



Seventh Enhanced Follow Up Report and Second Technical Compliance Re-Rating Report of Colombia



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COLOMBIA: SEVENTH ENHANCED FOLLOW-UP REPORT AND SECOND TECHNICAL COMPLIANCE RE-RATING REPORT

I. INTRODUCTION

1. In accordance with GAFILAT's Fourth Round procedures, Colombia's Mutual Evaluation Report (MER) was adopted in July 2018. This follow-up report analyses the progress made by Colombia in addressing the technical compliance deficiencies identified in its MER. New ratings are granted when sufficient progress is observed. Overall, the expectation is that countries have addressed most, if not all, technical compliance deficiencies before the end of the third year since the adoption of their MER. This report does not address Colombia's progress in improving its effectiveness. A subsequent follow-up evaluation will analyze the progress made on effectiveness, which may eventually result in a new rating of the Immediate Outcomes.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. In relation to Technical Compliance, the MER indicates that Colombia was rated as follows:

Table 1. Technical Compliance Ratings, July 2018

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

*Rating from the Sixth Follow-Up Report published in January 2022

Note: There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

Sources: i) Mutual Evaluation Report of Colombia, <https://gafilat.org/index.php/es/biblioteca-virtual/miembros/colombia/evaluaciones-mtuas-4/3286-informe-de-evaluacion-mutua-de-colombia/file>

3. Considering the results reflected in the MER, GAFILAT placed Colombia under the enhanced follow-up process.¹ In December 2021, Colombia was subject to a first re-rating process where Recommendations 13, 16, 19, 33, and 34 were upgraded. Meanwhile, on April 27, 2022, the country made a new re-rating request in relation to Recommendations 10, 12, and 24. The necessary supporting documentation was attached on May 28, 2022, within the time frame provided for in the processes.

4. On this basis, and following GAFILAT's current procedures, the assessment team members from Group of Experts of GAFILAT were appointed to conduct the analysis and develop this

¹ The regular follow-up is the default monitoring mechanism for all countries. The enhanced follow-up process is based on the FATF traditional policy that approaches members with significant (technical compliance or effectiveness) deficiencies in their AML/CFT systems, and it involves a more enhanced follow-up process.

report. The assessment team was integrated by Tomás Koch Shultz (Head of the Control and Compliance Division of the Financial Analysis Unit of Chile) and Ada Liz Rolón Flecha (Head of Money Laundering and Terrorist Financing Risk Supervision of the Central Bank of Paraguay). The process was conducted under the coordination and support of Juan Cruz Ponce, Deputy Executive Secretary of GAFILAT and Guillermo Hernández, Technical Expert of the GAFILAT Executive Secretariat.

5. Section III of this report summarizes Colombia's progress in improving technical compliance. Section IV presents the conclusion and a table showing which Recommendations were re-rated.

III. OVERVIEW OF THE PROGRESS MADE TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarizes Colombia's progress in improving its technical compliance by addressing the technical compliance deficiencies identified in the MER.

3.1. *Progress in addressing technical compliance deficiencies identified in the MER*

7. Colombia has made progress in addressing its technical compliance deficiencies identified in the MER in relation to the following Recommendations:

- Recommendation 10, originally rated PC - Re-rated LC
- Recommendation 12, originally rated PC - Re-rated LC
- Recommendation 24, originally rated PC - It remains PC

8. As a result of this progress, Colombia was re-rated in relation to Recommendations 10 and 12.

Recommendation 10 – Customer due diligence (originally rated PC – Re-rating proposal to LC) **Criterion 10.2.**

I) Analysis:

9. The MER notes no explicit obligation established in the Law for FIs to apply CDD as required by the standard.

10. On this regard, article 12 of Law 2195 of 2020 provides for the adoption of due diligence measures that would allow, among others, identifying the beneficial owner(s), taking into account certain identification criteria, by gathering information that enables to know the purpose of the legal business or the state contract, overseeing transactions conducted throughout the relationship, and updating information.

11. “Another deficiency that is addressed, in relation to the SFC, Circular 55/2006 did not clearly provide for the types of CDD measures, to be applied to “users,”

12. On this regard, External Circular 27 of 2020 (SARLAFT 4.0) amended SFC CE 55 of 2016, issued by the Superintendencia Financiera de Colombia (SFC), and included measures to be applied on users.

13. Thus, item 4.2.2.2.3 “Identification and analysis of unusual transactions,” describes that, upon identification and analysis of users’ transactions, entities must determine whether these are relevant, taking into account the risk they expose the entity to and their established criteria.

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

14. The MER notes that relevant circulars do not mention the need to apply CDD under the circumstances provided for in C.10.2 (d) to (e).

15. In this sense, item 4.2.2.2.1 of the Legal Basic Circular of the Financial Superintendence of Colombia amended in 2020, sets forth that supervised entities may not initiate formal or legal relations with the potential customer before (i) information has been collected to conduct the know-your-customer procedure; (ii) necessary information has been checked, especially the identity of the potential customer (...). In addition, when external databases are used, supervised entities must conduct a risk analysis associated to such source to assess the quality, reliability, and accuracy of data for ML/TF risk management purposes. Supervised entities must make verifiable means that prove the performance of such risk analysis available to this Superintendence.”

16. Also, item 4.2.2.2.1.1.2.2 mentions that: “Supervised entities must conduct ongoing due diligence on the business relation and monitor transactions made throughout said relation.”

17. On this regard, the regulations mention that the application of CDD includes gathering and verifying customers’ information, as well as assessing the quality, reliability, and accuracy of data when external databases are used. Also, there is mention on the duty to carry out a permanent due diligence, which adds to the initial requirement on verification and leads to constant update and verification. In this framework, the duty to verify information seems to be required in all circumstances, regardless of the existence of thresholds, exemptions, or concerns about the truthfulness of the information. However, it is not precise regarding subcriteria (d) and (e) on the specific situations where CDD must be carried out, such as when there is suspicion of ML/TF or there are doubts on the truthfulness of information provided by the customer.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

18. Item 3.2.2.3.1.2 of the Legal Basic Circular, “Customers or Associates’ Information,” provides that “Supervised solidarity organizations must guarantee that the associate or customer relationship form is duly executed prior to its on-boarding as associate or customer and verify or validate the truthfulness of the information therein included and in case there is no information, such situation must be recorded, specifying the reasons of such absence.

19. The organization must adopt all necessary measures to update, at least once a year, the information provided in the associate relationship form that due to their nature may change, or that based on the established risk profile needs to be updated to conduct an adequate ML/TF risk

management. For such purposes, the associate or customer must be informed in the relationship form itself about the duty to update their data, at least once a year, together with all supporting documents that the solidarity organization has requested through face-to-face or virtual channels provided for such purposes.

20. In this framework, the duty to verify or validate the veracity of information is required in all circumstances, regardless of the existence of thresholds, exemptions, or concerns about the truthfulness of the information. Likewise, information is required to be updated at least once a year, which adds to the initial requirement of verification and leads to constant updating and verification. However, consideration of the scenarios from sub criteria (D) and (e) on suspicion of ML/TF or doubts regarding the veracity of provided information is not quite clear.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

21. Regarding foreign exchange companies, DIAN Circular 13/2016 requires FIs to use a compulsory customer due diligence form upon conducting a foreign exchange transaction, while they are not required to verify information. (...). Similarly, the other elements in the criterion are not covered.”

22. In this sense, DIAN Resolution 61 of 2017, paragraph 3.1 sets forth that the exchange officer must adopt external customer due diligence processes - CDD, including collecting and keeping up-to-date information on a regular basis to allow knowing and verifying the identity of the customer and the transactions’ beneficial owner. That information should allow comparing features of transactions with the activity, monitor them and then detect unusual and/or suspicious transactions. Information should be obtained and verified prior to the transaction.

23. On this regard, DIAN Resolution 61 of 2017 provides that, in order to conduct due diligence measures, customers’ information must be collected, kept, and verified, while customers’ transactions must be checked against data and documentary information to detect unusual or suspicious transactions. In this framework, the duty to verify information seems to be required in all circumstances, regardless of the existence of thresholds, exemptions, or concerns about the truthfulness of the information. Furthermore, the exchange professional is required to carry out due diligence on external customers through the collection and keeping of up-to-date information permanently, added to the initial requirement for verification, which leads to constant update and verification. However, its application is not clear in the scenarios where CDD must be carried out, as mentioned in sub criteria (d) and (e), such as suspicion of ML/TF or doubts regarding the truthfulness of information provided.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

24. Regarding the deficiency of regulations applicable to PPOs, Resolution 1292 of 2021, whose article 6 was amended by Resolution 0003 of January 2, 2022, sets forth that PPOs’ verification during the development of know-your-customer procedures must include effectively verifying the customer’s identity at the time of their on-boarding and upon service provision, using data and information from reliable and independent sources. Likewise, activities should be carried out in order to enable them to permanently monitor transactions carried out by customers and

users, and the technological developments should facilitate the due identification of customers and users, as well as the update of their information.

25. On this regard, Resolution 01292 of 2021 covers the identification and verification of documents during the CDD procedure, as well as the analysis of unusual transactions to determine the existence of suspicious transactions. In this framework, the duty to verify information is required in all circumstances, regardless of the existence of thresholds, exemptions, or concerns about the truthfulness of the information. Further, a permanent due diligence process, as well as update of information, is required, added to the initial requirements for verification, which leads to the constant update and verification of information. However, its application is not clear in the scenarios where CDD must be carried out, as mentioned in sub criteria (d) and (e), such as suspicion of ML/TF or doubts regarding the truthfulness of information provided.

II) Conclusion:

26. The deficiency related to FIs' duty to apply CDD has been overcome by means of Law 2195 of 2022 related to the establishment of due diligence measures that would allow, among others, identifying beneficial owner(s). For its part, the deficiency related to transactions' monitoring has been overcome through External Circular 27 of 2020 (SARLAFT 4.0).

27. Most of the deficiencies in relation to FIs supervised by the SFC, SES, DIAN, and MINTIC have been overcome by means of SFC and SES Legal Basic Circulars, DIAN Resolution 61 of 2017, and Resolution 1292 of 2021 whose article 6 was amended by Resolution 0003 of January 2, 2022. However, deficiencies related to sub criteria (d) and (e) on the specific scenarios where CDD must be carried out, which include suspicion of ML/TF or where there are doubts on the truthfulness of information provided remain.

28. Considering the above, the deficiencies related to Criterion 10.2 have been mostly addressed, and the Criterion is therefore considered to be mostly met.

Criterion 10.3.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

29. The MER indicates that for FIs under the scope of the SFC, “customers” are defined as natural or legal persons that keep a formal or legal relationship with the institution, which provides products related to its business activity. However, this definition does not specifically include legal arrangements.

30. In item 1.6 of the SFC Legal Basic Circular amended by External Circular 11 of 2022, Customer is defined as: Any natural or legal person or unincorporated arrangement that enters into or maintains a formal or legal relationship with the institution, which provides any product related to its activity. Therefore, the deficiency has been overcome.

ii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

31. The MER points out that the provision does not mention the need to verify the customer's identity.
32. In this sense, DIAN Resolution 61 of 2017, paragraph 3.1 sets forth the following: "The exchange officer must adopt external customer due diligence processes - CDD, including collecting and keeping up-to-date information on a regular basis to allow knowing and verifying the identity of the customer and the transactions' beneficial owner. (...) The information requested for CDD purposes must be gathered and verified prior to the exchange transaction."
33. In addition, said regulation mentions the procedures to verify the identity of a natural and a legal person.
34. Moreover, article 12 of Law 2195 of 2022 provides for the obligation to "Identify the natural person, legal person, unincorporated legal arrangement or the like the legal business or state contract is entered into with.
35. Likewise, Article 17 of Resolution 164 of 2022 indicates as follows: Legal persons or unincorporated arrangements or the like must identify, gather, keep, provide, and update in the Registry of Beneficial Owners (RUB) the information required under this resolution. For such purpose, natural persons, legal persons, and unincorporated arrangements or the like must provide information requested by reporting institutions required to provide information to the Registry of Beneficial Owners (RUB).
36. Therefore, the deficiencies pointed out in the MER have been overcome by means of Law 2195 of 2022, DIAN Resolution 61 of 2017, and Resolution 164 of 2022.

II) Conclusion:

37. The deficiencies have been fully addressed by External Circular 2022 of 2195 of SFC, Law 2195 of 2022, DIAN Resolution 61 of 2017 and Resolution 164 of 2022. Criterion 10.3 (a) is Met.

Criterion 10.4.

I) Analysis:

i) FIs supervised by the National Tax and Customs Office (DIAN) - Foreign Exchange Companies

38. The MER notes that the provision for foreign exchange companies regulated by DIAN does not mention customers that are natural persons, there is no obligation to verify that the person is authorized to act on behalf of the customer.
39. In this sense, DIAN Resolution 61 of 2017, paragraph 3.1 Customer Due Diligence - CDD sets forth the following: "To identify and verify the identity of a natural person, production of the original identity document must be required, whether the birth certificate, the identity card, the citizenship's card, the foreigner's card, tax registration number (RUT), or passport, among others (...). If the declarant acts on behalf of a third-party beneficiary, the power of attorney,

authorization, or mandate must be required, together with a copy of the principal's or BO's identity document number".

40. Consequently, the deficiencies pointed out in the MER have been overcome.

ii) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Operators (PPOs)

41. for a deficiency identified for postal transfers operators regulated by MINTIC is the lack of a provision under which customers that are natural persons, have no obligation to verify that the person is authorized to act on behalf of the customer.

42. In this sense, Resolution 1292/21, paragraph 6.2.1 Know-Your-Customer sets forth the following: knowing the customer's identity implies knowledge and verification of requested data that would allow fully identifying the natural or legal person to be onboarded". Furthermore, when acting on behalf of a third party, their name and identification number must be stated.

43. Also, Resolution 1292 of 2021, amended by Resolution 0003 of January 2, 2022, sets forth That PPO's must, at least have evidence that allows them analyzing such customers' unusual transactions and determine the existence of suspicious transactions. For these purposes, the PPO must design and adopt a customer relationship form that contains at least the information provided below. When on-boarding is face-to-face, signature and fingerprint must be requested. In case of digital on-boarding, operators must adopt effective third party's identification mechanisms.

44. Consequently, the deficiencies pointed out in the MER have been overcome.

II) Conclusion:

45. The deficiencies have been fully addressed by DIAN Resolution 61, 2017, MINTIC Resolution 1292, 2021, and Resolution 0003 of January 2, 2022, amending MINTIC Resolution 1292, 2021. Criterion 10.4 (a) is Met.

Criterion 10.5.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

46. The MER notes that the CDD form mentioned in section 4.2.2.2.1.3 addresses one of three elements related to BO identification (i.e., the natural person that directly or indirectly holds 5% or more of the legal person).

47. In this sense, SFC Circular 027 of 2020 in its article 4.2.2.2.1.1. on Identification provides that: "Supervised entities that entered into trust businesses must identify all parties to the trust business, i.e., the settlors and whoever controls them."

48. Also, in article 4.2.2.2.1.1.1.2. mentions that: “As long as there are concerns as to whether persons directly or indirectly holding more than 5% of the social equity, contribution, or equity interest in the entity are beneficial owners, or where no natural person controls the entity through social equity, contribution, or direct equity interest, supervised entities must adopt reasonable measures to know the identity of the natural persons (if any) that exercise control through other means, including, among others, powers to appoint or remove most parts of the management, direction, or supervision bodies, the right to cast the votes that represent the minimum decision-making majority in the most senior management body; or the decision-making power in financial, operational, and/or business agreements entered; or use, enjoyment, or benefit of assets owned by the potential customer, or other form of control or dominant influence over the latter.

49. Also, Law 2155 of 2021 amending article 631-5 of the Tax Statute provides for the definition of Beneficial Ownership: “natural person(s) that ultimately possess(es) or control(s), directly or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed”.

50. On this regard, it should be mentioned that elements related to the identification of the beneficial owner are addressed in connection to the person who controls a customer, the person who controls a legal person or arrangement, and the natural person on whose behalf a transaction is conducted.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

51. The MER points out that, in relation to savings and credit cooperatives, there is no legal duty to identify and verify the identity of the beneficial owner. The obligation only applies to PEPs.

52. In this sense, SES Legal Basic Circular of 2021 issued by the SES, paragraph 3.2.2.3.1 provides that know-your-customer procedures applied should allow the solidarity organization to identify and individualize the associate or customer; in the case of associates or customers who are legal persons, the organization must design and implement procedures to identify the beneficial owner. Additionally, the identification of the associate, customer, beneficial owner, and beneficiary of products or services implies knowledge and verification of data requested in the relationship form that allow fully identifying the natural or legal person to be engaged, as well as to know the ownership structure of the potential associate or customer when the potential associate or customer is a legal person under public law; in the case of legal persons from the cooperatives sector, knowledge of the potential associate includes knowledge on the identity of associates who are natural or legal persons holding 5% or more of the equity contributions of the organization to be on-boarded, and a potential associate that is a company or business unit where its owners work, and where associated family business prevails rather than a legal person from the corporate sector, the identification of the beneficial owner implies knowing the ownership structure, i.e., the identity of the shareholders or participants that directly or indirectly hold more than 5% of the social equity.

53. In the case of legal persons under article 41 of Law 454, 1998, the identification of the beneficial owner implies knowing the ownership structure, i.e., the identity of the shareholders or associates that directly or indirectly hold more than 5% of its social equity, contribution or share in the potential associate.

54. Also, Law 2155 of 2021 amending article 631-5 of the Tax Statute provides for the definition of Beneficial Ownership: “natural person(s) that possess(es) or control(s), directly or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed. It also includes the natural person(s) exercising ultimate effective control, directly or indirectly, over a legal person or other unincorporated arrangement.”

55. On this regard, the elements related to the identification and verification of the beneficial owners are addressed in connection with the natural person who controls a customer, the natural person on whose name a transaction is conducted, and the persons that control a legal person or arrangement.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

56. The deficiency in relation to foreign exchange companies meant that there was no legal duty to identify and verify the identity of the beneficial owner.

57. On this regard, DIAN Resolution 61, 2017 governs the obligation to identify and verify beneficial ownership identification information by means of article 3.1. that the exchange officer must adopt external customer due diligence processes, including collecting and keeping up-to-date information on a regular basis to allow knowing and verifying the identity of the customer and the transactions’ beneficial owner.” Therefore, the deficiency identified in the MER is overcome.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

58. In relation to savings and credit cooperatives, there was no legal duty to identify and verify the identity of the beneficial owner as it only applied to PEPs.

59. On this regard, Law 2155 of 2021 amending article 631-5 of the Tax Statute provides for the following definition of Beneficial Owner: “Beneficial owner shall be understood as the natural person(s) that possess(es) or control(s), directly or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed. It also includes natural person(s) exercising ultimate effective control, directly or indirectly, over a legal person or other unincorporated arrangement.

60. Moreover, Law 2195 of 2022, article 12, mentions the duty to identify the beneficial owner(s) and ownership and control structure of the legal person, unincorporated arrangement or the like the legal business or state contract is entered into with and take reasonable measures to verify the reported information.

61. In this sense, even if it covers beneficial owner's identification, it does not include the scope of reasonable measures taken to verify the BO's identity.

II) Conclusion:

62. Deficiencies have been fully overcome for FIs subject to core principles, non-banking FIs, and trust companies, cooperatives, foreign exchange entities, and partially PPOs, by means of SFC Circular 27 of 2022, Law 2155 of 2021, SES Legal Basic Circular of 2021, and DIAN Resolution 61 of 2017. Notwithstanding the latter, the reasonable measures to verify the identity of the beneficial owner for FIs supervised by MINTIC is not yet addressed.

Criterion 10.6.

I) Analysis:

63. FIs under supervision of the SFC, DIAN, SES, and MINTIC were not required to understand and collect information on the intended purpose and nature of the business relationship.

64. In this sense, paragraph 3 of article 12 in Law 2195 of 2022 mentions that information that enables to know the purpose of the legal business or the state contract should be requested and obtained. When the state entity is the contracting party, it must gather information that would allow understanding the corporate purpose of the contractor.

65. Also, SFC Circular 027 of 2020 provides for the obligation to understand and gather information on the intended purpose of the contractual relationship with customers.

II) Conclusion:

66. In relation to the deficiencies mentioned for FIs under the supervision of the SFC, DIAN, SES, and MINTIC, these have been addressed through Law 2195 of 2022, and SFC Circular 027 of 2020, therefore, the criterion is met.

Criterion 10.7.

I) Analysis:

67. The MER points out that PPOs must control customers' transactions in an ongoing basis and define a risk-profile for the customer based on the different risk factors so as to allow FIs to identify transactions that are not in line with the regular business activity.

68. In this sense, Law 2195 of 2022, paragraph 4 provides for the obligation to carry out ongoing due diligence of the legal business or state contract, analyses transactions conducted throughout the relationship to ensure that these are in line with the knowledge of the natural or legal person, unincorporated arrangement, or the like the legal business or state contract is conducted with, its business activity, risk profile, and source of funds".

69. Also, MINTIC Resolution 1292 of 2021 provides that sufficient information should be collected to elaborate the profile of the customer and its transactions so that the official appointed by the PPO can identify its regular transactional behavior. Additionally, technological development must enable due identification of customers and users, as well as their data's update.

II) Conclusion:

70. The deficiency has been addressed by Law 2195 of 2022, and MINTIC Resolution 1292 of 2021. Criterion 10.7 is Met.

Criterion 10.8.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

71. As for FIs under the supervision of the SFC, in the case of legal arrangements, article 4.2.2.2.1.1.1.1 of SFC Circular 027 of 2020 sets that supervised entities that entered into trust businesses must identify all parties to the trust business, i.e., the settlors and whoever controls them, , and, the subscribers and beneficiaries, including beneficial owners of the resources that are object of such trust businesses.

72. When, by virtue of the nature or structure of an agreement, at the time of the customer's on-boarding it were not possible to know the identity of other persons related as customers (for example, beneficiaries and beneficial owners of the resources that are object of the trust business in case that their identity can only be established in the future), the information to identify them must be gathered at the time when they are individualized, while the identification must be conducted upon payment”.

73. Also, paragraph 4.2.2.2.1.1.1.2 states that identification of the beneficial owner of unincorporated arrangements and legal persons, shareholders and/or associates implies identifying and adopting reasonable measures to verify the identity of the beneficial owner(s) of unincorporated arrangements and legal persons, as well as of shareholders and/or associates of legal persons that directly hold more than 5% of the social equity, contribution, or participation of the potential customer”. However, no provisions under which financial institutions are instructed to obtain information and/or documents on the nature of the business were identified.

74. In this sense, SFC Circular 027 of 2020 mostly addresses criterion 10.8.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

75. For FIs under the supervision of the SFC, in the case of legal arrangements, the obligation was limited to asking the type of assets that conform the trust.

76. Addressing the latter, the country indicates that, in the case of SES regulation, the business model of these FIs do not allow establishing legal-business relationships with unincorporated arrangements, but only with natural and legal persons.

77. Art. 24 of Law 2069 of 2020, which amends Art. 21 of Law 79 of 1988, provides that associates of cooperatives include natural persons with legal capacity and minors who have reached fourteen (14) years of age, those who have not reached the age of fourteen (14) but become associated through a legal representative; legal persons under public law; legal persons

from the cooperative sector and other non-profit private law entities, and; micro, small and medium-sized enterprises.

78. Therefore, this shows that no legal-business relationships can be established with legal arrangements, but only with natural and legal persons.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

79. Resolution 61 of 2017 states in paragraph “3.1 Customer Due Diligence - CDD The exchange officer must adopt external customer due diligence processes - CDD, including collecting and keeping up-to-date information on a regular basis to allow knowing and verifying the identity of the customer and the transactions’ beneficial owner(...) Likewise, information of the partners or shareholders who directly or indirectly hold 25% or more of the shares, social equity or participation must be known and verified”. While the latter addresses the deficiency related to the understanding of the ownership and control structure of the customer, regulations do not cover the need to know and/or understand the nature of the customer’s business by the entities.

80. Consequently, most of the elements of the criterion have been addressed by Resolution 61 of 2017, so the deficiency indicated in the MER has been overcome.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

81. The MER points out that for FIs under the supervision of the SFC, in the case of legal arrangements, the obligation is limited to asking the type of assets that conform the trust.

82. In this regard, article 17 of DIAN Resolution 164 of 2021, states: “Due diligence. Legal persons or unincorporated arrangements or the like must identify, gather, keep, provide, and update in the Registry of Beneficial Owners (RUB) the information required under this resolution (...) The duty to conduct due diligence corresponds to the performance of all acts necessary for the identification of the beneficial owners, as well as other information requested in this resolution, including knowledge of the chain of ownership and control of the legal person, unincorporated arrangement or the like”.

83. Additionally, MINTIC Resolution 1292 of 2021, as amended by Resolution 00003 of January 2, 2022, states that knowledge of the customer with whom it performs some of its activities must allow: a) Knowing the identity of the customer: It implies knowledge and verification of requested data that would allow fully identifying the natural or legal person to be on-boarded. b) The knowledge of the economic activity of the customer.”

84. The deficiency mentioned in the MER has been addressed through DIAN Resolution 164 of 2021 and MINTIC Resolution 1292 of 2021.

II) Conclusion:

85. Deficiencies have been overcome for FIs subject to core principles, non-banking FIs and trust companies, foreign exchange entities, and mostly for PPOs, by means of SFC Circular 027 of 2020, DIAN Resolutions 61 of 2017 and 164 of 2021, and MINTIC Resolution 1292 of 2021. Since

savings and credit cooperatives are not legally authorized to establish business relationships with entities other than natural persons or legal entities, requirement under C. 10.8 regarding legal arrangements is not applicable to these sectors. However, there are minor remaining deficiencies related to understanding the nature of the customer's business in the CDD process for customers who are legal persons. The criterion is mostly met.

Criterion 10.9.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

86. The MER notes the customer acceptance form only requires identification of the type of assets to establish the trust. FIs conducting business with trusts should identify the beneficial owner, including the settlor and other beneficiaries.

87. In this regard, External Circular 027 of 2020 mentions that for potential customers that are legal persons the following information should be obtained: name, type of ID and ID number of the legal representative and the members of the board of directors or the body acting on its behalf.”

88. Likewise, SFC Circular 11 of 2022 mentions in article one “(iii) to embrace the definition of beneficial owner provided in art. 631-5 of the Tax Statute and that of unincorporated arrangements provided for in numeral 6. of art. 1 of DIAN Resolution 000164 of 2021”.

89. In this sense, DIAN Res. 0164 of 2021 mentions in numeral 6: “Unincorporated arrangements or the like, among others, are those autonomous assets constituted through business trust contracts, business collaboration contracts, private equity or collective investment funds, public debt funds, pension and severance funds, and other unincorporated arrangements or the like in accordance with article 4 of this Resolution.

90. Also, paragraph 4.2.2.2.1. Customer knowledge of Circular 11 of 2022 states that “The relationship of unincorporated structures must be supported by a document that certifies or evidences their existence, such as: the trust agreement, the business registration form in the business registration module administered by the SFC, the document certifying the authorization to operate or non-objection of the investment funds . On the other hand, supervised entities that entered into trust businesses must identify all parties to the trust business, i.e., the settlors and whoever controls them. which implies identifying and adopting reasonable measures to verify the identity of the beneficial owner(s) of unincorporated arrangements and legal persons, as well as of shareholders and/or associates of legal persons that directly hold more than 5% of the social equity, contribution, or participation of the potential customer. Last, it should allow for the performance of all the necessary diligences to verify and update the data collected from the customers that due to their nature may change (address, telephone, economic activity, origin of the resources, shareholding structure, etc.).

91. Circular 027 of 2020 addresses the requirements for legal persons in accordance with C.10.9 (a). Moreover, Circular 11 of 2022 covers the requirements for legal arrangements in accordance with C. 10.9 (a) a (c) for legal arrangements.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

92. Savings and credit cooperatives didn't require all elements under C. 10.9(b), and legal arrangements were not considered either.

93. In this regard, the SES Legal Basic Circular 2021 states in item 3.2.2.3.1.1 the procedure to know the ownership structure of the potential associate or customer.

94. Moreover, art. 24 of Law 2069 of 2020, which amends art. 21 of Law 79 of 1988, provide that associated of cooperatives may be natural persons with legal capacity and minors who have reached fourteen (14) years of age or those who have not reached the age of fourteen (14) but become associated through a legal representative; legal persons under public law; legal persons from the cooperative sector and other non-profit private law entities, and; micro, small and medium-sized enterprises.

95. The latter is a proof that no legal-business relationships can be established with unincorporated arrangements, but only with natural and legal persons. SES Legal Basic Circular of 2021 and the later amendment of Law 79 of 1988 cover elements under C.10.9 (b).

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

96. For foreign exchange companies, the elements under C.10.9 (a) are covered in DIAN Circular 13/2016, section 5.2.1.1. The elements under C.10.9 (a) related to proof of existence, and C.10.9 (b) were still pending. Legal arrangements were not covered.

97. In this regard, article 3.1 of Resolution 061 of 2017 mentions that "To verify the identity of a legal person, the RUT and the Certificate of Existence and Legal Representation issued by the Chamber of Commerce; or the articles of incorporation, public deed or document of incorporation of the respective legal person or similar, wherein, at least, the corporate name, legal form, share capital participation, shareholding structure, legal representatives, principals and alternates; business or corporate address are stated. Likewise, information of the partners or shareholders who directly or indirectly hold 25% or more of the shares, social equity or participation must be known and verified". The certificate of legal existence and representation issued by the Chamber of Commerce contain the information on the data of the natural person that acts the most senior position within the organization.

98. In that sense, Resolution 061 of 2017 includes in its regulation legal persons or the like, thus addressing the missing elements under C.10.9 (a) and (b) for legal persons, as well as from (a) to (c) for legal arrangements.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

99. For foreign exchange companies, the elements under C.10.9 (a), except proof of existence, were already covered in DIAN Circular 13/2016.

100. Resolution 1292 of 2021, applicable to PPOs, in article 6.2.2, establishes some requirements that must be met in order for a legal person to become an associate, such as name and corporate name, names of representatives, attorneys-in-fact, name and percentage of participation of partners holding more than 5% of the social equity, declaration of shareholding or of exercising any control over a legal person.

101. Moreover, paragraph 1 of article 12 of Law 2195 of 2022 provides the obligation to identify the natural person, legal person, unincorporated legal arrangement or similar the legal business or state contract is entered into with.

102. Likewise, article 17 of DIAN Resolution 164 of 2021, applicable to PPOs, provides in article 17 that legal persons or unincorporated arrangements or the like must identify, gather, keep, provide, and update the Registry of Beneficial Owners (RUB). The duty of due diligence corresponds to the performance of all acts necessary for the identification of the beneficial owners, as well as other information requested in this resolution, including knowledge of the chain of ownership and control of the legal person, unincorporated arrangement or the like.

103. In this regard, there is no evidence that proof of existence and the elements under C.10.9 (a) for legal persons are included as a requirement.

104. Furthermore, although the duty of due diligence is mentioned, there is no evidence that requirements under C.10.9 (a) to (c) is explicitly included for legal arrangements.

II) Conclusion:

105. In relation to FIs subject to core principles, non-banking FIs, and trust companies, savings and credit cooperatives, and foreign exchange entities, requirements under the MER are addressed by means of SFC Circular 11 of 2022, SFC Circular 27 of 2022, SES Legal Basic Circular of 2021, and DIAN Resolution 61 of 2017. In relation to PPOs, it is not clear yet that proof of existence and the elements under C.10.9 (b) for legal persons are included as a requirement. As well as C.10.9 (a) to (c) for legal arrangements. The criterion is mostly met.

Criterion 10.10.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

106. Measures were implemented to address the deficiency regarding FIs under the supervision of the SFC, where there were no elements that cover situations where: there are doubts as to whether the person with the controlling interest is the beneficial owner, no natural person exercises control through ownership or other means, or FIs are required to assess the identity of the most senior management official when no natural person is identified under (a) and (b).

107. In that sense, Article 16 of Law 2155 of 2021 that the beneficial owner shall be understood as the natural person(s) that possess(es) or control(s), directly or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed. It also includes natural person(s) exercising ultimate effective control, directly or indirectly, over a legal person or other unincorporated arrangement. The beneficial owner will be:

1. A natural person who, acting individually or jointly, holds, directly or indirectly, five percent (5%) or more of the capital or voting rights of the legal person, and/or benefits from five percent (5%) or more of the assets, yields or profits of the legal person; and
2. A natural person who, acting individually or jointly, exercises control over the legal person, by any means other than those set forth in the preceding numeral of this article; or

108. When no natural person is identified under the terms of the two preceding numerals of this article, the natural person who holds the position of legal representative must be identified, unless there is a natural person who holds greater authority in relation to the management or direction functions of the legal person”.

109. Moreover, Law 2195 of 2022, article 12 mentions that the State Entity and the natural person, legal person or unincorporated arrangement or the like, which has the obligation to implement a system for the prevention, management, or administration of the risk of money laundering, terrorist financing and proliferation of weapons or which have the obligation to deliver information to the Registry of Beneficial Owners (RUB), must conduct due diligence measures that allow among other purposes to identify the beneficial owner(s)”.

110. Likewise, Circular 027 of 2020 mentions that the know-your-customer procedure entails identifying and taking reasonable measures to verify the identity of the beneficial owner(s). As long as there are concerns as to whether persons directly or indirectly holding more than 5% of the social equity, contribution, or equity interest in the entity are beneficial owners, or where no natural person controls the entity through social equity, contribution, or direct equity interest, supervised entities must adopt reasonable measures to know the identity of the natural persons (if any) that exercise control through other means, including, among others, powers to appoint or remove most parts of the management, direction, or supervision bodies, the right to cast the votes that represent the minimum decision-making majority in the most senior management body; or the decision-making power in financial, operational, and/or business agreements entered; or use, enjoyment, or benefit of assets owned by the potential customer, or other form of control or dominant influence over the latter. When no natural person is identified under the provisions set forth above, the supervised entities must identify and take reasonable measures to verify the identity of the relevant natural person(s) who occupies the position of senior management officer and/or exercises the legal representation”.

111. In this regard, the deficiency has been addressed by SFC External Circular 027 of 2020, Law 2155 of 2021, and Law 2195 of 2022.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

112. Law 2155 of 2021 establishes the definition of beneficial owner in its article 16, wherein it amends article 631-5 of the tax statute as follows: ART. 631-5. –Definition of beneficial owner. Beneficial owner shall be understood as the natural person(s) that possess(es) or control(s), directly

or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed. It also includes natural person(s) exercising ultimate effective control, directly or indirectly, over a legal person or other unincorporated arrangement.

A) The following are beneficial owners of legal persons:

1. A natural person who, acting individually or jointly, holds, directly or indirectly, five percent (5%) or more of the capital or voting rights of the legal person, and/or benefits from five percent (5%) or more of the assets, yields or profits of the legal person; and
2. A natural person who, acting individually or jointly, exercises control over the legal person, by any means other than those set forth in the preceding numeral of this article.

113. When no natural person is identified under the terms of the two preceding numerals of this article, the natural person who holds the position of legal representative must be identified, unless there is a natural person who holds greater authority in relation to the management or direction functions of the legal person.”

114. Moreover, Law 2195 of 2022, article 12 mentions that the State Entity and the natural person, legal person or unincorporated arrangement or similar, which has the obligation to implement a system for the prevention, management, or administration of the risk of money laundering, terrorist financing and proliferation of weapons or which have the obligation to deliver information to the Registry of Beneficial Owners (RUB), must conduct due diligence measures that allow among other purposes to identify the beneficial owner(s)”.

115. The SES Legal Basic Circular of 2021 in its article 3.2.2.3.1. states that “it is up to the solidarity organization to take reasonable measures to know and verify the name and identification number of the members that make up the permanent administration body or body that exercises control or decision making of the non-profit private law legal person or of the natural person that occupies the position of the most senior management officer”.

116. In this regard, the deficiency has been fully addressed by Law 2155 of 2021, Law 2195 of 2022, SES Legal Basic Circular.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

117. DIAN Res. 0164 of 2021 mentions in article 6 “Criteria for the determination of the beneficial owner of legal persons. (...): 1. A natural person who, acting individually or jointly, holds, directly or indirectly, five percent (5%) or more of the capital or voting rights of the legal person, and/or benefits from five percent (5%) or more of the assets, yields or profits of the legal person; and 2. A natural person who, acting individually or jointly, exercises control over the legal person, by any means other than those set forth in the preceding numeral of this article; or 3. When no beneficial owner is identified under the terms of the two preceding numerals of this article, the natural person who holds the position of legal representative will be considered to be the beneficial owner, unless there is a natural person who holds greater authority in relation to the management or direction functions of the legal person; in that case, such natural person must be informed”.

118. Likewise, article 17 mentions that legal persons or unincorporated arrangements or the like must identify, gather, keep, provide, and update in the Registry of Beneficial Owners (RUB) the information required under the resolution (...). The duty of due diligence corresponds to the

performance of all acts necessary for the identification of the beneficial owners, as well as other information requested in this resolution, including knowledge of the chain of ownership and control of the legal person, unincorporated arrangement or the like.

119. In this regard, the deficiency has been completely addressed by DIAN Resolution 0164 of 2021.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

120. Law 2155 of 2021 establishes the guidelines to identify the beneficial owner in its article 16, which amends article 631-5 of the tax statute to understand the beneficial owner as the natural person(s) that possess(es) or control(s), directly or indirectly, a customer and/or the natural person on behalf of whom the transaction is performed. It also includes natural person(s) exercising ultimate effective control, directly or indirectly, over a legal person or other unincorporated arrangement.

121. Reference is also made to Law 2195 of 2022, where article 12 Due Diligence Principle, mentions the terms analyzed above regarding the obligation to provide information to the RUB.

122. Likewise, article 17 of DIAN Resolution 164 of 2021, applicable to PPOs, provides in that legal persons or unincorporated arrangements or the like must identify, gather, keep, provide, and update the Registry of Beneficial Owners (RUB) with duty to carry out due diligence to the performance of all acts necessary for the identification of the beneficial owners, as well as other information requested in this resolution, including knowledge of the chain of ownership and control of the legal person, unincorporated arrangement or the like.

123. In this regard, the deficiency has been fully addressed by Law 2155 of 2021, Law 2195 of 2022, DIAN Resolution 164 of 2021.

II) Conclusion:

124. The deficiency has been completely addressed by SFC External Circular 027 of 2020, Circular 11 of 2022, the Basic Legal circular of SES, DIAN Resolution 0164 of 2021, Law 2155 of 2021 and Law 2195 of 2022. Criterion 10.10 is Met.

Criterion 10.11.

I) Analysis:

125. The MER notes that the mandatory CDD form only required FIs to identify the type of assets that establish the trust.

126. In this regard, SFC Circular 027 of 2020, states in section 4.2.2.2.1.1.1. entities that enter into trust businesses must identify all parties to the trust business, i.e., the settlors and whoever controls them, in addition to the subscribers and beneficiaries, including beneficial owners of the resources that are object of such trust businesses.

127. In this regard, SFC Circular 11 of 2022, states that the know-your-customer procedure implies identifying and adopting reasonable measures to verify the identity of the beneficial owner(s) of unincorporated arrangements and legal persons, as well as of shareholders and/or associates of legal persons that directly hold more than 5% of the social equity, contribution, or participation of the potential customer”.

II) Conclusion:

128. The deficiency has been completely addressed by SFC External Circular 027 of 2020 and Circular 11 of 2022. Criterion 10.11 is Met.

Criterion 10.12.

I) Analysis:

129. Circular 27 of 2020 that for insurance and capitalization contracts, when the insured, bonded and/or beneficiary is a person different from the policyholder or subscriber, the entities must collect and verify the identity and information of the insured, bonded and/or beneficiary at the time of on-boarding.

130. Notwithstanding the foregoing, insurance entities must adopt the following measures with respect to the beneficiary of a life insurance and other life insurance policies with savings and investment component, as soon as the beneficiary is identified or designated, in any case, the beneficiary’s information at the time of payment must be gathered: when a natural or legal person with a specific name is designated as beneficiary at the time of the customer’s on-boarding, the identity of the beneficiary must be identified and verified at the time of the execution of the contract; when it is not possible to know the identity of the beneficiary at the time of the customer’s on-boarding, the identity must be identified and verified at the time of payment. The supervised entity must have sufficient information to establish the identity of the beneficiary at the time of payment, in the event that the beneficiary is designated by characteristics, by class or by other means.

II) Conclusion:

131. Deficiency under C.10.12 (b) and part of (a) mentioned in the MER has been addressed in Circular 27 of 2020. In relation to C. 10.12 (a) taking the name of the person is still missing from the requirement for the beneficiary to identify itself as a legal arrangement with a specific name. It is applicable to FIs under the supervision of the SFC. The criterion is mostly met.

Criterion 10.13.

I) Analysis:

132. Regarding the deficiency where the beneficiary of the life insurance policy as a relevant risk factor when determining whether enhanced CDD measures should be applied, Circular 027 of 2020 states in section 4.2.2.2.1.1.1.3.2.3. that when the beneficiary of a life insurance policy is a legal entity and the insurance entity determines that this beneficiary represents a higher risk, the

supervised entity must adopt enhanced measures, which must be effective for the purposes of identification and verification of the identity of the life insurance policy beneficiary's beneficial owner at the time of payment."

II) Conclusion:

133. The deficiency has been completely addressed by SFC External Circular 027 of 2020. Criterion 10.13 is Met.

Criterion 10.14.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

134. In this sense, SFC Legal Basic Circular, paragraph 4.2.2.2.3.2. provides that in the case of the identification and analysis of unusual transactions, entities must determine whether these are relevant, taking into account the risk exposure for the entity and its previously established criteria as well as that entities are required to be capable of monitoring transactions made by their customers and users through other risk factors."

135. In this respect, it is not expressly included that the identity of a customer and beneficial owner is verified prior to transactions being carried out by occasional customers, the provisions of the regulations apply to verification during the follow-up of transactions of users while the transaction is taking place, and it could be understood that the verification may be completed after the business relationship has been established; however, it is not clear that numerals (a) to (c) of the criterion are set forth.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

136. The MER notes that, for savings and credit cooperatives, identification and verification of the customer's identity is a precondition for accepting an associate or customer, yet the obligation does not cover the identification and verification of the beneficial owner.

137. In that sense, SES Circular 020 of 2020, applicable to savings and credit cooperatives, states in item "3.2.2.3.1. that know-your-customer procedures applied should allow the solidarity organization to identify and individualize the associate or customer; in the case of associates or customers who are legal persons, as well as the organization must design and implement procedures to identify the beneficial owner. In case the beneficial owner cannot be identified or there are doubts on the persons reported as such, the solidary entity will be responsible of deciding whether to onboard the potential associate or customer and should also evaluate the possibility or submitting a suspicious transaction report.

138. In this regard, SES Circular 020 of 2020 addresses part of what was stated in the MER.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

139. The MER notes that with respect to foreign exchange companies, the respective circulars/regulations do not mention the timing of the verification of requirements. As indicated under C.10.2, there is no testifying reference regarding when the customer identity verification should be performed.

140. DIAN Resolution 061 of 2017, applicable to foreign exchange purchase and sale professionals, states in its article 3.1 that the exchange officer must adopt external customer due diligence processes - CDD, including collecting and keeping up-to-date information on a regular basis to allow knowing and verifying the identity of the customer and the transactions' beneficial owner. If the declarant acts on behalf of or represents a third-party beneficiary, the power of attorney, authorization, or mandate by which he/she acts must be required, together with a copy of the identification document of the principal or beneficial owner. Furthermore, the information requested for CDD purposes must be gathered and verified prior to the exchange transaction."

141. In this regard, the deficiency mentioned in the MER has been addressed by DIAN Resolution 061 of 2017.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

142. With respect to postal transfer operators, the respective circulars/regulations did not mention the timing of the verification of requirements.

143. In this sense, MINTIC Resolution 01292 of 2021 points out in paragraph 6.2.2. that the Postal Service Operators' verification must include effectively verifying the customer's identity at the time of their on-boarding and upon service provision, using data and information from reliable and independent sources. The following must be verified as a minimum: the type of identification document, the name, number, and date of issue of the identification document. The Postal Payment Service Operator must adopt effective mechanisms to verify the identity of both payer and payee, for which they may use: (i) digital signature certificates, in accordance with the provisions of Law 527 of 1999 and its regulatory decrees, or the rules that modify, revoke, or substitute it; (ii) biometrics, (iii) cross-checking of information with the National Registry of Civil Status".

144. In this regard, although Resolution 01292 of 2021 of MINTIC covers the time when the customer's identity verification must be performed, it still does not mention the time of verification of the identity of the beneficial owner.

II) Conclusion:

145. With regard to foreign exchange entities supervised by the DIAN, the deficiency mentioned in the MER has been addressed by DIAN Resolution 061 of 2017.

146. In the case of FIs subject to core principles, non-banks FIs, and trust companies, the deficiency mentioned in the MER in relation to the time of verification of the occasional customer still remains.

147. Moreover, in relation to postal payment operators, it is not yet clear in MINTIC Resolution 01292 of 2021 when the identity of the beneficial owner is to be verified.

Criterion 10.15.

I) Analysis:

148. The MER mentions that this criterion does not apply to FIs under the supervision of the SFC and savings and credit cooperatives because they cannot establish business relationships with a customer before completing identification and verification of the customer's identity. In the case of foreign exchange companies and PPOs, there is no prohibition to use the business relationship prior to verification, but there is no obligation to adopt risk management procedures in accordance with C.10.15.

149. In this regard, the country states that this criterion is not currently applicable, since all regulations, whether of the SFC, SES, DIAN and MinTIC, establish that verification is done before establishing the business relationship, and establish that customers may not be engaged before this verification is done.

II) Conclusion:

150. As it has been observed from the elements explained in the previous criteria, this criterion is not yet covered. In the cases of PPOs, the regulation is not clear on the moment of verification of the BO, and for FIs supervised by the SFC, the moment of verification of the occasional customer is not clear either. The criterion is mostly met.

Criterion 10.16.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

151. The MER notes that no obligation addresses the need for FIs under the supervision of the SFC, SES, DIAN and MINTIC to apply CDD requirements to current customers based on materiality and risk.

152. In this sense, Law 2195 of 2022, article 12, paragraph 4 mentions that the following needs to be done: "Conduct ongoing due diligence of the legal business or state contract, analyze transactions conducted throughout the relationship to ensure that these are in line with (...), its business activity, risk profile, and source of funds".

153. Also, SFC Circular 027 of 2020, states the duty of the management and control bodies of the supervised entities, of the compliance officer, as well as of all officers, to ensure compliance with internal regulations and other provisions related to SARLAFT as well as that supervised entities must conduct ongoing due diligence on the business relation and monitor transactions made throughout said relation to: (i) monitor that the transactions performed are consistent with

the entity's knowledge of the customer, its business activity and risk profile, (...); and (ii) ensure that the documents, data or information collected under the know-your-customer process are updated, especially in the case of customers included in higher risk categories”.

154. In this regard, the deficiency has been addressed by Law 2195 of 2022.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

155. The MER notes that no obligation addresses the need for FIs under the supervision of the SFC, SES, DIAN and MINTIC to apply CDD requirements to current customers based on materiality and risk.

156. In this sense, Law 2195 of 2022, article 12, paragraph 4 mentions that reporting entities must conduct ongoing due diligence of the legal business or state contract, analyze transactions conducted throughout the relationship to ensure that these are in line with its business activity, risk profile, and source of funds.

157. Also, SES Legal Basic Circular of 2021 requires reporting entities to establish stricter guidelines for the on-boarding and monitoring of transactions of those associates or customers who, due to their profile or the functions they perform, may expose the organization to a higher degree of ML/TF risk. Likewise, supervised solidarity organizations are required to be capable of tracing transactions made by their associates or customers and users through other risk factors. In order to comply with the above, the supervised solidarity organizations must establish at least to follow up transactions at a frequency commensurate with the risk assessment of the risk factors involved in the transactions, as well as to monitor the transactions conducted in each of the segments of the resulting risk factors.

158. In the case of the users' transactions monitoring, solidarity organizations must determine whether these are relevant, taking into account the risk exposure for the organization and its previously established criteria.”

159. In this regard, the deficiency has been addressed by Law 2195 of 2022, and SES Resolution 20 of 2020.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

160. The MER notes that no obligation addresses the need for FIs under the supervision of the SFC, SES, DIAN and MINTIC to apply CDD requirements to current customers based on materiality and risk.

161. In this sense, Law 2195 of 2022, article 12, paragraph 4 requires conducting ongoing due diligence of the legal business or state contract, analyze transactions conducted throughout the relationship to ensure that these are in line with, its business activity, risk profile, and source of funds”.

162. In this regard, DIAN Resolution 0061 of 2017, states that the foreign exchange professional must be able to follow up the transactions conducted by its customers through the other risk factors, for which it must establish at least the following:

7.3.1 Follow up on the transactions conducted by its customers with a frequency commensurate with the evaluation of the risk factors involved in the transactions.

7.3.2 Monitor the transactions conducted in each of the segments of the risk factors and determine whether these are relevant, taking into account the risk to which they are exposed based on their matrix.

163. Further, article 16 establishes enhanced guidelines regarding customers and monitoring of transactions with domestic or foreign persons who, due to their profile or the functions they perform, may expose the foreign exchange professional to a greater degree of ML/TF-FPWMD risk.”

164. In this regard, the deficiency has been addressed by Law 2195 of 2022, and DIAN Resolution 0061 of 2017.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

165. The MER notes that no obligation addresses the need for FIs under the supervision of the SFC, SES, DIAN and MINTIC to apply CDD requirements to current customers based on materiality and risk.

166. In this sense, Law 2195 of 2022, article 12, paragraph 4 mentions the following: “Conduct ongoing due diligence of the legal business or state contract, analyze transactions conducted throughout the relationship to ensure that these are in line with (...), its business activity, risk profile, and source of funds”.

167. In this regard, Resolution 1292 of 2021, applicable to PPOs establishes guidelines for the acceptance and on-boarding of customers, and monitoring of those that, based on their profile, can expose the Postal Payment Service Operator to higher ML/TF risks. Furthermore, the PPO must conduct activities that allow it to monitor transactions conducted by customers and users on an ongoing basis. Likewise, and in order to be aware of all the transactions conducted by the same customer during an established period of time, the company must consolidate the transactions for each of the risk factors at least on a monthly basis.”

168. In this regard, the deficiency has been addressed by Law 2195 of 2022, and MINTIC Resolution 1292 of 2021.

II) Conclusion:

169. The deficiency has been addressed by Law 2195 of 2022, SFC Circular 027 of 2020, SES Legal Basic Circular of 2021, DIAN Resolution 0061 of 2017 and MINTIC Resolution 1292 of 2021. The Criterion is met.

Criterion 10.17.

I) Analysis:

170. The MER states that there is no obligation for FIs under the supervision of the MINTIC to apply enhanced CDD measures when ML/TF risks are higher.

171. In that sense, MinTIC Resolution 1292 of 2021 states that “For high-risk exposure profiles, enhanced due diligence policies and procedures shall be established, both upon on-boarding and monitoring. The type of economic activity carried out by the customer is an extremely important factor in the evaluation of its risk profile since certain activities are more exposed to ML/TF than others. Therefore, in the face of customers who exercise high ML/TF risk activities, the Postal Payment Service Operator shall perform an enhanced due diligence to know the sender and the addressee.”

II) Conclusion:

172. The deficiency has been completely addressed by MinTIC Resolution 1292 of 2021. Criterion 10.17 is Met.

Criterion 10.18.

I) Analysis:

i) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

173. The MER notes that circulars/regulations applicable to savings and credit cooperatives do not mention the application of simplified CDD measures.

174. In this sense, SES Legal Basic Circular of 2021, paragraph 3.2.2.3.1.3. that Employee Funds may design simplified know-your-customer procedures for the transactions, products or services indicated under the paragraph. These instructions shall only apply to counterparts benefiting from extended welfare, solidarity, and social welfare services, as well as counterparts that conduct transactions with the solidary organization for sponsorship, aid, or encouragement to savings or social contributions by employer entities.

In these cases, the solidary organization must monitor those that according to the regular course of business are outside the normal behavior parameters, and in such case, it must apply the instruments related to the identification and analysis of unusual transactions and, determination and reporting of suspicious transactions. Furthermore, supervised solidary organizations should segment each one of the risk factors according to the particular features of each one, considering information gathered during the implementation of KYC procedures for associates or customers, guaranteeing that the selected variables allow to cover homogeneous criteria within the segments and heterogeneous among them, according to the methodology previously established by the entity. This does not prescribe any other criterion or variable implemented by the entity.

175. Thus, savings and credit cooperatives are allowed to apply simplified measures to certain types of transactions, products, and services, thus correcting the deficiency mentioned by means of SES Circular 020 of 2020.

ii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

176. Paragraph 3.3 of Resolution 061 of 2017 provides for simplified due diligence and mentions as follows: Exchange professionals authorized in Border Zones for the purchase and sale of foreign currency and traveler's checks, must carry out a simplified due diligence process of their external customers, gathering and keeping updated information on a permanent basis that allows knowing and verifying the identity of both the customer and the beneficial owner of the transaction. Simplified CDD measures shall not be applied when there is suspicion of ML/TF-FPWMD or when they are applied in specific scenarios. In this sense, article 14 establishes that to identify ML/TF/PF risk, the exchange professional should, as a minimum, establish methodologies to segment risk factors, and to establish methodologies to identify ML/TF/PF risk. As a result, the exchange professional should be able to identify the inherent and residual risk profiles, as well as metrics for each risk factor.

177. The deficiency has been addressed by DIAN Resolution 061 of 2017.

iii) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

178. The MER notes that circulars/regulations applicable to PPOs do not mention the application of simplified CDD measures.

179. Article 3 of Resolution 1292 of 2021 as amended by Resolution 0003 of 2022, sets forth the definitions of Postal Payment Service Customer is the sender of the money order with which the Postal Payment Service Operator establishes and maintains a contractual relationship for the provision of the postal payment service, who in turn performs one or several transactions during the same month, taking into account the transaction amounts set by the Ministry of Information and Communication Technologies by means of a resolution. Likewise, the Postal Payment Service User is both the sender of the money order who is not classified as a customer of the postal payment service, as well as the addressee of the money order, who uses the services of a Postal Payment Service Operator."

180. Moreover, MinTIC Resolution 1292 of 2021 states that the PPOs must make a segmentation of the risk factors. On the basis of the result, they must assign each customer a risk level and the due diligence to be conducted in order to know and monitor the customer is defined accordingly: "Finally, each customer must be given a risk level or profiling, and for this, it is necessary to take into account the aggregation of the risk factors, given that the customer's characteristics are known, such as their economic activity and some sociodemographic variables, jurisdiction where it is located, products and channels it uses. Based on prior knowledge of the segmentation by factors and level of risk, a risk profile is given to the customer. According to the risk profile, the due diligence to be performed to know and monitor the customer is defined."

II) Conclusion:

181. With respect to the deficiencies noted for savings and credit cooperatives and foreign exchange entities according to the SES Legal Basic Circular of 2021 and DIAN Resolution 061 of 2017, the obligation under criterion 10.18 is established.

Criterion 10.19.

I) Analysis:

i) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

182. The MER notes that savings and credit cooperatives under the supervision of the SES may not initiate a business relationship if the institution was unable to apply CDD measures.

183. In that sense, the Legal Basic Circular in article 3.2.1 states that the supervised solidarity organizations in relation to SARLAFT should refrain from considering as associates and/or customers and from entering into transactions with persons who are not fully identified.” In the event that the beneficial owner cannot be identified or there is doubt about the persons who were reported as beneficial owners, it shall be the responsibility of the solidarity organization to decide whether the on-boarding of the potential associate or customer is carried out and it shall also evaluate the relevance of filing a suspicious transaction report.

184. In this regard, although the obligation for the beneficial owner is mentioned, it is not clear that it covers the customer itself; likewise, it is not clear that the criterion covers natural persons, therefore, C. 10.19 (b) is not met.

ii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

185. The MER notes that the existing regulations applicable to foreign exchange companies (DIAN circular 13/2016), only explicitly mention the obligation to identify the customer before performing the exchange transaction but does not mention verification. According to the authorities, this is a precondition to perform a transaction, but the absence of an explicit obligation makes the situation unclear. The elements under C.10.19 (b) are missing.

186. In this regard, for the case of foreign exchange purchase and sale professionals, the DIAN issued Resolution 029 of 2020, whose article 3 established that the foreign exchange professional shall apply the enhanced, reinforced, effective and proportionate measures to the risks they represent, referred to in paragraphs a) to f) of numeral 2.3 of this article, to all new or frequent customers who pose unusual high-value transactions, and/or with unusual patterns of purchases or sales of foreign currency that have no apparent purpose of personal benefit, economic content or lawful nature, even if such customers do not come from or are related to higher risk countries rated as such by the FATF. The foreign exchange professional who is unable to comply with the enhanced, reinforced, effective measures proportionate to the risks involved, shall reject the foreign currency purchase or sale transaction requested and interrupt the business relationship with the customer, and shall issue the suspicious transaction report (STR) addressed to the UIAF with respect to the natural and/or legal person, or the like that has attempted the transaction”.

187. Moreover, Resolution 61 of 2018 states in its article 16 the need to refrain from considering as a customer and entering into transactions with persons who are not fully identified or using means of payment not authorized by the exchange regime.”

188. In this regard, according to Resolution 029 of 2020, the obligation applies only to customers who are in an enhanced CDD process, not to customers accessing simplified CDD, considering that the regulations for Currency Exchange Companies enables them to carry out simplified due diligence, such regulation partially covers criterion 10.19 (b).

189. Verification of the customer's identity is not addressed either, as pointed out by the MER.

iii) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

190. The MER notes that = it is not clear whether there is a prohibition as indicated under criterion 10.19 (a) and a requirement to consider filing a STR in accordance with 10.19 (b).

191. In that sense, for PPOs, Resolution 1292 of 2021, establishes in paragraph 6.2.2 the obligation to verify customer identification and data, and mentions that Postal Service Operators' verification during the development of know-your-customer procedures must include effectively verifying the customer's identity at the time of their on-boarding and upon service provision, using data and information from reliable and independent sources."

192. Also, article 6.7.2 of the same resolution provides that reporting institutions must report attempted or rejected transactions that have characteristics that make them look suspicious. Suspicious transaction reports must be adjusted to the objective criteria established by the Postal Payment Service Operator.

193. On this regard, Resolution 1292 of 2021 addresses the timing of identification and verification of customers' identity; however, it does not cover the situation where the financial institution cannot complete CDD procedures.

194. Furthermore, although the regulations provide that reporting institutions must report attempted or rejected transactions that contain characteristics that make them suspicious, it is not clear what happens if the CDD could not be completed in accordance with C 10.19 (b).

II) Conclusion:

195. With respect to the deficiency indicated for savings and credit cooperatives, although the obligation for the beneficial owner is mentioned, it is not clear that it covers the customer itself; likewise, it is not clear that the criterion covers natural persons, therefore, C. 10.19 (b) is not met based on the provisions of the Legal Basic Circular of 2021.

196. In the case of foreign exchange entities, according to DIAN Resolution 029 of 2020, the obligation applies only to customers who are in an enhanced CDD process, not to customers accessing simplified CDD, therefore, such regulation partially covers criterion 10.19 (b). Nor does it address the verification of the customer's identity, as noted in the MER.

197. As for PPOs, with Resolution 1292 of 2021 the situation where the financial institution is unable to complete CDD is not covered, and it is not clear that STR are filed if CDD could not be completed in accordance with C 10.19 (b).

Criterion 10.20.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

198. The MER mentions that there is no specific provision that allows FIs under the supervision of the SFC not to pursue the CDD process when they reasonably believe that performing such process will tip off the customer.

199. In this sense, SFC Legal Basic Circular 11 of 2022, provides that the supervised entity may refrain from performing the know your customer procedures upon the establishment of the business relationship when it suspects that it may be used by the potential customer to give the appearance of legality to assets derived from criminal activities, or channel resources towards the performance of terrorist activities, and it reasonably considers that by performing such procedures it may tip off the potential customer. In these events, the entity must file a suspicious transaction report.”

200. In this regard, the aforementioned regulations cover what was mentioned by the MER.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

201. The MER mentions that there is no specific provision that allows FIs under the supervision of the SFC not to pursue the CDD process when they reasonably believe that performing such process will tip off the customer.

202. For its part, the Legal Basic Circular of 2021 states that the solidarity organization that during the process of engaging the associate or customer or in the course of the relationship notices that it may be used to give the appearance of legality to assets from criminal activities, or channel resources towards the performance of terrorist activities, and reasonably considers that by performing the due diligence process or getting to know the associate or customer it may alert him/her, in that event it has the possibility of suspending such process and shall file a suspicious transaction report to the UIAF.

203. In this sense, the SES Legal Basic Circular of 2021 covers the elements described in the MER in relation to criterion 10.20.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

204. The MER mentions that there is no specific provision that allows FIs under the supervision of the DIAN not to pursue the CDD process when they reasonably believe that performing such process will tip off the customer.

205. In this regard, DIAN Resolution 067 of 2017, states the obligation to file a Suspicious Transaction Report (STR) for those attempted or rejected transactions that are suspicious.”

206. Also, article 6.7.2 of the same resolution provides for attempted transaction reporting by establishing that reporting institutions must report attempted or rejected transactions that have characteristics that make them look suspicious. Suspicious transaction reports must be adjusted to the objective criteria established by the Postal Payment Service Operator.”

207. On this regard, the deficiency mentioned in the MER in relation to the specific provision allowing FIs not to pursue CDD procedures when they reasonably believe that doing so will tip off the customer still persists.

v) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

208. The MER mentions that there is no specific provision that allows FIs under the supervision of the MINTIC not to pursue the CDD process when they reasonably believe that performing such process will tip off the customer. On this regard, the deficiency identified in the MER still remains.

II) Conclusion:

209. In relation to FIs subject to core principles, non-banking FIs, trust companies, and savings and credit cooperatives, deficiencies have been overcome by means of SFC External Circular 11 of 2022, and SES Legal Basic Circular of 2021.

210. In the case of foreign exchange entities and postal payment service operators, the deficiency mentioned in the MER in relation to the specific provision allowing FIs not to pursue CDD procedures when they reasonably believe that doing so will tip off the customer still persists. The Criterion is mostly met.

General conclusion on Recommendation 10

211. Colombia has made relevant progress in relation to the deficiencies identified in the MER, especially as regards some aspects mentioned in the different regulations issued. However, upon analyzing the information provided, certain deficiencies that have not been fully addressed can yet be noted.

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

212. There is no evidence that the following elements are addressed in relation to C. 10.12: the requirement to take the name of the natural person identified as the beneficiary of a legal arrangement with a specific name, and the moment when users are verified, if it applies elements of C. 10.14 (a) to (c) and this criterion affects C. 10.15.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

213. Elements related to customers being properly addressed, and that it covers natural persons, based on C. 10.19 (b), do not seem to be fully addressed.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

214. There was no evidence that the following aspects are addressed: customers who may access to simplified CDD and verification of the customer's identity in accordance with criterion 10.19 (b); specific provision allowing FIs not to pursue CDD process where they reasonably believe that undertaking such process will tip off the customer.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

215. It cannot be concluded that reasonable steps are taken to verify the identity of the beneficial owner, proof of existence, and the elements under C.10.9 (b) for legal persons. As for C.10.9 (a) to (c) for legal arrangements, the timing to verify the identity of the beneficial owner, and this criterion affects C. 10.15; that FIs are allowed to apply simplified due diligence measures where minor risks have been identified, and are not acceptable where major risk scenarios arise; the situation where the financial institution is unable to complete CDD and STRs are filed if CDD could not be completed; the specific provision allowing FIs not to pursue the CDD process where they reasonably believe that conducting such process will tip off the customer.

216. Considering the significant progress in addressing a considerable number of relevant deficiencies indicated in the MER, Colombia complies with most of the criteria and the deficiencies that remain under the R. 10 can be considered to be minor. Recommendation 10 is rated Largely Compliant.

Recommendation 12 – Customer due diligence (originally rated PC – Re-rating proposal to LC)

Criterion 12.1.

I) Analysis:

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

217. The previous re-rating report notes that although FIs require a second level of approval before entering into a business relationship with a PEP, it is not explicit that “senior management approval”, as per criterion 12.1.b), shall be obtained.

218. It also notes that, while External Circular 027 of 2020 indicates that, in order to initiate or continue with the business relationship with a customer the approval of a higher hierarchical instance or employee is required, the deficiency indicated in the MER still persists since it is not clear that the approval of the top management of the financial entity is obtained.

219. In this regard, the SFC issued External Circular 11 of 2022, which states: “To amend Chapter IV of Title IV of Part I of the Legal Basic Circular (...) in order to: (i) include the concept of senior management in the procedures to identify politically exposed persons”.

220. In said External Circular, article 4.2.2.2.1.5.3. mentions that; "With respect to customers and/or potential customers who are PEPs, (...): (i) obtain the approval of senior management for the on-boarding of the customer or to continue with the business relationship."

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

221. The previous follow-up report points out that in Title V of the SES Legal Basic Circular, it is established that the procedures designed for PEPs, shall: (...) "Obtain approval for the establishment or maintenance of the business relationship (...) must be reported to the permanent management body."

222. It is also stated that: the "permanent management body," depending on the type of organization, is called management board, board of directors or management committee. This partially addresses the deficiency pointed out in the MER, it is not clear that the approval of the board of directors (senior management) is obtained."

223. In this regard, with the amendment of the Legal Basic Circular, it is stated in paragraph 3.2.2.2.1 Politically Exposed Persons (PEP) in relation to the competent body for the approval of PEPs that procedures designed for PEPs shall contain at a minimum:

(...)

Obtain the approval of the senior management for the on-boarding of persons identified as PEPs or to maintain the business relationship, when the associate, customer or beneficial owner changes its status to PEP. For these purposes, Senior Management shall be understood as indicated in Title IV of the Basic Accounting and Financial Circular and must be approved by the Management Board or Board of Directors, when the organization considers that the risk profile of the PEP to be engaged or maintained is very high or high risk."

224. Based on what is described in the Legal Basic Circular, the deficiencies pointed out in the MER have been overcome.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

225. In the previous re-rating report, it is mentioned that the point mentioned in the MER still remains, which states: "Section 3 of DIAN Circular 13/2006 defines PEPs as those persons included under Article 1 of Decree 1674/2016 but does not consider foreign PEPs. (...) It does not address the beneficial owner." Consequently, provisions of criterion 12.1 are still not complied with.

226. It should be noted that the information submitted by the country for analysis by the assessment team for the 6th follow-up report was not included since the Decree 830 was not issued and in force prior to the six-month period before the Plenary meeting, as established in the Procedures for the Fourth Round of Mutual Evaluations of GAFILAT, applicable to re-rating requests. Consequently, it was considered that to the date of the previous report, entities engaged in foreign exchange supervised by DIAN still did not comply with the provisions of criterion 12.1.

227. In this regard, Decree 830 of 2021, related to its scope of application and international PEPs, which governs all FIs and DNFBPs, creates the figure of foreign PEP, and mentions in its

“art. 2.1.4.2.9 Foreign Politically Exposed Persons: Individuals who perform prominent functions in another country shall also be considered as politically exposed persons, PEP, and shall be referred to as foreign politically exposed persons.

228. In addition, it mentions that foreign politically exposed persons are understood as: (i) heads of state, heads of government, ministers, undersecretaries or secretaries of state; (ii) congressmen or parliamentarians; (iii) members of supreme courts, constitutional courts or other high judicial instances whose decisions do not normally allow for appeal, except in exceptional circumstances; (iv) members of courts or of the boards of directors of central banks; (v) ambassadors, *chargés d'affaires*, senior officers of the armed forces; (vi) members of the administrative, management or supervisory bodies of state-owned enterprises; and (vii) legal representatives, directors, deputy directors and/or members of the boards of directors of international organizations. In no case do these categories include officials at intermediate or lower levels with respect to those mentioned above.

229. Likewise, Resolution 0061 of 2017, mentions in its art. 2.1. Politically Exposed Persons – PEP. In cases where the foreign currency and traveler’s checks purchase and sale transaction is entered into with a counterpart that has or has had the status of Politically Exposed Person - PEP, the ML/TF-FPWMD Risk Management System must provide for more stringent on-boarding and monitoring procedures, whether as an internal or external customer or as a beneficial owner.

230. Moreover, Resolution 061 of 2017 also sets forth in section 2.1 Politically Exposed Persons (PEP): “In any case, the study and approval of the on-boarding of PEPs must be conducted by the natural person authorized as an exchange professional, or by the higher instance within the legal person. In the event that a customer or beneficial owner becomes a PEP in the terms indicated in Decree 1674 of 2016, and other regulations that amend, supersede, supplement, clarify or complement it, the Board of Directors or the unit acting in its capacity, the legal representative or the natural person authorized as an exchange professional must be informed”.

231. The deficiencies mentioned in the monitoring report for FIs supervised by the National Tax and Customs Office (DIAN) have been partially remedied by Decree 830 of 2021 and DIAN Resolution 0061 of 2017. However, it is not clear that all elements of the definition of Foreign PEPs are considered, such as, officials of major political parties. Likewise, in relation to C. 12.1 (b) on obtaining senior management approval before establishing or continuing business relationships, for Foreign Exchange Companies that are legal persons, it is not clear that the concept set out in the regulations is equivalent to the requirement.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

232. The MER notes the following deficiencies applicable to foreign PEPs: i. There is no obligation to implement a risk management system in accordance with criterion 12.1 (a) to determine whether the beneficial owner is a PEP. ii. PPOs must obtain approval from a more senior employee before initiating or continuing a business relationship with a PEP (which does not necessarily mean “senior management approval”). iii. Section 6.2.4 does not cover the obligation under criterion 12.1 (c).

233. In that sense, the previous re-rating report states that the definition described for foreign PEPs set forth in art. 3 of MINTIC Resolution 01292 corresponds to the FATF Glossary definition for international organization PEPs. Therefore, the obligations mentioned in said Resolution are not applicable to foreign PEPs (according to the FATF Glossary), consequently, the deficiencies pointed out in the MER still remain.

234. In this regard, Decree 830 of 2021, related to its scope of application and international PEPs, which governs all FIs and DNFBPs, creates the figure of foreign PEP, and mentions in its “art. 2.1.4.2.9 Foreign Politically Exposed Persons. Individuals who perform prominent functions in another country shall also be considered as politically exposed persons, PEP, and shall be referred to as foreign politically exposed persons.

235. Foreign politically exposed persons are understood as: (i) heads of state, heads of government, ministers, undersecretaries or secretaries of state; (ii) congressmen or parliamentarians; (iii) members of supreme courts, constitutional courts or other high judicial instances whose decisions do not normally allow for appeal, except in exceptional circumstances; (iv) members of courts or of the boards of directors of central banks; (v) ambassadors, *chargés d'affaires* senior officers of the armed forces; (vi) members of the administrative, management or supervisory bodies of state-owned enterprises; and (vii) legal representatives, directors, deputy directors and/or members of the boards of directors of international organizations.

236. Moreover, article 2 of Resolution 00003 of 2022, amending MINTIC Resolution 1292 of 2021 sets forth as follows:

“ARTICLE 2. AMENDMENT OF ARTICLE 6 OF RESOLUTION 1292 OF 2021. Amend article 6 of Resolution 1292 of 2021, which will be as follows:

(...)

“6.2.3 Enhanced measures for politically exposed persons (PEPs). The Postal Payment Service Operator must include special procedures for high-risk customers, which need to provide for more stringent control standards: a) Include more stringent procedures for the on-boarding of high-risk customers or users that due to their profile, or the positions they hold, may present a higher-degree of exposure to the Postal Payment Service Operator to ML/TF risks, such as individuals that, as a result of their position, administer public funds, or have a certain degree of public power. b) In the case of PEPs, since they are considered high-risk elements, the Postal Payment Service Operator must include a procedure whereby the senior approval or the approval of a higher-hierarchy employee in charge of such relationships is sought prior to establishing (or continuing, in the case of current customers) business relations, and conduct ongoing enhanced controls on that relation.”

237. It should be noted that the country has submitted Resolution 2296 of July 1, 2022, for analysis by the assessment team. However, it was not included since such Resolution was not issued and in force prior to the six-month period before the Plenary meeting, as established in the Procedures of the Fourth Round of Mutual Evaluations of GAFILAT, applicable to re-rating requests. Said Resolution, under paragraph 6.2.3, subsection “c) Include a procedure where the Politically Exposed Person (PEP) must seek the approval of the senior management for its corresponding on-boarding.”

238. Consequently, it was considered that as of the date of the report, the deficiencies mentioned in the previous follow-up report regarding PPOs have been partly met by means of

Decree 830 of 2021 and MINTIC Resolution 00003 of 2022. However, it is not clear that all elements of the definition of Foreign PEPs are considered, such as, officials of major political parties. Likewise, in relation to C. 12.1 (b) on obtaining senior management approval before initiating or continuing business relationships; and C. 12.1 (c) in relation to measures to establish the origin of the wealth and source of funds of customers and beneficial owners, it is not clear that the provisions of the regulations are in line with the criterion.

II) Conclusion:

239. In relation to FIs subject to core principles, non-banking FIs, and trust companies, the deficiency has been completely addressed by SFC External Circular 11 of 2022.

240. As for savings and credit cooperatives, the deficiency has been fully addressed by SES Legal Basic Circular.

241. As for FIs supervised by the National Tax and Customs Office (DIAN) and by the Ministry of Information and Communication Technologies (MINTIC), deficiencies mentioned in the follow-up report have been partly addressed. It is not clear that all elements of the definition of Foreign PEPs are considered, such as, officials of major political parties. Likewise, in relation to C. 12.1 (b) on obtaining senior management approval before establishing or continuing business relationships, it is not clear that the concept set out in the regulations is equivalent to the requirement.

242. Finally, in relation to FIs supervised by the Ministry of Information and Communication Technologies (MINTIC), the deficiency regarding C. 12.1 (c) still remains.

Criterion 12.2.

I) Analysis

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

243. In the previous re-rating report, it is noted that deficiencies described for FIs subject to core principles, non-banking FIs and trust companies, the deficiencies noted in the MER partially remain as it is not clear that FIs should obtain senior management approval before establishing or continuing business relationships with domestic and international organization PEPs.

244. In this regard, the SFC issued External Circular 11 of 2022, which states: “To amend Chapter IV of Title IV of Part I of the Legal Basic Circular (...) in order to: (i) include the concept of senior management in the procedures to know politically exposed persons,” and it is explicitly stated that its approval must be obtained.

ii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

245. The previous re-rating report notes that, through Decree 830 of July 26, 2021, article 2.1.4.2.2.9 was added to Decree 1081 of 2015, which defines Foreign Politically Exposed Persons and which in its second paragraph establishes that Foreign PEPs are understood as: “(vii) legal representatives, directors, deputy directors and/or members of the boards of directors of

international organizations”. However, on that occasion the respective regulation had not been assessed by the assessment team, since the Decree 830 was not issued and in force within the six-month period prior to the Plenary meeting, as required by the Procedures of the Fourth Round of Mutual Evaluations of GAFILAT. Consequently, it has been noted that foreign exchange entities supervised by DIAN still do not comply with the provisions of criterion 12.2 for international organization PEPs.

iii) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Operators (PPOs)

246. The previous re-rating report notes that, through Decree 830 of July 26, 2021, article 2.1.4.2.2.9 was added to Decree 1081 of 2015, which defines Foreign Politically Exposed Persons and which in its second paragraph establishes that Foreign PEPs are understood as: “(vii) legal representatives, directors, deputy directors and/or members of the boards of directors of international organizations”. However, on that occasion the respective regulation had not been assessed by the assessment team, since the Decree 830 was not issued and in force within the six-month period prior to the Plenary meeting, as required by the Procedures of the Fourth Round of Mutual Evaluations of GAFILAT. Consequently, it has been noted that foreign exchange entities supervised by DIAN still do not comply with the provisions of criterion 12.2 for international organization PEPs.

247. On this occasion, it was found that Decree 830 of 2021, defines foreign PEPs according to the standard.

248. Moreover, DIAN Resolution 61 of 2017 establishes in paragraph 2.1 Politically Exposed Persons – PEP that; “The ML/TF-FPWMD Risk Management System must contain effective, efficient and timely mechanisms that allow identifying the cases of customers that respond to such profiles, as well as more demanding control procedures to establish the origin of their resources and performing continuous monitoring with respect to the operations they conduct. (...) In the event that a customer or beneficial owner becomes a PEP in the terms indicated in Decree 1674 of 2016, and other regulations that amend, supersede, supplement, clarify or complement it, the Board of Directors or the unit acting in its capacity, the legal representative or the natural person authorized as an exchange professional must be informed”.

II) Conclusion:

249. Regarding FIs subject to core principles, non-banking FIs and trust companies, the deficiency described has been addressed by External Circular 11 of 2022, in relation to obtaining the approval of senior management before establishing or continuing the business relationship. In relation to the deficiencies described for foreign exchange companies supervised by DIAN, Decree 830 of 2021, defines foreign PEPs according to the standard, so the deficiency has been addressed.

250. Regarding criterion 12.2 (b) it is partially covered because it maintains the same limitations as those included under 12.1 (b) for foreign PEPs for FIs supervised by DIAN and MINTIC.

Criterion 12.3.

I) Analysis

i) FIs supervised by the Financial Superintendence of Colombia (SFC) – FIs subject to core principles, non-banking FIs, and trust companies

251. In the previous re-rating report, it is mentioned that the obligations applicable to PEPs' close associates have been included in the regulations in force, so this issue is considered to have been addressed, but that the persistent deficiencies in criteria 12.1 and 12.2 had an impact on the full compliance with criterion 12.3.

252. In this regard, the deficiencies have been addressed by External Circular 11 of 2022. This criterion is Met.

ii) FIs supervised by the Superintendence of Solidarity-Based Economy (SES) – Savings and Credit Cooperatives

253. The previous re-rating report points out that, through Decree 830 of July 26, 2021, Article 2.1.4.2.10 "Close associates" was added to Decree 1081 of 2015, which establishes that "Close associates shall be understood as legal persons that have any of the PEPs listed in article 2.1.4.2.3 as administrators, shareholders, controllers, or managers. (...)", but at no time does it define the individual close associates, as well as the reason why they will be classified as such.

254. It should also be noted that on that occasion said information could not be analyzed by the assessment team, since Decree 830 was not issued and in force prior to the six-month period before the Plenary meeting, as required by the Procedures of the Fourth Round of Mutual Evaluations of GAFILAT applicable to the re-rating requests. Also, it is mentioned that remaining deficiencies in criteria 12.1 and 12.2 impact full compliance with criterion 12.3.

255. In this regard, the deficiency mentioned in the previous re-rating report is maintained, in relation to what is set forth in Decree 830 of July 26, 2021, which added Article 2.1.4.2.10 "Close associates", to Decree 1081 of 2015, wherein close associates are understood as legal persons. However, individual close associates are not defined, as well as the reason why they will be classified as such.

iii) FIs supervised by the National Tax and Customs Office (DIAN) – Foreign Exchange Companies

256. The previous re-rating report mentions that DIAN Resolution 0061 of 2017 defines that PEP status extends to "spouses or permanent partners and family members of PEPs, up to the second degree of consanguinity or affinity." However, it does not address close associates of all types of PEPs. Also, it is mentioned that remaining deficiencies in criteria 12.1 and 12.2 impact full compliance with criterion 12.3.

257. On this regard, as mentioned above, decree 830 of July 26, 2021, added article 2.1.4.2.10 "Close associates" to Decree 1081 of 2015, wherein close associates shall be understood as legal persons; however, individual close associates are not defined, as well as the reason why they will be classified as such. Persistent deficiencies in criterion 12.1 impact full compliance with criterion 12.3.

iv) FIs supervised by the Ministry of Information and Communication Technologies (MINTIC) – Postal Payment Service Operators (PPOs)

258. The previous re-rating report points out that Resolution 01292 does not address the requirements of criteria 12.1 and 12.2 applicable to members of a family or close associates of all types of PEPs under criterion 12.3.

259. In this regard, as mentioned above, decree 830 of July 26, 2021, which added article 2.1.4.2.10 “Close associates”, to Decree 1081 of 2015, wherein close associates are understood as legal persons.

260. Family members, and individual close associates are not defined, as well as the reason why they will be classified as such. Persistent deficiencies in criteria 12.1 and 12.2 impact full compliance with criterion 12.3.

II) Conclusion:

261. In relation to FIs supervised by the SFC, deficiencies related to criteria 12.1 and 12.2 have been addressed; thus, this criterion is met.

262. FIs supervised by the SES and the DIAN have addressed close associates to legal persons by means of Decree 830 of 2021; however, individual close associates are not defined, as well as the reason why they will be classified as such.

263. FIs supervised by the MINTIC have addressed close associates to legal persons by means of Decree 830 of 2021; however, individual close associates are not defined, as well as the reason why they will be classified as such. Family members are not addressed either.

264. Moreover, deficiencies remain under criterion 12.1 and 12.2, and impact on full compliance with criterion 12.3 in relation to FIs supervised by the DIAN and MINTIC.

Criterion 12.4.

I) Analysis:

265. The previous re-rating report points out that FIs that offer life insurance policies must have procedures to identify beneficiaries or BO of the beneficiary. However, it does not specifically include the obligation to determine the PEP status upon payment.

266. Also, it points out that, when higher risks arise, there is still no obligation to inform senior management before proceeding with the payment of the policy so that more detailed examinations of the business relationship with the policy holder can be carried out and a STR can be considered. In addition, the findings of criteria 12.1 to 12.3 could affect the identification of PEPs by FIs offering life insurance policies under criterion 12.4.

267. In this regard, Chapter IV, Title IV, Part I of SFC Legal Basic Circular, paragraph 4.2.2.2.1.1. provides for the “Regular know-your-customer procedures: 4.2.2.2.1.1.1. Identification (...) 4.2.2.2.1.1.1.3. Identification of the beneficiary of products. (...) 4.2.2.2.1.1.1.3.2. Insurance

entities must adopt the following measures with respect to the beneficiary of a life insurance and other life insurance policies with savings and investment component, as soon as the beneficiary is identified or designated, in any case, the beneficiary's information at the time of payment must be gathered pursuant to the provisions of subparagraph 4.2.2.2.1.1.3 herein.

(...)

4.2.2.2.1.1.1.3.2.2. When it is not possible to know the identity of the beneficiary at the time of the customer's on-boarding, the identity must be identified and verified at the time of payment.

(...)

4.2.2.2.1.1.1.3.2.3. Include the beneficiary of a life insurance policy as a customer to determine whether enhanced know-your-customer measures should be applied.

When the beneficiary of a life insurance policy is a legal entity and the insurance entity determines that this beneficiary represents a higher risk, the supervised entity must adopt enhanced measures, which must be effective for the purposes of identification and verification of the identity of the life insurance policy beneficiary's beneficial owner at the time of payment.

268. In addition, subparagraph 4.2.2.2.1.5.3. indicates that "With respect to customers and/or potential customers who have the status of PEP, in addition to applying the normal know-your-customer procedural measures, supervised entities shall: (i) obtain senior management approval for the on-boarding of the customer or to continue with the business relationship; (ii) adopt measures to establish the source of resources; (iii) provide for more stringent on-boarding procedures; and (iv) conduct an ongoing and enhanced monitoring of the business relationship".

269. Moreover, subparagraph 4.2.7.2.1. Suspicious Transaction Reports (STRs) sets forth that "In the event that, during the terms set forth for each report, entities did not detect transactions or operations that result in the filing of a report, the UIAF should be notified on this regard in compliance with the guidelines provided for in the corresponding technical documents and instructions for each of them."

II) Conclusion:

270. On this regard, the deficiency identified in the re-rating report still remains. Given that paragraph 4.2.2.2.1.1.1.3.2.3. provides for the adoption of further measures, such as to identify and verify the insurance beneficiary's BO identity; however, it does not mention if this requirement applies to PEPs, i.e., nor does it explicitly mention that measures are designed to determine if the beneficiary and/or BO of the beneficiary are PEPs upon payment.

271. Moreover, even if subparagraph 4.2.2.2.1.5.3 mentions obtaining senior management approval for the on-boarding of a customer and/or potential customer with PEP status, the performance of more detailed analysis of the entire business relationship with the policy holder upon payment of the policy is not provided for, as well as the possibility of filing a suspicious transaction report.

General conclusion on Recommendation 12

272. Colombia has made progress in relation to deficiencies identified in the MER, especially by including some of the aspects mentioned in the regulations issued, such as SFC External Circular 11 of 2022, that includes the concept of obtaining senior management approval for the on-boarding of a customer or continuing the business relationship with a customer; Decree 830 of

2021, wherein certain elements of Foreign and Domestic PEPs definitions are included; MINTIC Resolution 01292 of 2021 to address the definition of PEP from international organizations; SES External Circular 38 of 2022, that includes procedures and the scope of PEP customers; and Resolution 00003 of 2022, that amended MINTIC Resolution 1292 of 2021.

273. However, based on the analysis of information submitted, certain deficiencies have not been fully addressed yet, as for example, regarding FIs that offer life coverage policies or the definition of individual close associates, and granting of category to FIs supervised by the SES. Likewise, it was not possible to confirm that all the elements of the definition of Foreign PEPs are considered, such as officials of important political parties, or that management approval is required to initiate relations with a PEP, among others.

274. As a result, Colombia largely complies with criteria 12.1, 12.2, and 12.3. Regarding criterion 12.4 there are deficiencies to be adjusted, however, life insurance companies do not present a significant materiality according to the financial assets of the system shown in the MER, therefore, Recommendation 12 is rated as Largely Compliant.

Recommendation 24 - Transparency and Beneficial Ownership of Legal Persons (originally rated PC - Rating remains)

Criterion 24.2.

I) Analysis:

275. The country does not provide new information to what was already presented in the re-rating report approved in December 2021. The referenced paragraphs of the 2019 NRA report, rather seem to reflect a diagnosis on certain difficulties presented by RIs in accessing BO information during the CDD process of a customer that is a legal person, but there is no risk assessment on misuse, at all levels, of the different types of legal persons that exist in the country for ML/TF purposes, nor are mitigation measures indicated in this regard.

II) Conclusion:

276. Based on the information provided by the country, there are no changes in the analysis and the comments remain, since the deficiencies identified in the MER and the subsequent re-rating report persist.

Criterion 24.6.

I) Analysis:

277. Law 2155, dated September 2021, amends the articles of the Tax Statute that establish the concept of BO and the creation of the RUB (Registry of Beneficial Owners). Then, on December 21, 2021, the National Tax and Customs Office (DIAN) issued Resolution 164 which regulates the operation and technical conditions for the implementation of the RUB.

278. This regulation establishes in its article 4 the obligation for legal persons registered in the RUT (tax registry) to disclose the information of their BOs, describing in its article 8 the type of information to be disclosed, which is in line with what is required in the standard.

279. In this sense, the information that the reporting entity reports to the RUB is based on the principle of Due Diligence regulated in article 17 of Resolution 164, which establishes the obligation of legal persons to identify, collect, keep, provide, and update in the RUB the information requested by the resolution itself. Likewise, it establishes the obligation for third parties to provide the information requested by those required to report before the RUB. At this point, doubts arise regarding the accuracy of this information and the liability of these third parties in case of eventual non-compliance with this obligation to “collaborate” in providing the information, in view of what is stated in the final paragraph of Article 20 on sanctions (see analysis of TC24.13).

280. Regarding the above, the Tax Statute establishes in article 555-2, paragraph 2, the duty of registration in the Tax Registry (RUT) prior to the beginning of the economic activity in the country. In this regard, there is no clarity on the situation of those legal persons established in the country, but that do not develop their economic activity in the country, and that could access financial services abroad without having previously registered in the RUT and therefore, not being required to report their beneficial owners before the RUB.

II) Conclusion:

281. From a technical perspective, the regulation established in Laws 2155 and 2195, and in particular in Resolution 164, without prejudice to the comments made due to the minor deficiencies identified, generates a mechanism with the necessary attributes to gather and keep information on the BOs of the legal persons that are registered with the RUT.

282. Therefore, it is considered that the deficiencies of this criterion are mostly addressed.

Criterion 24.7.

I) Analysis:

283. Law 2155, dated September 2021, amends the articles of the Tax Statute that establish the concept of BO and the creation of the RUB (Registry of Beneficial Owners). Then, on December 21, 2021, the National Tax and Customs Office (DIAN) issued Resolution 164 which regulates the operation and technical conditions for the implementation of the RUB. Article 11 of this resolution establishes the obligation to update the information on the BO in the event of any modification.

284. The updating process is quarterly (there are 4 updating periods during the year: Jan-Apr-Jul-Oct), which generates a significant risk gap with respect to the timeliness of such update, and it is possible for the BO information to remain outdated in the RUB for up to 3 months. Information must be provided to the RUB, as established in article 9 of the Regulation, through the electronic declaration system.

285. Furthermore, according to the provisions of Resolution 164, the accuracy of the information on BO of the legal persons registered with the RUT is based on the information reported to the RUB by those required to do so, without this resolution establishing a mechanism for validation and review of the information received in such declarations, in order to identify incorrect, incomplete or false information.

286. Notwithstanding the above, the BO declaration system considers an operational process to validate the information filled in the form, which is contrasted with a series of databases to verify that, from a formal perspective, such information is correct, detecting errors and/or formal inconsistencies in the fields of the form.

287. Finally, this operational process does not allow, at the time of the declaration, to guarantee the accuracy and veracity of the information of the declared BOs and their respective direct or indirect ownership percentages in the declared legal person. The latter may only be verified by means of review processes subsequent to the declaration, in attention to the provisions of article 684 of the Tax Statute which establishes the inspection and investigation powers of the DIAN.

II) Conclusion:

288. Based on the analysis, particularly with respect to the deadlines established for updating the information and concerning the lack of validators with respect to the veracity of the information declared in the BO form, it is concluded that moderate deficiencies persist with respect to compliance with this TC.

Criterion 24.8.

I) Analysis:

289. Decree 164 does not clearly establish who is the natural person responsible for providing the basic and BO information of the legal person required to declare before the RUB. In this sense, the sanctions established in the model designed by the country are only directed to the legal person required to declare and not to a natural person that represents it or is responsible for it.

290. Notwithstanding the foregoing, the general rules on commercial and tax matters establish the responsibility of the legal person's legal representative, which will be exercised by the chairman, manager or any of their alternates (article 556 of the Code of Commerce), being these the ones obliged before the tax authority to comply with the formal duties (article 571 and 572 of the Tax Statute). The duty to file the return before the RUB is understood to be among them.

II) Conclusion:

291. Based on the analysis it is concluded that the deficiencies with respect to compliance with this TC are mostly overcome.

Criterion 24.9.

I) Analysis:

292. On December 21, 2021, the National Tax and Customs Office (DIAN) issued Resolution 164 which regulates the operation and technical conditions for the implementation of the RUB. This regulation establishes in its article 18 the duty to keep all the information obtained in the CDD process carried out in compliance with article 17 of the same resolution, including all the information related to their BOs, by those obliged to report to the RUB registry. In the same sense, and in order to reinforce the duty to keep the information on the part of those required to declare, the RUB, which receives the declarations of BO information of the legal entities registered with the RUT, also keeps the information it has received and therefore ensures that it is kept beyond the terms established in the standard.

293. Notwithstanding the above, Resolution 164 does not establish the obligation, for the persons (natural, legal or others) that provide information to the person under obligation to declare before the RUB, to keep the information provided.

II) Conclusion:

294. By virtue of the above, it is considered that the deficiencies of this TC are mostly addressed.

Criterion 24.13.

I) Analysis:

295. On December 21, 2021, the National Tax and Customs Office (DIAN) issued Resolution 164 which regulates the operation and technical conditions for the implementation of the RUB. Said resolution, in its article 20 establishes the sanctioning regime, describing the situations in which the sanctions provided in article 658-3 of the Tax Statute are applicable.

296. For the cases of legal persons that do not register with the RUT and therefore are not registered with the RUB, a sanction of closure of 1 day for each month of delay or a fine of USD 10 for each day of delay in registering will be applied. Failure to update information will result in a fine of USD 10 for each day of delay (it should be born in mind that the update must be conducted within 30 days following the first day of January, April, July, and October every year). Finally, false, incomplete, or erroneous declarations are subject to a fine of USD 1,000.

297. The above seems adequate for cases of incomplete or erroneous data; however, in cases of false declarations, the fine defined is not entirely proportionate to the seriousness of the act, considering that an attempt may be made to maliciously conceal information on a BO that is intended to be kept out of the scope of investigations by the competent authorities. As for the sanctions imposed on the legal representative, who is the one who declares the BO on behalf of the legal person, these are established in article 573 of the Tax Statute, which establishes a fine of up to USD 126,000.

298. Finally, the final paragraph of article 20 of DIAN Resolution 164 establishes that the person (natural persons, legal entities, or legal arrangements) required to provide information to the person obliged to declare before the RUB, and fails to do so or provides false information, may be subject to civil or criminal sanctions. Such regulation does not mention in which regulation the respective offenses and the applicable civil or criminal sanctions are established.

II) Conclusion:

299. By virtue of the above, notwithstanding the comments made, it is considered that the deficiencies of this TC are mostly addressed.

Criterion 24.15.

II) Analysis:

300. Article 22 of DIAN Regulation 164 establishes that the information contained in the RUB is “reserved” in nature, with access to such information being granted only to entities that are authorized by law, which additionally must sign an agreement for such access, granted exclusively for the fulfilment of their legal purposes.

301. In this sense, Article 13 of Law 2195 of January 2022 describes those entities that will have access to the information contained in the RUB, which are the following:

- Comptroller General of the Republic
- DIAN;
- Attorney General’s Office
- Superintendence of Companies;
- Financial Superintendence;
- Public Prosecutor’s Office; and
- Information and Financial Analysis Unit.

302. In this regard, there is no evidence of a mechanism or protocol designed to monitor the quality of assistance, in responses and/or requests for basic information and/or on BO, in the terms required by the standard.

II. Conclusion:

303. Based on the information provided by the country, there are not changes in the analysis and deficiencies remain.

Conclusion on Recommendation 24

304. The country has made important progress in the establishment of a regime for the identification and record-keeping of information of beneficial owners of legal persons established in the country and registered with the Tax Registry, in line with the requirements of Recommendation 24. In this sense, regulations issued allow adequately complying with an important part of TC, while certain moderate deficiencies remain, particularly in relation to the update and accuracy of BO information. Therefore, the rating of Partially Compliant for Recommendation 24 should be maintained.

IV. CONCLUSION

305. In general, Colombia has been making important progress in relation to addressing the technical compliance deficiencies identified in its MER and has been re-rated in relation to **Recommendations 10 to Largely Compliant and 12 to Largely Compliant**.

306. In view of Colombia's progress since the adoption of its MER, its technical compliance with FATF Recommendations was re-rated again as follows:

Table 2. Technical Compliance Ratings, July 2018

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

Note: There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

307. Colombia will continue in the enhanced follow-up process and will continue to report to GAFILAT on the progress made to strengthen its implementation of AML/CFT measures