the ML/TF risk. The NRA is silent on the potential ML/TF risks of legal persons created in FZEs and the number of entities that can register legal persons. While paragraph 9 of the CBN Guidelines for Banking Operations in the Free Zones in Nigeria, 2016 requires banks within free zones to ensure strict adherence to the provisions of the MLPA, TPA and the CBNR, it is unclear how the authorities have leveraged the implementation of this requirement to identify potential ML/TF risks and vulnerabilities of legal persons in these zones.

627. Legal persons in Nigeria are at risk of being misused for ML/TF and evasion of UN Sanctions. In a decided case, the authorities detected inflated import figures, outright use of non-existent products/vessels and claims for vast sums of money as subsidy from the government leading to the loss of over N1.4 tln (about US\$12bln). Agitations by citizens, civil society groups, elder statesmen and the general populace led to an investigation into the subsidy regime by the EFCC, and the arrest, prosecution and conviction of some oil marketers in 2017⁹⁷. In addition, SEC has detected investment schemes perpetrated by both registered and unregistered legal persons operated by local and foreign nationals and has made some arrests.

⁹⁵ Note on Registration of Foreign Investors, CBN Guidelines for Banking Operations in the Free Zones in Nigeria, 2016.

⁹⁶ <https://www.nepza.gov.ng/index.php/zone-enterprise/setting-up>

⁹⁷ Page 54- 55, Money Laundering and Terrorist Financing Linked to the Extractive Industry/Mining Sector in West Africa, October 2019, GIABA.

Further, NIBSS' analysis of interbank transactions from commercial banks from June 2016 to December 2016 for linkages with a Ponzi scheme in Nigeria revealed the transfer of N 28.7 bln (USD 77.8 mln)⁹⁸ related to fraud. NIBSS was able to detect the fraud because the scheme allowed for customers to put identifying information on the transfer order. Nevertheless, these situations do not appear to have formed the basis of a comprehensive assessment of ML/TF risk of legal persons created in Nigeria.

628. Key gatekeepers/intermediaries, promoters, especially lawyers, are not subject to any ML/TF obligations. Lawyers provide a range of services to legal persons, including the authentication of compliance with the CAMA's company registration requirements. The absence of monitoring of their activities presents real threats to Nigeria's AML/CFT architecture, facilitating the obscurity of BO information with relative ease. Their association with the DNFBP sector (real estate, car dealers) and other opaque sectors undermine Nigeria efforts in fighting ML/TF. Comparatively, CAC has a weak understanding of ML/TF risk of legal persons and arrangements and is focused on the registration of entities.

629. Comparatively, the NFIU has a far better appreciation of the risks legal persons and arrangements pose to the country. The low level of risk understanding accounts for the absence of a mechanism to systematically update and keep accurate, basic information of legal persons legal and arrangements. Unregistered entities and businesses exist in rural areas which present undocumented ML/TF risks highlight challenges with the reach of the CAC and weaknesses in its outreach/onboarding.

630. The Ministry of Budget and Planning is responsible for registering international legal arrangements, especially when they require foreign funding. However, its role in Nigeria's ML/TF architecture regarding the registration of legal arrangements remains unclear. There is no relevant data on the types and number of legal arrangements created in Nigeria.

631. The fragmented nature of the registries means that risks may vary from registry to registry. Thus, Nigeria requires a detailed assessment of risk at an individual registry level, including trade-based money laundering and the use of legal persons to assist in sanctions evasion.

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

632. FIs have implemented some measures to mitigate the misuse of legal persons for purposes of ML/TF. They include: EDD requirements targeted at unveiling the natural persons behind any LP before it can operate a bank account in Nigeria, issuance of a BVN, registration with SCUML also focused on identifying natural persons behind any legal persons within the DNFBP sector, matching the name of any legal persons and the owners against local and international crimes, convictions and sanctions lists, filing of SARs and STRs on legal persons to the NFIU and other competent authorities. CAC maintains a computerised system as part of the initial registration of legal persons including DNFBPs. Assessors have challenges confirming some of CAC's identifiers, and the timeframe within which it validates the information, if at all.

⁹⁸ According to NIBSS, the amount transacted in this fraud in six months was greater than the Nigerian Ministry of Education's annual budget by 61%. At the time of the crash of MMM, consumers who had invested funds, yet who had not received any pay out lost over 11.9 billion Naira or \$32.8 m USD (Unlicensed Digital Investment Schemes (UDIS), Security, Infrastructure and Trust Working Group, September 2018.

633. The CAMA requires a company having shares other than a small company to file annual returns to the CAC within forty-two (42) days after its Annual General Meeting. The returns must contain (a) the location of the register of members of the company, (b) information regarding the shares of the company, distinguishing between those issued for cash or partly paid or otherwise than in cash, (c) the indebtedness of the company, (d) names and addresses of existing and past members since incorporation or the last return (depending on whether the company is filing for the first time or making subsequent filings), and (e) particulars of directors and the secretary.

634. Overall, measures to mitigate the misuse of legal persons and arrangements are inadequate. There is no information on the number of inactive legal persons in Nigeria. From 2015 to 2017, CAC, through on-site visits, detected 1,068 breaches of the provisions of CAMA, particularly regarding the publication of company name and the filing of a statement of capital. The violators included FIs and DNFBPs. The available penalty (₦100 daily) and the fines imposed (for example, ₦108,000.00 - ₦4,380,000.00) indicate that some of the breaches persisted for more than four years before CAC's on-site visits. Also, from October 2017 to September 2019, CAC struck off the names of 48,058 companies from its register (see Table 1.5 above). Some of the companies failed to file annual returns and did not respond to written enquiries. CAC's timing for inspections and ultimate detection of infractions demonstrates a lack of consistent effort by CAC to prevent the misuse of legal persons for ML/TF promptly.

635. The CAC holds "basic information", and not beneficial ownership information. The CAC and companies are obliged to maintain accurate records of shareholdings and directors. The information is available online, with the company or both. These obligations to register basic and ownership information are neither well implemented nor enforced. There is a high rate of inactive companies with weaknesses in filing returns, thereby undermining the accuracy of the information held by CAC.

636. There are comprehensive disclosure requirements that enhance the transparency of publicly listed companies. Disclosure requirements to the SEC apply to all public liability companies. Companies listed on the stock exchange are subject to further disclosure requirements. SEC enforces and oversees such obligations. Competent authorities can access information on shareholding and legal control of legal persons.

637. As shown in Table 1.5 above, the large number of companies struck off from CAC's register (including inactive companies) demonstrate a fundamental weakness in the enforcement of the CAMA to ensure compliance with the requirement for entities to file annual returns to the CAC. It undermines the quality and reliability of the information held by CAC. This weakness would continue to inhibit the ability of LEAs or FIs to conduct ML/TF investigations, and take measures to terminate sanctions evasion, especially in establishing the bona fides of beneficial owners, among others.

638. Neither CAC nor the relevant ministry or agency have any legal obligation to verify the information filed by legal persons and arrangements and do not do so in practice. The country did not provide random annual returns of companies to enable the Assessors to determine the accuracy of such filings. These returns may provide indications of the nature of business and their potential to support and facilitate ML/TF schemes. CAC did not demonstrate awareness of legal entities having nominee shares/shareholders nor the number of TCSPs operating across the country.

639. In the case of FZEs, the NEPZA Act, 1992, does not require the disclosure of BO information. However, NEPZA Headquarters Tariff and Timelines require the disclosure of ownership for holders of Operating Licences. The Act does not define who constitutes the owner of an FZE. It prohibits the purchase, assignment or transfer of shares in a licensed company operating within a Zone and undertaking an approved activity without notification to NEPZA, except where the company's shares are quoted and are

freely transferable on any international stock exchange. Against this background, the relevant authorities' understanding of FZEs regarding beneficial ownership and complex structures would remain a challenge.

640. Nigeria relies on existing sources of information to indirectly obtain BO information, including information from FIs collected through CDD and EDD. When a legal person is a customer of an FI, CDD obligations extend to shareholders, directors, financial statements and records of revenue and expenditure. The system of reliance on CDD undertaken by FIs and holdings of records relating to companies' activities supports the identification of beneficial owners in some cases. Still, it may not assist FIs or competent authorities to obtain up to date BO information for private limited companies promptly. CDD records are only updated periodically while BO arrangement may have changed in the interim. Thus, CDD processes may either be incomplete or out of date regarding BO information.

641. CAC conducts public engagements such as customer fora as mechanisms to receive feedback, educate and inform the public about its services. CAC did not demonstrate whether the engagement involved awareness-raising on the use of legal persons and arrangements for ML/TF and have led to any meaningful improvements in the understanding of the potential misuse of legal persons and arrangements.

642. The judgment debt involving P&ID (USD 9.6 bln) in Box 3.10 and the Malabu Oil deal (USD 1.3 bln) demonstrate the need for Nigeria to implement BO measures, especially in the extractive industry, without delay. For instance, the Malabu oil deal relied on company ownership anonymity, shell companies, offshore tax havens and other schemes to mask grand corruption, international bribery, tax evasion and ML, across multiple jurisdictions (See Box 7.1)⁹⁹

Box 7-1. The use of shell companies to launder illicit proceeds from the oil and gas sector

The Nigerian Petroleum Development Company (NPDC), a subsidiary of the Nigerian National Petroleum Corporation (NNPC), under the direction of the then oil minister, signed the Strategic Alliance Agreements (SAAs) with ATICO. Eight Oil Mining Licences (26, 30, 34, 42, 60, 61, 62 and 63) blocks divested by S, A and T were signed off through these SAAs to a company with no industry track record. OPL 245, an offshore oil block with an estimated 9 billion barrels in reserves, was acquired by the former Minister as the ultimate beneficial owner of Malabu. These deals have ended up in several legal processes in the US Department of Justice Kleptocracy Asset Recovery Initiative, which is seeking to recover US\$144 million in assets associated with one of ATICO's beneficial owners; the UK's National Crime Agency; and the Federal High Court in Nigeria, where the former minister and two other persons have been charged on nine counts of criminal charges, including diversion of approximately \$1.6bn.

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

643. Competent authorities access basic information on legal persons, mostly private companies, created in Nigeria. However, they face challenges in obtaining BO information. The relevant authorities, including CAC, did not demonstrate how they maintain accurate and up-to-date BO information.

⁹⁹ Adapted, pg.17, Money Laundering and Terrorist Financing Linked to the Extractive Industry / Mining Sector in West Africa, October 2019, GIABA.

644. FIs hold BO information suitable for their purposes and present a more reliable information source compared to the CAC. As noted in Chapter 5, large banks, CMOs and insurance brokers obtain BO information using the shareholding structure (directors and shareholders with more than 5% shares in the legal person) as stated on the company registration documents (see Chapter 5 on IO.4), while the CAMA requires for the disclosure of 30% shareholding. In this regard, FIs are able to obtain information that is not available to CAC. Still, FIs need to verify the BO information from CAC, which lacks accurate and up-to-date BO information. BO information held by FIs is available to LEAs on request through formal letters or court orders. There are no clear timelines within which LEAs receive responses to requests for BO information.

645. Supervisory, regulatory, and competent authorities do not implement measures to ensure regular update of records on legal persons. Save that BO information may not be accurate and current; they are available to competent authorities. BO information is not accessible to the standards expected by the FATF promptly. LEAs in the main have to resort to protracted investigative techniques and covet procedures (surveillance), interviews/interrogations, physical searches, and email searches to follow the chain of ownership and control, which in some cases lead to identifying the beneficial owner. These procedures impede the timely access to BO information.

646. Information on FZEs is available on application to the Managing Director with evidence of payment of the requisite fees. There is no information regarding the timelines within which the availability of such information to competent authorities.

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

647. The CAC, on request, can respond to requests made on it by competent authorities for basic and BO information. BO information is, however, less reliable than basic information. The timeliness, adequacy and accuracy of such responses are not guaranteed. Basic information may be timely but not accurate and up to date.

648. Although the Freedom of Information Act, 2011 enables any interested party, including LEAs and the NFIU to access information for judicious use, BO information is not accessible to the standards expected by the FATF promptly. LEAs, therefore, tend to undertake protracted investigative techniques and covet procedures (surveillance), interviews/interrogations, physical searches, MLA requests and email searches to obtain BO information when needed. These procedures are not timely.

649. Reliance on the national identity card, BVN, TIN shows commendable measures. However, these do not adequately provide the needed information. The BVN is only a biometric identification system implemented by the CBN to curb or reduce illegal banking transactions in Nigeria. It is a new security measure to reduce fraud in the banking system. Despite its implementation, banks are yet to identify the owners of 50 mln bank accounts. The BVN, therefore, has a different focus, but it is a reliable mechanism for recording BO information. The requirement to own a TIN is primarily an administrative measure for tax purposes rather than a mandatory obligation to ensure accurate and up-to-date transparent BO information.

650. Nigerian authorities can obtain BO information on foreign legal arrangements from foreign FIs and DNFBPs. However, such responses mainly depend on the foreign countries' appetite for cooperation and the varying degrees of timeliness to responses, quality of responses and success rate.

651. FI's collect BO information on legal arrangements in certain circumstances but they do not verify the same. In the implementation of EDD on high-risk customers, depository institutions collect ownership and control details. Trustees are also required to obtain some details on beneficial ownership. However, while these measures may help to an extent, they are not adequate to ensure timely access to BO information in all high-risk cases. While promoters, lawyers, accountants may ease the creation of legal arrangements, sometimes their roles are restricted to accepting processes, authenticating compliance with CAC requirements, discharging tax and legal obligations, among others. These intermediaries are not subject to comprehensive AML/CFT requirements. Where they are involved, there is no mechanism to ensure that they would have collected and maintained basic and BO information on legal arrangements.

652. The CAC relies heavily on information given to it by users for registration and the CAC did not demonstrate the existence of a system to verify the accuracy of the information contained in documents filed by applicants. Although entities must update their records in the event of changes in their circumstances, the CAC is yet to apply any deterrent measures aimed at ensuring the currency of data submitted for registration.

653. Applicants can complete the registration of a private company in 24 hours while the filing of annual returns can take up to 5 days. Incorporation of trustees takes 24 hours while the filing of annual returns, a notice of change of trustee, change of name, amendment of the constitution takes up to 5 working days. There are no time limits set for the registration of legal arrangements or the registration of the changes of the registered information on legal arrangements maintained by the Ministry of Budget and Planning. Assessors were also not exposed to measures that could be applied to legal arrangements to prevent the non-registration of changes. Thus, assessors do not consider information held by the CAC and the Ministry as current.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

654. Sanctions available for legal persons and arrangements that fail to comply with reporting requirements are low and inadequate. These reduce Nigeria's ability to impose proportionate and dissuasive sanctions for non-compliance with reporting requirements. CAC did not demonstrate that it regularly imposes sanctions and enforces them. Assessors based these conclusions on discussions with CAC, a review of samples of company files and statistics provided by CAC.

655. For failure to file annual returns to the CAC imposes a daily monetary fine of ₦ 100 (USD 0.28) on the company, each director and secretary. However, a public notice at the premises of CAC shows a monetary fine of ₦ 5,000.00 (USD 14.03) per year for failure to file annual returns promptly.

656. Late filing of the increase in share capital attracts a fine of N 10,000.00 (USD 32.6) for public companies, and N 5,000.00 (USD 16.3) for private companies and companies limited by guarantee.

657. Providing false information to the CAC regarding any return or report required by the CAMA is punishable (i) on conviction by the High Court imprisonment for two years, or (ii) on conviction by a lower court, to a fine of N1000 or imprisonment for four months or both (section 560 CAMA). The statement must be wilful and with the knowledge that it is false. While the imprisonment penalty the High Court may impose is high, there is no option of a fine. Also, the imprisonment penalty in the lower court appears reasonable, but the fine is very low. Both situations may limit Nigeria's ability to apply proportionate sanctions for non-compliance with reporting obligations. Also, no sanctions are available for the legal person itself (see R.24) which limits the dissuasiveness of sanctions.

658. For business names, the penalty for failure to file annual returns or change in proprietorship is N 1,000.00 (USD 3.26). In contrast, the failure of foreign companies to file an annual report attracts a fine of N5,000.00.

659. For incorporated trustees, the penalty for failure to file annual returns attracts a fine of ₦ 5,000.00 (USD 14.03) per year. For trusts, a beneficiary may start a civil action against the trustee for breach of his fiduciary duty.

660. CAC is not effectively monitoring the filing of returns, and there is insufficient evidence regarding the verification of registration information to determine the accuracy of filed during the registration of business. Upon sampling files of some registered entities at the CAC, Assessors noted that a company registered since July 2006 did not file a single return as the date of the onsite. There have been no administrative or criminal sanctions against that entity as at the time of the on-site.

661. CAC has not enforced a significant number of administrative sanctions (fines) imposed on 1,068 companies for breaches of the CAMA spanning 2015 to 2017. Out of this number, sixty-seven (67) have paid up the fines imposed on them. CAC has withdrawn two of the fines while 999 remain outstanding. Also, between 2018 and 2019, CAC recorded imposed fines on violators of the CAMA and recorded 306,443 violations and sanctioned 21 companies. During this period, CAC recovered fines amounting to \$232,219.38 in respect of 16,430 fines imposed.

662. Nigerian law empowers CAC to strike off the name of such a company off the register. However, the use of the power to strike off the names of companies does not appear to be an effective sanction to ensure that companies are complying with information requirements. As indicated in Table 1.5 above, CAC struck off the names of 48,058 companies from its register by the end of September 2019. The exercises were based on reasonable cause that the companies were not carrying on business while in operation and following a lack of response to written enquiry from CAC. There is no evidence that sanctions have been applied directly to individuals. Also, apart from the P&ID case, there is no information that a company has been convicted for failure to file returns. Generally, the application of sanctions by the CAC seems negligible and does not inhibit future breaches.

663. There is no information regarding sanctions imposed on legal arrangements in practice. Similarly, criminal sanctions applied to legal persons and arrangements are non-existent, which is inconsistent with the regular use of legal persons and arrangements in Nigeria.

Overall conclusion on IO.5

664. There are concerns about the limited awareness and understanding of the ML/TF risks associated with all types of legal persons created in Nigeria. While basic information on the creation and types of legal persons and arrangements are publicly available and accessible at a fee in some instances, reservations exist regarding the timeliness, accuracy and adequacy of such information and relevant data held by the CAC and other entities. The competent authorities have not applied sanctions for failure to comply with information requirements at a level that suggests an effective, proportionate and dissuasive sanctioning regime. The urgency of actions to address the risks of legal persons and arrangements should be a critical priority to the Nigerian authorities given that the invisibility of corruption entirely depends upon the free and unrestricted (i.e., unmitigated) use of these channels to launder proceeds of crime. Given its risk and context, Nigeria requires fundamental improvements to demonstrate the ability to obtain and maintain BO information of legal persons and legal arrangements.

665. **Nigeria has achieved a Low level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

- a) Nigeria utilises both formal and informal channels to pursue and request international cooperation, usually based on international treaties, agreements and MOUs. Although Nigeria has executed MOUs and agreements with several jurisdictions, there is no evidence of specific on-going cases emanating from such MOUs. The Central Authority Unit (CAU) of the FMOJ is responsible for coordinating MLA and extradition requests. The CAU lacks mechanisms to prioritise the number of MLA requests received and ensure timely responses and does not maintain a reliable database of requests received, disseminated and those outstanding.
- b) Nigeria recently enacted the Mutual Legal Assistance on Criminal Matters Act (MLACMA) (June 2019) to streamline the MLA process. Therefore, it is too early to assess the impact of the MLACMA on international cooperation, especially regarding ML, associated predicate offences and proceeds of crime moved abroad. Also, the MLPA does not extend the ML offence to foreign predicates, which could impede Nigeria's ability to provide international cooperation in respect of foreign predicates (see R.3.6).
- c) While Nigeria did demonstrate the willingness to provide MLA and extradition across the range of international co-operation requests, the execution of such requests is very low and not timely. Execution of requests is very low and incommensurate with the risk profile of the country. There is insufficient feedback regarding the quality and timeliness of MLA requests related to ML, associated predicate offences, TF and other matters. There is no feedback regarding extradition.
- d) Dual criminality is a condition for rendering MLA, including where the MLA requests do not involve coercive actions. Nigeria will not provide MLA if the facts constituting the offence to which the MLA relates do not indicate a serious offence. In addition, Nigeria lacks provisions for authorities to deem the dual criminality requirement as satisfied regardless of whether Nigeria and the requesting country place the offence within the same category of offence or denominate the offence by the same terminology if both countries criminalise the conduct underlying the offence.
- e) While Nigeria may refuse to extradite a fugitive criminal who is a citizen of Nigeria, there is no legal provision indicating that Nigeria will, at the request of the seeking country, submit the case without undue delay to the competent authorities for prosecution of the offences specified in the request.
- f) Nigeria did not demonstrate that it is routinely seeking formal legal assistance and extradition from foreign countries to pursue ML, associated predicate offences and TF which have transnational elements. The number of requests for both MLA and extradition are low, and particularly low for ML and TF considering Nigeria's ML/TF risk and context. Where available, basic and BO information is inadequate,

inaccurate and outdated thus impeding the timely provision and response to foreign requests for cooperation in identifying and exchanging basic and BO information of legal persons and arrangements.

- g) There is a strong engagement, particularly between the EFCC, NPF, NDLEA, NCS, FIRS and their foreign counterparts under various forums. The authorities have signed agreements and MOUs with neighbouring countries and international counterparts for cooperation. However, these agreements or MOUs and actions taken mainly focus on predicate offences for ML (for example, corruption, tax crimes, drug trafficking and violations of customs laws).
- h) Statistics provided by the NFIU does not show any analysis of the effectiveness of international cooperation, especially regarding the constructive and timely nature of the NFIU's responses.
- i) Although extradition is available for all crimes punishable by imprisonment over 2 years, including ML, where allowed by the gaps concerning the criminalisation of the ML offence, Nigeria demonstrated a negligible number (02) in respect of ML.

Recommended Actions

- a) Nigeria should significantly deepen formal and informal cooperation (both in providing and seeking assistance) with its immediate neighbours consistent with its risk profile with immediate neighbours consistent with its ML/TF risk profile. Competent authorities should ensure timely responses to requests by having liaisons embedded with LEAs required to respond to requests for cooperation and maintain statistics concerning the refusal and abandonment of asset forfeiture requests.
- b) The CAU and the AGF should develop case management systems for handling incoming MLA and extradition requests and apply prioritisation criteria. Such a systems should allow for monitoring the prioritisation of the cases and controlling of deadlines for execution of incoming requests
- c) Policy authorities should allocate adequate resources to build the capacity of the CAU and FMOJ officers engaged in MLA international cooperation (i.e., workshops and training seminars on international cooperation). They should also provide systems for timely responses to cases that are not receiving the needed priority.
- d) Nigeria should amend the MLPA and other relevant laws to extend the ML offence to foreign predicates. Nigeria should ensure that the authorities provide MLA to the broadest range of offences, especially ML, associated predicate offences and TF consistent with its risk profile.
- e) Nigeria should amend the MLACMA to eliminate dual criminality as a condition for rendering MLA where the requests do not involve coercive actions.

- f) Nigeria should amend the MLACMA to provide that the dual criminality requirement is satisfied regardless of whether Nigeria and the requesting country place the offence within the same category of offence or denominate the offence by the same terminology if both countries criminalise the conduct underlying the offence.
- g) In cases where Nigeria refuses to extradite its citizen who is a fugitive criminal, Nigeria should amend the Extradition Act to allow the AGF to, at the request of a seeking country, submit the case without undue delay for the prosecution of the offences specified in the request.
- h) Nigeria should initiate asset sharing agreements with other jurisdictions to provide the widest range of assistance to other jurisdictions.
- i) The NFIU and all other competent authorities engaged in international cooperation (i.e., CBN, SEC, NAICOM, EFCC, NCS, FIRS and NDLEA) should provide requested and spontaneous information to its foreign counterparts on a timely basis. Based on this process, Nigeria should develop a priority plan to guide the NFIU, LEAs, CAU, supervisors and others in proactive international cooperation.
- j) Conclude asset sharing agreements with other jurisdictions to provide the widest range of assistance to other jurisdictions.
- k) Nigeria should prioritise and widen investigations, particularly in respect of assets moved abroad and pursue offenders offshore for extradition as well as asset tracing, seizure and confiscation.
- l) Supervisors/regulators should seek and proactively share information with foreign supervisors concerning risk, market-entry, fit and proper tests, supervision as well as regulatory outcomes, including sanctions.

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

8.2. Immediate Outcome 2 (International Cooperation)

667. International co-operation is significant in Nigeria's context given its position as a major transit route for illicit drugs – including heroin and cocaine – from South America and elsewhere to Europe and Asia. Nigeria also faces asset flight from corruption and other major schemes. Nigeria has observed in its 2017 NRA that externally, ML threat involves the domestic laundering of proceeds generated from predicate crimes (not specified) committed outside Nigeria. The UAE, China, Malaysia, Hong Kong, South Africa and UK pose a significant threat to Nigeria in terms of illicit proceeds inflow¹⁰⁰. Nigeria also faces potential ML threats from bulk cash movement through some of its land borders and airports. Drug trafficking, human trafficking and migrant smuggling also represent high ML threats with international

¹⁰⁰ Page 21, 2017 NRA.

elements. Large sums of money, particularly from bribery, corruption, advance fee fraud and other major schemes perpetrated in Nigeria are transferred and laundered abroad.

668. Nigeria faces significant TF risks due to the activities of Boko Haram and its offshoot, the Islamic State West Africa Province (ISWAP), which continue to perpetrate major attacks, both on civilian and military targets in Nigeria's North-East regions and across its borders with Niger, Chad and Cameroon. The 2017 NRA notes that many arms traffickers in northern Nigeria carry out their illicit activities into the country across Lake Chad or via the border with Cameroon for exchange with oil on the high seas.

669. Under its 2018 AML/CFT Strategy, Nigeria seeks to ensure that competent authorities coordinate with international counterparts on issues that would aid in investigations, convictions as well as the recovery of stolen assets. The Strategy requires for an "established framework and monitoring mechanism that ensures implementation of all AML/CFT international obligations on information exchange, MLA, request for freezing, seizing and confiscation of assets or proceeds of crime and extradition".

670. In line with the AML/CFT Strategy, Nigeria enacted the MLACMA in June 2019 to address pertinent issues connected to the MLA process. The MLACMA covers a broad range of MLA, including the reciprocal sharing of confiscated property with foreign States (see R. 37). While the enactment of the MLACMA is an important step in improving the overall effectiveness of international cooperation in criminal matters, it is too early to assess its impact on Nigeria's international cooperation efforts, especially regarding TF and proceeds of crime moved from or to foreign jurisdictions. Nigeria is yet to enact its Proceeds of Crime Bill to provide comprehensive measures on the confiscation of proceeds and instrumentalities of crime.

671. Nigeria's legal framework for extradition comprise the 1999 Constitution; the Extradition Act, 1966; Extradition Act (Modification) Order, 2014 and Federal High Court (Extradition Proceedings) Rules 2015. Other relevant laws are the Evidence Act, 2011; Administration of Criminal Justice Act, 2015; Federal High Court Act, 1973; and criminal or penal laws including the Criminal Code, the TPA, and penal provisions of other laws relating to criminal justice. Nigeria is signatory to the ECOWAS Convention on Extradition which seeks to endow national courts of law with an effective instrument for the arrest, prosecution, conviction and enforcement of penalties against offenders fleeing the territory of one member State to seek shelter in the territory of another. The AGF is responsible for processing extradition requests in Nigeria. Nigeria did demonstrate a low rate of execution of requests for extradition, which is inconsistent with its risk profile.

672. Nigeria has signed 8 MoUs for international cooperation relevant to ML/TF, including MLA, extradition, information sharing and repatriation of assets (see Table 8.1). The number of MoUs is incommensurate with Nigeria's risk exposure, and there is no reliable information to ascertain their basis, for example, the degree of Nigeria's ML or predicate offences emanating from these jurisdictions, the recovery and repatriation of proceeds or instrumentalities of crime or identified national ML/TF risks. Recommendations 3 has minor shortcomings (foreign predicates) which impacts Nigeria's effort to seek international cooperation on these matters (see core issue 2.2).

Table 8-1 – MoUs Signed by Nigeria

Country	Year of Execution	Subject Matter
United States of America	1931	Extradition of Criminals
United Kingdom	2018	Military, terrorism, organised crime
Russia	2018	Mutual Legal Assistance in Criminal Matters
Ghana Maritime Authority	2017	Knowledge transfer and sharing, capacity building, cabotage enforcement joint study initiative, research and joint efforts on piracy and terrorism

Italy (with NAPITIP)	2016	Criminal Matters (Human Trafficking)
UK & Northern Ireland		Modalities for the return of stolen assets confiscated by the UK
Cameroun	2006	Small Arms and Light Weapons
Russian Federation		Military Cooperation
UK & Ireland	2004	Trafficking in persons

Source: FMoj (review of MOUs)

673. The Ministry of Foreign Affairs (MOFA) acts as a channel for transmitting requests for international cooperation to the CAU of the MOJ. The CAU reviews the requests for compliance with procedural and treaty requirements and distributes the same to the relevant public authorities (EFCC and NDLEA) for execution. Other agencies, including the Ministry of Defence, also receive requests for MLA and forward the same to the CAU.

674. The MOFA and the CAU do not disseminate requests for international cooperation promptly, thus impeding the assessment of institutional cooperation and collaboration concerning MLA and extradition. The CAU has 13 staff embedded in the Prosecutions Department of the FMoj responsible for handling MLA requests. The CAU requires adequate human and financial resources to be able to function more efficiently.

Table 8-2- Information on the resources of the CAU.

	2015	2016	2017	2018	2019
Staff dedicated to international cooperation	10	10	16	15	13
Training	-	5	1	3	1
Budget (Extradition and Court activities)	\$35,000.00	\$35,000.00	\$35,000.00	\$50,000.00	\$50,000.00

Source: NFIU

8.2.1. Providing constructive and timely MLA and extradition

675. Nigeria lacks information regarding the quality and timeliness of MLA and extradition related to ML and associated predicate offences. It also lacks comprehensive SOPs or administrative procedures for processing incoming MLA requests. Its SOP does not include procedures for requesting MLA. Therefore, the basis for prioritising requests, in terms of urgency, seriousness of the offence, danger of losing evidence, remains unclear.

676. Further, the CAU does not maintain comprehensive and quality¹⁰¹ statistics and records for incoming and outgoing MLA and extradition requests, including the types of offences involved and timelines for executing requests. For example, the CAU's statistics show that from 2015 to 2017, it handled 1,840 incoming requests for MLA and extradition and requested 309. The delineation of the statistics and the fact most of them were not reflected in the information provided impeded the effective analysis of Nigeria's formal international cooperation efforts.

Table 8-3 – Sample of CAU Statistics on MLA and Extradition

	2015	2016	2017	Total
Extradition and Mutual	Total Number of Incoming Requests			636

¹⁰¹ Some information was provided in handwritten form which were not readable.

Legal Assistance	Total Number of Outgoing Requests	363
	Total Number of Incoming Requests forwarded to the Competent Authorities for Execution	503
	Total Number of Incoming Requests	309
	Total	1,840

Source: FMOJ website

677. Financial supervisors, CBN, SEC and NAICOM also collaborate with their foreign counterparts based on MOUs. They face challenges with jurisdictional laws, justice systems, language, monetary and fiscal policies as highlighted in the 2017 NRA.

678. The NFIU is a member of the Egmont Group and the Forum of Heads of FIUs of West African States. It also engages in international cooperation with its counterpart FIUs and other competent authorities.

679. There is relative pre-onsite feedback from FATF and FSRB delegations regarding their international cooperation experience over the last 4 years with Nigeria to allow a good understanding of how well Nigeria engages in international cooperation. The Assessment Team received only one response related to MLA but none on extradition.

Mutual legal Assistance

680. Nigerian authorities did not demonstrate that they pursue MLA in a very constructive and timely manner to achieve set objectives. Nigeria does not have clear SOPs or administrative procedures for processing MLA requests. The SOP is limited to the Case Officer's reviews of MLAs received to ensure compliance with local requirements and onward transmission to relevant competent authorities. However, these timelines are not adhered to. The review period is supposed to take approximately five working days. However, records show that transmission to relevant LEAs take more than one month¹⁰².

681. Where an incoming MLA request is of poor quality or missing data, the Case Officer writes a letter to the authorities of the requesting State stating the reasons or reasons why the request cannot be executed at the time. The letter is then forwarded to the requesting State via diplomatic channels while the MLA request is kept in view pending supplementary request or supply of further information from the requesting State. While the SOP indicates that the case officer treats requests on case-by-case basis depending on the request, it does provide basis for prioritising cases, including the types of requests that warrant such priority. In addition, there is no evidence regarding the timelines within which requesting jurisdictions are advised of their non-compliance with their request in order to resubmit for execution.

682. Nigeria did not provide reliable and comprehensible data on incoming MLA to enable the Assessors to determine the average number of MLA requests per year, the nature of the request the time within which they were executed. While the scanned handwritten document provided by the CAU could not permit a proper appreciation of the country's MLA efforts, including accurate break down of the requests received by offence.

683. The AGF can provide MLA on TF even in the absence of compliance with the conditions in the TPA. However, there must be sufficient complaint to execute the request. Nigeria received two TF-related MLA requests in 2018 from Switzerland but is yet to execute them. The authorities did not assign reasons

¹⁰² Re. Madubuko J, received on 2 November 2018 and transmitted to the NDLEA on 12 December 2018.

why the requests were not executed. Considering its TF exposure, Nigeria ought to treat such requests as priority.

684. The timing depends on the nature of the request and availability of information. Nigeria acknowledges in its SOP that the timeline for the execution of requests by competent authorities is unascertainable due to challenges faced by the executing authorities (see SOP 6) without stating those challenges and how they should be addressed. The Assessors observed that challenges result from the lack of human resources at the CAU, ongoing correspondence, language barrier, the late dissemination to relevant LEAs, lack of prioritisation by the CAU and LEAs, LEA's workload, as well as scattered sources of information. Consequently, an unknown number of MLA requests (some dating back to several years) are pending. On the average, the authorities execute MLA requests after 12 months (at least in the case of the ones which receive attention), which is not timely.

685. The Assessors did not receive feedback from counterparts on their international cooperation experience with Nigeria during the review period to enable the Assessors to determine the quality of assistance provided. This is of much concern considering Nigeria's exposure to ML emanating from foreign predicates, particularly fraud. Given these concerns, Nigeria is encouraged to ensure that competent authorities are adequately resourced and trained to ensure the timely execution of requests. Nigeria should also issue guidance to requesting states on what it requires to facilitate a proper and expeditious execution of requests containing all the necessary information and in a form in which Nigeria can act promptly.

MLA on asset identification and freezing

686. In relation to asset identification and freezing, Nigeria received 22 MLA requests between 2016 and 2019 but responded to none (see Table 8.4). Three of the requests related to drug trafficking, a major source of criminal proceeds generated abroad. This number is very low, considering Nigeria's acknowledged exposure to the laundering or placement of the proceeds of foreign predicate offences. The non-execution of the requests calls to question the authorities' ability or willingness to execute such requests. There is no information regarding how Nigerian authorities carry out coercive measures (restraint, freezing orders) in response to international requests. There is no information regarding the freezing of funds of an international terrorist or coercive measures executed under an MLA or their use as a priority, as well as reasons for refusal and abandonment of such requests.

Table 8-4- Incoming MLA Requests - Asset tracing (with a related freezing/confiscation request)

MLA requests received for:	2016	2017	2018	2019*	Total
Asset tracing (without a related freezing /confiscation request)	5	10	4	3	22
No. requests executed	0	0	0	0	0

Source: NFIU

687. There is no data or statistics regarding the number of requests refused or abandoned, the reasons for the refusal or abandonment of the 22 MLA requests received for asset tracing in Table 8.4 above. In the absence of execution, it is not possible to determine the quality and constructive nature of MLA requests related to asset forfeiture.

688. Nigeria recently adopted legal measures for the reciprocal sharing of confiscated property with foreign States. however, there are no asset sharing agreements with other jurisdictions. The lack of agreement or arrangements have the propensity to discourage international cooperation in the investigation, prosecution and confiscation related to ML, associated predicate offences and TF. There are no case studies demonstrating Nigeria's ability to provide MLA in the recovery and repatriation of confiscated assets. The ARMU focuses more on the recovery of assets located abroad and processed for repatriation to Nigeria. As

noted in IO.8, Nigerian authorities need to adopt and implement the necessary laws and policy guidelines to deprive criminals of the proceeds and instrumentalities of their crime.

Extradition requests

689. Extradition request is treaty-based and as Nigeria has executed a low number of treaties, and some of such treaties not being stand-alone AML/CFT, reduces the opportunity for countries to request for extradition.

690. While dual criminality is key, it is not a barrier to extradition requests. The extraditable offence must constitute a felony under Nigerian law, which is a standard practice for extraditable offences.

691. The AGF is responsible for processing extradition requests in Nigeria. A request for extradition of a fugitive or any person accused of any crime is made in writing to the AGF by a diplomatic representative or consular officer of the requesting country, accompanied by a duly authenticated warrant of arrest or certificate of conviction issued in the requesting country.

692. The AGF applies discretion to initiate or refuse extradition requests, including when there are requests from multiple countries to surrender the fugitive for the same or different offences. Between 2016 and 2019, Nigeria successfully executed only 02 out of 19 ML-related extradition requests received (see Table 8.5). However, there is no information on the dates of receipt and execution of the requests to determine the timeliness of the process. Also, there is no information on the reasons for the non-execution of the remaining seventeen requests, whether under process, withdrawn, abandoned or refused. The low number of successful extraditions confirms its limited use for ML/TF cases consistent with Nigeria's risk profile.

Table 8-5 - Incoming Extradition Requests (ML)

Extradition	2016	2017	2018	2019	Total
Request received	X	8	6	5	19
Requests executed	X	X	2	X	2

Source: NFIU

693. In 2018 and 2019, Nigeria extradited three persons (Nigerian citizens) to the USA (1 in 2018 and 1 in 2019) and the UK (in 2018) on predicate offences, including drug trafficking and fraud (see Table 8.6). There is no information regarding the actual number of requests received, and the number refused from 2015 to 2019.

Table 8-6- Incoming Extradition Requests (Predicate Offences)

No	Title of Case	Offence(S)	Date of Extradition Order	Date of Surrender Order	Requested State
1)	FHC/ABJ/CS/430/2018 AGF VS Fuzuaku	a) Conspiracy to import heroin; b) Conspiracy to distribute and possess controlled substances; c) Conspiracy to employ a person under the age of 18 years to violate Drug Laws of USA; d) Conspiracy to transfer monetary instruments with the intent to promote unlawful activity; and e) Conspiracy to conduct financial transactions which involve the proceeds of a specified unlawful activity.	8/10/ 2018.	10/ 2018	USA
2)	FHC/ABJ/CS/582/17	Conspiracy to defraud.	29/06/2018.	07/2018	UK

	AGF Vs Obokoya				
3)	FHC/ABJ/CS/1408/18 AGF Vs Mukhan	Drug Trafficking	05/04 2019.	04/2019	USA

Source: FMOJ

694. The extradition process usually takes a year (see Table 8.6) or more. In one case, the time period between the receipt of the request and surrender of the fugitive offender was two years (see Box 8.1).

Box 8-1. The FSUCU Case

On 20 November 2017, the Nigerian authorities received a request for the extradition of Adeade, a Nigerian national, on charges of leading a criminal group consisting of three cells (in Yonkee, Bulls and Flower States), to commit massive bank, mail and wire fraud resulting in the loss of \$4.1 mln and 42 victim-FIs. Between 2002 and 2004, members of the criminal group fraudulently obtained other persons' identities, opened numerous bank accounts in Merland, deposited counterfeited or forged cheques into those accounts. The suspects also issued fraudulent cheques and debit cards and wired the proceeds of the fraud within Merland, Klongo, Tinko, Nigeria and Hallis.

On 2 May 2005, a grand jury in the Northern Flower District returned a 27-count indictment charging eight defendants with conspiracy to commit bank, mail, and wire fraud, and 26 counts of bank fraud. The USA charged Adeade with 20 counts of the indictment. Adeade fled Merland in 2005.

On 11 June 2018, the AGF applied for a warrant for the arrest and production of Adaede before the Court. The Court issued the orders on 22 October 2018. The Nigerian authorities arrested Adeade on 21 March, 2019, and remanded him in custody pending the AGF's request for surrender. On 21 May, 2019, the Court made an Order for the surrender of Adeade to Merland after 15 days. Adaede appealed against the Order within a week which the High Court refused on 26 September, 2019. The matter is ongoing.¹⁰³

Source: FMOJ

Simplified extradition

695. Simplified procedures are available under the Extradition Act that permit Nigeria to make a provisional arrest of a fugitive before receiving a formal request. The arrest may occur if the suspect is in Nigeria or on his way to Nigeria. The application of this measure can facilitate the timely execution of extradition requests. In the Tufambi case in Box 8.2 below, Nigeria applied this measure, which resulted in the extradition of the fugitive in less than six months. There is no additional information to determine how well Nigeria has leveraged this procedure to ensure the timely extradition of fugitives.

¹⁰³ The fugitive was surrendered shortly after the on-site visit.

Box 8-2 AGF VS Tufambi

The USA indicted Tufambi on 9th May 2013 on several an 11-count indictment bordering on conspiracy to commit health care fraud committed on or about September 2003, through in or about January 2013; health care fraud at different times (2008, 2009, 2010); and Conspiracy to commit money laundering from in or about August 2006. On 16 May 2018, the USA requested the extradition of Tufambi to face trial. The AGF applied for the extradition of Tufambi on 3 July 2018.

On 8 October 2018, the Court ordered the AGF to extradite Tufambi to the USA within 30 days. The respondent objected to the AGF's application on the ground that the Nigerian authorities arrested him on 11 April 2018 before the extradition request from the USA. The Court held that:

It was enough to show to the Federal High Court that there was a subsisting indictment against the Respondent as well as a warrant issued by a United States Magistrate Judge for the Respondent's arrest. These qualified the Respondent as an extraditable person.

Nigeria extradited Tufambi on 10 October 2018, two days after the Court Order. On 8 May 2019, the defendant pleaded guilty to one count of conspiracy to commit healthcare fraud and one count of conspiracy to commit ML involving \$8 mln Medicare. The US Court sentenced Tufambi to 46 months in prison.

Source: FMOJ

696. There is no information regarding incoming extradition requests for terrorism and its financing.

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

697. Relevant competent authorities seek legal assistance for international cooperation in pursuing domestic ML, associated predicate offences and TF cases with transnational elements.

698. Nigeria recognises the importance of international cooperation in mitigating its ML/TF risks, especially emanating from corruption, terrorism and TF. Competent authorities concede that some Nigerians are involved in organised crime and ML outside Nigeria, including Ghana, Togo and Benin thus requiring the need for cooperation. However, there is insufficient data to conclude that Nigeria routinely seeks legal assistance for international cooperation in an appropriate and timely manner international. Available information suggests that LEAs rarely receive responses promptly, if at all.

699. All MLA requests from LEAs are channelled through the CAU, but LEAs are encouraged to practice informal cooperation with one another, especially with foreign counterparts in their investigative activities. However, the CAU's SOP does not provide procedures, including prioritisation and timelines, for dealing with outgoing requests.

700. LEAs expressed their frustration regarding internal bottlenecks without further elaboration. Therefore, most LEAs tend to operate outside of the formal channels superintended by the CAU.

701. Input from a foreign jurisdiction regarding its international cooperation experience with Nigeria referred to occasional exchanges in terms of volume. For the period under review (four years before the on-site visit), Nigeria made two requests for MLA related to a fraud case. The jurisdiction reported that Nigeria did not provide additional information in satisfaction with the jurisdiction's legal requirements to facilitate

the execution of the requests. This feedback confirms the authorities' lack of effectiveness in seeking international cooperation to pursue domestic cases when appropriate.

702. The technical compliance shortcomings with respect to criminalisation of ML noted in Recommendation 3, including the lack of prioritisation and resources present challenges to Nigeria's international cooperation efforts. Regarding this gap, the scope of predicate offences resulting in proceeds is limited to Nigerian offences committed in Nigeria or engaging in the material elements of ML instead of conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred in Nigeria. The cases provided by Nigeria did not confirm that in practice where a predicate occurred abroad the authorities could still secure an ML conviction (see IO.7). This appears to impact Nigeria's effort to seek international cooperation on criminal matters as foreign countries are reluctant to assist Nigeria due to the lack of equivalent provisions in its laws.

703. The CAU neither has a database nor operate any reliable system that demonstrates how it maintains records of such requests made on their foreign counterparts. According to the NRA, regarding the origin breakdown of offences, 366 ML offences investigated from 2010 to 2014 occurred in foreign jurisdictions, but authorities lacked data to analyse these jurisdictions. There is no indication that the authorities took further actions to seek international cooperation to pursue these cases. The CAU's statistics on MLA (which combined both incoming and outgoing with some pertaining to the payment of rent) could not be broken down to in order to determine the extent to which the authorities have sought international cooperation consistent with Nigeria's profile. Significantly missing from the engagements with the country was evidence suggesting seizures or confiscations because of the requests listed in Table 8.1.

704. Nigeria provided a case related to a request for MLA on associated predicate having transnational elements.

Box 8-3 FHC/L/386C/2015: FRN VS. IKE & Others

The defendants, a crew of an Airline registered and operating in Nigeria, are on trial for conspiracy to export and aiding the exportation of 16kgs of cocaine to the United Kingdom. The Joint Task Force (JTF) unit of the NDLEA arrested the defendants based on information provided to the UK authorities by their accomplice who was serving a six-year jail term in London.

The NDLEA obtained the conviction record and trial proceedings of their accomplice from the UK court. It also obtained evidence of forensic analysis of the recovered drugs, the investigation report and other relevant materials of the NCA officers that handled the case. Consequently, the NDLEA made an MLAT request through the CAU to the UK.

The NDLEA furnished the UK authorities with a certified copy of the charge, synopsis of the evidence, the evidential gap in the case, the evidential value of the requested materials and how it would use in prosecuting the case. It also stated the evidential value of the information to the prosecution. The UK authorities provided the NDLEA with all relevant information requested. The NDLEA is using the information in the ongoing prosecution of the case at the Federal High Court, Lagos. Some of the witnesses from the UK may testify via Skype.

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

NFIU cooperation

705. The NFIU seeks other forms of international cooperation for the exchange of financial intelligence promptly. The NFIU gives priority to intelligence relating to counter terrorism efforts internationally. It disseminates both proactively and reactive and responds promptly, at least with an interim intelligence report. This is followed by continuous additional information within 24 hours. Other intelligence, especially LEAs requests, are responded to within 72 hours.

706. The NFIU seeks other forms of international cooperation mainly through requests to other FIUs through the EGMONT platform. In July 2017, the Egmont Group suspended the NFIU based on doubts regarding the protection and confidentiality of information held by the NFIU, the legal basis and clarity of its operational independence from the EFCC. As a result, the NFIU did not have access to the secure platform of the Egmont Group, and was unable to receive or exchange information on ML, associated predicate offences, TF, PF and asset recovery with members¹⁰⁴ of the Group. In September 2018, legislative changes in Nigeria addressed the issues that led to the suspension. Consequently, the Egmont Group lifted the suspension and the NFIU resumed its participation in all Egmont Group events and activities with the full rights of a member¹⁰⁵. Despite the reinstatement, the number of requests made in 2019 tends to portray a limited proactive engagement of the NFIU with counterparts its foreign counterparts in seeking international cooperation for AML/CFT purposes.

707. The NFIU has also signed MOUs with thirty-eight foreign counterparts¹⁰⁶ to facilitate and enhance information exchange and other AML/CFT related matters. Between 2015 and 2019, the NFIU responded to 158 requests for information and made 272 requests for the same. While the NFIU received 159 spontaneous intelligence/information from its foreign counterparts, it did not send any during the same period. Overall, the NFIU has demonstrated that it actively provides assistance to foreign counterparts to requests to a good extent but needs to improve significantly in the area of spontaneous disclosures (See Table 8.7 for details of this information exchange).

Table 8-7: Information exchange between NFIU and FIUs on other forms of international cooperation

S/NO	DESCRIPTION	2015	2016	2017	2018	2019	Total
1	Incoming request from other FIU's	75	99	29	10	56	269
2	Spontaneous disclosure from other FIUs	51	59	34	11	63	159
3	Responses by other FIUs	45	74	14	13	26	172
4	Outgoing request from NFIU	53	100	30	27	62	272
5	Spontaneous disclosures from NFIU	-	-	-	-	-	-
6	Responses by the NFIU	62	55	17	3	21	158

Source: NFIU

¹⁰⁴ Membership of the Egmont Group comprised 156 FIUs at that time (Co-Chairs' Statement 24th Plenary of the Egmont Group of Financial Intelligence Units, 2-7 July, 2017).

¹⁰⁵ Paragraph 10, page 2 of the Co-Chair's Statement, 25th Plenary of the Egmont Group of Financial Intelligence Units.

¹⁰⁶ Argentina, Russia, Lithuania; Bangladesh; Panama; Zambia; Namibia; Multilateral Agreement between Nigeria, Niger, Chad, Mali and Cameroun; Columbia; Chad; Sierra Leone; Cabo Verde; Malawi; Ghana; Togo; Mali; Niger; Kyrgyz Republic; Malaysia; Moldova; Barbados; FINCEN -USA; St Maarten; India; Cote d'Ivoire; Macedonia; Republic of Philippines; United Arab Emirates; Bermuda; Netherlands; South Africa; The Bahamas; Romania; Cayman Islands; Ukraine; Kingdom of Thailand; Senegal; and Samoa.

708. Specifically, Table 8.8 below shows information exchange between the NFIU and its foreign counterparts on ML. The data does not include responses to the requests made by either side, which negatively impacted on those investigations. It was also not demonstrated how many of these exchanges resulted in prosecution of ML offences in Nigeria or elsewhere.

Table 8-8 NFIU intelligence shared with other jurisdiction on law enforcement/police cooperation (ML/TF)

	2015	2016	2017	2018	2019	Total
Request received on ML	80	99	29	10	46	264
NFIU Response	-	-	-	-	-	
NFIU request on ML	51	100	30	-	40	221
Response received	-	-	-	-	-	
Requests received on TF	-	-	-	-	01	01
NFIU Response on TF	-	-	-	-	01	01

Source: NFIU

709. Some LEAs and authorities including the EFCC, NCS, FIRS and NDLEA have signed agreements and MOUs with neighbouring countries and international counterparts for cooperation. However, these agreements or MOUs focus on predicate offences for ML (for example, corruption, tax crimes, drug trafficking and violations of customs laws).

710. LEAs including, the NDLEA, as well as Customs and Immigration, have access to international databases to support their investigations. Since these alternate data sources are electronic, the responses are generally prompt. There are delays where electronic systems do not exist.

Financial supervisors

711. There is no legal obligation on financial supervisors to enter into MoUs in order to cooperate with their foreign counterparts, including conducting enquiries on behalf of foreign counterparts. In practice, financial supervisors' interaction with their foreign counterparts are guided by MoUs. Like the LEAs, the CBN, SEC and NAICOM also have relationships with their counterpart supervisors on shared platforms where they seek international cooperation in an appropriate and timely manner. The results are not always possible but guide further supervisory actions, including policymaking.

712. The CBN can and provides supervisory cooperation in banking matters and has so far signed 10 MoUs with regulatory authorities of different countries. During the last two years, the CBN sought and received information on foreign nationals from foreign central banks/regulators.

713. SEC is a member of the International Organisation of Securities Commission (IOSCO) as well as a signatory to the IOSCO multilateral memorandum of understanding (MMoU) and shares information by these channels. Further, SEC has signed bilateral MoUs with two jurisdictions for information sharing. SEC communicates with counterparts through emails. The ZZZZ case in Box 8.4 demonstrates the outcome of one of SEC's international cooperation experience with China.

Box 8-4. International cooperation with the Chinese Securities Regulatory Commission - Ponzi Scheme case

ZZZZ, a Chinese company not licensed by the SEC to carry out capital market activities collected various sums of money from the Nigerian public and failed to pay the returns on the investments upon maturity or the principals. In December 2018, SEC requested for information from the Chinese Securities Regulatory Commission (CSRC) in Beijing to trace the two promoters and confirm repatriation of funds by the company to China. The CSRC requested for details of bank accounts to facilitate assistance. In the same month, the CSRC responded that after carefully analysing the request, it was unable to locate the two individuals.

Subsequently, the Nigerian authorities arrested the suspects in Nigeria without any direct assistance from the Chinese authorities. Further enquiries did not yield any result regarding the repatriation of depositors' funds to Nigeria.

Source: SEC

714. NAICOM is a member of the West African Insurance Supervisors Association (WAISA) which provides a platform for cooperation, collaboration and knowledge sharing amongst insurance supervisors and for monitoring compliance with standards and international best practices. NAICOM has signed three bilateral MOUs to facilitate the exchange of information, investigative assistance, inspection or examination of financial services or arranging for the same, as well as participation in the conduct of enquiries on behalf of the requested authority. The MOUs require the observance of confidentiality of information exchanged. NACOM did not provide evidence of information seeking cooperation for AML/CFT purposes.

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

715. Competent authorities provide their foreign counterparts with both spontaneous and other forms of international cooperation through informal channels and international databases, including those of INTERPOL, RILO, and NICIS among others. These tools enable them to provide constructive and prompt responses to the requests of competent domestic authorities to assist their investigations. In some instances, competent authorities have direct access to the databases maintained by relevant institutions in Nigeria. The authorities did not demonstrate whether they share such information with their foreign counterparts for AML/CFT purposes promptly. There is no data or statistics relating to the provision of information on tax-related AML/CFT.

716. Despite the numerous MOUs signed by the NFIU with its counterparts across the globe. There is no reliable information to ascertain the basis for the MOUs, for example, the degree of Nigeria's ML or predicate offences emanating from these jurisdictions, the recovery and repatriation of proceeds or instrumentalities of crime or identified national ML/TF risks.

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

717. Nigeria exchanges information and provides formal international cooperation on basic BO information on legal persons and arrangements. However, no data or statistics demonstrastes the country's ability to provide a wide range of information. The basic information on legal persons only includes the name of the entity, postal and location address and the date of registration or incorporation, means of identification and phone numbers for directors, subscribers and persons with significant control.

718. Where the CAC comes up short, the CBN, SEC and NAICOM assist their foreign counterpart regulators in obtaining basic information to identify natural persons who own FIs in Nigeria. They can

obtain this information at various stages of their operations. For instance, SEC's market entry and other procedures provide avenues for obtaining BO information. They include, pre-licensing fit and proper tests, public records, including SEC's periodic reporting and filings made by legal persons for offerings, registrations and filings by SEC-registered entities such as stockbrokers/dealers, investment advisors, fund managers and custodians. Additionally, scheduled and random investigations conducted by the CBN and SEC as part of their licensing and supervisory role enable them to access and share BO information with international and local collaborators.

719. The use of the BVN, in addition to other identifiers, has enhanced access to BO information concerning the operation of bank accounts and other services provided by the financial sector.

Overall conclusions on IO.2

720. Competent authorities demonstrated the willingness to provide and seek international cooperation in the exchange of financial and other information in an appropriate and timely manner with foreign counterparts. The country did not demonstrate the provision of constructive and timely MLA across the range of international cooperation requests. Nigeria has not demonstrated that it is routinely seeking outgoing legal assistance from foreign countries to pursue ML and TF, in line with identified risks. Nigeria does not sufficiently prioritise the use of international cooperation to obtain admissible evidence for domestic proceedings. Asset sharing agreements with other jurisdictions are almost non-existent. The MLACMA is very recent and yet to have any impact on MLA efforts. Although Nigeria has measures in place to manage and repatriate assets confiscated at the request of other countries, their use was not demonstrated. There is no information to determine the quality of the feedback provided.

721. Fundamental improvements are needed.

722. **Nigeria is rated as having a Low level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE

1. This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in [date]. This report is available from [link].

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

Recommendation 1 is new.

Risk assessment

Criterion 1.1 – Nigeria conducted its 1st ML/TF risk assessment from 2013 to 2016¹⁰⁷, factoring in the nature, size, political structure, financial sector and the economy as a whole. The NFIU coordinated the NRA process under the auspices of the IMC, and with the participation of all relevant competent and supervisory authorities, as well as reporting entities (38 stakeholder agencies including LEAs, Anti-Corruption Agencies (ACAs), Ministries Departments and Agencies (MDAs), REs and the Private Sector). Nigeria adopted the World Bank National Risk Assessment Tool as the methodology for conducting the NRA. The process involved the administration of questionnaires and workshops with a wide range of government stakeholders and some private sector participants and made close reference to typologies reports of the FATF and FATF-Style Regional Bodies (FSRBs).¹⁰⁸ As part of this process, Nigeria reviewed its: exposure to “the main crimes that generate the proceeds of crime” (12 of the FATF predicate offences¹⁰⁹); TF threats and specifically the funding of two terrorist organisations (Boko Haram and Ansarul); the capabilities of competent authorities in dealing with ML/TF; and the inherent sectoral vulnerabilities of FIs and DNFBPs. The different Working Groups designed, developed and used information collection tools based on the objectives of each group.¹¹⁰

The assessment did not cover the ML/TF risk of legal persons created in the country and the subset of NPOs that are at risk of TF. Given the exposure to ML/TF (both domestic and foreign), the methodology for weighting the various threats and vulnerabilities of TF could have been more precise and comprehensive. Also, the NRA did not take account of the ML risk associated with corruption and fraud in the oil sector, as well as virtual assets. Other important criminal activities like illicit trafficking in stolen and other goods, environmental crime, tax crimes (related to direct taxes and indirect taxes), extortion and piracy were not covered. Generally, competent authorities have not conducted other risk assessments to identify and assess ML/TF risks in Nigeria.

Criterion 1.2 – The NFIU is the coordinating authority for the conduct of national risk assessment (NRA) (§23(1) (2) NFIUA). The NFIU led and coordinated the NRA process under the auspices of the

¹⁰⁷ Page xix, 2017 NRA Report <http://www.nfiu.gov.ng/index.php/resources/ar/nrareport>

¹⁰⁸ MONEYVAL Typologies Research: Use of Securities in Money Laundering Schemes – July, 2008; FATF - Money Laundering and Terrorist Financing in the Securities Sector – October 2009; Money Laundering Trends and Typologies in the Canadian Securities Sector – April 2013; EAG Typology Report on Money Laundering Through the Securities Markets – July, 2013

¹⁰⁹ Bribery and corruption, pipeline vandalism and illegal oil bunkering, advance fee fraud, illicit trafficking in narcotic drugs and psychotropic substances, illegal arms trafficking, counterfeiting and piracy of products, fraud and forgery, cash smuggling, kidnapping and hostage-taking, currency counterfeiting, and armed robbery.

¹¹⁰ Supra.

IMC.¹¹¹

Criterion 1.3 Nigeria concluded its first NRA in May 2017. The NRA does not indicate the period for updates. On 1 August 2018, the Federal Executive Council of Nigeria adopted the 2018-2020 AML/CFT Strategy. The Nigerian authorities have committed to updating the NRA in tandem with the annual review of the AML/CFT Strategy. The AML/CFT Strategy provides for annual and end of term reviews by the IMC and stakeholders, to address emerging issues and assess the level of implementation of the Strategy. The outcomes of the review would provide inputs for the next strategic plan.¹¹² At the time of the on-site, Nigeria had not updated the NRA.

Criterion 1.4 The ML/TF NRA process involved relevant competent authorities, financial sector associations and other key stakeholders. SRBs, including the NBA, did not participate in the NRA process. The IMC formally presented the findings of the NRA at meetings with relevant stakeholders. Competent authorities have also organised workshops for MDAs and REs to discuss the outcomes of the NRA. The NFIU disseminated 2000 copies of the NRA report to relevant MDAs, REs and other relevant stakeholders. The NRA is a public document published on the websites of the NFIU, FMITI (SCUML) and the IMC. Relevant stakeholders are aware of the NRA report. Nigeria shared a classified version of the NRA report with competent authorities.

Risk mitigation

Criterion 1.5 - The AML/CFT Strategy references an “efficient resource allocation”¹¹³ to combat ML/TF. The AML/CFT Strategy contains strategic objectives (with expected outcomes and goals designed to meet the strategic objectives) for prioritising AML/CFT actions. The strategic objectives are to (i) enhance existing AML/CFT preventive measures aimed at protecting the financial and DNFBP sectors from abuse for ML/TF; (ii) enhance the effectiveness of national AML/CFT stakeholders thereby reinforcing the regulatory and institutional framework of Nigeria’s AML/CFT regime, and (iii) strengthen national AML/CFT cooperation and coordination through a multi-faceted synergy to combat ML and financing of terrorism. Nigeria has an action for 2018 to 2020 with timelines, identified stakeholders and responsibilities for implementing the Strategy. Nigeria’s National Action Plan does not explicitly address the allocation of resources. Still, it requires the implementation of additional measures that complement the country’s legislative reform programme in line with the FATF Standards to address priority ML/TF risks. The Strategy does not guide FIs and DNFBPs to take into consideration the results of the NRA in applying mitigation measures. There is no evidence of RBA in relation to allocation of resources and implementing measures where the risks are lower.

Criterion 1.6 - Nigeria exempts FIs and DNFBPs from conducting CDD for some categories of customers. These include public companies subject to regulatory disclosure requirements and Nigerian entities or persons regulated for AML/CFT (reg. 117 of the CBNR; reg. 9(5) of SECR; reg. 7(8) of NAICOMR; and reg 13 SECR). Considering the inherent risk of ML identified concerning FIs and other REs (for example, forex dealers, real estate agents and legal professionals), mostly medium to high risk, and the absence of assessment of the ML/TF risk associated with legal persons created in the country, the exemption is not justified.

Criterion 1.7 - FIs and DNFBPs are required to take enhanced measures to manage and mitigate identified higher-risk situations (§3(4)(a) MLPA). Higher-risk situations include customers and products (Reg. 12 of the SECR; Regs. 16 and 17 of the CBNR; Reg. 9 and 3(4) (a) of the NAICOMR;

¹¹¹ The IMC is driven by the ministries of Finance, Justice and Interior and composed of members from all Law Enforcement Agencies, Regulatory/Supervisory Bodies with the Nigerian Financial Intelligence Unit serving as the Secretariat.

¹¹² 4. Monitoring and Evaluation of the Strategic Plan.

¹¹³ Para. 2 page 8 of the AML/CFT Strategy.

and Reg. 13 and 14 DNFBPR). The customers include PEPs, legal persons and legal arrangements that are personal assets-holding vehicles and companies that have nominee-shareholders or shares in bearer forms, private banking, non-resident clients. The NRA identified some high ML/TF risk situations, including PEPs. It assessed the ML vulnerability of private banking as “medium risk” which disqualifies it from the application of EDD. Therefore, the requirement for banks to apply EDD measures is inconsistent with identified higher-risk. Finally, the NRA did not assess the ML/TF risk of legal persons and arrangements.

Criterion 1.8 - FIs and DNFBPs are required to apply simplified CDD to (a) entities subject to AML/CFT measures; (b) public companies listed on the securities exchange or similar situations that are subject to regulatory disclosure requirements; and (c) pension schemes without surrender clause and do not accept a policy as collateral (§3(4)(b) MLPA, Reg. 13 SECR and Reg. 24 CBNR, Regs. 10 and 3(4)(b) NAICOMR). Based on an assessment of lower risk, CBN has issued a simplified, three-tiered know your customer (KYC) framework, which allows for reduced due diligence obligations for low and medium value savings accounts. However, there are other simplified measures that are not based on risk. For instance, the NRA rates the level of ML risk of pensions as Medium-Low, and foreign exchange dealers, real estate agents, legal practitioners, accounting firms as medium to high. Therefore, the basis for simplified due diligence is not justified.

Criterion 1.9 - Scope issue: AML/CFT requirements do not cover lawyers and internet casinos. The NFIU, CBN, SEC, NAICOM and SCUML and SROs are required to ensure that FIs and DNFBPs implement their obligations under the MLPA and impose sanctions for non-compliance (§19 of the NFIUA; §§9(2) and 16(4) MLPA). These powers may cover the obligations under R.1. The deficiencies identified under criteria 1.7 and 1.8 have a cascading effect and impact the rating for this criterion.

Risk assessment (FIs & DNFBPs)

Criterion 1.10

Criterion 1.10(a) - CBN-supervised FIs are required to identify, assess and understand their ML/TF risks for customers, countries and geographic areas of their operations, products, services and delivery channels (Reg. 5(a), CBNR).

DNFBPs are required to adopt a risk-based approach in the identification of ML/TF risks and review areas of potential risks not covered by the DNFBPR (Reg. 7(2) & (6)). These provisions do not require DNFBPs to understand their ML/TF risks, as well as the need for the entities to implement these requirements for customers, countries or geographic areas and products, services, transactions or delivery channels. In addition, AML/CFT requirements do not cover lawyers and internet casinos.

Both cases above do not require that the nature and extent of the assessment of risk should be appropriate to the nature and size of the business, nor determine the situations where individual documented risk assessments are not required, provided that the specific risks inherent to the sector are clearly identified and understood, and that the FIs and DNFBPs understand their ML/TF risks.

CMOs and insurance companies are not required to identify, assess and understand their ML/TF risks .

Criterion 1.10 (b)-(d) - Only CBN-supervised FIs are required to consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied (Reg.5(c) CBNR); keep their risk assessments up to date (Reg. 5, CBNR); and have appropriate mechanisms to provide risk assessment reports to competent authorities and SRBs (Reg.5(e)).

Risk mitigation

Criterion 1.11

Criterion 1.11 (a) CBN-supervised FIs are required to have policies, controls and procedures approved by their boards of directors to enable them to manage and mitigate the risks that have been identified either by Nigeria or by the FIs (reg. 6 CBNR).

The requirements for insurance companies and DNFBPs do not include approval of senior management (Reg. 5(a) of NAICOMR and Reg. 7(1) (a) DNFBPR). They target the prevention of ML/TF as opposed to the management and mitigation of risks.

There is no requirement for CMOs to have policies, controls and procedures, which are approved by senior management, to enable them to manage and mitigate the risks that have been identified by Nigeria or the CMOs. In addition, lawyers and internet casinos are not subject to AML/CFT requirements.

Criterion 1.11(b) BOFIs are required to monitor the implementation of the controls in the CBNR and enhance them where necessary (Reg. 6(b) CBNR). Lawyers and internet casinos are not covered.

Regulations for CMOs, insurance companies and DNFBPs are silent on the requirement to monitor the implementation of internal controls and to enhance them if necessary.

Criterion 1.11 (c) Where higher risks are identified, FIs and DNFBPs are required to take enhanced measures to manage and mitigate the risks (§3(4) (a) MLPA).

For CMOs, EDD measures must include enquiries on the purpose for opening account, level and nature of trading activity intended, ultimate beneficial owners, source of funds and senior management approval for opening the account. Despite listing the higher risk customers, regulation 12(3) of the SECR enjoins CMOs to classify the customers as “high-risk”.

For insurance companies, specific EDD measures include identification and verification of the identity of the beneficial owner or the beneficiary of at the time of pay-out, certification of documents, due diligence on the background of the customer or beneficial owner, as well as source of funds and wealth; obtaining senior management approval (also for PEPs); and conducting ongoing monitoring of the business (regs 9(2) and (9) NAICOMR).

BOFIs are required to apply EDD measures to legal persons or arrangements such as trusts that are personal assets-holding vehicles and companies that have nominee-shareholders or shares in bearer forms, PEPs, cross-border banking and business relationships, and any other businesses, activities or professions that may be prescribed by regulatory, supervisory or competent authorities (reg.16, CBNR). Nigeria has not assessed the ML/TF risk of legal persons created in the country. Nigeria prohibits the incorporation of companies with nominee shareholders or shares in bearer forms and lacks a policy to identify foreign companies that issue bearer shares or allow nominee shares. While non-resident companies that have bearer shares or nominee directors may fall within the scope of non-resident customers, they have not been assessed as posing high ML/TF risk. Also, the NRA assessed the ML vulnerability of private banking as “medium risk” which disqualifies it from the application of EDD. Therefore, the requirement for banks to apply EDD measures is inconsistent with identified higher-risk.

Criterion 1.12 FIs and DNFBPs are permitted to apply simplified measures to manage identified lower risks situations (§ 3(4) (b) MLPA). Simplified due diligence applies to (i) low risk of ML/TF situations, (ii) where information on the identity of a customer and beneficial owner of a customer is publicly available, (iv) adequate checks and controls exist elsewhere in the national financial system in respect of a customer or beneficial owner, (v) companies listed on the stock exchange, insurance schemes without surrender clauses, pensions, among others (Regulation 24(4) of the CBNR); reg. 10(1-2) of NAICOMR; reg. 13 of SECR).

Forex dealers Also, criteria 1.9-1.11 are not fully met. Simplified measures are not permitted whenever there is a suspicion of ML/TF (§3(4) (b) MLPA (reg. 24(5) CBNR), reg. 10(3) NAICOMR and reg. 17(3) DNFBPR)

Weighting and Conclusion

Nigeria's NRA provides a high-level overview of the ML/TF risks of the country. However, the process did not take account of certain important criminal activities, including insider trading and market manipulation, environmental crimes, extortion, piracy, tax crimes and illicit trafficking in stolen and other goods. Given the context of Nigeria, these are serious gaps in the process. There are minimal indications that private and public institutions have used the information for resource allocation or prioritised AML/CFT activities, including updating AML/CFT Laws. Exemptions and application of simplified and EDD measures are rules-based and not linked to identified risks. There is no requirement for CMOs, insurance companies and DNFBPs to monitor the implementation of those controls and to enhance them if necessary. Nigeria lacks provision regarding appropriate mechanisms to provide risk assessment reports to competent authorities and SRBs. The absence of a requirement to keep risk assessment up to date affects the weighting. Also, requirements for internal programmes in these sectors focus on prevention and not management and mitigation. Finally, there is the scope issue regarding lawyers and internet casinos. The NRA rated the inherent ML vulnerability of legal firms as high due to the nature of the business they offer and client confidentiality rules which provide anonymity to their clients. The NRA did not assess the ML/TF risks emerging from virtual asset activities and internet casinos. **R. 1 is rated PC**

Recommendation 2 - National Cooperation and Coordination

In its 1st MER, Nigeria was rated PC on the old R. 31 because the country did not have a framework in place for cooperation. The shortcomings related to limited national cooperation and coordination, including the sharing of intelligence between LEAs and FIs, which is now discussed under I.O 1.

Criterion 2.1 - On 1 August 2018, the Federal Executive Council of Nigeria adopted a National AML/CFT Strategy (the Strategy) spanning 2018 to 2020 based on the outcomes of the NRA. It serves as a road map for the implementation of national AML/CFT coordination mechanism and efficient resource allocation. It also serves as a guideline to policymakers, regulators and law enforcement agencies in addressing the challenges of combating ML/TF and ensuring the application of a risk-based approach to AML/CFT compliance by REs¹¹⁴.

The 2018-2020 Strategy provides for a mid-term review by the IMC and an end of term review by stakeholders. The review is to take account of emerging issues, assess the level of its implementation in terms of achievements, constraints and challenges and determine remedial actions.¹¹⁵

Nigeria has not reviewed relevant AML/CFT laws and regulations to incorporate the outcomes of the NRA. Nigeria is yet to review the AML/CFT Strategy to address emerging issues. The country attributed this lapse to preparation for the general election and related matters. The review could have enabled Nigeria to address the issues regarding the assessment of ML/TF risks of legal persons created in the country, a comprehensive review of the NPOs sector and comprehensive integration of TF into the counter-terrorism policy, among others. The AML/CFT Action and Implementation Plan from 2018

¹¹⁴ Supra.

¹¹⁵ Page 16.

– 2020 does not provide for resource allocation.

Criterion 2.2 - The NSC is responsible for the coordination and implementation of the Nigeria's CFT policies, while the IMC provides technical support for AML/CFT efforts. The IMC comprises representatives of the Ministries of Finance, Justice and Interior, as well as LEAs, Regulatory/Supervisory Bodies. The NFIU is the Secretariat of the IMC¹¹⁶. The IMC serves as a platform for a coordinated national approach and to enhance cooperation, especially in the exchange of information to effectively combat ML and TF in Nigeria.

The NSC has the mandate to formulate and provide general policy guidelines for the implementation of the Terrorism Prevention Act (TPA) and the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013¹¹⁷ (TPR) and advise the AG on the effective implementation of the UN Security Council Resolutions (UNSCRs) (Reg. 4(2) of the TPR). It comprises high-level officials (the AG and representatives of the Minister of Foreign Affairs (MOFA), the National Security Adviser (NSA), the Director-General of the State Security Service, the Governor of the CBN, the IGP, the Director General of the National Intelligence Agency (NIA), a representative of the Chief of Defence Staff (CDS), the Director of the NFIU as Member Secretary (Reg. 4(1) (a) to (d)). Reg. 4(1) (e) of the TPR empowers the President to include any other relevant person or institution in the NSC.

Criterion 2.3 - Nigeria has some platforms to facilitate co-operation and coordination, as well as information sharing, between policymakers, LEAs, supervisors and relevant competent authorities regarding the development and implementation of AML/CFT policies and activities (for example, the IMC¹¹⁸, NSC, Authorised Officers' Forum (AOF) comprising representatives from all LEAs and the Association of CCOs for Banks in Nigeria(ACCOBIN) and the Committee of Chief Compliance Officers of Capital Market Operators in Nigeria (CCOCIN)).

Criterion 2.4 - Nigeria does not have a legal framework, as well as appropriate cooperation and coordination mechanisms to combat the financing of the proliferation of weapons of mass destruction. However, section 3(1) (b) and (i) of the NFIUA empower the NFIU to receive and exchange information relating to proliferation financing.

Criterion 2.5 - Nigeria has laws on data protection and privacy rules and other similar provisions (e.g., data security/localisation) which permit the sharing of information for law enforcement purposes. These rules are contained in Nigeria's 1999 Constitution (§ 35I and (3)); the Nigeria Data Protection Regulation (NDPR) 2019 (administered by the National Information Technology Development Agency (NITDA); the NCC Registration of Telephone Subscribers Regulation 2011 (regs.9 and 10); the Freedom of Information Act, 2011 (§14), the Cybercrimes (Prohibition, Prevention, etc.) Act 2015; the Child Rights Act 2003; the Consumer Protection Framework 2016; the National Identity Management Commission (NIMC) Act 2007(§26); NCC Consumer Code of Practice Regulation 2007 (administered by the Nigerian Communications Commission (NCC); the National Health Act (NHA)2014 (administered by the Federal Health Ministry); and the Federal Competition and Consumer Protection Act 2019 (administered by the Federal Competition and Consumer Commission). However, there is no cooperation, and where appropriate, coordination, whether formal or informal, between LEAs to ensure

¹¹⁶ s.2 (4) of the NFIUA designates the FIU as the Secretariat of the IMC.

¹¹⁷ The Regulations focus on terrorism and TF.

¹¹⁸ The IMC is driven by the ministries of Finance, Justice and Interior and compose of members from all Law Enforcement Agencies, Regulatory/Supervisory Bodies with the Nigerian Financial Intelligence Unit serving as the Secretariat (NRA).

the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions.

Weighting and Conclusion

Nigeria has established two high-level committees (the IMC and the NSC) comprising public institutions to coordinate the country's AML/CFT policies and activities. Nigeria has a Strategy informed by the risks identified by its NRA and which serves as a road map for AML/CFT efforts, including coordination and cooperation on AML/CFT policies and programmes. The 2018-2020 AML/CFT Action and Implementation Plan are the country's first documents of this nature. Nigeria is yet to review AML/CFT policies based on the understanding of its risks. Nigeria does not have a coordination mechanism to combat PF. Most authorities are yet to allocate resources to mitigate identified risks. There is no cooperation and coordination to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions. **R.2 is rated PC.**

Recommendation-3 - Money laundering offence

In its first MER, Nigeria was rated LC and PC with the former Recs.1 and 2. The reference to predicate offence as constituting “all illegal acts or crime” was too broad and required further definition to make it less ambiguous. Also, the sanctions regimes were not proportionate and dissuasive. The law on plea bargaining weakened the sanctions regime for ML. In theory and practice, plea bargaining had the potential of whittling down the deterrent effect of the sanctions.

The Money Laundering (Prohibition) Act, 2004 (MLPA); the Economic and Financial Crimes Commission (Establishment) Act, 2004 (EFCCEA); the National Drug Law Enforcement Agency Act, 1989 (NDLEAA); and the Corrupt Practices (and Other Related Offences) Act, 2000 (CPROA), criminalised ML in Nigeria. Nigeria has strengthened its legal framework on ML/TF with the repeal in 2011 of the ML (Prohibition) Act of 2004 and the enactment of the ML(P) Act, 2011, including the addition of ‘fraud’ as a predicate offence to ML and other criminal activities. Nigeria amended the 2011 ML(P) Act in 2012.

In 2013, Nigeria enacted the Terrorism (Prevention) Act, 2011 to criminalise terrorism and its financing and designate TF as a predicate offence of ML. The country amended this Act in 2013 to incorporate some of the requirements of the revised FATF Standards. Nigeria enacted the Cybercrime Act, 2015, to criminalise some cyber activities, and designate cybercrime as a predicate offence of ML.

Criterion 3-1 - Nigeria has two offences in the MLPA which criminalise ML mostly in line with the Vienna and Palermo Conventions, apply across Nigeria's Federal States and the 14 free zones. The MLPA prohibits dealing in the proceeds of unlawful act, directly or indirectly and in the instances below:

- a) *Concealment or disguise of the origin (§§15(2)(a) and 17(a));*
- b) *Conversion or transfer (§15(2)(b) and 17(a);*
- c) *Acquisition, use, control or possession (§§15(2)(d) and 17(b));*
- d) *Association with or conspiracy, abetting, counselling the commission of these offences (§18).*

Section 15 of the MLPA implicitly covers participation in the ML offence, while section 17 deals only with third-party laundering. A person commits the ML offence if the person does so knowingly or reasonably ought to have known that funds or property is, or forms part of the proceeds of an unlawful act (§15(2)) or knowing or suspecting that the person on whose behalf the accused engaged in the relevant activity engaged in a criminal conduct or benefitted from a criminal conduct or conspiracy (§17).

Criterion 3–2 - Section 15(6) of the MLPA lists unlawful activity to include the predicate offences designated by the FATF (except cybercrime designated as such under the Cyber Crime Act 2015), or any other criminal act specified in the MLPA or any other law in Nigeria. All the predicate crime categories in the FATF standards a202riminalized activities in Nigeria.

Criterion 3.3 - Nigeria has adopted a listing and all crimes approach (§15(6) MLPA). Thus, the scope of offences includes all the 21 FATF designated predicate offences. The offences listed in section 15(6) are serious offences that are punishable by a maximum penalty of more than one year and a minimum penalty of more than six months imprisonment.

Criterion 3–4 - The ML offence extends to any type of property regardless of its value provided the funds or property directly or indirectly represent the proceeds of crime. Section 25 of the MLPA broadly defines funds, proceeds and property to encompass assets in line with the definitions in the Glossary to the FATF Methodology.

Criterion 3–5 - There is no explicit provision in the law that confirms that a conviction for a predicate offence is not required for a ML offence. In the absence of this explicit clarification, courts are reluctant to find defendants guilty of ML without establishing a specific predicate offence which becomes a de facto requirement for the prosecution to prove the predicate offending to the level required for a conviction of the predicate offence. Cases reviewed by the AT confirmed that persons prosecuted/convicted of ML offences were also prosecuted/convicted of a predicate offence. For instance, in the case of the case of FRN v Adamu (2019 LPELR, 46024 (C.A)) the court held that “... to succeed in prosecuting for money laundering, an accused must (a) take possession of funds; (b) that they did so when they reasonably ought to have known that such funds forms part of proceeds of an unlawful act...and in this instance the unlawful act should be criminal breach of trust and corruption”. The same principle was applied in the cases of Gabriel Daudu v FRN¹¹⁹ and FGN v Azibaola & Anor (suit no. FHC/ABJ/CR/113/2016).

Criterion 3–6 - Section 15(7) of the MLPA states that “a person who commits an offence under subsection (2) of this Act [which describes the material elements of the ML offence], shall be subject to the penalties specified in that subsection notwithstanding that the various acts constituting the offence were committed in different countries or places”. The Assessment Team believes that “acts constituting the offence” means ML the activities (for example, concealment, disguise, transfer, etc.) instead of the underlying offences. In addition, the definition of “unlawful act” in section 15(6) of the MLPA references the FATF designated categories of offences or any other criminal act specified in the MLPA or any other law in Nigeria. These provisions mean that the scope of predicate offences resulting in proceeds is limited to Nigerian offences committed in Nigeria. This is inconsistent with the FATF standards which requires that the ML should extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred in Nigeria. The cases provided by Nigeria did not confirm that in practice where a predicate occurred abroad the authorities could still secure an ML conviction (see IO.7).

Criterion 3.7- The ML offence applies to persons who commit the predicate offence (§15(2), MLPA).

Criterion 3–8 - Section 12 of the Evidence Act, 2011 states that when there is a question of whether an act was accidental or intentional or done with particular knowledge or intention or to rebut any defence

¹¹⁹ Suit No: SC.172/2017 ref (2018) LPELR-SC.172/2017. The Court held that the Supreme Court stated that « Proving Money Laundering cases is a herculean task because it requires a prior establishment of the predicate offence before the ML aspect can be established. »

that may otherwise be open to the defendant, the fact that the act formed part of a series of similar occurrences in which the person doing the act was concerned is relevant. As the ML offence covers the material element of knowledge - “ought to have known” and “knowing or suspecting”- Nigeria can infer the knowledge and intention required to prove the ML offence from objective factual circumstances.

Criterion 3-9 - Under section 15(3) of the MLPA, the ML offence is punishable by a term of imprisonment from seven to fourteen years without an option of a fine. On the other hand, an ML offence under section 17 of the MLPA is punishable by a term of imprisonment of not less than five years or to a fine equivalent to five times the value of the proceeds of the criminal conduct and thereby making the custodial term unlimited under this section. The sanctions under the MLPA are high compared to the punishment for other financial crimes in Nigeria. While the sanctions are dissuasive, they do not seem proportionate in light of domestic sanctions for other similar offences, and do not provide a sufficient range on the lower end of the spectrum to apply to various cases.

Criterion 3.10 - Section 15(4) of the MLPA states that “a body corporate who contravenes the provisions of subsection (2) of this section [the ML offence] is liable on conviction to fine of not less than 100% of the funds and properties acquired as a result of the offence, and (b) withdrawal of licence. Also, where the body corporate persists in the commission of the offence for which it was convicted in the first instance, the Regulators may withdraw or revoke the certificate or licence of the body corporate (§15 (5), MLPA).

Additionally, section 19(1) of the MLPA states that “where an offence under the MLPA which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or similar officer of the body corporate, or any person purporting to act in any such capacity, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

On conviction of a legal person for an offence under the MLPA, the court may order the winding up of the legal person and forfeiture of all its assets and properties to the Federal Government. The sanctions appear proportionate and dissuasive.

Criterion 3.-1 - Nigeria has a range of ancillary offences for ML, including conspiracy, aiding, abetting or counselling (§18(a)); attempt to commit or as an accessory (§18(b) MLPA); incitement, procurement or inducement of a person (§18(c) MLPA). The punishment under the provisions described in c.3.9 above apply to the relevant acts to which the ancillary offence relates.

Weighting and Conclusion

Nigeria’s MLPA does not cover participation in and facilitation of the ML offence by another person. In the absence of a specific provision that confirms that a conviction for the predicate offence is not required for ML, courts are reluctant to convict without establishing a specific predicate offence which becomes a de facto requirement for the prosecution to prove the predicate offence. The ML offence does not extend to foreign predicates. While the sanctions for ML are dissuasive, they do not seem proportionate in light of domestic sanctions for other similar offences, and do not provide a sufficient range on the lower end of the spectrum to apply to various cases. These are moderate shortcomings.
R.3 is rated PC.

Recommendation-4 - Confiscation and provisional measures

In its first MER, Nigeria was rated PC for former R. 3. Nigeria’s confiscation regime did not cover (i) property of corresponding value and instrumentalities intended for use in TF, (ii) clear definitions for

important concepts such as freezing, seizure, and (iii) forfeiture and confiscation. The country did not have sufficient legal protection for bona fide third parties. Nigeria did not have rules to manage and dispose of confiscated properties or to void or pre-empt that would prejudice the actions of authorities to recover property subject to confiscation. Nigeria did not have comprehensive FT legislation. There was weak coordination in the AML/CFT regime, thus impacting the centralisation of statistical data on ML and FT investigations, freezing, seizure, forfeiture and confiscation.

Nigeria had gaps in the relevant legislation criminalising ML (the EFCCEA, the Corrupt Practices and Related Offences Act, 2000 (CPOA), the National Drug Law Enforcement Agency Act, 1989 as amended (NDLEAA), and the Advance Fee Fraud and Related Offences Act, 2007 (AFFROA)). Nigeria has enacted a Money Laundering (Prohibition) Act, 2011 (and amendments) and the Administrative and Criminal Justice Act 2015 (the ACJA) and the Immigration Act 2015 to address the gaps for R.4. It continues to rely on the other laws.

Scope issue: The lack of coverage of foreign predicates as discussed under R.3 impact the rating for R.4.

Criterion 4.1

Criterion 4.1 (-) - Nigeria has several laws that enable relevant competent authorities to confiscate property laundered and proceeds and instrumentalities used or intended for use in ML and predicate offences (i) §§20 and 21 of the EFCCEA concerning forfeiture of assets or criminal proceeds of convicted persons, directly or indirectly generated from the commission of any crime under the EFCCEA; (ii) §§23 and 41 of the CPOA, on the forfeiture of gratification and any property proved to be the subject matter of the offence; (iii) §37 of the NDLEAA on narcotic drugs-related offences; (iv) section 1 of the AFFROA on cybercrime; and (v) section 84 of the Immigration Act on the smuggling of migrants). These pieces of legislation and section 25 of the MLPA, define “property” to include assets, whether moveable or immovable, money, monetary instruments, negotiable instruments, securities, shares, insurance policies, and any investments, including assets in the hands of third parties and those located outside Nigeria.

The power to confiscate extends to property located within and outside Nigeria where they are the subject of an interim order (§§21 and 22(1) of the EFCCEA).

Criterion 4.1(-) - The laws of Nigeria provide for the confiscation of the proceeds obtained directly and indirectly from the commission of an offence and instrumentalities intended for or used in the commission of an offence. In this regard, the authorities can confiscate property intended for TF, terrorist act or by terrorist organisations (§§84(2) and 85, Immigration Act) the smuggling of migrants; section 47 of the CPOA). The Court can confiscate instrumentalities of crime for restitution to the victim (§333(b) & 336 of the ACJA).

Criterion 4.1.c - Nigeria has legal provisions that enable the court to confiscate property that is the proceeds of, or used in, or intended for (attempt is an offence under the TPA) or allocated for use in the financing of terrorism, terrorist acts or terrorist organisation whether held by criminal defendants or by third parties as provided below:

Section 25(2) of the Terrorism (Prevention)(Amendment) Act, 2013 (TPA) provides for forfeiture of assets, funds or property of an entity used in or intended ,for use in the commission of a terrorist offence. A legal person convicted of an offence under the TPA is liable to the winding-up, sale of and confiscation of assets and property (§§25(2) and (3),TPA).

Section 32(3) of the TPA provides for the confiscation of the following: seized property or property in the possession or under the control of a convicted person with accrued interest, terrorist property, article, substance, device or material which facilitated the commission of the

terrorist offence, or conveyance used in the commission of the offence.

Section 33(1) of the TPA empowers the court to confiscate any proceeds or funds that can be traced to a terrorist act. They include proceeds or funds, irrespective of the person in whose names such proceeds or funds are standing or in whose possession they are found.

Criterion 4.1.d - The EFCCEA and NDLEAA require the authorities to adopt measures to identify, trace, freeze, confiscate or seize property of corresponding value (§§6 (d) EFCCEA and 3(1)(c) NDLEAA).

Criterion 4.2(a) - Nigeria has procedural and legislative measures that enable competent authorities to identify, trace and evaluate property that is subject to confiscation. Competent authorities have powers to search and seize property that may be subject to confiscation. LEAs may seize property on arrest or search, which may involve placing the property under seal or removing it to a designated place (§26 of the EFCCEA; §33 of the NDLEAA).

A person arrested for committing a relevant offence is required to disclose all his assets and properties by completing a declaration form to that effect (§27 of the EFCCEA; §35(1), NDLEAA). LEAs are required to trace and attach all suspected proceeds of crime and apply for an interim forfeiture order in respect of those proceeds (§§28 and 29 EFCCEA; and §36, NDLEAA). The requirement to apply for an interim forfeiture order is mandatory. It extends to bank accounts and financial instruments in banks or other FIs and property in possession of or under the control of third parties.

Section 24 of the EFCCEA defines property subject to forfeiture to mean proceeds of crime and other proceeds traceable to the original proceeds, concerning offences that occurred in a foreign country.

Criterion 4.2(b) - Nigeria has measures in place that enables competent authorities to carry out provisional measures such as freezing or seizing to prevent any dealing, transfer or disposal of property subject to confiscation.

The EFCC can seize any property subject to forfeiture on the arrest of a suspect or application to the court (§26(1) EFCCEA). This provision does not state that the EFCC should apply to court *ex parte*, but the EFCC does so in practice.

The ICPC can seize property during an investigation into an offence. There must be reasonable grounds, to suspect that any movable or immovable property is the subject matter of an offence of evidence relating to the offence (§37(1) CPROA).

The ICPC and NDLEA have provisions which allow the use of administrative powers followed by orders from the courts either on notice or *ex parte*. Comptroller General of Immigration is empowered to secure a freezing order by *ex parte* application to the Court, of proceeds of an arrested person satisfied to be related to the commission of a crime under the Immigration Act or any other related Act (the smuggling of migrants) (§94 (1) of the Immigration Act 2015)). Section 333 of the ACJA allows for seizure of property intended for use in the commission of a crime (instrumentalities). However, the legislation is silent on whether the seizure should be made *ex parte* as a preservation or restraint order pending conviction.

Criterion 4.2(c) - It is an offence to deal with, sell or otherwise dispose of property or asset that is subject to an interim or final forfeiture order. The offence is punishable by imprisonment for five years without the option of a fine (§32 of the EFCCEA). It is an offence for a manager of a bank, other FI or DNFBP to refuse to pay money that is proceeds of crime. The offence is punishable to a term of imprisonment of not less than one year and not more than three years without the option of a fine (§32(2) EFCCEA and §39(1)(2) NDLEAA).

Criterion 4.2 (d) - Where there is suspicion of ML, the NFIU may (i) place any bank account under surveillance, (ii) obtain access to any suspected computer system, (iii) obtain communication of any instrument or a private contract, (iv) obtain financial and commercial records (§13, MLPA). The NDLEA may apply the same provisions to identify or locate proceeds and instrumentalities of narcotic drugs offences. Authorities can also search persons and premises.

Criterion 4.3 - There are legal provisions to protect the rights of a bona fide third party to movable property or document connected to an offence (§331(1), ACJA). A person with interest in the property or document may apply to the court after the case. The court may also apply this power during the trial, proceedings or an appeal, on the execution of a bond, with or without sureties, to the satisfaction of the court, and undertaking to restore the property to the court (§331(2), ACJA).

Criterion 4.4 - Section 330 of the Administrative and Criminal Justice Act 2015 (the ACJA) mandates the court to make an order for the proper custody of property pending the conclusion of the proceedings or trial. The court has the power to make an order for the sale or disposal of property that is subject to rapid decay (perishable), after recording evidence of the property, and directions on how to deal with the proceeds. §329 of the ACJA defines property to include proceeds and instrumentalities of crime. The ACJA also provides for the destruction of articles relating to counterfeiting under any circumstances. (§343-345). The provisions of the ACJA apply to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the FCT, Abuja (§2).

Section 97 of the Immigration Act 2015 establishes an ‘Objects of Smuggling of Migrants Trust Fund’ for all proceeds of the sale of seized and forfeited assets and properties of smugglers. The fund is to be managed by a board comprising the Comptroller General of Immigration as the chair, and representatives of the Federal Ministries of Interior, Health, Finance, Women Affairs and Social Development; Office of the Accountant-General of the Federation; Office of the Auditor-General of the Federation (AGF), the CBN, and the NAPTIP. There is no evidence of the existence of the Fund.

Weighting and Conclusion

Nigeria has fully met this Recommendation. R 4 is rated C.

Recommendation 5 - Terrorist financing offence

Nigeria was rated NC on the former SR II. At the time, Nigeria did not have an anti-TF law. The EFCCEA did not criminalise TF based on Article 2 of the TF Convention and FATF SR. II on the provision/collection of funds to be used for terrorist acts or by terrorist organisations or individual terrorists. Nigeria did not designate TF as a predicate offence for ML. Other significant gaps existed law in terms of the scope and implementation of the EFCCEA. In 2011, Nigeria enacted a Terrorism (Prevention) Act (TPA) which addresses some of the identified deficiencies. Nigeria amended the 2011 TPA in 2013 to strengthen the law (TPA 2013). Despite the marked improvements, key elements of the law continue to fall short of full compliance with R.5.

Criterion 5.1 - Nigeria criminalises TF based on Article 2 of the TF Convention. It is an offence to solicit, acquire, provide, collect, receive, possess or make available funds, property or other services to terrorists or terrorist groups (§13 TPA). The offender must be aware or intend the funds for use, in part or whole, in the commission of a terrorist offence. The act may occur by any means, direct or indirect.

Section 19(g) of the TPA defines a prohibited “terrorist act” to include “an act which constitutes an offence under the TF Convention (encompassing its annexes), among other treaties. Section 19(f) of the TPA defines a “terrorist” to mean a person who commits any of enumerated terrorist acts specified in the TF Convention, including i) the commission or attempt of terrorist acts, intentionally by any means, either directly or indirectly, (ii) the participation as an accomplice in terrorist acts, or (iii)

organising terrorist acts or directing others to commit such acts, (iv) contributing to the commission of terrorist acts with a group of persons acting with a common purpose where the contribution is made intentionally and to further the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

Section 19(h) defines “terrorist organisation” to mean: any group of terrorist that (i) commits or attempts to commit terrorist acts by any means, directly and indirectly, unlawfully and willfully; (ii) participates as an accomplice in terrorist acts, (iii) organises or directs others to commit terrorist acts, or (iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and to further the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

Section 10 of the TPA 2013 further subjects to criminal sanction legal or natural persons who: “directly or indirectly, willingly provide, solicit or collect any fund or attempt to provide, solicit or collect any fund with the intention or knowledge that they would be used, in full or in part to -(a) finance a terrorist or terrorist organisation... or (c) do any other acts intended to cause death or serious bodily injury to a civilian or any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a group of people or to compel a government or an international organisation to do or abstain from doing any act...”

Criterion 5.2- The TF offence applies to a person who willfully provides or collects funds for a terrorist act, individual terrorists or a terrorist organisation. The offence applies even in the absence of a link to a specific terrorist act or acts. Section 13(3) states: “For an act to constitute an offence under this section, it is not necessary that the funds or property were actually used to commit any offence of terrorism.”

Criterion 5.2^{bis}- Various provisions of the TPA 2013 could be ready broadly to encompass the financing of travel of individuals for perpetrating, planning, preparing for, participating in terrorist acts, including providing or receiving terrorist training. Section 13(1), for example, prohibits the provision of funds or services to individual terrorists to commit an offence under the TPA, including rendering support for transportation, training, receipt or provision of information or moral assistance, entering or remaining in a country for the benefit of, at the direction of, or in association with a terrorist group, or other closely related offences. Nigeria stated that this provision could be applied to the activities specified in this criterion. The language appears sufficiently broad to capture the activities specified in 5.2^{bis}.

Criterion 5.3 - The TPA 2013 does not define the term “funds or other property”. Although the definition of “funds” or “property” in the MPLA cover assets of every kind and includes “terrorism” as a predicate offence, the MLPA does not establish TF offences. Further, there is no reference in the TPA to the MLPA establishing that the MLPA’s definition of funds applies to the offences specified in the TPA.

Criterion 5.4 (a) - TF offences do not require that funds or other assets a) were actually used to carry out or attempt a terrorist act, or b) be linked to a specific terrorist act. 10(4) states: “In proving the offence of TF, it shall not be required that the funds were actually used to carry out terrorist acts; attempt a terrorist act or be linked to a specific terrorist act.” Nigeria did not provide court cases, internal guidelines or other information demonstrating the scope of this definition.

Criterion 5.4 (b) - See c. 5.4(a) above.

Criterion 5.5 - Section 10(4) of the TPAA provides that “[f]or purposes of this section, the intention may be inferred from objective factual circumstances”. The TPA is silent on whether to infer “knowledge”. 11(1) of the Evidence Act, 2011, however, states that the relevance of intention and knowledge to the *“facts showing the existence or ... any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person: or any state of body*

or bodily feeling are relevant when the existence of any such state of mind or body or bodily feeling is in issue or relevant". Nigeria demonstrated the applicability of this interpretation through a judicial decision.

Criterion 5.6 - The TPA provides for a sufficiently dissuasive set of criminal sanctions against natural persons convicted for TF, ranging from 10 years to life imprisonment. For instance, solicitation and support for a terrorist act or a terrorist group and recruitment attract a term of imprisonment of not less than 20 years (§§5(1) and 10 of the TPA). A natural person who provides, solicits or collects funds or attempts to engage in such acts is liable on conviction to a term of imprisonment of not less than ten years (§10(1)). Provision of facilities (premises, equipment, vessel, aircraft, devices, among others) attract a minimum twenty-year and maximum life sentence. A person who solicits, acquires, provides, collects, receives or possesses funds for TF commits an offence. The offence is punishable by a minimum term of 10 years or a maximum term of life imprisonment (§13(1) of the TPA). A natural person who becomes involved in, participates as an accomplice, organises or directs others in an arrangement which facilitates TF is liable on conviction to life imprisonment (§13(2) of the TPA).

The minimum sentence of ten years for the main TF offences, however, is not necessarily proportionate, as it disallows for lesser sentences where appropriate. Judges have in some "support" cases handed down sentences of 3 years. At least in some cases the judges took account of the time spent in lawful custody such that total time in custody was longer. In some cases, suspects spent seven years in some of the security detainee/material support prosecutions. In cases where the authorities charge an individual with, for example, providing minor logistical support under duress and was charged with TF, a sentence of ten years would not be proportionate.

Moreover, there is an apparent disproportionality resulting from inconsistencies in some of the minimum sentences. Whereas the primary TF offence carries a minimum 10-year sentence, the provision of facilities – which in some circumstances could be considered similar conduct - carries a minimum of twenty years. Such disparate minimums without further guidance to prosecutors and judges could result in disproportionate sentencing relative to the charged conduct. It does not appear proportionate to subject officers of entities that commit offences under the TPA due to the negligence of those officers to life imprisonment. The punishment is inconsistent with the willfulness-requirement of R.5.2.

Criterion 5.7 - Legal persons convicted of TF offences are liable to a minimum fine of ₦ 100 mln (USD 278,000)). Principal Officers of Legal persons who commit the TF offence are liable on conviction to a term of imprisonment of not less than 10 years. Nigeria may liquidate a legal person and prohibit it from being reconstituted or incorporated under any form or guise (§13(5) of the TPA).

An officer of an entity or any person purported to have acted in such capacity who finances terrorism is liable to (i) the forfeiture of any assets or funds or property used or intended to be used in the commission of the offence, (ii) winding up of the entity, (iii) the withdrawal of the licence of the entity and its principal officers or all (section 25 of the TPA). It is a defence if a person can prove the lack of knowledge of the commission of the offence or exercise of all due diligence to prevent the commission of the offence.

Criterion 5.8(a) - A person who attempts to commit any offence under the TPA liable to life imprisonment (Section 20(1) of the TPA 2013). Considering the definition of "terrorist acts", as provided under c.5.1 above, Nigeria has met the requirement of this criterion.

Criterion 5.8(b) - See c.5.8 (a) above for definition of "terrorist", encompassing accomplices in offences or attempted offences.

Criterion 5.8(c) - See c.5.8 (a) above for definition of "terrorist", encompassing those who organise or direct others.

Criterion 5.8(d) - It is an offence to contribute to the commission of any of the offences under the TPA (§2(1) (e)). Section 40 of the TPA defines “terrorist organisation” and “terrorist” to include a group of persons and a natural person who contribute to the commission of terrorist acts by a group of persons acting with a common purpose.

Criterion 5.9 - TF offences are predicate offences for ML (§15(2) and (6) MLPA).

Criterion 5.10 - Nigerian authorities can exercise jurisdiction over a TF offence regardless of whether the person alleged to have committed the offence is in the same country or a different country from which the terrorist group or proscribed organisation is located or where the terrorist act occurred or planned to occur (§§10(2) and 13(4) of the TPA 2013).

Weighting and Conclusion

Nigeria has largely met the criteria in this Recommendation. The TPA does not unambiguously define funds or other assets. Further, the requirement to infer both intent and knowledge of TF from objective factual circumstances may not apply to all TF offences. Finally, sanctions provided under the applicable laws are not consistent and proportionate. These gaps are more significant, considering Nigeria’s acute TF risks. **R. 5 is rated LC.**

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

Nigeria was rated NC on the former SR III. The existing EFCC provision on the freezing of terrorist funds and other assets did not cover terrorist organisations and entities. Nigeria did not have procedures or guidelines to assist LEAs and FIs to implement the freezing requirements of SR III. It lacked mechanisms to enforce UN Security Council Resolutions 1267 and 1373. The country did not have a central authority with the responsibility for the implementation of TF freezing and confiscation measures.

Criterion 6.1 – For designations under UNSCR 1267/1989 and 1988:

Criterion 6.1. (a) The Attorney-General is the competent authority responsible for proposing persons or entities to the 1267/1989 and 1988 Committees for designation. The AG forwards the proposal through the Ministry of Foreign Affairs (MOFA) upon recommendation by the NSC and declaration of the President of the person or entity as a suspected international terrorist or international terrorist group (Reg. 5(4) and (5) of the Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regs. 2013 (the TPR).

Criterion 6.1. (b) – The NSC is the prescribed mechanism for identifying potential targets for designation under the UN Sanctions Regimes (Reg. 5(4), TPR). It is required to base its actions on the designation criteria set out in the relevant UNSCRs and covered by paragraphs 19 and 20 of the Schedule to the TPR. In practice, potential targets for designation can be brought to the NSC for consideration by its constituent agencies, including the AG, ONSA, or the National Intelligence Agency. The AG is responsible for preparing the designation package and works with the NFIU to do so.

Criterion 6.1. (c) - The TPR does not specify an evidentiary standard of proof for deciding whether to propose a target for designation. Nigeria reports having employed such a standard in proposing designations to the UN. However, in its view, the evidence met a far higher standard. There is no requirement that a criminal proceeding must exist or have existed to propose designations.

Criterion 6.1. (d) - There is no requirement for Nigeria to employ procedures and (in the case of UN

Sanctions Regimes) standard forms for listing, as adopted by the 1267/1989 Committee or 1988 Committee in making its designation proposals. Nigeria explained that in practice, MOFA followed the specified UN procedures in proposing Boko Haram and its leader for designation in 2014.

Criterion 6.1 (e) - Section 22 of the TPR requires that the Nigeria Sanctions List and the UN Consolidated Lists must include specific identifying information. They include names, pseudonyms, place and date of birth, nationality, addresses, gender, occupation, and “any other information as may be considered relevant”. The TPA does not require Nigeria to provide a statement of the case that contains as much detail as possible for listing. In practice, Nigeria provides all available and relevant information in the past and would continue to do so.

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

Criterion 6.2. (a) - The President of Nigeria (Reg. 6(5) of the TPR) and the NSC (Reg. 6(1) and (2) of the TPR) are the competent authorities responsible for designating persons and entities that meet the criteria for designation as set forth in UNSCR 1373, whether put forward on Nigeria’s motion or after examining and giving effect to the request of another country.

Designation at the request of another country is to occur on receipt of a notice of designation of a person, group or entity by a foreign country or third party as an international terrorist or international terrorist group or the listing of a person as a person involved in terrorist acts in any of the instruments of the African Union or Economic Community of West African States (ECOWAS) or any other organisation approved by the President (§ 6(1) of the TPR).

Criterion 6.2. (b) - The NSC is Nigeria’s formal mechanism for identifying targets for designation pursuant to UNSCR 1373 (Reg. 6 of the TPR). Under Section 6(3) of the TPR, the AGF, the National Security Advisor, the Inspector General of Police or the Director of State Security Services may, based on reports or intelligence, request the NSC to recommend a person or entity to the President for designation as a terrorist, international terrorist or an international terrorist group or entity. The officials are to exercise this power immediately and without further delay upon receiving such a request (Reg. 6(3) of the TPR). However, the grounds to be considered are not fully reflective of those provided for in UNSCR 1373. Although they encompass those who commit, attempt or facilitate terrorist acts (TPR § (6)4(i) and UNSCR 1(c), they do not necessarily apply to entities owned or controlled or persons/entities acting on their behalf, unless a foreign country has designated them. This requirement for a foreign designation does not appear to be required under UNSCR 1373, which does not impose such a condition.

Criterion 6.2. (c) - On receipt of a request for designation of a person, group, or entity by a foreign country or third party, the AGF must immediately convene the NSC to deliberate on the list proposed for designation (Reg. 6(1)(a)). Reg. 35 defines “immediately” to mean not later than 24 hours. The language of the TPR in section 6(4) refers to the “evidentiary criteria” for inclusion on the 1267/1989 and 1988 Lists, specifically paragraphs 19 and 20 of the Schedule to the TPR, and requires the NSC to consider whether “it can be shown that” the person or entity commits, attempts, participates in, or facilitates terrorist acts, is owned or controlled by a person or entity designated by a foreign country in line with the requirements of UNSCR 1373, or acting on behalf of or at the direction of such a person.

Criterion 6.2. (d) – As with 6.1(c) regarding the relevant designation criteria when determining whether to propose a person or entity for designation, the TPR does not specify the evidentiary standard regarding the kind and quantum of evidence for the determination that “reasonable grounds” or “reasonable basis” exists for a decision to designate a person or entity put forward by Nigeria’s motion or at the request of another country. Thus, it is unclear whether the NSC or other competent authorities apply an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” to a designation proposal. Sections 19

and 20 of the Schedule to the TPR provide for substantive criteria, but do not provide the standard of proof.

There is no indication in the TPR that proposals for designations should be conditional upon the existence of a criminal proceeding or otherwise.

Criterion 6.2. (e) - The Attorney General under section 29 of the TPR may release any information obtained pursuant to his authorities under these regulations to domestic and foreign competent authorities. While not requiring the release of as much identifying information as possible, Reg. 22 of the TPR provides that the Lists to which the Regulations apply must contain information relating to the designated person to determine the identity of the person's identity (personal details, date of designation and any other information considered relevant).

Criterion 6.3

- (a) Regarding UNSCR 1373, Reg. 6(3) of the TPR states that “*where the AG, National Security Adviser, the IGP or the Director General of the State Security Service, based on reports or intelligence before him determines that an entity or persons should be designated as a terrorist, an international terrorist or international terrorist group or entity, it shall immediately and without further delay request the NSC to recommend the persons or entity to the President for the designation*”. The TPA references LEAs as the authorities responsible for gathering intelligence and investigating offences under the TPA (§ 1A (3), TPA). Specific power for intelligence gathering relates to the prevention of terrorist acts or to enhance the detection of offences related to the preparation of a terrorist act or for the prosecution of offenders under the TPA (section 29(1) of the TPA). Nigerian authorities explained that such products were prepared pursuant to agencies' authorities in collecting and soliciting information generally and could be used to identify persons reasonably believed to meet the criteria for designation.
- (b) The TPA and other applicable laws do not state whether the NSC, as a body, must operate *ex parte* against an identified person or entity whose designation is under consideration, although this can be inferred. Separately, the AG or the representative of the AG has the power to operate *ex parte* for freezing orders after a designation of a person or entity has occurred. The procedure is distinct from operating *ex parte* during considerations or processes for designation.

Criterion 6.4 Nigeria does not appear to implement TFS without delay in light of regs. 5 and 8 of the TPAR, both of which provide for processes to implement TFS. As outlined in those regulations, which reference UNSCRs 1267, 1988 and 1989 and the UN Consolidated Lists, upon “receipt of notice” of UN List, the MOFA must immediately forward the listing(s) to the AG (reg.5(1)). The MOFA must, in turn, add them immediately to the Nigeria Sanctions List (reg.5(3)). At that point, the AG must disseminate the list to “relevant authorities for immediate dissemination and action (reg. (5) (2), TPAR). Reg. 35 of the TPAR defines “immediately” to mean “spontaneous, instantly, rapid, straightaway, take action in a timely manner, without delay but not later than 24 hours”.

Reg. 8 requires the freezing of assets of persons on the UN Consolidated Lists (i.e., the 1267 and 1988 committee lists per reg. 3 of the TPR) upon the AG's dissemination of the lists to the NFIU, LEAs, and financial sector supervisors, or for 1373 designations upon the President's decision to designate. (TPR Section 8(1)- (5)). However, upon receipt of the List, these agencies must then query institutions “under their supervision” and report to the AG whether they identified any funds. Upon learning of any assets held by designated terrorists, the AG must then apply (*ex parte*) to a court to obtain a freezing order and an order to prohibit persons from disposing of or otherwise dealing with such assets (reg. 8(5) of the TPR)).

In either case, this sequence of events cannot occur without delay, given the multiple steps entailed for each entity. Nigeria has not created a Nigeria Sanctions List or has mechanisms in place to immediately communicate new listings directly. Indeed, evidence available show communications to supervised entities months after designations confirmed this view. Further, the requirement to disseminate the lists to persons under the “supervision” of the listed competent authorities is relevant only to the NFIU and financial sector regulators; it is not practicable for LEAs to consider the general public as such. Moreover, since SCUML is not a law enforcement agency, there is no requirement to inform or query DNFBPs.

Criterion 6.5

The NFIU Act empowers the NFIU to supervise and monitor REs for compliance with AML/CFT measures, including TFS. However, the NFIU does not have the power to impose sanctions for non-compliance with TFS requirements other than for failure to report. Nor is there provision for SCUML to implement and enforce TFS obligations on DNFBPs.

Criterion 6.5(a) - Section 7(1) of the TPR generally provides that the funds or other economic resources of designated persons “shall be frozen”; however, it does not specify that this requirement applies to “natural and legal persons”, nor does it require such freezing to occur without delay or without prior notice to the target. In the Guidelines to the TPR, for “reporting entities”, the obligation to immediately freeze without prior notice applies, but only to reporting entities upon receipt of the UN Consolidated list.

The TPAR prohibits a customer, staff, associate or affiliate of an institution or any person or entity connected with a designated person from dealing with funds or other economic resources owned, held or controlled directly or indirectly by a designated person (reg. 10(3)). The provision does not explicitly include entities/institutions, except where it refers to an entity connected to the designee. Regulation 2 (a) of the TPR (ref. reg.35) defines “designated person” to mean “any suspected terrorist, international terrorist or an international terrorist group” meaning that the requirement in Section 10 of the TPR does not necessarily apply to domestic terrorist groups. The TPR does not limit the assets referred to under Reg. 10 as only those subjected to freezing actions.

Criterion 6.5 (b) - The obligation on persons to freeze extends to “all funds or any other economic resources owned, held, or controlled directly or indirectly by a designated person” (§ 10(1)), while for FIs and DNFBPs the requirement to freeze pertains to “funds or any other economic resources” and “properties or assets” (reg. 9(2)). Reg. 35 of the TPR defines economic resources, as well as funds and other assets, in line with the Glossary to the FATF Methodology. These or other provisions in the TPR, however, do not explicitly extend the obligation to freeze to i) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; ii) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, or iii) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

Criterion 6.5 (c) Reg. 12(1) of the TPR prohibits a person from making funds, financial services or other economic resources available, directly or indirectly, to or for the benefit of a designated person or entity. However, there is no explicit reference in the TPR or elsewhere to entities owned or controlled, directly or indirectly, by designated persons or entities or persons acting on behalf of or at the direction of designated persons or entities. Under TPR section 9, FIs, DNFBPs, LEAs and security agencies (referred to as “relevant institutions”) are required to review both the UN Consolidated List and Nigeria Sanctions List before conducting any transaction or undertaking any financial services or entering into any relationship with any designated person or entity.

Criterion 6.5 (d) Upon receipt, AG must circulate the Sanctions Lists (including the updated List) to

the NFIU and financial sector regulators via electronic and surface mail and direct the authorities to identify funds and other assets of designees in institutions under their supervision (regs. 8(3) and 20(1) (updated List), TPR). The mentioned authorities must immediately or without delay, on receipt of the list from the AG, request feedback from all relevant institutions, including DNFBPs, and report back to the AGF (Reg. 9(2), TPR). Further, Reg. 20(1) requires regulatory and supervisory authorities to disseminate the Sanctions Lists to FIs and DNFBPs. Certain regulatory authorities have done so in the form of circulars (e.g., the CBN (crit. 6(4) and SEC)), but not all.

Paragraph 7 of the Schedule to the TPR (under Guidelines for 1267 designations) guides REs regarding actions to be taken on receipt of the UN Consolidated List from regulatory and supervisory authorities. These include searching for names of designees and associated persons and entities, freezing of all funds and other assets without prior notice to targets, and submission of STRs to the NFIU. Concerning the National List, the TPR/Guidelines prohibits REs from operating or dealing with accounts, properties or assets or providing banking and financial services to designated persons. FIs and DNFBPs are required to submit STRs to the NFIU and report all cases of name matching in financial transactions before or after receipt of the List (para. 16 Guidelines to the TPR).

The relevant authorities (for example, the NFIU, MOFA, NSC and the AGF), do not maintain websites with the UN Consolidated Lists or a Nigeria Sanctions List. Regulation 5(6) of the TPR requires the AGF to add new UN listings to the Nigeria Sanctions List and forward the same to “all relevant institutions for immediate dissemination and action”. The regulation also requires the NSC to establish a website to post updates to the Nigeria List (to include 1373 designations). Nigeria does not maintain a List service or other proactive notification function to alert the public on designations. SCUML maintains a live link to the UN Consolidated Lists but does not provide a notification feature. There is no National Sanctions List of designated persons and entities.

Criterion 6.5(e) FIs and DNFBPs are required to submit STRs including reports or information on actions taken to freeze the funds or other economic resources of designees to the NFIU (Reg. 9(2), TPR). The STR must include (i) the basis for the suspicion, (ii) any information by which the authorities can identify a person, and (iii) the nature and amount or quantity of the funds or economic resources held by the institution at the time of the designation. There is no provision extending these obligations to other natural or legal persons.

FIs and DNFBPs must also provide to the AG, through the NFIU, financial sector regulators and LEAs, identified funds or assets belonging to designated individuals, entities or other related persons, including when no funds or assets were identified (Reg. 8(4), TPR). Reg. 8(4) does not state whether the feedback covers information on attempted transactions.

Criterion 6.5 (f) – The “freezing of funds is without prejudice to the rights of third parties acting in good faith” (Reg. 7(2)), TPR).

Criterion 6.6 - Nigeria has mechanisms for de-listing and unfreezing the funds/other assets of persons/entities which do not or no longer meet the designation criteria:

Criterion 6.6. (a) - For designations pursuant to the UN Sanctions Regimes, a designated person must apply through the AGF to the UN Sanctions Committee, stating the reasons for the application (reg. 23(1)(b) of the TPR). The AGF is required to provide the UN Sanctions Committee with additional information deemed pertinent to the UN for consideration of the application, upon referral by the UN Sanctions Committee of an application for removal from the UN List to the AGF for comments, submit any additional information. Reg. 23(1) does not refer to entities, thus limiting the scope of application

Criterion 6.6. (b) - Concerning UNSCR 1373, Reg. 23(1) (a) of the TPR requires a person who wishes to be de-listed from the Nigeria List to apply to the AGF. The TPR does not specify the basis for

requesting for de-listing and unfreezing, and whether an applicant may submit arguments or evidence that the applicant believes establishes that an insufficient basis exists for the listing or that the circumstances resulting in the listing have changed. The NSC is required to review the justification for a request for de-listing or application to unfreeze funds. It can seek additional information, where necessary, and consult relevant agencies or supervisory authorities before it recommends a person or entity for de-listing or consider an application to unfreeze funds (Reg. 23(7) of the TPR). As noted under sub-criterion 6.6 (a) above, Reg. 23(1) does not refer to an entity, and Reg. 23(7) is silent on other assets.

Criterion 6.6. (c) - A person or entity whose funds or assets are frozen can challenge the measures with a view to having the frozen funds or assets reviewed by a court (Reg. 15(4) of the TPR). For designation decisions, specifically, however, it is unclear what procedures exist to allow, upon request, review of the decision before a court or other competent authority. The TPAR briefly requires the “AGF to inform a designated person about the possibility of [...] submitting complaints to the AGF or the United Nations Ombudsman/Sanctions Committee” but do not provide further detail on procedures for doing so. It is therefore unclear what recourse exists for review of a designation decision.

Criterion 6.6. (d) - There is no information demonstrating mechanisms or procedures to comply with specified UN Sanctions Committee procedures.

Criterion 6.6. (e) - Reg. 21(2)(b) of the TPR requires the AG to inform a designated person about the possibility of submitting complaints to the UN Ombudsman/Sanctions Committee under Reg. 21 of the TPR. The provision does not specify the procedures for designated persons to submit applications to the UN via the AG. Nigeria did not provide the Assessors with any such procedures.

Criterion 6.6. (f) - A person whose funds or other economic resources are frozen as a result of (i) similarity in names, (ii) wrong entries on the Lists or in the account of a person or an entity under investigation, or (iii) as a result of any other error, may apply to the AG to unfreeze the funds (reg.17 TPR). The AG is required to submit the UN Sanctions Committee, in the case of UN designations, or determine the application where it relates to the Nigeria List, and inform the applicant and the relevant authorities of any decision taken on the application in writing. There is no requirement to take the measures upon verification that the person or entity involved is not a designated person or entity.

Criterion 6.6. (g) - The AGF is required to inform the relevant authorities of any amendments and effects of amendments to the UN or Nigeria Sanctions List and the deletion of names from the Lists (Reg. 24(a) and (c) of the TPR). Reg. 6(7) of the TPR requires the NSC to establish a website where all related changes and updates would be posted and disseminated. However, Nigeria has not established mechanism to communicate UN or national designations, including information on de-listing, to competent authorities or the private sector. As noted, there is no Nigeria List to update or disseminate. The TPR is silent on unfreezing of funds, and there is no published guidance to FIs and other persons or entities, including DNFBPs that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing decision.

Criterion 6.7 - The AG is mandated to approve the use of frozen funds or other assets for basic expenses. They include food and medical needs, as well as professional or specifically authorised general expenses, as well as expenses that the AG may approve for “exceptional services” (Reg. 14(1) TPR).

Weighting and Conclusion

There are gaps in Nigeria’s legal framework on TFS related to terrorism and TF. Nigeria lacks procedures or mechanisms for identifying targets for designation under UNSCRs 1267 and 1373. The legal framework does not provide for the evidentiary standard applied by the NSC in deciding whether

to designate a person or entity. The legal provisions and other relevant information demonstrate that Nigeria is not implementing TFS related to TF without delay. The obligation to freeze does not extend to every natural and legal persons, as well as: i) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; iii) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; or iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. The NFIU lacks power to impose sanctions for non-compliance with TFS requirements other than for failure to report, while SCUML does not have a legal basis to implement and enforce TFS obligations against DNFBPs. Nigeria does not have clear mechanisms for communicating designations to REs immediately upon taking designation action. There is no requirement to report attempted transactions. Procedures to de-list and unfreeze do not cover entities and other assets, nor provide guidelines to facilitate delisting. **R.6 is rated PC.**

Recommendation 7 – Targeted financial sanctions related to proliferation

This Recommendation is new.

Criterion 7.1 - Nigeria does not have a legal framework to implement TFS without delay to comply with the UNSCRs on the suppression and disruption of WMD proliferation and proliferation financing.

Criterion 7.2 - Nigeria has not established the necessary legal authority or identified a competent authority responsible for implementing and enforcing TFS on proliferation. Further, the NSC referenced as the competent authority in R.6 this Technical Compliance Annex is not, from a legal standpoint, the competent authority for R. 7. The TPR specifically mandates the NSC to implement the requirements of UNSCRs 1267, 1988, and 1373. The preamble further notes that the “Reg. aims to provide for authorities, measures and procedures for the implementation of the UNSCRs described below [emphasis added].” The UNSCRs described after that as being in the scope of the regulations are limited to UNSCRs 1267, 1988, and 1373.

Criterion 7.2(a) - In the context of targeted financial sanctions relating to proliferation specifically, Nigeria does not require natural and legal persons within the country to freeze, without delay and prior notice, the funds or other assets of designated persons and entities.

Criterion 7.2(b) - The freezing obligations described in Nigeria’s existing legal framework, specifically in its TPR, do not extend to funds or other assets related to persons or entities designated in the context of proliferation (including, for example, in the context of UNSCR 2231 on DPRK and its successor resolutions and UNSCRs relating to Iran and proliferation financing). Instead, the TPR is specific to UNSCRs 1267, 1988, 1373 and associated successor resolutions.

It potentially could be inferred from the reporting requirement in reg.11 of the CBNR (i.e., for FIs under the CBN’s purview to report any actions they take concerning freezing under UNSCRs related to proliferation) that such institutions must first freeze the funds or other assets associated with persons or entities designated pursuant to any UNSCRs on proliferation. However, this is insufficient for technical compliance with this criterion.

Criterion 7.2(c) - Nigeria’s existing legal framework does not include prohibitions by any persons or entities within their territory against making funds or other assets available to persons or entities designated in the context of proliferation (including, for example, in the context of UNSCR 2231 on DPRK and its successor resolutions and UNSCRs relating to Iran and proliferation financing). Instead, the Terrorism Prevention Regulations are specific to UNSCRs 1267, 1988, 1373 and associated successor resolutions.

Criterion 7.2(d) - Nigeria does not have mechanisms to communicate designations to the financial sector and DNFBPs immediately upon taking such actions.

Criterion 7.2(e) - Regulation 11 of the CBNR requires FIs under the purview of the CBN to report to the Nigeria FIU any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including those on the financing of proliferation of weapons of mass destruction. However, there is no requirement for REs to implement TFS relating to PF. In this regard, this provision lacks a legal basis.

Criterion 7.2(f) - Nigeria has no legal framework on TFS relating to PF. In this regard, it is unclear whether Nigeria's existing legal framework protects the rights of bona fide third parties acting in good faith when implementing the obligations under R.7.

Criterion 7.3 - Nigeria does not have measures in place to monitor and ensure the compliance by FIs and DNFBPs with the obligations under R.7. The relevant laws or other enforceable means governing such obligations are not in place.

Criterion 7.4(a) - Nigeria does not implement publicly known procedures to submit de-listing requests to the UN Security Council in the context of targeted financial sanctions relating to proliferation pursuant to UNSCR 1730 or for informing designated persons or entities (in the context of the UNSCRs relating to proliferation financing) accordingly.

Criterion 7.4(b) - Nigeria does not have in place publicly known procedures for unfreezing the funds or other assets of persons or entities with the same or similar name as persons or entities designated in the context of proliferation.

Criterion 7.4(c) - Nigeria does not have procedures or mechanisms in place for authorizing access to funds or other assets, pursuant to the exemption conditions set out in UNSCRs 1718 and 2231.

Criterion 7.4(d) - Nigeria does not have in place a legal framework for mechanisms for communicating de-listings and unfreezing associated with targeted financial sanctions relating to proliferation to its FIs and other persons or entities, including DNFBPs.

Criterion 7.5(a) - Nigeria does not require relevant institutions to freeze accounts pursuant to UNSCRs 1718 and 2231 and thus cannot permit any addition to such accounts.

Criterion 7.5(b) - It is unclear whether Nigeria prevents designated persons or entities from making payments due under contracts entered into before their listing because Nigeria does not implement in its legal framework freezing actions pursuant to UNSCR 1718 or 2231.

Weighting and Conclusion

Nigeria has not adopted legislation or sufficient measures and procedures to implement TFS to comply with UNSCR relating to the prevention, suppression and disruption of the proliferation of WMD and its financing. **R.7. is rated NC.**

Recommendation 8 – Non-profit organisations

Criterion 8.1

Criterion 8.1 (a) - The NPOs Governance Code lists various attributes/categories of NPOs. They include charitable, educational, professional and scientific, religious, literary/artistic,

political/administrative grouping, social and recreational clubs and associations, trade unions and “others” (for organisations with similar missions but not deemed classifiable under the previous-mentioned categories). These entities primarily raise or disburse funds for their activities (paragraph 2 and 7.2 of the Code and § 590 CAMA). However, authorities have not taken steps to identify the features and types of the specific NPOs which, by their activities or characteristics, are likely to be at risk of TF abuse. The NRA assessed the inherent risks and vulnerabilities of all NPOs, including for non-TF-related illicit activities as Nigeria has designated NPOs as reporting entities which is inconsistent with the FATF standards. The aim of R.8 is to address the risks to which a subset of NPOs is exposed and to avoid having a negative impact on other NPOs which are serving the community. This is clearly not achieved in Nigeria, as it has categorised NPOs as DNFPBs and subject to all AML/CFT requirements intended for businesses and professions which are clearly profit-making entities as opposed to the legal persons or arrangements or organisations that primarily engage in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works” envisaged by R.8.

Criterion 8.1(b) - Nigeria has not identified at-risk NPOs, and the nature of threats posed by terrorist entities, as well as how terrorist actors abuse those NPOs. The NRA only generally described what it saw as the vulnerability of the general NPO sector for TF. The National Planning Commission’s guidelines and policies focus on the effective supervision of international NPOs and does not address the requirement under this sub-criterion. In its August 2019 Guidance for AML/CFT Risk-Based Approach for NPOs, SCUML highlights some general risk factors for the NPO sector to conduct a risk-based assessment. It treats NPOs as DNFBPs. These include location and connections to foreign donors from high-risk countries. The assessors do not consider this document as relevant and satisfying the requirements of this sub-criterion.

Criterion 8.1(c) - Nigeria’s laws, regulations, guidelines and policies cover the general NPO sector. Though Nigeria mentions overseas NPOs (which is general) as being at a higher risk of TF abuse, there is no information on the nature of identified threats, and how the identified NPOs are vulnerable to terrorist actors. Also, there are discrepancies between the number of NPOs registered with the CAC and the SCUML. While about 46,000 NGOs registered in Nigeria with the Corporate Affairs Commission (CAC), only 3,869 of them are registered with SCUML in the last 5 years (2010-2014).¹²⁰ Nigeria stated that this results from the CAC’s larger scope of NPOs which include community-professional organisations, among others.

Criterion 8.1(d) - In the absence of identification of at-risk NPOs, it is not possible to state that Nigeria has met the requirements of this criterion. Nigeria has not demonstrated periodic assessment of the NPO sector through the review of new information on the NPO sector’s vulnerabilities to terrorist activities to ensure effective implementation measures.

Criterion 8.2

Criterion 8.2(a) - The Not-for-Profit Governance Code, 2016 issued by the Financial Reporting Council of Nigeria guides governance, accountability and sound financial practice for all NPOs in Nigeria. International NGOs that intend to operate in Nigeria are required to sign a standard agreement document with the Federal Government in place of incorporation with the CAC. The agreement requires international NGOs to file quarterly reports of their financial activities and programmes to the Federal Ministry of Budget and National Planning. Additionally, NPOs are required to implement communication strategies/policies to communicate, interact with and

¹²⁰ Page 33, 2017 NRA.

disseminate information about the NPO to its members, beneficiaries, stakeholders and or the public (parag.38.1 of the NPOs Governance Code).

The NPOs Code provides for an organisational structure consisting of a General Assembly, Board of Trustees, Governing Board, Management Committee, Founder/Leader, Chairman of the Governing Board, Chief Executive Officer, Organisation Secretary, Organisation Treasurer, Executive Directors, Non-Executive Directors and Directors. It also requires NPOs to have well-structured Committees which may include a Finance and General-Purpose Committee, Governance Committee and an Audit and Risk Management Committee. For the NPO code, the Chief Executive Officer is the head of the management of an NPO and answerable to the Board. However, the Code precludes the Chief Executive from being the only executive director on the Board of the NPO. The Management Committee also has responsibility for the organisation and the purpose for establishing the NPO.

The Code also requires NPOs to prepare annual financial statements on their activities under the approved framework of accounting and financial reporting issued from time to time by the Financial Reporting Council of Nigeria and change external audit firms after every five years of continuous engagement. NPOs may appoint such audit firms for five years after their disengagement. NPOs are also required to publish their annual reports and accounts on their websites.

The Boards of NPOs are also required to disclose matters such as a statement of the director's responsibilities, details of accounting policies utilised and reasons for changes in accounting policies, remuneration of the Directors, compensation for loss of office, terminal benefits, fees and allowances and any donations, contributions, payments made to any entity in its annual statement. Also, the Code encourages Boards to establish a whistle-blower policy for individuals to report credible information on illegal practices or violations of policies of the organisation. The organisations must protect the individual from retaliation and identify the parties to whom such information can be reported (paragraph 29).

While the requirements of the Governance Code promote accountability, integrity, and public confidence in the administration and management of NPOs, there is no specific TF risk assessment for the NPO sector. Therefore, the measures apply to all NPOs, rather than only those identified as most vulnerable to TF.

Criterion 8.2(b) - SROs, SCUML and NFIU are required to develop an internal compliance system and training programmes for their members. The AML/CFT Strategy also includes Awareness, Sensitisation and Engagement programmes under its Strategic Objective 1. SCUML partners with NPO Coalitions and Networks to carry out sensitisation of the NPO sector. It also sensitises NPOs through print and electronic media. These efforts target the limited number of NPOs registered with the SCUML. SCUML has held general outreach sessions with NPOs on several occasions to raise awareness of their obligations and risks. There is no indication of outreach and educational programmes to raise and deepen awareness among the donor community on the potential vulnerabilities of the sector to TF abuse and TF risks and related matters. Accordingly, the outreach/awareness-raising required by this sub-criterion cannot be confirmed. Additionally, outreach is not conducted on a risk-basis.

Criterion 8.2c - Nigeria has not identified NPOs at risk of TF and lacks a formal policy or process for working with at-risk NPOs to develop and refine best practices. SCUML's written guidance to NPOs on conducting an internal risk assessment does not provide actionable advice and not sufficiently tailored to the NPO context in Nigeria.

Criterion 8.2d - The MLPA prohibits natural and legal persons, including all NPOs, from making or accepting cash payments over N5mln (USD 13,793) and N10million (USD 27,586), respectively (§1, MLPA). The CBN Financial Inclusion Framework encourages beneficiaries of NPO interventions to have access to financial services, thereby encouraging them to conduct transactions via regulated

financial channels¹²¹. The CBN has introduced a 3 tiered know your customer requirements which simplify account opening procedures, and set thresholds for cash transactions. These measures take account of urgent charitable and humanitarian concerns in Nigeria.

Criterion 8.3 - Nigeria has taken some steps to promote a risk-based supervision of NPOs (to a varying extent through existing regulatory measures as DNFBPs). SCUML focuses on 20 NPOs based in countries seen as high-risk for TF. Also, domestic NPOs operating in the North East, NPOs with high annual operating income, high cash turnover, and those believed to have weak internal controls were also said to be prioritised for supervision. SCUML examines high-risk entities twice every year, while it inspects medium and low-risk entities annually. The SCUML guidance to NPOs that characterises the risk of NPOs as “high” does not differentiate between ML and TF risks, appearing to either conflate or combine them. It also cites the NRA as describing NPOs’ ML risks as “high” when the NRA views them as “medium-high”. SCUML’s NPO examination manual seems only partly tailored to detect TF risk (see IO.10). In the absence of a comprehensive assessment, it is impossible to conclude that Nigeria has taken steps to promote effective supervision or monitoring such that the country is able to demonstrate that risk-based measures apply to NPOs at risk of TF abuse.

Criterion 8.4

- a) Nigeria has not conducted sectoral TF risk assessment for NPOs and has not identified at risk NPOs (see c.8.1) to enable it to apply risk-based measures to NPOs at risk of TF abuse (c.8.3).
- b) SCUML, the NFIU and relevant SRBs are responsible for monitoring NPOs as DNFBPs regarding CFT matters (Reg. Reg. 4(1) and 4 (2)(d) of the DNFBPR). The penalties in respect of violation of AML/CFT requirements for reporting entities apply to NPOs (§16(f) MLPA), including revocation, withdrawal or suspension of the licence of members for failure to register and submit registration information whenever required; STRs or CTRs reporting to the NFIU or SCUML, respectively. These sanctions do not apply to persons or entities acting on behalf of the NPOs, including trustees. Also, the covered areas go beyond the focused requirements of R.8, and may therefore disrupt or discourage legitimate charitable activities.

Criterion 8.5 – a) The Ministry of Budget and National Planning oversees cooperation and coordination of information sharing between their Ministry and the Law Enforcement Agencies (LEAs) on international NGOs. To avoid duplicated requests and responses, the Office of the Secretary General of the Federation serves as the central clearing points for all request of information from the LEAs. The Ministry also interfaces between the International NGOs forum and the relevant authorities. However, these actions do not occur on the identification of relevant NPOs.

b - The CAC has powers to investigate the affairs of NPOs (§§315(2) and 606,CAMA) where the interest of the public so demands (paragraph 35.3. of the Governance Code) based on a court order. The CAC may investigate an NPO where circumstances suggest that the NPO had or is conducting its affairs to defraud its creditors or the creditors of any other person or some part of its members in an unfairly prejudicial manner. It may also investigate where there is an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial, or that the company was formed for any fraudulent or unlawful purpose (§315(2), CAMA). These measures and powers are only general and do not specifically pertain to CFT issues.

Criterion 8.5(c) Section 1(5)(h) of the TPA empowers LEAs and security agencies to request or

¹²¹ Financial Inclusion Policy (CBN) and the 3 tier KYC.

demand for, and obtain from any person, agency or organisation, information, including any report or data that may be relevant to its functions. Section 40 of the TPA defines "law enforcement agencies" to include the Nigeria Police Force; Department of State Services; Economic and Financial Crimes Commission; National Agency for the Prohibition of Traffic in Persons; National Drug Law Enforcement Agency; National intelligence Agency; Nigeria Customs Service; Nigeria Immigration Service; Defence Intelligence Agency; Nigeria Security and Civil Defence Corps (NSCDC); and any other agency empowered by an Act of the National Assembly. This means that all the authorities implied in investigation may have full access to information on the administration and management of NPOs. However, these powers are not focused on particular NPOs as required by the FATF standards.

Criterion 8.5(d) There is no specific mechanism for disclosing suspicion of involvement or abuse of NPOs, including the purpose of escaping asset freezing and related matters. However, NPOs in Nigeria are subject to registration procedures under the CAMA. Also, by virtue of their designation as DNFBPs, which is inconsistent with the requirement of R.8, NPOs, are subject to cash-based transaction and other reporting requirements which enable the NFIU and SCUML to determine complicity or abuse of NPOs. Nigeria reported suspected cases of abuse of NPOs through intelligence sharing, but nothing relating to the evasion of freezing measures.

Criterion 8.6 Although section 12 of the National Planning Commission Act, 1993 requires the Commission to maintain liaison with non-governmental organisations and such other bodies as may be useful in promoting plan formulation, acceptability and implementation, it does not designate the Commission as the focal institution responsible for responding to international requests for information for NPOs suspected of TF or involved in other forms of terrorist support. However, the NFIU can perform this function without hindrance (§3(j), NFIUA).

Weighting and Conclusion

Nigeria has not undertaken a categorisation of at-risk NPOs, and the nature of threats posed by terrorist entities as well as how terrorist actors abuse those NPOs. Classifying all NPOs as DNFBPs and subjecting them without discrimination to the full suite of AML/CFT responsibilities is not a substitute for this exercise and goes against the intent of R.8. The focus of this Recommendation is largely on at-risk NPOs within the wider NPO space. Nigeria has not identified the characteristics of NPOs that might put them at higher risk of TF. Considering Nigeria's risk and context, the lack of a comprehensive risk assessment of NPOs is a fundamental shortcoming, which should cascade throughout the Recommendation. **R.8 is rated NC.**

Recommendation 9 – Financial institution secrecy laws

Nigeria was rated C on the former R.4 because the country met all the requirements.

Criterion 9.1 There are no FI secrecy laws that inhibit the implementation of all AML/CFT measures (including those under the FATF Recommendations) in Nigeria. Nigeria has several constitutional and legal provisions that impose confidentiality obligations on personal information and the privacy of individuals. Section 35(c) of the 1999 Constitution guarantees the privacy of a citizen as a fundamental human right. The right is restricted if it is reasonably justifiable in the interest of public safety, order, for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence. The Freedom of Information Act, 2011, though not a data protection Act, restricts the disclosure of personal records without obtaining the consent (§ 14). The Nigeria National Information Technology Development Agency Act ("NITDA"), Regulations, 2019, applies to residents of Nigeria, Nigerians residing outside of Nigeria, and organisations processing personal data of such individuals. NITDA permits the processing of personal information if (i) the data subject provides consent, or if the processing is necessary; (ii) for the performance of a contract; (iii) to

meet a legal obligation; (iv) to protect the vital interests of the data subject; or (v) for the performance of a task carried out in the public interest (paragraph 2.2(e)).

Equally, FIs are required to provide information to the CBN, NFIU and other competent authorities and not inhibit the implementation of the provisions of Regulations and cooperate with the regulators and LEAs in the implementation of a robust AML/CFT regime in Nigeria (reg. 1(4) and (4) CBNR). Section 16(10) of the MLPA protects officers and employees of FIs and DNFBPs from civil, criminal, or administrative liability in respect of disclosure made in good faith. Therefore, there is no restriction on the type of information that competent authorities can obtain from persons and entities. The authority must assist an authority to identify and locate the proceeds of crime related to the commission of ML/TF and related matters.

On the sharing of information by competent authorities, the NFIU can provide to a competent authority, including anti-corruption agencies in and outside Nigeria with relevant information received under section 4(1) under section 3(1)(k) of the NFIUA. The NFIU, CBN or regulatory authorities have the power to compel and access any document or information (financial and commercial records) from relevant persons and entities under section 13 of the MLPA. The NFIU has the power to obtain information from FIs and DNFBPs as required for sharing information internationally or with a foreign authority. It can also, during supervision, obtain copies and extracts from any recorded information from FIs and DNFBPs (§ 20 NFIUA).

The NFIU has the mandate to share relevant information with supervisory authorities, LEAs and anti-corruption authorities in Nigeria and foreign countries in relation to ML/TF crimes. Finally, nothing can prevent international cooperation under the laws of Nigeria for purposes of implementation of the FATF Recommendations. Exchange of information between competent authorities and their foreign counterparts can occur based on MOUs and their enabling legislation.

Weighting and Conclusion

Sharing of information between FIs: There are no secrecy laws or application of common law in Nigeria that restrict the exchange of information between FIs. Credit information providers are subject to confidentiality rules in respect of the information they obtain during their functions or relevant services. They may disclose such information to a Credit Bureau without the prior consent of the Data Subject to which such information relates. Credit information providers include (a) banks, specialised banks, and other FIs; (b) leasing companies; (c) insurance companies; (d) cooperative societies and institutions that offer credit to medium, small and micro enterprises; (e) utility companies including electricity companies, telecommunications companies, and water corporations; (f) asset management companies; (g) Credit Reporting Management System (CRMS). In this regard, FIs can share information relating to correspondent banks, wire transfers, and third parties. **Rec.9 is rated C.**

Recommendation 10 – Customer due diligence

In its 1ST MER, the Federal Republic of Nigeria was rated non-compliant with the requirements of this Recommendation. The main deficiencies relate to a lack explicit prohibition of keeping of anonymous accounts; non-coverage of some CDD requirements including insufficient verification of the identification information obtained from their customers; verification of the beneficial owner for all customers, lack of application of simplified due diligence measures for lower-risk situations (the MLPA provided for exemption) and unclear guidance to FIs regarding beneficial ownership.

The MLPA provides for the conduct of CDD by Financial Institutions. These requirements are further amplified by sector-specific regulations issued by the various regulatory agencies (CBN; SEC; NAICOM; SCUML).

Criterion 10.1 - FIs in Nigeria are prohibited from keeping anonymous accounts or accounts in obviously fictitious names (§11 MLPA).

Criterion 10.2

Criterion 10.2(a) FIs are required to undertake CDD measures when establishing business relationships (section 3(2) MLPA).

Criterion 10.2(b) FIs are required to undertake CDD measures when carrying out occasional transactions above \$1,000 (§3(2) MLPA). Financial sector supervisors have set the following thresholds for occasional transactions:

BOFIs: USD 1 000 or its equivalent, including linked transactions (reg. 13(1)(b), CBNR).

Insurance: ₦ 1,000,000 (USD 3,263.07), including linked transactions (Reg. 6(5)(h)).

Capital market: USD 1,000 or its equivalent including situations where the transaction is carried out in a single operation or several operations that appear to be linked (regulation 9(1)(b) and (c)).

The thresholds set by the MLPA and sector Regulations are lower than the USD/EUR 15,000 of the FATF Recommendations.

Criterion 10.2(c) FIs are required to undertake CDD measures when carrying out occasional transactions that are wire transfers (§3(2)(c) MLPA, reg. 13(c) CBNR, 6(5)(c) NAICOMR, 9(1)(d) SECR). Regulations extend this requirement to cross-border and domestic FI-to-FI transfers and when credit or debit cards are used as a payment system to effect money transfer. However, this is not required by Recommendation 16 as it is not intended to cover FI-to-FI transfers and settlements, where both the originator person and the beneficiary person are FIs acting on their own behalf.

Criterion 10.2(d) FIs are required to undertake CDD measures where there is a suspicion of ML/TF (§3(2) MLPA, Reg. 9(1)(e) of SECR, 13(1)(d) CBNR).

Criterion 10.2(e) FIs are required to undertake CDD measures when the FIs have doubts about the veracity or adequacy of previously obtained customer identification data (§3(2) MLPA, reg. 9(1)(e) SECR; 13(1)(e) CBNR; 9(1)(f) SECR; and 6(5)(d) NAICOMR.)

Criterion 10.3 Section 3(1)(a) of the MLPA requires FIs to identify their customers, whether permanent or occasional, natural or legal persons or any other form of legal arrangements. They are to use identification documents prescribed in any relevant regulations and verify the identity of the customer using reliable, independent source documents, data, or information.

For banks and other FIs under CBN: Appendix A to the CBN AML/CFT Manual of Compliance provides a list of sources of information to be relied on by BOFIs to identify customers (e.g., legal name, date and place of birth, nationality) and verify the identity of customers (e.g., birth certificate, utility bill, tax assessment).

CMOs: CMOs are required to identify natural persons by obtaining the legal name and any other names used such as maiden name, correct permanent full address, and a Post Office box number shall not be sufficient; telephone number, fax number, and e-mail address; date and place of birth; nationality; occupation, public position held and name of employer; an official personal identification number or other unique identifier contained in an unexpired official document such as passport, identification card, residence permit, social security records or driver's licence that bears a photograph of the client; and signature (reg. 48 of the SECR). They are to verify identity through confirmation of the date of birth

from an official document such as a birth certificate, passport, identity card, utility bills, social security records, and certification of such documents by an authorised person such as embassy official or notary public, among others.

Insurance sector: Insurance companies are required to identify customers using identification document as may be prescribed in any relevant law or regulation (reg. 7(a), NAICOMR). However, no law or regulation prescribes identification documents for insurance companies.

Criterion 10.4 There is no requirement in law for FIs to verify that any person purporting to act on behalf of the customer is so authorised and identify and verify the identity of that person.

Criterion 10.5 An FI must identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source, such that the FI is satisfied that it knows who the beneficial owner is (§3(1)(c) MLPA). The definition of a beneficial owner complies with the definition in the FATF standards (§13 MLPA).

Criterion 10.6 BOFIs are required to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship (reg.15(7) CBNR; reg.7(10) NAICOMR; and reg.9(6) SECR).

Criterion 10.7

Criterion 10.7(a) FIs are required to scrutinise transactions undertaken during the relationship to ensure that they are consistent with the FIs' knowledge of the customer, its business and risk profile, and where necessary, the source of funds (§3(3)(b) MLPA).

Criterion 10.7 (b) FIs are to ensure that documents, data, or information collected under the CDD process are kept up-to-date and relevant by undertaking reviews - of existing records, particularly for higher-risk categories of customers or business relationships (§3(3)(c) MLPA).

Criterion 10.8 For legal persons or arrangements, FIs must understand the nature of the customer's business and its ownership and control structure (reg. 7(4-6) of NAICOMR, reg. 9(4)(a) SECR and 15(1-3) CBNR). Regulation 9(4)(6) of the SECR does not refer to arrangements. However, reg. 95 of the SECR defines legal persons as "bodies corporate foundations, partnerships, or associations, or any similar bodies that can establish a permanent customers relationship with a Capital Market Operator or otherwise own property", thus encompassing legal arrangements. These may include occasional customers.

Identification of Legal persons and arrangements are conducted by obtaining the original or certified copy of the Certificate of Incorporation and Memorandum and Articles of Association, as required by the specified regulations.

Criterion 10.9

Criterion 10.9(a) FIs are required to identify customers that are legal persons or arrangements. They must obtain (i) the registration number, (ii) registered corporate name and trading names used, (iii) registered address and any separate principal trading addresses, and (iv) proof of incorporation through searches conducted at the CAC or similar evidence of establishment or existence and any other relevant information (regs 14(5)(b) and 95 CBNR; regulation 9(3)(a) SECR and regulation 7(4) and 3 NAICOMR).

Criterion 10.9(b) FIs are required to identify and verify the identity of customers that are legal persons or arrangements using identification documents as may be prescribed in any relevant regulations and

reliable, independent source documents, data, or information (§ 3(1)(a) and (b), MLPA). Relevant regulations enjoin FIs to identify customers that are legal persons or arrangements and verify their identity by obtaining memorandum and articles of incorporation, as well as the names of directors. FIs are required to verify this information from reliable, independent sources¹²² (regs 14(5)(b) and 95 CBNR; regulation 9(3)(a) of the SECR and regulations 3 and 7(4) NAICOMR). The requirement to obtain names of directors is not sufficient to cover the names of persons holding senior management position in legal persons and legal arrangements.

Criterion 10.9(c) For a customer that is a legal person, an FI must identify the customer and verify its identity through the registered address and any separate principal trading addresses (regs. 15 and 95(1) (c), CBNR), 66(3)(a) SECR). Regs. 7(4)(b) of the NAICOMR only refers to address. The Regulations are silent on the address of the registered office of legal arrangements.

Criterion 10.10

Criterion 10.10(a) FIs are required to identify and take reasonable measures to verify the identity of the beneficial owners controlling ownership interest in a legal person and clear any doubts related to the interest. The basis of the controlling ownership depends on the nature of the company and identification evidence shall be obtained from shareholders with 5 percent or more interest (reg. 56(a) CBNR); reg.70(2) SECR. The NAICOMR does not provide the basis of the controlling ownership (reg.7(7)(a)). This is considered a minor deficiency and does not impact the rating as the insurance sector is weighted as less important but needs to be addressed.

Criterion 10.10(b) Reg.15(1) (ii) of the CBNR requires that, to the extent that it is manifestly clear that the persons with the controlling ownership interest are the beneficial owners or where no natural person exerts control through ownership interest, FIs under its supervision should take reasonable measures to identify and verify the identity of the relevant natural persons, where they exist, exercising control of the legal person or arrangement through other means. This provision is not fully consistent with the first part of this criterion which operates on doubt regarding the status of the person(s) with the controlling ownership interest.

The SECR and NAICOMR do not have provisions covering this criterion for CMOs and insurance companies.

Criterion 10.10(c) BOFIs are required to identify the customer, beneficial owner, or legal owner through the identity of a natural person who holds the position of senior managing official (reg. 15(iii) CBNR and reg. 66(1) SECR). There is no corresponding requirement in the NAICOMR for insurance companies.

The ratings for sub-criteria b & c take account of the weight of the sectors under the regulatory purview of the CBN in the financial system of Nigeria.

Criterion 10.11

Criterion 10.11(a) FIs are required to identify and verify the identity of the customer or beneficial owner through the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership) (reg. 15(1)(b), CBNR, reg. 54, SECR and reg.7(4)(b),

¹²² The Corporate Affairs Commission ('CAC') or similar evidence of establishment or existence and any other relevant information

NAICOMR). The NAICOMR focuses on trustees.

Criterion 10.11(b) BOFIs are required to identify and verify the identity of other types of legal arrangements through the identity of persons in equivalent or similar positions (reg. 15(c) CBNR and reg 54 SECR). The NAICOMR is silent on this requirement.

Criterion 10.12 In addition to CDD measures required for the customer and beneficial owner, insurance companies are required to conduct the following CDD measures on the beneficiary of life insurance and other investment-related insurance policies as soon as the beneficiary is identified or designated:

(a) for a beneficiary that is specifically named natural or legal persons, including legal arrangements, verify the name of the person (reg. 8(1)(a) NAICOMR). The provision does not cover taking the name of the person, though this is implicit.

(b) for a beneficiary designated by characteristics or by class, by obtaining sufficient information on the beneficiary to ensure that it can establish the identity of the beneficiary at the time of pay-out (reg.8(1) (b) NAICOMR). The provision does not cover beneficiaries designated by other means.

Criterion 10.12(c) For the cases set out in (a) and (b) above, except for beneficiaries designated by other means, insurance companies must verify the identity of the beneficiary at the time of pay-out (reg. 8(1)(d) NAICOMR).

Criterion 10.13 Insurance companies are required to include the beneficiary of a life insurance policy as a relevant risk factor for consideration in determining EDD measures are applicable. (reg. 8(2), NAICOMR). An insurer that determines that a beneficiary presents a higher risk must apply EDD that includes reasonable measures to identify and verify the identity of the beneficiary at the time of pay-out reg. (3) NAICOMR).

Timing of verification

Criterion 10.14 FIs are required to verify the identity of the customer and beneficial owner before or during establishing a business relationship (§3(2) MLPA) or conducting transactions for an occasional customer (§3(5) MLPA). FIs are not permitted to complete verification after the establishment of the business relationship.

Criterion 10.15 - As in c.10.14, FIs are not permitted to utilise the business relationship before verification, so the requirements to adopt risk management procedures in such instances are not applicable.

Criterion 10.16 - FIs are required to apply CDD requirements to existing customers based on materiality and risk. They must apply CDD continuously and at appropriate times, on the occurrence of a significant transaction, substantial change in customer documentation, material change in the operation of the account, or when the institution lacks information (reg. 26 CBNR, 15 SECR and 14 NAICOMR).

Criterion 10.17 - As noted in criterion 1.11(c) above, section 3(3) (c) of the MLPA and sector Regulations require FIs to FIs have requirements to apply EDD in identified higher-risk situations (reg.16 CBNR; reg. 15 SECR and reg. 9 NAICOMR). The conclusions of sub-criterion criterion 1.11(c) apply to this sub-criterion.

Criterion 10.18 - As in 1.12 above, the MLPA and sector Regulations permit reporting entities to apply simplified measures to manage risks where they identify lower risks situations. Also, simplified due diligence measures are not acceptable where there is a suspicion of ML/TF (§3(4)(b) MLPA; reg. 24(5)

CBNR), regulation 10(3) NAICOMR, and reg.17(3) SECR). However, some of the lower risk scenarios specified in the Regulations for simplified measures are not consistent with the conclusions of the NRA. For instance, the NRA rates the level of risk of pension schemes as Medium-Low¹²³. The inherent risk of ML in the capital market sector is rated Medium-Low. In contrast, the ML/TF risks in the banking, foreign exchange dealers, and real estate sectors are rated high.

Criterion 10.19 - Where FIs are unable to comply with relevant customer identification, they must not establish or maintain business relationships or perform the transaction. They must consider filing a suspicious transaction report to the NFIU in respect of the customer (CBNR; reg. 22(2) of the SECR; reg. 16(2) of the NAICOMR).

Criterion 10.20 - Where FIs form a suspicion of ML/TF and reasonably believe that performing the CDD process will tip-off the customer, the FIs must not pursue the CDD. They must instead file an STR to the NFIU without delay (reg. 27(4) CBNR; reg. 22(2) SECR; reg. 16(2) of the NAICOMR).

Weighting and Conclusion

While most of the CDD measures put in place by Nigeria meet the FATF standards, deficiencies exist: there is no requirement for FIs to verify persons acting under “letter of authority” to transact on behalf of a customer; where there is doubt regarding whether the person with controlling ownership interest is the beneficial owner, there is no requirement for FIs to identify such persons through other means. Additionally, there are no requirements for insurance companies to apply relevant CDD measures to other types of legal arrangements through the identity of persons in equivalent or similar positions and identify a beneficiary that is designated by other means. Finally, the application of simplified due diligence to reporting entities is not justified considering their risk exposure to ML/TF. **Rec. 10 is rated LC.**

Recommendation 11 – Record-keeping

In its first MER, Nigeria was rated PC on the former R.10 due to the improper manner of preservation of information by some FIs, the inability of some sectors in meeting record keeping requirements, and the inconsistency and the inadequate number of on-site examinations of the financial sector by the competent authorities.

Criterion 11.1 FIs are required to maintain records of a domestic and international transaction carried out by a customer for at least five years after completing a transaction (§§7(b) and 25, MLPA). The components of records of a transaction to be maintained by FIs include the name of the customer and beneficiary; the address or other identifying information usually recorded by the intermediary; nature and date of the transaction; type and amount of currency involved; type and identifying the number of any account involved in the transaction (reg. 29 CBNR; reg. 19 SECR). Insurance companies are not required to maintain records on wire transfers. This is a minor deficiency.

Criterion 11.2 FIs are required to maintain the identification data and other related information of a transaction carried out by a customer and the report referred to in section 6 for at least five years after the termination of the business relationship (§7, MLPA). These include customer identification records and other related information of a transaction carried out by the customer, suspicious transaction reports required by section 6 of the MLPA, business correspondences (regs.29(3), CBNR; 19(b), SECR; 22(2),

¹²³ Page 38 of the NRA.

NAICOMR). Under the sector Regulations, transaction records include:

FIs under the CBN and SEC: the customer's and beneficiary's names, addresses or other identifying information normally recorded by the intermediary, nature and date of the transaction, type and amount of currency involved, and type and identifying number of any account involved in the transaction (reg.29(2), CBNR) & reg.19(1)(d), SECR).

Insurance companies: risk profile of each customer or beneficial owner and data obtained through the CDD process and business correspondences (reg.22(2)), contracts, including those settled by claim, maturity or death, surrender or cancellation (reg.22(5) & (6)).

The provisions are silent on the results of the analysis undertaken by the FIs.

Criterion 11.3 Regulation 22(4) of the NAICOMR requires insurance companies to maintain transaction records that are sufficient to permit the reconstruction of individual transactions and can provide, if necessary, evidence for the prosecution of criminal activity (reg.22(4), NAICOMR). There is no corresponding provision in the MLPA, CBNR and SECR.

Criterion 11.4 Section 8 of the MLPA requires FIs to, upon request, make all the CDD and transaction records available to the CBN or the NDLEA and other regulatory authorities and judicial persons as the NFIU may from time to time by order publish in the Gazette, specify (§8, MLPA). Also, the CBNR (reg.29(4) and SECR 19(1)(c) require relevant FIs to make the records available to the CBN, SEC and the NFIU on a timely basis, while the NAICOMR requires insurance companies to maintain such information to enable them to comply swiftly with request for information from appropriate authorities (reg.22(3)) and, where necessary, evidence for prosecution (reg.2(4)). The MLPA limits the scope of domestic competent authorities that can request and receive records to the CBN and the NDLEA, while the CBNR and SECR focus on the NFIU and relevant regulators. In contrast, the NAICOMR appears to apply this provision to the broader spectrum of authorities but cannot compensate for the gaps in the other instruments. The NFIU is yet to publish any list of competent authorities that can request information. Additionally, there is no specific timeframe within which FIs must make information available to competent authorities. These deficiencies are quite significant considering the range of competent authorities in the country, its risk profile and the need to act promptly to avoid the dissipation of assets/funds.

Weighting and Conclusion

Nigeria mostly meets all the criteria for R.11. However, there is no requirement for FIs to keep records of the results of any analysis undertaken. Not all FIs are required to maintain transaction records sufficient to permit the reconstruction of individual transaction. There is no specific timeframe for FIs to make records available to domestic competent authorities. Finally, the scope of competent authorities that can request transaction records kept by FIs is limited. The shortcomings identified require moderate improvements due to the size and composition of the financial sector in Nigeria. **R.11 is rated PC.**

Recommendation 12 – Politically exposed persons

In its first MER, Nigeria was rated NC on the old R.6 because no requirement in Nigerian law related to PEPs, including their definition according to the FATF standards. Nigeria did not have clear guidance on enhanced CDD measures for customers or beneficial owners that become PEPs after the establishment of a business relationship.

Criterion 12.1 Section 25 of the MLPA defines foreign PEPs to include individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or Government, senior politicians, senior government, judicial or military officials, senior executives of

State-owned corporations, important political party officials. There is no explicit provision that the definition of foreign PEP is not intended to cover middle ranking or more junior individuals.

Regarding the PEP obligation, section 3(7) of the MLPA provides that “Where a customer is a PEP, the FI shall in addition to the requirements of subsection (1) and (2) of this section [CDD], (a) put in place appropriate risk management systems; and (b) obtain senior management approval to before establishing and during any business relationship with the politically exposed person”. This provision is not fully consistent with the FATF requirement as the risk management systems are required in determining the status of a potential or existing customer instead of when the FI is or becomes aware of customer’s status. Also, section 3(7) of the MLPA does not require FIs to apply these measures to beneficial owners, take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs, and conduct enhanced ongoing monitoring on that relationship. On the other hand, sector Regulations require FIs to have risk management systems to determine whether a customer or beneficial owner is a PEP; obtain senior management approval before establishing (or continuing, for existing customers) such business relationship, take reasonable measures to establish the source of wealth and source of funds and conduct enhanced and on-going monitoring of the relationship. The Assessors took note of the inconsistencies between the provisions of section 3(7) and the sector Regulations in respect of the primary obligation for FIs to determine whether a customer is a PEP. Considering that the MLPA is the principal enactment for PEP obligations while the sector Regulations (subsidiary legislation) provide guidance to the provisions in the Act, the provisions of the sector Regulations do not abrogate those in the MLPA.

All PEPs are exposed to the opportunity to misuse their position for personal gain. However, there are weaknesses regarding Nigeria’s measures to combat ML, associated predicate offences and TF in relation to PEPs in terms of its high corruption-related ML exposure, lack of ML prosecution, low-level of prosecution of corruption cases, the absence of ML/TF risk assessment of legal persons created in Nigeria and weaknesses in CDD requirements on the transparency of beneficial owners of legal persons and arrangements, some of whom may have significant connections to PEPs. These shortcomings can result in insufficient mitigation of PEP risks and the overall level of ML, associated predicate offences and TF. The inconsistencies the MLPA and sector Regulations, and other highlighted gaps constitute fundamental shortcomings in Nigeria’s technical compliance with R.12.1.

Criterion 12.2 Nigeria defines domestic PEPs to include individuals who have entrusted with prominent public functions, for example Heads of State or Government, senior politicians, senior government, judicial or military officials, senior executives of State-owned corporations and political party officials (§25, MLPA). Nigeria also defines PEPs of international organisations to include persons who have been entrusted with prominent public functions by an international organisation and includes members of senior management such as directors, deputy directors and members of the board or equivalent functions other than middle ranking or junior individuals. Where there is higher risk business relationship with domestic and international organisations PEPs, FIs are not required to obtain senior management approval before establishing (or continuing, for existing customers) such business relationships; take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs; and conduct enhanced ongoing monitoring on that relationship. FIs apply these measures as a matter of course, which is not in line with the risk-based approach. Nigeria applies the requirements for foreign PEPs to domestic and international organisations PEPs. Therefore, the deficiencies highlighted in respect of c.12.1 have an adverse impact on the rating of criterion 12.2.

Criterion 12.3

The definitions of PEPs in sector Regulations extend to family members or close associates of both foreign and domestic PEPs. Thus, the relevant requirements of criteria 12.1 and 12.2 apply to them.

Criterion 12.4 The information provided under criterion 12.1 in respect of insurance applies to

beneficiaries and/or beneficial owners of PEPs. NAICOMR 8(2) designates PEPs as high-risk customers and requires insurance companies to apply EDD to them throughout the business relationship. Insurance companies that identify higher-risk situations for life insurance policies are required to identify and verify the identity of the beneficial owner or the beneficiary at the time of payout (reg.9 of the NAICOMR). However, there is no requirement for insurance companies to inform senior management before the payout of the policy proceeds. There is no requirement to consider making a suspicious transaction report in these circumstances.

Weighting and Conclusion

Nigeria's definition of PEPs consistent with the definition in the FATF Methodology. However, there are shortcomings regarding the timing for putting in place the required risk management systems, specific provisions for the individual types of PEPs and guide to FIs on the treatment of persons who are no longer holding prominent public functions, requirements for insurance companies to inform senior management before payout in cases where higher risks are identified and the filing of FIs STRs. **R.12 is rated PC.**

Recommendation 13 – Correspondent banking

In its first MER, Nigeria was rated NC on the old Recommendation 7 due to the absence of the following: a clear definition of correspondent banking either in law or Reg; guidance for the FIs to determine the suitability of correspondent banks before FIs establish such a relationship; obligation to gather sufficient information about a respondent institution or assess the respondent institution's AML/CFT controls and determine their adequacy and effectiveness; the obligation for FIs to obtain senior management approval before they establish correspondent relationships or to document the respective AML/CFT responsibilities of each institution; and guidance to FIs monitor and maintain a correspondent banking relationship.

Criterion 13.1(a) FIs are required to gather sufficient information about a respondent institution and assess the institution's AML/CFT controls (§3(4)(c)(i) and (ii) MLPA). This provision does not require FIs to determine the reputation of the institution from publicly available information, including whether it has been subject to ML/TF investigation or regulatory action.

For BOFIs, Regulation 19(a) of the CBNR requires BOFIs to undertake the measures specified by this criterion.

Insurance companies are required to gather sufficient information on institutions with which they have cross-border insurance activities and other similar relationships (reg. 9(3)(a) of the NAICOMR). This provision does not state why CMOs should gather the information or refer to the reputation and quality of supervision of the institutions and whether the institutions have been subject to ML/TF investigation.

The SECR requires CMOs to determine if a respondent CMO is regulated (reg. 85(2) of the SECR). The provision does not require CMOs to determine the quality of supervision of the respondent CMO, and the remaining aspects of this sub-criterion are not covered.

There are gaps in the requirements for this criterion concerning the MLPA and the NACOMR and the SECR.

Criterion 13.1(b) FIs are required to assess the respondent institution's AML/CFT controls (§3(4)(c)(ii) MLPA, reg. 19(b) CBNR, reg. 9(3)(b) NAICOMR).

Criterion 13.1(c) FIs are required to obtain management approval before establishing new correspondent relationships (§3(4)(c)(iv) MLPA. The requirements in the CBNR (reg. 19(1)(c) and

NAICOMR (reg. 9(3)(d)).

Criterion 13.1(d) BOFIs that are entering cross-border correspondent banking and other similar relationships are required to clearly understand the respective AML/CFT responsibilities of each respondent institution (reg.19 CBNR).

Criterion 13.2(a) BOFIs are required to ensure that the respondent bank or financial institution has performed the normal CDD obligations on its customers that have direct access to the accounts of the correspondent financial institution (reg.19(2)(a) CBNR).

Criterion 13.2 (b) BOFIs are to satisfy themselves that the respondent financial institution can provide relevant customer identification data upon request to the correspondent financial institution (reg. 19(2)(a) and(b) of the CBNR).

Criterion 13.3 Section 11(3)(a) and (b) of the MLPA prohibits FIs from entering or continuing correspondent relationships with shell banks and ensures that their respondent FIs in foreign countries do likewise.

Weighting and Conclusion

Nigeria has met all the requirements for R.13. **R. 13 is rated C.**

Recommendation 14 – Money or value transfer services

The 1st MER rated Nigeria PC on the former SR.VI due to lack of clarity regarding how the CBN determines FIs' overall level of compliance with requirements for MVTS and guidance on how to ensure compliance with the FATF standards for money or value transfer services. Also, the existing guidance for MVTS was limited and only provided the threshold amounts for reporting wire transfers. There was no clear information regarding the application/enforcement of sanctions, penalties, or fines against FIs for any instances of non-compliance with the FATF standards.

Criterion 14.1 Natural or legal persons providing non-bank money or value transfer services in Nigeria are subject to licensing requirements by the CBN and be subject to AML/CFT laws (reg. 21 CBNR).

Criterion 14.2 Section 58 of the BOFIA prohibits persons from carrying on other financial business, including MVTS, in Nigeria without a valid licence granted by the CBN. A contravention of this provision attracts a fine of, in the case of a body corporate, N1mln to a fine of N1mln, and in any other case, a fine of not more than N1mln or imprisonment for a term of not more than five years or to both the fine and imprisonment. The CBN issues Circulars¹²⁴ to all warn deposit money banks and the general public to refrain from operating accounts either as companies or companies masking themselves as individuals for the purpose of illegally receiving inflows from abroad for onward disbursements to recipients in Nigeria. It has also issued Guidelines on MVTS to set minimum standards and requirements for such services (Guidelines on International Money Transfer Services in Nigeria, August 2016). The CBN conducts spot checks to identify and track the operations of hidden MVTS.

Criterion 14.3 MVTS are subject to monitoring for AML/CFT compliance (reg.21(1) CBNR).

Criterion 14.4 Section 21 (2) of the CBN AML/CFT 2013 Regulation provides that MVTS providers

¹²⁴ CBN Circular on the sale of foreign currency proceeds of July 22, 2016 and CBN Trade & Exchange Circular on Illicit money remittances through the banking system; 25 August, 2016.

shall maintain a current list of their agents accessible by competent authorities and render quarterly returns to the CBN and NFIU.

Criterion 14.5 Section 21 (4) of the CBN AML/CFT 2013 Regulation provides that MVTS providers shall include the agents in the AML/CFT programmes and monitor them for compliance.

Weighting and Conclusion

All criteria are met. **R. 14 is rated C**

Recommendation 15 – New technologies

In its first MER, Nigeria was rated NC on the old R.8 because it did not have robust measures to mitigate the risks in the use of new technologies for non-face-to-face businesses. FIs, particularly banks and CMOs, were not effectively applying the guidance for enhanced CDD and ongoing due diligence procedures for non-face-to-face customers.¹²⁵

Criterion 15.1 At the country level, Nigeria has assessed the risks posed by internet activities to the banking system and concerning the development of new products and new business practices such as debit and cards, e-banking, online payments, and mobile wallets. For instance, the NRA shows that electronic banking poses a medium risk of ML. The NRA did not conduct a specific assessment of such products for TF. The CBN has issued circulars to draw the public's attention to the ML/TF risks associated with virtual assets. It is monitoring developments in the virtual currency space to formulate substantive regulations to deal with the phenomenon. SEC is also at the learning phase about Fintech and the use of virtual assets. In this regard, Nigeria has not demonstrated that nothing in the text of the legislation or case law precludes virtual assets from falling within the definition of virtual assets and is yet to assess their ML/TF risks.

At the institutional level, BOFIs are required to identify and assess the ML/TF risks that may arise with the development of new products and new business practices. These apply to new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products (Regulation 20(2) of the CBNR). There are no corresponding requirements in the SECR and NAICOMR.

Criterion 15.2

Criterion 15.2(a) BOFIs are required to undertake a risk assessment before the launch or use of new products, business practices, and new technologies (Regulation 20(2) of the CBNR). There are no corresponding requirements in the MLPA, SECR, and NAICOMR.

Criterion 15.2(b) This requirement is only reflected in the CBNR (Regulation 20(2)).

Weighting and Conclusion

At the country level, Nigeria has assessed the risk of ML on the development and use of new products related to new technologies. The NRA did not conduct a specific assessment of such products related to TF. Also, not all FIs are obliged to undertake the measures specified under this Recommendation.

¹²⁵ In June 2019, FATF revised R.15 to require countries to apply preventive and other measures to virtual asset service providers and virtual asset activity. This evaluation does not assess Nigeria's compliance with revised R.15 because, at the time of the on-site visit, FATF had not yet finalised its revisions to its assessment Methodology accordingly. Nigeria will be assessed for technical compliance with revised R.15 in due course, in the context of its mutual evaluation follow-up process.

There is no information regarding the sectoral assessment of products and delivery channels. **R. 15 is rated PC.**

Recommendation 16 – Wire transfers

In its first MER, Nigeria was rated NC on the Special Recommendation VII because the country did not have an explicit requirement in the laws for wire transfers. The provisions in the Foreign Exchange Act and Circular on e-banking did not adequately provide guidelines regarding the details of information in wire transfers that FIs were to maintain, and Nigeria had a high threshold, USD10,000, for wire transfers.

Criterion 16.1

- (a) BOFIs are required to ensure that the originator's name, account number (or a unique reference number where no account number exists) and address or identity number accompanies all cross-border wire transfers of more than \$1,000 or its equivalent (reg.23(1) and (3) of the CBNR).
- (b) BOFIs are required to ensure that the beneficiary information always accompanies all cross-border wire transfers of USD/EUR 1 000 or more (reg. 23(1) CBNR).

The SECR and NAICOMR do not contain the requirements in sub-criteria (a) and (b). The capital market sector has a “Medium” ML risk while the insurance sector is assessed as having a “Medium-Low” ML risk. These sectors are also weighted in this assessment as being of moderate and less importance, respectively due to the size and composition of Nigeria’s market. On this basis, the Assessors conclude that the lack of provisions for both sectors constitute minor deficiencies.

Criterion 16.2 For batched wire transfers, FIs are required to ensure that they contain the originator's account number or unique identifier and full beneficiary information that is fully traceable on each cross-border wire transfer. The batch file in which the individual transfers are batched must contain full originator information that is fully traceable within the recipient country (Reg.23(4) CBNR). There is no explicit requirement for traceability of the beneficiary information within the beneficiary country, but this is possible. The SECR and NAICOMR do not have provisions on wire transfers. The conclusion under sub-criterion 16.1(b) above applies.

Criterion 16.3 Nigeria does not apply a de minimis threshold for cross-border wire transfers. There is no requirement for cross-border wire transfers that are no higher than USD 1000. Therefore, this requirement does not apply.

Criterion 16.4 See write-up on criterion 16.3.

Criterion 16.5 Ordering BOFIs are required to accompany domestic wire transfers with full originator information or the payment form accompanying the wire transfer, the originator's account number, or a unique identifier within the message or payment form (reg.23(5) CBNR). The MLPA, SECR, and NAICOMR do not provide for the requirement of this criterion.

Criterion 16.6 BOFIs are permitted to include the originator's account number or unique identifier when the ordering FI can make the full originator information available to the beneficiary FI and appropriate authorities within three business days of receiving the request (reg. 23(6), CBNR). There is no specific provision enabling law enforcement authorities to compel the immediate production of the specified information. However, LEAs and the NFIU have powers to compel immediate production of the information held by FIs. The MLPA, SECR, and NAICOMR do not provide for the requirement of this criterion.

Criterion 16.7 There is no requirement for ordering BOFIs to maintain originator and beneficiary

information collected. However, FIs are obliged to maintain identification and transaction information, including wire transfers, for at least five years. The transaction records will include originator and beneficiary information.

Criterion 16.8 BOFIs are precluded from executing wire transfers that are not accompanied by the required information.

Intermediary FIs

Criterion 16.9 Intermediary BOFIs in the payment chain are required to ensure the transmission of all the originator and beneficiary information that accompany wire transfers with those transfers (Regulation 23(7) CBNR).

Criterion 16.10 Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary FIs must keep a record of all the information received from the ordering financial institution or another cross-border intermediary FI. Intermediary FIs are required to keep records of all information received from the ordering FIs for five years (reg. 23(8) CBNR).

Criterion 16.11 There is no requirement for intermediary FIs to take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack the required originator or required beneficiary information.

Criterion 16.12 FIs are not required to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

Criterion 16.13 Beneficiary BOFIs are required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator's information (Regulation 23(9) CBNR). This provision is not explicit regarding timing (post-event or real-time) and feasibility. There are no timelines for beneficiary FIs to take the required measures regarding beneficiary information.

Criterion 16.14 There is no requirement for beneficiary FIs to verify the identity of a beneficiary of cross-border wire transfer, if the identity has not been previously verified, and maintain this information under Rec.11.

Criterion 16.15 Beneficiary FIs are required to adopt risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information (Regulation 23(9) CBNR). The provision is silent on policy and beneficiary information. The gap may impede the understanding of beneficiary FIs to implement the requirements of this criterion.

Criterion 16.16 MVTS operators are required to comply with all relevant requirements in R.16, directly or through agents (reg. 21(1) CBNR).

Criterion 16.17

Criterion 16.17 (a) MVTS provider is required to consider information from both ordering and beneficiary sides to determine whether an STR should be filed (21(5)(a) CBNR).

Criterion 16.17 (b) MVTS provider must submit STR and provide relevant transaction information to the NFIU (reg. 21(5)(b) CBNR). This provision limits the obligation of FIs to file STRs and relevant information to only the NFIU. The requirement envisages filing to other countries, whether the ordering

or beneficiary country, affected by the suspicion.

Criterion 16.18 FIs in Nigeria are required to apply TFS to designated persons and entities in line with the obligations set out under UNSCRs 1267 and 1373, and their successor resolutions as discussed under R.6. MSBs are not covered.

Weighting and Conclusion

There are moderate shortcomings under R.16. There are no requirements for (a) BOFIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, including the appropriate follow-up action; (b) intermediary FIs to take reasonable measures to identify cross-border wire transfers that lack the required originator information; (c) MVTS provider to file STR in any country affected by a suspicious wire transfer and make relevant transaction information available to the FIU; and (d) beneficiary FIs to verify the identity of a beneficiary of cross-border wire transfer, if the identity has not been previously verified, and maintain this information under R.11. Requirements for wire transfers do not cover insurance companies and CMOs. **R.16 is rated LC.**

Recommendation 17 – Reliance on third parties

The first MER rated Nigeria PC with the former R.9 because the laws did not prohibit FIs from using third parties or intermediaries to obtain and verify customer information. Insurance companies, securities firms, and forex dealers relied upon their agents to obtain and verify CDD information. FIs did not conduct any verification measures themselves as required in the KYC Manual. FIs did not demonstrate proper due diligence to satisfy themselves that a third party that is in a foreign country effectively applied the FATF standards for CDD requirements.

Criterion 17.1

Criterion 17.1 (a) Sector-specific Regulations do not expressly permit FIs to rely on third party FIs to perform customer and beneficial owner identification measures. The Regulations provides for situations where FIs rely on third parties to conduct some aspects of CDD measures.

The CBNR and SECR provide for two sets of obligations for BOFIs that rely on third parties to conduct CDD and related measures. BOFIs and CMOs can rely on third parties to apply CDD measures on their behalf. They are required to immediately obtain the necessary information concerning the laundered property or proceeds from instrumentalities used in or intended for use in the commission of ML and TF, or other relevant offences (reg. 28(1) and reg. 18(1) SECR). This provision does not meet the requirement of this criterion.

The second set of obligations relate to situations where BOFIs and CMOs rely on intermediaries or other third parties who have no outsourcing, agency, business relationships, accounts, or transactions with it or their customers to perform some of the elements of the CDD process or the introduced business. Here, BOFIs and CMOs must immediately obtain from the third party the necessary information concerning certain elements of the CDD process (Regulation 28(3) and (4)(a) of the CBNR) and Regulation 18(3) and (4)(a) of the SECR). The provision does not specify the elements of the CDD process.

Regulation 21(5) of the NAICOMR permits insurance companies to rely on third parties and intermediaries to perform the necessary CDD measures required by the Regulations. The NAICOMR requires insurance companies to enter into agreements with intermediaries or third parties which should include clauses on access to client files and provision of documents to the insurance company upon request without delay (Regulation 21(7)(b)).

In all cases, the ultimate responsibility for the CDD measures remains with the financial institution relying on the third party.

Criterion 17.1 (b) FIs that rely on third parties to perform CDD are required to satisfy themselves that copies of the identification data and other relevant documentation of the CDD requirements would be made available from the third party upon request without delay (reg. 28(1)(b) CBNR, Regulation 18(3)(b) SECR, and Regulation 21 (6) NAICOMR).

Criterion 17.1 (c) BOFIs and CMOs that rely on third parties to perform CDD are required to satisfy themselves that the third parties are regulated and supervised. They must also ensure that the third parties follow the Core Principles of AML/CFT and have measures to comply with the CDD requirements in their respective Regulations (reg. 28(4)(c) CBNR and reg.18(2)(c) SECR). These provisions are silent on the requirement for compliance with record-keeping measures in line with R.11. Also, there is no corresponding requirement for insurance companies.

Criterion 17.2 When determining the jurisdictional location of the third party that meets the conditions, FIs are required to assess the risk level of the country or geographic risk. FIs are not permitted to rely on third parties located in high-risk countries or regions to carry out customer identification (reg. 28 CBNR and reg. 18 SECR). There is no corresponding requirement for insurance companies.

Criterion 17.3 There is no provision allowing FIs to rely on a third-party introducer which is part of the same financial group. Instead, reg. 28(7) of the CBNR applies to relevant competent authorities.

Weighting and Conclusion

Nigeria has, to a large extent, met the requirements of R.17. Deficiencies exist concerning requirements on reliance on FIs within a group. Minor improvements are required. **R.17 is LC**.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

Nigeria was rated PC on the former R.15 as there was no specific provision indicating that the CO must have timely access to customer identification and other CDD information, transaction records, and other relevant information. There was no broad requirement to have screening procedures to ensure high standards when hiring all employees. Nigeria did not have a framework to establish the adequacy and appropriateness of the internal policies, and COs were not independent.

The MER noted concerning R.22 that there were no explicit rules for the insurance sector to ensure that foreign branches and subsidiaries apply AML/CFT measures in the host country to the extent possible. There was no requirement on the part of FIs to inform the home country supervisor about their inability to observe appropriate AML/CFT measures because the host country's laws do not permit its application. R. 22 was rated PC.

Criterion 18.1

Criterion 18.1 FIs are required to develop programmes to combat ML/TF or other illegal acts (§9 MLPA, reg. 6(a) CBNR). Most policies and procedures focus more on money laundering risk (ML risks) and place less emphasis on TF risks.

Criterion 18.1(a) FIs are required to have compliance arrangements. The compliance arrangements must include procedures and policies relating to (i) record-keeping, (ii) the detection of suspicious transactions, (iii) suspicious transaction reporting, and (iv) appointment of compliance officers at the management level (§7 MLPA, reg. 7(1) and (2) CBNR and reg. 21(1)(e) SECR and reg. 20(1) NAICOMR. The MLPA and SECR do not specify the functions, powers, and reporting lines of the CO.

Criterion 18.1(b) BOFIs and CMOs are required to have screening procedures to ensure high standards when hiring employees (reg.33(4) CBNR, reg.21(3)(a) SECR). There is no requirement for insurance companies to do the same.

Criterion 18.1(c) Section 7(1)(b) of the MLPA enjoins FIs to provide employees with regular training programmes for employees. FIs are required to train employees and keep them informed of new developments, including information on current ML/TF techniques, methods, and trends. The training should cover AML Regulations, offences, the nature of ML, ML red flags, and suspicious transactions, including trade-based ML typologies; reporting requirements; CDD; risk-based approach to AML/CFT; and record-keeping and retention policy 33 CBNR, 24 SECR); reg.19(5-7) NAICOMR).

Criterion 18.1(d) FIs are required to have an internal audit unit. The unit must ensure compliance with the MLPA and the effectiveness of the measures taken to enforce the same (§9(d) MLPA). Sector Regulations require that audit unit should be adequately resourced and independent to test compliance with the procedures, policies, and controls (reg. 33(4)(d) of the CBNR; 21(3)(c) of the SECR and reg. 5(g) of the NAICOMR).

Criterion 18.2 FIs are required to implement group-wide AML/CFT programmes which are applicable to all branches and majority – owned subsidiaries of the financial group section 7 of MLPA, section 22 CBN Regulation (2013), and Section 9(1) FOIA (2011).

Criterion 18.2(a) Policies and procedures for sharing information required for the purpose of CDD and ML/TF risk management are set out in the AML/CFT measures that apply to the financial groups.

Criterion 18.2(b) Section 22 (2) There is provision at group-level compliance that facilitates the type of AML/CFT function, information about customer, account, and transaction in line with 18.1.

Criterion 18.2(c) There are adequate safeguards on the confidentiality and use of the information exchanged between appropriate members of the group. There also adequate safeguards to prevent tipping-off.

Criterion 18.3 The following measures exist for relevant FIs:

BOFIs: Regulation 22 of the CBNR requires BOFIs to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the provisions of CBNR and those required by the laws of the host country. Where the minimum AML/CFT requirements contained in the CBNR and those of the host country differ, branches and subsidiaries of Nigerian banks in the host country are required to apply the higher standard provided in the CBNR to the extent that the host country's laws, regulations or other measures permit (reg. 22(3) CBNR). In this regard, BOFIs can apply the provisions of the CBNR where the minimum AML/CFT requirement of the host country are less strict. The CBNR also states in reg.22(4) that “When their foreign branches or subsidiaries are unable to observe the appropriate AML/CFT measures where they are prohibited to observe such measures by the host countries laws, regulations or other measures, they must inform the CBN in writing”. The requirement for BOFIs to report when the host country prohibits the implementation of AML/CFT measures is at variance with the FATF standards which requires such reporting when if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirement. This may lead to non-reporting by relevant entities.

Insurance: Regulation 24(1) of the NAICOMR states that “an insurance company shall ensure that its subsidiaries located outside the country comply with AML CFT measures contained in these Regulations, provided that where the existing Nigerian laws or Regulations prohibit the implementation of any regulation in these Regulations, an insurance institution shall promptly inform the Commission

and the NFIU of such laws or regulations in writing and of its inability to implement any provision of these Regulations. This provision does not meet the FATF requirement.

CMOs are not required to ensure that their foreign branches and majority-owned subsidiaries implement consistent AML/CFT measures and take related actions.

Weighting and Conclusion

CBN, SEC and NAICOM require entities under their supervision to implement programmes against ML/TF. However, most policies focus on ML to a larger extent and TF to a lesser extent. The Regulations neither specify the functions, powers, and reporting lines of the compliance officer nor require insurance companies to have screening procedures to ensure high standards when hiring employees. CBN requires its supervised foreign branches and subsidiaries to report when prohibited from implementing AML/CFT measures instead of when the host country does not permit the proper implementation of AML/CFT measures. There are no requirements for CMOs and insurance companies to ensure that their foreign branches and majority-owned subsidiaries implement consistent AML/CFT measures and take related actions. **R.18 is rated LC.**

Recommendation 19 – Higher-risk countries

In the first MER, Nigeria was rated NC on the old R. 21 because there were provisions for special attention on countries not applying FATF recommendations and FIs were not applying countermeasures to countries that did not apply the FATF Recommendations.

Criterion 19.1 Reg. 17(1) of the CBNR requires BOFIs to give special attention to business relationships and transactions with persons, including legal persons and other FIs, from countries which do not or insufficiently apply the FATF Recommendations. Reg.17(2) of the CBNR requires BOFIs to report transactions that have no apparent economic or visible lawful purpose to competent authorities with the background and purpose of such transactions as far as possible, examined and written findings made available to assist authorities. In addition, such BOFIs are required to take measures including (a) stringent measures for identifying customers and enhancement of advisories, including specific-jurisdiction advisories to FIs for identification of the beneficial owners before the business relationships are established with individuals or companies from that jurisdiction; (b) enhance relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious; (c) take account of the origin of FIs that apply to establish subsidiaries or branches or representative offices; and (d) warn non-financial sector businesses that transact businesses with natural or legal persons within that country might run the risk of ML limiting business relationships or financial transactions with identified risks (reg. 17 (3),CBNR). Reg. 17(1) of the CBNR does not require that the level of EDD to be applied be proportionate to the risks and when the FATF calls for this. The EDD measure in reg.17(2) of the CBNR is inadequate considering those provided in the Interpretive Note to R.19. Also, the measures in reg.17(3) of the CBNR not focus on foreign institutions which do not apply the provisions of the FATF Recommendations as opposed to business relationships and transactions with natural and legal persons (including financial institutions) from “countries subject to countermeasures”. The measures in reg. 17(3) appear to target authorities instead of FIs. In addition, there are no provisions by SEC and NAICOM AML/CFT Regulations to meet this requirement. The shortcomings related to this criterion are quite significant.

Criterion 19.2 The conclusions made under criterion 19(1) apply to this criterion.

In this regard, it is not clear that Nigeria is able to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

Criterion 19.3 Section 22 of NFIUA mandates the NFIU to advise supervisory authorities on

compliance with the FATF's countermeasures. Regulators (CBN, SEC, and NAICOM) issue circulars and other guidelines from time to time whenever there are weaknesses in the AML/CFT systems of other countries, including a declaration by the FATF.

Weighting and Conclusion

Nigeria lacks adequate measures in place to apply relevant EDD measures and countermeasures to business relationships and transactions with natural and legal persons from higher-risk countries, whether called for by the FATF or independently. **R. 19 is rated PC.**

Recommendation 20 – Reporting of suspicious transaction

The first MER rated Nigeria PC on the former R.13 because there was a limited number of STRs. FIs and DNFBPs lacked knowledge of the features of suspicious transaction and substituted CTRs for STRs. Nigeria lacked a definition of “suspicious transactions” and consistency in the guidelines issued to all reporting institutions. The MER rated NC on the former Special Recommendation IV on STRs relating to TF due to absence of explicit requirements in the laws on reporting TF or terrorist acts and lack of directives by supervisory bodies on TF or terrorist acts.

Criterion 20.1 Under the MLPA, an FI is required to consider as suspicious, a transaction (a) involves a frequency which is unjustifiable or unreasonable; (b) is surrounded by conditions of unusual or unjustified complexity; (c) appears to have no economic justification or lawful objective; or (d) in the opinion of the FI involves TF or is inconsistent with the known transaction pattern of the account or business relationship. The FI must seek information from the customer as to the origin and destination of the fund, the aim of the transaction and the identity of the beneficiary (§6(1)).

The MLPA outlines the information that must be included in the suspicious transaction report (the basis of the suspicion, identity of the principal and where applicable, of the beneficiary or beneficiaries), requirements to take appropriate action to prevent the laundering of the proceeds of a crime or an illegal act.

Under the TPA, an FI that has sufficient reasons to suspect that funds derived from legal or illegal sources are intended for any act of terrorism or belong to a person, an entity or organisation considered as terrorist must submit an STR to the NFIU (§14 (1) TPA). Section 14(1) of the TPA applies even in the absence of a link to a specific terrorist act or acts.

Under the MLPA, FIs are required to report suspicious transactions immediately they consider the transaction as suspicious. In contrast, the TPA sets the reporting period at 72 hours and is triggered by sufficient reason to suspect. Sector Regulations also require FIs to report suspicious transactions without delay but not later than 24 hours (reg.32(10), CBNR), reg.17(3-4), reg. 22) (1)(b), SECR; and reg.17(4), NAICOMR). In practice, FIs file STRs within 24 hours after forming a suspicion. All the timings meet the requirement to report promptly.

Section 6(1) of the MLPA does not meet the requirement that an FI must report where it suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity. Suspicion implicitly applies to proceeds of a criminal activity as FIs are required to take measures to prevent the laundering of illegal act. The MLPA does not define illegal act/unlawful conduct for the purpose of section 6. In this regard, the reference to criminal activity could refer to those offences that would constitute a predicate offence as required by R.3. This means that the predicate offences would refer to any of the offences listed or other criminal act specified in the MLPA or any other law in Nigeria.

Criterion 20.2 The obligation for FIs to report suspicious transactions extends to all transactions, including attempted transactions (§6(1) and (3) MLPA).

Weighting and Conclusion

FIs in Nigeria are obliged to consider certain transactions as suspicious and file reports on the same to the NFIU promptly. However, there are moderate shortcomings in relation to the requirement for FIs to report a transaction on suspicion or reasonable grounds to suspect that funds are the proceeds of a criminal activity, and reference to criminal acts. **R. 20 is rated PC.**

Recommendation 21 – Tipping-off and confidentiality

The 1st MER rated Nigeria PC on the former R.14 due to the absence of an explicit legal protection for reporting institutions.

Criterion 21.1 Directors, officers, and employees of FIs that discharge their duties under the MLPA in good faith are protected from civil and criminal liability (§6(10) MLPA). While section 6(10) may apply to the reporting of suspicions of ML/TF to the NFIU, the provision is limited to the natural persons who perform duties in FIs and did not expressly cover legal persons (financial institutions)

Criterion 21.2

Directors and employees of FIs are subject to non-disclosure obligations concerning the filing of STRs to the NFIU (§16(1)(a) MLPA). As regards information sharing under R. 18, section 9(1)(c) of the MLPA provides for centralisation of information collected by FIs, which may include STRs or related information. However, legal persons (financial institutions) are not expressly covered by this provision of the MLPA.

Weighting and Conclusion

There are adequate provisions in law to protect FIs against civil and criminal liability for breach of any restriction on disclosure of information imposed by contract or by legislative, regulatory or administrative provision, if the FIs report their suspicion of ML/TF in good faith. Directors and employees of FIs are subject to non-disclosure/tipping off concerning the filing of STRs to the NFIU. **R. 21 is rated LC.**

Recommendation 22 – DNFBPs: Customer due diligence

The first MER rated Nigeria NC on the old R. 12 because DNFBPs did not have a clear understanding of the wider CDD and record-keeping requirements. Casinos rarely applied EDD measures for higher-risk customers. Nigeria did not have adequate procedures to verify the identity of customers.

The relevant provisions in the MLPA and TPA apply to DNFBPs. Therefore, the deficiencies identified concerning the compliance of FIs with the relevant FATF requirements under respective Recommendations are also relevant to DNFBPs.

Scope issue: The relevant AML/CFT requirements in Nigeria are inoperative for legal practitioners due to the subsisting judgment of the Court of Appeal. Legal practitioners also act as notaries and TCSPs and participate actively in the incorporation of Legal persons and real estate transactions. Some TCSPs are not legal professionals but are far less in number compared to those outside the scope of AML/CFT and are also rated low in terms of AML/CFT supervision and compliance. Internet casinos are not subject to AML/CFT requirements as the definition of casino does not cover them.

The remaining FATF-designated DNFBPs are subject to the same CDD requirements specified by section 3 to 5 of the MLPA, as well as the 2019 AML/CFT Regulations for DNFBPs (DNFBPR). The August 2017 NRA rated the level of ML risk across the DNFBP sector as “medium-high” and TF.

Criterion 22.1

Criterion 22.1(a) Casinos are required to verify the identity of any of their customers carrying out transactions. They must require the customer to present a valid original document bearing the name and address of the customer (§4(1)(a) MLPA) when they engage in financial transactions equal to or above USD 3,000 or its equivalent in Naira or any other currency (reg.10(10) of DNFBPR). Nigeria has internet casinos.

Criterion 22.1(b) Reg.1 of the DNFBPR designates real estate agents as DNFBPs. Thus, real estate agents are required to identify their customers when they engage in transactions for the purchase or sale of real estate (MLPA and reg. 10 of DNFBPR). As provided, the obligation in the MLPA and DNFBPR does not extend to a person who is not the customer of a real estate agent at the material time of a transaction.

Criterion 22.1(c) DPMS are required to identify and verify the identity of their customers when they engage in any cash transaction with a customer of an amount equal to or above USD 1,000 or its equivalent. A DPMS is to require [the customer] to complete a standard data form and present his international passport, driving license, national identity card or such other document bearing his photograph as may be prescribed by the FMITI (§5(1)(b) MLPA). Reg. 11(2) of the DNFBPR has varied the amount to USD 15,000.

Criterion 22.1(d) Lawyers in Nigeria provide services concerning the incorporation of Legal persons and arrangements in Nigeria, real estate transactions, particularly leasing, purchasing or selling of commercial properties, and other financing agreements. Lawyers have legal privileges accounts which are not subjected to investigation and facilitate anonymity of beneficial ownership of legal persons and arrangements. There are indications that lawyers have been used to launder the proceeds of crime and its reporting obligation is a subject of an appeal in court. The materiality of lawyers in the AML/CFT system of Nigeria is high. Accountants are required to conduct CDD when they prepare for or carry out, transactions for their customers concerning the activities specified under this sub-criterion (§§3 and 5(1)(c) MLPA). Section 5(1)(c) of the MLPA sets a threshold of \$1,000 in cash. CDD requirements for accountants do not depend on a threshold and is inconsistent with FATF requirements.

Criterion 22.1(e) TCSPs are required to conduct CDD when establishing business relationships with a new customer and where a customer seeks to conduct an occasional transaction (§3, MLPA). They provide a number of services including company and trust formation, nominee director, shareholder and trustee services. Several factors impact the rating for this sub-criterion, including that while lawyers and accountants largely operate as TCSPs in Nigeria, lawyers are not subject to the AML/CFT regime of Nigeria due to a Court decision. Also, the NRA considered TCSPs and law firms to have Medium-High ML risk due to the lack of proper regulations to effectively monitor and check their activities. It also rated the DNFBP sector in which TCSPs operate as having a Medium TF risk as the sector is identified for over 80% of funds raising and movement of terrorist funds in the country. Also, CAC did not demonstrate awareness of legal entities having nominee shares/shareholders nor the number of TCSPs operating across the country.

Criterion 22.2 Section 7 of the MLPA requires all DNFBPs to maintain customer identification records, as well as other related information of a transaction carried out by a customer, for at least 5 years after the closure of the account or the severance of relations with the customer. Section 7 does not define records. Information related to a transaction extend to business correspondence for that particular transaction and not all business correspondence. Concerning the results of any analyses undertaken, section 7 focuses on STRs (see criterion 11.2). Also, the requirements under criterion 11.3 for FIs to ensure that the record so kept are sufficient to reconstruct transaction to provide, if necessary, evidence for the prosecution is central to the objective of this criterion.

Given the lacunae identified above, it is doubtful whether DNFBPs can conveniently reconstruct the individual transactions to provide, if necessary, evidence for the prosecution of criminal activity.

Section 8 of the MLPA requires DNFBPs to make all the CDD and transaction records available, on request, to the CBN or the NDLEA, and other regulatory authorities and judicial persons as the NFIU may from time to time by order published in the Gazette, specify. There is no timeframe within which DNFBPs should make information available to competent authorities. Also, not all relevant competent authorities can request records kept by DNFBPs. The NFIU has not published any list of competent authorities that can receive CDD information and transaction records kept by DNFBPs.

Criterion 22.3 The provisions in section 3(7) of the MLPA as discussed under R. 12 apply to DNFBPs.

Criterion 22.4 Also see conclusions under R. 15 above. Regulation 29 Federal Ministry of Industry, Trade and Investment (FMIT& I) AML/CFT Regulations 2013 outlines measure to be taken in respect of New Technologies and non-face to face customers.

Criterion 22.5 Scope issue: see 22.1— There are no express provisions which permit DNFBPs to rely on third parties to perform certain aspects of CDD. Nigeria sought to rely on the FMITI's KYC manual for DNFIs, 2004. However, the KYC Manual does not apply because it has no force of law.

Weighting and Conclusion

Land-based casinos, real estate agents, DPMS, some TCSPs and accountants are subject to the requirements of the MLPA in the same manner as other reporting entities. However, lawyers conduct relevant activities but are not covered by the country's AML/CFT regime due to a Court of Appeal decision. The regime does not also cover internet-based casinos. The deficiencies in R.10 and 11 also apply here. In addition, DNFBPs do not have third party requirements. The deficiencies in relation to lawyers and TCSPs are given more weight as the law firms are materially important for Nigeria. In addition, the DNFBP sector poses a Medium-High ML risk in context of Nigeria's overall risk profile.
R. 22 is rated PC.

Recommendation 23 – DNFBPs: Other measures

The 1st MER rated Nigeria NC on the former R.16 because the country lacked explicit protection in law for persons who report suspicious transactions in good faith. DNFBPs were not required by law to observe internal control, appoint CO or develop training programmes. There was no effective supervision of DNFBPs for AML/CFT purposes.

Criterion 23.1 The reporting obligations set out under the AML/CFT law in Nigeria applies to all reporting entities including DNFBPs.

Criterion 23.1(a) The AML/CFT regime of Nigeria does not cover lawyers due to a Court of Appeal decision. The exclusion of lawyers from AML/CFT the regime is a significant shortcoming considering their risk profile.

Criterion 23.1(b) DPMS are obliged to file STRs when they engage in cash transactions. Although there is no threshold for DPMS to file STR under section 6 the MLPA, Assessors, this is not fatal to the rating for technical compliance The lack of explicit obligation under section 6 of the MLPA to submit STRs related to ML impact the rating for this sub-criterion.

Criterion 23.1(c) See scope issue under 23.1. – The suspicious transaction reporting obligation specified in section 6 of the MLPA applies to TCSPs. The conclusions under sub-criterion 23.1(a) apply to this sub-criterion.

Criterion 23.2 Section 9 of the MLPA requires DNFBPs to develop internal control programmes to combat the laundering of the proceeds of crime or other illegal acts. DNFBPs are also obliged to establish training programmes for employees on a description of the nature and processes of ML and TF, including new developments, emerging trends, techniques and methods in AML/CFT, general explanation of the underlying legal obligations contained in the relevant laws, reporting requirements, due diligence and enhanced CDD on high-risk persons, risk-based approach to AML/CFT, record keeping, general understanding of the AML/CFT policy and procedures, verification and recognition of suspicious customer transactions and the need to report suspicions to the CO (reg. 28 DNFBPR). There is no requirement for DNFBPs to have screening procedures to ensure high standards when hiring employees.

The requirement for DNFBPs to ensure that their foreign branches and subsidiaries implement AML/CFT measures is limited to the application of CDD measures (regulation 10(9) DNFBPR).

Criterion 23.3 There is no legal requirement for DNFBPs to comply with the higher-risk countries requirements set out in R. 19.

Criterion 23.4

Scope issue: see 23.1. Also, the conclusions under R.21 apply to this criterion.

Weighting and Conclusion

AML/CFT obligations applicable to FIs apply to DNFBPs, except lawyers, including most TCSPs. In addition, there are gaps in the legal requirements related to screening procedures when hiring DNFBPs employees, group wide application of AML/CFT procedures, and dealing with higher risk ML/TF jurisdictions. These constitute moderate shortcomings in Nigeria's context. **R. 23 is rated PC**

Recommendation 24 – Transparency and beneficial ownership of legal persons

In its first evaluation, Nigeria was rated LC on the former R.33. There were no comprehensive measures to ensure that competent authorities can obtain and have access to adequate, accurate and timely information on the beneficial ownership and control of Legal persons in a timely fashion. Information on the company registrar pertained only to legal ownership/control (as opposed to beneficial ownership), (e) BO information was not verified, and was not necessarily reliable.

Criterion 24.1 Section 19 of the Company and Allied Matters Act 1990 (CAMA) permits the incorporation of a company, association, or partnership to carry out business for profit. The number of persons incorporating a company, association or partnership should not exceed 20, and the companies must be registered under the CAMA or formed in pursuance of some other enactment in force in Nigeria. Section 19 does not apply to any co-operative society registered under the provisions of any enactment in force in Nigeria; or any partnerships for the purpose of carrying on practice as legal practitioners, by persons each of whom is a legal practitioner or as accountants by persons each of whom is entitled by law to practice as an accountant.

An incorporated company may have the liability of its members limited by shares, guarantee or unlimited. A company may be public or private. The CAMA specifies four (4) types of companies that can register with the CAC, namely: Private Limited by Shares (LTD) (§22 CAMA); Public Limited Company (PLC) (§24, CAMA); Company Limited by Guarantee (LTD/GTE) (§26 CAMA). Others are Business Names (covers "partnership" registration) and Incorporated Trustees.

The CAMA specifies the process for creating each of the legal persons (§§ 21-26 CAMA). These include the submission of the memorandum of association which should contain (a) the name of the company;

(b) the registered office of the company (c) the nature of the business or businesses which the company is authorised to carry on. A company not formed to carry on business must state the nature of the object or objects for its creation the restriction, if any, on the powers of the company, information on shareholding, (§27 CAMA). Basic information on legal entities is available on the website of CAC.

Not-for-profit-organisations are registered either as Companies Limited by Guarantee under section 26 of the CAMA or Incorporated Trustees under Part C of the CAMA. The registration process involves the submission of a Memorandum with the authority of the Attorney General of the Federation (§26(5), CAMA), publication of a Notice to Register in two newspapers (one national and one local); completed application form in triplicate accompanied by a formal letter of application, original newspaper publications, constitution, evidence of appointment of trustees and their passport photos (two each), evidence of adoption of special clause rules, names and permanent residential addresses of trustees, impression of the common seal on the form, payment of the prescribed fee, and a duly signed application form. Where there is no objection twenty-eight days after publication in the newspapers, CAC will register the trustees and issue a certificate in the prescribed form and a Certified True Copy of the Constitution. The first MER highlighted the absence of a requirement for BO information to be collected by CAC or stored by the companies (see paragraph 615). The CAC requires only privately quoted companies in Nigeria to state the details of the beneficial owner and the means of identification of all shareholders and directors of the company at the point of registration. In contrast, CAC does not require similar information for publicly quoted companies. Information maintained by the CAC is available to competent authorities and regulated AML/CFT businesses and professions via an online format promptly. Information maintained on beneficial ownership for privately quoted companies can be accessed manually by reporting entities via a formal request through a consultant at a fee making verification of beneficial ownership time consuming and costly¹²⁶. The availability of and access to BO information in the banking sector is low.

Criterion 24.2 Nigeria has not assessed ML/TF risks associated with all types of legal persons created in the country.

Criterion 24.3 All legal entities Nigeria, unless expressly excluded by statute, are required to register with the CAC. International NGOs must register with the Ministry of Planning and Budget. The CAC maintains a register which has the names, dates of incorporation, form of business, address of the registered office (a postal address is not acceptable (§35 CAMA), basic regulations, promoters and directors of registered companies. The provision applies to foreign companies. Some registrations require the production of a statutory declaration in the prescribed form by a legal practitioner confirming compliance of the NGO with the requirements of the CAMA to register a company. A company limited by guarantee shall not register its memorandum without the authority of the Attorney-General of the Federation. There are no requirements to record the name, proof of incorporation, address, basic regulating powers, and list of directors for associations, unions, and professional association. The information is publicly available and is limited to the company registration number, company name, address and date of registration. Basic information on certain non-commercial legal persons (namely, unions, professional associations, and other similar organisations) is not publicly available.

CAMA recognises the formation of legal persons and arrangements under other enactments in force in Nigeria. For instance, NEPZA licenses any approved activity in a Zone to an individual or business concern incorporated in the customs territory. An enterprise that intends to undertake any activity within a Free Zone must apply in writing to NEPZA, and provide the relevant information (§8, NEPZA Act). The information include Evidence of Companies, if any, which have expressed interest to locate in the

¹²⁶ Page 66, 2017 NRA.

proposed Zone and targeted prospective companies or clients; (ii) Names and resume of the Promoter and detailed definition of Zone Management structure; (iii) a likely number of enterprises that would be located in the Zone and nature of their products; (iv) Financing options including evidence of source of funding (both local and foreign), and (v) evidence of payment of the prescribed fee (\$1000 to NEPZA for processing of the application. Licensing fee of USD \$400,000- Free Zone Status Declaration Fee; Licensing fee of USD \$500,000- industrial City/Park status declaration Fee; USD \$100,000-Operating License (OPL) Fee to be paid along with declaration fee in the first instance. ¹²⁷ The grant of a license by the Authority shall constitute registration for the purposes of company registration within the Zone (§10(2), NEPZA Act). Information available on FZEs to the public, via NEPZA's website, are general and relate to the registration of FZEs, their activities, application forms, types of returns, remittance of capital, among others.

Criterion 24.4 Companies are required to have registered offices in Nigeria, and the memorandum of a company is required to state that the registered office of the company would be situated in Nigeria (§27(1)(b), CAMA). Section 83 of the CAMA requires every company to keep a register of its members. The register is to contain the names and addresses of the members. In the case of a company having a share capital, the company must (i) provide a statement of the shares and class of shares, including shares converted into stocks, if any and held by each member, (ii) distinguish each share by its number if the share has a number and the amount paid or agreed to be considered as paid on the shares of each member; (iii) state the date on which each person registered as a member; and (iii) the date on which any person ceased to be a member. The company must make these within 28 days of the occurrence of the events.

A company registered in Nigeria must keep the register, wherever created, at its office in Nigeria, and notify the CAC. Additionally, companies with more than fifty members must maintain an index of the names of their members and any changes made. The deficiencies highlighted under criterion 24.3 have an adverse impact on the rating for this criterion.

Criterion 24.5- Section 83- 85 of the CAMA provides for the registration of members, location of register and the keeping of index of members. There are provisions to update company information, change of address, director, among others, to CAC.

The CAMA specifies the obligation to maintain the information referred to in criteria 24.3 and 24.4, accurate by requiring companies to update records at the CAC where there are changes in relevant information (see paragraph 601 of the first MER). Non-compliance with this requirement attracts a penalty of a fine of N25 (USD...) and a daily default fine of N5. The penalty for non-compliance is not enough to dissuade companies from renegeing on their duties to obtain accurate information and update such information on a timely basis. In addition, the deficiencies highlighted under criterion 24.3 have an adverse impact on the rating for this criterion.

Table 0.1 below summarises the provisions which require information held by Legal persons to be updated when there are changes, as well as applicable penalties for non-compliance.

¹²⁷ Checklist for Establishing Industrial Park/City (with Free Trade Zone Status) in Nigeria.

Table 8.1 - the provisions which require information held by Legal persons to be updated when there are changes, as well as applicable penalties for non-compliance.

FATF requirement for what information should be maintained by a legal person	Specify when registry must be advised when company information changes and the legal provision(s)	Specify when registered office must be advised when partnership information changes and the legal provision(s)	Applicable sanctions for non-compliance
Company/partnership name	15 days; §31(3) and 237 (1) CAMA <i>Companies Regulations 2012</i>	X	₦5,000.00:
Proof of incorporation	Not Applicable (It does not Change)	X	Not Applicable
Legal form and status	15 days; §50,51,52,53 and 237(1) of CAMA/ <i>Companies Regulations 2012</i>	X	₦5,000.00:
Address of registered office	Companies: 14 days (§547(2). Business Names: 28 days; §577(1) CAMA	X	₦50.00 daily for companies and officers and ₦50.00 daily for proprietors
Basic regulating powers	Section 7 of CAMA	X	Not Applicable
List of directors	For Companies: 14 days; §292(5) For Business Names §577(1) CAMA; <i>Companies Regulations 2012</i>	X	₦5,000.00: ₦50.00 daily per proprietor
Number of shares by each shareholder or the level of partnership interest by each partner in a partnership	One Month; §129(1) CAMA <i>Companies Regulations 2012</i>	X	N10,000 or ₦5,000.00 Penalty for Public liability Company (PLC) and Limited Companies (LTD):
Category of shares held by each shareholder	43 days; §142 of CAMA	X	₦50.00 per day for company and officers
Nature of voting rights for each shareholder/holder of a partnership interest	14 days (§119 CAMA)/ <i>Companies Regulations 2012</i>	X	₦5,000.00

Source: NFIU

Criterion 24.6 There is no specific requirement for companies or public registries to maintain BO information on legal persons. Section 94 of the CAMA obliges a public company to require any member to indicate the capacity in which he holds shares in the company. If the member holds the shares otherwise as a beneficial owner, he is required to indicate, so far as it lies within his knowledge, the persons who have any interests in them (either by name and address or by other particulars sufficient to enable them to be identified). The company must update its records with the information received and keep the register together with the register of members (in Nigeria). The records are subject to the same right of inspection as the register of members (§97(2)). This requirement is limited in scope as it does not cover other legal persons created under the CAMA. Also, section 671 of the CAMA defines "person" to include a firm, individual or corporation which is inconsistent with the FATF definition of beneficial owner.

The requirement to request for BO information is permissive while the requirement to update the information of members with information received is mandatory. The CAMA does not indicate the timing and frequency of such actions, and there is no penalty for non-compliance by the company. The fine for individuals who fail to disclose or provide false information is ineffective. Thus, companies who choose not to issue the required notices, limit the depth of BO information, including updating the same. Competent authorities can also rely on the existing information held by reporting entities under Recommendations 10 and R.22. However, there are concerns regarding identification and verification of beneficial owners of legal persons, maintenance of accurate and up-to-date beneficial ownership information and limited obligations of DNFBPs.

Criterion 24.7 FIs and DNFBPs are required to keep CDD information up to date and accurate, which,

in certain limited cases (DNFBPs and other financial service providers), might include BO information (see c.10.5 and c.22.1). However, there is no requirement for companies to update their registers of members with information received for holders of shares and beneficial owners of legal persons.

Criterion 24.8(a) There is no requirement, in law, for at least one natural person being a representative of a foreign company be resident in Nigeria for the sole purposes of being accountable to competent authorities by providing all basic information and available BO information, as well as giving further assistance to the authorities.

Some DNFBPs by the nature of their operations hold basic information and limited BO information which they make available to competent authorities. BO information may be provided at the stage of inception but are not subsequently updated and kept accurate. Lawyers hold information on Legal persons, including BOI, but are not subject to AML/CFT requirements.

There is no information regarding measures identified by Nigeria to ensure that companies fully co-operate with competent authorities possible in obtaining and updating BO information. Section 5 (h, i and q) of the Public Procurement Act 2007 only relates to the functions of the Bureau of Public Procurement.

Criterion 24.9- FIs and DNFBPs are required to keep all records of their customers for at least five years (see c.11.2 and c.22.2) after the relationship ends. The court may liquidate companies in Nigeria, voluntarily or subject to the supervision of the court (§401, CAMA). These may be by a members' voluntary winding up (§462); creditors' voluntary winding up (§471); or winding up subject to the supervision of the court (§486)). Section 470 (8), in respect of members' voluntary winding up, requires the liquidator to preserve the books and papers of a liquidated company for five years after the dissolution of the company. The liquidator is permitted to destroy the books and papers unless prohibited by the CAC. In this case, the liquidator can only destroy the records with the consent of the CAC in writing. There are no provisions requiring liquidators in creditors' winding up and winding up subject to the supervision of the court to maintain information and records referred to after the dissolution of the company.

Criterion 24.10 The basic information on Legal persons held by the CAC is available to LEAs. Officers and agents of a company and any other body corporate under investigation must produce to the inspector all books and documents of or relating to the company or the other body corporate which are in their custody or power (section 317(1) CAMA). Agents include past and present officers or agents. An agent for a company or other body corporate, includes its bankers and solicitors and persons employed by it as auditors, whether these persons are or are not officers of the company or other body corporate body.

Other competent authorities can obtain access to basic and beneficial information on Legal persons while requiring the compliance of FIs and DNFBPs with relevant AML/CFT requirements (§ 21, MLPA).

These measures enable competent authorities, including LEAs, to obtain access to the basic and BO information held by relevant parties. The NRA highlighted timeliness in accessing BO information as a challenge.

Criterion 24.11 Nigeria prohibits companies from issuing share warrants. It requires a company to, within thirty (30) days after the entry into force of the CAMA, cancel previously issued share warrants that are valid and enter the names and particulars of the bearers of the share warrants in its register of members. Registered members affected by cancellation of share warrants become members of the company from the date on which the shares were issued (§149 CAMA).

Criterion 24.12 Where the registration to be effected is that of a firm or individual carrying on business on behalf of another individual, firm or corporation whether as nominee or trustee, applicants are required to provide a statement containing the present forenames and surname, any former forenames and surname, the nationality the nationality and, if that nationality is not the nationality of origin, the nationality of origin and the usual residence of each individual on whose behalf the business is carried on (§657, CAMA).

Criterion 24.13 Nigeria has a range of sanctions applicable to situations including, but not limited to, carrying out business without registration, fraudulent registration, undocumented change of address, failure to apply for registration changes, and failure to produce documents on request. Available sanctions include fines as low as ₦ 25 (USD 0.07) for each day a default continues and terms of imprisonment of not less than 2 years and not more than 3 years for an individual. In the case of a financial institution or other corporate body, a fine of ₦ 1,000,000 (USD 2,805) (§§22, 95(5) and 470(9) CAMA). However, these only relate to basic information. Provision of false information or failure to provide beneficial and significant ownership information attracts a fine of ₦ 25 (USD 0.07) and ₦ 50 (USD 0.14), respectively (§§94(4) and 95(5) CAMA). Sanctions may be as low as ₦ 25 for each day a default continues or imprisonment for six months. The authorities can also apply criminal sanctions for criminal wrongdoings. The sanctions provided in the CAMA do not appear to be effective, proportionate and dissuasive.

Criterion 24.14 Basic ownership information collected by the CAC is publicly available, including to foreign authorities, as far as collected. The NFIU can exchange BO information collected as part of CDD by FIs with foreign counterparts (§§3(i) and (k) NFIUA) especially where there exists a memorandum or collaboration based on reciprocity. Where the requested information is not within the domain of the NFIU, the NFIU would request for the information from regulatory authorities, competent authorities, law enforcement and security agencies, and self-regulatory bodies in Nigeria to satisfy the MLA requests (§4 NFIUA).

Criterion 24.15 Nigeria has not demonstrated any mechanism for monitoring the quality of assistance received from other countries in response to requests for basic and BO information or requests for assistance in locating beneficial owners residing abroad. Section 4 of the NFIU Act refers to only domestic feedback between the NFIU and law enforcement, security and anti-corruption agencies, regulatory authorities and other competent authorities.

Weighting and Conclusion

Almost all the required basic information is collected and then publicly available. There are requirements to collect, maintain or have BO information available. Measures for bearer shares, nominee shareholders and directors are limited. Nigeria has not assessed the ML/TF risks of legal persons created in the country. As gleaned from the relevant statutes mechanisms for monitoring the quality of assistance sought from other countries as part of international cooperation are non-existent. **R.24 is rated PC.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

Nigeria was rated PC under LAs -Beneficial Ownership during its last MER due to the following shortcomings: (a) Nigeria did not have a comprehensive trust law; (b) information regarding BO was not always available in a timely and accurate manner, and (c) absence of guidelines regarding the management of trusts and beneficial owners.

Criterion 25.1

Criterion 25.1(a) There are no measures in place requiring trustees to obtain and hold adequate, accurate, and current information on the identity of the settlor, the trustee(s), the protector (if any), the

beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over trusts.

Criterion 25.1(b) There are no measures requiring trustees of any trust governed under the laws of Nigeria to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers or accountants, and tax advisors.

Criterion 25.1(c) As regards professional trustees, namely lawyers and accountants, only the latter are required to maintain information received during CDD for at least five years 5 years after their involvement with the trust ceases (§7, MLPA) as lawyers are not subject to AML/CFT obligations. The role of lawyers in the risk and context of Nigeria is significant and adversely impact the rating for this sub-criterion.

Criterion 25.2 Accountants are required to ensure that documents and data or information they collect during the CDD process are kept up-to-date and relevant through reviews of existing records (§3(3)(c) MLPA). The annual accounts prepared by trustees under section 50 of the PITA and the CAMA ensures updates and accuracy of the information held by trustees. However, the absence of a requirement to maintain information on service providers to the trust, including investment advisors or managers, accountants, and tax advisors, impact the rating for this criterion. Also, lawyers are not subject to AML/CFT requirements.

Criterion 25.3- There is no requirement for trustees to disclose their status to reporting entities when forming a business relationship or carrying out an occasional transaction above a threshold. However, FIs and DNFBPs are required to establish whether their customers are acting on behalf of another person and verify their status (see c.10.4–5, c.22.1).

Criterion 25.4- Trustees are not prevented by law or other enforceable means from providing competent authorities with any information relating to the trust, or from providing REs, upon request, with information on beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

Criterion 25.5 EFCC has power to seek and receive information from any person, authority, a corporation or company- (section 38 (1) EFCCEA). The power extends to (i) BO information obtained from a trust arrangement, (ii) the control of the trust, (iii) the residence of the trustee and or any assets held or managed by an FI or DNFBP concerning any trustee with which there exists a business relationship, or for which the FI or DNFBP undertakes an occasional transaction. The enquiry is triggered by suspicion of criminal conduct.

Criterion 25.6 There is no restriction on the keeping and exchange of BO information on trusts and other legal arrangements. Where kept by an FI or DNFBP, they can exchange information on trusts to facilitate access by foreign competent authorities to basic information held by registries or other domestic authorities. Reporting entities can also exchange available information on the trusts or other legal arrangement at the domestic level. The NFIU and the EFCC are empowered to request for basic and BO information under domestic law on behalf of foreign counterparts (§§3(i) and (k) NFIUA).

Criterion 25.7 Under Reg. 6(2)(iv) of the DNFBPR, a reporting obligation is imposed upon legal persons or arrangements. Trustees are legally liable for not meeting their obligation and are subject to sanctions. Section 94(4) of CAMA relates to non-disclosure by a person, including a trustee. It is punishable by a fine as low as ₦ 25 (USD 0.07) for every day a default continues or a term of imprisonment for six months. This sanction appears ineffective, disproportionate and not dissuasive.

Criterion 25.8 Section 8 of the MLPA obliges reporting entities to make information available to some competent authorities. However, there is no obligation to grant timely access to relevant authorities to

information regarding trusts, and a sanctioning regime for failure to do so. Nigeria seeks to rely on section 22 relating to the willful obstruction of officers of the FMITI, the NFIU, the NDLEA or any authorised officer in the exercise of powers conferred on these authorities.

Weighting and Conclusion

There exist provisions that require the receipt and maintenance of BO information of legal arrangements. There is an over-dependence on FIs for BO information of legal arrangements. Notwithstanding the significant representation of DNFBPs in the operations of legal arrangements, the reporting obligations are not commensurate with the risks, they pose. Sanctions for non-disclosure exist; however, the sanctions are not proportionate or dissuasive. There are also no specific provisions requiring trustees to disclose their status as trustees of a foreign express trust or any trust to FIs and DNFBPs. **Rec. 25 is rated PC.**

Recommendation 26 – Regulation and supervision of financial institutions

Nigeria was rated NC on the former R. 26 on account of the weak AML/CFT supervision by financial sector regulators. Most of the currency exchange providers were reported not to be adequately supervised and regulated.

Criterion 26.1 Section 9(2) of the MLPA designates the CBN, SEC and NAICOM and any other regulatory authority AML/CFT as supervisors that have responsibility for regulating and supervising (or monitoring) financial institutions' compliance with the AML/CFT requirements. Also, the NFIU under section 4(n) of the NFIUA is mandated to conduct regular inspection, monitor compliance of reporting entities and advise supervisory authorities as to the discharge by those institutions with regards to their obligations.

Criterion 26.2 Core Principles financial institutions licensed including other financial institutions and those providing a money or value transfer service or a money or currency changing service. Section 3 of the Insurance Act, 2003 requires for registration of insurance companies. Section 38(1) of the Investment and Security Act, 2007 requires for registration to carry on investments and securities business. Section 3 of BOFIA provides for licensing of forex dealers, development finance institutions and microfinance banks. Also, section 11 (2) of MLPA prohibits the establishment or continued operation, of shell banks.

Criterion 26.3 Competent authorities have fit and proper procedures in place to assess the competence, integrity and suitability of natural persons and conduct background check on legal persons (CBN (§48 BOFIA). SEC Rules and Regulations, Part A2 – General Rules on Registration of CMO's; Part B – General Rules on Regulation of Public Companies; Part C – General Rules on Reg. of CMO; and Rule 336: (7)(b) of SEC Rules and Regulations guide the registration of CMOs. SEC classifies a shareholder with a minimum of 5 per cent shareholding as a BO.

Section 12 of Insurance Act provides for termination of appointment with an insurance company or an FI, dismissal for fraud or dishonesty, or conviction by a court or tribunal of an offence involving the criminal misappropriation of funds or breach of trust or cheating. The Insurance Act also provides for prohibition of appointment of certain persons as the Chief Executive, whether designated as the Managing Director, Executive Chairman.

Criterion 26.4 Risk based approach supervision is applied on FIs, including the application of consolidated group supervision for AML/CFT purposes.

Criterion 26.4(a) Core principles institutions: The banking, securities, insurance sectors are regulated in line with the principles set by the BCBS, IOSCO and IAIS, where relevant for AML/CFT purposes.

Criterion 26.4 (b) Non-core principles FIs under the supervision of the CBN are subject to the same regime as core principles institutions, including national AML/CFT requirements.

Criterion 26.5

Criterion 26.5(a) Section 22-24 of CBN RBA AML/CFT Supervision manual provides for the frequency and intensity of off-site and on-site supervision on the ML/TF risks and the policies, internal controls and procedures associated with an institution or group. Supervisors conduct on-site and off-site AML/CFT supervision, including spot check of FIs based on ML/TF risks. Supervisors have risk assessment matrixes assess drivers and risks (type, product, geography, delivery channels, turnover) to facilitate planning for on-site and off-site visits.

Criterion 26.5 (b) The ML/TF risks, policies, internal controls and procedures associated with the institution/group identified by the CBN, SEC and NAICOM assessment of the institution/group's risk profile, and the ML and TF risks present in Nigeria, determine the frequency and intensity of on-site and off-site AML/CFT supervision of FIs (AML/CFT RBS manuals of the CBN, SEC and NAICOM). Accordingly, supervisors undertake at least 2 inspections per year interspersed with spot and targeted supervision.

Criterion 26.5 (c) There are requirements for supervisory actions to be determined by the characteristics of the FIs or groups, in particular the diversity and number of FIs and the degree of discretion allowed to them under the risk-based approach. The AML/CFT RBS manuals of CBN, SEC and NAICOM, do not allow FIs or groups discretion under the risk-based approach.

Criterion 26.6 CBN RBA AML/CFT manual provides for review of the ML/TF risk profile of an FI or a group periodically, or when there are major events or developments in the management of operations of the financial institution or group.

Weighting and Conclusion

Nigeria has adequate AML/CFT measures for the regulation, supervision and, prevention of prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in FIs. However, there are no express provision for ML/TF present in Nigeria to be factored in the frequency and intensity of onsite inspection. **R. 26 is rated LC.**

Recommendation 27 – Powers of supervisors

In the first MER, Nigeria was rated PC with the requirements of the old R. 29 because supervisory bodies rarely conducted AML/CFT compliance inspections for several sectors. Also, the number of AML/CFT inspections conducted and the number of violations detected were very low, considering the size and vulnerability of covered institutions to ML.

Criterion 27.1 The NFIU is mandated to monitor FIs for compliance with their obligations under the NFIUA (§3(1)(n) NFIUA). The NFIUA does not place any obligations on FIs. The MLPA and sector Regulations provide for these obligations. Section 25 of the MLPA defines “Regulators” to mean competent regulatory authorities responsible for ensuring compliance of FIs with requirements to combat ML/TF. It also defines “Other Regulatory Authorities” to mean the SEC, and the NAICOM. Thus, banks, MFBs, forex dealers, DFIs, PMIs and Finance Companies are subject to the supervision of the CBN. The SEC is responsible for the supervision of the capital market sector while the NAICOM is responsible for the supervision of the insurance sector. These powers do not extend to PF as Nigeria does not have requirements in place for FIs to implement TFS relating to PF.

Criterion 27.2 The NFIU has legal authority to conduct regular inspections of FIs, by itself or jointly

with the CBN, NAICOM and SEC (§§19 and 20 NFIUA). There is no express legal provision in the MLPA and TPA authorising the CBN, NAICOM and SEC to conduct inspections of FIs for compliance with AML/CFT measures. However, they can use the following prudential powers to conduct AML/CFT inspections:

CBN –Under section 31 of the BOFIA, the Director of Banking Supervision can carry out supervisory duties in respect of banks, other financial institutions and specialised banks and for that purpose always has a right of access to the books, accounts and vouchers of banks.

SEC: The Commission has the power to conduct routine and special inspection of CMOs and is required to assign such responsibility to an officer who shall carry out supervisory duties (§45(1), Investment and Securities Act, 2007).

NAICOM: The Inspectorate Directorate of NAICOM is responsible for carrying out supervisory functions of the Commission in respect of insurance companies (§31(1), NAICOM Act, 1997).

Criterion 27.3 The NFIU may, for its AML/CFT inspections, obtain or make copies and extracts from recorded information held by FIs which the NFIU considers relevant for the performance of its analytical functions or inquiries into the transactions of an entity or a subject (§§19(3) and 20(2) NFIUA and 21 MLPA). If this authority relates to the FIU's financial analysis function for FIU purposes, then it is not adequate. Supervisors need separate supervisory powers to avoid overlap and confusion. The NFIU shares its powers under section 21 of the MLPA with the NDLEA. However, the MLPA does not define regulators to include the NDLEA. Thus, the position of the NDLEA is unclear concerning the monitoring of FIs for compliance with AML/CFT requirements. While the MLPA does not empower the CBN, NAICOM and SEC to compel the production of information relevant to monitoring compliance with AML/CFT requirements, respective industry Acts make it mandatory for FIs to give financial supervisors unhindered access to all records and documents and empower financial regulators to compel the production of records under the following provisions:

CBN: The Director of Banking Supervision has the power to require from directors, managers and officers of banks such information and explanation as he deems necessary for the performance of his duties. In addition, banks are required to produce to the examiners at such times as the examiners may specify, all books, accounts, documents and information which they may require (§ 31(7), BOFIA).

SEC: An authorised officer can periodically examine the books and affairs of CMOs, always have a right of access to the books, accounts and vouchers of CMOs, and require from directors, managers and officers such information and explanation as he may deem necessary for the performance of his duties under the Act (§45(1), Investment and Securities Act, 2007). Similarly, Capital Market Holding Companies (CMHC) are required to make records available to records available to the Commission upon request (Rule 10(2) of the SEC Rules and Regulations, August 2019).

NAICOM- An inspector can inspect, examine the books and affairs of an insurance institution; access at all times to the books, accounts, documents and vouchers of an insurance institution; checking of the cash in hand, cash accounts and otherwise verify the liquid and other assets of the insurance institution; (d) check all the main and auxiliary books of accounts, registers, computer records and other papers and correspondence connected with the insurance institution's business; verify the investment of the capital and statutory reserves of the insurance institution; verify the legality or otherwise of any insurance business transacted by the insurance institution; require from any director, manager and officer of an insurance institution such information and explanation as he may deem necessary in each case (§32, NAICOM Act, 2007).

Criterion 27.4 The NFIU does not have the power to impose sanctions on FIs for failure to comply with AML/CFT requirements. The CBN, SEC and NAICOM (FI supervisors) have powers to subject

FIs to penalties of not less than ₦1,000,000 (USD 2,755.416) for capital brokerage and other FIs and ₦5,000,000 (US \$13,774.10), in the case of a bank. FI supervisors also have powers to suspend licences of FIs for failure to develop programmes to combat ML and other criminal activities (§9(4) MLPA). They are to work with professional bodies of compliance officers, to take disciplinary actions against FIs and compliance officers for failure to comply with AML/CFT measures under relevant and administrative Regulations (§16(4) MLPA). The sanctioning regime for non-compliance is not considered to be effective, proportionate and dissuasive, with monetary penalties ranging from USD 2,755 (for CMOs) and USD13,000 (for banks). There appears to be a fragmented system of shared supervision that may not work well in practice (see comments on criterion 26.1).

Weighting and Conclusion

Nigeria does not fully meet the requirements of R. 27. It is unclear whether the NDLEA, an anti-drug trafficking agency, is a supervisor for FIs. The financial supervisors do have powers under their respective industry legislation to compel the production of information relevant to monitoring compliance with AML/CFT requirements. The range of sanctions available to supervisors is not considered to be effective, proportionate and dissuasive considering the inherent ML/TF risks. This constitutes a significant gap in the powers of supervisors to ensure compliance to mitigate those risks.

R. 27 is rated LC.

Recommendation 28 – Regulation and supervision of DNFBPs

The first MER rated Nigeria PC with these requirements. The country lacked measures to prevent criminals and associates from holding significant shares or becoming the beneficial owners of casinos. There was minimal supervision of DNFBPs. Additionally, the sanctions regime was not implemented and therefore remains untested concerning effectiveness and operational independence.

Criterion 28.1

Criterion 28.1 (a) Casinos are prohibited from operating in most parts of the country. States that allow casinos to operate (for example, Lagos State) have legal requirements, including licence. Under the Lagos State Act, the State Commissioner may, with the approval by the Executive Council, on application issue to any company a licence to establish and operate a casino in Lagos, subject to conditions. The State Commissioner has the discretion to issue, renew or refuse to issue or renew any licence and related actions for stated reasons. The Commissioner can revoke licences. The Lagos State Casino Act provides for other measures for licensing and operations of casinos (Part 2 of the Casino (Licensing) Law. The definition of casino in the Law is limited to “a building or part of a building” meaning that internet casinos are not covered.

Criterion 28.1 (b) The registration of casinos as provided in the operating guidelines/manual for casinos is limited to the list of Directors. The provision of the manual does not comply with the requirements for beneficial ownership disclosure, and the Guidelines do not have the force of law.

Criterion 28.1 (c) SCUML is mandated to supervise Casinos for AML/CFT compliance, but it did not cover internet casinos. DNFBPs are not subject to adequate supervision for compliance with AML/CFT requirements (§19 NFIUA and Reg. 4 DNFBPR). SCUML is currently sensitising casinos on their AML/CFT obligations. Internet casinos are not subject to AML/CFT requirements.

Criterion 28.2 Scope issue: Lawyers and internet casinos are not subject to AML/CFT requirements. SCUML is the designated competent authority responsible for monitoring the activities of DNFBPs in collaboration with the NFIU and other relevant regulators, professional bodies and self-regulatory organisations (SROs) (§4 MLPA other relevant laws and Regulations. (Reg. 4(1) DNFBPR). SROs are required to, in consultation with SCUML and the NFIU monitor their members to ensure compliance

with AML/CFT requirements. Reg. 33 of the DNFBPR defines SROs to mean a professional body or faith-based organisation registered under the Law that represents its members. SROs are also required to enforce ethical rules.

The Council of the Institute of Chartered Accountants of Nigeria (ICAN) and the Association of National Accountants of Nigeria (ANAN) are responsible for supervising and ensuring discipline among accountants, respectively (§15 (1) (b) ICAN Act/ section 11(6) of ANAN Act, CAP A26 LFN, 2004).

Criterion 28.3 The conclusions of criterion 28.2 apply to this criterion.

Criterion 28.4

Criterion 28.4(a) SCUML and the NFIU have powers to perform their functions, including to monitor compliance by DNFBPs of AML/CFT requirements (§19 NFIUA). There are procedures for joint inspections (entry and inspection of premises, observation of business on the premises, inspection of recorded information and cash found on the premises) (§20 NFIUA)). There are no procedures for inspections conducted solely by the NFIU. The provisions that an officer may exercise power to inspect is only related to with the performance by the NFIU of its functions under the NFIUA is not clear (§§19(4) and 20(4) NFIUA). Lawyers are not subject to AML/CFT obligations.

Criterion 28.4 (b)

SCUML, in collaboration with the NFIU and SRBs, is required to register DNFBPs. SCUML has a mechanism to prevent criminals from owning and operating a DNFBP by ensuring that they meet specific requirement before registration. Section 251 CAMA precludes a person convicted by a High Court of any offence in connection with the promotion, formation or management of a company to become a director of a company. Section 252 of CAMA prohibits any individual convicted of fraudulent offences from being a director of a public company. The CAMA applies to all entities, including law firms and lawyers.

Criterion 28.4 (c) SCUML has the mandate to register all DNFBPs operating, and some sub-sectors have SRBs with powers to supervise the activities of their membership, promote the implementation of preventive measures and impose limited sanctions for non-compliance with their established rules and regulations. The NFIU's supervisory intervention is not clear or sufficient to monitor compliance of DNFBPs for AML/CFT purposes. It lacks the power to take measures to prevent criminals or their associates from being professionally accredited, holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in a DNFBP. The NFIU does not have the power to impose sanctions to deal with failure to comply with AML/CFT requirements.

Criterion 28.5 SCUML has developed a risk-based examination manual for off-site surveillance and on-site inspection. The risk model takes account of numerous sources of information to assess the risk factors of specific DNFBPs. It sets the core areas of AML/CFT compliance examination to include DNFBP's AML/CFT Manual (quality of policy statement, comprehensiveness in addressing AML/CFT issues, Board approval and performance of oversight functions, periodic review and update, etc.); implementation of reporting requirements; customer identification and related matters; record keeping, internal control measures and training. However, the 'risk model' does not determine the frequency and intensity of AML/CFT supervision of DNFBPs taking into consideration the characteristics of the DNFBPs, in particular their diversity and number. In addition, lawyers are not covered by AML/CFT requirement due to a Court of Appeal decision

Weighting and Conclusion

Risk-based AML/CFT supervision is not well established for the DNFBP sector. AML/CFT obligations

are inoperative for lawyers in Nigeria. While States that allow operations of casinos have laws for the licensing and operations the definition of casinos exclude online casinos. By implication internet casinos are not subject to AML/CFT obligations and not monitored for AML/CFT purposes as the definition of casino is focused on land-based casinos. These are not consistent with the FATF standards, and lack of AML/CFT compliance and supervision is a source of vulnerability to the financial system of the country. **R.28 is rated PC.**

Recommendation 29 - Financial intelligence units

Nigeria was rated PC on the former R.26 because the EFCC Act did not contain an explicit provision on the operational autonomy of the FIU. There was an ambiguity regarding the extent of the powers of the director under the EFCC and its Board. Nigeria lacked legal provision to protect the security and dissemination of information held by the NFIU. Furthermore, the FIU did not provide consistent, accurate or verifiable statistics on STRs and CTRs received, analysed, and disseminated. Public reports issued by the NFIU did not contain all the required information, including statistics on STRs and CTRs, or trends and typologies on ML/TF. Nigeria enacted the NFIUA on 29 June 2018¹²⁸ to establish the NFIU as an independent body and provide for related matters. In this regard, the NFIUA amended the EFCC (Establishment) Act, 2004 by deleting sections 1(2)(c) and 6(1) of the Act which designated the EFCC as the FIU of Nigeria with the responsibility of co-ordinating the various institutions involved in the fight against ML and enforcement of all laws dealing with economic and financial crimes in Nigeria and related matters (§31(1)). It also amended the MLPA, 2011 by substituting for the word “Commission” in sections 2, 5, 6, 8, 10 and 13, the words, Nigerian Financial Intelligence Unit”) §31(2)). Finally, the new Act amended the MLPA and the TPA by substituting for the words, “Chairman of the Economic and Financial Crime Commission”, with the words, “Director of the Financial Intelligence Unit” wherever they appear (§31(3)).

Criterion 29.1 The NFIU acts as a national centre for receiving, requesting, analysing and disseminating financial intelligence reports on ML/TF and other relevant information to law enforcement, security and intelligence agencies and other relevant authorities (§§2(1) and 3(1)(a) NFIUA). The NFIU is also empowered to receive and collect suspicious transaction reports and any other reports including wire transfers relevant to ML and associated predicate offences, TF/PF from REs, LEAs, security agencies, anti-corruption agencies and regulatory and administrative authorities (§3(1)(a) and (b) NFIUA). Section 3(1)(c) and (d) mandate the NFIU to analyse STRs and other information and disseminate the results of the analysis to LEAs, security agencies, regulatory agencies and other competent authorities.

Criterion 29.2

Criterion 29.2(a) The NFIU is the central agency for the receipt of suspicious transaction reports filed by REs (§3(1)(b) NFIUA).

Criterion 29.2 (b) The NFIU is the central agency for the receipt of intelligence reports, cash transaction reports (CTRs) and reports on wire transfers and any other information relevant to ML, TF, proliferation financing and associated predicate offences (§3(1)(a) and (b), NFIUA). The NFIU receives CTRs from DNFBPs indirectly, through SCUML. However, this arrangement does not challenge the role of the NFIU as the national centre for the receipt of such reports.

¹²⁸ Date of Presidential Assent and entry into force and effect.

Criterion 29.3

Criteria 29.3 (a) The NFIU is also empowered to access or request for additional information from relevant reporting entities as needed to perform its analysis properly (§§6(4) MLPA, 4(1)(g) and 4(2) NFIUA).

Criteria 29.3 (b) The NFIU has the power to receive, collect and use financial, administrative and law enforcement information it requires to properly undertake its functions (§§3(1)(b) and 4(2) NFIUA). This includes information from open or public sources, as well as information collected and/or maintained by, or on behalf of other authorities and where appropriate commercially held data (see, STR Analytical Process, Stage 1, & 5.3.5-proactive intelligence package format, NFIU SOP).

Criterion 29.4

Criterion 29.4 (a) The NFIU undertakes operational analysis using CTRs, STRs and other information including records of wire transfers (§3(1)(c) NFIUA). It disseminates its operational analysis to competent authorities to identify specific targets, to follow the trail of particular activities or transactions, and to determine links between those targets and possible proceeds of crime, ML, predicate offences and TF, as well as PF.

Criterion 29.4 (b) The NFIU conducts strategic using available and obtainable information, including data provided by other competent authorities, to identify money laundering and terrorist financing related trends and patterns analysis identify ML/TF patterns (§3(1)(c) NFIUA). The NFIU has a Strategic Analysis Section that undertakes research projects to assess potential AML/CFT risks and vulnerabilities exploited by criminals across various financial and non-financial sectors of the country.

Criterion 29.5 The NFIU has power to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities in a secure manner (§3(1)(d) NFIUA). The NFIU disseminates information through a secure website, goAML, as well as physically.

Criterion 29.6

Criterion 29.6(a) The NFIU has policies, guidelines and procedures governing the security, maintenance, confidentiality and sharing of information obtained by the NFIU. It also has sanctions for the breach of these policies (§§3(1)(m), 4(5) and (6) of the NFIUA). The NFIUA prohibits all persons, including staff of the NFIU, from disclosing information that would be detrimental to an investigation or a financial intelligence inquiry under the NFIUA (§18(2) and (3)).

Criterion 29.6 (b) Staff members of the NFIU have the necessary security clearance levels and understanding of their responsibilities in handling and disseminating sensitive and confidential information.

Criterion 29.6 (c) There is limited access to its facilities and information, including information technology systems of the NFIU.

Criterion 29.7

Criterion 29.7 (a) The NFIU is independent and operationally autonomous in the discharge of its duties and performance of its functions. The independence applies to the decision to analyse, request and forward or disseminate relevant information under the NFIU Act (§§2(2) and 3(1)(c)).

Criterion 29.7(b) The NFIU signs MOUs and engages in domestic and foreign cooperation without recourse to any higher authority (§3(1) of the NFIUA).

Criterion 29.7 (c) With the enactment of the NFIUA in June 2018, the NFIU fully disengaged from the EFCC and is now domiciled in the CBN for purposes of institutional location only (§2(3) NFIUA). and the NFIU has distinct core functions from those of the CBN while the CBN plays no role in the functioning of the NFIU.

Criterion 29.7 (d) The NFIU operates an independent budget sourced from budgetary allocations approved by the National Assembly, grants and other subventions received from the Federal Government, as well as grants, gifts or donations from international organisations and donor agencies. The NFIU deploys these resources to carry out its functions free from any undue political, government or industry influence or interference, except that the NFIU is required to disclose receipts of grants, gifts or donations to the National Assembly (§11(1) NFIUA).

Criterion 29.8 The NFIU is a member of the Egmont Group.

Weighting and Conclusion

Nigeria has fully met the requirements of this Recommendation. **Rec. 29 is rated C.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

Nigeria was rated LC on the old R. 27. The technical compliance deficiency related to an ambiguity regarding the designation of the competent authority responsible for prosecuting TF cases (whether the EFCC, DSS or the AG). There was an effectiveness issue regarding the lack of specialised training on ML/TF issues for the LEAs and judicial bodies which is now discussed under IO.7.

Nigeria has enacted the MLPA, TPA and the Cyber Crime Act, 2015 to enhance the powers of LEAs/ACAs in Nigeria to investigate ML, associated predicate offence and TF offences.

Criterion 30.1 The EFCC is the primary law enforcement authority with the responsibility of investigating ML and associated predicate offences (§6 EFCCEA).

The NDLEA and ICPC investigate ML-related offences under Sections (§3(1)(p)(ii) NDLEAA - narcotic drugs offences) and the CPROA (corruption and related offences - (§10)), respectively. Section 53 of the CPROA empowers the police to investigate offences under the Act.

Section 1A (3) of the TPA provides that law enforcement and security agencies (referred to as LEAs) shall be responsible for the investigation of the offences provided under the Act. An officer of any LEA or security service can apply to the court for a warrant for a terrorism investigation (§24 (1) TPA). Section 40 of the TPA defines LEAs to include the Nigeria Police Force (NPF), the Department of State Services (DSS), the EFCC, the National Agency for the Prohibition of Traffic in Person (NAPTIP), the NDLEA, the National Intelligence Agency (NIA), the Nigerian Customs Service (NCS), the Nigeria Immigration Service (NIS), the Defence Intelligence Agency (DIA) the Nigeria Security and Civil Defence Corps (NSCDC), Nigerian Armed Forces (NAF), Nigeria Prisons Service (NPS) and any other agency empowered by an Act of the National Assembly.

The number of authorities designated to investigate TF is high, which can result in conflict in the efforts to thoroughly investigate TF offences. The LEAs specified above are collectively empowered by their establishment legislation to investigate predicate offences of ML.

Criterion 30.2 LEAs are authorised to investigate ML/TF offences during a parallel financial investigation where the predicate offence(s) occurred in Nigeria or is in connection with Nigeria. The EFCC (§§6, 24, 28 & 29 EFCCEA), the NDLEA, the ICPC (§§44, 47 & 48 CPROA), the NAPTIP are

empowered to initiate and conduct parallel financial investigations. Other agencies that are designated to investigate predicate offences in-line with their mandates are the NPF, the DSS, the NCS, NIS, NAPTIP, NSCDC, DIA, NIA, ONAS and NAF.

The enabling Acts of the listed LEAs mandate them to collaborate with other relevant entities in the conduct of their investigations. Thus, even though the NDLEA is mandated to deal with drug-related offences, it liaises with the EFCC or other LEAs in the conduct of parallel investigations related to ML/TF offences irrespective of where the predicate offence occurred.

Criterion 30.3 The EFCC has the power to seize property, including instrumentalities¹²⁹ used in or intended for use in committing the predicate offence that may be subject to forfeiture. It exercises this power on arrest, during searches or a Court order. A person arrested by the EFCC for an offence under the EFCCEA must disclose all assets and properties by completing a declaration form to that effect (§27 EFCCEA). The EFCC is mandated to trace and attach all suspected proceeds of crime and apply for an interim forfeiture order for those proceeds (§§28 and 29 EFCCEA). This power extends to bank accounts and financial instruments in banks or other FIs and property in possession of or under the control of third parties.

Property subject to forfeiture is defined to mean proceeds of crime and other proceeds traceable to the original proceeds, for offences that occurred in a foreign country (§24 EFCCEA).

The AGF coordinates the activities of the various LEAs to identify, trace and initiate freezing and seizing property that is, or may become, subject to confiscation, or suspected of being proceeds of crime. The DSS, NSA and other LEAs have the mandate to investigate TF offences. LEAs may, through the AGF, apply to a Judge in Chambers for a provisional order to attach properties of a suspect, or to compel the suspect to deliver to the AG any document relevant to identifying, locating any property belonging to, in possession of or control of that person, respectively. The authorities can apply for both orders at the same time (§15(3) and (9) TPA).

Criterion 30.4 Competent authorities which are not LEAs in Nigeria are empowered and do undertake financial investigations of predicate offences. The Federal Inland Revenue Service, for example, undertakes financial investigations in pursuit of allegations of tax evasion, transfer pricing, trade-based ML, among others.

Criterion 30.5- For the investigation of ML/TF offences, the statutory mandates of EFCC, ICPC, and Code of Conduct Bureau and Tribunal (CCCBT) incorporate powers to identify, trace, and initiate freezing and seizing of assets (§§ 6(d), 26(1,2,3) 28 & 29 EFCCEA; §27(1-3) and 45(1-5) CPROA; §23 (2) (c) CCBT Act; §§39, 40 and 41). The ICPC has the power to seize or forfeit property procured with the proceeds of corruption subject to Court orders. It can also order the freezing, tracing and seizure of an account/property/asset to facilitate an investigation (§ 45 CPROA).

Weighting and Conclusion

Nigeria has designated the institutions with the capacity to investigate ML/TF and predicate offences that fall within the remit of each of those LEAs including the EFCC, ICPC, NDLEA, NPF, DSS with powers to identify, trace, and initiate freezing and seizing of assets. **R.30 is rated C.**

¹²⁹ As defined in section 25 of the EFCCEA.

Recommendation 31 - Powers of law enforcement and investigative authorities

In the first MER, Nigeria was rated LC on the former R27, and C. on the former Rec.28. The MLPA and the NFIU Acts have strengthened the powers of law enforcement and investigative authorities to obtain relevant documents and information in investigating and prosecuting ML, associated predicate offences and TF.

Criterion 31.1 Competent authorities conducting investigations of ML, associated predicate offences and TF can access all necessary documents and information for use in those investigations, and in prosecutions and related actions. The LEAs exercise some of these powers based on court orders (MLPA, EFCCEA, NDLEAA, CPROA, Customs and Excise Management Act (CEMA); NAPTIPIA and the TPA).

Criterion 31.1(a) Competent authorities conducting ML, associated predicate offences and TF are empowered to obtain access to financial records, CDD information and other documents and information through arrest or search warrants and court orders (§42 NDLEAA; §33(2) and 38(1) EFCCEA; §28 CPROA; §15(1)(5) TPA).

Criterion 31.1(b) Competent authorities have powers to search persons and premises during the investigation of ML and associated predicate offences (§§8 and 147 of the Customs and Excise Management Act (CEMA) CAP C45 LFN. 2004); §6 of the EFCCEA; §36 CPROA, and §147 CEMA). For TF, an officer of a duly authorised LEA or security agency may, with or without a search warrant issued by the court, search premises and persons during terrorism investigations (§§24(2) and 25(1)(1) TPA). This provision applies to TF as section 40 of the TPA defines “terrorist investigation” to include any other offence committed under the TPA.

Criterion 31.1(c)

LEAs can take witness statement while carrying out investigations (ACJA; §28(1) (c), (8) and (9) CPROA). The provisions of the ACJA applies to all competent authorities that investigate ML, associated predicate offences and TF.

Criterion 31.1(d) LEAs have power to seize and obtain evidence, with or without a court warrant for ML and associated predicate offences and TF, whether on a person, premises, vessel or any other place (§24(2)(c) TPA; §38(1) EFCCEA; §43 CPROA; §41 NDLEAA and §43(2)(c) NAPTIPIA).

Criterion 31.2

Criterion 31.2(a) Competent authorities conducting investigations on ML, associated predicate offence and TF can use undercover operations to obtain information (§55 of the CPROA).

Criterion 31.2.b Under an order of the High Court through an application ex-parte, the EFCC can obtain [intercept] communication of any authentic instrument. The order covers a telephone line used by any person suspected of taking part in a transaction involving the proceeds of a financial or other crime (§13 (1) (c) MLPA). EFCC, ICPC, NDLEA, NPF, National Intelligence Agency, State Security Services can intercept any communication that relates to Communications service provided by a Licensee to persons in or outside Nigeria (reg. 4 Lawful Interception of Communications Regulations, 2019 (LICR)).

The authorities can intercept communications, with or without a warrant. The warrant must contain the identity of the subject, if known, grounds for the application and details of the type of communication. An authorised officer may enter any premises, board any vessel, vehicle or aircraft, to enforce the warrant, install, maintain or remove a monitoring device or to intercept or take possession of any

communication or to install, maintain or remove a device for intercepting communication (reg.13(2)(a) LICR).

An LEA may intercept communications without a warrant if the activities appear to threaten the national security or have the characteristics of organised crime (reg.12 (4) (b) and (b)). The LEA must apply to a judge for a Warrant within 48 hours. A warrant is valid for an initial period of 3 months or a lesser period. The LEA may renew the warrant before it expires (3 months) or as determined by the judge (reg.14 (1) and (2) LICR).

Criterion 31.2.c The MLPA empowers the NDLEA to apply to the Federal High Court for an order to obtain access to any suspected computer system. The application is ex-parte and supported by an affidavit by the NFIU or an authorised officer of the CBN or regulatory body conducting ML and other offences in any other law, including the EFCCEA (§13(1) (b)). The scope of competent authorities that can obtain access to a computer is limited.

Criterion 31.2.d LEAs are empowered to use of control delivery investigative technique on coordinated preventive and repressive action and the prevention of economic and financial related crimes (§3 (f), NDLEA and §6 (f), EFCCEA).

Criterion 31.3 (a) – Competent authorities such as the NDLEA and NAPTIP have measures in place which enable them to identify whether natural or legal persons hold or control accounts without prior notice. (§§ 4(1)(b)(2)(3), NDLEAA; 43, CPROA; and 48(2), NAPTIPA).

Similarly, the EFCC has powers to trace and attach all suspected proceeds of crime of a person arrested under the EFCCA.

Criterion 31.3 (b) Section 12 of the MLPA, the NFIU, CBN, other regulatory authorities, NDLEA may apply to the High Court ex-parte to place a bank account under surveillance. The purpose is to trace and identify proceeds, properties, objects or the things related to the commission of a crime. A suspect arrested under the EFCCEA or the NDLEAA, is required to make a full disclosure of all his assets and properties, including those of his/her dependents (cash, wherever kept; land and buildings) by completing a Declaration of Assets Form (section 27(1) EFCCEA and section 35 NDLEA). The EFCCEA and NDLEAA require the relevant officers to investigate the completed Declaration of Assets Form. False declaration is an offence punishable to a term of not more than 10 years imprisonment. The authorities affirmed that they work in synergy with the NFIU, CAC, Land Bureau, Vehicle and Licensing authority to identify assets. Not all the mechanisms operate without notification to the owner.

Criterion 31.4 Relevant competent authorities have powers to seek and receive information from any person, authority or company in respect of offences that fall within their mandates (§38(1) EFCCEA; §1A(5)(h) TPA; §6(f) NAPTIPA). Also, competent authorities can request for information held by the NFIU under section 4(d) of the NFIUA.

Weighting and Conclusion

The requirements of this criterion have been addressed by Nigeria. **R. 31 is rated C.**

Recommendation 32 – Cash Couriers

In the first MER, Nigeria was rated NC on the former corresponding recommendation (S.R. 1X). The subsequently enacted the MLPA 2011, has strengthened the control and enforcement of cash couriers relative to ML/TF and other predicate offences at the international borders of Nigeria.

Criterion 32.1 Nigeria has adopted a declaration system for incoming and outgoing cross-border transportation of currency and BNI (§2(3), MLPA). The system is required for all physical cross-border transportation of cash and BNI. Section 2 of the Customs, Excise (Management) Act defines “goods” to include merchandise and mail which can be checked by Customs. While the Customs Declaration Form covers BNI, Nigeria is not implementing the system for BNIs (see IOs 6 and 8). This is a significant deficiency in Nigeria’s context.

Criterion 32.2 All persons making physical cross-border transportation of currency or BNI, which are of a value exceeding USD10,000 are implicitly required to make a truthful declaration to the Nigerian Customs Service (§2(5), MLPA). Nigeria has opted for the written type of declaration system for all travellers which is only triggered at a threshold or for all travellers/transporters of currency/BNI, although the system is not being implemented for BNIs.

Criterion 32.3 Nigeria implements the declaration system. Therefore, this requirement is not applicable.

Criterion 32.4 In practice, the discovery of any undeclared or falsely declared currency would result in the carrier being interviewed further by Customs officers. The Customs and Excise (Management) Act provides Customs officers general powers of questioning which oblige a suspect to answer questions. They can compel a person to provide further information on the currency including its origin and intended purpose.

Criterion 32.5 Travellers who make false declaration are liable on conviction to forfeiture of the undeclared funds or negotiable instrument or imprisonment for a term of not less than 2 years or to both (§2(5), MLPA). A traveller who fails to declare or makes a false declaration is charged the offence of “non-declaration of money” or “false declaration of money”. The sanctions are effective, proportionate and dissuasive enough, and consistent with R.4, enable the confiscation of such currency and BNI.

Criterion 32.6 Customs is required to report any declaration made to the NFIU (§2(4), MLPA). The NFIU has a direct link to customs data linked with the ICT Department. Customs transmits the declaration report to the NFIU through the Nigeria Integrated Customs Information System to which the Unit.

Criterion 32.7 Nigeria has a Presidential Tax Force Committee on Cross Border Movement which involves Customs, EFCC, and DSS. The mandate of the Task Force is to closely monitor any violation of the declaration regime by inbound and outbound passengers. It also has an automation linking Nigeria Customs Frontline Officers with the NFIU, EFCC for real-time info on Cross Border Cash Movement. Nigeria is not implementing measures relating to BNIs.

Criterion 32.8(a or b) There is no legal provision for competent authorities to stop or restrain currency or BNIs for a reasonable time to ascertain evidence of ML/TF from false declaration or disclosure, where there is a suspicion of ML/TF or predicate offences. However, the Task Force can take these measures concerning currency.

Criterion 32.9 Nigeria does not have legal requirements or other measures to ensure that the declaration/disclosure system allows for international cooperation and assistance under Recommendations 36 to 40, and related matters.

Criterion 32.10 There are no measures in place to ensure strict safeguards for the proper use of information collected through the declaration/disclosure systems, without restricting either: (i) trade payments between countries for goods and services; or (ii) the freedom of capital movements, in any way.

Criterion 32.11

Criterion 32.11(a) The MLPA and TPA criminalise ML and TF with dissuasive sanctions. As currency and BNIs are instrumentalities, their concealed movement are covered by the material elements of the ML offence. Therefore, the relevant provisions in these enactments can be invoked against any perpetrator under this criterion.

Criterion 32.11(b) Nigeria applies proportionate and dissuasive criminal sanctions –to persons carrying out physical cross-border transportation of currency (see criteria 32.5 and 3.9). These measures enable the confiscation of such currencies. However, Nigeria is not implementing measures for BNIs.

Weighting and Conclusion

Nigeria is not implementing the system for BNIs which is a significant deficiency in Nigeria's context (see IOs 6 and 8). The country lacks legal basis to request and obtain further information from a carrier regarding the origin and intended use currency. Nigeria did not demonstrate ability to cooperate internationally concerning physical cross-border transportation of cash and BNI. **R32 is rated PC.**

Recommendation 33 – Statistics

In the first MER, Nigeria was rated PC on the former R.32. While Nigeria has enacted the NFIU Act 2018, it needs to address salient issues related to the collection and maintenance of statistics on ML, associated predicate offences and TF. Upon the enactment of the NFIU Act, it appears the NFIU is a central authority to collect and maintain those statistics. However, more is required to legally strengthen this mandate to ensure unfettered collaboration and cooperation with all other LEAs to gain access to their crime data.

Criterion 33.1

Nigeria maintains statistics on:

- a) *STRs received and disseminated:* The data on STRs received and disseminated can be broken down by sector and offences, including TF.
- b) *ML/TF investigations, prosecutions and convictions:* Nigeria maintains statistics on ML and TF investigations, prosecutions and convictions. Some specific statistics were not broken down in terms of whether ML statistics were self-laundering, or third party laundering or laundering involving legal persons and arrangements.
- c) *property frozen, seized and confiscated:* The NFIU is mandated to maintain statistics on property frozen, seized and confiscated (§3 (1) (p), NFIUA).
- d) Nigeria does not maintain comprehensive statistics on MLA and informal cooperation.

Weighting and Conclusion

While the NFIUA requires the NFIU to maintain statistics, Nigeria does maintain some statistics on all the categories required in R.33. As highlighted elsewhere in this report, not all statistics provided were comprehensive and could not be broken down further into meaningful and relevant information when requested. **R. 33 is rated PC.**

Recommendation 34 – Guidance and feedback

In the first MER, Nigeria was rated NC with former Recommendation 25 because the guidelines and feedback mechanisms did not address some essential areas of the FATF Recommendations.

Criterion 34.1 The AG and the Minister of Finance have powers to make orders, rules, guidelines and regulations necessary for the efficient implementation of the MLPA and NFIUA (§23 MLPA and §28 NFIUA). The NFIU has the power to issue guidelines concerning its duties and the exercise of its functions under the NFIUA. The AG and the NFIU are yet to issue guidelines under the MLPA and the NFIUA.

Concerning feedback, section 3(2)(q) of the NFIUA mandates the NFIU to provide feedback, general or specific, on the value of the information provided by REs, regulatory authorities, LEAs and security agencies and other competent authorities. The provision is not enough to assist reporting entities in applying AML/CFT measures, and, in detecting and reporting suspicious transactions. Also, there is no corresponding requirement for other competent authorities to do the same.

Weighting and Conclusion

There are legal provisions for the AG and the NFIU to establish guidelines for FIs and DNFBPs. However, both authorities have not established these guidelines. The provisions for feedback in the NFIUA are limited to suspicious transactions and is not enough to assist REs in applying AML/CFT measures, and, in detecting and reporting suspicious transactions. Also, there is no corresponding requirement for other competent authorities to provide REs with feedback. **R.34 is rated PC.**

Recommendation 35 – Sanctions

Nigeria was rated PC with the former R.17 in its first MER due to the compliance monitoring carried out in some sectors.

Criterion 35.1

There is a wide range of criminal, civil and administrative sanctions provided in law and Regulations that apply to natural and Legal persons that fail to comply with AML/CFT requirements. These appear proportionate and dissuasive because their effective application would deter non-compliance.

Natural persons who fail to comply with TFS requirements relating to TF are liable on conviction to a term of imprisonment of not more than five years Reg. 31(1) of the Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2013 (TPR). This penalty also applies principal officers of institutions, corporate entities or bodies that violate TFS measures relating to TF. The sanctions in the TPR are in addition to the penalties provided in the MLPA and the TPA. Reg.31 (5) of the TPR requires the application of administrative sanctions imposed by regulators in the sum provided in the MLPA and TPA and any other applicable regulations issued by competent authorities. However, the MLPA and TPA do not mandate regulators to make Regulations. This power is conferred on the AG by sections 23 and 39 of the MLPA and TPA, respectively.

Regarding R.8, NPOs are DNFBPs and are subject to the same sanctions as other DNFBPs. Designation of NPOs as DNFBPs is outside the scope of the FATF Methodology. Paragraph 36.2(n) of the Corporate Governance code 2016 require NPOs to publish a detailed list of all the fines and penalties (including date, amount, and subject matters) paid to regulators in the financial year for infractions of this Code or other Regulations.

In the case of R.9 to 23, national persons who fail to comply with the requirements are liable on conviction to a term of imprisonment of not less than three years or a fine of Ten Mln Naira or both. Legal persons are liable to a fine of ₦ 25 mln (USD 70,126) (§16(2) (b) MLPA). Nigeria may also ban

a person convicted for non-compliance with relevant AML/CFT requirement may from practising the profession which provided the opportunity to violate the AML/CFT requirements for an indefinite period or five years. Non-compliance resulting from oversight or flaw in internal control procedures or resulting from non-performance of the CO attract additional disciplinary measures in line with professional and administrative Regulations.

Natural persons who fail to comply with requirements relating to shell banks, numbered or anonymous account, are liable on conviction to imprisonment for not less than two or more than five years. Legal persons are liable to a fine of ₦ 10 mln (USD 27.78 thsd) - ₦ 50 mln (USD 138.89 thsd) prosecution of principal officers/winding up and prohibition of constitution or incorporation (§11 MLPA).

Under specific sector Regulations, non-compliance with requirements also results in the issuance of a warning, suspension, cancellation of registration, withdrawal of a licence, monetary penalties, barring of individuals, sealing of companies, cancellation of transactions, disqualification as unfit, blacklisting of individuals or recommendations for the indictment of professional bodies (reg. 28 NAICOMR, Regs 93&94, SECR)

Criterion 35.2 Directors, senior management and staff of FIs and DNFBPs are liable to imprisonment for not less than 3 years or a fine of ₦ 10 mln (USD 28.05 thsd) in the case of an individual. A body corporate is liable to a fine of ₦ 25 mln (USD 70.1 thsd). The monetary penalties do not appear to be proportionate and dissuasive.

Weighting and Conclusion

Nigeria has a wide range of criminal, civil and administrative sanctions for non-compliance with AML/CFT requirements. However, some fines are not proportionate and dissuasive. Also, Nigeria lacks an adequate range of sanctions for non-compliance with the requirements of R.8. **R. 35 is rated LC.**

Recommendation 36 – International instruments

Nigeria was rated PC and NC on the former R.35 and SR. I, respectively. At the time, Nigeria did not fully implement the FT Convention and did not have a TF legislation. Section 15 of the EFCCEA which sought to criminalise TF in Nigeria was not comprehensive and did not meet the requirements of the 1999 FT Convention and FATF SR.I.

Nigeria has since strengthened its AML/CFT legal framework with the enactment of a TF Act and Regulations, the NFIU Act, 2018 and reviewed the MLPA to facilitate the effective implementation of international instruments on AML/CFT.

Criterion 36.1 Nigeria has signed and ratified/acceded to the Vienna Convention (March 1989 and November 1989, respectively), the Palermo Convention (December 2000 and June 2001, respectively), the TF Convention (January 2000 and March 2001), and the Merida Convention (December 2003 and December 2004). The relevant Articles of these and other relevant instruments are, to a large extent, reflected in the provisions of the laws setting up the EFCC, ICPC, NFIU and the Central Authority Unit of the Federal Ministry of Justice reflect these provisions as evidenced by Table 0.2 below:

Table 8.2- International Instruments and Implementation Legislation

Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, 1988	1/3/89	1/1/89	NDLEAA; EFCCEA & MLPA.
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United Nations Convention against Transnational Organised Crime	13/12/2000	28/06/2001	NDLEAA; EFCCEA, MLPA &NFIUA
United Nations Convention against Corruption, 2003, (UNCAC or Merida Convention)	9/12/2003	14/12/ 2004	CPROA
Supplementary Protocol -Trafficking in Persons	13/12/2000	28/06/2001	NAPTIPA
Supplementary Protocol - Smuggling of Migrants	13/12/2000	27/09/2001	Immigration Act, 2015.
Supplementary Protocol - Firearms	13/11/ 2001	3/06/2006	
TF Convention	1/0/ 2000	16/03/2003	TPA, TPAR
1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft	29/6/1965	07/04/1970	Section 19(g) TPA
1970 Convention for the Suppression of Unlawful Seizure of Aircraft		03/07/1973 (a)	Section 19(g) TPA
1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation		3/07/1973	Section 19(g) TPA
1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation		25/03/2003	Section 19(g) TPA
2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation	10/9/2010		Section 19(g) TPA
2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft	10/9/2010		Section 19(g) TPA
2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft	..	22/11/2019	Section 19(g) TPA
1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents	..	25/09/2012 (a)	Section 19(g) TPA
1979 International Convention against the Taking of Hostages	..	24/09/2013 (a)	Section 19(g) TPA
1980 Convention on the Physical Protection of Nuclear Material	..	04/04/2007 (a)	Section 19(g) TPA
2005 Amendments to the Convention on the Physical Protection of Nuclear Material	..	04/05/2007	Section 19(g) TPA
1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	..	24/02/2004	Section 19(g) TPA
2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	..	18/06/2015 a	Section 19(g) TPA
1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf	..	18/06/2015	Section 19(g) TPA
2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf	..		Section 19(g) TPA
1991 Convention on the Marking of Plastic Explosives for Detection	..	10/05/2002	Section 19(g) TPA
1997 International Convention for the Suppression of Terrorist Bombings	..	2/09/2013 a	Section 19(g) TPA
2005 International Convention for the Suppression of Acts of Nuclear Terrorism	..	25/09/2012 a	Section 19(g) TPA
ECOWAS			
Protocol A/P3/12/01 on the Fight against Corruption	21/12/2001	23/08/02	
Convention A/P1/7/92 on Mutual Assistance in Criminal Matters	29/07/1992	01/07/94	
Convention A/P1/8/94 on Extradition	06/08/1994	23/08/02	

Source: Assessor-generated

Criterion 36.2 Nigeria has incorporated most of the requirements of the Vienna, Merida, Palermo and TF Conventions, as well as the three (3) protocols supplementing the Palermo Convention, into its domestic legislation. It is however not clear which statute encompasses the extradition of a Nigerian national engaged in terrorism and its financing as well as conditional extradition with or without a treaty. Nigeria has not criminalised terrorist acts related to the aviation and maritime sectors, protected persons and nuclear materials referred to in the relevant Conventions and Protocols annexed to the TF Convention. Some crimes are formulated too generally in the Criminal Code, which might present difficulties in the prosecution process.

Nigeria seeks to rely on section 19(3) of the TPA (which refers to offences in the treaties) as the legal basis for terrorism and TF offences. The country did not refer to any legislation specific to the treaties. Also, the country has not ratified the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation; the 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft; 2005 Protocol to the Protocol for the Suppression of Unlawful Acts

against the Safety of Fixed Platforms located on the Continental Shelf.

Weighting and Conclusion

Nigeria is a party to and has, to a limited extent, implemented the provisions most of the relevant international instruments. However, the country is yet to address those deficiencies highlighted in this assessment above. **R.36 is rated LC.**

Recommendation 37 - Mutual legal assistance

The first MER rated Nigeria PC the old R.36 and NC under the old Special Recommendation V due to the absence of comprehensive legislation, guidance or policy on MLA and TF to permit effective international cooperation for TF cases. The country lacked statistics on MLA requests to attest to the effectiveness of the international cooperation mechanisms available in the country. Nigeria has enacted the MLACMA to address the technical deficiencies identified. The MLACMA, which entered into force on 20th June, 2019, repeals the Mutual Legal Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Act, Cap M24, LFN, 2004 and saves actions taken under the previous Act (§86(1) and (2), MLACMA), including arrangements or agreements in existence under the 2004 Act.

Criterion 37.1 Nigeria has a legal basis to provide the widest range of MLA including evidence and statements; arrangements for persons to give evidence to assist in criminal investigations; location and identification of witnesses and suspects; provision and production of relevant documents, records, items and other materials; facilitation of voluntary attendance of persons in the requesting State; effecting a temporary transfer of persons in custody to assist in an investigation or appear as a witness; identification, tracing, freezing, restraining, recovery, forfeiture and confiscation of proceeds, property and other instrumentalities of crime; return, and disposal of property; and obtaining and preserving computer data; the execution of requests for search and seizure (§§ 2(3), 21, 27, 35, 39, 43, 44, 47-60, MLACMA).

The MLACMA applies to all criminal matters, including TF, under an agreement or other arrangements between Nigeria and “a foreign State”, as well as between Nigeria and the International Criminal Police Organisation (INTERPOL) or any other international organisation (§2(1) MLACMA). “Foreign State” is broadly defined to include each Commonwealth member State that is a party to an agreement with Nigeria and a State and foreign organisation designated by the President. Nigeria may also assist a non-designated foreign State. Nigeria has 9 MLA agreements related to ML and predicate offences. The Agreements do not cover the broad spectrum of all Nigeria’s neighbours and foreign counterparts. However, there are no limitations introduced in any of these arrangements. Considering its risk and context, this number of agreements is very negligible.

There is no explicit requirement to provide MLA rapidly. The authorities may transmit requests by electronic or another means/facsimile or any other electronic device or means (§§ 6(3) (c) MLACMA and 21(2) TPA). Also, section 6(2) (c) (vii) of the MLACMA requires a requesting State to specify the details of the period within which the requesting State requires the request to be met. The AGF is required to forward the outcome of the execution of the request to the requesting State, without delay, authorise the transmission of any evidentiary material to that State (§17(4) MLACMA), and inform a requesting country of the reasons for any delay in the execution of a request for MLA (§18(1) (ii), TPA). The MLACMA does not define the term “without delay”. The absence of clear timelines for the requested authorities to execute the request could impede the timeliness of some of the provision of MLA. Additionally, C.3.1 clearly shows that there is incomplete criminalization of ML. Given that the Act provides for MLA only on offences known to Nigeria’s law this could be an issue when responding to MLA requests.

Criterion 37.2 The AGF is the Central Authority for Nigeria. The Central Authority Unit (CAU) at the FMoJ is responsible for the transmission and execution of MLA requests. There are no clear processes to prioritise and execute requests for MLA on time. In the absence of legislation, clear SOP or administrative procedures, assessors considered the processing of MLA requests as ad hoc. Despite section 12 of the MLACMA, there is no evidence to confirm the existence of a case management system. If it exists, it is difficult to confirm how it is maintained or how the authorities prioritise requests.

Criterion 37.3 Nigeria does not prohibit or subject MLA to unreasonable or unduly restrictive conditions. The grounds for denying a request may depend on the assistance sought, and may include: non-compliance with the terms of any treaty or other agreement between Nigeria and the foreign State; an offence of a political character; double jeopardy; military offences; offence based on race, sex, religion, ethnic origin, nationality or political opinion; public interest; an act or omission that does not constitute an offence under the laws of Nigeria; non-serious offences; insufficient importance or existence of alternative means to obtain the object of the request; the lack of undertaking to return objects obtained to the AG; prejudice to a criminal matter in Nigeria or contrary to the laws of Nigeria(§ 19, MLACMA).

Criterion 37.4

Criterion 37.4(a) Section 21(d) and (e) of the TPA requires the requesting State to provide particulars sufficient to identify and to obtain information, documents or materials from a bank, financial institution, cash dealer or other persons, which may assist the investigation or prosecution. Therefore, Nigeria does not refuse a request for MLA solely on the grounds that the offence is considered to involve fiscal matters (§§ 22, MLACMA, 21(d) and (e), TPA; and 11, FOIA).

Criterion 37.4(b) A person who complies with a search warrant shall not be treated as being in breach of any restriction on the disclosure of any information or thing imposed by law, contract or rules of professional conduct §42(2), MLACMA). In this regard, Nigeria will not refuse a request for MLA on the grounds of confidentiality requirements on FIs or DNFBPs. The MLACMA silent on situations where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies.

Criterion 37.5 Section 9 of the MLACMA imposes a legal requirement for relevant authorities to maintain the confidentiality of mutual legal assistance requests that they receive, and the information contained in them, subject to fundamental principles of domestic law, to protect the integrity of the investigation **or inquiry**.

Criterion 37.6 Dual criminality is a condition for rendering MLA, including where the MLA requests do not involve coercive actions (§2(2)(a) and 19(1)(g), MLACMA).

Criterion 37.7- Nigeria will not provide MLA if the facts constituting the offence to which the MLA relates do not indicate a serious offence (§19(h) MLACMA). In addition, there is no legal provision for the Nigerian authorities to deem the dual criminality requirement as satisfied regardless of whether Nigeria and the requesting country place the offence within the same category of offence or denote the offence by the same terminology if both countries criminalise the conduct underlying the offence.

Criterion 37.8 (a) The AG is empowered to apply to a judge in chambers in the presence of counsel of any suspect for an order in writing to search and enter premises, or search a specified person, or remove any relevant document or material (§18, TPA).

The AG can also apply for an order to attach, track or freeze property. Upon the receipt of a request for MLA, the CAU reviews and evaluates such requests transmits the same to the relevant competent authority to respond. The CAU reviews the response from the competent authority in response to the

request before transmitting the same back to the requesting State.

Criterion 37.8 (b) The competent authorities, including LEAs, rely on powers and investigative techniques available in domestic laws to execute requests for MLA.

Weighting and Conclusion

There are no provisions for the prioritisation of MLA requests. Dual criminality is a prerequisite for providing MLA even where they do not involve coercive action. **R. 37 is rated LC.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

The first MER rated Nigeria PC and NC on the former R.38 and SR. V, respectively. Concerning R.38, the MER identified the following deficiencies: a) lack of legislation on freezing, seizure and confiscation related to requests for international cooperation; b) limited power regarding international cooperation on TF because the country did not have legislation or guideline related to MLA on freezing and confiscation on TF; c) absence of clear on time limits for the execution of MLA and extradition requests to freeze assets; d) absence of a comprehensive legal requirement to share assets which are proceeds of joint confiscation actions and e) lack of provision to permit the establishment of asset recovery funds. As regards SR. V, Nigeria lacked comprehensive legislation and guidance on TF-related requests for international cooperation and could not provide MLA as required by SR.V.

Nigeria enacted the Mutual Assistance in Criminal Matters Act, 2018 (MLACMA), which entered into force on 20 May, 2019. The MLACMA applies to mutual legal assistance (MLA) in respect of criminal matters under an agreement or other arrangements between Nigeria and a foreign State (§2(1)). The MLACMA broadly defines foreign State to include each Commonwealth member State and a State that has an agreement with the country (§1(g), 2(1) and 87). The President is empowered to, by order published in the Gazette, designate a State to be a foreign State if there is an existing arrangement between the two countries for MLA, subject to restrictions (§3(1) MLACMA).

Criteria 38.1(a-d) Nigeria has the authority to act in response to requests by foreign countries to identify, freeze, seize, and confiscate: (a) property laundered property from, (b) proceeds from, (c) instrumentalities used in, or (d) instrumentalities intended for use in, ML, predicate offences of TF (§§58 (1) and 87(1) MLACMA). They exercise these powers through Court orders for search and seizure, production, freezing and enforcement of confiscation or other alternative measures as follows:

Tracing and Identification: A production order may be issued to obtain a “thing” (material, items, objects, matters, substances, entities, mechanisms, devices or machines as defined in §87 MLACMA) in possession of a financial institution. The FI is required to produce the thing to an authorised officer to take away or give the authorised officer access to the thing within 7 days or other period specified by the Court based on stated conditions. LEAs may conduct the process in the presence or absence of the person to whom the proceedings relate in the requesting country (§27(1-4) MLACMA). The scope of application of section 27 is limited to FIs. DNFBPs, other entities and persons (for example, lawyers, accountants, company registry, land registry, among others) may have custody of material or other information that may be vital to the investigation. Therefore, their exclusion may impact the use of production orders to trace the proceeds of crime.

Authorities can **search** premises, including the whole or part of a structure, building, aircraft or vessel (§87). They must obtain a warrant from the High Court on application by the AGF, when the AGF is satisfied by evidence on oath giving particulars of the offence and possible location of things not protected by legal privilege, contrary to the public interest.

Restraint/freezing, seizure, forfeiture and confiscation: The authorities can also enforce restraint and confiscation orders made in a foreign jurisdiction on registration of the order for the property (§§59(1) and (2) MLACMA). The order must be final and not subject to review or appeal, be in force in the requesting State or the person against whom it was made has been convicted of a serious offence in the requesting. Where a court in Nigeria is unable to enforce a foreign confiscation order, it may, on request by a foreign State, make alternative orders available under the laws of Nigeria (§60 MLACMA). Section 65 of the MLPA applies the provisions of any enactment relating to ML, terrorist acts and proceeds of other related crimes to a restraint or confiscation order registered under section 59(2) of the MLACMA.

Requesting State needs to provide detailed information regarding the type, estimated value, location, the link between the property and the relevant offence, a certified copy of the confiscation or other court order, third party interests, certificate in respect of the property (§58(2)). The CAU of a foreign State must certify that there are reasonable grounds to believe that the whole or part of the property is in Nigeria and that criminal proceedings and investigations are underway in the foreign State concerning the property, proceeds or instrumentalities (§58(3) MLACMA).

Criterion 38.1 (e) As regards MLA concerning property of corresponding value, section 58(8)(c) of the MLACMA defines “an order in relation to the proceeds of crime” to include an order to impose a pecuniary penalty calculated by reference to the value of the property derived or obtained directly or indirectly from, used in, or in connection with, the commission of a serious offence. In addition, section 87 of the MLACMA defines forfeiture or confiscation order to include “a sum of money that represents the benefits of a convicted person”.

Nigeria may recognise the decision of a foreign court if Nigeria has an agreement or other arrangements with that country (§2(1), MLACMA). Nigeria has entered into one of such agreements.

Criterion 38.2 Section 87 of the MLACMA defines “a confiscation or forfeiture order” to mean “an order issued by a court to deprive a convicted person of the proceeds of unlawful activity, property that represents the proceeds of unlawful activity, an instrumentality of unlawful activity or a sum of money that represents his benefits from unlawful activity”. Therefore, it is not legally possible to enforce a foreign non-conviction-based confiscation order in Nigeria.

Criterion 38.3 Nigeria can coordinate the seizure and confiscation with other countries via the ARMU, LEA-to-LEA cooperation and by making MLA requests (see R.40). Section 66(1) of the MLACMA allows the AGF to enter into an administrative arrangement with a foreign State for the reciprocal sharing of confiscated property realised in the foreign State or Nigeria following the execution of a request on the direction of the AGF for the confiscation of property located in the foreign country or for the enforcement of a foreign restraint or confiscation order. Subject to the MLACMA, the laws of Nigeria apply to the disposal of property confiscated or obtained as a result of a fine and circumstance for the release of property which is the subject of restraint or confiscation order under the MLACMA (§67(1), MLACMA). As noted in R.4, Nigeria has mechanisms to manage and dispose of property frozen, seized or confiscated. These mechanisms or arrangements will apply to property of corresponding value, being money, under the MLACMA.

Criterion 38.4 The AGF can enter into administrative arrangements with the CAU of a foreign State foreign to share the whole or a part of the property realised in the foreign State based on the execution of a request directed at the property (§ 66 MLACMA).

Weighting and Conclusion

Most requirements are met with exception of not having legal measures in place for the enforcement of foreign non-conviction-based confiscation orders. **R.38 is rated LC.**

Recommendation 39 – Extradition

In its first MER, Nigeria was rated LC on the old R.39 because extradition did not apply to TF offences.

Criterion 39.1

Criterion 39.1(a) Nigeria engages in extradition based on a treaty (bilateral or multilateral) or other agreement, and publication of the treaty or arrangement in the Federal Gazette by an order made by the President of the Federation (§18 TPA and §1(1) Extradition Act). TF and related offences are extraditable under the Extradition Act (section 22 TPA). ML, however, is not explicitly designated as an extraditable offence. That notwithstanding, section 20(2) of the Extradition Act, 1966, No. 87, Commencement - L.N. 28 of 1967 (the Extradition Act) provides that "...a returnable offence however described, is punishable by imprisonment for two years or a greater penalty both in Nigeria as well as the Commonwealth country seeking his surrender". A natural person who commits an ML offence is liable on conviction to a term of imprisonment of not less than 7 years or not more than 14 years (§15(3) MLPA). In contrast, ML offences under section 17 of the EFCCEA attract imprisonment of not less than three years or to a fine equivalent to one hundred per cent (100%) of the value of the proceeds of crime or both fine and imprisonment.

Because an ML offence under these two pieces of legislation carry sanctions beyond two years qualifies ML as an extraditable offence. However, the deficiencies identified in the criminalisation of ML can limit the extradition of individuals where the underlying conduct is not covered by the Nigerian law. There is no proven requirement to execute requests without undue delay, except that a fugitive criminal arrested on a warrant is to be brought before a judge as soon as it is practicable (§7(3) Extradition Act). The authorities must release the after thirty days, beginning from the day of the arrest of the fugitive, if the AGF does not issue the order to the judge to commence the extradition proceedings. Surrender of a fugitive takes place fifteen days after committal to prison on the order of a judge (§3(h) of the Extradition Act). In the case of TF, the AG must inform a requesting State of any reasons for delaying the execution of an extradition request (§18(1) (ii) TPA). As indicated under IO.2, Nigeria does not execute extradition requests without delay.

Criterion 39.1(b) Nigeria did not provide evidence of its case management system and processes for timely execution of extradition requests, including prioritisation where appropriate. Requests for extradition of a fugitive, whether accused or convicted, is to be made in writing to the AG by a diplomatic representative or consular officer of the requesting country, and accompanied by a duly authenticated arrest warrant or certificate of conviction (§6(a) Extradition Act).

Criterion 39.1(c) Nigerian authorities do not place unduly restrictive conditions on the execution of the request.

Criterion 39.2(a) Nigeria extradites its nationals where there is an extradition agreement between Nigeria and the requesting State (§6(c) Extradition Act). Where a country is not a member of the Commonwealth, the existence of a bilateral or multilateral agreements or treaties may require Nigeria to yield to a request for extradition. Under the 1994 Economic Community of West Africa Convention on Extradition, Nigeria can request and make extraditions to other countries within the subregion subject of course to safeguards mentioned in the Convention. Where a subject is standing trial for the same offence in Nigeria for which a state has requested for extradition, Nigeria may refuse the request. Additional where a person is serving a sentence, the person may not be extradited. The Convention makes it clear that the extradition of a Nigerian national is a matter of discretion.

Criterion 39.2(b) Nigeria may refuse to extradite a fugitive criminal who is a citizen of Nigeria where proceedings are pending before a court for the same offence. Nigeria does not surrender a charged fugitive criminal until the court discharges the fugitive. Additionally, where the fugitive is convicted at

the time of the extradition request, Nigeria does not surrender the fugitive until the expiration or termination of the sentence (§2, Extradition Act).

Nigeria may not refuse to extradite on the sole ground that an offence attracts capital punishment. However, Nigeria will not surrender a fugitive if after having regard to all the circumstances under which the fugitive committed the offence. The Attorney-General or a court dealing with the case must be satisfied that, due to the trivial nature of the offence or the passage of time since the commission of the offence, it may appear unjust or oppressive, or be too severe a punishment, to surrender the fugitive. Where there is evidence that the requesting state may cause the fugitive to undergo torture, Nigeria may refuse to surrender the fugitive. Nigeria does not execute extradition requests for offences under military law alone.

There is no legal provision indicating that Nigeria will, at the request of the seeking country, submit the case without undue delay to the competent authorities for prosecution of the offences specified in the request.

Criterion 39.3 Dual criminality is required for extradition. Section 20(2) of the Extradition Act defines “a returnable offence” to mean an offence however described, which is punishable by imprisonment for two or more years both in Nigeria as well as the Commonwealth country seeking the surrender of the fugitive. The designation of the offence is not an issue so long as both countries criminalise the offence. However, Section 20(2), together with section 11 the Extradition Act (on the postponement of the surrender of fugitives¹³⁰⁾ of the Extradition Act, limit the application of the extradition Act to Commonwealth countries whilst section 15 (7) of the MLPA generally covers foreign predicate offences notwithstanding that the various acts constituting the offence were committed in different countries or places. However, the Methodology requires underlying predicates than what constitutes the offence of ML.

Criterion 39.4 A judge may issue a provisional warrant of arrest in respect of a person suspected to be on his way to or is in Nigeria. Before issuing the provisional warrant, the judge must ensure that the alleged offence is extraditable and sufficient information exists to justify a warrant of arrest. The Judge may adjourn the proceedings pending the receipt of the extradition application of the Attorney. On the arrest of the fugitive, the arresting officer must produce the fugitive before the court within 48 hours or a longer period as the court may deem reasonable. The warrant is executable anywhere in Nigeria (§8(b) and (c) Extradition Act). The extradition procedure in Nigeria cannot be said to be simplified, except in the few situations where fugitives do not challenge their arrests. The regular extradition mechanism can be complicated and prolonged, appeals against the process, especially in the absence of clear, simplified procedures for persons who waive formal extradition proceedings.

Weighting and Conclusion

Notwithstanding those deficiencies of timeliness, ML not explicitly designated as extraditable, and the lack of evidence of the country’s case management system and processes for timely execution of extradition requests and element of underlying predicates in the provision in the MLPA, Nigeria has significantly addressed the requirements of this Recommendation. **R.39 is rated LC.**

¹³⁰ Provides for temporary return of a prisoner to another country within the Commonwealth.

Recommendation 40 – Other forms of international cooperation

In its first MER, Nigeria was rated LC under the old R.40 the limited statistics and information on the types of international cooperation granted. Nigeria has enacted the NFIU Establishment Act, 2018 to set the standard for other forms of international cooperation between competent authorities of Nigeria and their foreign counterparts. Nigeria has also amended the ML (Prohibition) Act, 2011 in 2012 and enacted the Terrorism Prevention Act, 2011, as well as the Terrorism Prevention (Amendment) Act, 2013.

Criterion 40.1 Under section(1)(i) of the NFIUA empowers the NFIU to exchange information with financial intelligence units, law enforcement agencies, anti-corruption agencies and competent authorities in other countries regarding ML, associated predicate offences and TF. Section 3(1) (i) of the NFIUA does not indicate whether such exchanges should be spontaneous or upon request. However, section 4(1) (b) of the NFIUA mandates the NFIU to share the results of its analyses of STRs and other information with FIUs in other countries. The NFIU can share information with or without MoU, both spontaneously and on request.

Section 23 of the TPA empowers the AG or the IGP to share information in possession of the AG, IGP or any government department or agency on the actions or movements, use of falsified travel documents by such persons, traffic in explosives or other lethal devices or sensitive materials by individual terrorists or terrorist groups suspected of being involved in terrorist acts. The authorities are required to share information with the appropriate authority of a foreign state. The sharing of information requires the approval of the President of Nigeria. The NPF uses the Interpol channels for international cooperation bothering on ML, TF and associated predicate offences.

The EFCC collaborates with government bodies Nigeria carrying out similar functions as those of the EFCC both within and outside Nigeria of the EFCCEA, and dealing with matters connected to any other assistance between Nigeria and other countries (§§6(j) 6(k), EFCCEA). The collaboration includes the identification, determination of the whereabouts and activities of suspected persons involved in the commission of the specified offences and movement of proceeds or properties derived from the commission of financial and economic and other related crimes, section 6(j)(i)-(vi)).

The CPROA applies to citizens or persons granted permanent residence in Nigeria, whether the offence occurs within or outside Nigeria (§ 66 CPROA). However, there is no legal provision allowing for the ICPC to share or exchange information on corruption, bribery or other offences specified in the Act, whether spontaneous or on request, with other like entities or LEAs in other countries regarding its nationals or individuals.

The NDLEA is empowered to facilitate the rapid exchange of information concerning offences and improving international cooperation in the suppression of illicit traffic in narcotic drugs and psychotropic substance by road, sea and air; reinforcing and supplementing the measures provided by the international community to counter the magnitude and extent of illicit traffic in narcotic drugs and psychotropic substances and its grave consequences. The NDLEA is also mandated to strengthen and enhance effective legal means for international cooperation in criminal matters for suppressing the international activities of illicit traffic in narcotic drugs and psychotropic substances in collaboration with organisations in and outside of Nigeria (§3(l) (l) and (o)).

The FIRS and NCS have powers under their establishment Acts to share information with international partners. Section 8(1) (e) to collaborate with the relevant law enforcement agencies in Nigeria to carry out the examination and investigation to enforce compliance with the establishment Act. Under subsection (1) (i), the Service empowered to collaborate and facilitate the rapid exchange of information with relevant national or international agencies or bodies on tax matters. CEMA also has similar provisions.

Criterion 40.2

Criterion 40.2(a) Section 3(1) (i) and 4(a) and (b) of the NFIUA permit the NFIU to collaborate with FIUs, LEAs and anti-corruption agencies and others regarding ML, predicate offences, TF and PF) through memoranda of understanding and other arrangements.

Section 6(1) (j) of the EFCCEA mandates the EFCC to collaborate with government bodies outside Nigeria concerning the identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes and the movement of proceeds or properties derived from the commission of economic and financial and other related crimes), section 3(1) (l) of the NDLEAA.¹³¹

The CBN can enter into agreements or arrangements with other regulatory authorities that exercise similar responsibilities in other countries to promote mutual co-operation and exchange information. The purpose is to enhance the supervision and Reg. of FIs reciprocally and confidentially (§35(6) CBNEA).

The SEC can relate effectively with foreign regulators and supervisors of other FIs, including entering into co-operative agreement on matters of common interest (§13(y), Investments and Securities Act, 2007).

Criterion 40.2(b) Nothing prevents the competent authorities from using the most efficient means to co-operate. The relevant authorities can co-operate directly with their counterparts.

Competent authorities have clear and secure gateways, mechanisms or channels to facilitate, transmit and execute requests for assistance. Co-operation mainly occurs through mechanisms established by Egmont, Interpol. The Police use Interpol (the National Central Bureau) mechanisms and police liaison officers. The NFIU uses the Egmont Secure Web and FIU.net; the supervisory authorities use designated electronic mailboxes and Customs uses the World Customs Organisation (WCO) Regional Intelligence Liaison Office (RILO) platform and Interpol.

Criterion 40.2(c) Competent authorities have clear and secure gateways, mechanisms or channels to facilitate, transmit and execute requests for assistance. Co-operation mainly occurs through mechanisms established by the Egmont, Interpol. The authorities use the mechanisms listed in 40.2(b) above.

Criterion 40.2(d) There is no information evidencing the process for prioritisation and timely execution of requests.

Criterion 40.2(e) Some of the Nigerian authorities have developed and operationalised specific SOPs. The SOPs highlight processes, procedures undertaken, information handling, prioritisation and execution as the circumstances of each case may determine from time to time. SOPs sampled were, however, overly generalised and not detailed.

Section 3 of the EFCCEA provides for rapid exchange of information domestically and internationally. Nigeria indicated having clear processes for safeguarding the information received without providing any corroborating information.

¹³¹ (/) establishing, maintaining and securing communication to facilitate the rapid exchange of information concerning offences and improving international co-operation in the suppression of illicit traffic in narcotic drugs and psychotropic substance by road, sea and air.

Criterion 40.3- Competent authorities are required to enter into agreements or arrangements to cooperate with foreign counterparts (§33(6) of the Central Bank of Nigeria Act, 2007¹³², Section 4(1) (a) of the NFIUA). For instance, the FIU has the power to enter into such arrangements with foreign FIUs and other foreign competent authorities, enabling the NFIU to cooperate with the broadest range of foreign counterparts, while the CBN cooperate with foreign financial counterparts other than those of banks. However, no legal provision or information is evidencing that such agreements or arrangements should be or are negotiated and signed promptly. Assessors were also not oblivious of the fact that the country could demonstrate effectiveness through practice and not only legislation.¹³³

Criterion 40.4 - There is no legal/MoU requirement for requesting competent authorities to provide feedback to competent authorities from which they have received assistance, on the use and usefulness of the information obtained.

Criterion 40.5

Criterion 40.5 (a) There is no legal provision prohibiting or restricting competent authorities from exchanging information involving fiscal matters or specifying fiscal matters as a ground for refusing to do so. However, the CBN only relies on assurances of the confidential treatment of the information given or received (§33(6), CBNEA).

Criterion 40.5 (b) FIs and DNFBPs are prohibited from invoking secrecy or confidentiality rules regarding the provision of information relating to AML/CFT, except where the information is subject to legal professional privilege or legal professional secrecy. However, there is no specific legal provision prohibiting competent authorities from providing information because laws require FIs or DNFBPs to maintain secrecy or confidentiality.

Criterion 40.5(c) There is no specific legal provision prohibiting or restricting competent authorities from exchanging information or providing assistance during an investigation or proceeding underway in Nigeria, whether the assistance would impede that inquiry, investigation or proceeding or otherwise. However, it is possible to construe the powers of the EFCC to collaborate with similar government bodies outside Nigeria to determine (i) the whereabouts and activities of persons suspected to be involved in economic and financial crime, (ii) movement of proceeds of crime, and (iii) establish and maintain a system for monitoring international economic and financial crimes to identify suspicious transactions and persons involved (§6(j)(i) EFCCEA) to mean that the EFCC can exchange information when there is an inquiry, investigation or proceeding in Nigeria. The ICPC has powers under section 66(3) of the CPROA to cooperate with INTERPOL and similar bodies to trace property or detect cross-border crimes.

Criterion 40.5 (d) There is no legal provision specifying the type(s) or status of the requesting counterpart that the NFIU. The CBN is mandated to collaborate with financial regulatory authorities

¹³² S.33(6) of the CBN Act: The Bank may, in the exercise of its powers and on the basis of reciprocity, enter into agreement or arrangements with other regulatory authorities in Nigeria or in other countries exercising similar responsibilities for

(a) the promotion of mutual co-operation; and
 (b) the exchange of information for purposes of enhancing the supervision and regulation of FIs;
 provided that the exchange of such information shall be conditional upon assurances of confidential treatment of the information so given or received.

¹³³ CBN has signed MoUs with (COBAC; BCEAO; BEAC; Congo; Venezuela; etc.); SEC signed MoUs with Kenya, Mauritius and signed IOSCO MoU; NAICOM signed MoUs with WAISA, Rwanda, Uganda, Liberia, Ghana, Sierra Leone, The Gambia.

exercising similar functions. The EFCC, NDLEA, FIRS, NPF and ICPC can exchange information with foreign counterparts regardless of their nature and status. The NFIU can exchange information with any requesting counterpart authority regardless of the nature of that authority. It may be civil, administrative or law enforcement.

Criterion 40.6 - Section 4 (5) of the NFIUA, complemented by NFIU Confidentiality and Data Protection Policy 2019 provides for the confidentiality of intelligence subject information must be safeguarded, particularly where this information is shared between the NFIU and its partner organisations; a number of several MoUs including paragraphs 14-19 of the MoU between NAICOM and Insurance Regulatory Authority of Uganda, paragraphs 14-19 of NAICOM and the National Insurance Commission Ghana.¹³⁴ Nigeria also seeks to rely on the fact that the NFIU exchanges information based on the Egmont Principles of Information Exchange. Principle 28 requires that information received, processed, held or disseminated by requesting FIUs must be securely protected, exchanged and used only based on agreed procedures, policies and applicable Laws and Regulations. In this regard, Nigeria cannot substitute fundamental principles of national law with best practices where security and exchange of information are concerned. Best practices focus on guides as to details, while laws deal with substantive issues. Best practices are, therefore, additions and not derogatory to national laws, and used in cases of inadequacies, ambiguities and inconsistencies in the application of legislation. Therefore, despite its membership of the Egmont Group, the NFIU needs to be empowered by procedures, policies and applicable laws and regulations regarding the use of information exchanged by competent authorities.

Criterion 40.7 - Competent authorities are required to maintain and protect the confidentiality of information exchanged, consistent with the relevant applicable legal provisions and the terms of MOUs and agreements entered into (§3 NFIUA).

Criterion 40.8 - Competent authorities such as the EFCC under section 6(j) can conduct enquiries on behalf of foreign counterparts and exchange with their foreign counterparts all information that would be obtained by them if such enquiries were being carried out domestically.

Exchange of Information between FIUs

Criterion 40.9 - The NFIU is empowered to disseminate information and the results of its analysis on ML, associated predicate offences and TF, spontaneously and upon request, to FIUs, with or without an MOU (§4(1) (d) NFIUA).

Criterion 40.10 - Section 3 (q) of the NFIUA 2018 provides for feedback, general or specific, on the value of information reported by reporting institutions, regulatory authorities, law enforcement and security agencies and any other competent authority. It is not clear this provision extends to foreign counterparts.

Criterion 40.11(a) - The NFIU can access and obtain all information on ML, associated predicate offences, and TF. The information includes STRs, CTRs, wire transfers and other related information which the NFIU is enabled by law to maintain (§3(1)(b) NFIUA). It can exchange relevant information and intelligence with other FIUs (§3(i) and (k) NFIUA).

Criterion 40.11 (b) - The NFIU can share information obtained from LEAs, securities agencies, anti-corruption agencies and other competent authorities and can share this information, with or without an

¹³⁴ The provisions referenced 3(1)(m) and 4(5) of the NFIUA relate to security of information and not use.

MOU (§§1(e), 3(i), (j), (k) and 4 NFIUA).

Criterion 40.12 - The CBN is mandated to exchange information with other regulatory authorities in other countries exercising similar responsibilities to enhance supervision and regulation of FIs (§33(6) CBNEA). The information may include supervisory information related to or relevant for AML/CFT purposes. However, it is unclear whether the CBN can do so regardless of their nature and status.

The NFIU is an AML/CFT supervisor for reporting entities, including FIs, and is empowered to exchange information with competent authorities regarding ML/TF (§3(i) NFIUA). Section 31 NFIUA defines “competent authority” to mean “any Unit or institution concerned with combating ML/TF under the NFIUA or any other law or regulation”.

The MLPA, TPA and the laws of SEC and NAICOM do not confer powers on SEC and NAICOM to exchange supervisory information related to or relevant for AML/CFT purposes.

Criterion 40.13 - The CBN can exchange with its foreign counterparts, information that is domestically available to it that can enhance regulation and supervision of FIs. The information shared may be proportionate to the needs of the CBN. However, there is no specific provision mandating the CBN to share information held by FIs. The SEC and NAICOM Acts do not contain provisions relating to the sharing of information held by CMOs and insurance companies.

Criterion 40.14

Criterion 40.14(a) The CBN can share regulatory and other information held on the domestic regulatory system and general information on the sector under its supervision when relevant for AML/CFT purposes (§ (6) CBNEA). The CBN can share information with other supervisors that have shared responsibilities for FIs operating in the same group. There are no corresponding provisions in the SEC and NAICOM laws.

Criterion 40.14 (b) There are no provisions in sectoral legislation regarding whether core principles supervisors can share information on business activities, beneficial ownership, management and fitness and propriety for FIs. However, competent authorities have signed MOUs with their foreign counterparts and can exchange such information.

Criterion 40.14 (c) Legal provisions are enabling financial supervisors to share AML/CFT information, such as internal AML/CFT procedures and policies of FIs, CDD information, customer files, samples of accounts and transaction information.

Criterion 40.15 - Sector AML and CFT legislation do not empower financial supervisors to conduct inquiries on behalf of foreign counterparts, and as appropriate, authorise or facilitate the ability of foreign counterparts to conduct inquiries in Nigeria, to facilitate effective group supervision.

Criterion 40.16- Unlike other financial supervisors, existing MoUs between NAICOM and other insurance regulators including NIC Ghana, NAIC, USA, National Bank of Rwanda require them to ensure that they have the prior authorisation of the requested supervisor to disseminate any information exchanged. The same applies to the use of information for supervisory and non-supervisory purposes and the obligation of the financial supervisor to disclose or report the information and to promptly inform the requested authority of an obligation to disclose or report the information.

Criterion 40.17 The EFCC and NDLEA can exchange domestically available information with their foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences, including the identification of the proceeds of crime (§6(1)(j)(i) and (ii) EFCCEA and (§3(1)(l) NDLEAA). Sections 22 of the EFCCEA and 29 of the NDLEAA are silent on instrumentalities of crime.

Criterion 40.18 INTERPOL is a unit embedded within the structure of the NPF. The local authorities can use their investigative and coercive powers to support activities or obtain information on behalf of their foreign counterparts.

Criterion 40.19 The EFCC is empowered to facilitate the conduct of joint operations towards the eradication of economic and financial crimes (§6(1) (g) EFCCEA) and collaborate with foreign competent authorities in respect of these offences (§6(1) (j) EFCCEA).

Criterion 40.20 - Section 3 of the NFIUA allows for exchange of information with FIUs, LEAs, anti-corruption agencies and competent authorities in other countries regarding ML, TF and proliferation of weapons of mass destruction, and associated predicate offences.

Weighting and Conclusion

The AT recognise Nigeria's outstanding effort to technically address a significant proportion of the requirements of this criterion, with reference to the number of MoUs between NAICOM and other foreign counterparts addressing the core issues of information sharing. The deficiencies noted, among others, including the financial supervisors not empowered to conduct enquiries on behalf of foreign counterparts, which has invariably impacted the overall rating of this criterion. **R 40 is rated LC.**

Summary of Technical Compliance – Key Deficiencies

Annex Table 1. Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> • Private and public institutions are not using the results of the NRA for resource allocation or prioritising AML/CFT activities, including updating AML/CFT Laws. • Exemptions and the application of simplified and EDD measures do not align with identified risks. • There is no requirement for CMOs, insurance companies and DNFBPs to monitor the implementation of controls and to enhance them if necessary, and have appropriate mechanisms to provide risk assessment reports to competent authorities and SRBs. • Requirements for internal programmes in capital market, insurance and DNFBP sectors focus on prevention and not management and mitigation. • There is no assessment of ML/TF risk of virtual asset activities and internet casinos.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • Nigeria has not reviewed AML/CFT policies based on identified risks. • Nigeria does not have a coordination mechanism in place to combat PF. • There is no legal requirement for relevant authorities to cooperate and coordinate to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions.
3. Money laundering offences	PC	<ul style="list-style-type: none"> • Conviction for ML requires proof of the predicate offence. • The scope of predicate offences resulting in proceeds is limited to Nigerian offences committed in Nigeria. • There is no requirement to infer the intentional element for ML from objective factual circumstances.
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> • Nigeria has fully met this Recommendation.
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> • Nigeria has not explicitly criminalised the financing of foreign terrorist fighters. • The TPA does not clearly define funds or other assets. • The requirement to infer the intent and knowledge of TF from objective factual circumstances does not apply to all TF offences. • The sanctions provided under the applicable statutes are not consistent and proportionate.
6. Targeted financial sanctions related to terrorism & TF	PC	<ul style="list-style-type: none"> • Nigeria lacks procedures or mechanisms for identifying targets for designation in relation to UNSCRs 1267 and 1373. • There is no legal provision on the evidentiary standard to be applied in deciding whether or not to designate a person or entity. • Nigeria is not implementing TFS for TF without delay. • The obligation to freeze does not extend to all natural and legal persons, as well as: <ul style="list-style-type: none"> - funds or other assets linked to a particular terrorist act, plot or threat; - funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; - funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; or - funds or other assets of persons and entities acting on behalf of or at the direction of designated persons or entities. • There are no clear mechanisms for communicating designations to REs immediately upon taking designation decision. • There is no requirement in law to report attempted transactions. • Procedures to de-list and unfreeze do not cover entities and other assets, nor provide guidelines to facilitate de-listing.
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> • Nigeria does not have measures and mechanisms in place to implement TFS on PF. • Nigeria is not implementing TFS related to PF without delay.

Recommendations	Rating	Factor(s) underlying the rating
8. Non-profit organisations	NC	<ul style="list-style-type: none"> • Nigeria has not identified the features and types of NPOs which may be at risk of TF abuse. • Nigeria has not identified at-risk NPOs, and the nature of threats posed by terrorist entities, as well as how terrorist actors abuse those NPOs. • Nigeria has not reviewed the adequacy of measures, including laws and regulations that relate to the high-risk subset of the NPO sector. • Nigeria has not adopted a risk-based approach or undertaken steps to promote effective supervision of at risk NPOs. • There is no legal requirement to apply sanctions to persons or entities acting on behalf of NPOs. • Outreach to NPOs is not conducted on a risk-basis.
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> • Nigeria has met all the requirements.
10. Customer due diligence	LC	<ul style="list-style-type: none"> • There is no requirement for FIs to identify and verify the identity and authority of a person purporting to act on behalf of a legal person. • CMOs and insurance companies are not required to identify the customer, beneficial owner or legal owner through the identity of a natural person who holds the position of senior managing official and verify the identity of other types of legal arrangements through the identity of persons in equivalent or similar positions. • No requirement for insurance companies to apply relevant CDD measures to other types of legal arrangements through the identity of persons in equivalent or similar positions. • There is no requirement for insurance companies to identify a beneficiary designated by other means.
11. Record keeping	PC	<ul style="list-style-type: none"> • There is no requirement for FIs to keep records of the results of any analysis undertaken. • There is no timeframe within which FIs should make records available to competent authorities. • The scope of competent authorities that can request for records kept by FIs is limited.
12. Politically exposed persons	PC	<ul style="list-style-type: none"> • There is no requirement for FIs to apply the relevant criteria in 12.1 and 12.2 to family members or close associates of PEPs • Insurance companies are not subject to specific requirements where beneficiaries or beneficial owners of life insurance policies are PEPs, including considering making a suspicious transaction report to the FIU.
13. Correspondent banking	C	<ul style="list-style-type: none"> • Nigeria has met all the requirements of R.13.
14. Money or value transfer services	C	<ul style="list-style-type: none"> • Nigeria has met all the requirements of R.14.
15. New technologies	PC	<ul style="list-style-type: none"> • Nigeria has not fully identified and assessed the ML/TF risks of new technologies. • There is no requirement for CMOs and insurance companies to comply with obligation related to new technologies. • There is no information regarding sectoral assessment of products and delivery channels.
16. Wire transfers	LC	<ul style="list-style-type: none"> • There are no requirements for: <ul style="list-style-type: none"> - FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, including the appropriate follow-up action; - intermediary FIs to take reasonable measures to identify cross-border wire transfers that lack the required originator information; - MVTs provider to file STR in any country affected by a suspicious wire transfer and make relevant transaction information available to the FIU; and - beneficiary FIs to verify the identity of a beneficiary of cross-border wire transfer, if the identity is not previously verified, and maintain this information under R.11. • Requirements for wire transfers do not cover insurance companies and CMOs.
17. Reliance on third parties	LC	<ul style="list-style-type: none"> • There is no requirement to determine the eligibility of the third party based on risk and relevant factors. • There is no requirement regarding the supervision of third-party and mitigation of risk group AML/CFT policies.

Recommendations	Rating	Factor(s) underlying the rating
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> • Most policies focus on ML to a larger extent and TF to a lesser extent. • The Regulations neither specify the functions, powers, and reporting lines of the compliance officer. • Insurance companies are not required to have screening procedures to ensure high standards when hiring employees. • CBN requires its supervised foreign branches and subsidiaries to report when prohibited from implementing AML/CFT measures. • There are no requirements for CMOs and insurance companies to ensure that their foreign branches and majority-owned subsidiaries implement consistent AML/CFT measures and take related actions.
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • There is no requirement to apply relevant measures consistent with R.19.
20. Reporting of suspicious transaction	PC	<ul style="list-style-type: none"> • Nigeria does not have explicit requirement for FIs to report suspicious transactions and attempted suspicious transactions related to ML.
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> • There is no protection for FIs against civil and criminal liability. • There is no protection available to FIs, their directors, officers and employees if they did not know what the underlying criminal activity was, and regardless of whether the illegal activity occurred. • Prohibition from disclosure only applies to tipping off a customer.
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> • AML/CFT requirements are not applicable to lawyers, including most TCSPs due to a court decision. • There is no requirement for DNFBPs to screen potential employees. • There is no requirement for group wide application of AML/CFT procedures. • There are no measures covering dealings with higher risk ML/TF jurisdictions.
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • The deficiencies noted concerning R. 18 to 21 and R. 22 apply to R. 23.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> • Nigeria has not assessed ML/TF risks associated with all types of legal persons created in the country. • Publicly available information on legal persons is limited. • There is no requirement for companies to update their registers of members with information received for holders of shares and beneficial owners of legal persons. • Nigeria lacks explicit measures for a natural person being the representative of a foreign company resident in Nigeria to be accountable to and assist competent authorities. • There are no measures regarding liquidators. • Measures for bearer shares, nominee shareholders and directors are limited. • There are no requirements for insurance companies to identify a beneficiary that is designated by other means • There are no measures to monitor the quality of assistance sought from other countries as part of international cooperation. • Sanctions for non-compliance with requirements are not persuasive and dissuasive.
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • There is over-dependence on FIs for BO information in respect of legal arrangements. Despite the significant representation of DNFBPs in the operations of legal arrangements. • There are no measures in place requiring trustees to obtain and hold adequate, accurate, and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over trusts. • There are no measures requiring trustees of any trust governed under the laws of Nigeria to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers or accountants, and tax advisors. • Reporting obligations are not commensurate with the risks they pose. • Sanctions for non-disclosure are not proportionate or dissuasive. • There are also no specific provisions requiring trustees to disclose their status as trustees of a foreign express trust or any trust to FIs and DNFBPs.
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> • There are no clear provisions designating supervisor or supervisors and assigning related responsibilities for regulating and supervising (or monitoring) FIs for compliance with the AML/CFT requirements.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • There is no express legal authority for financial regulators to inspect FIs for compliance with AML/CFT measures. • It is unclear whether the NDLEA, an anti-drug trafficking agency, is a supervisor for FIs. • The range of sanctions available to supervisors is not considered to be effective, proportionate and dissuasive.

Recommendations	Rating	Factor(s) underlying the rating
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> Risk-based AML/CFT supervision is not well established for the DNFBP sector. AML/CFT obligations are inoperative for lawyers in Nigeria. Internet casinos are not subject to AML/CFT obligations and not monitored for AML/CFT purposes as the definition of casino is focused on land-based casinos.
29. Financial intelligence units	C	<ul style="list-style-type: none"> Nigeria has fully met the requirements of this Recommendation.
30. Responsibilities of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> Nigeria has fully met the requirements of this Recommendation.
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> Nigeria has fully met the requirements of this criterion.
32. Cash couriers	PC	<ul style="list-style-type: none"> Nigeria is not implementing the declaration system for BNIs. Customs has no express mandate to request and obtain further information from a carrier regarding the origin and intended use currency
33. Statistics	PC	<ul style="list-style-type: none"> Nigeria does not maintain comprehensive statistics on ML/TF investigations, prosecution and conviction, values of property frozen; seized and confiscated; MLA or other international cooperation statistics for all of its supervisory agencies. Nigeria provided inconsistent and incomprehensible statistics on the same issues throughout the assessment process in some areas.
34. Guidance and feedback	PC	<ul style="list-style-type: none"> Nigeria has fully met this Recommendation.
35. Sanctions	LC	<ul style="list-style-type: none"> Certain fines are not proportionate and dissuasive. The range of sanctions for non-compliance with certain Recommendations is inadequate.
36. International instruments	LC	<ul style="list-style-type: none"> Nigeria has not criminalised the offences relating to the aviation and maritime sectors, protected persons and nuclear materials. Nigeria does not have a comprehensive mutual legal assistance legal framework to facilitate formal mutual legal assistance. There is no clear legal framework regarding the extradition of terrorists and those who finance terrorism.
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> There are no provisions for the prioritisation of MLA requests. Dual criminality is a prerequisite for providing MLA even where they do not involve coercive action.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> There are no legal measures in place for the enforcement of foreign non-conviction-based confiscation orders.
39. Extradition	LC	<ul style="list-style-type: none"> There is no case management system and clear processes for the timely execution of extradition requests. There is no appropriate prioritisation and procedures for simplified extradition.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> There are no clear processes and procedures to prioritise and execute requests promptly, as well as controls and safeguards to ensure the use of information exchanged by competent authorities. There are no measures in place to ascertain the use and usefulness of information obtained. SEC is not legally empowered to share supervisory information for AML/CFT purposes. Financial supervisors are not empowered to share information on internal AML/CFT procedures and policies of FIs, customer-related information, as well as facilitate or conduct enquiries on behalf of their foreign counterparts, or exchange information with non-counterparts.

Glossary of Acronyms

DEFINITION	
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ADB	African Development Bank
AFF	Advanced Fee Fraud
AGF	Attorney General of the Federation
AML/CFT	Anti-ML and Countering the Financing of Terrorism
ANAN	Association of National Accountants of Nigeria
ACAs	Anti-Corruption Agencies
ABCON	Association of Bureaux de Change of Operators of Nigeria
AP	Action Plan
Bln	Billion
BNIIs	Bearer Negotiable Instruments
BOFIIs	Banks and other financial institutions (under the supervision of the CBN)
BOFIA	Banks and Other Financial Institutions Act, 1991 (as amended)
BVN	Bank Verification Number
CAC	Corporate Affairs Commission
CAMA	Companies and Allied Matters Act
CBN	Central Bank of Nigeria
CBNR	Central Bank of Nigeria AML/CFT Regulations, 2013
CCB	Code of Conduct Bureau
CCG	Complex Cases Group
CCOCIN	Committee of Chief Compliance officers of Capital Market Operators
CDD	Customer Due Diligence
CDF	Currency Declaration Form
CEMA	Customs and Excise Management Act
CMOs	Capital Market Operators
CO	Compliance Officer
CRF	Consolidated Revenue Fund
CSCS	Central Securities Clearing System
CTID	Counter-Terrorism Investigation Department
CTR	Currency Transaction Report
DFIIs	Development Finance Institutions
DMBs	Deposit Money Banks
DNFBPs	Designated Non-Financial Businesses and Professions
DNFIs	Designated Non-Financial Institutions
DSS	Department of State Services
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crimes Commission
EFCCEA	Economic and Financial Crimes Commission (Establishment) Act, 2004
EITI	Extractive Industries Transparency Initiative
EOI	Exchange of Information
FATF	Financial Action Task Force
FCT	Federal Capital Territory
FIs	Financial Institutions
FIRS	Federal Inland Revenue Services
FMF	Federal Ministry of Finance
FMITI	Federal Ministry of Industry Trade and Investment
FMOJ	Federal Ministry of Justice
Forex	Foreign Exchange
FRC	Financial Reporting Council
GDP	Gross Domestic Product

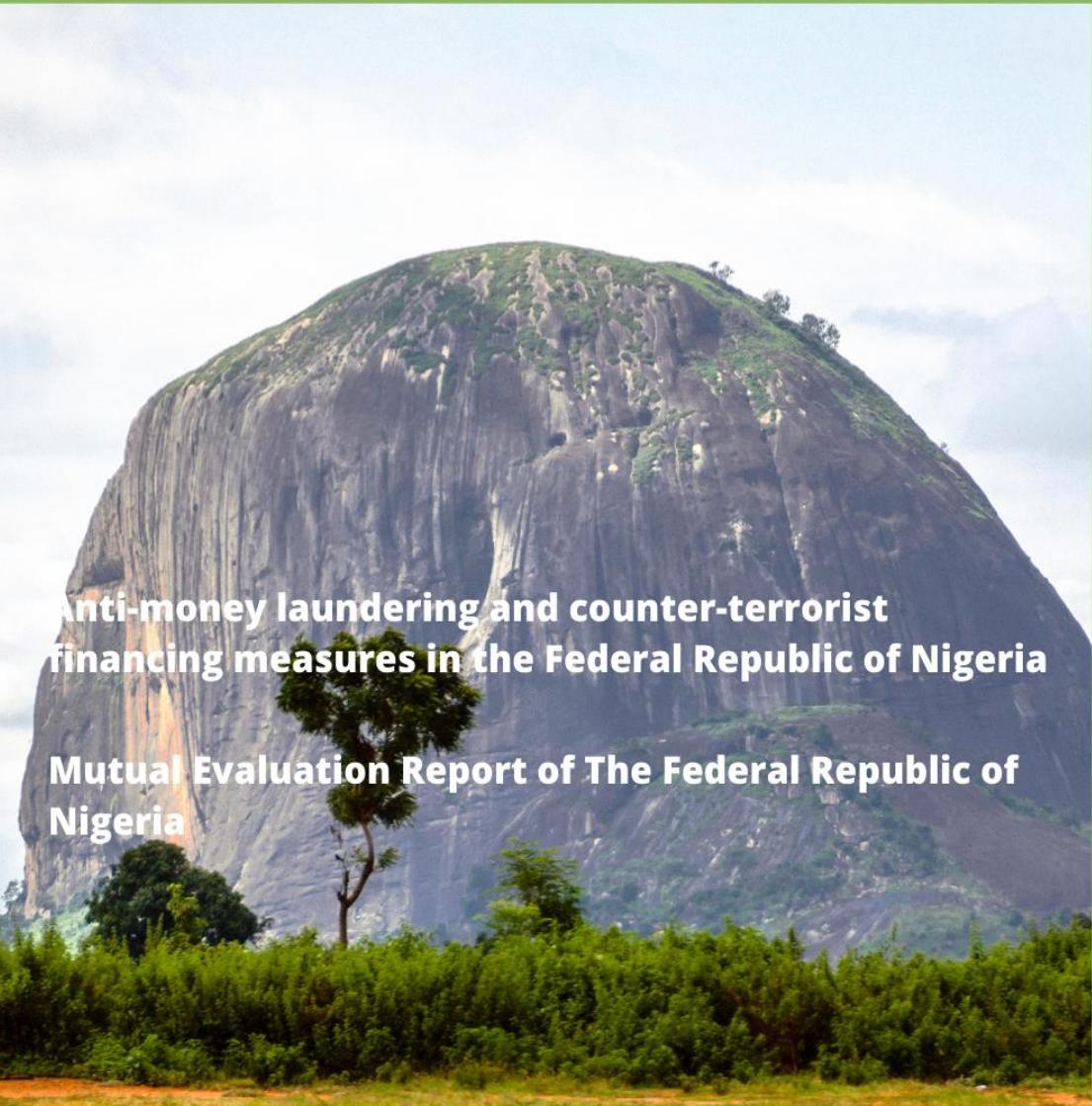
GIABA	Inter-Governmental Action Group against ML in West Africa
HAGF/MOJ	Honourable Attorney General of the Federation and Minister of Justice
ICAN	Institute of Chartered Accountants of Nigeria
ICPC	Independent Corrupt Practices and other related offences Commission
IMC	Inter-Ministerial Committee
IMF	International Monetary Fund
MVTS	International Money Transfer Service Operators
IOSCO	International Organisation of Securities Commissions
ISA	Investment and Securities Act, 2007
JIB	Joint Intelligence Board
KYC	Know Your Customer
LICR	Lawful Interception of Communications Regulations, 2019
LEAs	Law Enforcement Agencies
LP	Legal person
MFB	Micro-Finance Bank
ML	Money Laundering
MLA	Mutual Legal Assistance
MLACMA	Mutual Legal Assistance in Criminal Matters Act, 2019
Mln	Million
MLPA	ML (Prohibition) Act 2011 as amended
MMO	Mobile Money Operators
MVTS	Money Value Transfer Services
MSMEs	Micro, Small and Medium Enterprises
NACTEST	National Counterterrorism Strategy of 2016
NAICOM	National Insurance Commission
NAICOMR	National Insurance Commission Regulations, 2013
NAMB	National Association of Microfinance Banks
NAPTIPI	National Agency for the Prohibition of Trafficking in Persons
NASD	National Association of Securities Dealers
NBS	National Bureau of Statistics
NCB	Non-Conviction Based (Forfeiture)
NCS	Nigeria Customs Service
NDIC	Nigeria Deposit Insurance Corporation
NDLEA	National Drug Law Enforcement Agency
NEITI	Nigeria Extractive Industry Transparency Initiative
NFIU	Nigerian Financial Intelligence Unit
NFIUA	Nigerian Financial Intelligence Unit Act, 2018
NGOs/NPOs	Non-Governmental Organisations/Non-Profit Organisations
NHA	Nigeria Hotels Association
NIA	National Intelligence Agency
NIBSS	Nigerian Inter-Bank Settlement System
NIMC	National Identity Management Commission
NIP	NIBSS Instant Payment
NIS	Nigeria Immigration Service
NPF	Nigeria Police Force
NRA	National Risk Assessment
NSCDC	Nigeria Security and Civil Defence Corps
NSE	Nigeria Stock Exchange
OFIs	Other Financial Institutions
OFISD	Other Financial Institutions Supervision Department
ONSA	Office of the National Security Adviser
PEP	Politically Exposed Person
PMBs	Primary Mortgage Banks

RBS	Risk-Based Supervision
REDAN	Real Estate Developers Association of Nigeria
SEC	Securities and Exchange Commission
SECR	Securities and Exchange Commission (AML/CFT) Regulations, 2013
SCUML	Special Control Unit against Money Laundering
SOPs	Standard Operating Procedures
STR	Suspicious Transaction Report
SRB	Self-Regulatory Body
TCSPs	Trust and Company Service Providers
TF	Terrorism Financing
TPA	Terrorism (Prevention) Act, 2011 (as amended)
Tln	Trillion
UNODC	United Nations Office on Drugs and Crimes
UNSCRs	United Nations Security Council Resolutions



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Report**