



# Anti-money laundering and counter-terrorist financing measures

## Nigeria

### 3rd Enhanced Follow-up Report & Technical Compliance Re-Rating

Follow-up Report



YOU ARE WELCOME

November 2024



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

For more information about GIABA, please visit the website: [www.giaba.org](http://www.giaba.org)

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**This assessment was adopted by GIABA at its November 2024 Plenary meeting.**

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## Nigeria's 3<sup>rd</sup> Enhanced Follow-up Report

### I. INTRODUCTION

1. The GIABA Plenary adopted the mutual evaluation report (MER) of the Federal Republic of Nigeria in August 2021. This Follow-Up Report (FUR) analyses Nigeria's progress in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
2. This report does not analyse any progress Nigeria has made to improve its effectiveness.
3. The assessment of Nigeria's request for technical compliance re-ratings and the preparation of this report was undertaken by the GIABA Secretariat in line with paragraph 86 of the GIABA Process and Procedures for the GIABA Second Round of Mutual Evaluations.
4. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Nigeria's current technical compliance ratings.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

5. Nigeria's MER ratings and updated ratings based on the Second FUR are as follows:

**Table 1: Nigeria's TC rating upon adoption of the MER/FURs (May 2023)**

R.	Rating
1.	PC (MER 2021) - ↑ LC (FUR 2023)
2.	PC (MER 2021) - ↑ LC (FUR 2023)
3.	PC (MER 2021) - ↑ C (FUR 2022)
4.	C (MER 2021)
5.	LC (MER 2021)
6.	PC (MER 2021) PC (FUR 2022) - ↑ LC (FUR 2023)
7.	NC (MER 2021) - ↑ LC (FUR 2022)
8.	NC (MER 2021) - ↑ C (FUR 2023)
9.	C (MER 2021)
10.	LC (MER 2021)
11.	PC (MER 2021) - ↑ C (FUR 2022)
12.	PC (MER 2021) ↔ PC (FUR 2022)
13.	C (MER 2021)
14.	C (MER 2021)
15.	PC (MER 2021) - ↔ PC (FUR 2022)
16.	LC (MER 2021)
17.	LC (MER 2021)
18.	LC (MER 2021)
19.	PC (MER 2021) - ↑ LC (FUR 2022)
20.	PC (MER 2021) - ↑ C (FUR 2022)

R.	Rating
21.	LC (MER 2021)
22.	PC (MER 2021) ↔ PC (FUR 2023)
23.	PC (MER 2021)
24.	PC (MER 2021) - ↔ PC (FUR 2023)
25.	PC (MER 2021)
26.	LC (MER 2021)
27.	LC (MER 2021)
28.	PC (MER 2021)
29.	C (MER 2021)
30.	C (MER 2021)
31.	C (MER 2021)
32.	PC (MER 2021)
33.	PC (MER 2021) - ↑ C (FUR 2023)
34.	PC (MER 2021) - ↑ C (FUR 2023)
35.	LC (MER 2021)
36.	LC (MER 2021)
37.	LC (MER 2021)
38.	LC (MER 2021)
39.	LC (MER 2021)
40.	LC (MER 2021)

6. Given the MER and FUR results, Nigeria was placed on Enhanced Follow-Up as of the last FUR.

### **III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE**

7. In keeping with the GIABA Mutual Evaluation Process and Procedures, this FUR considers progress made up until 15 May 2024. In line with the current GIABA ME Procedures and the FATF Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems, the review team's analysis has considered progress to address the deficiencies identified in the MER and the First FUR the entirety (all criteria) of each Recommendation under review, noting that this is not detailed where the legal, institutional or operational framework is unchanged since the MER or FUR and there have been no changes to the FATF Standards or their interpretation.

8. This section summarises the progress made by Nigeria to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and the First FUR.

#### **3.1. Progress to address technical compliance deficiencies identified in the MER/FUR**

9. Nigeria has made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendations 24, 25, 28 and 32. Because of this progress, Nigeria has been re-rated on these Recommendations.

10. GIABA welcomes the progress achieved by Nigeria to improve its technical compliance with Recommendations 22 and 23. However, insufficient progress has been made to justify upgrades of the rating of these Recommendations at this stage.

#### **Recommendation 22 (Originally rated PC)**

11. The Second FUR maintained the MER PC rating for R.22. The 2<sup>nd</sup> FUR identified shortcomings in relation to the need for DNFBPs to take reasonable measures to verify the identity of the beneficial owner and to understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship; understand the nature of the customer's business and its ownership and control structure of legal persons, among others

12. To address the identified deficiencies, Nigeria passed the Economic and Financial Crimes Commission (Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation of Weapons of Mass Destruction for Designated Non-Financial Businesses and Professions, and Related Matters) Regulations, 2024 (ESCUMLR) on 15<sup>th</sup> May, 2024. These Regulations revoked the Federal Ministry of Industry, Trade and Investment (Designated Non-Financial Institutions and Other Related Matters) Regulations, S.I. No. 59, 2013 and the ESCUMLR 2022.

13. **22.1 [Partly Met]** DNFBPs must comply with the CDD requirements set out in Recommendation 10 in the following situations:

- a) **[Partly Met]** Casinos - when customers engage in financial transactions equal to or above USD 1000 (Reg. 40(3) ESCUMLR).

- b) **[Partly Met]** Real estate agents - whenever involved in transactions for the purchase or sale of real estates, including for both the purchasers and the vendors (§4, MLPPA and reg. 40(4), ESCUMLR).
- c) **[Partly Met]** Dealers in precious metals and stones (DPMS) – when they engage in any cash transaction with a customer equal to or above USD 1,000 or its equivalent in Naira or in any other currency (§4, MLPPA and reg. 40(6), ESCUMLR).
- d) **[Partly Met]** Lawyers, notaries, other independent legal professionals, accountants and trust and company service providers (TCSPs) - when they prepare for, or carry out, transactions for their client concerning the activities specified in this sub-criterion and sub-criterion 22.1(e) (§4, MLPPA & regs. 8(2) and 40(8), ESCUMLR).
- e) **[Partly Met]** Trust and company service providers – when they prepare for or carry out transactions for a client concerning (i) acting as a formation agent of legal persons; (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; (iv) acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; (v) acting as (or arranging for another person to act as) a nominee shareholder for another person (§4, MLPPA & regs. 8(3) and 40(9), ESCUMLR).

14. The requirement to undertake CDD measures when carrying out occasional transactions above the threshold of USD1,000 is limited to DNFBPs whose businesses involve cash transactions (§6(1)(a) and (b), MLPPA) and (reg.29(2)(b), ESCUMLR). These provisions are inconsistent with the requirements of the FATF Standards. Furthermore, DNFBPs are not required by law to take reasonable measures to verify the identity of the beneficial owner and to understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship. These are moderate deficiencies to the implementation of CDD measures as they could lead to limited application of the requirements to occasional transactions, non-verification of the identity of beneficial owners of transactions and accounts, and the risk-profiling of the same.

15. **Criterion 22.2 [Mostly Met]** DNFBPs are subject to the same record keeping obligations of FIs (§8 and 9, MLPPA) in the situations or concerning the activities set out in criterion 22.1 (regs. 8(2) and (3), and 18, ESCUMLR). However, the deficiency identified in relation to criterion 22.1 concerning occasional transactions, verification of the beneficial owner and the purpose and intended nature of the business relationship have an adverse impact on this sub-criterion.

16. **Criterion 22.3 [Partly Met]** The deficiencies in R.12 have a cascading effect on R. 22.

17. **Criterion 22.4 [Partly Met]** The legal framework has not changed since the last FUR and there have been no changes to the FATF Standards or their interpretation. Still, Nigeria did not provide evidence that DNFBPs had identified and assessed the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

18. **Criterion 22.5 [Mostly Met]** DNFBPs are allowed to rely on third parties to (a) identify a customer and verify that customer's identity using reliable independent source documents,

data or information; (b) identify a beneficial owner and take reasonable measures to verify the identity of the beneficial owner; and (c) understand and obtain information on the purpose and intended nature of the business relationship (reg.32(1), ESCUMLR). The ultimate responsibility for CDD measures remains with the DNFBP relying on the third party, which are required to comply with all the requirements set out in sub-criteria 17.2(a)-(c) of the FATF Methodology (reg. 32(2), ESCUMLR). DNFBPs must comply with the reliance on third-parties requirements set out in Recommendation 17 in the situations set out in Criterion 22.1 (reg. 8(2) and (4), ESCUMLR). However, the absence of requirements in law to take reasonable measures to verify the identity of the beneficial owner understand and obtain information on the purpose and intended nature of the business relationship noted in c.22.1 have an adverse impact on the implementation of the requirements of R.17 because DNFBPs cannot assign responsibilities that do not exist to third parties.

## **Weighting and conclusion**

19. Application of CDD measures by DNFBPs are now targeted at the situations and activities set out in c.22.1. The gaps relating to the reliance on third parties for the performance of certain aspects of CDD have also been largely addressed. However, gaps remain regarding the requirements for the verification of the identity of the beneficial owner, purpose and intended nature of business relationship, occasional transactions, application of enhanced due diligence measures to family members and close associates of foreign and domestic PEPs, and new technologies requirements. These gaps constitute moderate shortcomings to the implementation R.22 considering Nigeria's risk profile.

20. **The Partially Compliant rating for Recommendation 22 is maintained.**

## **Recommendation 23 (Originally rated PC)**

21. The MER rated Nigeria PC on this Recommendation due to the lack of application of AML/CFT obligations to lawyers, including most TCSPs, gaps in the legal requirements related to screening procedures for hiring DNFBPs employees, group wide application of AML/CFT procedures, and dealing with higher risk ML/TF jurisdictions.

22. **Criterion 23.1 [Partly Met]** The requirements to report suspicious transactions, including attempted transactions, set out in Recommendation 20 apply to all DNFBPs subject to the following qualifications:

- a) **[Partly Met]** Lawyers, notaries, other independent legal professionals and accountants – when they render services to and carry out transactions for any client in relation to the activities described in criteria 22.1(d) and (e) (§7, MLPPA and reg. 8(2), ESCUMLR). Section 7 of the MLPPA and Regulation 8(2) of ESCUMLR do not cover situations where legal professionals prepare for transactions for their clients concerning the listed activities.
- b) **[Met]** DPMS are under a general obligation to submit STRs to the NFIU (§7, MLPPA). This obligation will cover situations where DPMS engage in a cash transaction with a customer equal to or above USD/EUR 15,000.
- c) **[Not Met]** TCSPs registered as trustees, when they undertake the activities described in criterion 22.1(e)(§7, MLPPA and reg.8(3), ESCUMLR). The requirement for TCSPs to report suspicious transactions is limited to TCSPs registered as trustees, thereby narrowing the scope of obligation to when a TCSP is acting as a trustee of an express trust. In addition, it does not cover situations where TCSPs prepare to carry out transactions concerning the activities described in c.22.1(e).

23. **Criterion 23.2 [Met]** DNFBP groups are required to implement group-wide programmes against ML/TF, which should be applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group, and should include the measures set out in criterion 18.1 and criterion 18.2(a) to (c) (reg. 9(12) and (13), ESCUMLR).

24. **Criterion 23.3 [Met]** DNFBPs are required to comply with the higher-risk countries requirements set out in R. 19 (reg. 31(1), ESCUMLR). Regulation 31(2) of the ESCUMLR provides a non-exhaustive list of examples of EDD measures that DNFBPs can apply in relation to higher risk countries and jurisdictions. The examples are consistent with those provided for in the Interpretive Note to R. 19. In relation to effective measures in place to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries, the analysis of criterion 19.3 of the MER and First FUR regarding the mandate of the NFIU to issue advisories applies.

25. **Criterion 23.4 [Partly Met]** The Directors, officers and employees of DNFBPs who carry out their duties under the MLPPA in good faith are not liable to any civil or criminal liability or have any criminal proceedings brought against them by the customers (§7(11), MLPPA). However, this protection does not extend to DNFBPs as entities. In addition, there is no protection for DNFBPs and their officials in the absence of knowledge of the underlying criminal activity or regardless of the occurrence of the illegal activity. Furthermore, DNFBPs and their Directors, officers and employees are not prohibited by law from disclosing the fact that an STR or related information is being filed with the FIU. Also, there is no provision that situations where lawyers, notaries, other independent legal professionals and accountants acting as independent legal professionals seek to dissuade a client from engaging in illegal activity do not amount to tipping-off as indicated by footnote 69 of the FATF Methodology.

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

26. Nigeria meets the requirements for higher risk jurisdictions and internal controls. However, the filing of STRs do not cover situations when legal professionals prepare for transactions for their clients concerning the listed activities. For TCSPs, the filing of STRs only applies to those registered as trustees. Furthermore, there are cascading deficiencies from R.21 in relation to tipping-off and confidentiality requirements. These represent moderate deficiencies in Nigeria's implementation of R.23.

27. **The Partially Compliant rating for R.23 is maintained.**

### ***Recommendation 24 (Originally Rated PC)***

28. The 2<sup>nd</sup> FUR maintained the MER's PC rating for R.24 due to concerns regarding access to information on free zones enterprises (FZEs) and foreign companies in the Oil and Gas Free Zones (OGFTZ) (including information on BO, bearer shares, disclosure of the names of nominators of nominee directors), and the range of sanctions for non-compliance with reporting requirements; the existence of comparable measures specifically identified to trace a BO or a mechanism for monitoring of the quality of assistance received from other countries in response to requests for basic and BO information request for assistance in locating BOs residing abroad.

29. **Criterion 24.1 [Mostly Met]** The 2<sup>nd</sup> FUR highlighted the absence of a mechanism which describes the types, forms and basic features of FZEs and for obtaining and recording of beneficial ownership information; and the lack of description of the types, forms and basic features of legal persons, as well as the process for obtaining and recording of beneficial ownership (BO) information of OGFZ companies by the OGFZ Act.

30. In relation to FZEs under NEPZA, NEPZA is required to identify and keep records describing (a) the information on different activities of FZEs and the process for the creation of those enterprises, for obtaining licenses and for obtaining and recording basic and beneficial ownership information of approved FZEs (reg. 5(1), NBOREG). In registering FZEs, NEPZA is enjoined to record information, including a list of directors and share capital and allotment of shares (reg. 5(2), NBOREG). NEPZA is also empowered to obtain and record information on the beneficial ownership of its FZEs (reg.5(1), NBOREG). It is noted that section 10(3) of the NEPZA Act requires licensed companies operating within a Zone and undertaking an approved activity to notify the Authority of any purchase, assignment or transfer of shares in the company, except where the company's shares are quoted and are freely transferable on any international Stock Exchange. Also, Nigeria's National Inherent Risk Assessment of Legal Persons and Arrangements notes the existence of Branches of Companies with Joint Ownership (these companies are of hybrid construct with elements of both foreign and local promoters) operating in NEPZA FTZs.<sup>1</sup> However, the NEPZA Act and NBOREG do not describe the types, forms and basic features of the legal persons in the NEPZA free zones. In addition, the NBOREG is not publicly available.

31. In relation to OGFZA-FZEs, the OGFZA is required to maintain a register for collecting and maintaining basic and BO information of FZEs operating in the Free Zone (reg. 3, Nigerian Export Processing Zones Authority (Disclosure of Beneficial Ownership Information for Free Zone Enterprises Regulations, 2024 (OBOREG)). Although the OGFZA Regulations, 2019 refer to "shareholders", "shares", "Certificate of Incorporation", "Board of the applicant's company" (see reg. 22 of Oil and Gas FZ Regulations), the OGFZA Act and OBOREG do not identify the different types, forms and basic features of the legal persons operating as OGFZs. The OBOREG is not publicly available.

32. **Criterion 24.2 [Met]** The legal, institutional and operational frameworks have not changed since the last FUR and there have been no changes to the FATF Standards or their interpretation.

33. **Criterion 24.3 [Mostly Met]** The 2<sup>nd</sup> FUR rated this criterion as Mostly Met because of the absence of a legal framework requiring NEPZA to record the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers, and a list of directors. In addition, the OGFZA lacked the powers to obtain BO information on OGFTZ companies.

34. NEPZA-FZEs are to be registered in NEPZA's registry, which shall record the enterprise name, registration number, licence, activities, address of the registered office, list of directors, share capital and allotment of shares (regs. 5(2) of the NBOREG), and information supplied in respect of sub-regulation 5(2) shall be available to the public (reg. 5(4)). Information obtained under sub-regulation 5(2) does not include information on basic regulating powers of FZEs. Therefore, the NBOREG does not require for such information to be made publicly available.

35. Local entities that apply for OGFZ licence are required to have a valid Certificate of Incorporation, issued by the Corporate Affairs Commission: (b) copy of the resolution of the Board of the applicant's company; and (c) any other document that may be determined by the Authority (reg.22(2), OGFZA Regulations(OGFZAR), while an offshore OGFZE is required to produce evidence of notarised Certificate of Incorporation in the country of origin, together with the Memorandum and Article of Association and a copy of the resolution of the Board of the applicant's company (reg. 22(3), OGFZAR). However, there is no provision in the OGFZA Regulations that information should be available to the public.

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<sup>1</sup> Page 21 of Nigeria's National Inherent Risk Assessment of Legal Persons and Arrangements, 2022.



36. **Criterion 24.4 [Mostly Met]** The 2<sup>nd</sup> FUR rated this criterion as Mostly Met because FZEs and OGFZ companies were not expressly required to maintain the information set out in c.24.3 and a register of their members, including their names, addresses, share capital (if applicable), date when a person became or ceased to be a member. NEPZA-FZEs are not required to maintain the information set out in criterion 24.3. An OGFZ company is required to keep all records of books of an enterprise in its registered office in the Free Zone and available at all times for inspection by the OGFZA (reg.27(1)(i), OGFZ Regulation). An OGFZE is required to maintain a register of directors and secretary kept at its registered address within the Free Zone. The register must contain the particulars, address of the Board of Directors and Secretary of the registered enterprise within the Free Zone, and the OGFZA must be notified of any change in the address and particulars of the Board of Directors and Secretary within 14 days (reg. 35(2)-(4), OGFZA Regulations). These changes for OGFZ companies to keep all records of books of an enterprise in its registered office, does not expressly include requirements for the register of members, including names, addresses, share capital and date a person became or ceased being a member.

37. **Criterion 24.5 [Mostly Met]** The deficiencies identified by the 2<sup>nd</sup> FUR related to the limited scope of information to be provided to NEPZA, and the absence of a requirement to obtain and maintain all the information set out in c.24.3 and 24.4 not guaranteeing the accuracy and timeliness of the required information. The OGFZA must be notified of any change of registered address and particulars of address of the Board of Directors and Secretary within 14 days of the change (reg. 35(4), OGFZA Regulations). NEPZA-FZEs are required to update their information when there are changes within 30 days of any changes in respect of information in the NEPZA's register of FZEs (reg.5(3), NBOREG). The timelines for reporting changes are considered reasonable, compared to the timelines in other MERs. However, there is no requirement to verify information provided by FZEs in relation to the information in criteria 24.3 and 24.4. Finally, the deficiencies identified in relation to 24.3 and 24.4 have an adverse impact on this criterion.

38. **Criterion 24.6 [Met]** FZEs, and FZAs are now required to obtain and hold up-to-date information on the companies' beneficial ownership (regs. 6, NBOREG and 3(1) and 4, OBOREG). The authorities are required to verify BO information of an enterprise through on-site inspections of the enterprise or relevant service provider, checking information submitted against Corporate Affairs Commission's Beneficial Ownership Register or checking information against other national or international database; and conduct off-site desk review of documents, data or information collated under the verification process and ensure they are kept up-to-date and relevant, particularly in respect of higher risk business relationships or customer categories (reg. OBOREG & reg. 8, NBOREG). In addition, FZEs are obliged to identify, obtain and maintain in their register of records of the list of information provided in relation to their beneficial owners and ensure that the information, document or data collected are kept up-to-date and regularly reviewed (reg. 4(2)&(3), OBOREG and 6(3-5), NBOREG).

39. In line with R.10 and 11, FIs and DNFBPs are required to obtain and maintain BO information of legal persons and ensure that documents, data or information collected under customer due diligence measures is kept up-to-date (§4, 3(c), MLPPA). For companies that are listed on the stock exchange, and subject to disclosure requirements (by stock exchange rules or other enforceable means) which impose disclosure requirements to ensure adequate transparency of BO, or is a majority owned subsidiary of a company.

40. **Criterion 24.7 [Mostly Met]** The 2<sup>nd</sup> FUR noted the absence of corresponding requirements for FZEs FZAs to maintain BO information, and to update such information as soon as possible. FZEs and FZAs are now required to hold up-to-date information on their BOs and promptly disclose the information to FZAs. Under regulations 5 and 7 of the OBOREG and NBOREG, respectively, a BO must within seven days (07) of becoming such a person, disclose the status to the FZE, and the FZE must inform the relevant FZA within 14

days of obtaining the information. The FZAs have 14 days to register the new information. FZAs are required to verify information provided FZEs (reg. 6, OBOREG; and reg. 8, NBOREG). The timelines for updating the BO information are reasonable. However, FZEs are not required to verify the BO information they receive from the BOs. This does not guarantee the accuracy and currency of BO information held by FZEs.

41. **Criterion 24.8 (a), (b) and (c) [Met]** The 2nd FUR found that although competent authorities could request and obtain information from any company or incorporated trustee, the NEPZA Act did not require that one or more natural persons resident in Nigeria authorised by an FZE, and accountable to competent authorities, for providing all basic information and available BO information, and giving further assistance to the authorities. FZEs are now required to cooperate and provide access to their BO information to competent authorities by designating one or more natural persons with the relevant competencies and resident in Nigeria as compliance officer, who shall be responsible for providing all basic and BO information to competent authorities whenever required to do so. In addition, DNFBPs in free zones accountable to competent authorities in providing information available BO information, and giving further assistance to the competent authorities, and taking comparable measures, specifically identified by the Authority (regs. 8 & 9, OBOREG and NBOREG). There is no requirement for the DNFBP to be authorised by the company. In addition, the obligation on the DNFBP to provide take comparable measures to cooperate with authorities to determine the BO is not in line with the FATF Standards. This obligation inures to the company. However, it is acknowledged that c24.8(a), (b), and (c) are optional, and therefore the country does not need to comply with all the approaches.

42. **Criterion 24.9 [Mostly Met]** Nigeria did not have a legal requirement for FZAs to maintain records on FZEs for a prescribed period. NEPZA, NEPZA-FZEs and their administrators, liquidators or other persons involved in the dissolution of the FZE are required to maintain comprehensive basic and BO information of the enterprise for at least five years after the date on which the enterprise is dissolved or otherwise ceases to exist (reg. 10, OBOREG and NBOREG). For OGFZA-FZEs, the obligation is only on the liquidators or other persons involved in the dissolution of the enterprise (reg. 9, OBOREG). In the absence of a specific requirement for the OGFZA to maintain such information, including for the stated period, the authority may not maintain such information given that it may not participate in the liquidation of companies under its regulatory purview.

43. **Criterion 24.10 [Mostly Met]** Nigeria did not have a legal requirement for NEPZA, OGFZA and FZEs to obtain and maintain basic and BO information on FZEs, and did not demonstrate that competent authorities/LEAs have access to a wider range of information that is not public and necessary for their work, as well as the timeframe within which the authorities obtain the information when requesting from relevant parties directly. Regs. 8(4) of NBOREG and 9(3), OBOREG stipulate that competent authorities, especially law enforcement authorities (LEAs), shall have the powers necessary to obtain timely access to the basic and BO information held by the NEPZA, OGFZA or FZEs. However, no timelines have been set for FZAs and FZEs to make the information they hold accessible to LEAs

44. **Criterion 24.11 [Met]** The FZAs Acts did not prohibit companies that can issue bearer shares from operating in the free zones. FZEs are now prohibited from issuing bearer shares and share warrants (regs.11(1), NBOREG and 10 (1), OBOREG).

45. **Criterion 24.12 [Mostly Met]** Nigeria lacked an explicit requirement to disclose the identity of the nominee director. In addition, the FZAs Acts did not oblige nominee shareholders and directors of FZEs (if any) to disclose the identities of their nominators. FZEs with nominee shares and directors are required to maintain information identifying their nominator, and must require nominee shareholders and directors to disclose the identities of their nominators to the FZEs and FZAs, which information shall be recorded in the registers

of the FZEs and FZAs (regs. 10 and 11, OBOREG and NBOREG, respectively). While the mechanism can make it possible to obtain the relevant information, the companies are not required to proactively disclose that information to FZAs as required by c.24.12.

46. **Criterion 24.13 [Mostly Met]** The 2nd FUR noted the absence of data reflecting the number of violations and enforcement of sanctions in relation to companies registered by CAC and FZAs; the potential application of sanctions to the limited scope of information required to be provided to NEPZA and OGFZA; and the lack of effective, proportionate and dissuasive sanctions for FZEs that violate reporting requirements.

47. Sanctions for non-compliance with disclosure obligations under the Companies and Allied Matters Act, CAMA 2020, specifically under regulation 12 of the Persons with Significant Control Regulations (PSCR) range between N5,000 (USD3.09) and N200,000 (USD123.34), depending on the nature of the breach, and these are applicable daily. Default by a person in furnishing any statement required by the Commission attracts a punishment of imprisonment for a term of two years or a fine of not less than N200,000 (USD123.34), while the provision of report containing false statement known to a person or company or LLP renders the reporting entity and each of its officers liable on conviction, in the case of - (a) the reporting entity, a fine as the court deems fit; and (b) an officer of the reporting entity, imprisonment for a term of two years.

48. In addition, the CAC shall not approve an application for registration or the filing of an annual return of a company or limited liability partnership, unless PSC information is provided (reg.12(13), PSCR). CAC will not issue a Letter of Good Standing to any company or limited liability partnership who failed to comply with their PSC reporting obligations to the Commission (reg. 12(14), PSCR).

49. Overall, CAC's sanctions regime on BO reporting are not proportionate and dissuasive. Also, the discretion of the court to impose "a fine as the court deems fit" in relation to "report containing false statement known to a person or company or LLP" can lead to arbitrariness in the imposition of fines.

50. In relation to reporting under NEPZA, a BO or enterprise that violates reporting requirements set by NEPZA is liable to pay a daily penalty of USD1,000 (in case of the BO) or USD5,000 (in case of the FZE) (regs. 14 and 15, NBOREG). Late filing by a attracts a daily penalty of USD2,000 for the BO and USD5,000 for the FZE during the persistence of the default (reg.16, NBOREG). Where the default persists after one month, NEPZA shall withdraw the licence of the defaulting FZE. There is no penalty for false disclosure by both the BO and the FZE under the NBOREG.

51. In relation non-compliance with OGFZA's requirements, the BO and the FZE are each liable to a daily penalty of USD 5,000 for non-disclosure (13, OBOREG). Late filing attracts a daily penalty of USD2,000 and USD5,000 for the BO and the enterprise, respectively (reg. 15, OBOREG). In case of a false disclosure, the FZE is liable to a daily penalty of USD5,000 (reg.14, OBOREG). The OGFZA may suspend or withdraw the licence of an FZE fails to comply with the OBOREG after one month and without just cause. There is no penalty for false disclosure by a BO under the OBOREG.

52. The sanctions for violation of reporting requirements for FZEs are considered dissuasive but not proportionate, especially in relation to FZEs that are local companies. In addition, the absence of sanctions against BOs for false disclosure by BOs has an adverse impact on the proper implementation of transparency requirements.

53. **Criterion 24.14 [Mostly Met]** The 2<sup>nd</sup> FUR concluded that although CAC's Registration Portal enabled users, including foreign competent authorities, to access basic

and BO information held by CAC, the deficiencies highlighted in relation to FZEs applied to the conclusions on this criterion. NEPZA is required to provide international cooperation related to basic and BO information of enterprises by (a) facilitating access by foreign competent authorities to basic information held by the NEPZA; (b) exchanging information on shareholders; and (c) using competent authorities' investigative powers, in accordance with Nigeria's domestic law, to obtain BO information on behalf of foreign counterparts (reg. 13(1), NBOREG). Sub-regulation (a) does not cover access to BO information held by NEPZA.

54. OGFZA is required to collaborate with relevant competent authorities in ensuring international cooperation with foreign competent authorities in relation to basic and BO information of enterprises (reg. 12, OBOREG). The OBOREG does not set out the range of international cooperation that the OGFZA can provide and seek in relation to FZEs.

55. **Criterion 24.15 [Mostly Met]** The 2<sup>nd</sup> FUR concluded that the information provided by Nigeria did not demonstrate the existence of any mechanism for monitoring the quality of assistance received from other countries in response to requests for basic and BO information or requests for assistance in locating beneficial owners residing abroad. In addition to the same information provided in the 2<sup>nd</sup> FUR, the 3<sup>rd</sup> FUR indicates that NEPZA is required to monitor the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad (reg. 13(1), NBOREG). The OGFZA is not required to monitor the assistance it receives.

### ***Weighting and conclusion***

56. Nigeria has addressed most of the deficiencies identified in relation to Recommendation 24, particularly as concerns free zones enterprises. However, gaps remain regarding the description of the types, forms and basic features of the legal persons incorporated in the free zone areas; public availability of information on basic powers regulating NEPZA-FZEs; public availability of information on OGFZA-FZEs; absence of requirements for the OGFZA companies to record changes of members, including names, addresses, share capital and date a person became or ceased being a member; lack of requirement for NEPZA-FZEs to requirement to verify information provided by FZEs in relation to the information in criteria 24.3 and 24.4, as well as BO information received from BOs; absence of a specific requirement for the OGFZA to maintain such information on liquidation of a company; timelines for obtaining access to information held by FZAs and FZEs; the proportionality and dissuasiveness of sanctions imposed on natural and legal persons that fail to comply with reporting requirements; absence of sanctions for false disclosure by BOs of FZEs. These deficiencies constitute minor shortcomings in the implementation of R.24.

57. **Recommendation 24 is re-rated as Largely Compliant.**

### **Recommendation 25 (Originally Rated PC)**

58. The 2<sup>nd</sup> MER rated Nigeria PC on this Recommendation due to over-dependence on FIs for BO information of legal arrangements; incommensurate reporting obligations with the risk profile of DNFBPs; lack of proportionate or dissuasive sanctions for non-disclosure; and lack of specific provisions requiring trustees to disclose their status as trustees of a foreign express trust or any trust to FIs and DNFBPs. Nigeria issued the Legal Arrangements (Anti-Money Laundering, Combating the Financing of Terrorism and Countering the Proliferation of Mass Destruction) Regulations, 2024 (LAR) to address the identified deficiencies. The Regulations apply to domestic and foreign express trusts and other legal arrangements administered in or have sufficient links with Nigeria; those for which the trustee resides in Nigeria; and agents and other service providers of trusts. Measures introduced by the LAR

include the establishment of a registry for the registration of express trusts and other legal arrangements (reg. 3, LAR).

59. **Criterion 25.1 [Mostly Met]**

**(a) [Met]** Trustees are required to obtain and maintain adequate, accurate and up-to-date basic and beneficial ownership information on all trusts. In addition, they must identify the settlor, the trustee, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over trusts (reg. 5(1) and (2)(d), LAR).

**(b) [Met]** Trustees of any trust governed under the laws of Nigeria are required to obtain and maintain basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers or accountants, and tax advisors (reg. 5(4), LAR).

**(c) [Partly Met]** Professional trustees, including lawyers and accountants, are required to maintain records on the basic and beneficial ownership information on trusts for at least five years 5 years after their involvement with the trust ceases (reg. 6(1), LAR). There is no requirement for professional trustees to maintain records on information related to c.25.1(b) for five years.

60. **Criterion 25.2 [Met]** Relevant parties and beneficial owners of trusts are obliged to provide to the trustee upon request or spontaneously, any relevant information to ensure the accuracy of information, and that the information is up-to-date (reg. 7(1), LAR). Relevant parties and a beneficial owner are required to notify trustees about any changes in relation to basic and beneficial ownership information within 14 days of gaining knowledge of any change, and trustees have seven days to notify the NFIU of any such changes (reg.7(2) and (3), LAR). Trustees must also disclose changes to the NFIU upon registration of the trust is registered, the occurrence of a change, an entry into an agreement with an FI or government body, and an automated exchange of information with reliable national system (reg.7(4), LAR).

61. **Criterion 25.3 [Met]** Trustees are obliged to disclose their status to reporting entities when forming a business relationship or carrying out an occasional transaction above a threshold of N5,000,000 (USD3,084) or its equivalent, in the case of an individual; or N10,000,000 (USD6,168) or its equivalent, in the case of a body corporate (reg. 8, LAR).

62. **Criterion 25.4 [Met]** Trustees are required to (a) make available swiftly to competent authorities, upon request, basic and beneficial ownership information of trusts (including the name and tax identification number, trust deed and other relevant accompanying documents specifying the purpose of the trust, residence of the trustee or the address from where the trust is administered and the identity of the settlor, the trustee, protector (if any), beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust (reg. 6(2), LAR); and (b) provide FIs, virtual assets service providers (VASPs) and DNFBPs, upon request, information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship (reg. 6(3), LAR).

63. **Criterion 25.5 [Met]** Competent authorities, including law enforcement authorities, have powers to obtain timely access to information held by trustees and other relevant parties, including FIs and DNFBPs on the beneficial ownership and control of trusts. The information include (i) BO information of the trust; (ii) the residence of the trustee; (iii) any assets held or managed by an FI or DNFBP in relation to they have a business relationship, or for which the FIs or DNFBPs undertake an occasional transaction; (iv) residential address of the beneficial

owner; and (v) the politically exposed person (PEP) status of the beneficial owner (reg. 10, LAR).

64. **Criterion 25.6 [Met]** Regulation 13 of the LAR requires Nigeria to facilitate international cooperation in relation to information on BO information on legal arrangements, including by:

- (a) **[Met]** facilitating access by foreign authorities to basic information held by the NFIU;
- (b) **[Met]** exchanging domestically available information on the trust and other legal arrangements;
- (c) **[Met]** using the investigative powers of the competent authorities to obtain BO information on behalf of foreign counterparts.

65. **Criterion 25.7 [Partly Met]** Regulation 12(1) of the LAR stipulates that “trustees are legally liable for any failure to perform the duties relevant to meeting their obligations under these Regulations”. However, the LAR does not state the specific sanctions that would be imposed on a trustee for failure to meet its obligations under the Regulations. Consequently, there are no specific sanctions for failure by trustees to obtain and maintain adequate, accurate and up-to-date basic and BO information on all trusts, as well as trustees’ obligation to maintain records. Although professional trustees can be covered by sanctions provided for under R.11, this may not cover the information required in c.25.1(b) as these are not covered by the MLPPA and sector Regulations.

66. Regulation 12(2) of the LAR stipulates that “[n]otwithstanding the provisions of sub-regulation (1) of this regulation, any party to a trust which fails to comply with the requirement to declare shall be liable- a daily fine of N20,000.00 (app. USD 12.00) in case of natural persons and N50,000.00 (app USD 32.00) in case of a legal person; (b) false or late disclosure, - daily fine of N50,000.00 (app USD 32.00) (natural persons) and N100,000.00 (app USD 64.00) (legal persons); (c) repeated violation – N50,000.00 (app USD 32.00) and N100,000.00 (app USD 64.00) for natural and legal persons, respectively (reg. 12(2-6), LAR). Also, regulation 12(6) of the LAR provides for sanctions (administrative fine of N500,000 (USD308.36) for a natural person and N1,000,000 (USD617.00), for a legal person) for repeated violations of obligations prescribed by the Regulations. These sanctions are not proportionate and dissuasive, particularly for larger legal arrangements. The sanctions do not affect the requirements for proportionate and dissuasive sanctions for failure to comply with the requirements elsewhere in the FATF Recommendations.

67. **Criterion 25.8 [Mostly Met]** Failure to grant timely access to competent authorities attracts a daily fine of N50,000.00 (app USD 32.00) (natural persons) and N100,000.00 (app USD 64.00) (legal persons) (reg. 12(5), LAR). The range of sanctions are narrow, and not considered proportionate and dissuasive, particularly for larger firms and the impact of such violations even for a few number of days.

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

68. Nigeria has some minor shortcomings in its framework relating to the transparency and BO Information of legal arrangements. In particular, professional trustees are not required to maintain records on information related to c.25.1(b) for five years, and sanctions to ensure access to information are not proportionate and dissuasive (c.25.8).

69. **Recommendation 25 is re-rated as Largely Compliant.**

**Recommendation 28 (Originally Rated PC)**

70. The MER rated Nigeria PC with the requirements of R.28 because risk-based AML/CFT supervision was not well established for the DNFBP sector; AML/CFT obligations were inoperative for lawyers in Nigeria; and internet casinos were not subject to AML/CFT obligations and not monitored for AML/CFT purposes as the definition of casino focused on land-based casinos. The MLPPA and ESCUMLR address the deficiencies identified in relation to Recommendation 28. Among other things, the MLPPA established the Special Control Unit against Money Laundering (SCUML) as a department under the Economic and Financial Crimes (EFCC) and clothed the department with the responsibility for the supervision of DNFBPs in their compliance with the provisions of the MLPPA, relevant laws and applicable regulations (§17(1), MLPPA).

71. Criterion **28.1[Met]** Casinos in Nigeria, including online casinos, are subject to AML/CFT regulation and supervised (§30, MLPPA). At a minimum:

**(a) [Met]** Casinos, are required to register with the Special Control Unit against Money Laundering (SCUML) (§5(2)-(4), MLPPA). A casino seeking registration from SCUML must hold an operating license or an approval in principle to operate from a competent State or Federal Authority (reg. 40(2), ESCUMLR).

**(b) [Met]** When seeking to register with SCUML, casinos must provide SCUML with details of persons holding significant or controlling interest, or holding a management position, or being an operator, and update such information with SCUML and the State or Federal Authority whenever there is a change related to the information provided (reg. 40(2), ESCUMLR). Nigeria defines “person with significant control” to mean “any person directly or indirectly holding at least 5% of the shares, interest, voting rights or the right to appoint or remove a majority of the directors or partners in a company or limited liability partnership; otherwise having the right to exercise or actually exercising significant influence or control over a company, limited liability partnership, the activities of a trust or firm whether it is a legal entity, but would itself satisfy any of the previous conditions (reg. 42, ESCUMLR). To prevent criminals or their associates from holding a significant or controlling interest in casinos, a Government Licensing Authority is required to conduct a comprehensive AML/CFT/CPF and criminal background checks for market entry control as part of a comprehensive fit and proper person due diligence prior to issuing an operating licence. The measures should include ascertaining whether there has been a conviction for an offence involving fraud or dishonesty, ML/TF/PF among other factors.

**(c) [Met]** SCUML is responsible for the supervision of casinos for AML/CFT compliance (§17(b), MLPPA and reg.7, ESCUMLR).

72. **Criterion 28.2 [Met]** This sub-criterion was rated Mostly Met because law firms were not subject to AML/CFT requirements. Law firms are designated as reporting entities for AML/CFT purposes (§30, MLPPA) and subject to supervision by SCUML (§17, MLPPA).

73. **Criterion 28.3 [Met]** The other categories of DNFBPs, including lawyers, are subject to systems for monitoring compliance with AML/CFT requirements by SCUML (§17, MLPPA).

74. **Criterion 28.4 [Met]** To exercise its functions, SCUML:

**(a) [Met]** The MER noted the absence of procedures for inspections conducted solely by the NFIU, lack of clarity regarding the provisions that an officer of the NFIU may

exercise power to inspect DNFBPs in relation to the performance of its functions of the NFIU under the NFIUA, and the non-coverage of lawyers for AML/CFT obligations. Section 17(1) of the MLPPA established the Special Control Unit against Money Laundering (SCUML) as a department under the Economic and Financial Crimes (EFCC) and clothed the department with the responsibility for the supervision of DNFBPs, including lawyers, in their compliance with the provisions of the MLPPA, relevant laws and applicable regulations (§17(1), MLPPA). SCUML has the power to (a) register, certify, monitor and supervise DNFBPs in accordance with the provisions of the MLPPA, relevant laws and applicable regulations; (b) take the necessary measures to ensure compliance with the relevant laws; (c) conduct off-site, on-site and spot checks, inspection of DNFBPs for purposes of ML control and supervision (§17, MLPPA). Regarding the supervisory powers of the NFIU over DNFBPs (§19, NFIU Act), Nigeria reported that the NFIU's role is limited to supporting SCUML in training and sensitization of DNFBPs on their AML/CFT/CPF obligations, the identification of DNFBPs that are not implementing their suspicious transactions reporting obligations and carrying out joint inspections with SCUML, where necessary.

(b) **[Met]** The analysis in 28.1(b) applies to other categories of DNFBPs.

(c) **[Partly Met]** SCUML is empowered to apply administrative sanctions specified in the Third Schedule to the ESCUMLR where there is a breach of the reporting requirements under the ESCUMLR, the relevant provisions of the MLPPA and any other relevant laws or regulation (reg.39(2), ESCUMLR). The sanctions in the Third Schedule relate to acceptance or receipt of cash payments above the stipulated threshold; obtaining a valid official identification document before commencement of business; declaration of business activities to SCUML; policies, procedures and control to detect and report suspicious transactions; the filing of suspicious transaction reports; operating a DNFBP without the requisite licence; reporting of cash transactions in excess of USD1,000 or its equivalent; screening of customers and customer transactions in line with UN Consolidated List and Nigeria Sanctions List to ensure that proscribed individuals and entities do not have control and access to DNFBPs, whether directly or indirectly. In addition, SCUML may recommend to a self-regulatory organisation (SRO) or regulatory body to withdraw, revoke or suspend the practicing licence of a professional where there is persistent and deliberate breach of the provisions of AML/CFT texts (reg.39(6), ESCUMLR). SCUML is not empowered to apply sanctions to directors and senior management of DNFBPs. Furthermore, the sanction for TFS breaches is not in line with the FATF Standards in relation to DNFBPs which require asset freezing, prohibition of making funds available to designated persons and entities, the reporting of frozen assets, unfreezing of frozen assets.

75. **Criterion 28.5 [Met]** SCUML has adopted a Risk-Based Supervisory Framework for DNFBPs, 2022 (the "SRBSF") to provide, amongst other things, a general guide to supervisors in conducting AML/CFT/CPF supervision of DNFBPs (para. 1.1, SRBSF). Nigeria reported that SCUML implements a risk-based approach in supervising DNFBPs for their compliance with AML/CFT/CPF measures. SCUML is guided by National Risk Assessment which rated the various DNFBPs into various risk categories. Paragraph 6.0 of the SRBSF indicates that the frequency and intensity of the off-site and on-site AML/CFT/CPF supervision of each entity will largely depend on the National Risk Assessment for the sub-sector; the National Inherent Risk Assessment (NIRA) Ratings for the sub-sector; the Sectoral Risk Assessment; the entity's ML/TF/PF risk profile; the frequency and change in the entity's ML/TF/PF risk profile; and major events or developments in the management and operations of the entity. SCUML has also (a) conducted a Sectoral risk assessment which categorized DNFBPs into different risk levels; (b) incorporated a risk-based approach in its Supervisory Strategy for DNFBPs (2024-2027); (c) conducted supervision of DNFBPs based on its understanding of the ML/TF



risks, taking into consideration the characteristics of the DNFBPs; and (d) taken actions like outreach, offsite & onsite in line with its risk-based supervisory framework.

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

76. Nigeria has designated SCUML with the responsibility of regulating and supervising (or **monitoring**) DNFBPs, including lawyers and internet casinos for compliance with AML/CFT requirements. For the supervised sectors, requirements for licensing or registration are in place. However, there are gaps regarding the sanctions available for non-compliance with AML/CFT requirements. These present minor deficiencies in the supervision of DNFBPs.

77. **Recommendation 28 is re-rated as Largely Compliant.**

### ***Recommendation 32 – Cash Couriers (Originally rated PC)***

78. **The MER** was rated PC on this Recommendation because the country was not implementing the system for BNIs which is a significant deficiency in Nigeria's context (see IOs 6 and 8). The country lacks legal basis to request and obtain further information from a carrier regarding the origin and intended use of the currency. Nigeria did not demonstrate the ability to cooperate internationally concerning physical cross-border transportation of currency and BNI.

79. **Criterion 32.1 [Met]** Nigeria implements a declaration system for incoming and outgoing physical cross-border transportation of cash and negotiable instruments under two legal regimes whether by travellers or through mail and cargo. Individuals transporting cash or negotiable instruments in excess of \$10,000 or its equivalent in or out of Nigeria are required to declare the cash or BNI on the prescribed form to Nigeria Customs Service (§3(3), MLPPA and §12(1), Foreign Exchange (Monitoring and Miscellaneous Provisions Act (the FEMMPA).

80. **Criterion 32.2 [Met]** Nigeria's declaration system requires all persons making a physical cross-border transportation of currency or BNIs, which are of a value exceeding a pre-set, maximum threshold (USD/EUR 5,000 under section 12 of the FEMMPA or \$10 000 under section 3(3) of the MLPPA or their equivalent) to the Nigerian Customs Service (NCS). Specifically, section 12(2) of the FEMMPA provides for a declaration on a prescribed form. In addition, section 3(5) of the MLPPA stipulates that "[a]ny person who falsely declares or fails to make a declaration to the [NCS] under section 12 of the [FEMMPA] commits an offence .....". The provisions cited imply that (a) persons making physical cross-border transportation of currency or BNI of a value exceeding USD10,000 must make a truthful declaration; and (b) Nigeria implements the written type of declaration system for all travellers.

81. **Criterion 32.3 [N/A]** – The legal framework has not changed since the MER and there have been no changes to the FATF Standards or their interpretation.

82. **Criterion 32.4 [Met]** In practice, the discovery of any undeclared or falsely declared currency would result in the carrier being interviewed further by Customs officers. They can compel a person to provide further information on the currency including its origin and intended purpose". False declaration of money and non-declaration of money are criminal offenses (§2(5), MLPA)<sup>2</sup>, and the investigation of such offenses include the power for competent authorities to request and obtain further information on the origin and the intended use of the money. Since the adoption of the MER, new provisions have reinforced this practice. Under Section 26 of POCA (2022), competent authorities have the power to stop or restrain currency or BNIs for a reasonable time in order to ascertain the source and intended purpose of

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<sup>2</sup> Analysis under criterion 32.5 in the MER. This analysis has been repeated in the current FUR under criterion 32.5

currency and BNI. These investigative powers include power to request and obtain further information from the carrier regarding the origin of the currency or BNIs, and their intended use.

83. **Criterion 32.5 [Met]** The legal framework has not changed since the MER and there have been no changes to the FATF Standards or their interpretation.

84. **Criterion 32.6 [Met]** The legal framework has not changed since the MER and there have been no changes to the FATF Standards or their interpretation.

85. **Criterion 32.7 [Met]** The institutional framework has not changed since the MER and there have been no changes to the FATF Standards or their interpretation.

86. **Criterion 32.8(a & b) [Partly Met]** A designated officer (officers of Nigeria Customs Service, National Drug Law Enforcement Agency (NDLEA), the Economic and Financial Crime Commission (EFCC), Nigeria Police Service or other relevant organisations) may seize and detain any cash in the process of being moved within or outside Nigeria, where he has reasonable grounds to suspect that it (a) directly or indirectly represents proceeds of unlawful activity or is intended to be an instrumentality of an offence; or (b) is above the prescribed amount under the law and has not been declared to the appropriate authorities (§26(1), Proceeds of Crime (Rec) Act (Recovery and Management) Act, 2022 (POCA). Section 26 does not prescribe a timeframe for detaining seized cash. However, if the designated officer continues to have reasonable grounds for the suspicion, the seized cash may be detained for an initial period of seven days (excluding weekends and public holidays) to enable the designated officer to apply for an order to detain the cash. The order is valid for not more than three months and can be extended for another period of nine months (cumulatively for 12 months) (§26(2), POCA). The time set for ascertaining the source and intended purpose of currency and BNI is considered excessive. Also, the provision does not cover false declarations. Furthermore, the provision does not cover incoming currency and BNI as reference to “being moved within” connotes transportation within the territories of Nigeria.

87. **Criterion 32.9 [Met]** Nigeria’s declaration system allows for international cooperation and assistance, and that information is retained when there is a declaration which exceeds the prescribed threshold, where there is a false declaration and where there is a suspicion of ML/TF. The Nigeria Customs Service retains this information through its Trade Portal and frequently uses this information to assist foreign counterparts.

88. These international cooperation and assistance are undertaken pursuant to section 34 of the Nigeria Customs Act 2023 on mutual administrative assistance which mandates the Service to cooperate with counterparts in other jurisdictions through the conclusion of agreements and the exchange of relevant data. Furthermore, Nigeria’s International Cooperation Plan recognizes informal international cooperation and encourages the Service to enter into bilateral agreements with foreign counterparts to facilitate the exchange of information and intelligence in a seamless manner.

89. **Criterion 32.10 [Met]** Competent authorities in the country operate within the scope of the Nigeria Data Protection Regulation 2019(NDPR) which prescribes strict safeguards that ensure the proper use of information, including those collected through and stored in the Customs Trade Portal and requires anyone involved in data processing or the control of data to develop security measures to protect it. Nigeria’s International Cooperation Plan also requires all agencies to maintain appropriate confidentiality for any request for cooperation and the information exchanged to protect the integrity of the investigation or inquiry, consistent with both jurisdictions’ obligations concerning privacy and data protection.

90. Also, Part 2.11 of the NDPR deals with transfer of information to a foreign country and prescribes that transfer shall be done subject to the Regulations and to the supervision of the Honourable Attorney-General of the Federation, and lists five (5) factors to consider when a competent authority is dealing with a counterpart which Nigeria believes do not restrict trade payments between countries and do not restrict the freedom of capital movement.

91. **Criterion 32.11 – [Met]** Persons carrying out physical cross-border transportations of currency or BNIs that are related to ML/TF or predicate offences may be prosecuted directly for ML, TF, or predicate offences and be subjected to:

(a) **[Met]** the sanctions related to those crimes apply to a person who retains or takes possession or control of currency or BNI, intentionally, knowingly or ought to have known that the currency or BNI is or forms part of the proceeds of an unlawful act, which is considered an ML offence under section 18 of the MLPPA. Similarly, funds intended for financing terrorism can originate from illegitimate sources. Sanctions available for ML, including some predicate offences and TF is discussed under criterion 3.10 (see First Enhanced FUR, 2022).

(b) **[Met]** measures consistent with R.4 which would enable the confiscation of currency or BNI related to ML/TF or predicate offences. The instrumentalities of crime are subject to confiscation “provided that they consist of property used or intended to be used in or in connection with the commission of an offence, whether property is within or outside Nigeria” (§82, POCA). Proceeds of an unlawful activity, whether it is wholly or partly derived or realised, directly or indirectly, from an unlawful activity, are subject to confiscation. Nigeria was rated compliant on Recommendation 4 (see 2021 MER). Lastly, section 3(5) of the MLPPA permits the confiscation of undeclared currency and BNI.

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

92. Nigeria has a written declaration system which requires travellers from and into Nigeria to declare currency and BNI based on a set threshold to the NCS. Nigeria has measures in place to confiscate currency and BNI related to ML/TF and predicate offences. However, there are gaps relating to the mandate of competent authorities to stop and detain discovered falsely declared currency and BNI; reasonableness of the period for detaining and ascertaining the source and intended purpose of undeclared currency and BNI; and discovery of incoming currency and BNI.

93. **Recommendation 32 is re-rated as Largely Compliant.**

## **IV. CONCLUSION**

94. Overall, Nigeria has made significant progress in addressing the technical compliance deficiencies identified in Recommendations 24, 25, 28 and 32 and has been re-rated Largely Compliant on these Recommendations. Insufficient progress has been made to support a re-rating for Recommendations 22 and 23.

95. Table 2 below shows Nigeria’s MER ratings and reflects the progress it has made, including any re-ratings based on this report:

**Table 3. Technical Compliance Ratings<sup>3</sup> (November 2024)**

R.	Rating	R.	Rating
1.	PC (MER 2021) - ↑ LC (FUR 2023)	21.	LC (MER 2021)
2.	PC (MER 2021) - ↑ LC (FUR 2023)	22.	PC (MER 2021) ↔ PC (FUR 2023) ↔ PC (FUR 2024)
3.	PC (MER 2021) - ↑ C (FUR 2022)	23.	PC (MER 2021) ↔ PC (FUR 2024)
4.	C (MER 2021)	24.	PC (MER 2021) - ↔ PC (FUR 2023) ↑ LC (FUR 2024)
5.	LC (MER 2021)	25.	PC (MER 2021) ↑ LC (FUR 2024)
6.	PC (MER 2021) PC (FUR 2022) - ↑ LC (FUR 2023)	26.	LC (MER 2021)
7.	NC (MER 2021) - ↑ LC (FUR 2022)	27.	LC (MER 2021)
8.	NC (MER 2021) - ↑ C (FUR 2023)	28.	PC (MER 2021) ↑ LC (FUR 2024)
9.	C (MER 2021)	29.	C (MER 2021)
10.	LC (MER 2021)	30.	C (MER 2021)
11.	PC (MER 2021) - ↑ C (FUR 2022)	31.	C (MER 2021)
12.	PC (MER 2021) ↔ PC (FUR 2022)	32.	PC (MER 2021) ↑ LC (FUR 2024)
13.	C (MER 2021)	33.	PC (MER 2021) - ↑ C (FUR 2023)
14.	C (MER 2021)	34.	PC (MER 2021) - ↑ C (FUR 2023)
15.	PC (MER 2021) - ↔ PC (FUR 2022)	35.	LC (MER 2021)
16.	LC (MER 2021)	36.	LC (MER 2021)
17.	LC (MER 2021)	37.	LC (MER 2021)
18.	LC (MER 2021)	38.	LC (MER 2021)
19.	PC (MER 2021) - ↑ LC (FUR 2022)	39.	LC (MER 2021)
20.	PC (MER 2021) - ↑ C (FUR 2022)	40.	LC (MER 2021)

96. Nigeria has 36 Recommendations rated C/LC. Nigeria will remain in Enhanced Follow-up based on effectiveness ratings. Nigeria's next Enhanced FUR is due in November 2025.

<sup>3</sup> Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

## Annex to the FUR

### Summary of Technical Compliance –Deficiencies underlying the ratings<sup>3</sup>

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	<b>PC (MER 2021) LC (FUR 2023)</b>	All the criteria are Met or Mostly Met.
2. National cooperation and coordination	<b>PC(MER 2021) LC (FUR 2023)</b>	<ul style="list-style-type: none"> <li>• The implementation roadmap of the AML/CFT/CPF does not provide for the allocation of resources.</li> </ul>
3. Money laundering offences	<b>PC(MER 2021) C(FUR 2022)</b>	<ul style="list-style-type: none"> <li>• All the criteria are met.</li> </ul>
4. Confiscation and provisional measures	<b>C</b>	<ul style="list-style-type: none"> <li>• Nigeria has fully met this Recommendation.</li> </ul>
5. Terrorist financing offence	<b>LC</b>	<ul style="list-style-type: none"> <li>• Nigeria has not explicitly criminalised the financing of foreign terrorist fighters.</li> <li>• The TPA does not clearly define funds or other assets.</li> <li>• The requirement to infer the intent and knowledge of TF from objective factual circumstances does not apply to all TF offences.</li> <li>• The sanctions provided under the applicable statutes are not consistent and proportionate.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	<b>PC (MER 2021) PC (FUR 2022) LC (FUR 2023)</b>	<ul style="list-style-type: none"> <li>• The internal procedures for designations under UNSCR 1373 were not followed.</li> </ul>
7. Targeted financial sanctions related to proliferation	<b>NC(MER 2021) LC(FUR 2022)</b>	<ul style="list-style-type: none"> <li>• There are discrepancies regarding procedures for delisting applications.</li> <li>• The legal framework or mechanism does not cover communication of all PF-related de-listings and unfreezing to FIs and other persons or entities, including DNFBPs.</li> </ul>
8. Non-profit organisations	<b>NC (MER 2021) C (FUR 2023)</b>	<ul style="list-style-type: none"> <li>• All the criteria are met.</li> </ul>
9. Financial institution secrecy laws	<b>C</b>	<ul style="list-style-type: none"> <li>• Nigeria has met all the requirements.</li> </ul>
10. Customer due diligence	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for FIs to identify and verify the identity and authority of a person purporting to act on behalf of a legal person.</li> <li>• CMOs and insurance companies are not required to identify the customer, beneficial owner or legal owner through the identity of a natural person who holds the position of senior managing official and verify the identity of other types of legal arrangements through the identity of persons in equivalent or similar positions.</li> <li>• No requirement for insurance companies to apply relevant CDD measures to other types of legal arrangements through the identity of persons in equivalent or similar positions.</li> <li>• There is no requirement for insurance companies to identify a beneficiary designated by other means.</li> </ul>
11. Record keeping	<b>PC(MER 2021) C(FUR 2022)</b>	<ul style="list-style-type: none"> <li>• All the criteria are met.</li> </ul>
12. Politically exposed persons	<b>PC(MER 2021) PC(FUR 2022)</b>	<ul style="list-style-type: none"> <li>• The requirements do not cover family members or close associates of domestic and foreign PEPs.</li> </ul>
13. Correspondent banking	<b>C</b>	<ul style="list-style-type: none"> <li>• Nigeria has met all the requirements of R.13.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
14. Money or value transfer services	<b>C</b>	<ul style="list-style-type: none"> <li>• The CBNR does not provide for sanctions for unregistered/unlicensed MVTS.</li> <li>• There is no requirement to licence or register agents of MVTS.</li> <li>• There is no requirement for MVTS providers that use agents to incorporate the agents in their AML/CFT programmes and monitor them for compliance.</li> </ul>
15. New technologies	<b>PC(MER 2021)</b> <b>PC(FUR 2022)</b>	<ul style="list-style-type: none"> <li>• Nigerian authorities are yet to issue guidelines and/or provide feedback to assist VASPs in applying national measures to combat ML/TF/PF, especially in detecting and reporting suspicious transactions.</li> <li>• Nigeria did not demonstrate proactive steps to identify natural or legal persons that carry out VASP activities without the requisite registration and applied appropriate sanctions to the VASPs.</li> </ul>
16. Wire transfers	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no requirements for: <ul style="list-style-type: none"> <li>- FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, including the appropriate follow-up action;</li> <li>- intermediary FIs to take reasonable measures to identify cross-border wire transfers that lack the required originator information;</li> <li>- MVTS provider to file STR in any country affected by a suspicious wire transfer and make relevant transaction information available to the FIU; and</li> <li>- beneficiary FIs to verify the identity of a beneficiary of cross-border wire transfer, if the identity is not previously verified, and maintain this information under R.11.</li> </ul> </li> <li>• Requirements for wire transfers do not cover insurance companies and CMOs.</li> </ul>
17. Reliance on third parties	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to determine the eligibility of the third party based on risk and relevant factors.</li> <li>• There is no requirement regarding the supervision of third-party and mitigation of risk group AML/CFT policies.</li> </ul>
18. Internal controls and foreign branches and subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>• Most policies focus on ML to a larger extent and TF to a lesser extent.</li> <li>• The Regulations neither specify the functions, powers, and reporting lines of the compliance officer.</li> <li>• Insurance companies are not required to have screening procedures to ensure high standards when hiring employees.</li> <li>• CBN requires its supervised foreign branches and subsidiaries to report when prohibited from implementing AML/CFT measures.</li> <li>• There are no requirements for CMOs and insurance companies to ensure that their foreign branches and majority-owned subsidiaries implement consistent AML/CFT measures and take related actions.</li> </ul>
19. Higher-risk countries	<b>PC(MER 2021)</b> <b>LC (FUR 2022)</b>	<ul style="list-style-type: none"> <li>• NFIU advisories and sector Regulations (except insurance companies) do not set out examples of the types of measures that EDD could include.</li> </ul>
20. Reporting of suspicious transaction	<b>PC(MER 2021)</b> <b>C (FUR 2022)</b>	<ul style="list-style-type: none"> <li>• All the criteria are met.</li> </ul>
21. Tipping-off and confidentiality	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no protection for FIs against civil and criminal liability.</li> <li>• There is no protection available to FIs, their directors, officers and employees if they did not know what the underlying criminal activity was, and regardless of whether the illegal activity occurred.</li> <li>• Prohibition from disclosure only applies to tipping off a customer.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
22. DNFBPs: Customer due diligence	<b>PC (MER) PC (FUR 2023) PC (FUR 2024)</b>	<ul style="list-style-type: none"> <li>• DNFBPs are not required by law to take reasonable measures to verify the identity of the beneficial owner, using relevant information or data from reliable source to satisfactorily know the beneficial owner.</li> <li>• DNFBPs are not required by law to understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship.</li> <li>• The obligation to conduct threshold-based CDD for occasional transactions is limited to cash transactions.</li> <li>• DNFBPs are not required to implement risk-management procedures for foreign and domestic PEPs in addition to performing the customer due diligence measures required under Recommendation 10.</li> <li>• The definition of PEPs in the MLPPA does not cover close associates or family members of PEPs.</li> <li>• There is no evidence that DNFBPs have implemented the new technologies requirements in R.15.</li> </ul>
23. DNFBPs: Other measures	<b>PC (MER) PC (FUR 2024)</b>	<ul style="list-style-type: none"> <li>• DNFBPs are not protected by law when they report suspicious transactions in good faith.</li> <li>• There is no protection in situations where the officials did not know the underlying criminal activity, and regardless of whether the illegal activity occurred.</li> <li>• DNFBPs and their Directors, officers and employees are not prohibited by law from disclosing the fact that an STR or related information is being filed with the FIU.</li> <li>• Situations where lawyers, notaries, other independent legal professionals and accountants acting as independent legal professionals seek to dissuade a client from engaging in illegal activity are not exempted from tipping-off.</li> </ul>
24. Transparency and beneficial ownership of legal persons	<b>PC (MER 2021) PC (FUR 2023) LC (FUR 2024)</b>	<ul style="list-style-type: none"> <li>• No mechanism identifies and describes the different types, forms and basic features of legal persons created in free zones.</li> <li>• No requirement to make information on FZEs available to the public.</li> <li>• No requirement to verify information provided by FZEs in relation to the information in criteria 24.3 and 24.4.</li> <li>• No requirement for FZEs to verify the BO information they receive from the BOs.</li> <li>• OGFZAs are not required to maintain information on the liquidation of OGFZA companies.</li> <li>• No requirement for companies to proactively disclose that information to FZAs as required by c.24.12.</li> <li>• There are no set timelines for obtaining access to information held by FZAs and FZEs.</li> <li>• There is no provision regarding the facilitation of access by foreign competent authorities to BO information held by NEPZA.</li> <li>• CAC's sanctions regime on BO reporting are not proportionate and dissuasive</li> <li>• No penalty for false disclosure by both the BO and the FZE under the NBOREG.</li> <li>• No penalty for false disclosure by a BO under the OBOREG.</li> <li>• The OGFZA is not required to monitor the assistance it receives</li> <li>•</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	<b>PC (MER 2021) LC (FUR 2024)</b>	<ul style="list-style-type: none"> <li>• All the criteria are met.</li> </ul>
26. Regulation and supervision of financial institutions	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no clear provisions designating supervisor or supervisors and assigning related responsibilities for regulating and supervising (or monitoring) FIs for compliance with the AML/CFT requirements.</li> </ul>
27. Powers of supervisors	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no express legal authority for financial regulators to inspect FIs for compliance with AML/CFT measures.</li> <li>• It is unclear whether the NDLEA, an anti-drug trafficking</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
		<p>agency, is a supervisor for FIs.</p> <ul style="list-style-type: none"> <li>The range of sanctions available to supervisors is not considered to be effective, proportionate and dissuasive.</li> </ul>
28. Regulation and supervision of DNFBPs	<b>LC(FUR 2024)</b>	<ul style="list-style-type: none"> <li>The sanctions for violations of AML/CFT requirements are dissuasive but not proportionate.</li> </ul>
29. Financial intelligence units	<b>C</b>	<ul style="list-style-type: none"> <li>Nigeria has fully met the requirements of this Recommendation.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	<b>C</b>	<ul style="list-style-type: none"> <li>Nigeria has fully met this Recommendation.</li> </ul>
31. Powers of law enforcement and investigative authorities	<b>C</b>	<ul style="list-style-type: none"> <li>Nigeria has fully met this criterion.</li> </ul>
32. Cash couriers	<b>PC (MER) LC(FUR 2024)</b>	<ul style="list-style-type: none"> <li>Competent authorities have no mandate to stop and detain discovered falsely declared currency and BNI.</li> <li>The limit time set for detaining and ascertaining the source and intended purpose of undeclared currency and BNI is not reasonable.</li> <li>The provision related to the discovery of currency and BNI does not cover incoming currency and BNI.</li> </ul>
33. Statistics	<b>PC (MER 2021) C (FUR 2023)</b>	<p>All the criteria are met.</p>
34. Guidance and feedback	<b>PC (MER 2021) C (FUR 2023)</b>	<ul style="list-style-type: none"> <li>All the criteria are met.</li> </ul>
35. Sanctions	<b>LC</b>	<ul style="list-style-type: none"> <li>Certain fines are not proportionate and dissuasive.</li> <li>The range of sanctions for non-compliance with certain Recommendations is inadequate.</li> </ul>
36. International instruments	<b>LC</b>	<ul style="list-style-type: none"> <li>Nigeria has not criminalised the offences relating to the aviation and maritime sectors, protected persons and nuclear materials.</li> <li>Nigeria does not have a comprehensive mutual legal assistance legal framework to facilitate formal mutual legal assistance.</li> <li>There is no clear legal framework regarding the extradition of terrorists and those who finance terrorism.</li> </ul>
37. Mutual legal assistance	<b>LC</b>	<ul style="list-style-type: none"> <li>There are no provisions for the prioritisation of MLA requests. Dual criminality is a prerequisite for providing MLA even where they do not involve coercive action.</li> </ul>
38. Mutual legal assistance: freezing and confiscation	<b>LC</b>	<ul style="list-style-type: none"> <li>There are no legal measures in place for the enforcement of foreign non-conviction-based confiscation orders.</li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>There is no case management system and clear processes for the timely execution of extradition requests.</li> <li>There is no appropriate prioritisation and procedures for simplified extradition.</li> </ul>
40. Other forms of international cooperation	<b>LC</b>	<ul style="list-style-type: none"> <li>There are no clear processes and procedures to prioritise and execute requests promptly, as well as controls and safeguards to ensure the use of information exchanged by competent authorities.</li> <li>There are no measures in place to ascertain the use and usefulness of information obtained.</li> <li>SEC is not legally empowered to share supervisory information for AML/CFT purposes.</li> <li>Financial supervisors are not empowered to share information on internal AML/CFT procedures and policies of FIs, customer-related information, as well as facilitate or conduct enquiries on behalf of their foreign counterparts, or exchange information with non-counterparts.</li> </ul>





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

### **Follow-up Report & Technical Compliance Re-Rating**

**The report also looks at whether Nigeria measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2021.**

**Follow-up Report**